

MINUTES BOARD OF ADJUSTMENT

MAY 27, 1987

Case #6 Jerry W. Greene

Case #7 Draper Energy

Case #8 Dwayne Gilman/Martha Gannet

Case#9 Carl Stimson

Meeting called to order at 7:23 P.M. by Chairman Laurenitis for the purpose of electing officers for the year.

Members present: Arlene Laurenitis, Cindy Harris, Tom Mitchell, Grayson Parker, Herbert Klein (replacing Eddie Lamminen), Gail Proctor (secretary).

Motion by G. Parker to nominate Arlene Laurenitis as Chairman of the ZBA for the upcoming year.

Second to motion by C. Harris.

Vote: 5-0 to reelect A. Laurenitis as Chairman.

Motion by A. Laurenitis to nominate Tom Mitchell as Vice-Chairman.

Second to motion by H. Klein.

Vote: 5-0 to reelect Tom Mitchell as Vice-Chairman.

The Board members agreed to schedule meetings on the last Wednesday of each month. The Board also agreed to Ch. Laurenitis' suggestion that property reviews be schedule for the preceding Tuesday evening.

Ch. Laurenitis stated that alternates will be rotated in alphabetical order to regular member vacancies. Board members agreed that three alternates were adequate at this time (State law permits up to 5).

Ch. Laurenitis distributed copies of the Peterson Gravel Pit permit received from the Planning Board. Ch. Laurenitis also stated that a bond had also been posted with the Selectmen as required.

As a procedural detail, Ch. Laurenitis asked Board members to complete a 'Finding of Facts Form' for each case. This would provide additional documentation in the official records for ZBA decisions.

Case # 6 JERRY W. GREENE

Ch. Laurenitis read the request of Jerry W. Greene (Burbak) for a variance to the terms of Article VIII, Section C-1 and C, 3.6 of the zoning ordinance. Applicant is proposes to contruct an addition to his building that would be 46' from Forest Road (not the 75' that the ordinance states).

Mr. Greene presented to the Board a plan for his proposal outlining the sideyard and setback deficiencies.

The Board addressed the criteria and asked Mr. Greene to comment on each one.

#1 Value of surrounding property - Mr. Greene pointed out that none of the existing buildings comply with the current zoning and setback requirements. Mr. Greene stated that the new building would "look better", there would be no detriment to surrounding properties and the wooded buffer would remain as is.

#2 Public interest - Mr. Greene stated there would be no problems with the abutters, however, at 75' the building would be "in the yard of the abutter" (referring to residence), Mr. Greene added he did not want to tear down the the existing house commenting that the "people would be put out of their house".

T. Mitchell asked Mr. Greene if more people would be employed. Mr. Greene responded by stating that 2-3 additional people would be employed with perhaps a maximum of 5-6.

#3 Hardship - Mr. Greene explained to the Board if it was necessary to comply with the ordinances a septic system would be "wiped out" and the new building would be 15' from the existing residence. Mr. Greene also pointed out that moving the addition to any other place on the property would interfere with the wood buffer and the existing residential use. Mr. Greene was asked when the building was built and he stated that the main building was erected in 1970 and the "quonset" was probably built in the 1940's.

#4 Substantial justice - Mr. Greene indicated that all construction to this point had considered the house.

#5 Spirit of ordinance - Mr. Greene explained that keeping to the 75' setbacks would not be consistant with the positioning of the existing buildings. The current request would "fall in line" with the existing buildings.

The Board asked about the project's status with the P.B. Mr. Greene explained that he appeared at the P.B. and received approval for a 75' setback addition. He said in order to expedite that "paperwork" he approached the P.B. with this plan but explained to the P.B. he would be asking the ZBA for a variance for 45'.

Board members commented that the proposal would match the exisitng structures and avoid tearing up the wood buffer. G. Parker felt that the proosal would be a "better use of the land".

Motion by Herbert Klein: to grant the variance as applied for (correcting Article VIII, Section C-1 to XIII, Section C-3b).

Second by Grayson Parker.

Vote: 5-0 in favor.

Case #7 DRAPER ENERGY - 8:10 P.M.

