

NOTICE OF ACTION  
ZONING BOARD OF ADJUSTMENT  
TOWN OF HANOVER, NH

CASE NO.: 91-17

TYPE: Request for Rehearing

DATE OF NOTIFICATION: September 24, 1991

You are hereby notified that the request of Willa Barrett for a rehearing of Case No. 91-17 has been DENIED.

An appeal to superior court may be taken from this decision within 30 days of this notification.

*A. B. Waugh, Jr.* Chair  
Hanover Zoning Board of Adjustment

9/24/91

Date

Distribution:

- Applicant
- Selectmen's file
- Planning Board Chair
- ZBA Chair
- Case file
- Assessor (if applicable)
- Conservation Comm. (if applicable)

HANOVER ZONING BOARD OF ADJUSTMENT

Minutes of Deliberation Meeting  
September 4, 1991  
Selectmen's Conference Room

Present: Carey (presiding), Mercer, Wood, Nordgren, Fredyma  
The meeting was called to order at 7:35 p.m.

**1. Clarification of Case #91-17 (Willa Barrett)**

After discussion by all the members of the Board and careful consideration of the written decision in this case, the Board decided that the Special Exception was granted for the uses as stated in testimony and in the written decision only, namely for car storage below and unheated storage above. It was decided that the usual appeal period would begin to run when the written notice of the Board's clarification is issued.

**2. Deliberation of Case 91-40 (A. Boghosian)**

The preliminary findings of fact, proposed decision, and proposed action of the Board were prepared by Wood. After much discussion the Board decided that the interpretation of the Zoning Ordinance presented by the applicant's counsel was in fact contrary not only to all previous interpretations of the ordinance, but also to the purpose of the ordinance and to previous court decisions, as in the Buskey case on School Street, insofar as it proposed to provide in the GR zone uses accessory to principal uses not permitted in that zone and located in the adjoining B zone. It was moved by Wood, seconded by Nordgren, and approved unanimously to DENY the applicant's appeal of the Zoning Administrator's decision that accessory parking from the B zone lot could not be located on the GR zone lot, even if the existing lots were to be merged.

**3. Deliberation of Case 91-41 (A. Boghosian)**

The preliminary findings of fact, proposed decision, and proposed action of the board were prepared by Wood. The Board considered that the existing lot in the GR zone is in no way unique as described in Article X, Section 1006.1A. The Board decided that the existence of a permitted use on this lot for many years essentially precluded the necessity for a variance as described in Article X, Section 1006.1B. Because of the paucity of testimony concerning the details of this very preliminary proposal, the Board concluded that the applicant had not shown that the variance applied for was the minimum variance

OF THE ADOPTED ZONING ORDINANCE.

The proposed Findings of Fact and proposed Decision of the Board were read as prepared by Mercer. Matters discussed included discrepancy between testimony and the proposed lease submitted at the hearing as to whether the parking space would be behind an electronic gate or in an area with open access, and thus whether the space would be available to the public or solely to employees. The question was raised as to whether, given the nature of the business, the space should be available to the public. It was noted that the list of abutters in the Notice of Hearing was incomplete, but that the omitted abutter had filed a letter with the Code Office waiving his right to notice. Questions were raised as to precisely who constituted abutters in the case of parking facilities provided at a distance from the location of the business and it was agreed that at some future date the Board should consider guidelines for systematic and consistent identification and notification of abutters in cases of this sort.

It was moved by Mercer and seconded by Bean to GRANT a Special Exception to James Campion to provide off-site parking in order to allow for the removal of existing parking at property owned by Frank and Michael Pizzuti located at 6 Allen Street, Tax Map 34, Lot 6, in the B-2 Zoning District, with the proposed parking to be located at property owned by the Dartmouth Bank at 7 Lebanon Street, Tax Map 34, Lot 38, in the B-2 Zoning District.

The motion passed unanimously.

This proposed action shall become the decision of the Board upon the signing of the typed Findings of Fact by the Chair and two other members.

