

MINUTES BOARD OF ADJUSTMENT

JUNE 24, 1987

Case #9-A JON SARGENT  
Case #10 WINSTON & ANNA FAIRFIELD  
Case #11 ROBERT DION

Members present: Arlene Laurenitis, Eddie Lamminen, Tom Mitchell, Grayson Parker, Gail Proctor (replacing C. Harris).

Meeting called to order by Ch. Laurenitis at 7:36 P.M. in the Town Hall Court Room.

Ch. Laurenitis read the request of Jonathan Sargent of Gage <sup>2D.</sup> ~~Page~~ for a Special Exception to ~~the~~ terms of Article V, Section B 1&2 of the zoning ordinance. Applicant would like to establish a motorcycle repair shop at his residence.

Mr. Sargent addressed the Board with the following statements and facts regarding the proposal: he has lived 4 years at his present house, he is a certified motorcycle mechanic, the new garage where he would house his business would be a 16x20' single story garage with electricity but no plumbing, he presently works on his own motorcycles in his basement, the proposed work would be done by appt. only, no business would be done on Sunday, the bulk of the work would be done weekday nights (after his regular employment) and on Sat., Ch. Laurenitis asked for a clarification on appts. and Mr. Sargent stated that due to his location he would set up appts. although people (customers) might stop by. Mr. Sargent continued by saying he would be the sole employee, he expected to work on less than 10 bikes per week, there would be only repairs, no retail sales, no state inspections, no franchises and if the business expanded, he would relocate to a commercial zone. Mr. Sargent felt there would be no additional noise on the road from his business that was not already there. Mr. Sargent continued by adding the garage would be fully insulated, all work would be done inside the bldg., except for a test drive, there would be no outside storage of materials. Mr. Sargent pointed out that at the PB hearing a petition by the neighbors was presented that opposed the request. Mr. Sargent stated that he felt, "the abutters should have heard him out first and listen to what he had to say before opposing the request." Mr. Sargent assured the Board that there would be "no hanging out" and all he wanted to do "was fix a few bikes on his own property in his spare time". Mr. Sargent said he would include the conditions on his request, 1. there would be no more than five bikes (customers) at any one time 2. all repairs would be done inside the bldg. 3. Test drives would be done prudently and safely 4. No outside storage 5. no Sunday work 5. The bldg. would be fully insulated 6. No plans would be made to expand or add on.

T. Mitchell asked if the garage could be easily converted back to a residential use and Mr. Sargent explained that the bldg. would be a square, one room bldg. and easily reverted to residential use. Ch. Laurenitis asked about lighting and Mr. Sargent stated that two floodlights were already on his home and he would place one on his proposed garage.

Ch. Laurenitis read the Home Occupation criteria and the following was dis-

cussed; according to Mr. Sargent, there would be no fire hazards, no additional traffic congestion, and no change in the neighborhood. Ch. Laurenitis stated that at the on site inspection, there appeared to be adequate parking for the Sargent's cars plus customer parking (at least 2 spaces).

G. Parker asked to hear from the abutters.

David Gage (neighbor), expressed concerned over the fact that although Sargent could ask his customers to comply with appts. and scehdules, there really was no way to "control" the customers and nothing to prevent the extra traffic on the road. Mr. Gage was also concerned about noise levels and the hazard of extra traffic on the road adding that his family road horses on the road too. Mr. Gage felt the road was not designed for alot of traffic.

Judy Lambert, abutter, stated that she did not want to have " anymore extra noise on the road than already existed". Ch. Laurenitis asked the abutters if further restricitons could be made to assure the abutters of their concerns. Judy Lambert stated that she " desired the business but not the noise."

E. Lamminen expressed <sup>concern</sup> about Mr. Sargent being able to control the noise on the motorcycles. Lamminen added that he was sympathetic to Sargent and he should be able to do things on his property that he wants. According to Lamminen, he felt Sargent could adhere to the ordinance but Sargent could not control his customers. Mr. Sargent stated that he could inform his customers to be "easy" on the road.

Gary Frye, abutter, stated that he was in the middle and he felt that Mr. Sargent should be able to use his land as he wished and added that he thought Mr. Sargent should be given a try and he was not opposed to that.

Hugh McFadden, neighbor, stated that there was a potential for noise and traf-  
fic to be out of control and that the business would be open to the general public.

Ken Sargavakian, abutter, also brother, was concerned about the petition circulated and he stated that if a problem occurred and if a person approached Jon with it he felt the problem could be solved.

David Gage added that word of mouth customers would not know of restrictions and appt. schedules.

