

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
OCTOBER 20, 1994

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

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 September 15, 1994 minutes with the following corrections:

Page 3, 19th line down, change to "we are not looking at it as"

Page 4, 3rd paragraph, 5th line, change to "confirmed by the City Attorney."

Page 6, 6th paragraph, 2nd line, change to "look at putting condition to the"

Page 6, last paragraph, 2nd. line, change to "signs, quantity"

Page 6, 2nd from last paragraph, 2nd line, change to "feelings known about"

Rick Callaghan seconded the motion.

U/A

ITEM #2: No old Business

ITEM #3. Z 94-20; Larry Coward, 2 Salem Ave., a/k/a Assessor's Map K, Lot 15-U, zoned R-12, requests a variance from: (1) the terms of Article V Section 170-15 B. to construct an accessory structure (detached garage) four (4) feet from the main building and (2) the terms of Article V, Section 170-17, to construct an accessory structure (detached garage) within six (6) feet of a side lot line when a minimum of ten (10) feet is required.

Larry Coward - The house is set at an angle leaving very little room for the garage. It was suggested to bring the garage forward and having a breezeway but this does not change the set back and would be more costly. What he proposes is the best to get the garage and storage area. The shed will be removed when garage is built.

John Murphy - Asked if the variance is for the garage and patio.

Larry Coward - Variance is not needed for the patio.

The Board Members and Mr. Coward discussed the options of bringing the garage forward and connecting the garage to the house.

Mr. Coward's comments:

- (1) The request for a 14 ft. wide garage is to give storage space also, thus eliminating the shed.
- (2) The garage will be on a floating slab. If it is connected to the house it would require a foundation. Thus raising the cost.
- (3) Bringing garage forward 4 feet would not line it up with the house and would not be able to put in a breezeway. It would be up against the step platform of the house.
- (4) The house is a cape and to build a smaller garage would make it appear like a storage building.
- (5) The existing patio will be enclosed and having the garage against the house will not allow for a door or walkway from the patio.
- (6) Bringing garage forward would not solve the setback problem.
- (7) Attaching the garage to the house would block off windows in the house.

John Murphy made the motion to accept the case.

Dave Paolini seconded the motion.

U/A

Dean Trefethen - Asked Mr. Coward if he would like to consider alternative plans or go with the request he has presented.

Mr. Coward - Wished to go with his request.

PUBLIC HEARING CLOSED

The Board members and Mr. Coward discussed again alternatives such as relocating the driveway, attaching the garage in some way to patio and house and reducing the size of the garage.

Mr. Coward said that he would consider reducing the size of the garage.

Steve Stancel - The Planning Dept. feels that there are alternatives.

5 CRITERIA:

1. The applicant does face an unnecessary hardship. (Rick Callaghan and Dean Trefethen voted does not). Because of the present location of the house on the lot, adding a garage in any manner would not meet the setbacks, due to the irregular size of the lot.
2. The variance will deliver substantial justice. (Rick Callaghan and Dean Trefethen voted will not). It will allow him similar use of his property as his neighbors.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. (Rick Callaghan and Dean Trefethen voted will not). Due to the nature of the undersized lot, there is no way to meet the setbacks.
4. The variance will not result in a diminution in value of surrounding properties. (Rick Callaghan voted will). No evidence to conclude that diminution would occur.
5. The variance will be of benefit to the public interest. (Rick Callaghan and Dean Trefethen voted will not). Increasing the aesthetic value of the neighborhood and eliminates the non-conforming shed.

John Murphy made the motion to grant the variance. Conditions set forth - Maintain a 10' setback in the rear, a minimum 7' side setback, and minimum 4' separation between structures.

Bob Callan seconded the motion.

Three voted to grant, Rick Callaghan and Dean Trefethen opposed.

ITEM #4 Z 94-21, Peter Sullivan, (applicant: Normand Raiche). 81 Mt. Vernon St., a/k/a Assessor's Map 29, Lot 1, zoned R-12, requests a variance from the terms of Article III, Section 170-10 E to extend the parking for an office use into the R-12 Zoning District approximately seventy (70) feet where fifty (50) feet is permitted and to allow the parking to be within approximately ninety (90) feet of a street line in the R-12 Zoning District where one-hundred (100) feet is allowed.

Bill Colbath stepped down from this case.

Dean Trefethen asked Tom Clark if the building is in the Office zone and where the zone changes.

Thomas Clark - The building is in the Office Zone and beginning at the front property line, the office zone extends back 100' from the edge of the right-of-way.

Dean Trefethen - Then the current parking lot is 50 feet back and is legal.

Larry Raiche - His application speaks for itself. Emphasized that the parking on Ash St. is severe. The cars parking on Ash Street go to various properties. The City is about to eliminate parking on one side of Ash Street.

Rick Callaghan - Asked if there would be an access easement to the 9 spaces requested for 687 Central Ave. building because they are at 81 Mt. Vernon St.

Larry Raiche - We would be purchasing a right-of-way to the spaces.

Rick Callaghan - Asked how would this affect the Sullivan property parking.

Tom Clark - There are 8 existing parking spaces that are sufficient for the 4 residential units located at the building at 81 Mt. Vernon St.

Dave Paolini - Asked if there is a consideration for a buffer for the abutting parking spaces.

