



CITY OF DOVER

ZONING BOARD OF ADJUSTMENT - MINUTES

Meeting Type: Regular Meeting
Meeting Location: Council Chambers - 288 Central Avenue, Dover, NH 03820
Meeting Date: **Thursday, November 18, 2010**
Meeting Time: **7:00 pm**

1. ATTENDANCE

Members Present: Sam Reid (Chair), William Colbath (Vice Chair), Otis Perry, Chris Prior (Alternate member)

Members Not Present: Jim Kelley, Frank Landford

Staff Present: Bruce Woodruff (Zoning Administrator), Lisa Ertle (Recording Secretary)

2. APPROVAL OF PRIOR MINUTES OF OCTOBER 21, 2010.

Motion: O.Perry motioned to defer the approval of the minutes to the meeting. Vote: Unanimous approval.

3. OLD BUSINESS

There was no Old Business.

4. NEW BUSINESS

- A. Z 10-16 Chris & Rebecca Anderson, 83 Spruce Ln., Tax Map I, Lot 81-R, zoned R-40, requests a setback and an Area Variance from the terms of Article IV, Section 170-12.B and Article X, Section 170-40.A and 170-41.D, to allow construction of an addition to an existing non-conforming dwelling within approximately 11.5 & 29 feet of the front property boundaries, where a minimum of forty (40) feet is required, and relief from the requirement that the maximum area of the addition shall not exceed 20% of the gross habitable floor space of the existing dwelling.

W.Colbath recused himself from the Board.

The Chair noted that the Board has three voting members; approval of this application will have to be a unanimous vote. He offered the applicants the choice to have this application be heard at the next ZBA meeting, in case they would like the opportunity for a better total vote. The applicant chose to be heard this evening.

Chris Anderson noted his family has increased to include eight family members, and have currently outgrown their home. He discussed the additional rooms that they would like to build. The home is located on a dual frontage/corner lot in the R-40 zone, and is located in a neighborhood with a mix of R-12 and R-40 lots. They are looking into a variance on the side and frontage for the addition.

O.Perry confirmed, with C.Anderson, that the addition would be on the Tanglewood Drive side of the home.

Public Hearing Opened – In Favor of the Request

Clifford Summers, resident of Gonic, NH, spoke in favor of the request. He discussed the work and involvement that will take place for the addition to the house. He noted that due to the economy moving would be a hardship to the family.



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Mathew Colbath, of 82 Spruce Lane, noted his house is located across the street of the applicants. Their yards are similar despite the Zoning District difference. He feels there will be no negative effects to the neighborhood.

B.Woodruff discussed the lots in the neighborhood surrounding the location of this variance request. He noted the residential lot at 83 Spruce Lane contains approximately 9,800 sq. ft. area which is not quite one-third of the required lot size for a lot with City sewer and water in the R-40 zone. It must be noted that the subdivision was approved and the dwelling constructed under the old R-1 regulations that were put in place in 1948. The R-40 area regulations were instituted in 1979 and the parcels in this subdivision really don't fit/comply with those area and setback requirements. The parcel and the dwelling structure are grandfathered non-conforming. The parcel is a corner lot which therefore has two frontages, one side and one rear setback which leaves a very small building envelope (refer to plan) that if adhered to would preclude a common-sense addition given the internal layout of the house. This older subdivision on the south side of Spruce Lane abuts the less restrictive R-12 district which is directly across the street. When the major zoning amendments were codified in 1979, it may have made more sense to have included this neighborhood in the R-12, rather than drawing the boundary along the Spruce centerline. Since this was not done, granting relief from dimensional requirements appears to make sense. Staff concur with the variance requirement narrative contained in the application, however, would recommend placing substantial weight on any abutter comments during the public hearing before making a decision. The Planning Department recommends the Zoning Board accept the application, hold the public hearing. Additionally, staff recommends the Board ask questions and deliberate on the proposed bulk of the addition and how it may affect other aspects of the lot, such as driveway location and capacity. If the Board approves the variance, staffs offer no conditions for this application.

Public Hearing Opened- In opposition of Request-Nobody Spoke

Public Hearing Closed

The Chair asked C.Anderson for clarification on the projected plans for the existing driveway. C.Anderson noted the proposed addition will take up the area of one parking space, so they plan to take down a tree to allow for the width of driveway to make up for the loss of parking space.

The Chair asked if the intent is to keep the same architectural design. C.Anderson noted this is a one story addition, and they plan to keep with the look of the existing house.

O.Perry and B.Woodruff discussed the driveway width increasing, in regards to driveway permit requirements and streetscape. O.Perry noted he feels that the streetscape will not be affected on this side of Spruce Lane.

Motion: O.Perry motioned to grant variance. Discussion ensued. O.Perry amended to motion to grant the variance from the front setback off Tanglewood Drive and Spruce Lane, and to grant relief from the 20% maximum expansion area to be no greater than as proposed of the gross habitable floor area of the original dwelling. Additional discussion ensued regarding calculating the actual percentage of the addition. Although 45% maximum was used, the exact percentage was not



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calculated correctly and the original motion to approve the size of the addition as proposed prevails. C.Prior seconded. Vote: Unanimous approval.

Findings of Fact:

1. Did the Applicant provide proof that demonstrates the variance will not be contrary to the public interest? Yes. Per applicant's submission and testimony.
2. Did the Applicant provide proof that demonstrates how a variance observes the spirit of the ordinance? Yes. Per applicant's submission and testimony.
3. Did the Applicant provide proof that demonstrates how a variance will result in substantial
4. justice? Yes. Per applicant's submission and testimony.
5. Did the Applicant provide proof that demonstrates the variance will not diminish the values of surrounding properties? Yes. Per applicant's submission and testimony.
- 5A. The Applicant was to provide proof that literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. (i) Did the Applicant demonstrate that special conditions of the property exist that distinguish it from other properties in the area? Yes. Per applicant's submission, testimony, and tax map of the area. (ii) Did the Applicant demonstrate that no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property? Yes. Per the applicant's submission and testimony. (iii) Did the applicant demonstrate that the proposed use is a reasonable one? Yes. Per submission and testimony.

5. OTHER BOARD BUSINESS

The Chair noted a memo that was received from the Planning Director, in regards to zoning districts. He suggested periodically going around to make sure the zoning lines still makes sense. Discussion ensued on the zoning lines that need recommendation to bring to the Planning Department.

B.Woodruff discussed the B3 zone by Hannaford, Tanglewood Drive, and the UMUD Zone, which was done away with in 2009.

6. ADJOURN

Motion: O.Perry motioned to adjourn the meeting at 7:31 pm. W.Colbath seconded. Vote: Unanimous approval.