

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
MARCH 16, 1989

Members Present: Joyce Bowden, Bill Colbath, Randy Turner, Dean Trefethen, Dave Paolini.

Meeting Brought to order at 7:05.

NEW BUSINESS

Steve Stancel discussed the new Zoning Ordinance regarding Motor Vehicle Impoundment Facilities and said that once the ordinance is posted it is in effect.

Tom Clark made the following announcements:

- a. Mr. Boukas withdrew and will be on the agenda next month.
- b. The Merrills have their Dredge & Fill permit and will be on the April agenda.
- c. We received a copy of the petition from the City Attorney for mandatory and permanent injunction in reference to Case #H88-70 Calvin and Margaret Beckey to have the fence removed.

OLD BUSINESS

Bill Colbath found an error in the Minutes of February 16, 1989. On Case #H89-9 Stephen M. Brox, Randy Turner's motion to accept the case should read as follows:

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.

Bill Colbath made the motion to accept the minutes with the above correction.

Randy Turner seconded.

VOTE U/A

H89-2 Paul Rose: Owner: Blue Jacket Trust, Industrial Park Road, A/K/A Assessor's 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.

Paul Rose stated that all the abandoned vehicles are gone. He also stated that the use is desirable and convenient. There is a flow of traffic that comes and goes all day, there are no traffic jams. He is not employing many people so there is no problem with water and sewer overload.

Steve Stancel spoke in favor. He said that the Planning Board recommends the Special Exception and that Paul Rose still has to go to the Planning Board for a Change of Use.

Paul Rose said that they made an amendment to their original memo due to the cost of fencing. He will be slowly bringing the fence from the back and around the sides. Because of theft he wants the cars parked very close to the building where there is lighting and security.

Steve Stancel is concerned with the appearance of the cars in front.

Paul Rose stated the cars are temporarily in the front and side of the building for security reasons until the fence gets put up. The time frame for the erection of the fence is sometime this summer or at the end of the summer.

Harold Preston, Chairman of the Planning Board, said that when Paul Rose comes before the Board for a Change of Use they will address drainage, and security fencing.

John Mahr, representing Blue Jacket Trust, stated that they will use part of the building as the fence itself and the area will be paved. He also explained the handouts he distributed and noted there has been a significant improvement in the property.

Steve Stancel commented that there should be only one row of cars around the building and the fencing should be put up now. The fence should screen the cars, it should not be just a chain link fence.

John Mahr stated that they need time to put up the fence because of the ground conditions and money.

Harold Preston stated that the number of parking spaces and the screening will be addressed at the Planning Board level.

Mr. Heins of Davidson Rubber said that the place is looking better. He mentioned that there were piles of old tires in one area but he is relatively happy with the changes.

CLOSE PUBLIC HEARING.

Randy Turner made the motion to grant the Special Exception.

William Colbath seconded.

VOTE U/A

GRANTED - Planning Board to address parking & screening issues.

H89-10 Timothy Pearson, 53 Silver Street. Because no one was there to represent the case it will be brought up at the end of the meeting.

H89-11-A Priscilla & Lucien LaBranche, Redden Street, A/K/A Assessor's Map 35, Lot 32.A, zoned R-12, requests a variance from the terms of Article V, Section 170-16, to construct a building with a front setback of fifteen feet where thirty (30) feet is required.

Paul Connolly of Civil Works stated that the parcel contains 1.4 acres of land and the majority of the land is wet, however, there are suitable soils that are buildable. He gave a brief history of the parcel. They did a topo survey, mapped the soils and identified the wetlands. The house will be 28' wide by 52' long. They couldn't keep the house 30' back to meet the ordinance and they need a Special Exception to fill in a small portion of wetland.

Mr. Connolly said there is a hardship because of the existence of the wetlands. If they are not allowed to build the house with the 15' setback the lot will be useless. The houses across the street average 19 to 20 feet setbacks, so this house will not be different from the neighborhood.

Mr. Connolly states it would be a benefit to the public interest because it would allow reasonable use of the land and prevent it from becoming a dumping ground for rubbish and would not be left to grow in an unruly manor and become potentially dangerous.

Steve Stancel stated the Planning Department is in favor of the Variance and stated it is a classic case for a variance.

Bill Colbath made the motion to accept the case.
Randy Turner seconded.

Close Public Hearing

5 CRITERIA

1. The applicant does face an unnecessary hardship due to the unique configuration of the land and the wetland upon it.
2. The variance will deliver substantial justice because it will allow reasonable use of the land.

3. The variance will be in harmony with the spirit and intent of the zoning ordinance because it will allow the most appropriate use of the land with the least damage to the wetlands.
4. The variance will not result in a diminution in value of surrounding properties because no evidence was presented.
5. If granted, the variance will be of benefit to the public because the public interest is served when an unusable piece of property can be put to productive use.

