

DOVER ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
SEPTEMBER 20, 1990

MEMBERS PRESENT: Bill Colbath, Chris Jacobs, Dean Trefethen,
Dana Turner, David Paolini

ALSO PRESENT: Steve Stancel and Tom Clark

Meeting called to order by Bill Colbath at 7:15 PM.

Dean Trefethen made the motion to approved the minutes of the
last meeting.

David Paolini seconded.

VOTE U/A

H90-15 William & Jan McMillan, 14 Boston Harbor Road, A/K/A
Assessor's Map 7, Lot 25, Zoned R-20, requests a variance
from the terms of, (1) Article V, Section 170-16 to construct
an addition (attached garage) eleven (11) feet from a front
property line where thirty-five (35) feet is required; and
(2) Article X, Section 170-41.A, to increase a non-conforming
structure.

Bill McMillan stated he was before the Board to change the
configuration from the original variance for reasons of
economy and accessibility to the house. This way the side
variance won't be needed. He said he was trying to shape the
addition to the triangular shape of the property and not the
shape of the house. Since the State took 50 feet of his land
for the proposed widening of the road it has left him with a
very odd shaped piece of property.

Chris Jacobs made the motion to accept the application.

David Paolini seconded.

VOTE 4 -1 Dean Trefethen opposed

Steve Stancel asked if he had any intentions of adding a room
to the top of the garage.

Bill McMillan answered that he did.

Steve Stancel stated that the Planning Department is opposed
to the variance because he does have room to put a detached
garage on the side.

Bill McMillan stated that he has lived in the house for 13
years. He was renting it at the time the State took the 50
feet and bought it later. He has been the owner for 6 or 7
years now. When he bought it he didn't realize that all the
land he was mowing was not his property and belonged to the
State.

Dave Paolini said that he tried to fit the garage in on the lot and it's quite hard to do.

Tom Clark asked Mr. McMillan if he was looking for a garage with living space. If this is so, it should be included in the request so he won't have to come back.

Close Public Hearing

Bill Colbath asked if he minded loosing the previous variance.

Bill McMillan answered that he did not.

5 CRITERIA

1. The applicant does face an unnecessary hardship because the unique configuration of the lot and State-owned property created a hardship.

VOTE 4-1 Dean Trefethen opposed

2. The variance will deliver substantial justice by allowing same use of the property that others in the neighborhood enjoy.

VOTE 4-1 Dean Trefethen opposed

3. The variance will be in harmony with the spirit and intent of the zoning ordinance because the spirit and intent is to allow single family residences and it remains a single family residence.

VOTE 4-1 Dean Trefethen opposed

4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.

VOTE U/A

5. The variance will be of benefit to the public interest because it will upgrade the property and make it more consistent with the surrounding properties.

VOTE 4-1 Dean Trefethen opposed

Chris Jacobs made the motion to grant the variance.
Randy Turner seconded.

VOTE 4-1 Dean Trefethen opposed

GRANTED - with the condition that Variance H89-30 be revoked and replaced by current plan.

H90-16 William & Jan McMillan, 14 Boston Harbor Road, A/K/A Assessor's Map 7, Lot 25, Zoned R-20, requests a variance from the terms of Article IX, Section 170-33.A & 170-33.B(1) to maintain a fence that exceeds six (6) feet in height from ground level and that has the finished side facing inward.

Bill McMillan apologized for coming in after the fact, he didn't know there was a height limit. He also stated that with the woods and the sewer pumping station it didn't make sense to put the good side facing out. It's like living in a fish bowl. He needs a fence for privacy, security and noise reduction.

Steve Stancel stated the Planning Department has no problem with the fence but cannot speak in favor because the fence was put up before the permit.

Dean Trefethen asked if he could put another good side on the other side.

Bill McMillan stated that cost is a factor.

Dean Trefethen made the motion to accept the case.

Chris Jacobs seconded.

