

ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
MARCH 16, 1995

MEMBERS PRESENT: Dean Trefethen, Bill Colbath, John Murphy  
Robert Callan, David Paolini and Richard Callaghan

ALSO PRESENT: Thomas Clark and Steve Stancel

Dean Trefethen, Chairman, called meeting to order.

ITEM #1: New Business

John Murphy made the motion to accept the minutes of the  
February 16, 1995 meeting.

Bob Callan seconded the motion.

U/A

ITEM #2: No Old Business

ITEM #3. Z 95-3, Field & Foster (Applicant: Mark Foster),  
459 Central Ave. and 479 Central Ave., a/k/a  
Assessor's Map 3, Lots 42 & 61, Zoned B-2, requests  
a variance from the terms of Article XI, Section  
170-44.B and E, to enlarge a building (second story  
addition for office use) without providing the  
required parking spaces.

Mark Foster - We own the Day's Inn and the adjacent building,  
the Franklin Block. The Richardson Insurance Agency housed  
on the Portland Ave. side has grown and needs additional  
office space. Propose to put a second floor addition  
directly above the Richardson Agency. There are 67 parking  
spaces available between the two properties, the Franklin  
Block property has 17 of those spaces. the parking  
requirement for the hotel is met but not for the adjacent  
lot. The total parking spaces are available during the day  
to the offices and at night to the hotel. Rarely a shortage  
of parking spaces.

Dean Trefethen - Asked to have the hardship explained.

Mark Foster - Hardship is he needs relief from the law that  
requires him to have 87 parking spaces. He does not have a  
shortage of parking spaces now.

ZBA 3/16/95

-2-

Dean Trefethen - Asked if there are any daytime functions.

Mark Foster - No. There are no meeting spaces or restaurant.

John Murphy - Asked approximately how many square feet is to be added.

Mark Foster - 350 square feet.

It was discussed that the actual addition size is approximately 1,012 square feet as indicated on the plan submitted.

John Murphy - Asked (1) if the additional parking spaces is a requirement because of the addition regardless of the amount of existing parking spaces and (2) how did it get to this point that it has been operating without enough spaces.

Tom Clark - (1) Not just because of the addition. Because of the provision, parking needs to be provided as if the entire building were new. There are currently 17 spaces for the Franklin building and about 30 would be required of a new building of that square footage. Even the total parking would not be enough for both buildings. (2) It has been grandfathered.

Board Members & Tom Clark discussed the off-street parking and the lack of parking for other down-town retail businesses.

Dave Paolini made the motion to accept the case.

Bob Callan seconded the motion.

U/A

PUBLIC HEARING OPENED

Joe Shaheen - Abutter - Opposes to the variance due to the difficulties of downtown parking.

Henry Shaheen - Opposes to the variance. He is an abutter and the addition will block vision and sunlight to his property.

PUBLIC HEARING CLOSED

Steve Stancel - If there were not a lot line and this were one lot then there would be adequate parking. But, the concern is that if the hotel were sold later on then the 2nd lot would not have enough parking.

Dean Trefethen - Asked Mark Foster if he would consider abandoning the lot line and making it one lot.

Mark Foster - Yes.

Tom Clark - It appears that this can be done but would be subject to the Planning Board approval. Per Zoning Ordinance, definition of lot (170-6, pg. 170-14) "More than one (1) principal building may be placed on a lot for non-residential, multi-family, and alternative design subdivisions as approved by the Planning Board."

Bob Callan - This property has more daytime parking spaces than any other downtown business. Because of his retail he does not have to offer any parking spaces to begin with. Bob feels that it is unwarranted for this Board to require more parking spaces.

Dave Paolini - Questioned the possibility of this Board putting on a condition for a long-term lease which would go along with the hotel if and when it were sold.

Steve Stancel - Possible but difficult to control.

Steve Stancel & the Board members discussed the downtown parking and the Grandfather clause.

Dave Paolini - Asked if any of the spaces are leased at Day's Inn.

Mark Foster - Two spaces leased to Fish Shanty.

John Murphy - (1) Number of employees? (2) Possibility of converting some of the suites into office.

Mark Foster - (1) 23 employees for the hotel - in shifts - 6 maids & a desk clerk. (2) Not financially reasonable to convert suites to offices.

5 CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. The ordinance requires 87 spaces and the applicant has 67 which are used at different times of the day (day & night uses) therefore adequate parking exists for the proposed expansion.
2. If granted, the variance will deliver substantial justice. Nature of the non-concurrent uses of the parking provides adequate parking to allow expansion and allow applicant & tenants continued use of the property. Also will not hold applicant to a higher standard than neighbors.
3. If granted, the variance will be in harmony with the spirit and intent of the zoning ordinance. The intent of the ordinance is to provide off-street parking and this proposal does that.
4. If granted, the variance will not (John Murphy voted will) result in a diminution in value of surrounding properties. Proposed use is consistent with existing use and there is no expansion near adjacent properties.
5. If granted, the variance will be of benefit to the public interest. The public's interest is to provide off-street parking and this will be done.

