

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MAY 18, 1995

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

ALSO PRESENT: Thomas Clark and Bruce Woodruff

Dean Trefethen, Chairman, called meeting to order.

ITEM #1: New Business

Robert Mullan asked for a correction to the April minutes.
On page 5, fifth paragraph down. Change "to not set a
president.." to read "to not set a precedent..."

Bill Colbath made the motion to accept the minutes with the
correction.

Rick Callaghan seconded the motion.

U/A

Bruce Woodruff advised the Board that on June 15 all the
meeting rooms will be occupied and that they would need to
suspend the By-Laws and set another date for their regular
meeting.

The Board discussed meeting dates.

Rick Callaghan made the motion to suspend the By-Laws and
change the meeting date to June 22, 1995

Bill Colbath seconded the motion.

U/A

ITEM #2: No Old Business

Robert Mullan, alternate, served on the first case.

ITEM #3. Z 95-8, Robert & Eileen Grund, 60 Dover Pt. Rd.,
a/k/a Assessor's Map M, Lot 6-A, Zoned R-40,
requests a variance from (1) the terms of Article
V, Section 170-12, to construct a one-story side
addition onto a single family dwelling within
thirty-two (32) feet of a 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.

Robert Grund - Seeks a variance to add to his house and repair a section that is deteriorating.

Dean Trefethen - Asked what his hardship is.

Robert Grund - The ordinance states that the setback is 50 feet and his house is not 50 feet.

Dean Trefethen - Ask applicant if he was aware that he could repair the house without a variance.

Robert Grund - Yes but he would like to add a dining room.

Dave Paolini - Questioned the size of the lot.

Tom Clark - It is a non-conforming lot.

Dave Paolini made the motion to accept the case.

Bob Callan seconded the motion.

U/A

Dean Trefethen - Asked if the addition and repair work will blend in with the rest of the building.

Robert Grund - Yes.

PUBLIC HEARING OPENED

No comment

Bruce Woodruff - The Planning Dept. supports the variance request because the lot is very small and pre-dates the R-40 zoning change and the structure also. The proposed addition does not encroach any closer to the street than the existing structure does. Also the Planning Dept. is proposing an amendment to the zoning in this area.

PUBLIC HEARING CLOSED

CRITERIA

1. The applicant does face an unnecessary hardship. No further encroachment into the present setback. Plus the structure predates existing zoning ordinance.

2. The variance will deliver substantial justice. It will allow reasonable repair to expansion on an existing structure.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. The intent is to maintain reasonable setbacks. Plus the Planning Dept. is proposing changes to the Ordinance to allow this type of proposal.
4. The variance will not result in a diminution in value of surrounding properties. There is no evidence to the contrary. Applicant believes proposal will enhance values.
5. The variance will (Robert Mullan voted will not) be of benefit to the public interest. It allows continued use and improvement of existing residence.

Bill Colbath made the motion to grant the variance.
Bob Mullan seconded the motion.
U/A

Robert Mullan stepped down and Rick Callaghan, alternate, served on the next case.

ITEM #4. Z 95-9, Carl Cressey, Jr., 21-23 Rogers Street, a/k/a Assessor's Map 24, Lot 127-A, Zoned RM-10, requests a variance from (1) the terms of Article V, Section 170-12 to construct a side porch, walkway and stairway addition onto a two-family dwelling within less than one (1) foot of a side property line where ten (10) feet is required; and (2) the terms of Article X, Section 170-41.A, to increase a non-conforming structure.

Jim Downs - Represented the applicant and is a tenant at this address. Concerned with the need of a second means of egress. Intention is to make a deck at the door with steps going down to the rear and bring the deck all the way beyond the bulkhead and make an operation to remove the steps to access the bulkhead from the front rather than the side where it interferes with the fence. The abutter had to remove a portion of their fence in order to have access to the second door in case of an emergency.

Dean Trefethen - Questioned the use of the bulkhead on the south side of the building.

Jim Downs - That bulkhead leads into the basement where a partition divides the rear from the front of the building. That is a separate entrance for the people that reside downstairs.

Dean Trefethen - Asked if the utilities are in the basement.

Jim Downs - Water meter as well as electrical meters are outside.

