

MINUTES

Zoning Board of Adjustment, Wilton, New Hampshire
April 30, 1986

ZBA Members Present: Acting Chairman Arlene Laurenitis, Tom Mitchell, Ed Lamminen, and Stephen Blanchard.

The meeting was called to order at 7:35 P.M. to consider the following 4 cases. (The minutes were approved as corrected between the second and third hearings.)

1. Case 86-5. Application by Nancy E. Davis of Main Street for a Special Exception to Article V. Section B to have a craft shop in her home.

Acting Chair Arlene Laurenitis stated that this was a continuation of the hearing. Three board members had viewed the Davis property to look at the proposed parking situation.

Nancy Davis showed the board a handwritten plan of the proposed parking, stating they would use two paved spots next to the house for customers and park family vehicles on the lawn during the shop's open hours. Chair A.L. asked her to tell the board what Selectmen had told her concerning Defoe Alley. She said she and her husband went to the Selectmen and were told that Defoe Alley was a public right-of-way but that they could find no town record proving it to be a town road.

Abutter Alice Deschamps stated that she began paying for plowing of Defoe Alley in 1960. Before that time the town plowed it.

Abutter R. Lefrancis stated that he was in favor of the business, but wanted some stipulations. He expressed concern that customers backing out of the Davis' driveway might hit his fence. In the winter he puts up a snow fence, too, and Defoe Alley is narrow due to snowbanks. He expressed concern about cars' ability to turn around from the Davis' Driveway.

The Davis' were questioned about their shop being open in the winter and they stated they did want to remain open and would not want a restriction on winter operation of the shop.

Mr. Lefrancis' last concern was for the safety of children using the lane and said warning signs should be posted.

Abutter Alice Deschamps expressed concern that customers or Davis family cars might back into her property, that pedestrian use of the lane might be encumbered by business traffic, and that customers might disregard parking signs and block the Alley.

Mr. Davis asked the board to extend normal business hours of the shop to 6 P.M.

Chair A.L. stated that she had two problems with the application: 1. The problem of parking and traffic issues, and 2. The problem of ownership of Defoe Alley: town road or private road and thought ownership should be determined before she could vote because of concerns over maintenance responsibilities of the road and ownership rights if there was a private owner.

E.L. asked whether it was a town road and said he also had concerns about the traffic problem issues.

Mr. Davis asked whose responsibility it was to find out the ownership issue.

S.B. said he had looked back to town reports to 1900 and found no indication of town ownership and that the burden was on the applicant to present the board with evidence.

T.M. stated that no one opposes the business, but there are problems with parking and snow problems in the winter and may be problems turning around if someone has a big car and does not turn it well.

S.B. agreed with T.M. that the parking problems were serious. He stated that he had difficulty turning around in the Davis driveway with his car.

T.M. asked if the board could give a conditional Special Exception for a period of time.

S.B. said he would not want one if he was the Davises.

The majority of the board felt that it would not be necessary to wait for evidence on ownership of the road before voting because the parking issues were a determinative factor.

S.B. made a motion to approve the application by Nancy E. Davis for a Special Exception to Article V. Section B. as presented.

Vote: T.M.: no

A.L.: abstained

E.L.: no

S.B.: no

Decision: Application denied

Mr. Davis stated that the board could save time by deliberating beforehand and therefore reach a more intelligent decision.

He was told by each board member in a different way that such deliberations were illegal. That all business meetings of the ZBA were open to the public and that the N.H. Right to Know Law forbids such meetings as he suggested. T.M. added that he thought the board had been very fair in considering the application: in the time spent considering the facts and continuing the hearing to look at the property.

The Davises were informed of their right to appeal the decision.

2. Case No. 86-6. Application of Martha Webb of Barrett Hill Road for a Special Exception to Article V. Section B.1 for a home occupation to operate a child day care group.

Acting Chair A.L. stated that three board members had made a site visit to the Webb home to look at the parking situation.

Martha Webb presented the board with a handwritten map of her property showing proposed parking. She stated she would like to operate a child day care group 2-3 mornings a week for 6 children maximum, ages 3-5.

The board discussed the criteria listed in Article V. Section B.1 and found there was adequate off street parking, no traffic congestion, adequate sewage(a new system 4 years old), there would be no addition to the house, there is a wood stove but children would not be in that room usually and Martha Webb stated that she would put a gate around the wood stove. With regard to all other criteria, the board found no problems.