Ch. Laurenitis suggested pick-ups and drop-offs be regulated as to reduce the extra traffic. Mr. Sargent agreed to limiting the times to two weekdays and Sat.

G. Proctor asked the Board and abutters if a provisional or temporary approval would be acceptable to the abutters thus giving Mr. Sargent an attempt. Due to the expense of putting up a bldg. this was not deemed practical by the applicant.

John Griffith, attorney, commented that he felt a motorcycle shop was not a residential use and not in keeping with Home Occupation ordinance. He added that the general public could not be controlled and the shop should be in a zone where commercial activity was permitted.

G. Parker asked the abutters if any conditions could be imposed that would assure them of the noise levels. Mrs. Beebe responded that she felt there "was no way to control noise or speed on the road".

Motion by Tom Mitchell: to approve the application for a Home Occuaption (motorcycle repair shop) by Jonathan Sargent with the following conditions:

1. five customers (bikes) be done at one time
2. all repairs be done inside the bldg.
3. work hours be 8-8
4. no Sunday hours
5. customers by appt. only
6. the bldg. be insulated for sound
7. pick-up and drop-offs be scheduled for two weekdays and Sat. only
8. no retail sales
9. no state inspections

Second to Motion by Eddie Lamminen.

VOTE: 4-1 opposing the motion. Arlene Laurenitis in favor.

CASE #10 WINSTON & ANNA FAIRFIELD

Ch. Laurenitis read the request of the applicant for a variance to the terms of Article VI, Section C of the zoning ordinance. The Fairfields request to subdivide a lot with less than 200' road frontage.

Mr. Fairfield explained to the Board that he would like to subdivide two - 2 acre lots from his main lot and according to an unusual configuration of the abutting lot (Hurley) the frontage would be 181.53'. Mr. Fairfield pointed out that all other zoning and subdivison requirements would be met.

Rosemary Duggan, abutter, felt the frontage requirements should be met.

Mr. Fairfield stated that they could not reach any agreement with the Hurleys on a lot line adjustment.

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

#1 Value of surrounding property - Mr. Fairfield restated that the lot is a full 2 acres and is larger than most of the surrounding properties. He added that the house to be placed on the lot would be an asset to the Town.

#2 Public Interest - Mr. Fairfield said this was the same as the value of surrounding property and added that the property would be developed into a house lot and would not "hamper anyone".

#3 Hardship - Mr. Fairfield stated that because of the odd shape of the neighbor's lot (Hurley) it would be impractical to include the 200' requmt. E. Lamminen asked if the Fairfields had considered combining the 2 lots into one 4 acre lot and therefore meeting the frontage requmts. Mrs. Fairfield responded that they had considered it but "did not want to do it".

Mr. Fairfield pointed out the existing driveway would be "dual" (Hurley and proposed buyer) and would eliminate an extra curb cut on the road.

#4 Substantial justice - Mr. Fairfield pointed out that there is a need for housing in the Town.

#5 Spirit of the ordinance - Ch. Laurenitis asked Mr. Fairfield to discuss the frontage requirement. Mr. Fairfield responded that he felt the shortage would not "do any harm and was hardly noticeable".

Henry Kanner, abutter, stated that he was not in favor of the request as the proposed house would be across his house and pond. Kanner added the proposed house would be too close to his house and decrease his property value and quality of life.

R. Duggan stated that she felt "no hardship existed and the Fairfields could have the one lot" (Instead of 2). She added the hardship was monetary gain and continued by stating the extra house would be "overintensification on a high traffic road and would not add value or be beneficial to the area."

G. Parker asked Mr. Hurley for comments. Mr. Hurley responded that his main concern was that his well was located on the Fairfield's property. He added that he thought he had owned the driveway until it was recently surveyed. Mr. Hurley summarized that he was not opposed to the proposal but he <sup>was</sup> concerned about his dug well and maintaining his driveway access.

Ch. Laurenitis asked if an attempt to negotiate the differences were made and the Hurleys and Fairfields said they were unable to come to an agreement.

E. Lamminen commented that he felt no hardship existed other than a monetary reason.

G. Proctor stated that she felt the property was unique with the unusual configuration of the driveway in relationship to the rest of the property and pointing out it would be impractical to relocate the driveway merely to comply with the frontage requirements.

E. Lamminen concluded by stating he would not have a problem with the request if it were a lot of record but because it is a subdivision the applicants would have to sell it off as a larger piece.

Motion by Eddie Lamminen: to approve the request of the applicant as stated in regarding a variance to Article VI, Section C of the zoning ordinance.