Dean Trefethen - Asked if the partition could be reconfigured to allow access by both tenants through that bulkhead.

Jim Downs - Would not feel comfortable having his personal things where others could have access. The partition is a cinder block wall which is not feasible to change to allow security.

Dean Trefethen - Asked applicant to elaborate on the addition.

Jim Down - Does not consider it an addition. It will be a deck with railings and stairs to go down the stairs to the rear of the property as well as exit to the front of the building. The deck will probably be 20 feet in length from the rear door past the front bulkhead and, if feasible, go up to the property line.

Bill Colbath - Asked how he now exits from the second floor.

Jim Downs - From the front door. Currently there is no second means of egress. The owner of the rear building was forced to remove a section of the fence to allow access to the second floor. As soon as this is rectified the fence will go back up. Wife is currently handicapped and a second means of egress is important.

Bill Colbath - Asked if the second means of egress could be on the other side of the building.

Jim Downs - It would require structural changes that would be more costly and it would be over the roof of the porch.

Bill Colbath - Asked why it would be more reasonable to do it on the other side.

Jim Downs - Because there is already a door and entrance there. It only requires a new deck and stairs.

A discussion was held on the floor layout, second means of egress and alternatives.

It was the general consensus of the Board that there was not enough information on the layout of the building and the new construction.

Bob Callan made the motion to accept the case.
Bill Colbath seconded the motion.
4 voted to accept the case and 1 opposed (Dean Trefethen).

PUBLIC HEARING OPENED

No comments

Bruce Woodruff - The Planning Dept. supports the request.

PUBLIC HEARING CLOSED

The Board members discussed the proposed construction of the deck and stairs. They still find it difficult to make a decision with the limited information given.

Dave Paolini - Would prefer to table the case and have a site walk to review the layout and alternatives.

Dave Paolini made the motion to table the case to the June meeting.

Bob Callan seconded the motion

Rick Callaghan asked Jim Downs if he had authority to make decisions in regards to the proposed work.

Jim Downs - He does not have any authority to made any decisions

Rick Callaghan - Would like to amend the motion to have the owners supply more information (up to 3 proposed plans) and table the case for three months. The Board members will also do a site walk.

This was acceptable to the members.

Three approved the motion and 2 opposed.

The case is tabled until the August meeting. The owner is to submit up to three proposed plans. Site walk by Board members upon receipt of more information

ITEM #5. Z 95-10, Third St. Property Corp., 66-68 Third St., a/k/a Assessor's Map 31, Lots 7 and 8, Zoned B-2, requests a variance from the terms of Article IV, Section 170-12, Table I, Part D, to establish a Light Industrial Use (Equipment Manufacture/Assembly) in a B-2 Zoning District.

Dave Paolini stepped down and the two alternates sat in

Atty. Charles Tucker - Representing the applicant and speaking in behalf of the prospective tenant, Technology Trust and Leasing Inc. This property has had a variety of uses. Some commercial and some industrial. The section to the rear of the building has 16 foot ceilings, concrete floor, heated by gas heaters, no internal partitions and it has a loading dock. The lot has a great deal of parking space and it is zoned business. Technology Trust & Leasing Inc. is requesting a variance for the back portion of the building to industrial for their use which is the manufacture of industrial cleaning equipment. About 40% of the space will be converted to office space which is a permitted use and is not a problem. The other 60% of this space will be used for assembly and that requires a variance. There will be about ten employees. He reviewed the five criteria and the previous tenants use of the area.

Dean Trefethen - Questioned the number of parking spaces for the employees.

Brian O'Brien - Realtor Agent managing the building. There are 10 designated parking spots on site for the employees. There will be a very limited amount of traffic as far as customers are concerned. If needed there is on-street parking.

Dean Trefethen - Asked if there will be parking available for the remainder of the building.

Brian O'Brien - Yes there are 66 spaces available for the rest of the building.

Bob Mullan - Asked if this will be primarily assembly as opposed to manufacturing.

Brian O'Brien - Yes. They will assemble components with some prefabrication. Some assembly will be with automatic machines.

Bob Mullen - Questioned whether or not there would be any machinery that would generate any pollutants.