Ch. Laurenitis read the request of Draper Energy for a variance to the terms of Article VIII, Section C of the zoning ordinance. Applicant proposes to subdivide the house from the garage on the Brookside (Rte.101) property.

Stuart Draper explained to the Board that he would like to sell the house separately from the garage (business) at his property. Mr. Draper stated that there would be no added building "going on ", the buildings were built before zoning, and a hardship existed in that the prospective buyers could not purchase the property (house) unless it is subdivided from the garage (business). Ch. Laurenitis asked about the sideyard dimensions and Mr. Draper determined that there was approx. 15-20' between the buildings concerned.

H. Klein asked Mr. Draper if he had made an attempt to acquire some land on the west side to make the lot comply with the requirements. Mr. Draper said he had approached the property owners (Blanchards) and was unable reach an arrangement.

G. Parker asked Mr. Draper about the status of the water and septic systems. Mr. Draper said there was one well and septic system for the property, he added that there would be joint ownership of the services and joint care that would be written in the deeds. Mr. Draper added that a new well could be easily installed. Mr. Draper also mentioned that he had a potential buyer that was considering a commercial use (office) for the property. Mr. Draper emphasized the point that he was "not changing a thing" except to create a separate lot for the house and the garage. Ch. Laurenitis pointed out that the proposal would be creating a separate industrial lot.

The Board addressed the criteria and asked the applicant to comment on each one.

#1 Value of surrounding property - Mr. Draper pointed out that the abutting uses were of a commercial and industrial nature.

#2 Public interest - Mr. Draper felt the proposal would create jobs in town and increase tax base if someone used the property as a commercial use. According to Mr. Draper, a residential use of the house would help the next door business deter vandals.

#3 Hardship - Mr. Draper stated that he had interested buyers in the house, but it could not be sold with the attached business.

T. Mitchell asked the applicant about features inherent in the land that made the property unique and Mr. Draper repeated that the property was built upon prior to zoning ordinances, (house and garage was built in middle or late 60's).

#4 Substantial justice - Mr. Draper felt that he should be able to sell the house to the people without the garage.

#5 Spirit of the ordinance - Mr. Draper pointed out again that there would be no change of use and that the property would not be overcrowded.

Ch. Laurenitis questioned Mr. Draper if the water and septic systems could be separated. Mr. Draper stated that the garage uses not much water (one toilet) and a dry hydrant was across the road and a brook outback. He also stated that no problems existed with the prior residents.

Ch. Laurenitis asked about the hardship criteria other than the financial aspect. Mr. Draper commented that the hardship is to the people who want to buy the house, the potential residents do not want to rent the house but own the house.

T. Mitchell considered the property unique in that the residence and business were on one piece of land and he cannot make use of the property as it exists. Mr. Mitchell added that the hardship is a commercial and residential use in an industrially zoned district.

Motion by Tom Mitchell to grant the variance requested by Draper Energy to the terms of Article VIII, Section C-3c of the zoning ordinance.

Second by Herbert Klein.

Vote: 5-0 in favor.

Stuart Draper added that he had no objections to Carl Stimson's request for a variance. (Mr. Draper is an abutter).

Case #8 DWAYNE GILMAN for MARTHA GANNET - 8:37 P.M.

Ch. Laurenitis read the request of Dwayne Gilman for a variance to the terms of Article XII Section A-4 and Article VI, Section D of the zoning ordinance. Ch. Laurenitis added that Mr. Gilman has permission from property owner Gannet to apply for the request. The applicant proposes to tear down the existing structures and construct a new residence. Dwayne Gilman presented a letter from the Building Inspector explaining that if the applicant placed a mobile home on the property a variance was necessary.

T. Mitchell brought up Article XIV, Section A-4 of the zoning ordinance which addresses non-conforming uses and 50% removal, etc. Robert Gilman spoke for his son, Dwayne, and stated that contractors had looked at the buildings and no parts could be saved. Board members discussed the possibility of establishing a trailer or construct a new building. It was determined by the Board that a trailer could fit on the lot. Mr. Fairfield, abutter, stated that he objected to the placement of a trailer. Ch. Laurenitis asked the applicants to decide if the request for a variance would be for a house or trailer. Mr. Gilman decided to remain with the residence (house).

