



ZONING BOARD OF ADJUSTMENT

WILTON

NEW HAMPSHIRE 03086

Minutes August 16, 1988

Acting Chairman Grayson Parker called meeting to order @ 7:30. Members present: Eddie J Lamminen Jr, Arlene Laurenitis - Alternate, Cindy Harris; Secretary Joanna K. Eckstrom. Press: Ron Bitten, Peter Ferrand.

Ms Laurenitis moved to approve minutes of July 27 meeting as presented; second by Lamminen. Vote unanimous for motion.

Upon George Infanti's arrival, Parker introduced first hearing.

Draper Energy Co., Inc., Stuart Draper, Case No. 15.88. Request for Special Exception to terms of Art VIII Sec H. Proposes to operate convenience store at Brookside Self-Service and use portion of building for Fire Department Substation.

Draper said that at last year's ZBA appearance he said he'd sell candy, gum, soda at Brookside. Has had several hundred ask in last year if there'd be convenience store. Because of interest, feels demand for one. Part of building used as Fire Substation, non-conforming use, so includes in request. Ladder/pumper and forest fire truck stored at site; serves West Wilton, Wilton Center. New driveway will provide better visibility.

Ms Harris asked if water & sewer combined and if public restroom. Yes.

Ms Laurenitis asked where (in ordinance) does it show need for Special Exception for fire substation. Draper explained substation doesn't fit either commercial or residential use so seeks both at once.

Parker asked where run-off goes; spillage. Concerned re: water going into brook. Draper says area all sand. Parker added there can be no draining directly into stream.

Ms Laurenitis asked if permit for drain in aquifer obtained. Draper replied that permit relates to waste; run-off is not waste. Parker noted there should be some containment plan so nothing gets in brook.

Richard Greeley asked about state regulations for tanks. Draper complies; concern here for water supply. Greeley feels State addresses both issues.

Ms Harris asked number of pumps - three islands, two regular fuels and one diesel.

Infanti said pumps approved already; discussion belabors points already addressed.

Donna Hoover asked if zone commercial or industrial. Lamminen responded industrial; commercial use allowed by Special Exception.

Ms Laurenitis asked that criteria be addressed.

Re: traffic and congestion, State has approved plan. Ms

Laurenitis questioned speed limit - 50 or 55. Says congestion likely because of Isaac Frye Hwy intersection and tractor trailers parking on road when stopped at store. Draper insisted not running "full-fledged" convenience store. ("Full-fledged" has deli.) Items to sell are milk, juice, etc.

Lamminen defended, saying traffic not responsibility of store owner; police must enforce. Draper suggested Town put no parking signs.

Greeley agreed; thinks trucks on roadside slow traffic down. Resolution of problem up to State.

Ms Laurenitis asked number parking spaces; 8 to 10 with deliveries in rear. Percentage of lot covered greater than 50%. Draper stressed there's one lot, but two tax bills (one for Brookside Self-Servite, another for house). Parker said parking spaces should be defined.

Hubert Hoover asked if there was lease for Fire Department use as substation. Draper said use is at his pleasure.

Ms Laurenitis asked Stan Schultz, Deputy Fire Chief if usual to have substation next to commercial concern. Schultz doesn't see this as problem. Number of firemen responding at station varies depending on time of day, type of fire call, etc. "Convenient" to have trucks there. Need permanent substation; this is temporary solution. Schultz hopes Town recognizes need.

Re: fire hazard, Lamminen said convenience store no worse than gas station.

Draper added smoking not allowed in stores (State law); no smoking at pumps. There'd be no increase in lights, noise, odor.

Ms Hoover asked Draper to comment about effect of industrial/commercial use on res-ag abutters. (One side of road zoned industrial, opposite is res-ag.) Minot Ring responded: personally glad to have fire dept there; no concern about additional traffic; already about 750 cars per hour.

Draper said business hours 6 to 10; could possibly change to 6 to 11.

Parker admitted he was bothered by certain events of last year, particularly that Draper said, in Parker's recollection, only gas would be sold. Draper read ZBA minutes noting items to be sold. Admits he said he wouldn't run convenience store but demand is there. Is before Board to do so.

Parker saw work on site; commented looks like set up for full convenience store to him. Way to do things is come before Board first for approval.