E.L. urged Martha Webb to ask for approval for 5 mornings a week in case she wanted to expand her business in the future without having to come before the board again.

T.M. made a motion to approve the request of Martha Webb for a Special Exception to Article V. Section B.1 as per the application for a child care group a maximum of 5 mornings a week from approximately 8:30-noon for a maximum of 6 children ages 3-5 conditional upon approval from state agencies(DoW licensing, State Fire Marshall, and any others).

Second: E.L.

Vote: Unanimous in favor of approval.

3. Case No. 86-7. Application of Linda H. Ladouceur of Whiting Hill Road for a Special Exception, Article V. Section B.1., to use her residence for part-time home day care for a maximum of 8 children.

Three board members had made a site visit to view parking at the Ladouceur property. Linda Ladouceur presented the board with a hand written plan showing parking locations and explained that she intended to operate a part-time play group for a maximum of 8 children ages $4\frac{1}{2}$ -5, 4 mornings a week from 9-11:30 A.M. The group would not meet in the summer. Her driveway holds 5 cars. Parking is for short periods as these children are able to hop out of the cars and run down to the house without parental help. Next year some children will walk to the group, her own child is part of the group, and some will carpool, so she does not anticipate 8 cars at a time.

T.M. noted that the times of the play group do not interfere with times children would be walking to elementary school.

The board noted that there is minimal traffic along that section of Whiting Hill Road, with most traffic during the evening.

The board went through the requirements in the ordinance for a home occupation and found no problems with this application.

No abutters objected to the application in person or writing and the applicant said abutters were all supportive of her plan.

The applicant said she was seeking state licensure, but town approval was a preliminary step.

A.L. made a motion to approve the application of Linda Ladouceur for a Special Exception, Article V. Section B.1., to operate a home day care group for 8 children maximum, ages $4\frac{1}{2}$ -5, 4 mornings/week from 9-11:30 A.M. as per the application conditional upon approval of all state agencies (DoW, State Fire Marshall, and any others).

E.L. seconded.

Vote: Unanimous in favor of approval.

4. Case No. 86-8. Application of Robert A. Bragdon of Abbot Hill Road for a Variance to Article V. Section D. to convert

a home on Intervale Road from 1 family to 3 family or (as amended at the 4/30/86 hearing) to subdivide the property for addition of a single dwelling.

Three board members made a site visit to the property. A.L. announced that Stephen Blanchard was not sitting on the case due to a conflict of interest. She told the applicant that three board members constituted a quorum and could make a binding decision. He would need a unanimous vote to get approval of his application. The applicant refused the chance to postpone the hearing until the May meeting.

Robert Bragdon presented the board with a plan for his two proposals. He explained that the existing property is 1 unit on 6/10 acre in the Residential district. The house is really a duplex, built connected to the abutter, Martha Heater's, house. His first proposal was to add 2 apartments to the house by constructing an adjoining building. The second proposal was to divide the lot into 2 lots of 3/10 acre each and construct a single-family house of about \$120,000 value on the second lot. He could do this and stay within the front and side yard setback requirements. The property is on town water and sewer. He preferred the second proposal, feeling it was better for the neighborhood property values.

T.M. explained the 5 criteria the board has to look at and find to grant a variance. The board went through the five criteria for both proposals:

1. Effect on surrounding property values:

Proposal 1: Mr. Bragdon felt the apartments would not help the property values. Abutter David Nelson felt that apartments would increase the density and lower property values. Abutter Martha Heater, who owns the house connected to the existing house, felt strongly that apartments would decrease the value of her house and felt renters do not have as much respect for the upkeep of property as owners do.

Proposal 2: Mr. Bragdon felt the house would increase the property values in the area. Abutter Nelson thought that reasoning was subjective. Abutter Heater asked if the house

would be rented or sold. Mr. Bragdon said he would sell the house as 1 unit.

2. Benefit to public interest.

For both proposals, Mr. Bragdon felt the units would add needed housing in the area.

3. Hardship:

Proposal 1 and 2 : Mr. Bragdon said that the house is cut down the middle and is really $\frac{1}{2}$ a house. He has owned the property since December 1985. Prior to that there was a tenant there. He felt the uniqueness was the fact that the house was constructed connected to the next house.

Martha Heater explained that the houses shared a basement and attic.

4. Unjustness if a variance is not granted:

Proposals land 2: Mr. Bragdon felt he would not be able to use the property as he wished. Abutter Heater commented that the house could be sold as it is.