Randy Turner made the motion to grant the variance.

Bill Colbath seconded.

GRANTED with the condition that no further subdivision is to occur on this lot.

U/A

H89-11-B Priscilla Lucien LaBranche, Redden Street, A/K/A Assessor's Map 35, Lot 32.A, zoned R-12, requests a Special Exception as provided by the terms of Article VII, Section 170-27.C2 and Article XII, Section 170-52 C3) to erect a structure within the conservation District.

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

Paul Connolly stated that he will replace the existing 15" culvert to a 24" culvert. He said that the garage will be in the basement of the house and it would almost be a walk out basement. He discussed the safety precautions he would take to be sure there would be the least amount of impact on the wetlands. He said he would get vegetation established as soon as possible to stabilize the area.

Steve Stancel said the Planning Department sees no problem with the Special Exception.

Close Public Hearing

Dean Trefethen made the motion to accept the case
Randy Turner Seconded.

VOTE U/A

GRANTED

H89-12 Locust Street Realty Corp., 634 Central Avenue, A/K/A Assessors Map 30, Lot 131, zoned Office, requests a variance from the terms of Article IX, Section 170-32- I(3) (6) to erect a thirty-six (36) sq. ft. free-standing sign where a

maximum of twelve (12) sq. ft. is permitted.

Bill Stowell spoke for Locust Street Realty Corp. He stated that is a hardship because 12 sq.ft. is sufficient for 1 or 2 tenants but he has 5 tenants. The 36 sq. ft. sign would allow for adequate exposure for all 5 of his tenants. He also stated that the majority of signs are bigger than 12 sq. ft.

Mr. Stowell said the sign won't diminish the neighborhood because Central Avenue is a Business District and it would be compatible with the signs in the area. He said that the sign is neat and attractive and would allow easy identification for people traveling down Central Avenue. The sign is in keeping with the other signs on Central Ave. The letters would be 5 inches minimum size so people can see them. He also feels that they have substantially improved the property and the variance should be granted.

William Colbath made the motion to accept the case.
David Paolini seconded.

Steve Stancel spoke against the variance because there is no hardship. He could have a wall sign.

Bill Stowell stated that because of bay windows there is no appropriate area to put up a wall sign and a wall sign would be shielded from both ways.

Bill St. Laurent spoke in favor of the variance because he finds the ordinance is very restrictive.

Steve Stancel stated that the City Council zoned this Office not Business and would hate to see another Miracle Mile.

Harold Preston stated that the sign ordinance was designed primarily for the Old Mill building.

Close Public Hearing

5 CRITERIA

1. He does not face an unnecessary hardship because the applicant did not prove to the Board a hardship inherent in the property.

Does	Trefethen	Does Not	Colbath
	Turner		Paolini
			Bowden

2. The variance will not deliver substantial justice because the applicant failed to prove he suffered restrictions

that others in the same zone did not suffer.

Will	Trefethen	Will Not	Colbath
	Turner		Paolini
	*		Bowden

3. The variance will not be in harmony with the spirit and intent of the zoning ordinance because the spirit and intent is for a 12 sq ft sign.

Vote U/A

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

Will	Colbath	Will Not	Turner
			Trefethen
			Bowden
			Paolini

5. If granted the variance will not be of benefit to the public interest because the large sign size would be detrimental given the ordinance restrictions.

Vote U/A

DENIED

VOTE U/A

H89-10 Timothy Pearson, 53 Silver Street, A/K/A Assessor's Map J, Lot 44, Zoned Office, requests a Variance from the terms of Article IX, Section 170-32.I(3)(a) to erect a free-standing sign where the principal building is set back ten (10) feet from the property line on the street it abuts, where twenty (20) feet is required.

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

To hear the case:	Turner	Not to hear the case:	Paolini
	Trefethen		
	Bowden		
	Colbath		

Joyce read the variance requirements since no one came to represent the case.

Steve Stancel spoke against the variance because he feels there is no hardship. In terms of distance from the sidewalk it is not a unique situation.

Steve mentioned they could table the case until they confer

with the Historic Commission.

Joyce asked Steve to write a letter asking for information on the historical integrity of the house.

Dave Paolini made the motion to table.

Randy Turner seconded.

TABLED

Joyce Bowden asked Steve Stancel to draft a letter to Tim Pearson.

Joyce Bowden read a letter received from Barry Hager regarding his resignation from the Zoning Board of Adjustment.

Joyce Bowden made a motion to accept his resignation and asked Steve to write a letter to the City Council Appointments Committee to that effect.

Randy Turner seconded.

VOTE U/A

Bill Colbath made the motion to adjourn.

Randy Turner seconded.

VOTE U/A

Meeting adjourned at 9:30 PM.