Draper insisted on his compliance with what's been approved. He put larger cooler than previously considered but this allowed with or without Special Exception.

Lamminen complimented Draper saying he's done much for the Town, but he's upset by Draper's doing things before having Board's approval. Says Draper hurt Board by putting it in awkward position.

Frank Millward, Building Inspector, interjected his support

for Draper. Upon assuming his position, he said, documents were a mess. Said Board not accessible to applicants or public so many just went ahead with projects. Documentation now in such order that Board member could review any time.

Ms Laurenitis sought clarification on difference between convenience store and what's been grandfathered. Draper repeated intent to sell beer, milk, groceries, cigarettes, hot dogs, coffee but there would be no deli.

Herbert Klein uses station frequently. Problem that exists would not be exaggerated by convenience store, problem is intersection of Isaac Frye. Suggest Selectmen recommend reduction of speed limit to 40 mph by State.

Draper said abutter Leo Page commented "get it open asap." Draper feels property values would increase, citing insurance premium reduction due to proximity to fire station.

Ms Laurenitis said she would not vote on substation part of request; can not see relevance to regulations, i.e. fire trucks as commercial use.

Greeley stated his belief that trucks are commercial; several Board members disagreed.

Ring said fire trucks are municipal vehicles, exempt from zoning ordinance.

Schultz said no ordinance governs location of fire stations. Insisted that use of Brookside convenient to Town; spillage, containment, clean up, notification is responsibility of property owner.

Parker repeated concern for aquifer. Wants immediate action to contain/clean up spill, then notification of authorities of same.

Lamminen moved to grant Special Exception to operate convenience store and use balance of building as fire department substation. Second by Infanti.

In discussion Ms Laurenitis asked for deletion of reference to fire department substation. Ms Harris agreed saying she felt it improper for Board to decide on this. Parker concurred noting fire stations can be put anywhere. Lamminen withdrew motion.

Lamminen moved to grant Special Exception to operate convenience store; second by Infanti. Vote on motion was 3 - 2 in favor. Ms Harris and Ms Laurenitis against.

Chairman Parker called next hearing open. North Wilton Realty Trust, Richard S. Kahn and John M. Keefe, Trustees, represented by Atty Bill Keefe, Richard S. Kahn and Merle (Micki) Pieterse of Marsha Foster Realty. Request variance for lot line adjustment in watershed. Maps, photos presented. Audience viewed posted items. In midst of commotion as abutters looked at maps, Ron Bitten remarked that Board was holding private discussion. Order resumed and Ms Laurenitis clarified nature of request. Noted two grandfathered lots, one of which is just land, other has two buildings on it. Applicant wants lot line adjustment of two building lot, so each building on own lot. Intends to complete interior of building (studio on plans) making it another residence.

Bitten asked who owns property. Atty Keefe said Kahn owns lot with buildings, John M Keefe the land only lot.

Infanti sought clarification on grandfather clause. Ms Laurenitis defined relative to permitted use, ownership, etc. Land-only lot (substandard lot of record) can be built upon only if owner of lot does not own abutting property.

Abutter Alfred Cann again questioned ownership. Keefe explained JM Keefe owns lot 1 (land-only); Richard S Kahn owns lot 2 (land and buildings). Keefe continued noting septic system for "studio" would be outside watershed district; existing driveway would be shared by both residences.

Herbert Klein showed bounds of property (Lot A-40 and 41 on Tax Map) relative to Hearthstone Community, abutter. Keefe noted that by not building on Lot A-40, privacy of abutters is maintained.

Due to recent exchanges for consideration of the properties, ownership of Lot A-40 is unclear. Other possible trustee names are confidential. Infanti asked how Board could deal with ordinance with possibility of land being owned by same person.

Cann asked if tax stamps would show value of transaction. Keefe said \$28.00 paid; continued that granting variance would create two lots, each with residence. Said nothing would be built on other lot. If variance denied, there could be house on land-only lot.

Lamminen asked Cann to explain his concern. Cann feels that conveyance of property for minimal dollar amount doesn't prove that trustee is not owner of property in question. Feels spirit of ordinance would be violated by allowing two lots.

Board concurred in light of unknown identity of other trustees.