5. Use not contrary to spirit of ordinance:

Proposals 1 and 2: Mr. Bragdon felt that he met the frontage and setback requirements, and was only short 2/10 of an acre.

T.M. noted that the spirit and intent of the ordinance was to limit density and preserve space and both the proposals increased the density.

Abutter Nelson asked what would become of the existing house. Mr. Bragdon said he would sell it.

Abutters Herbert and Derrie Sterns (across the river) stated that there already is a noise problem in the area with dogs and snowmobiles and that increasing the density could add to the nuisance.

A.L. stated her concerns with the proposals: Proposal 1: Problems concerning lowering surrounding property values, meeting the hardship criteria (she felt that the hardship was basically financial), and the use would be contrary to the spirit of the ordinance. Proposal 2: she felt did not meet the hardship or spirit of the ordinance criteria.

E.L. said he had problems with the apartments because of added cars, noise and lowering of property values.

Abutter Heater said there were many children in the area and a deaf family and the neighborhood did not need added density and cars.

T.M. stated he also had problems with the proposals meeting the hardship and spirit of the ordinance criteria.

E.L. made a motion to approve the application of Robert Bragdon for a variance to Article V. Section D. as submitted for apartments.

A.L. Seconded

Vote: No unanimously.

The board then amended the application to add the second proposal of Mr. Bragdon.

T.M. made a motion to approve the application of Robert Bragdon for a variance to Article V. Section D. to subdivide the property into a lot for a single dwelling.

E.L. seconded.

Vote: No Unanimously.

Mr. Bragdon was informed of his right to appeal.

Meeting adjourned at approximately 10:00 P.M.

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT, TOWN OF WILTON, NEW HAMPSHIRE
CASE NO. 86-8

You are hereby notified that the appeal of Robert A. Bragdon of Abbot Hill Road, Wilton, for a Variance to Article V., Section D. to property on Intervale Road, Lot # F-056 to put a 3 family on a single lot has been DENIED for the reasons listed below, by vote of the board of adjustment.

REASONS FOR DENIAL:

1. Does not meet the hardship standard.
2. Strong possibility of lowering surrounding property values.
3. Contrary to spirit and intent of the zoning ordinance.

The appeal of the same applicant for a Variance to Article V., Section D. to the same property to subdivide the lot for a single dwelling, has been DENIED for the reasons listed below, by vote of the board of adjustment.

REASONS FOR DENIAL:

1. Does not meet the hardship standard.
2. Contrary to spirit and intent of the zoning ordinance.

Arlene A. Laurenitis 5/2/86

Arlene A. Laurenitis

Acting Chairman

Zoning Board of Adjustment

Date: May 2, 1986

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT, TOWN OF WILTON, NEW HAMPSHIRE
CASE NO. 86-5

You are hereby notified that the appeal of Nancy E. Davis of Main Street, Wilton for a Special Exception to Article V., Section B. to operate a craft shop in her home has been DENIED, for the reasons listed below, by vote of the board of adjustment.

REASON FOR DENIAL:

1. An inadequate parking situation.
2. Traffic/access problems on Defoe Alley.

Arlene A. Laurenitis 5/2/86
Arlene A. Laurenitis
Acting Chairman
Zoning Board of Adjustment
Date: May 2, 1986

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT, TOWN OF WILTON, NEW HAMPSHIRE
CASE NO. 86-6

You are hereby notified that the appeal of Martha Webb of Barrett Hill Road, Wilton for a Special Exception of Article V., Section B.1. of the zoning ordinance to operate a part-time child day care group in her home has been GRANTED as per the application on condition that she meet all state agency requirements, by vote of the Board of Adjustment.

Arlene A. Laurenitis 5/2/86

Arlene A. Laurenitis

Acting Chairman

Zoning Board of Adjustment

Date: May 2, 1986

NOTICE OF DECISION

ZONING BOARD OF ADJUSTMENT, TOWN OF WILTON, NEW HAMPSHIRE
CASE NO. 86-7

You are hereby notified that the appeal of Linda H. Ladouceur of Whiting Hill Road, Wilton for a Special Exception to Article V., Section B.1. to operate a part-time child day care group in her home has been GRANTED as per the application on condition that she meet all state agency requirements, by vote of the Board of Adjustment.

Arlene A. Laurenitis 5/2/86

Arlene A. Laurenitis

Acting Chairman

Board of Adjustment

Date: May 2, 1986