3. CASE #91-17 -- WILLA BARRETT PROPOSES TO ENLARGE HER HOUSE WITHIN 75 FEET OF A WATER BODY AT HER PROPERTY LOCATED AT TWO MILE ROAD, TAX MAP 29, LOT 20 IN THE B-1 ZONING DISTRICT. THE APPLICANT REQUESTS A SPECIAL EXCEPTION TO ARTICLE VII, SECTION 702.2 OF THE ADOPTED ZONING ORDINANCE.

The Findings of Fact were read as prepared by Bean. Among the matters

discussed were the reasons for the Board's initial decision to deny the requested Special Exception and its subsequent decision to rehear the case, the applicability of Section 803 of the Ordinance if a Special Exception is approved under Sections 702.2 and 702.3, the extent and nature of the new information presented at the rehearing, the reasonableness of use of the building for storage of a car, and the possible uses of the proposed second floor.

It was moved by Waugh and seconded by Mercer to GRANT a Special Exception to Willa Barrett to enlarge her house within 75 feet of a water body at her property located at Two Mile Road, Tax Map 29, Lot 20, in the B-1 Zoning District, PROVIDED the enlargement is in substantial conformity with the plans and testimony presented to the Board and in the case file.

The motion passed unanimously.

This proposed action shall become the decision of the Board upon the signing of the typed Findings of Fact by the Chair and two other members.

4. CASE #91-33 -- DARTMOUTH COLLEGE APPEALS THE ZONING ADMINISTRATOR'S DECISION THAT A BOUNDARY LINE ADJUSTMENT AT ITS PROPERTIES LOCATED AT 15 NORTH BALCH STREET, TAX MAP 38, LOTS 41 AND 59, IN THE SR-2 AND GR-1 ZONING DISTRICTS WILL RESULT IN AN INCREASED NON-CONFORMITY BY CREATING A LARGER LOT THAN PRESENTLY EXISTS WITH INADEQUATE FRONTAGE ON AN IMPROVED STREET.

The proposed Findings of Fact, proposed Decision of the Board, and proposed Action of the Board were read as prepared by Waugh. Matters discussed included whether the Board should set the precedent of allowing a large portion of a conforming lot to be attached to a non-conforming one, and whether in this instance there may be a "grandfathered" lot line not shown on the Town tax map.

It was moved by Waugh and seconded by Mercer to DENY Dartmouth College's appeal of the Zoning Administrator's decision that the proposed boundary line adjustment at its properties located at 15 North Balch Street,

PROPOSED DECISION OF THE BOARD

Re: Willa Barrett

Case #91-17 as re-heard July 22, 1991

Deliberated August 5, 1991

1) The applicant, Willa Barrett, requested a re-hearing on one of three proposals for a Special Exception to the Zoning Ordinance which was DENIED by the Board. The three proposals were for activity (regulated by Section 702 of the Zoning Ordinance) within a required water body setback. Two of the three original proposals were GRANTED by the Board. The DENIED proposal was for a Special Exception to the Zoning Ordinance to allow the applicant to enlarge her house within 75 feet of a water body at her property located at Two Mile Road, Tax Map 29, Lot 20 in the B-1 Zoning District.

2) The Board DENIED the third proposal because of criteria of Section 803, "Change of Non-Complying Structures," and Section 702.3, Water Body Protection Requirements. The Board determined that requirements A, B, and D for a Special Exception were satisfied. Requirement C, "that, due to the... water body setback, no "reasonable use", as characterized by the uses permitted or allowed by Special Exception in the B-1 district, can be made of the lot..." The Board heard no evidence of reasons why a 9 foot expansion of the building within the 75 foot water body setback is necessary and finds that "reasonable use" of the property does not necessitate expansion of this non-conforming use.

3) The applicant, at re-hearing, testified that upon expansion of the middle shed, she intends to use the space for her car storage. The Board determined that car storage is "reasonable use" of the property, and therefore, satisfied requirement C. Since all four requirements for a Special Exception to the Zoning Ordinance are satisfied, the applicant's proposal to enlarge her house is GRANTED.

4) Because the requirements for a Special Exception under Section 702.3 are satisfied, and a Special Exception is GRANTED, Section 803 does not apply.