Brian O'Brien - There will be a sheet metal cutting machine. They are also concerned with any hazardous waste and feel confident that there will not be any hazardous waste being produced by this company. Also, the noise level will be low.

Dean Trefethen - Presented a letter from the Guilford Transportation Company who is an abutter.

Bob Callan - Questioned the loading dock location.

Brian O'Brien - There are two loading docks.

The Board members reviewed the site plan and location of the loading docks.

Tom Clark - In regards to the letter from the Guilford Company, their only concern was with any possible additional construction by someone claiming to have the railroad crossing that did not.

Rick Callaghan - Questioned when the shipping and delivery would take place.

Brian O'Brien - It would take place during the day. It would be less than 1 to 2 a day. It would take place from possibly 6:30 a.m. to 7 or 8 p.m. They only plan to have one shift.

Bill Colbath - Questioned the hazardous waste. When dealing with sheet metal and welding process, there is paint and lubricants and things that are inherently hazardous waste, how will this be dealt with.

Mr. Tucker - It is assumed that there will be some paint but it is not the same as using acid and other things that cannot be disposed of so easily.

Brian O'Brien - The prospective tenant satisfied us that there would be no highly toxic materials on site.

Bill Colbath - He is concerned with the odor from the paint fumes.

Brian O'Brien - We are also concerned with the odor and noise. We will try to get in the lease that it will be a clean process.

Robert Mullan made the motion to accept the case.
Bill Colbath seconded the motion.
U/A

PUBLIC HEARING OPENED

Nick Mitropoulos - 315 Rochester Hill Rd. Owns an eight unit apartment building across the street from this building. He is concerned with the following items: Nighttime activity; the possibility of going to a 3 shift operation and weekends; trucks, noise and odor.

Dean Trefethen - Questions the number of employees, number of shifts and possible growth.

Brian O'Brien - may add to the number of employees but have only one shift.

Bruce Woodruff - The Planning Dept. is opposed to the variance request. This area was rezoned in 1991 to B-2, commercial, at the request of the various landlords including the previous owner of this property. The area is directly adjacent to the business district making it logical to expand the business zone while phasing out incompatible industrial uses.

PUBLIC HEARING CLOSED

Dean Trefethen - We are not in the business of changing the uses.

Rick Callaghan - Has a problem with the trucking and control of sound. Trucking tends to take place at night and trucks are left running and also a possibility of growth which will increase the shift.

CRITERIA

1. The applicant does not face any unnecessary hardship. (Bob Mullan and Rick Callaghan voted does). This property is zoned B-2 and has been used for that and could still be used for that purpose.
2. The variance will not deliver substantial justice. (Rick Callaghan and Robert Mullan voted will). The owner still has multitude of potential uses under a B-2 zone therefore no need for a change.
3. The variance will not be in harmony with the spirit and intent of the zoning ordinance. (Robert Callan and Robert Mullan voted will) The intent is for B-2 type uses and City desires increased commercial and office uses in that area.
4. The variance will not result in a diminution in value of surrounding properties. (Robert Callan and Bill Colbath voted will). The proposed use would not have more impact than other B-2 uses. The location is fairly obstructed from abutters.
5. The variance will not be of benefit to the public interest. (Robert Mullan and Rick Callaghan voted will). It is the City's desire to have B-2 type activities in that area.

Bill Colbath made the motion to deny the variance.
Bob Callan seconded the motion.

3 voted to deny and 2 to grant (Robert Mullan and Rick Callaghan voted to grant and Dean Trefethen, Robert Callan and Bill Colbath voted to deny.)

ITEM #6 Z 95-11, White Enterprises, Inc., (Applicant: Rick Beauregard), 11 Morgan Way, Assessor's Map I, Lot 30B-33, located within the Sunnybrooke Mobile Home Park, Zoned R-40, requests a variance from the terms of Chapter 126, Section 126-5.F, to place a mobile home within eleven (11) feet of a side property line where twelve (12) feet is required.

Rick Callaghan stepped down and Robert Mullan served on this case.

