

ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
JANUARY 21, 1993

MEMBERS PRESENT: Joyce Bowden, Bill Colbath, Randy Turner,  
Bob Callan, Dean Trefethen, Dave Paolini

ALSO PRESENT: Tom Clark, Steve Stancel

ITEM #1: New Business

It was agreed by the Zoning Board that nominations and election of officers would take place at the end of the meeting.

Bill Colbath made the motion to accept the minutes of December 17, 1992 meeting.

Randy Turner seconded the motion.

VOTE U/A

ITEM 2: Old Business - None

ITEM 3: H93-1 Douglas George, Brookline Ave., a/k/a Assessor's Map 33, Lot 90, zoned R-12 requests a variance from the terms of Article V, Section 170-16, to construct a building (single family dwelling) twenty (20) feet from a front property line as it abuts the street where thirty (30) feet is required.

Joyce Bowden - Any comments from the applicant.

Douglas George - Reason for the request is evident in the application. Would like not to be held to a higher standard than other houses on the street.

David Paolini did not sit on this case.

Dean Trefethen made the motion to accept the case.  
Bill Colbath seconded the motion.

Tom Clark - Presented a larger site plan, clarifying the lot lines abandoned and the location of Doug's lot.

Steve Stancel - What were the blue stakes for.

Doug George - The blue stakes are to show where the house would sit with the 30 foot setback.

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Dean Trefethen - What is in the back lot; wetlands or just a drop off.

Doug George - The lowest point of the drop off at the rear of the lot is considered wetlands.

Bill Colbath - Where is the drop off in relation to the sewerage.

Doug George - The drop off occurs from the sewer I would say the edge would be approximately 50 to 60 feet toward the front of the lot. I haven't measured it exactly. It is approximately 90 feet from the front property line to the edge of the rather steep embankment.

Joyce Bowden - Anyone wish to speak against this application.

Atty. Allan Green - First the applicant must show a hardship. As the property is staked you can see that there is plenty of room for a back yard with the 30 foot setback. There would be a drainage problem if the house were built to close to the street and the flooding into the next house would cause a diminution of her property.

Doug George - There is a precedent in the New Hampshire Zoning law that a property is not to be held at a higher standard than the neighbor. If that is the case then that itself is the hardship. Second, does not feel that drainage is a problem. Sees no problem in developing that property in such a way that it will not be a detriment to anyone. Believe hardship is that a higher standard than others in the neighborhood is being held.

Atty Green - As far as drainage is concerned, as a developer, Mr. George should give thought specifically to the drainage problems. The slope on that property would present drainage problems for the house next door. The setback requirements for that area came into effect after the home of my client was built.

Steve Stancel - Could argue the case either way. Out of 7 houses, 5 are well within 30 foot setback.

Joyce Bowden - When were the houses built.

Steve Stancel - Not sure of dates

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Tom Clark - The current ordinance came into effect in '79. Most of those houses are older than that.

Bob Callan - Is house to the east 7 feet from boundary line.

Steve Stancel - Yes

Bob Callan - Asked if the 4 corner posts are for a possible client.

Doug George - Yes, stakes are to show where the house would sit at the current setback.

Bob Callan - Was the purpose of the 20 foot setback to give greater access to the back yard.

Doug George - That is the primary reason. To create more space in the back yard.

Doug was not involved in the subdivision. He purchased it after it was subdivided. See no detriment to property value, see no violations to public health & welfare.

Atty. Green - There is considerable land and with the house staked out meeting the current setback, it gives considerable use of the back yard.

PUBLIC HEARING CLOSED

Dean Trefethen - Believe there is adequate space for a back yard with the present location of the stakes. The wetlands are back far enough. Could use backfill.

#### 5 CRITERIA

1. Applicant does not face an unnecessary hardship because applicant can satisfy setback requirements and have full use of property.
2. The variance will not deliver substantial justice in that the applicant has full use of property as is.
3. The variance will not be in harmony with the spirit and intent of the zoning ordinance in that the spirit and intent of the ordinance is to regulate space and distance.
4. The variance will not result in a diminution of value of surrounding properties in that no evidence is presented.

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5. The variance will not be of benefit to the public interest. Public interest is not served by crowding the right of way.

Bill Colbath made the motion to deny the variance.

Randy Turner seconded the motion.

U/A

Doug George - What are my rights at this point. To petition this Board.

Joyce Bowden - If you have new evidence, you may present this new evidence and we will make a decision whether we will rehear it at that time.

Doug George - The precedent that I am being held to a higher standard than the neighbors be justification for new evidence?

Joyce Bowden - The Board does not feel that you are being held to a higher standard, they are all held to the same standard. Their houses were all in place prior to the current ordinance. They are held to the same standards that you are. They may not do anything to their houses without a variance.

Tom Clark - You do have 20 days to appeal.

Nominations and elections of officers of the Zoning Board of Adjustments

Joyce Bowden was nominated for Chairperson

Bill Colbath was nominated for Vice Chairperson

VOTE U/A

Joyce Bowden and Bill Colbath were re-elected as officers.

MEETING ADJOURNED