The Board addressed the criteria as follows:

#1 Value of surrounding property - Robert Gilman pointed out that "anything" would be an improvement to the property in its present condition. A variance for a house instead of a mobile home would upgrade the neighborhood. Mr. Anthony Perfito, abutter, felt a full time residence in his "front yard" would be diminutive to his property. T. Mitchell asked the realtor present her opinion of the land value. Nancy Hubert's opinion was that the property value would be increased. Mr. Perfito pointed out to the Board that the property was used as a seasonal camp and not a year round residence.

Mr. Perfito added that a permanent house would lessen the value of his property, add congestion, and reduce his privacy.

#2 Public interest - Robert Gilman explained that by allowing this variance his son could put up a larger single family home rather than a trailer.

#3 Hardship - Ch. Laurenitis pointed out that the small lot was a grandfathered use.

#4 Substantial justice - T. Mitchell added that the applicant could have a larger home than if he were restricted to the dimensions of a trailer. Mr. Mitchell also felt the property would be upgraded. Robert Gilman repeated that not being limited to 24' W would be important.

#5 Spirit of the ordinance - Robert Gilman stated that rebuilding the house on its existing foundation would have the residence less than 10' from the existing property lines. He added the Board that although the lot is narrow it had depth ( less than 1a. total).

Grayson Parker suggested that the front shed be razed a part of the condition of the variance. The Board agreed to this point and also agreed that a house and not a mobile home be also a condition.

Mr. Perfito was concerned about the seasonal flow of water across the property onto his. He felt that work on the lot would interrupt the natural flow and if the flow shifted, a great deal of water would end up in his cellar. Mr. Perfito also expressed concern about the placement of the water and septic system on the lot. The Board explained to Mr. Perfito that the WSPC Board at the state level was be reviewing those plans.

Motion by Grayson Parker to accept the plan as presented to Article VI, Section D of the zoning ordinance with the conditions:

1. The shed adjacent to Issac Frye Hwy. be razed prior to occupancy.
2. And that the variance be granted for use as a single-family residence (not a mobile home).

Seconded by Tom Mitchell.

Vote: 5-0 in favor.

Case #9 CARL STIMSON - 9:15 P.M.

Ch. Laurenitis read the request of Carl Stimson for a variance to the terms of Article VII, Section A-1 of the zoning ordinance. Applicant proposes to add a residential unit to the upstairs of his Forest St. property and business.

Mr. Stimson explained to the Board that he would like to liquidate his business (sheet metal shop) but keep the commercial use downstairs in the building and add an apartment up stairs. Ch. Laurenitis reviewed that ordinances informed the Board that the Res.-Agric. would not be met whereas the Res. criteria would be more conforming and appropriate in this situation.

Mr. Stimson said there would not be another apartment in the future although perhaps he might add a new stairwell to the building.

The Board addressed the criteria as follows:

#1 Value of surrounding property- Mr. Stimson felt the <sup>proposal</sup> would be enhancing the property by adding a residence especially a reduction in noise

levels without the sheet metal business. Mrs. Stimson added that although the appearances would improve they were not planning any changes to the building.

#2 Public interest - Mrs. Stimson repeated that the building would be "neater" in appearance.

#3 Hardship - Ch. Laurenitis pointed out that the lot has a grandfathered use Board members agreed that an owner upstairs and a business downstairs would add to the property.

#4 Substantial justice - The Board felt that this was a use not inconsistent with other businesses in the downtown area.

#5 Spirit of the ordinance - The Board felt that the ordinances allowed residences in the commercial district and it would be impossible for residential uses to meet the Res.-Agric. standards mostly due to area.

Motion by Grayson Parker to grant the variance as presented to the terms of Article VII, Section A-1.

Seconded by Herbert Klein.

Vote: 5-0 in favor.

Being no other business the meeting was adjourned at 9:47P.M.

*Gail Proctor*

Gail Proctor - Clerk ZBA