

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
APRIL 15, 1993

MEMBERS PRESENT: Bill Colbath, Dana Turner, John Murphy,
Robert Callan and Brenda Whitmore

ALSO PRESENT: Tom Clark, Steve Stancel

Bill Colbath, Vice Chairperson called meeting to order.

ITEM #1: New Business

Bill Colbath - Case #H93-4, Marc Houde, Paul Delisle and
Daniel Delisle, has been withdrawn.

John Murphy made the motion to accept the minutes of March
18, 1993 meeting.

Dana Turner seconded the motion.

VOTE U/A

Steve Stancel - (1) Reviewed information submitted in the
member's packet in regards to the Business Visitation
Program, and (2) the Municipal Law Lecture Series.

ITEM 2: Old Business - None

ITEM 3: H93-3, Linda Martel, 47 Upper Factory Rd., a/k/a
Assessor's Map E, Lot 57-D, zoned R-20 requests a
variance from the terms of Article IV, Section 170-
12, Table I, Part A to maintain a two-family
dwelling in an R-20 zoning district.

Linda Martel - In the process of trying to refinance
mortgage, the apartment presented a problem. When the
apartment was built 12 years ago, did not realize there was a
problem with the zoning. Mother lived in it 5 years and
sister now resides there. Reviewed the five questions on her
application. She has provided living quarters for retired
family members and would like to continue to help them.

Robert Callan - made the motion to accept the case.

John Murphy - seconded the motion.

U/A

Craig Labrie - An abutter. Spoke in favor of the variance.
Thinks that this could be a good model for people who take
care of family members.

Kathy Meehan - An abutter. Linda's property enhances the street and there is no noticeable apartment. In favor of variance.

Tom Clark - The only reason this situation came to light is due to an inquiry made by the appraiser during the refinancing process as to whether or not this was a permitted use.

Steve Stancel - Asked if there was an entrance to the apartment from the inside of the house.

Linda Martel - Yes, inside the breezeway.

Steve Stancel - The person living there now has been there seven years. Asked if she would have a problem if the Board put a condition on, if it were approved, that if either parties were to leave, the house would convert back to a single family. The concept behind the ordinance is to maintain single family dwellings in this zone.

Linda Martel - No.

CLOSE PUBLIC HEARING

Brenda Whitmore - in favor of the variance.

Robert Callan - Asked Tom Clark - If Linda's mother wanted to live with her twelve years ago in a mother-in-law apartment, would she have to go to the ZBA?

Tom Clark - Yes. No distinction was made between dwelling unit for non-family member and family member. It either is or isn't a dwelling unit. Had the house been built 2 years earlier, the conversion would be permitted.

Robert Callan - Concerned with a future problem when property is sold if a contingency was placed on it now. A similar problem may result as far as the sale of the property.

Steve Stancel - There shouldn't be a problem because it would be recorded on the tax card as a duplex and she will be paying taxes as a duplex, but when she sells it, it has to be sold as a single family structure based on the conditions of this Board. If it isn't tied into her relative living there, then anyone could come in and it would be difficult for us to say that it could not be done. This is the only way that we can justify the apartment remaining.

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Robert Callan - Asked Linda how large the kitchen was.

Linda Martel - Just a small corner.

Robert Callan - Then it would not be a problem that the contingency would be placed.

Linda Martel - No.

Steve Stancel - The condition protects the neighbors also.

5 CRITERIA

1. Applicant does face an unnecessary hardship and the variance will allow continuity of use as a semi-single family dwelling with protection of future and current neighbors.
2. The variance will deliver substantial justice in that it allows current use by family members to continue and allows reimplementatation of zoning regs. upon members leaving.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance in that continued use as a semi-single family dwelling with essentially the same protections a single family dwelling will allow neighbors.
4. The variance will not result in a diminution of value of surrounding properties in that no evidence to the contrary is presented.
5. The variance will be of benefit to the public interest. in that the decision poses no detriment to the public interest, it allows family members to stay together.

Robert Callan made the motion to grant the variance.

Randy Turner seconded the motion.

U/A with the following condition:

If the property changes ownership it shall revert back to a single family dwelling.

ITEM 4: Tom Clark informed the Zoning Board that case #H93-4, Marc Houde, Paul Delisle and Daniel Delisle, was withdrawn because an alternate solution was found.

ITEM 5: H93-5, Donald Steward, Applicant: Cynthia Olson, Littleworth Rd., a/k/a Assessor's Map F, Lots 30-A and 30-B, zoned R-40, requests a variance from the terms of Article IV, Section 170-12, Table I. Part C-2 to establish a wholesale, warehouse and retail use in connection with a Pet Service facility in an R-40 zoning district.

Cindy Olson - Correction - There is only one lot, #30-A. Plan is to build a structure which will house several pet service businesses. The primary business is warehousing and there will also be a retail store within the building. The rest of the services will be a training room for dog obedience classes and boarding kennel and offices. The warehousing and retail are not currently allowed in that zone. requesting a variance to allow those two uses on this property. The hardship to this property is the master plan for Dover which will change the zoning of that property to industrial in the future. Reviewed the criteria in the application.