APPROVED-8-14-91

HANOVER ZONING BOARD OF ADJUSTMENT

Minutes of the Public Hearing

July 22, 1991

BOARD MEMBERS PRESENT: Waugh (Presiding), Bean, Baldwin, Mercer, Fredyma

The meeting was called to order at 7:35 p.m.

Because of vacation schedules and other conflicts, there were only four members of the Board tonight available to hear Case #91-31 (Dartmouth College) and Case #91-32 (Lorraine Pfefferkorn). In keeping with past Board practice, the applicants for these two cases were offered the option of having their cases heard on another night before a full Board.

Sean Gorman, Associate College Counsel, asked that the Case 91-31 be carried over in the interest of getting a full Board hearing. Mrs. Lorraine Pfefferkorn, agreed to postpone the hearing of Case 91-32.

1. CASE #91-17 - A REHEARING WILL BE HELD CONCERNING WILLA BARRETT'S PROPOSAL TO ENLARGE HER HOUSE WITHIN 75 FEET OF A WATER BODY AT HER PROPERTY LOCATED AT TWO MILE ROAD, TAX MAP 29, LOT 20, IN THE B-1 ZONING DISTRICT. THE APPLICANT REQUESTS A SPECIAL EXCEPTION TO ARTICLE VII, SECTION 702.2 OF THE ADOPTED ZONING ORDINANCE

Baldwin, acting Clerk, read the Notice of Public Hearing. Waugh further explained the case.

Willa Barrett presented her proposal to enlarge her house within 75 feet of a water body at her property located at Two Mile Road to the Board.

There were no comments in favor or in opposition expressed by the public at the hearing.

After all testimony was received by the Board, the case was closed.

2. CASE #91-31 - DARTMOUTH COLLEGE APPEALS THE ZONING ADMINISTRATOR'S DECISION THAT, BECAUSE TENTS ARE NOW BEING ERECTED FOR OUTDOOR EVENTS, THE COLLEGE HAS CHANGED THE USE OF THEIR PROPERTY TO AN EXTENT THAT REQUIRES ZONING BOARD OF ADJUSTMENT APPROVAL. THE PROPERTY IN QUESTION IS LOCATED AT HILTON FIELD LANE, TAX MAP 40, LOT 9, IN THE I ZONING DISTRICT. THE APPLICANT MAKES THIS REQUEST UNDER ARTICLE X, SECTION 1005.1-A, WITH REFERENCE TO ARTICLE II, TABLE 204.4 OF THE ADOPTED ZONING ORDINANCE

Case postponed.

Dick Winters and Kate Connolly both spoke in opposition to the proposal.

The case was closed.

6. CASE NO. 91-41 - IN THE EVENT THAT ANTRANIG BOGHOSIAN'S APPEAL IN CASE NO. 91-40 IS DENIED THE APPLICANT REQUESTS A VARIANCE TO ARTICLE II, TABLE 204.5 OF THE ADOPTED ZONING ORDINANCE IN ORDER TO PROCEED AS DESCRIBED IN THAT CASE

Mercer read the Notice of Public Hearing. Carey further explained the case.

Barry Schuster, attorney for Antranig Boghosian, presented the case.

Mrs. Roberts and Mrs. Hewitt were in favor of the proposal.

Dick Winters and Kate Connolly spoke in opposition to the proposal.

The case was closed.

7. OTHER BUSINESS

Willa Barrett asked for a written clarification of the Board's decision in her Case 91-17.

It was moved (Carey), seconded (Fredyma) and  
VOTED UNANIMOUSLY:

"To take up Willa Barrett's request for clarification of Case #91-17 at the Deliberation hearing."

8. ADJOURNMENT

The meeting was adjourned at 11 p.m.

Respectfully submitted,

Claire Brown  
Secretary

PROPOSED ACTION OF THE BOARD

Re: Willa Barrett

Case 91-17 as re-heard, July 22, 1991.

Deliberated August 5, 1991.

It was moved by Waugh and seconded by Mercer to GRANT a Special Exception to the Zoning Ordinance to Willa Barrett to enlarge her house within 75 feet of a water body at her property located at Two Mile Road, Tax Map 29, Lot 20 in the B-1 Zoning District, PROVIDED the enlargement is in substantial conformity with the site plan and testimony presented to the Board, and as is in the case file.

