

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
OCTOBER 19, 1995

MEMBERS PRESENT: Dean Trefethen, Chairman, Bill Colbath,
Vice-Chairman, Robert Mullen, Richard
Callaghan, John Murphy, and Robert Callan

STAFF PRESENT: Thomas Clark, Building Inspector, and Steve
Stancel, Planning Director.

Dean Trefethen called the meeting to order.

ITEM #1: NEW BUSINESS

Approval of the August 17, 1995 minutes.

Rick Callaghan made the motion to accept the minutes.

Bill Colbath seconded the motion.

U/A

ITEM #2: OLD BUSINESS

Dean Trefethen - Asked Tom Clark what the status was on the Clara
Fisher case that has been tabled.

Tom Clark - Referred to the letter of last month in which Mr.
Hartnett requested that it be tabled indefinitely. Work being
done with the Planning Office in regards to reconfiguration of
the subdivision.

MOTION:

Robert Callan - Made the motion to table the request, but have
Mr. Hartnett or the property owner appear at the November meeting
to apprise them of the status of the subdivision.

John Murphy - seconded the motion

U/A

ITEM #3:

Z 95-18 Joseph & Vera DiGregorio, 107 Mast Rd., a/k/a
Assessor's Map I, Lot 51-A-4, Zoned RM-12, requests a
variance from the terms of Article V, Section 170-16, to
construct an attached garage onto a single family dwelling
within twelve (12) feet six (6) ins. of a side property line
where twenty (20) feet is required.

Alternate Bob Mullan sat in on this case.

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Tim Noonan - Building Contractor - this is the only area that the garage could be built due to ledge and the layout of the land.

Bob Mullen - Asked if it would be a one-story garage.

Tim Noonan - Yes.

Dean Trefethen - Asked if there would be any living area above the garage.

Tim Noonan - There would not.

Steve Stancel - Asked if the applicant considered a one-car garage as opposed to a two-car garage.

Tim Noonan - Applicant would like a two-car garage.

MOTION:

Bill Colbath made the motion to accept the case.
Bob Callan seconded the motion.
U/A

PUBLIC HEARING OPENED

Steve Stancel - Has difficulty finding hardship. There is ledge but the house is new and the zoning has not changed. A one-car garage can be built and meet the setback. The other houses in that area are in a similar situation.

Tim Noonan - Other lots do not have a ledge problem and or contour of the land makes it difficult.

PUBLIC HEARING CLOSED

Dean Trefethen - In reference to the applicant's letter, he was informed of the conditions and that he probably could not have more than a one-car garage.

Joseph DiGregorio - When he accepted the house he was informed that the house could only be put in one location and that it would be the only house in the subdivision with a garage. It was only after he had decided that he would like a two-car garage did he find out that he would have a setback problem.

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FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship (Dean Trefethen & Robert Mullen voted does not). The presence of ledge on the lot required construction of the present house to the left side of the lot leaving no room for future expansion.
2. It is the Board's conclusion that the variance will deliver substantial justice (Dean Trefethen voted will not). It allows the applicant to use the lot the way it could have been if the ledge hadn't forced the siting of the house to the left side of the lot.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance (Robert Mullen & Dean Trefethen voted will not). It will still allow a reasonable site access.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties (Bill Colbath voted will). No evidence to the contrary. Also, there will still be enough separation between the adjacent lot not causing an impact of property values.
5. It is the Board's conclusion that the variance will be of benefit to the public interest (Dean Trefethen voted will not). There is no evidence to believe there will be a negative impact to the public.

MOTION:

John Murphy made the motion to grant the variance.

Bob Callan seconded the motion.

Conditions - No living space allowed above the proposed garage.

The garage is to be built as stated in applicant's presentation.

4 voted in favor and 1 opposed (Dean Trefethen opposed).

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ITEM #4:

Z 95-19, William & Andra Welch, 25 Boston Harbor Rd., a/k/a Assessor's Map 7, Lot 12-A, Zoned R-20, requests a variance from (1) the terms of Article V, Section 170-16 to construct a side addition onto a single family dwelling within twenty-eight (28) feet of a front property line as it abuts a street where thirty-five (35) feet is required; and (2) the terms of Article X, Section 170-41.A, to increase a non-conforming structure.

Alternate Rick Callaghan sat in on this case.

Andra Welch - The building was constructed in the late 1970s and zoning has changed since then and therefore as the house sits now it does not conform. We would like to put on an addition on to the house. The proposed addition would not go any closer to the lot line than the existing building does now.

Steve Stancel - The plot plan does show that the addition will be closer to the front lot line than the existing house.

Andra Welch - Did not measure off the back corner of the addition.

