

ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
SEPTEMBER 15, 1994

MEMBERS PRESENT: Dean Trefethen, Bill Colbath, Bob Callan, Rick Callaghan, and John Murphy Jr.

ALSO PRESENT: Thomas Clark and Steve Stancel

Dean Trefethen, Chairman, called meeting to order.

ITEM #1: New Business

Dean Trefethen reported that a letter has been sent to the City Clerk in regards to the expiration dates of some of the Zoning Board members and to begin the process to renew terms.

Dean reminded the Board members of the Planning Workshop on October 15, 1994 and the need to make a decision on attendance.

John Murphy pointed out a typing error in the minutes of August 18, 1994. Page 1 sub-item A - fifth line down should read "the process to reappoint..."

John Murphy made the motion to accept the minutes with the above correction.

Rick Callaghan seconded the motion.

U/A

ITEM #2. No old business

ITEM #3. Z 94-18; John F. Reilly, 338 Dover Pt. Rd., a/k/a Assessor's Map L, Lot 55A, zoned R-20, requests a variance from: 1) the terms of Article V Section 170-16 to construct a rear addition to a single family dwelling within twenty-two (22) 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.

John Reilly - Would like a variance to add to the back of his house to turn the present kitchen into a small dining room and a small laundry room. Would also like to extend the dormer in the back of the house. All of the construction will be in the back. There is no construction on the side and nothing towards the front.

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John Murphy questioned the location of the deck due to an existing pool.

John Reilly - Would like to extend the existing deck to the full back length of the house with stairs going down to the pool.

John Murphy made the motion to accept the case.  
Rick Callaghan seconded the motion.  
U/A

Don Haskins - the contractor for Mr. Reilly. The primary reason for the non-conformity is the front setback and the addition will just be filling in at the rear and not extending any further then the rear portion that it will be added to.

Steve Stancel - The Planning Department is in favor of this proposal. There have been other variances given to abutters across the street. The primary reason was that the State obtained a wider than usual right-of-way which creates a hardship on most of the front set backs for most of the buildings in this area. In addition, most of the neighboring properties do not conform to the front set back.

PUBLIC HEARING CLOSED

5 CRITERIA;

1. The applicant does face an unnecessary hardship. Expanded right-of-way encroaches on the front set back making expansion difficult and the neighbors have similar set backs.
2. The variance will deliver substantial justice. It will allow similar set back of surrounding properties that have also been expanded.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. Proper set backs are desired for safety egress and those are maintained and not expanded.
4. The variance will not result in a diminution in value of surrounding properties. No evidence presented otherwise and would probably increase value due to similarities of surrounding properties.

5. The variance will be of benefit to the public interest. It will allow reasonable expansion but maintain similarity to surrounding properties. Plus no real change to right-of-way and public interest.

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

ITEM #4 Z 94-19, Clarence MacKenzie, 37 Bellamy Rd., request an Appeal from an Administrative Decision which would allow off site advertising signs to be displayed at the Dover High School football and baseball fields, on Alumni Dr.

Dean Trefethen asked Tom Clark for a refresher of how the procedure for Appeal from Administrative Decision is handled.

Tom Clark - An appeal is filed from an Administrative Decision claiming, in the administrative capacity, a misinterpretation was made of a specific provision in the ordinance. In this case it is the provision that prohibits off site advertisement and Mr. MacKenzie wrote a letter to the Zoning Board. In this case we are not looking at it as you would a variance, hardship, or property values or like a Special Exception. It is simply, was a correct decision made based on the information that we had.

Clarence MacKenzie - He had 3 concerns; (1) Dilution of property values. The proposed signs would be less than 50 yards from his property line. Placing 70 billboards will be an eye sore and in this area is an open invitation to graffiti. Mr. MacKenzie had photos of existing signs with graffiti already on them. (2) Concerned with safety. there was a survey of traffic made last year of this area and was concerned with the signs being distracting and the students are in danger. (3) The aesthetic value. It is a nice campus setting in a residential area. Mr. MacKenzie feels that there are other plans available to raise money.

Mr. MacKenzie submitted photos of the area with signs and graffiti.

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Larry Keenan - Resident of Lisa Beth Dr. Feels his property would be negatively impacted. Believes there would be a diminution of property value. Mr. Keenan gave an account of the beauty of the facilities and also of the destruction being done by the students, Graffiti and attempt of destruction of a bridge.

Bill Colbath - Asked Tom Clark what part of the ordinance is in question:

Tom Clark - Essentially, because it is School Dept. and City owned property, the City is exempt from its own zoning ordinance. So the provisions of the ordinance that would prohibit those signs would not apply. This has been confirmed by the City Attorney. The School Dept. contacted the Planning Dept. early in the summer as to whether or not there was a provision that would allow or prohibit this particular situation. They were advised the Planning Office is not aware of any since the City is exempt from its zoning ordinance. The School Board then proceeded to consider whether or not to allow these signs. A proposal for the signs was submitted in the Zoning Board's packet for their review.

Dean Trefethen - Questioned the validity of whether or not the City could put signs up anywhere in Dover for the purpose of raising money for the City.

Tom Clark - Gave an example of Craft Fairs and Bake Fairs set up by various Dover Schools to raise money, were allowed to be placed at strategic locations in Dover. These were exempt from the City Ordinance. We are not disagreeing with Mr. MacKenzie's concerns.

