

ZONING BOARD OF ADJUSTMENT
MINUTES OF MEETING
JULY 20, 1989

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

Meeting brought to order at 7:05.

Bill Colbath, Vice Chairman opened the meeting and introduced the Board.

NEW BUSINESS

Dave Paolini made the motion to approve the minutes of last month's meeting.

Dean Trefethen seconded.

VOTE U/A

OLD BUSINESS

H89-16 Anderson Browers (previous owner & applicant: William St. Laurent) 148 County Farm Road, A/K/A Assessor's Map C, Lot 3-B, zoned R-40, requests a Variance from the terms of Article IV, Section 170-12, Table of Use Regulations, to establish a Bed and Breakfast Use. This item was tabled from the meeting of 5-15-89.

Andy Browers said that they are not looking to be a hotel. He stated that the Silver St. House is an inn or hotel by his definition. His B & B would be a tourist home where guests would be sharing a bathroom and Dover has no zone in which that use is allowed. Mr. Browers said that they will be adhering to the recommendations of the Fire Department regarding the sprinkler system, and smoke detectors. The need of manual fire alarms was waived.

Bill Colbath was concerned with the size of the septic.

Chris Jacobs explained the workings of a septic tank and how maintenance of the tank is of key importance. Chris went on to say that he would like to see screening between the cars and the road and asked Mr. Browers to expand on his hardship.

Anders Browers stated that the B & B use is less harmful than the uses that are allowed in the zone.

Steve Stancel stated that the Planning Department is in favor of the variance and that they will have to go before the Planning Board for a Change of Use.

Close Public Hearing

5 CRITERIA

1. The applicant does face an unnecessary hardship because of the unique size of the home with its historical importance and the rural atmosphere of their particular area. The property is not suited for the uses allowed under the ordinance. The best use of this property to preserve the uniqueness of the home and property is a Bed and Breakfast Use.
2. The variance will deliver substantial justice given the size and uniqueness of the property.
3. The variance will be in harmony with the spirit and intent of the zoning ordinance because it will be keeping the residential atmosphere and integrity of the neighborhood.
4. The variance will not result in a diminution in value of the surrounding properties because no evidence was presented.
5. The variance will be of benefit to the public interest by preserving an historical structure and the integrity of the neighborhood.

Dean Trefethen made the motion to approve the Variance with the conditions that 1) the proposed Bed and Breakfast Ordinance 170-28.2 (listed below) is adhered to and 2) the plot plan submitted is adhered to.

1. The proposed Bed and Breakfast must maintain the character of the neighborhood.
2. Off-street parking, in accordance with Chapter 149, Site Review, shall be provided so as to avoid vehicles backing into the street. One and one-half (1.5) parking spaces per sleeping room shall be required.
3. Parking areas shall be screened from the street and from abutting lots.
4. Room rentals shall be on a nightly basis, not to exceed one week.
5. On site management must be provided on a 24 hour basis.
6. Breakfast shall be the only meal served, and to registered guests only.
7. The maximum size of a sign shall be four sq ft.

Randy Turner seconded.

VOTE U/A

GRANTED

H89-33 A&B John & Constance Rakoske, 6 Cullen Bay Road, A/K/A Assessor's Map M, Lot 92-G, zoned R-40, and Elaine Reid, 4 Cullen Bay road, A/K/A Assessor's Map M, Lot 92-F, zoned R-40 request Special Exceptions as provided by the terms of Article VII, Section 170-27.C(3) and Article XII, Section 170-52-C(3) to construct one (1) boat dock on each of the above lots.

Collis Adams represented the Rakoskes and Elaine Reid.

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

Joyce Bowden asked if there was any problem with hearing both cases together. The response was negative.

Tom Clark said that they have all the required approvals.

Mr. Adams said they were asking for a fixed pier for the berthing of one vessel for their own use. They are separate applications and will build one dock each.