Tom Clark - The proposed plot plan shows the conceptual location of the building. The variance is only for the use. This building would be considered non-conforming. If the variance were granted the building would be moved so that it would be in compliance with the setbacks.

Dana Turner made the motion to accept the case.
John Murphy seconded it.
U/A

The following property owners spoke in opposition:

Joanne Fairchild, Fred Riley, Dave Bovier, Jim O'Donnell, and Tom Fairchild

The following are their concerns and comments:

- 1) The road to be put in to the land in question will be on a very bad curve on Littleworth Rd.
- 2) Was thought to be an in-home business but actually will not be.
- 3) 18 wheelers and miscellaneous vehicles will create a substantial amount of traffic on a very dangerous curve.

- 4) The Master Plan is a future plan. No time has been set.
- 5) There is property across the street that is currently zoned for this type of establishment.
- 6) Effect the value of surrounding properties.
- 7) Noise from the dog kennel.
- 8) No hardship.
- 9) State approval of driveways were approved to residential lots.
- 10) Road is wide enough for residential not commercial.
- 11) These lots were approved for residential lots not warehouse or retail.
- 12) Spot zoning to put this building in this area.
- 13) Road has to cross wetlands.

Bill Colbath - What the plan that was approved had for a right-of way to it and how it got to this.

Steve Stancel - The plan that was approved shows a fifty foot right of way.

The Board reviewed and discussed the site plan concerning the right-of-way.

PUBLIC HEARING CLOSED

John Murphy - Questioned size of business, anticipated traffic increase and number of Kennels.

Cindy Olson - 99% of business is wholesale and the retail business will increase traffic. There will be 10 kennels and the number of dogs will be 10, but not all at the same time.

Bob Callan - Questioned number of dogs and commented on the amount of noise.

Cindy Olson - There will be an apartment in the building for a 24-hr. attendant to keep dogs quiet.

Steve Stancel - Applicant has not presented enough evidence of hardship.

Chris Jacobs - Items to be considered:

- 1) Hardship has to be inherent in property. Because the property has not sold since 1987 is not considered hardship.
- 2) If approved - approval inherent with the land and inherent with the structure.

- 3) Diminution of value in surrounding property.
Abutters opposition as stated at this meeting cannot be ignored.

Bob Callan - (a) Applicant does not own the land. Variance was granted for 3 residential lots, (b) spot rezone to industrial.

John Murphy - Made the motion to move to the criteria
Randy Turner - Seconded the motion.
U/A

5 CRITERIA

1. The applicant does not face an unnecessary hardship. Hardship not proven.
2. The variance will not deliver substantial justice in that privileges extended that others do not enjoy.
3. The variance will not be in harmony with the spirit and intent of the zoning ordinance. The spirit and intent was to promote rural use and this is not rural use.
4. The variance will result in a diminution in value of surrounding properties. Randy Turner and John Murphy - will not; Bob Callan, Brenda Whitmore and Bill Colbath - will. Evidence inconclusive but tend to suggest value of residences will suffer.
5. The variance will not be of benefit to the public interest. John Murphy and Bob Callan - will; Brenda Whitmore, Randy Turner and Bill Colbath - will not. Benefit to public by services is small; loss in safety and neighbors rights great.

Brenda Whitmore - made the motion to deny the variance.
Randy Turner - seconded the motion.
U/A

ITEM 6: H93-6, Jim Miller, 75 Dover Pt. Rd. (Nordic Stove Shoppe), a/k/a Assessor's Map M, Lot 24-A, zoned B-1 requests variances from the terms of 1) Article V, Section 170-16 to construct a second story addition within approximately nine (9) feet of a front property line as it abuts a street where fifteen (15) feet is required and within approximately two

(2) feet of a rear property line where fifteen (15) feet is required; and 2) Article X, Section 170-41.A to increase a non-conforming structure.

Jim Miller - Owner of Nordic Stove Shoppe. Business has grown and is in need of more office space and also needs to replace a leaky flat roof. Would like to raise the building one story and change the pitch of the roof. Mr. Miller reviewed the criteria on his application. He will not be increasing the foot print of the building. Would like to move the office space to the second floor and expand the retail space on the first floor.

Brenda Whitmore - Made the motion to accept the case.

Randy Turner - Seconded the motion.

U/A

No opposition

Bill Colbath - Reviewed the plot plan. Appears that a part of the building encroaches on City property.

Jim Miller - The former owner purchased that portion of land from the City. Jim owns that portion of property.

No further questions or comments.

5 CRITERIA

1. Hardship - Bill Colbath - opposed; Bob Callan, John Murphy, Randy Turner and Brenda Whitmore -in favor. The applicant does face an unnecessary hardship. The unique shape of the lot coupled with the set-back reduction from surrounding roads, no where to go but up.
2. The variance will deliver substantial justice in that it allows continued use of property and allows business expansion.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance in that it will allow continued use of the B-1 zone while allowing expansion of use.
4. The variance will not result in a diminution in value of surrounding properties. No evidence presented.

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5. The variance will be of benefit to the public interest. It will allow the owner to expand his business in existing location.

Randy Turner - Made the motion to grant the variance.

Brenda Whitmore - Seconded the motion.

U/A

Randy Turner submitted his letter of resignation. He will be away for one year.

MEETING ADJOURNED