Addressing criteria*, Ms Pieterse said property values would increase. There'd be no expansion; rather variance would allow for studio to be completed as dwelling unit on own lot.

Draper alleged that applicants were "skirting" intent of ordinance with "back and forth" exchanges of ownership. He sees that Mr Kahn bought property with two buildings on it, one a potential house. Could be difficult to sell property with two residences.

Greeley asked if perc tests done for studio. Ms Laurenitis noted test pits on plans. Ms Pieterse said tests pits dug, but former owner, Howard Chittenden, never applied for State approval of design; time for using this test data has expired.

Referring to "back and forth" exchanges, Greeley said he also feels there's been conniving.

Cann noted proposed septic outside of watershed, however, he felt sewage would go uphill. Greeley presented Zoning map which indicated opposite. Cann stood corrected.

As to benefit to public interest, Parker asked where possible to build house on other lot. Ms Pieterse indicated several sites. Said Chittenden had always planned for studio to become another residence.

Ms Laurenitis questioned benefit to public interest by applicants' mechanism of side-stepping ordinance and Board's not knowing identity of trustee.

Parker felt as long as "mechanism" legal, should be permitted.

Keefe said real estate unique because of two buildings on it, thus hardship exists with land.

Spirit of ordinance would be preserved. Purpose of 15 acre zoning is no longer there since Town went over to well water system.

Infanti challenged this. Believes Town will preserve old water supply as back up. Ms Harris said Board must go by what's on record now, that area is watershed. Ms Laurenitis believes water commission intends to maintain system as back up indefinitely. Cann also believes commission feels protection necessary.

Minot Ring noted in his experience things run in cycles. Watershed until Town vote says otherwise.

Klein said land pitches in opposite directions from watershed. Run-off from watershed goes through Hearthstone. 15 acre zoning arbitrary and capricious. Existing house built for 9 people; only 2 there now. New house (studio) unlikely to have as many as 9. Unfinished building eyesore; allowing completion as residence would increase surrounding property values.

Keefe said justice would be done by granting variance.

*Criteria addressed in writing by applicant. Statements part of application which will be filed with minutes.

Lamminen sees this as question of two vs three houses. Planning approved subdivision in Aug 1978. Greeley verified this.

If variance not granted, Cann commented, they intend to build on other lot anyway.

Parker asked if lot line adjustments allowed in watershed. Ms Laurenitis believes yes. Technically, lot line adjustment is subdivision. If all criteria met and you don't own abutting property (relative to grandfather clause) you can have lot line adjustment. Ms Laurenitis finds attraction (in application) to shared driveway. Asked if applicants amenable to this as condition for approval. Yes, they would be.

Parker noted frontage and acreage requirements.

Klein said he'd rather have completed building than another house.

Infanti recognized property as lot of record, however, he did not see hardship as defined by Keefe. Sees financial hardship. Granting variance to him is bargaining ploy for financial gain.

Cann asked for the five criteria to be read. Parker did so.

Lamminen moved to grant variance to permit lot line adjustment within watershed with no change in number of lots; second by Ms Laurenitis.

In discussion, Ms Laurenitis moved to amend as follows: grant variance to permit lot line adjustment within watershed district subject to following conditions: 1. lots share same

driveway as shown on plan; and 2. proposed septic system be located outside watershed district in res-ag zone. Lamminen seconded motion to amend. Lamminen withdrew original motion. Ms Laurenitis' amendment became the motion; seconded by Lamminen. Vote was 4 to 1 in favor of granting variance. Lamminen voted against.

In other business, Frank Millward asked that he be advised of Board's decisions as soon as possible so that he would have information for pending permits. Secretary to post decisions, give copy of letter of decision to Millward.

Next meeting August 31. Two cases received to date. Linda Vanetti requests variance to allow garage to be used as apartment. Ronald Fournier requests variance for lot line adjustment. Lamminen and Parker will step down; alternates will be called. Site visits begin at Vanetti's at 6:45 PM.

Jessie Salisbury asked for minutes asap to meet news deadline. She may read and/or copy when posted, but no special arrangements. If copy, charge will be rendered.

Infanti moved to adjourn @ 10:30; Ms Laurenitis seconded. Unanimous for adjourn.

Respectfully submitted,



Joanna K. Eckstrom
Secretary

posted 8/19/88