

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
FEBRUARY 16, 1989

Members present: Bill Colbath, Dean Trefethen, Chris Jacobs, Joyce Bowden, Randy Turner, Mark Dellner, Dave Paolini

Also Present: Steve Stancel, Tom Clark

Meeting brought to order at: 7:04 PM

Joyce Bowden introduced the Board.

NEW BUSINESS - NONE

H89-2 Paul Rose: (Owner: Blue Jacket Trust), Industrial Park Road, A/K/A Assessor's Map G, Lot 4-B, zoned I-1 requests a Special Exception as provided by the terms of Article VI, Section 170-23 and Article VII Section 170-52.C(3) to establish an Auto Service business in an I-1 Zone.

Sitting on this case were: Joyce Bowden, Chris Jacobs, David Paolini, Randy Turner, and Bill Colbath.

Paul Rose stated he was 90% through the process of disposing of the cars and wanted a 30 day extension.

TABLED - until the March 16, 1989 meeting.

H89-7 Edward & Geraldine Joyce (owner: Allan Krans) 23 Everett Street, A/K/A Assessor's Map 27, Lot 90-A, zoned RM-8, requests a Variance from the terms of Article IV, Section 170-12 and Article X, Section 170-40, to establish a non-conforming use (Dance Studio) which differs from the existing one (Retail). (This is a rehearing of Case #H88-71 from December 15, 1988.)

Sitting on this case were: Chris Jacobs, Bill Colbath, Mark Dellner, Joyce Bowden, Randy Turner.

Chris Wyskiel summarized his willingness to forgo all the grandfathered uses. He stated that the Joyces plan to be here in the dance studio for a long time.

Mr. Wyskiel stated that the grandfathered uses are not conducive for an apartment building, a funeral home, etc., and is further limited by pavement. The hardship runs with the land. He also stated there will be no noise on summer evenings because the dance studio will not in operation in the summer. There are 8 parking spaces on the lot. Parking is for the few parents that may stay while students are having lessons. This use will not cause a diminution in the

value of the abutting properties. He also said the Joyces' s will be removing the double garage doors and installing windows which will make the building more attractive. Mr. Wyskiel also noted that they will have to go to the Planning Board for Site Review.

Mr. Wyskiel passed out a handout noting the conditions they would adhere to if the variance is granted.

Steve Stancel stated that the Planning Department feels comfortable with this use and is in favor of the variance.

Alan Crans, owner of the property stated that he would like to be sure that it only becomes a dance studio on the contingency of site review. He stated that without the two approvals the variance would not do him any good.

CLOSE PUBLIC HEARING

Discussion ensued on how there wasn't a problem with the variance and that the Planning Board would have to address the parking situation.

Randy Turner suggested that if granted they would adopt the conditions listed on the handout.

5 CRITERIA

1. The applicant does face an unnecessary hardship because the present structure is uniquely situated to uses other than those defined as permitted uses.
2. The variance will deliver substantial justice because it will allow the property to be more closely used in keeping with the ordinance.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance because it will lessen the non conformity.
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 by decreasing the non conformity and using the property more in keeping with the ordinance. A detriment was not proven.

GRANTED - With the following conditions.

1. The Dover Planning Board approves this use upon site review application under Dover Code Section 149-4 (B), Change of Use of Existing Structures; or

2. City Planning Department determines that Dover Code Section 149-4. (B), Change of Use of Existing Structures, does not apply;

and upon such Planning Board approval or City Planning Department determination, on the further conditions that:

3. All of the rights to use the property for pre-existing, non-conforming (grandfathered) uses shall be forever forfeited, and
4. The right to legally use the property as a Dance Studio shall not be expanded to the future to other educational uses.

H89-8 Dover Advent Christian Church, 157 Sixth Street, A/K/A Assessor's Map E, Lot 73-A zoned R-12, requests a Variance from the terms of Article IX, Section 170-32.E.(5) to erect a wall sign of one hundred fourteen (114) square feet where sixteen (16) square feet is permitted.

Joyce Bowden stated that there was a misunderstanding on the application. It stated that there were no other signs on the property when in fact there were two others.

Ms. Lona Hewitt, Trustee stated that when filling out the application she thought that it meant on the side of the property in question.

Joyce stated that this was a substantial error and a correction could change an abutters mind. It is the Zoning Board's policy not to accept an application that is in error. The abutters will have to be re-notified of the corrected information.

Joyce suggested that Ms. Hewitt go see Tom Clark the Building Inspector for help in filling in the application.

Mark Dellner made the motion not to accept the application.

Randy Turner seconded.

VOTE U/A

H89-9 Stephen M. Brox, Rochester Neck Road, A/K/A Assessor's Map C, Lot 12-A, zoned R-40, requests an appeal from an administrative Decision to consider an asphalt plant an Accessory Use to a gravel pit.

Sitting on this case were: Randy Turner, Joyce Bowden, Mark Dellner, Bill Colbath, Dean Trefethen.

Tom Clark stated he looked for evidence to have the asphalt plant fall into an "Accessory Use," but he could not come to

a conclusive decision. From the Zoning standpoint it should be in an Industrial Zone, I-1.

David Cluff, Plant Manager, stated that in the State of NH there are 45 gravel pits. It is listed as 200 but only 45 are actual gravel pits suitable to make asphalt, the remaining are excavations. He stated they would be producing 50,000 tons of asphalt which is 1/4 of the gross production, making it an incidental and accessory use. He also said 94% of the product is the aggregate, which is on the premises, and the remainder is the asphalt. Mr. Cluff stated it would be 25% of the business by volume.

Randy Turner asked if there were any asphalt plants not located on-site.

Mr. Cluff stated there are 3 plants where the materials are brought in.

Chris Jacobs asked how many years left on the gravel pit and if there would be a request to haul in gravel when his supply is exhausted.

Mr. Cluff said there are in excess of 15 years and they are not proposing a portable plant they are proposing a stationary plant.

Tom Clark stated if the decision to make it an accessory use is granted, it would apply to all other gravel pits.

Joyce stated that she has no problem with accessory use. However, she made mention that Brox has a grandfather clause to have the asphalt plant in Rochester which is near our aquifer. She stated that at least, if it were in Dover, it could be monitored. She then asked what portion of the business dollars would this asphalt plant bring in.

Mr. Cluff said it would be 1/3 dollar value by market rate for 50,000 tons or 1/3 of the income for the gravel pit.

Harold Preston stated that the value of rock is \$9.00 and \$25.00 to \$30.00 for asphalt.

Randy Turner made the motion that it is the Board's opinion that an Asphalt Plant is an Accessory Use to a gravel pit as long as all aggregate material is extracted on site.

Mark Dellner seconded.

GRANTED

VOTE U/A

OLD BUSINESS

Mark Dellner made a motion to accept the minutes to the last meeting.

William Colbath seconded.

Corrections to the December 15, 1988 minutes are to read that Mark Dellner stated that he could not fulfill the Vice-Chairman position and would be stepping down to be a regular member, not an alternate position. (Page 1)

Mark Dellner made the motion to adjourn.

Bill Colbath seconded.

VOTE - U/A

Meeting adjourned at 8:40.