

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
APRIL 18, 1991

MEMBERS PRESENT: Bill Colbath, Joyce Bowden, Randy Turner,
David Paolini, Chris Jacobs

ALSO PRESENT: Steve Stancel and Tom Clark

Meeting brought to order at 7:03 PM.

1. New Business

Chris Jacobs made the motion to accept the minutes of the last meeting.

Randy Turner seconded.

VOTE U/A

2. Old Business

Steve Stancel discussed the letter that was sent to the Planning Board requesting the rezoning of Toftree Lane. He stated that the Planning Board will be taking up the request at their meeting on Tuesday, April 23, 1991.

H91-6 John Salvesvold, 17 Landing Way, A/K/A Assessors Map L, Lot 95-1-P, zoned R-20 requests a variance from the terms of Article V, Section 170-16 to construct a front porch addition approximately twenty-three (23) feet from a front property line where thirty-five (35) feet is required.

John Salvesvold stated that he purchased the house last fall. There are problems with erosion because of the placement of the house on the sloping property. He stated that the porch would provide a covered access to the house and the placement of stone walls would take care of the erosion problem on the front of the house.

Bill Colbath made the motion to accept the application.

David Paolini seconded.

VOTE U/A

Mr. Salvesvold stated the porch will take water from the front of the house, through gutters and disperse it in the yard. He stated the water will go to a catch basin and down to the river.

Mrs. Salvesvold stated it would be a much safer entrance into the house and would enhance the look of the house. Visitors would not have to come in through the garage.

Steve Stancel stated that the Planning Department is in favor of the variance because of the severe slope of the land.

CLOSE PUBLIC HEARING

5 CRITERIA

1. The applicant does face an unnecessary hardship because the topography of the land is unique in its configuration and will not allow construction within the setbacks of the ordinance.
2. The variance will deliver substantial justice because it will allow access to the dwelling.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance as it doesn't change the spirit and intent of a single family dwelling.
4. The variance will not result in a diminution in value of surrounding properties as no evidence was presented.
5. The variance will be for the benefit to the public interest as no evidence was presented that it would not.

Bill Colbath made the motion to grant the variance.

David Paolini seconded.

VOTE U/A

GRANTED

H91-7 Continental Cablevision (Owner: Wallace Akerman, Sr.) 400 Sixth Street, A/K/A Assessor's Map A, Lot 27, zoned ETP, requests a variance from the terms of Article X, Section 170-40.A, to increase a non-conforming use.

John Ladd represented Continental Cablevision. He stated the need to replace a defective satellite dish with two new smaller dishes. This replacement is necessary because of a defective dish and the two satellites that they currently pick up with one dish are moving and now they need two separate dishes to continue picking up the same services.

He stated that restricting the replacement of the defective dish and the addition of a second one would seriously hamper their ability to provide their customers with the programming they have been receiving and to conduct business in those towns.

Tom Clark stated that this is not a permitted use and they will have to come back to the Zoning Board for anything they might have to do.

Mr. Ladd stated they will be duplicating these facilities in Exeter in the future and eventually they will just be using the building.

Bill Colbath made the motion to accept the case.

Randy Turner seconded.
VOTE U/A

Chris Jacobs asked if their satellite dishes would interfere with abutters who would want to put up their own dish.

John Ladd stated that they would not. These dishes are regular satellite dishes.

Steve Stancel stated that the Planing Department does not have a problem with this case as they are still within the triangular area.

CLOSE PUBLIC HEARING

5 CRITERIA

Chris Jacobs stated he felt it is an administrative hardship and has no problem with it.

Steve Stancel stated that this use is not listed in the regulations. He said that a precedence has been set at this site and it is not a use in any zone. We have allowed them this use in the area and essentially they are just replacing equipment they already have.

Joyce Bowden stated that a letter should be sent to the Council regarding this use.

5 CRITERIA

1. The applicant does face an unnecessary hardship because the hardship was created by the City of Dover's inability to plan for the future of the company.
2. The variance will deliver substantial justice as it will allow them to fulfill their contract.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance.
4. The variance will not result in a diminution in value of surrounding properties as no evidence was presented.
5. The variance will be of benefit to the public interest in allowing them to fulfill their obligations.

Bill Colbath made the motion to grant the variance.
David Paolini seconded.
VOTE U/A
GRANTED

H91-8A Crown Color Corp. (Owner: McQuade Realty Inc.) Crosby Road, A/K/A Assessor's Map G, Lot 1B, zoned I-1 requests a variance from 1) the terms of Article V, Section 170-16 to erect a structure zero (0) feet from a side property line where fifteen (15) is required; and 2) from the terms of Article X, Section 170-41A to increase a non-conforming structure.

Steven Dibble represented Crown Color Corp. He stated that this parcel is comprised mostly of wetlands. Where the building sets is the only place that the building could have been built. He introduced two gentlemen from the company and Bob Bursin, from Norway Plains to answer engineering problems. He stated that in the next few years they will be asking the Planning Board for a site review to build a warehouse. He stated that the lot is very important to the business because of the rail. He stated there are 4 silos that are 65' high that will need to be erected. When the useful life of these silos is over, they can be dismantled and taken down. He stated that there is no where to shift anything around and stated the reasons.