Bill Colbath moved to accept the applications together.
Randy Turner seconded.
VOTE U/A

Steve Stancel stated that the Planning Department is in favor and they are in conformance with the Special Exception.

Close Public Hearing

Mr. Adams said they have no plans for a launch. The boats will be launched at an existing boat ramp so there will be no further impact on the environment.

Discussion ensued regarding the docks not being stored on the conservation areas and conditions of the Conservation Commission be adhered to.

Bill Colbath made the motion to grant the Special Exceptions with the following three conditions.

1. Boat and float may not be launched or retrieved from the land. The float may be launched and retrieved from the dock as long as it is stored on the dock.
2. The dock/float may not be stored on the conservation area.

3. The recommendations of the Conservation Committee must be adhered to.

Randy Turner seconded.

VOTE U/A

GRANTED

H89-34 Theodore & Linda Poisson, 25 Middlebrook Road, A/K/A Assessor's Map K, Lot 15-C, zoned R-12, requests a Variance from the terms of Article V, Section 170-14 A(1) and Section 170-16 to construct a carport addition four and one-half (4 1/2) feet from a side property line where ten (10) feet is required and twenty two (22 feet from a front property line where thirty (30) feet is required.

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

Tom Clark said that there was no foresight when the houses were built because it left them with no way to add on.

Randy Turner stated that some houses in the neighborhood had been granted variances.

Ted Poisson said that 22 feet is as narrow as he can build the carport. He stated that his driveway is already 26 feet wide and when the carport is in he will take about 4 feet and make a lawn.

David Paolini made the motion to accept the case.

Dean Trefethen seconded.

VOTE U/A

LeRoy Niles, an abutter on the westerly side, stated he sees no problem and feels it will not be a detriment to the neighborhood.

Steve Stancel spoke against. He stated that everyone else is in the same situation, there is no uniqueness in this parcel and they would be setting a dangerous precedence. If the other neighbor comes in and wants a carport it would be carport next to carport.

Mr. Poisson feels he has a hardship in the land because of the shape of his corner lot. He needs a large carport to safely maneuver his vehicles in slippery weather.

Mrs. Poisson said that there are only about 6 houses that are built too close together the other houses in the neighborhood are building their garages without the need to come before the Zoning Board.

Close Public Hearing

Dean Trefethen stated that he doesn't see a hardship.

Dave Paolini sees a hardship but has a problem with the size of the carport.

Joyce Bowden felt that the applicant has reasonable use.

5 CRITERIA

1. The applicant does not face an unnecessary hardship because he has failed to prove a hardship.

DOES - Paolini
Turner

DOES NOT - Trefethen
Colbath
Bowden

2. The variance will not deliver substantial justice because the applicant failed to prove an injustice was present.

WILL - Turner

WILL NOT - Trefethen
Colbath
Paolini
Bowden

3. The variance will not be in harmony with the spirit and intent of the zoning ordinance because the ordinance has specific set backs for non-conforming uses.

WILL - Turner

WILL NOT - Trefethen
Colbath
Paolini
Bowden

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

WILL - Colbath
Bowden

WILL NOT - Paolini
Trefethen
Turner

5. The variance will not be of benefit to the public interest because encroaching on minimum set backs detract from the safety aspect for which they were designed.

WILL - Turner

WILL NOT - Paolini
Trefethen
Colbath
Bowden

VOTE

APPROVE - Paolini
Turner

DENY - Trefethen
Bowden
Colbath

DENIED

H89-35 John & Donna Maloney, 7 Bellamy Lane, A/K/A Assessor's Map L, Lot 75, zoned R-20, requests a Variance from (1) the terms of Article V, Section 170-16, to construct a side addition twenty-seven (27) feet, eight (8) inches from a front property line where thirty-five (35) feet is required; and (2) the terms of Article X, Section 170-41.A to increase a non-conforming structure.

John Maloney stated that he wants to keep the addition in the ranch style and cannot build the addition anywhere else without compromising a lot of things. He stated that there are only three houses on the street.