Tom Clark - If this variance is granted, they would have to go to the Planning Board for a lot line adjustment and waiver from the 5 foot set back to property line.

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

Steve Stancel - Asked if there were any residential units in the building.

Larry Raiche - It is all office space.

Steve Stancel - The Planning Office is having difficulty finding a hardship however, they are in favor of the off-street parking.

PUBLIC HEARING CLOSED

Dave Paolini - Asked if there are any plans to enlarge the building.

Larry Raiche - No.

Rick Callaghan - Asked if 81 Mt. Vernon St. would still be in conformance.

Steve Stancel - Yes, it would be.

5 CRITERIA:

1. The applicant does face an unnecessary hardship. The fact that the lot is split by two zones and also it would be needless or unnecessary restrictions to deny.
2. The variance will deliver substantial justice. It allows full utilization of the building while providing more off-street parking.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. Granting the variance would be a logical extension of allowed actions under the ordinance.
4. The variance will not result in a diminution in value of surrounding properties. No evidence was presented to the contrary, plus the impacted rear neighbor is a willing participant in the proposal.
5. The variance will be of benefit to the public interest. This provides more off-street parking.

John Murphy made the motion to grant the variance.

Rick Callaghan seconded the motion

Condition - Must obtain a deeded access easement.

U/A

ITEM #5: Z 94-22; Parkstone Properties Inc., (Applicant: Re/Max Realty Center), 828 Central Ave., a/k/a Assessor's Map 37, Lot 37, zoned Office requests a variance from the terms of Article IX, Section 170-32 I(b) to install a twelve (12) square foot, freestanding sign where four (4) is allowed and to increase the overall sign to thirty-six (36) square feet, where twenty-four (24) square feet exists, permitted by a previous variance.

Rick Callaghan stepped down.
Bill Colbath sat in on this case.

John Diamond - Moved business to the corner of Central and Glenwood Ave.. Proposes to use the space below Liberty Mutual's sign. The sign structure that is there will not increase in size.

Bob Callan made the motion to accept the case.
Dave Paolini seconded the motion.
U/A

Steve Stancel - Asked what will happen to the vacant space.

Joseph Tischler - Requests that consideration be given to applicant's request. If future tenant needs a sign, they will need to appear before the Zoning Board of Adjustment for their own needs.

PUBLIC HEARING CLOSED

Bob Callan - Agrees that the Board should be considering this request and future tenants need to appeal for their own needs.

5 CRITERIA:

1. The applicant does face an unnecessary hardship because the property location at the intersection is dwarfed by signs across the street in the B-3 zone. A small sign would be a hardship. (Bill Colbath and Dean Trefethen voted does not).
2. The variance will deliver substantial justice. (Bill Colbath voted will not). The applicant will use the sign surface already existing and will allow a reasonable size sign for the property.

3. The variance will be in harmony with the spirit and intent of the zoning ordinance. (Bill Colbath & Dean Trefethen voted will not). Because of the location of the building to the B-3 zone, the ordinance is too restrictive, but the sign is smaller than allowed in the B-3.
4. The variance will not result in a diminution in value of surrounding properties. No evidence presented to the contrary plus the proposed sign is reusing existing structure.
5. The variance will be of benefit to the public interest. (Bill Colbath voted will not). Allows adequate identification to the businesses at the property with a reasonable size sign.

John Murphy made the motion to grant the variance.
Bob Callan seconded the motion.
3 voted to grant and 2 opposed. (Bill Colbath & Dean Trefethen opposed).

ITEM #6. Z 94-23; Thomas and Caron Bourque, 17 Applevale Dr., a/k/a Assessor's Map K, Lot 15-R, zoned R-12 requests a variance from (1) the terms of Article V, Section 170-16 to construct a second floor 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.

Thomas Bourque - Would like to add a second story to give additional living area.

Dean Trefethen - Asked if he had considered adding on to the rear of the house.

Thomas Bourque - Yes however, desires to have a larger back yard for the children to play in.

Dave Paolini - Asked if he would be increasing the foot print of the house.

Thomas Bourque - No, just going up.

ZBA 10/20/94

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Dean Trefethen - Asked if it would be a cape.

Thomas Bourque - No. It will be a garrison.

Bob Callan made the motion to accept the case.

Dave Paolini - seconded the motion.

U/A

Steve Stancel - The Planning Dept. is in favor of this proposal. One of the changes anticipated to be made to the zoning ordinance is allowing expansions provided there would be no increase to the foot print of the building or encroachment in the set backs.

5 CRITERIA:

1. The applicant does face an unnecessary hardship. Change in zoning created the non-conformance and therefore the hardship.
2. The variance will deliver substantial justice. It will allow increase utilization of the property without decreasing the setbacks.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance. The intent is to provide reasonable setbacks and there would be no change.
4. The variance will not result in a diminution in value of surrounding properties. No evidence presented to the contrary.
5. The variance will be of benefit to the public interest. Maintains present setbacks.

Dave Paolini made the motion to grant the variance.

Bill Colbath seconded the motion.

U/A

MEETING ADJOURNED

List of members with expiration dates

	<u>Term Starts</u>	<u>Term Exp.</u>
David Paolini	10/23/91	10/23/94
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
William Colbath	10/23/94	10/23/97
Dean Trefethen	12/31/94	12/31/97