Second to motion by Tom Mitchell.

VOTE: 4-1 opposing the motion (Gail Proctor in favor).

Case #11 ROBERT & LYNN DION

Ch. Laurenitis read the request of the applicant for a variance to the terms of Article VI, Section C-1 of the zoning ordinance. Mr. Dion wants to ~~use~~ <sup>use</sup> two single family lots (back Lots to his property) without the required frontage using an existing private alley.

Mr. Dion explained that he owned three separate lots (with three separate deeds) and he would like to use the back lots using the 18' alleyway that he owns. Mr. Dion stated that he had a building permit in 1984 and permission by the Selectmen to use the lots. Mr. Dion<sup>said</sup> he had access to Town water and sewer. The Board determined according to the Town Zoning Map that the property was located in the Residential Zone. Mr. Dion said the water and sewer lines could run down the proposed driveway (Lot C was 3.7 a. and lot B was 3/4 a. ).

Ch. Laurenitis asked Mr. Dion to address the criteria.

#1 Value of surrounding property - Mr. Dion said the proposed house would cost \$300,000 to build.

#2 Public interest - Mr. Dion stated tax revenues to the Town would increase.

#3 Hardship - Mr. Dion said he cannot use the land as he wants now.

G. Parker asked Mr. Dion about the current use of his property. Mr. Dion explained that he does autobody work and restoration. G. Parker said that he found eight unregistered cars on the lot at inspection prior to the hearing and he felt it was an "eyesore". Mr. Dion informed Parker that he can "do anything he wants to with the property" because it had been to Court. Mr. Dion suggested he check with the Town's lawyer. Mr. Dion said the "business had nothing to do with this request".

T. Mitchell pointed out that the lots had existed as such when Mr. Dion purchased the property.

#4 Substantial justice - Mr. Dion said he wants to use the land as it was meant to be.

#5 Spirit of the ordinance - (frontage requirement) Mr. Dion felt that because the lots were back lots he should not have to meet the road requirements.

Ch. Laurenitis asked to hear from the abutters.

Abutter Peg Landry read a list of concerns as follows:

1. Landry pointed out that the 18' alleyway ran along her property and up to her house.

2. 18' driveway or road was not wide enough for safety.

3. She felt there would be barely enough room for one car and because the driveway would be so long, she felt cars would be going around each other and ending up on her lawn because there was no room to back down either way.

4. Snow plowed would be thrown up against her house

5. Because of the steep embankments she felt cars would "fall into her yard" if adequate lighting was not provided.

6. Road erosion - because of the steep banks and stream that flows through the alleyway she felt this condition would be worsened.

7. Ms. Landry stated that Mr. Dion had at least 20-40 cars on the property at all times (she counted 34 last week) and she feared if the back lots were opened up that the lots would be a "dumping ground". She felt her property would be devalued if the property was used as a "junkyard".

8. Ms. Landry also suggested the property be professionally surveyed.

9. Ms. Landry suggested that Mr. Dion put a driveway down the middle of his property for the back lot access.

Mr. Dion stated that according to the B.I. he could not put a driveway there because of side yard requirements.

Diane Fox, abutter, commented that the access road was present when the Landry's purchased the property.

Mr. Knight, abutter, said his understanding was that the alleyway was a public right-of-way with an easement for public use. Mr. Knight said there was not enough room on the alleyway to cut a road and an open stream existed. Mr. Knight added that if the alleyway was used it would eventually cut into the banking and create a problem with his garage and driveway.

Board members then discussed the "backlot" problem and it was the agreement of all members that further information was needed to clarify the issue and to determine the legal procedure for such. E. Lamminen thought there existed new State Laws regarding backs lots and he suggested we contact Town Counsel or the State Planning Office for addition detail.

Motion by Eddie Lamminen: to continue the request of Robert Dion for a variance to the terms of Article VI, Section C-1 of the zoning ordinance so additional information may be collected regarding landlocked properties.

Second by Grayson Parker.

VOTE: 5-0 in favor of the recess.

The earliest date to conveniently reschedule the hearing was August 5, 1987 at 7:30 P.M. in the Town Hall Court Room. Mr. Dion stated that he would be out of town the last two weeks in July.

Ch. Laurenitis announced that abutters and the public would be appropriately notified of the hearing.

OTHER BUSINESS - Minutes of the May 27, 1987 and April were approved.

No other business - meeting adjourned at 10:15 P.M.

*Gail Proctor*  
Gail Proctor  
Secretary