



ZONING BOARD OF ADJUSTMENT
WILTON
NEW HAMPSHIRE 03086

June 29, 1988
Minutes

Meeting called to order by Chairman Tom Mitchell @ 7:15 PM with members Cindy Harris, Grayson Parker and George Infanti, Joanna K. Eckstrom, secretary and press, Ron Bitten and Peter Ferran present. Eddie Lamminen was represented by alternate, Herbert Klein for the hearing session.

Secretary was officially commended for the good job on the June 14 minutes. Corrections to the minutes were noted by Mitchell as follows:

Page 2 re: SUMA Realty Trust, record of vote corrected to (4-1).

Page 3 Line 7, Mitchell adds: "If changing business use or Home Occupation in any way, Special Exception is needed."

Page 3, re: Highfields and Weston Engineers letter, attach letter to official minutes.

Page 3, re: Highfields, delete Ms. Harris from hearing and add "understudy" to Mr. Klein.

Page 3 line 35, change parentheses: sight distance for clear view of traffic.

Page 4 Line 19, parentheses to read "Jay Heavisides, TF Moran Co ..."

Page 4 Line 25, delete Bruce Rafter.

Page 5 Line 6, parentheses to read Jay Heavisides, Moran Engineer.

Page 5 Line 14, add letter about Soil Conservation Service review of Wetlands and attach to official minutes.

Page 6 Line 7, parentheses to read Board of Adjustment handbook, quote "The appeal cannot be granted simply because, by attaching the condition, no harm will be done."

Parker moved to approve minutes as corrected; Infanti seconded. Motion carried unanimously.

Mitchell advised the Secretary should be notified of corrections to minutes within 24 hours of receipt or posting. Otherwise, if corrections aren't noted, minutes become "official".

There were insufficient "findings of fact" for the hearings scheduled, Secretary was briefly excused to make photocopies.

When Klein arrived at 7:35, Mitchell officially called the meeting to order, announced the roll noting Klein sitting in for Lamminen. Hearings scheduled were: 1. Jacqueline Lord request for variance; 2. Kaj-Aage Arends request for Special

Exception; 3. Gerard Levesque request for variance; 4. Peter Moyers request for variance, withdrawn; and 5. Robert R and Joanna K Eckstrom request for variance. Hearings were opened.

CASE NUMBER 11.88

JACQUELINE LORD #150 Route 31 Forest Road Lot B-100 request for variance to terms of Article XIV Section A-3. Ms Lord proposes expanding residential use within Industrial Zone. Mitchell asked Ms Lord to present her proposal.

Ms Lord states she wishes to construct 24 x 32' addition to residence. Addition would include a bedroom, bath and living room for her elderly parents. Construction would blend in with surrounding environment. Says her property zoned residential until March 1988.

Asked to address the five criteria Ms Lord and co-owner Bob Tropeau respond as follows:

1. Believe granting variance would not diminish value of surrounding properties; all it could do would be increase value.

2. Benefit to the public interest. Tropeau said any improvement to property is benefit to public interest.

3. Referring to hardship, Ms Lord and Tropeau said denial would cause emotional hardship. Variance requests expansion of residential use in industrial zone. Property is 2½ acres, certainly sufficient to put an addition. Believe expansion is the only possible solution of providing for their family.

Mitchell noted they were adding a bedroom and bath and were not adding to density of the area.

Ms Harris asked if property was purchased while residential zone - answer yes. Mitchell asked if there was ever thought to Industrial Zoning preventing enjoyment of residential use. Both responded that area then as well as now is more residential than industrial. Conversion to industrial zone never crossed minds.

4. Justice would be done in granting. Purchased property in good faith as residential. It came as surprise when seeking building permit that change to industrial zone required variance to continue or expand residential use in zone. Tropeau believes continued use grandfathered. Mitchell said he had opinion of Town Counsel regarding grandfathering. "If you're in zone or area where use is no longer permitted, you are grandfathered to continue but not expand use."

5. Ms Lord and Tropeau felt request not contrary to spirit of ordinance. Feel change to industrial zone was to provide access for (light) industry. Tropeau believes there's blend of uses almost everywhere and that addition would certainly not dampen developmental spirit. Plan would enhance and attract light industrial development.

Mitchell continued he knew they're expanding residential use but questioned their feelings about possibility of industry locating right next door. Tropeau said they bought property for its barn to house horses and there was already light industry in area naming an auto repair shop and others as example.