Rick Beauregard - Would like to place a mobile home on this lot and because of the slope of the lot, and a desire to place the mobile home so that it is centered on the lot, a variance is required. If the mobile home were placed to meet the required setback, the home will be cramped in on one side and infringe on the abutter on the other side. A lot line adjustment, which took place prior to his purchase, made the lot smaller. Another problem is that this property does not have adequate drainage and in the winter time it is covered with ice.

Dean Trefethen - Asked about the drainage and if re-grading would be done.

Rick Beauregard - Because of the pitch the water runs onto the two properties rather than into the street. There will be some re-grading. The mobile home will sit up a foot higher.

Dave Paolini made the motion to accept the case.

Bob Callan seconded the motion.

U/A

Dean Trefethen - Asked the Planning Dept. when the lot line adjustment was done.

Bruce Woodruff - In 1989 due to lot 32.

PUBLIC HEARING OPENED

Bruce Woodruff - The Planning Dept supports this request because the Planning Board is partly responsible for the size of this lot.

PUBLIC HEARING CLOSED

CRITERIA

1. The applicant does face an unnecessary hardship. (Bill Colbath voted does not). The previous lot line adjustment created a lot with few options. The proposed also will allow for improved drainage and egress.
2. The variance will deliver substantial justice. (Bill Colbath voted will not). It will allow flexible use of a lot with few options.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. (Bill Colbath voted will not). The intent is reasonable setbacks and that will be maintained.
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. It allows flexible use of an existing lot. Allows improvement which increases tax revenues.

Robert Mullan made the motion to grant the variance.
Dave Paolini seconded the motion.
4 voted to grant and 1 voted to deny (Bill Colbath)

ITEM #7. Z 95-12, William Bronson and Betsy Schaper, 24 Isaac Lucas Cir., a/k/a Assessor's Map M, Lot 90-H, Zoned R-40, requests a variance from the terms of Article V, Section 170-16 to maintain a one-story front porch addition on a single family dwelling within forty-two (42) feet of a front property line as it abuts the street where fifty (50) feet is required.

Rich Callaghan sat of this case and Robert Mullan stepped down.

Atty. Dale Swanson represented the property owners. The Bronsons purchased the property in 1991. There was a lot line and right-of-way adjustment approved in 1987. The right-of-way was shifted over to the Bronson property. The Bronsons started some new construction on their house and obtained the required Building Permit. However during the construction the owners decided to enlarge the porch. The contractor discussed this with Tom Clark however did not submit any revised plans. After the construction had begun and after an inspection by Tom Clark it was determined that the addition encroached into the set back. Tom advised the property owners that they would have to apply for a variance. Mr Swanson reviewed the criteria.

Bill Bronson - The addition is to eliminate the problem of ice and water build up at the door. Mr. Bronson was not aware that the enlargement of the porch encroached into the setback.

Tom Clark - There was a communication breakdown between the contractor and himself. The Building Permit was issued for the dormer addition of the house. When an appointment was set up for a framing inspection, the contractor advised Tom that the owners were proposing a front porch addition also and he was going to file a Building Permit Application and call for a framing inspection to look at everything at once. The misunderstanding was that the permit should have been applied for first and then begin the construction. It was during an inspection that it was determined that the addition encroached into the setback.

A discussion was held on the site plan, as built plot plan and the set back to the porch.

Bill Colbath made the motion to accept the case.
Dave Paolini seconded the motion.
U/A

PUBLIC HEARING OPENED

Carol Apel, 16 Isaac Lucas Cir. is personally in favor of the variance. She is also the President of the Brickyard Estate Homeowner's Association. At an Association meeting, the members of the Board were in favor of Mr. Bronson's addition. It will enhance the appearance of the house and help the entire community.

John Colista - Abutter across the street. Is in favor of the request for a variance.

Bruce Woodruff - The Planning Dept. cannot support the request for a variance but does not oppose it. If it is granted it appears to have a minimal impact upon the neighborhood. And it is already built. We would like to ask that if the variance were approved, a condition be placed that no additional living area be allowed above the roof area.

Mr. Swanson - The area will be used for storage.

Rick Callaghan - Asked for a copy of the Brickyard Homeowners Assoc. meeting minutes be submitted for the file.

Bill Colbath - Asked if there are any plans to enclose the porch.