VOTE U/A

Close Public Hearing

5 CRITERIA

1. The applicant does face an unnecessary hardship because the grade is low and the fence must be higher than 6 feet to accomplish adequate screening.
2. The variance will deliver substantial justice because substantial justice is to allow an adequate barrier for noise reduction and visual privacy and a higher than 6 foot fence is required.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance because the spirit and intent is to provide privacy and noise reduction and this fence will do so.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.
5. The variance will be of benefit to the public interest because it will provide adequate screening and noise reduction.

Dean Trefethen made the motion to grant the variance with the condition that if the State of NH takes down the strip of woods, the finished side will have to face outwardly.

Chris Jacobs seconded.

VOTE U/A

GRANTED - with the condition that if the State should remove the vegetation surrounding the fence, the finished side shall have to face outward. The variance is limited to the existing fence only.

H90-17 Charles Carville, Hillcrest Drive, A/K/A Assessor's Map 35, Lot 56-2, Zoned R-12, requests a variance from the terms of Article V, Section 170-16 to construct a building (single family dwelling) approximately twenty-nine (29) feet, two (2) inches from a front property line where thirty (30) feet is required. NOTE: foundation for the building is existing.

Charles Carville stated the foundation was 10 inches into the setback in one corner but the neighbors don't object. If it had to be taken apart it would hurt the strength of the foundation. He stated that he triple checked the setbacks and the house is set back further than most houses on the street. It will cause a structural problem if he is made to take it down. He is building this house for himself out of his own pocket.

Bill Colbath asked if he had the property surveyed and if there are pins.

Charles Carville stated that he had and there are pins.

Tom Clark stated that Mr. Carville didn't take in the radius of the curve of the road. The road doesn't have to be in the center of the 50' right of way.

Chris Jacobs made the motion to accept the case.

Randy Turner seconded.

VOTE U/A

Paul Crowley, 67 Hough St., stated he was a nosy and loving abutter. He took a tape measure and measured from the macadam to the corner of the house and it is 45 feet 2 inches. He stated that he would like to have Mr. Carville relieved of the liability.

Charles Gabriel, an abutter across the street, stated he is in favor of the variance.

Close Public Hearing

5 CRITERIA

1. The applicant does face an unnecessary hardship because of the minor encroachment.

2. The variance will deliver substantial justice because there is no public gain to strict enforcement of such a minor encroachment.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance because the spirit and intent was for 30', it is a small encroachment, much less than the 3' allowed for stoops and overhangs.
4. The variance will not result in a diminution in value of surrounding properties because no evidence presented and abutters all approve.
5. The variance will be of benefit to the public interest as it will allow the continued construction of a single family dwelling and there is no detriment to the public interest.

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

GRANTED

H90-18 James & Lisa Fieseher, 7 Westwood Circle, A/K/A Assessor's Map F, Lot 17-T, zoned R-40, requests a variance from the terms of (1) Article V, Section 170-16 to construct an addition forty-five (45) feet from a front property line where fifty (50) feet is required and fifteen (15) feet from a side property line where twenty-five (25) feet is required; and (2) Article X, Section 170-41.A to increase a non-conforming structure.

James Fieseher stated that the Circle is all non-conforming because of the R-40 zoning. He stated that he needs to add onto a small bath and needs more closets near the master bedroom. Because of the leach field in the back of the house there is nowhere else to put it. He stated that he has not built it yet, he wanted to check with the Building Inspector first. He is a physician and works very late hours and starts very early in the morning and needs the extra room to allow him to have space without disturbing the rest of the family.

Steve Stancel stated that there is a uniqueness to this property.

Close Public Hearing

1. The applicant does face an unnecessary hardship because the septic system and setbacks do not allow further expansions in other areas.

2. The variance will deliver substantial justice by maintaining the side setback that exists and allowing reasonable use of the property.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance because the intent of the ordinance is to allow a lesser side setback for a nonconforming lot which he is almost able to satisfy.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.
5. The variance will be of benefit to the public interest because it is not a detriment to public interest.

Dean Trefethen made the motion to grant the variance.
David Paolini seconded.
VOTE U/A

GRANTED

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

Meeting adjourned at 8:53.