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

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

VOTE U/A

Mr. Stevens, an abutter, said that he has no problem whatsoever with the addition.

Mr. Maloney stated that they need more room and if they were to add on in the back the addition would be right in the middle of the backyard and where their only tree stands.

Mr. Stevens stated that the addition would be ugly to look at if it were put back 7 feet and not where it is proposed.

5 CRITERIA

1. The applicant does not face an unnecessary hardship because the applicant is able to satisfy the ordinance and have the same or greater use as requested.

VOTE U/A

2. The variance will not deliver substantial justice because the applicant failed to prove it would.

WILL - Turner
Colbath

WILL NOT - Jacobs
Paolini
Bowden

3. The variance will not be in harmony with the spirit and intent of the zoning ordinance because encroaching on the setback is not within the spirit and intent of the ordinance.

WILL - Colbath
Turner

WILL NOT - Paolini
Jacobs
Bowden

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 not be of benefit to the public interest because encroachment of the setback requirement is not to the public interest.

WILL - Jacobs
Turner

WILL NOT - Paolini
Colbath
Bowden

Chris Jacobs made the motion to deny.
Paolini seconded.

VOTE

GRANT - Colbath
Turner

DENY - Paolini
Bowden
Colbath

DENIED

H89-36 Robert Rowe, 407 Dover Point Road, A/K/A Assessor's Map 8, Lot 30, zoned R-20, requests a Variance from (1) the terms of Article V, Section 170-16 to construct a second floor addition fifteen (15) feet from a side property line where twenty (20) feet is required; and (2) the terms of Article X, Section 170-41.A to increase a non-conforming structure.

Sitting on the case were Joyce Bowden, Bill Colbath, Dave Paolini, Randy Turner and Dean Trefethen.

Mr. Rowe stated that the 1987 Zoning changes made his property non-conforming. They are not increasing the foot print of the building. There is no feasible place to put an addition, consequently, the only way is up. He stated that the addition will put them more in conformance with the rest of the neighborhood and it will increase the value of the adjoining properties.

Bill Colbath moved to accept the case.
David Paolini seconded.

VOTE U/A

Close Public Hearing

5 CRITERIA

1. The applicant does face an unnecessary hardship because with the restriction on this lot from the Conservation District requirement the remainder of the lot is basically unusable for building. The only way the applicant can go is up.

VOTE U/A

2. The variance will deliver substantial justice and allow reasonable use of his property.

VOTE U/A

3. The variance will be in harmony with the spirit and intent of the zoning ordinance because the house would more closely resemble the neighborhood. The setbacks are not affected and it will still remain a single family dwelling.

VOTE U/A

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 no evidence is shown that it is a detriment.

VOTE U/A

Bill Colbath made the motion to grant the variance with the condition that the footprint of the existing structure not be increased and per the existing plan submitted.

Turner seconded.

VOTE U/A

GRANTED

5 minute recess.

Addressing the applicant's of Case #H89-37 and #H89-34 Joyce Bowden stated that Atty. Jim Shulty has challenged the definition of "storage shed" and wants to be heard at next month's meeting. She stated that it will be a policy decision. If they choose to be heard tonight and be denied,

they would have to file an appeal. If it is ruled that storage sheds are not permanent structures, are not considered buildings, are not subject to setbacks, and if the Board agrees, they will not need a variance.

H89-37 James Sexton and H89-38 Neil Vroman stated they would rather wait until next month's meeting.

Joyce Bowden asked if there was anyone in the room that was present to speak for or against the above cases and there were none.

David Paolini made the motion to accept Cases #H89-37 and H89-38.

Randy Turner seconded.

Public Hearing opened.

Randy Turner made the motion to table.
Dean Trefethen seconded.

VOTE U/A

TABLED

Dean Trefethen stated that he would like a notation in the minutes that the Board stands corrected - that there were actually two lots that did not belong to the Cullen Bay Dockowners Association and that they were here tonight for Special Exceptions to construct boat docks.