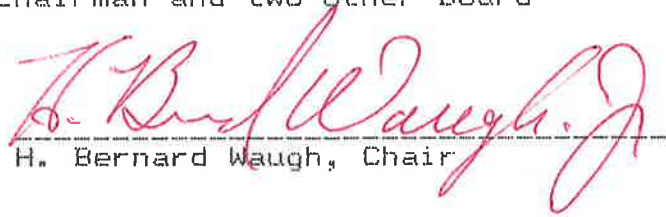
The Board decision to GRANT a Special Exception to the Zoning Ordinance is based on the premise that storage of her car in the proposed structure is a reasonable use. The Board also notes that testimony presented provided that the second floor of the proposed structure was for unheated storage.

The motion passed unanimously.

The proposed action shall become the decision of the Board upon signing of the typed Findings of Fact by the Chair and two other members.



This action shall become the decision of the Board by the signing of the typed Findings of Fact by the chairman and two other Board members.

  
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H. Bernard Waugh, Chair

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William Lee Baldwin

  
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John J. Fredyma

  
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G. Nield Mercer

  
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Clinton Bean

ZONING BOARD OF ADJUSTMENT  
TOWN OF HANOVER, NH

RECEIVED

SEP 13 1991

APPLICATION FOR MOTION FOR  
REHEARING TO THE ZONING  
BOARD OF ADJUSTMENT

TOWN OF HANOVER

- Name, address & telephone number of person(s) requesting rehearing: Willa Barrett, P.O. Box 209, Etna, NH 03750 643-5755
- Name & address of record owner (if other than applicant): \_\_\_\_\_
- Street/Road: Two Mile Road Tax Map # 29 Lot # 20 Zone B-1
- I, the undersigned have submitted a Motion for Rehearing (attached) to the ZBA Decision of August 5, 1991 for Case No. 91-17.  
Date 9-10-91 Applicant Willa Barrett
- The Motion for Rehearing has been filed on Sept. 13, 1991. The ZBA must grant or deny the Motion for Rehearing within ten (10) days.  
Date Sept. 13, 1991 Planning/Zoning Coordinator [Signature]
- On Sept 23 1991 the Zoning Board of Adjustment GRANTED/DENIED the Motion for Rehearing of Case No. \_\_\_\_\_.  
Date 10/23/91 Zoning Board of Adjustment Chairman H. B. [Signature]
- If Motion for Rehearing is granted the Rehearing will be held \_\_\_\_\_

Case No. _____
Notice Fee _____
Date Fee Paid _____
Received By _____

8. Name and address of all abutters whose property adjoins or is directly across the street or stream from the land under consideration.

- Janice C. Wright P.O. Box 204, Etna, N.H. 03750
- Robert J. & Frances M. Evens General Delivery, Etna, N.H. 03750
- Raymond C. Dickinson Jr. P.O. Box 192, Etna, N.H. 03750
- Thomas F. Purcell Jr. RR#2, Box 221, Oak Ridge Road, West Lebanon, N.H. 03784
- William H. Ploog P.O. Box 341, Etna, N.H. 03750
- Mathew and Elizabeth Marshall C/O Hanover Inn, Main Street, Hanover N.H. 03755



September 8, 1991

To: The Chairman Of The Hanover Zoning Board Of Adjustments  
From: Willa Barrett

Case# 91-17

I am requesting a rehearing of case #91-17 to request the rewording of the provisions in the granting of my special exception for the replacement and enlargement of my middle barn. The provisions in the decision excessively, unreasonably and unnecessarily restrict the use of the proposed structure and therefore diminishes the future use and value of my B-1 property.

The possible restrictions that you have placed upon this portion of my property, through your recent decision are in excess of providing reasonable and necessary protection of the adjacent water body.

Sincerely,  
*Willa Barrett*  
Willa Barrett

MEMORANDUM  
TOWN OF HANOVER  
CODE ADMINISTRATION OFFICE

TO: File  
FROM: Code Administrator  
DATE: September 11, 1991  
SUBJECT: Willa Barrett - Case 91-17

The clarification of the decision for this case which was considered on September 4, 1991 was hand delivered to Willa Barrett today.