Klein asked how close proposed construction would come to

property lines. Tropeau responded on 2½ acres, house is almost in middle; addition would be well away. Klein asked about impact of parking for possibly 200 employees right next door. Tropeau - there'd be no impact.

Mitchell asked for questions, comments from the floor. There were none.

Parker moved to grant the variance as requested; Infanti seconded. No discussion on motion. Motion carried unanimously.

Mitchell advised Ms Lord that variance granted and that anyone affected by decision must present new evidence for re-hearing within 20 days. Appellants thanked Board for decision and were dismissed.

Case Number 12.88

KAJ-AAGE ARENDS Isaac Frye Hwy and Wilton Center Rd Lot C-64, request for Special Exception to terms of Article V Section B-1 & 2. Arends proposes change to existing Home Occupation by constructing basement foundation under existing garage.

Mitchell asked Arends to describe nature of business. He buys and sells steroids, organic compounds or hormones, by mail order. Staff consists of a neighbor-worker from 9 - 3 and another person from 1 - 5, five days a week, for total of 1.5 employees. Arends added he's allowed only 2 non-family employees. Approximately 250 invoices are handled each month; all shipments via first class mail. Declared no customers call upon him here nor have they in 13 years he'd done business from there. Neighbor-abutter Dom DiSalvo would confirm this if Board required.

Klein asked if anything produced at site. Arends tests and purifies; he is not a chemist; he leaves "complicated stuff" to 5 PhD's from whom he buys stock. Stock (powder) is processed into product.

Mitchell advised that Arends in business for 13 years and reason for coming was that any change in business (facility or other) required Special Exception. He asked Arends if he'd "gone computer" yet. Arends replied yes, but computer presently in his bedroom and would eventually be moved to garage/office.

Arends claimed square footage of existing office area as 600 s.f. on each of two floors in summer cottage. Proposed basement space will be 950 s.f. on one level.

Infanti remarked he did not see proposal as expansion or increase of business use. Questioned need for Special Exception. Mitchell repeated any change in business requires Special Exception.

No impact on noise, heat, light, odor, etc. from proposal Arends continued. Klein asked about traffic patterns changing or increasing. There'd be no change. Review of site plan showed sufficient parking for residents and employees.

Asked by Mitchell if storing chemicals constituted fire

hazard, Arends said no. Storage is separate from work area now; concrete foundation, walls and ceiling of new basement would provide additional protection. One of his colleagues, Dr. Clark, recently had a fire which not only left chemicals in ashes, but also destroyed 30 years of research notes. Arends said he did not want his own life's work to go up in smoke, so he's done what's necessary to protect his investment.

Mitchell asked if proposed changes could be reversed if he were to sell property. Arends said he's proud of his property and would certainly do nothing to make it less desirable should he sell. Also felt changes would not affect revertability to residential use. Added no business-related items stored outside, he has plenty of parking and leach field can certainly accommodate his changes.

Asked for additional comments or discussion, Klein asked if steroids or chemicals were dangerous combination relative to vandalism. Expressed concern of theft of something that could prove hazardous to public citing thefts of radioactive material, poisons etc. Arends said that after some 25 years in business, he certainly hoped there was no adverse reactions to product and he isn't storing radioactivity. Mitchell said vandalism or theft would be directed more at business equipment than at steroids.

There being no further discussion, motion to grant Special Exception as requested was made by Infanti and seconded by Klein. Motion carried unanimously.

Mitchell announced that request had been granted and that next step was for site plan review by Planning Board. Secretary provided Arends with Planning Board application package. Thanking the Board for decision, Arends extended invitation to them and small groups of school children to see "chemical reactions" he uses in his lab. Arends will appear before Planning Board on July 20, 1988 for site plan review.

Case Number 13.88

GERARD LEVESQUE Dutton Road Lyndeboro, request for variance to terms of Article V Section D. Applicant proposes to convert rooming house at 110 Park St Lot J-33 to two family house. Mitchell invited Levesque to state his plans.

Levesque wants to fix up property in belief that duplex or two family would be better than current status as rooming house. No real structural changes proposed; one interior wall to be removed and a bathroom added. Now eleven rooms; proposes two units of 3 bedrooms each.

Klein asked how many people would be accommodated. Levesque said two families, actually less than number of occupants as rooming house. Mrs Levesque added that living room and common areas were used for sleeping occasionally.

Addressing five criteria, Levesque responded as follows:

1. Repairs and improvements to property would increase its value as well as neighboring property values. Mitchell noted

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Board had conducted site visit prior to hearing and that proposed changes to a "run down appearance" would be in order and improve property.