Steve Stancel - Read a portion of Scott Woodman's letter in regards to raising revenue. Steve repeats that it is not a question of agreeing or disagreeing with the abutters concerns but we have to go by what the regulations say.

Mr. Allen of Bellamy Rd. - Has three concerns. (1) Property value in grave danger, (2) Safety of children, (3) The volume of traffic has increased. Also concerned with the lack of respect by the students in the care of the City's property. The City has a nice campus and should be proud of it.

James Trites - Submitted a letter to the Board and Dean read the letter. Concerns are the destruction of his mail box by

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the students and climbing his trees and smoking on his property. Also the diminution of his property value.

Dean Trefethen asked Mr. MacKenzie if he approached the School Board in regards to the sign proposal.

Mr. MacKenzie - He has approached the School Board and offered to work with them to find other means to raise money for the schools. He does not agree with the City in allowing businesses to put up advertising signs. He asks the City to consider the moral/ethical point of view.

Peter Safford - Feels signs are to no ones interest but in making a few dollars. They could get sponsors for the games to raise money. Feels that signs will only invite graffiti. Realizes that the Zoning Board cannot tell the School Committee that they cannot put up the signs but would like to see them ask them not to. Would like the Board to support the abutters concerns.

Mike Francis - Is against the signs. Sign will not be taken care of.

Alice Briggs - Member of the Dover High School Athletic Committee. She submitted pictures of the Bellamy Rd. area. (1) There are no funds available to take care of the track fields. She pointed out that there is a tall chain linked fence that goes all around the athletic facilities at Dover High School and is padlocked when not in use. These are limited access facilities and not easy to get to for graffiti. Signs will be facing the baseball & football fields and not visible to the road. (2) Due to the limited budget and lack of funds to support the athletic activities the Athletic Committee has looked at various other ways to raise money. Over \$7,000 a year is raised from local businesses contributing to ads and sponsorship to sports programs. Allowing signs on the sports fields to those businesses that are contributing will give recognition to those businesses. There are already 3 signs at the fields. The electronic scoreboard is due largely to the advertising of these businesses. There will be uniformity in the signs and well taken care of. The School Board would do nothing that would jeopardize the safety of the students. We are just trying to find means to raising funds to sponsor the sports activities. We have no problem with tabling the sign proposal if there were other means to raise money. Welcomes the opportunity to work with Mr. MacKenzie and others to do what is possible to benefit the Dover schools.

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Bob Callan - Questioned the location of signs, and concerned with signs being placed on the second side, facing the road.

Tom Clark - The signs will be placed at the outfield fence facing toward the infield.

Ms. Briggs - The area of signs have been reduced and will not be going all around the field. This will also need to go to the City Council to address revenue concerns.

Dean Trefethen - Have not yet heard evidence to overturn the Administrative Decision.

PUBLIC HEARING CLOSED

John Murphy - Feels that it is not an issue of graffiti but whether or not the administrative decision was correct.

Rick Callaghan - Advertising on field is typical of other towns. The Board may possibly look at putting conditions along with the decision of the Board. Perhaps Mr. MacKenzie could work as the representative of the neighborhood with the Athletic Committee and help give input to their efforts.

Dean Trefethen - Understands the concerns however The Board cannot set conditions or suggestions to the decision, it is either yes or no, that the administrative decision was or was not correct in accordance with the ordinance.

The Board members discussed ownership of the signs and where revenue goes.

Tom Clark - Understanding is that the School Dept. owns the signs and leases advertising spaces to a sponsor, collects the money and, to my knowledge, the decision has to be made where the money goes to. If they want the money to go specifically to the Dover High Athletic Dept., the Council may agree or not or it may go into the general fund.

Bob Callan - Feels that it is within our power to make our feelings known about having only single faced signs. Concerned with what will be on the second side of the signs.

Dean Trefethen - The issue is not the question of location of signs, quantity of signs or single faced signs but the issue is the decision made by Mr. Clark. The City is exempt.

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Dean Trefethen - Agrees that vandalism and graffiti probably will happen. Also agrees that this would not be a money making situation because as soon as the graffiti happens the signs would need to be repainted which will cost more money. However, he will uphold the administrative decision. Dean conveyed to the audience that if they have not made their concerns known to the School Board, that they should do so.

Rick Callaghan - Feels we have a responsibility towards the residents. Even if we cannot place conditions, we can make a statement of our position.

Bill Colbath - We can only decide on whether or not Tom made a correct decision on the ordinance.

Dean Trefethen - We could write a letter to the City Council stating that we upheld the Administrative Decision but that there are serious legitimate concerns of the residents that have no legal standing but should be heard.

Bob Callan - Concerned with what is going on the second side of the sign and feels that this should be addressed to the School Board.

John Murphy made the motion to uphold the Administrative Decision.

Bill Colbath seconded the motion.

U/A

Bill Colbath made the motion to send a letter to the School Board in regards to the concerns of the residents and send a copy to the City Council.

Rick Callaghan seconded the motion.

Vote: 4 for and 1 opposed (John Murphy opposed)

John Murphy made a motion to adjourn.

Rick Callaghan seconded the motion.

U/A

List of members with expiration dates

	<u>Term Starts</u>	<u>Term Exp.</u>
William Colbath	10/23/91	10/23/94
David Paolini	10/23/91	10/23/94
Dean Trefethen	12/31/91	12/31/94
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