

ZONING BOARD OF ADJUSTMENTS  
MINUTES OF MEETING  
JULY 19, 1990

Members present: Chris Jacobs, Joyce Bowden, Randy Turner,  
Bill Colbath and Dean Trefethen.

Also present: Steve Stancel and Tom Clark.

Meeting brought to order at 7:05.

NEW BUSINESS

Bill Colbath made the motion to accept the minutes of the  
last meeting.

Randy Turner seconded.

VOTE U/A

H90-10 Profit Time Enterprises, Summer Drive, A/K/A  
Assessor's Map H, Lot 35-C-4, zoned I-1, requests a Variance  
from the terms of Article IX, Section 170-32.J. (2) (c) to  
erect a freestanding sign with an area of thirty-six (36)  
square feet where approximately seventeen (17) square feet is  
permitted. (This item was tabled from the meeting of June  
21, 1990)

Tom Clark stated this agenda item is slightly different than  
the previous request that was tabled last month. Mr. Jalbert  
is only looking for the size variance not the quantity  
variance. The location for his sign is depicted on the plan  
as Sign Location #2. He is not pursuing Sign Location #1.

Jim Jalbert, the applicant, stated that the sign ordinance  
dictates the size of the sign in conjunction with the size of  
the building, and does not represent a facility such as a bus  
terminal where the building is small and the parking lot must  
be large. His property fronting Route 155 is now fronted by  
land, which may be rezoned and may block the view of his  
facility, therefore, the need of a thirty-six square foot,  
single faced, illuminated sign. He stated that public  
transportation is a definite plus to the City.

Chris Jacobs made the motion to accept the case.

Randy Turner seconded.

VOTE U/A

Jim Jalbert stated that he donated 20 spaces to the State for  
Park & Ride and also paid for the signs.

Steve Stancel said the Planning Department is in favor of the  
variance. It is a classic example of when an ordinance is  
written it is hard to anticipate everything. The sign  
ordinance was written with factories and large buildings in

mind and it wasn't anticipated that a bus station would go out there.

Jim Jalbert said that in the future a 10,000 to 14,000 sq. ft. maintenance facility will be built and will help to make up the sign difference.

Close Public Hearing.

#### 5 CRITERIA

1. The applicant does face an unnecessary hardship because the ordinance doesn't address the problem of a business such as a bus stop with a small building and large parking area. The location of the building from the highway - 600' also adds to the uniqueness of the situation.
2. The variance will deliver substantial justice as it allows the applicant a reasonably designed sign for his need.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance as the ordinance was intended to base the size of the signs on the amount of usage.
4. The variance will not result in a diminution in value of surrounding properties because there was no evidence presented.
5. The variance will be of benefit to the public interest as it promotes easier recognition to avoid traffic congestion and to promote public transportation.

Bill Colbath made the motion to grant the variance with the notation that this request has been modified from 2 signs to 1 sign.

Chris Jacobs seconded.

VOTE U/A

GRANTED

H90-11 Robert Foster, 192 Dover Point Road, A/K/A Assessor's Map L, Lot 89-I, zoned R-20, requests a Special Exception as provided by the terms of Article VII, Section 170-27-C(3) and Article XII, Section 170-52-C(3) to construct a boat dock in the Conservation District.

Sarah Newick represented the Fosters. She stated that they wanted to erect a 126 X 6 foot long pier on the Piscataqua River and have been granted all the necessary permits. Their

Wetlands permit has been recorded with the Registry of Deeds.

Dean Trefethen asked where the float will be stored.

Ms. Newick stated it will be floated to the shore and stored there.

Chris Jacobs made the motion to accept.  
Bill Colbath seconded.

VOTE U/A

Steve Stancel stated that the Planning Department has no problem with this case since all the permits have been received.

Chris Jacobs stated that the paving has been removed and asked the Fosters if they would have a problem with turning the gravel area into grass.

Robert Foster stated that they plan to grass it.

Close Public Hearing

Chris Jacobs made the motion to grant the Special Exception with the gravel area being grassed.

Bill Colbath seconded.

VOTE U/A

GRANTED

H90-12 Mark Smith, 44 Toftree Lane, A/K/A Assessor's Map M, Lot 161, zoned R-40, requests a Variance from the terms of Article V, Sections 170-14.A (1) and 170-16 to construct a breezeway and two car attached garage eight (8) feet from a side property line where ten (10) feet is required and thirty-two (32) feet from a front property line as it abuts a street where fifty (50) feet is required.

Tom Clark stated that Toftree Lane was Agricultural and then rezoned to R-40 which made everything non-conforming.

Steve Stancel stated it was recommended that the ZBA make a recommendation to the Planning Board to rezone the area.

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

VOTE U/A

Mark Smith stated he wishes to build a two car garage and breezeway.

Steve Stancel stated that the Planning Department has no problem with the front setback but does have a problem with the side setback. He stated that in the late 70's the setback was 12 feet and the R-40 required 25 feet. The side setback has been reduced 2 feet. With that being the case, the garage can be cut two feet or the entry eliminated and Mr. Smith can meet the setbacks.

Chris Jacobs asked why he wanted such a large garage.

Mark Smith stated that he has large cars and he doesn't want the garage to look boxy.

Chris Jacobs asked if he had any objection to setting the garage back.

Smith said he would not be able to attach it to the house if he set it back.

Dean Trefethen asked why he could not put it in the back of the house.

Mark Smith stated that there is drainage in the back of the house which would be blocked.

Chris Jacobs stated he agreed with Steve Stancel's statement. He said that the Board has traditionally held up setbacks for garages and Mr. Smith could cut the garage by 2 feet. He added that although there are other double garages in the neighborhood they seem to be within the side setback.

Randy Turner stated that he sees too many alternative where Mr. Smith could comply.

Dean Trefethen stated that Mr. Smith has plenty of options.

Mark Smith asked if it was possible for the Board to approve the front setback and not the side setback.

Joyce Bowden stated that it was possible.

#### Close Public Hearing

1. The applicant does face an unnecessary hardship in the front setback because the nature of the entire subdivision makes it nonconforming. The applicant is able to comply to the side setback requirement and the Board does not feel a hardship exists on the side setback requirement.
2. The variance will deliver substantial justice because it will allow him reasonable use; the same use as his neighbors. This applies to the front setback request only.

3. The variance will be in harmony with the spirit and intent of the zoning ordinance as the spirit and intent in the neighborhood is single family and the use is not being changed.
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 because it wasn't shown to be a detriment.

Dean Trefethen made the motion to grant the variance for the 32 feet on the front setback but the side setback of 10 feet must be maintained.

Bill Colbath seconded.

VOTE U/A

GRANTED - front setback only

Dean Trefethen stated that one member of the Board has not been attending meetings.

Joyce Bowden asked Steve Stancel to write a letter to Dave Anderson requesting his resignation since his schedule is such that he is unable to attend the meetings.

Steve Stancel asked if a letter should be sent to the Councilors to appoint another alternate?

Joyce said that he should.

Bill Colbath made the motion to adjourn.

Dean Trefethen seconded.

VOTE U/A