Bill Colbath made the motion to grant the variance.

Bob Callan seconded the motion.

Dave Paolini made the motion to add a condition that a 20-year lease for parking spaces for daytime parking be provided.

Bob Callan seconded the motion.

U/A

ITEM #4. Z 95-4, Gerard & Nancy Cote, 520 Sixth St. a/k/a Assessor's Map B, Lot 4-E, Zoned R-40, requests a variance from (1) the terms of Article V, Section 170-12, to construct an addition (second floor full dormer) to a single family dwelling within forty-two (42) feet of front property line as it abuts a street where fifty (50) feet is required, and (2) the terms of Article X, Section 170-41.A. to increase a non-conforming structure.

Pat Raftery - Represented the owner. Proposed addition will remain within the existing footprint. The hardship is the owner cannot expand within the existing footprint due to the ordinance.

Dean Trefethen - Asked (1) if the front roof line would change; (2) asked where the septic system was and; (3) questioned the topography.

Pat Raftery - (1) No. The addition would be on the back of the house. (2) The septic system is directly behind the house. (3) Land drops down in the back.

Dave Paolini made the motion to accept the case.  
John Murphy seconded the motion.  
U/A

Steve Stancel - The City has no problem with this application.

5 CRITERIA:

1. The applicant does face an unnecessary hardship. Current location of septic system and topography of the land do not allow expansion to the rear. also the proposal is not increasing the existing footprint or street facade.
2. The variance will deliver substantial justice. Allow reasonable expansion of an existing residential structure.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. The house conformed to setbacks when constructed, and the footprint is not changing. It is not the intent of the ordinance not to allow any expansion.
4. The variance will not result in a diminution in value of surrounding properties. No evidence to the contrary.
5. The variance will be of benefit to the public interest. Allow's continued use of a residential structure.

Bill Colbath made the motion to grant the variance.  
John Murphy seconded the motion  
U/A

ITEM #5 Z 95-5, Dan Driscoll, 8 Elmwood Ave., a/k/a Assessor's Map 25, Lot 37, Zoned R-12, requests a variance from (1) the terms of Article V, Section 170-12 to construct a one-story side addition to a single family dwelling within twenty (20) feet of a front property line where thirty (30) feet is required, and (2) the terms of Article X, Section 170-41.A. to increase a non-conforming structure.

Rick Callaghan replaced Dave Paolini on this case.

Dan Driscoll - House was built in 1930. The structure of the house and location of the bulkhead, landing and stairs to the basement makes expansion difficult. The addition will be set back two feet so that it will not have a trailer appearance and will conform more to the neighborhood.

Dean Trefethen - Possibility of setting the addition back more than two feet.

Dan Driscoll - Concerned with the pitch of the roof which will create a pocket for snow accumulation.

John Murphy made the motion to accept the case.

Bob Callan seconded the motion.

U/A

The Board examined pictures of the property.

#### PUBLIC HEARING OPENED

Alden Joy - Abutter - Has no problem with the addition. Feels that the hardship is that it is an old home and close to the road. Similar to the neighborhood.

#### PUBLIC HEARING CLOSED

Steve Stancel - Planning Dept. has no problem with this application.

#### 5 CRITERIA

1. The applicant does face an unnecessary hardship. Current house predates today's setbacks and the proposal will not encroach any further. Plus the unique layout of the structure precludes adding to the rear.

2. The variance will deliver substantial justice. It allows reasonable expansion of a residential structure without additional encroachment.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. Intent is to maintain reasonable setbacks and proposal will be further set back than current structure.
4. The variance will not result in a diminution in value of surrounding properties. No evidence to the contrary. Will probably enhance values.
5. The variance will be of benefit to the public interest. It allows reasonable continued use of a residential structure.

Bill Colbath made the motion to grant the variance

John Murphy seconded the motion.

U/A

Dean Trefethen reported that he will not be available for the April 1995 meeting.

Bob Callan reported that he will not be available for the months of April and May 1995 meetings

Bill Colbath made the motion to adjourn.

Bob Callan seconded the motion.

U/A

List of members with expiration dates

	<u>Term Starts</u>	<u>Term Exp.</u>
John Murphy Jr.	12/31/92	12/31/95
Robert Callan	4/13/94	4/13/97
Richard Callaghan	4/13/94	4/13/97
William Colbath	10/23/94	10/23/97
Dean Trefethen	12/31/94	12/31/97
Robert Mullan	12/31/94	12/31/97
David Paolini	10/23/94	12/31/97