Andra Welch & the Board Members discussed the plot plan and setback, and the construction of the addition. The addition will be a 2-story and will have a living rm. and bedroom.

MOTION:

Bill Colbath made the motion to accept the case.
Rick Callaghan seconded the motion.
U/A

Dean Trefethen - Asked if applicant would consider a smaller addition so that they would not be going any closer to the front setback than the existing building.

Andra Welch - Does not feel that the addition will be closer than the existing building and feels that the plot plan may not be accurate.

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PUBLIC HEARING OPENED

Steve Stancel - As long as the proposed addition does not encroach any further into the setback than the existing building, the City does not have a problem with this request.

PUBLIC HEARING CLOSED

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship. A changing of zoning setbacks does not allow expansion in most directions. Also, the front property line moved closer to the original structure when the public right-of-way was expanded.
2. It is the Board's conclusion that the variance will deliver substantial justice. It allows expansion on a non-conforming lot without further encroachment.
3. It is the Board's conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The intent of the ordinance is to maintain adequate setbacks for safety access and this will be maintained.
4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. No evidence to the contrary.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. It allows upgrade to an existing structure and increases taxable property.

MOTION:

John Murphy made the motion to grant the variance.
Rick Callaghan seconded the motion.
Condition: The proposed addition cannot be closer to the front property line than the existing structure.
U/A

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ITEM #5:

Z 95-20 Three Jay Realty Co., (Applicant: Bookland of Maine, Inc., d/b/a Stroudwater Books), 898 Central Ave., a/k/a Assessor's Map 38, Lot 23-B, Zoned B-3, requests a variance from EITHER the terms of Article IX, Section 170-32.G.(3)(d) to erect an accessory wall sign with an area of one-hundred fifty-seven (157) square feet where seventy-five (75) square feet is allowed; OR the terms of Article IX, Section 170-32.G.(1) to erect a free-standing sign of sixty (60) square feet in addition to a wall sign.

Mullen
Bob Murphy sat in on this case.

Atty. Malcolm McNeil represented the applicant - He presented additional information to the Board and pictures displaying location of sign. He reviewed the signs and sign ordinance. He gave examples of surrounding signs - wall signs as well as free standing signs. He also addressed the 5 Criteria on the application. Applicant needs both wall sign and free-standing sign because the building is set back from the road and hidden by abutting buildings.

Bob Mullen - Asked if the awning sign would remain.

Mr. McNeil - It will remain.

Dean Trefethen - Questioned the measurements that Mr. McNeil gave.

Tom Clark - Distributed a drawing of the sign with the measurements from the sign company to the Board members and to Mr. McNeil.

The Board discussed the signage in the surrounding area and the sign size.

MOTION:

Bob Callan made the motion to accept the case.
Bill Colbath seconded the motion.
U/A

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PUBLIC HEARING OPENED

Beth Thompson - Economic Development Director for the City of Dover - Supports the variance request for Stroudwater Books. Business needs visibility due to location of building.

Malcolm McNeil - To clarify, the maximum amount of wall sign is 75 square feet with the free-standing sign except for where a variance is granted.

Steve Stancel - The City is in favor of the request for a variance because the site is unique and the setback of the building and location of surrounding buildings does hinder the visibility of this business. Also feels that the sign ordinance may need to be reworded in the area of calculation and, in multi-tenant situations. Recommends limiting the free-standing sign to 60 square feet.

PUBLIC HEARING CLOSED

Board members again discussed the sign size and possible multi-tenant situation.

FIVE CRITERIA

1. It is the Board's conclusion that the applicant does face an unnecessary hardship because of the unusually large setback from the street which causes visibility of the building and its wall sign to be obstructed (John Murphy voted does not).
2. It is the Board's conclusion that the variance will deliver substantial justice. The proposed signage is proportional and provides reasonable notice to motorists (John Murphy voted will not).
3. It is the Boards conclusion that the variance will be in harmony with the spirit and intent of the zoning ordinance. The purpose of the ordinance is to allow reasonable, but not obtrusive, identification, and this proposal accomplishes this.

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4. It is the Board's conclusion that the variance will not result in a diminution in value of surrounding properties. No evidence to the contrary and proposed signage will be similar to what historically has been there.
5. It is the Board's conclusion that the variance will be of benefit to the public interest. The proposed sign will allow proper identification for motorists which will result in increased safety.

Bill Colbath made the motion to grant the variance with the following condition: A free-standing sign near the street of a maximum of 60 square feet per section 170-32(G)(1) of the sign ordinance.

Bob Mullan seconded the motion.

4 voted in favor and one opposed (John Murphy).

Bob Callan made the motion to adjourn.

John Murphy seconded the motion.

U/A