



ZONING BOARD OF ADJUSTMENT

WILTON

NEW HAMPSHIRE 03086

Zoning Board of Adjustment March 7th meeting was called to order at 7:32 PM by Thomas Mitchell, Chairman. Members Cindy Harris, George Infanti, Grayson Parker and Eddie Lamminen and Secretary Joanna K Eckstrom were present. Alternate Herbert Klein attended. Press represented by Ron Bitten and Peter Ferrand.

Mitchell announced that tonight's hearings had been continued from the Feb 22nd meeting and that William and Linda Draper had withdrawn their request for variance.

Richard S Kahn was called to present his request for variance to terms of Article XIV Section C. Howard "Skip" Watkins surveyor for Kahn showed lot line on plan. Kahn said lot had two buildings on it; one his residence, the other a shell. Building permit for shell was issued in 1980, one year before the Watershed came into existence. Copy of permit provided to Board. Kahn said he wouldn't speculate what was meant to be done with shell; feels ideal use is for single family dwelling; that could have been original owner's intent.

Lamminen noted permit specifically says no plumbing. Hard to speculate what owner's intent may have been.

Kahn said there is water to shell now. Addressed criteria as follows:

1. his sense that structure would be good as house. Allowing variance shouldn't diminish values of surrounding properties if another house there. Only new construction would be septic system. Outside of shell finished; no major landscaping needed.
2. Granting variance does no harm. Does provide more (probably affordable) housing.
3. Re hardship, Watkins says hardship was imposed by Zoning.

Lamminen saw hardship of land. Infanti clarifies by review of previous hearing August 1988. Remembered two lots; one lot had two buildings; both lots of record. Question of ownership of lots with reference to grandfather clause.

Alec MacMartin, Chairman Planning Board, said Howard Chittenden originally approached Planning Board for same proposal. Was advised to go before ZBA for variance from grandfather clause ~~relative~~ because lots in common ownership. Town Counsel suggested and supports variance from grandfather clause.

From his perspective, Kahn said he purchased two lots; each has own deed, lot number and tax bill. Land is unique because part of lot in watershed, part outside.

Merle Pieterse realtor said hardship existed on land because it wasn't financially feasible to fix up the shell unless it could be used as a separate dwelling unit.

Sharon Bravman, Kahn's friend, added shell and house had been built before Watershed.

Ms Pieterse said she knew Chittenden well; his intent had been to someday convert shell to single family house and sell it.

Watkins described this as "Catch 22" situation. Why spend money on shell if it can't be used as house?

Injustice if shell could not be used as house.

5. Proposal not contrary to spirit of ordinance. Building well-designed and constructed. It exists in rural setting (which is being preserved). Makes sense to protect Watershed and plan is for septic outside Watershed.

Ms Harris confirmed land unique because it's in two different zones.

Klein, as neighbor at Hearthstone Community, said existing drainage from Kahn property goes to Hearthstone via a major septic field, to Vanderheyden and Frye Mill property. Hearthstone residents say they'd rather have building completed, lived in than have it vacant. Hearthstone (land trust) running out of lots. Klein knows several parties who'd love to live in area.

Mitchell asked for other evidence. There being none, he summarized impressions as follows:

Property values not diminished; proposed use is for residence. Public interest served by providing housing and no harm would be done. Hardship because was Watershed created after buildings in place. Creation of watershed made it impossible to use buildings as intended because of two separate zoning districts. Justice served. Use is reasonable. Not contrary to spirit - the building is there and proposed septic would be outside of Watershed.

Infanti said when case first heard in August 1988, he felt very uncomfortable in deciding, although he did vote in favor. Says things have now come full-circle; Kahn's efforts to straighten out previous confusion should be acknowledged.

Lamminen said the way to vote is by common sense. He's sorry for run-around before but he was turned off by North Wilton Realty Trust standing there shaking head (and not identifying trustees). There is need for housing; summary well put; but major concern is septic.

Infanti added that motion should contain language for septic

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being outside Watershed always.

Mitchell felt language should be included so that variance was acted upon within reasonable time (suggested 6 months). Infanti felt this time too short.

Macmartin advised that whatever plan submitted for approval tonight be signed (if variance granted) so there'd be no question when Kahn got back to Planning Board.

Kahn asked if August requirement that common driveway be maintained would stand here too as condition of approval. Board felt this necessary; added to motion.

Infanti made motion: "To grant variance to terms of Article XIV Section C of the Zoning Ordinance, Subdivision to be as shown on Plan dated 11/23/88, revised 3/6/89, and subject to the following:

1. that the variance be acted upon within one year of approval;
2. that septic be located outside of the Watershed forever; and
3. that common driveway be as shown on plan."

Second to motion by Parker. Vote four in favor; Mitchell abstained.

To clarify time limit of variance, Watkins noted that septic designs approved for 4 years; MacMartin confirmed that subdivisions good for same period. Requirement to act within one year is to get ball rolling. This doesn't necessarily mean that Kahn has to begin excavation for septic with one year. His Subdivision Site Plan review with Planning Board had been continued to March 15, 1989.

Other business: minutes of previous meeting were approved unanimously. New application forms reviewed and approved unanimously. Spent time reviewing Rules of Order for meetings. Changes, corrections as follows:

¶ II 5. DISQUALIFICATION OF BOARD MEMBER PROCEDURE;  
¶ III 6. PUBLIC HEARING CONDUCT AND BOARD (MEMBER) INTRODUCTION

speakers are asked to identify themselves for the record before speaking.

- a. Reading of application by Chairman.

Discussion regarding setting time limits to variances. Mitchell felt this should be done rather than allowing continuation indefinitely. Others felt this too restrictive or that it's something to be voted upon by Townspeople not Zoning Board only. Deleted from rules of procedure.

Parker moved to accept rules; second Infanti. Unanimous.

There are no cases scheduled for next hearing date, which should be second Wednesday April.

Meeting adjourned at 9:45.  
Respectfully,