Mr. Bronson - No, only railings and a canvas shade to help keep out the inclement weather.

Bob Callan - Questioned the hardship.

Mr. Swanson - The shifting of the right-of-way causes the hardship.

Dave Paolini - The shifting of the right-of-way did not cause the hardship because when the house was bought it did meet the setback. The new construction caused the hardship.

Rick Callaghan - Must look at this case as if the porch is not there.

The members discussed the hardship. Would the variance be granted if the porch were not there.

PUBLIC HEARING CLOSED

CRITERIA

1. The applicant does face an unnecessary hardship. (Dean Trefethen voted does not). The parcel of land is adjacent to the waterfront and open common area and is subject to adverse weather. Plus the house is situated at a unique angle to the road. Also, the proposed structure is adequately distanced from the pavement.

2. The variance will deliver substantial justice. (Rick Callaghan voted will not). It will allow reasonable solution to the aforementioned problem in hardship.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. (Rich Callaghan & Dean Trefethen voted will not). The intent was to maintain a reasonable setback from the roadway and that will be maintained.
4. The variance will not result in a diminution in value of surrounding properties. The abutters believe the proposal will increase values.
5. The variance will be of benefit to the public interest. (Rick Callaghan & Dean Trefethen voted will not). It allows improved protection from weather for delivery people and other visitors.

Dave Paolini made the motion to grant the variance.

Bob Callan seconded the motion

With the following conditions:

(1) The area above the porch cannot be used for additional living area.

(2) The porch cannot be enclosed.

4 voted to grant and 1 opposed (Dean Trefethen opposed).

ITEM #8 Z 95-13, Daniel and Carol Hashem, 116 Broadway, a/k/a Assessor's Map 27, Lot 292, Zoned B-3, requests a variance from the terms of Article X, Section 170-40 A. and B. to expand/increase a non-conforming use (Auto Service) in a B-3 Zoning District.

Robert Mullan served on this case and Rick Callaghan stepped down.

Atty. James Carabellos represented the applicant. The property is across from Heidleberg Harris and in the B-3 Zone. The property is not conducive to residential nor to office. The land is only useful for retail. Previous use was retail. He reviewed the Criteria. The property is to be used in conjunction with the Strafford Tire business. With the back-up of cars waiting for service at the Strafford Tire business, the addition of this property will allow cars to be off the street. He had letters from abutters to present to the Board.

Dean Trefethen - Would the applicant be willing to abandon the property line between the two lots to make it one lot.

Mr. Carabellos - This has not been discussed with the applicant at this time.

Bob Callan - Asked if the applicant proposes to add to the building and does it meet the set back requirements.

Mr. Carabellos - Believes that the setback was met at the time that the building was built and believes that it may not be an issue at this time.

Robert Mullan - Asked if the building would continue to be used as retail. Would it be used for auto service.

Mr. Carabellos - It would be used for retail.

Mr. Hashem - Tires would be sold and mounted in this building.

David Paolini - Asked if the mounting of tires would be considered subordinate to the retail.

Tom Clark - The mounting of tires is considered auto service.

Bill Colbath - Questioned whether the building would be used for selling tires and batteries only and the answer is no. Selling and mounting tires will be done.

Dave Paolini made the motion to accept the case.

Bob Callan seconded the motion.

U/A

PUBLIC HEARING OPENED

No comment

Bruce Woodruff - Planning Dept. is in favor of the variance because of the layout, size of the parcel and structure lends itself to expansion of the adjacent business. Prior to the Plumbing supply it was a gas station and garage. Issues that need to be addressed are: (1) screening; (2) sidewalk and (3) curbing. These can be addressed by the Technical Review Committee. Recommend tabling the case for recommendations from the Technical Review Committee.

A discussion was held on the parking problem and the curbing.

Bob Callan - Recommends to table the case and go to the Technical Review Committee

Mr. Carabellos - Read a letter from Beatrice Newell of 2 Pearl St. She approves of the request.

Dean Trefethen made the motion to table to the June 22 meeting.

Bob Callan seconded the motion.

U/A

It is the consensus of the Board members to approve the request.

Bill Colbath made the motion to adjourn

Dave Paolini 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