



ZONING BOARD OF ADJUSTMENT
WILTON
NEW HAMPSHIRE 03086

AUGUST 31, 1988 MINUTES

The meeting was called to order at 7:30 P.M. in the Town Hall Court Room by Chairman Tom Mitchell.

Members present: Chm. Mitchell, Cindy Harris, George Infanti, Eddie Lamminen, Herbert Klein, Gail Proctor, Sub. Sec.

Board members made site visits to properties prior to hearing.

Others present: Abutters, press.

JAMES BOUTWELL - The applicant's request for a Special Exception to Article V, Section B 1 & 2 for a Home Occupation (printing distributorship - sales office) ON Prince St. was continued to September 14th at 7:30 P.M. in the Town Hall Court Room. Chm. Mitchell explained that Mr. Boutwell was in the process of purchasing the property from Arthur Fink and was not the legal owner at this time. Abutter, Steve Berger, asked for a brief description of the proposal. E. Lamminen suggested that it be done privately as the official hearing was continued. Chm. Mitchell waived the second hearing fees.

RONALD FOURNIER - The applicant was represented by Att. Larry Proulx regarding his request for a variance to the terms of Article V, Section D-2. According to Att. Proulx, Mr. Fournier and Betty Ellis had assumed their boundary line was located at an existing fence. The two parties have agreed to a lot line adjustment which would correctly establish the boundary as previously understood. The proposal would reduce the side yard on the Ellis property from 12' to about 1' from the barn. Att. Proulx reviewed the five variance criteria (statement att.).

Board members agreed with Att. Proulx's arguments.

MOTION: E. Lamminen to accept the variance request for a lot line adjustment as presented.

SECOND: G. Infanti

VOTE: 5-0 unanimous approval

Att. Proulx was informed that Planning Board approval is needed for lot line adjustments.

LINDA VANETTI - Barry Greene, "speaking for" the applicant explained the request for a variance to the terms of Article V, Section D. Ms. Vanetti's request is to construct a third unit over an existing garage on her Maple St. property.

Chm. Mitchell announced that members Infanti, Klein, Harris, and Mitchell would be hearing the case. Members Lamminen, Parker, and Proctor did not chose to be on the case due to a conflict of interest. Alt. Laurenitis was not available to substitute.

Mr. Greene explained that the applicant had a 1986 building permit for a two-car garage, replacing a trailer that had been on the property for 27 yrs.

Mr. Greene pointed out that he had own the property prior to the Vanettis.

Mr. Greene stated that Ms. Vanetti was "unfamiliar with the procedure" and did

not want

Vanetti cont.

not replace the unit in time. Mr. Greene stated that it had been over a year since the trailer had been removed. The intent of the applicant, according to Mr. Greene, was to replace the trailer with the garage and apartment unit above.

Mr. Greene addressed the five variance criteria as follows:

1. Surrounding property values - the applicant would like to finish off the current construction. There would be no other changes to the property. The presence of a wood-framed structure would be preferable to a trailer.
2. Public interest - There are many apts. in the neighborhood and it would be in keeping with the area. The removal of the trailer is in the public interest due to the housing need in the community.
3. Substantial justice - The property would be used as always. The applicant should not be penalized due to not knowing the law.
4. Spirit and intent - There are over 20 multi-family units located within the area. The Vanetti's lot is next to the largest. Ample parking for nine cars exists.
5. Hardship - The ordinance (density) creates an undue hardship and unduly restricts the property owner. There would be no difference in the lot as three units always existed. The top half of the garage would be obsolete.

Mr. Greene compared the applicant's request with other similar ZBA cases. Chm. Mitchell indicated that ZBA cases are unique and not precedent setting.

Abutter comments: Mrs. Tatum was not in favor of the proposal due to an increase in traffic from the addition of the two-car garage and proposed unit. Ms. Vanetti responded that the apt. is intended for one person and cars could park in front of the house. She added that the garage is now used as a storage area and if the apt. was completed it would no longer be used as storage.

Steven Blanchard, neighbor, said he was in favor of the request. Dee Ann DuBois, abutter, stated she had no problems with the traffic and the garage would be an improvement and serve a local need for apts. Ms. Vanetti commented that there had been no problem with parking from the other tenants. David DuBois, abutter, favored the project and also saw no problem with traffic.

H. Klein pointed out that to deny the request would be a hardship because the lot was not unlike others in the area and because an additional unit (trailer) had been on the property before.

G. Infanti reasoned the proposed apt. would take place of the trailer. Mr. Greene stated the building permit was approved for a garage plus a dormer. Chm. Mitchell responded that a dormer on a garage does not constitute a unit or apartment as Mr. Greene implied.

C. Harris pointed out that the trailer was a non-conforming use to begin with and that one non-conforming use could not be changed to another non-conforming use.

T. Mitchell felt the applicant had reasonable use of the property, the upstairs of the garage could be used for storage.

Vanetti cont.

G. Infanti maintained nothing would be gained by denying the request and it would be a needless restriction.

Ms. Vanetti responded by saying she felt the request was reasonable.

MOTION: G. Infanti to grant the variance as requested by Linda Vanetti as presented.

SECOND: H. Klein

VOTE: 2-2 (Infanti and Klein in favor - Mitchell and Harris opposed).

Chm. Mitchell ruled that the request was denied because a concurring vote of three was needed for approval.

Mr. Greene challenged the denial of the request. Chm. Mitchell explained the applicant could request a rehearing within 20 days.

Mr. Greene felt Ms. Vanetti was entitled to a continuation of the hearing because a full Board was not present.

E. Lamminen read from the ZBA manual a statement which suggests that an applicant be notified that a full Board is not hearing the case and that three affirmative votes are needed for approval. Chm. Mitchell indicated that the applicant may request a rehearing with a full Board if so desired. Chm. Mitchell felt an administrative error was made in not fully explaining the possible outcome of a tie vote. Chm. Mitchell said he would contact Town Counsel for advisement on the matter.

ROBERT DION - Att. Carol Rolfe and Phil Tuomola represented Mr. Dion for a Special Exception to the terms of Article XI, Section D. The applicant is proposing a sub-division on property located Rte. 101 with part of the project encroaching the Wetlands. Att. Rolfe explained that the high intensity soil survey identified the area as "poorly drained soils", not naturally occurring due to a previous excavation by Mr. Dion. Part of the parking lot and the sewer easement for the project is also in the Wetland area. A report from the applicant's engineer indicated that the proposed use was not "out of harmony with Town ordinances".

Chm. Mitchell determined that the Town's engineering firm Weston, will review the plans and well as the Soil Con. Service.

Paul Schlie expressed concerns about possible drainage problems. He was assured by Mr. Tuomola that the project would not be affecting his property.

Members will rewalk the property again as Mr. Dion did not show up for the prior meeting.

Final hearing (decision) was scheduled for October 5, 1988 at 7:30 P.M. in Town Hall Court Room.

Minutes of August 16th approved without correction.

Members made plans to attend Municipal Law Lecture Series.

No other business. Meeting adjourned at 9:10 P.M.

Gail Proctor

Gail Proctor Sub. Sec.