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J. OWEN

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TOWN OF WILTON, NH

8 June 2006

To the Wilton Zoning Board of Adjustment:

My name is Chris Owen. I live at 634 Isaac Frye Highway. I write to you with some comments regarding the proposed gravelling operation down the road.

As I understand the process, the applicant needs to satisfy every one of five conditions in order to receive a variance, and that the applicant has the burden of proof on these five conditions. My comments here are mostly directed to one of the five conditions—the “Hardship for a Use” condition, #3(b) i and ii on the application. I also touch a little bit on two other conditions: #4, the “substantial justice” condition; and #5, the condition having to do with the “spirit of the ordinance.”

Part of the applicant’s claim of hardship is that the property in question is NEAR to the Gravel District. While it is true that the property is near to the Gravel District, this would be significant ONLY IF the Gravel District had been drawn arbitrarily; ONLY IF there was no reason for the Gravel District to exclude properties on Isaac Frye Highway north of route 101. However, there IS a reason the Gravel District does not include properties on Isaac Frye Highway north of 101: **it’s a residential area**. It’s not a hardship that the applicant’s property is not part of the Gravel District (regardless of how close it may be), because the location of the Gravel District reasonably excludes higher-density residential areas in general, and this residential area in particular, from gravelling operations. This is the fair and substantial relationship that exists between the purpose of the Gravel District and the restriction on this property: that gravelling not occur in residential areas.

The above paragraph also touches condition #5, which the applicant has the burden to prove: that granting a variance would be consistent with the spirit of the Gravel District ordinance. Certainly such a variance would NOT be consistent with the spirit of the Gravel District ordinance. The spirit of that ordinance is that gravelling operations ought to be limited to a certain area of town, away from where people live.

The claim of hardship might also make sense, and lead to substantial justice being done, if owners of properties similar to the applicant’s property, had the right to gravel. If this were the case, the applicant could claim that he bore an unfair burden that owners of similar properties did not bear, creating a substantial injustice. However, no other property owner on Isaac Frye Highway, north of 101, has the right to gravel. The applicant does not bear an unfair burden, because all of us are subject to the same restriction.

Another basis for hardship might be that the zoning restriction against gravelling interferes with the applicant’s reasonable use of the property. To make this claim, the applicant would have to argue that the unique setting of this property in its environment makes gravelling a reasonable use. A more sensible argument is that the unique setting of this property in its environment makes gravelling a more **unreasonable** use. It is quite a unique setting to abut a Girl Scout Camp, a protected forest, and a historical cemetery; let

alone to have as neighbors a house of worship, a summer theater for children, and many homes. The uses of these properties abutting and surrounding the applicant's property are for people to be together to enjoy beauty; to seek quiet and rest; to reflect and think; and to enjoy community. People worship (at the church); children learn and grow and entertain audiences (at the theater); scouts fulfill their duties (at the camp); people go to be quiet, or simply remember, or get in touch with history (at the cemetery); neighbors and friends walk, jog, or bike (on the roads). The applicant's property is uniquely set in its environment, but this unique setting makes the restriction against gravelling **more** reasonable, not less.

Relatedly, all of the most recent development of very comparable properties in this area—even on the sandy hillside of route 101—is residential development. Residential development is a reasonable use for the applicant's property, considering what is around it.

I am sorry I will be unable to join you for the walk-through; as a minister, I'll be needing to work on Sunday morning. I expect to be with you on Tuesday the 13th.

Respectfully Yours,

A handwritten signature in cursive script that reads "C Owen". The signature is written in dark ink and is positioned above the printed name.

Chris Owen