Bill Colbath found he has a conflict of interest in this case and removed himself from the case.

Atty. Dibble decided to go with the Board of four.

Chris Jacobs made the motion to accept the application.

Randy Turner seconded.

VOTE U/A

Steve Dibble stated that the silo pad will be concrete and the gravel portion on the plan is the access to the concrete pad. He stated that he tried to get an easement or deed to this access and the owners stated that they would just let them use it. Mr. Dibble stated that Crown Color could still access the silos without it but using it would be easier. He stated that the abutter will give him a letter to the effect that they can use the easement.

A gentleman from Crown Color stated that the silos can be accessed for repair without going over the abutter's land by using a crane on a rail car to do repairs. This gentleman explained how the material would be pumped from the rail cars into the silos and into the plant.

Mr. Dibble stated that the silos are not structures that are creating livable space they are equipment.

Dave Paolini asked how the Fire Dept. would put out a potential fire.

Mr. Wright stated they would probably use foam. He also stated that he doesn't think it's a real problem.

Chris Jacobs asked if it has gone thru TRC.

Steve Stancel stated that it has and that there was a representative from the Fire department present.

Dave Paolini asked why the silos couldn't be put in the building.

Atty. Dibble stated that the differences in temperature would cause a condensation problem. He stated that this product can be at any temperature but not at different temperatures.

Steve Griffin, Economic Director, stated his job is to encourage people to come to Dover. A use like this one has to have rail. He said that they looked at other sites and there are very few options that have both rail and gas.

Mr. Wright, City Manager, stated that this project will provide good jobs and fill an empty building. The ZBA is designed to be a relief valve. The silos are removable, detachable items and he urged the Board to grant this variance.

Atty. Dibble stated that it was not feasible to have the silos in the front where the offices are and by virtue of the rail site, they couldn't be in front. There is not enough room on the other sides to accommodate the silos, that leaves the rear of the building.

Joyce Bowden read the following from The Board of Adjustment in New Hampshire: - needless or unnecessary restriction, means that nothing would be gained by enforcing the exact terms of the ordinance and the situation can be remedied by granting a lawful variance. "When the restriction, as applied to a particular piece of land, is unnecessary to accomplish a legitimate public purpose or the gain to the public is slight but the harm to the citizen and his property is great, the exercise of the police power becomes arbitrary and unreasonable and this court will afford relief under the constitution of this state."

Randy Turner stated that since the silos are not permanent, a condition should be made stating that if they leave they must take the silos and concrete pad and restore the site to its original condition.

Steve Stancel stated that the Planning department feels there is justification for a variance.

Chris Jacobs asked if anyone has had a discussion with Hyaire, the owners of the abutting property.

Mr. Wright stated that he had.

CLOSE PUBLIC HEARING

Joyce Bowden thought it was a poor layout.

Randy Turner stated that there should be no drainage on the abutting lot and the silos and pads should be removed as conditions.

5 CRITERIA

1. The applicant does face an unnecessary hardship because this constitutes a needless restriction and nothing is to be gained by the enforcement of the ordinance.

VOTE U/A

2. The variance will deliver substantial justice because it allows the applicant to use the railway site.

VOTE U/A

3. The variance will be in harmony with the spirit and intent of the zoning ordinance because it is not the intent of the ordinance to be arbitrary as this would be.

VOTE

WILL - D. Paolini
R. Turner
J. Bowden

WILL NOT - C. Jacobs

4. The variance will not result in a diminution in value of surrounding properties as no evidence was presented to the contrary.

VOTE U/A

5. The variance will be of benefit to the public interest as it will allow a piece of property into productive use.

VOTE U/A

Randy Turner made the motion to grant the variance with the following conditions:

1. Removal of the silos and concrete pads and return property to original condition if the applicants move their occupancy or vacate the building or terminate operations.

2. There will be no drainage onto the abutting property.

Dave Paolini seconded.

VOTE U/A

APPROVED - 2 CONDITIONS

H91-8B Crown Color Corp. (Owner: McQuade Realty Inc.) Crosby Road, A/K/A Assessor's Map G, Lot 1B, zoned I-1 requests a special exception as provided by the terms of Article VI, Section 170-25.2 and Article XII, Section 170.52C(3) to erect a structure with height of sixty-five (65) feet.

Randy Turner made the motion to accept the application.
Chris Jacobs seconded.
VOTE U/A

Joyce Bowden read the material in the file.

CLOSE PUBLIC HEARING

Steve Stancel stated that the Planning department has no problem.

Dave Paolini made the motion to grant the special exception.
Randy Turner seconded.
VOTE U/A
GRANTED

Joyce Bowden stated that Tom Clark heard from James Caliendo regarding the family whose house burned down on Henry Law Ave. Mr. Caliendo wants to turn the house to face the street. The house is already being made and ready to ship and he wants a special meeting.

Tom stated that he gave Mr. Caliendo an application for changing the location but they want to make it bigger also.

The Board stated that they had no problem with a special meeting.

Joyce stated that if the application is not returned in 5 days they will not have a special meeting. She also stated that she doesn't want a tax map type of survey. The application must be in by Thursday, April 25, 1991.

Chris Jacobs made the motion the adjourn.
Randy Turner seconded.
VOTE U/A

MEETING ADJOURNED AT 8:55 PM.