2. Public interest benefited because housing (family housing) would be provided. Feels this better than (transiency and density) of rooming house. Mitchell asked when property last used as rooming house. Mrs. Levesque said as recently as month ago; when bought, it was occupied as rooming house and eviction notice to occupant issued last month. Parker added it had been rooming house for as long as he knew; at one time was convalescent home. Multiple occupancy as he understood is grandfathered; if he wanted, he could continue as a rooming house without a variance. Mitchell noted density would in fact be reduced by Levesque's plan.

3. About hardship, Mitchell warned that financial hardship to owner can't be related to denial and asked Levesque if he could confirm exact acreage as .9 acres. Special conditions with the land must exist to validate a hardship. Board reviewed Town Maps in effort to determine size of lot. Assessment record based upon .9 acres; Levesque had no evidence to the contrary. Parker calculated from dimensions given on map slightly more than .9 acres. Mitchell confirmed hardship in that calculation came so close to ordinance that surveying would be needed for exact lot size.

4. Levesque said justice would be done because of many other two family homes in neighborhood; his proposal conforms. Klein asked if he would live there; Mrs Levesque said not immediately, but hoped to in a few years. Mitchell added justice would be done by reducing density which, in his view, is better than continuing the rooming house.

5. Referencing the spirit of the ordinance, Mitchell said Levesque's lot is so close to requisite 1 acre, spirit would not be violated. Klein added that the ordinance is a guideline.

With no further discussion, Parker moved to grant the variance as requested and Ms Harris seconded. Motion carried unanimously.

The Levesques were advised request had been granted; new evidence for re-hearing could be presented within 20 days.

Noting that the cases heard tonight had pending building permit, Secretary asked the Board for its decision to be posted the next day so that Inspector could issue permits.

Case Number 14.88

PETER MOYERS 129 Dale St Lot J-9 request for variance to terms of Article V Section D-1 was withdrawn. Secretary was notified by phone and in writing of this.

Ron Bitten, the Cabinet, alerted the Board that it illegally began its meeting at 7:15. The posted time was for 7:30. Mitchell contended site visits were completed earlier than anticipated and in view of a full agenda, it began a little early; the only business discussed was corrections to minutes of the previous meeting.

Bitten and Peter Ferran, Telegraph, suggested Board post that meeting would begin at 7:15 with hearings directly after. Noted also was hearing times were given in newspaper notices; therefore, Eckstrom hearing could not legally begin until noted 8:50.

Before the final hearing, the Board reviewed maps from Selectmen. Secretary was advised to legally notice the decisional hearing for Highfields, Gary Frye, et al for July 27, 1988 meeting.

Case 10.88

ROBERT R & JOANNA K ECKSTROM Dale St RR1 Box 131, request for variance to terms of Article V Section D-2. Applicants propose building garage within 15' setback. Mitchell invited Eckstrom to state plan.

Addressing the Chair, Eckstrom said he owns adjacent properties: house is on Lot J-088 and D-159 is where he proposes a garage within 15' of his own bounds. Has obvious hardship in topography necessitating building at proposed/exact site.

Mitchell confirmed Board's concurrence of hardship imposed by slope and natural bound of runoff as noted by visit earlier that evening.

1. Property value wouldn't be denegated. Eckstrom said they could only increase.

2. Public interest served since structure would allow for an orderly household and it continues residential use. Klein asked if public interest served by getting cars off street. Yes, parking now cramped especially at holidays. No room to park safely or without being on street; garage would keep own and visitor cars out of way.

Parker asked if Town plows; Eckstrom said upper road, Laurel Hill St has been used by Town for access to lower part, Pleasant St. Parker recalled times when unplowed; Mrs Eckstrom said Town maintained it in all twelve years they've owned; noted that the few occasions when they walked or skied into Town, this was the safer general rule and not an exception.

3. Special conditions with land exist for hardship. Mitchell said it is usually hard to define hardship; this is classic case. Only one possible place for garage is in violation of setback.

4. Justice would be done. Injustice to deny appropriate use of land.

5. Proposal not contrary to spirit of ordinance. Density not affected; emergency access enhanced. Mitchell added setbacks are to keep building separated. Slope prohibits buildings placed close together.

After visiting site and concurring with presentation, Infanti moved to grant variance as requested; Parker seconded. Motion carried unanimously.

There being no other business, Infanti moved to adjourn; seconded by Ms Harris and Parker. Meeting adjourned at 9:15 PM.

Joanna K. Eckstrom
Secretary ZBT