

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
NOVEMBER 15, 1990

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

ALSO PRESENT: Steven Stancel and Tom Clark

Randy Turner left after seeing that there was a full board present.

Joyce Bowden called the meeting to order at 7:05 PM.

1. NEW BUSINESS

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

Dean Trefethen seconded.

VOTE U/A

Joyce Bowden stated that next month will be the nominations of officers for next year. The elections will be held in January. She also stated that a letter has been written to Jack Story, who is head of the Appointments Committee, asking him to recommend to the City Council that one of the alternate members become a regular board member and for two new appointments for alternate members.

H90-21 Arnold Rigby, 106 Dover Neck Road, A/K/A Assessor's Map M, Lot 74, zoned R-40, requests a variance from the terms of Article V, Section 170-16 to subdivide an existing lot into two (2) lots, one of which would have no frontage on a public right-of-way where one hundred fifty (150) feet is required.

Dick Krans represented Arnold Rigby and stated that there were no abutters present showing opposition to the variance. He stated that Mr. Rigby is an elderly gentleman who subdivided in 1987. In 1986 he came before the Board and received a variance and wants a similar one tonight. He hopes to subdivide after he gets the variance. He wants to sell a parcel to a friend so he can have a home on the water.

Dick Krans said there would be no diminution in the value of land as Mr. Purdy's home has only enhanced the value of the surrounding property. He stated that the lot is an irregular shape and there is a macadam driveway servicing the Rigby and Purdy properties. It is a great distance from the main road and there would be a need for a series of driveways leading off Dover Neck Road. There is no problem with Mr. Purdy & Mr. Rigby using the same driveway.

Mr. Krans stated that if a variance was granted in 1986, there is no reason why this should be denied now, therefore substantial justice would be served. He also stated that the area is a rural/residential area and wants to keep it as rural as possible. He just wants these 3 residences which would be served by a fine, paved driveway.

Dave Paolini asked Mr. Krans how much frontage there is with this lot which is being subdivided.

Mr. Krans stated that it has about 400 feet.

Dave Paolini asked if they were subdividing a lot on the back and keeping the front land open. He stated that if Mr. Rigby has the capability of subdividing the land legally that is the way he should go.

Steve Stancel stated that when visiting the property, it appeared that there is another structure that looked like it was being lived in. He asked if someone else lives on the property.

Atty. Krans stated that he doesn't know for sure but Mr. Rigby does have a nurse and she may have an apartment on the property.

Joyce Bowden asked if the Board wants to accept the case.

Bill Colbath moved to accept the case.

Chris Jacobs seconded.

VOTE U/A

Joyce Bowden stated that in this case it appears that the Board is being asked to give variances for back lots so the front can be subdivided later. She stated that the variance received in 1986 has no relationship to this Board. It does not mean that this Board owes them one in 1990. She stated that it seems the Board is being asked to circumvent the requirements of the City of Dover. Joyce also stated that with the receipt of the variance in 1986, the hardship in the land has been satisfied.

Chris Jacobs stated that he doesn't have to live with whatever every other Board has done. The frontage is there.

Atty. Krans stated that there was no intention to circumvent the regulations.

Steve Stancel stated that about four years ago the Board could be talked into something like this. Now there are courses to educate the members and the Board has been more consistent.

Steve Stancel pointed out that private drives can be dangerous where fire and police protection are concerned.

Atty. Krans stated that if the City doesn't like one long driveway it won't like two of them.

Bill Colbath stated that many problems arise concerning the maintenance of a private right of way.

CLOSE PUBLIC HEARING

5 CRITERIA

1. The Applicant does not face an unnecessary hardship because he has the necessary frontage to subdivide within the regulations.
2. The variance will not deliver substantial justice as the applicant has an existing variance and would enjoy more use of his property than his neighbors.
3. The variance will not be in harmony with the spirit and intent of the zoning ordinance as the applicant has proper frontage to comply with the zoning ordinance.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.
5. The variance will not be of benefit to the public interest because the public interest is best served by compliance with the zoning ordinance when applicable.

David Paolini made the motion to deny the variance.
Chris Jacobs seconded.

VOTE U/A
DENIED

David Paolini made the motion to adjourn.
Chris Jacobs seconded.
VOTE U/A

MEETING ADJOURNED 8:00 PM.