

TOWN OF WILTON
ZONING BOARD OF ADJUSTMENT MINUTES
MARCH 14, 1990

VOTING BOARD: Neil Fairman, Cindy Harris, Arlene Laurenitis, Tom Mitchell and Grayson Parker.

SECRETARY: Diane Nilsson

AGENDA: SanSoucie hearing, Winslow H. Macdonald hearing, Douglas Bowler hearings, Blanchard hearing, minutes.

Chairperson Tom Mitchell called the meeting to order at 7:35 p.m. and announced that the Board had visited all sites under consideration before the meeting.

Case # 3/14/90-1 SAN SOUCIE

Suzy SanSoucie, Maple Street, Lot K-018, requested a variance to Article V, Section D2a which would allow a third dwelling unit on less than $\frac{1}{2}$ acre.

Mr. SanSoucie addressed the five variance criteria (see application). The barn, which he would like to convert into a third dwelling unit is 24X32' and would be a 2-bedroom unit. Six parking spaces for the three units would be located at the back of the lot.

Abutter Bob Collins expressed concern about the proposed parking area abutting his property and would like to see some type of buffer or screen.

The lot size is 180'X60' or 10,800 sq. ft. The Board discussed these dimensions and the total sq. ft. of buildings, driveway and parking areas to determine if the San Soucie's met the open space requirement.

Ms. Laurenitis figured: sq. footage of house + driveway = 2940 sq. ft. + new parking area 972 sq. ft. = 3912 sq. ft. One third of total sq. footage of property is 3600 sq. ft. which means that 312 sq. ft. of open space is needed to conform to ordinance requirements.

Mr. Parker stated that placing the parking area as close to the barn as possible might solve the open space problem.

Public discussion was closed at 8:02 p.m.

Mr. Fairman summarized his criteria arguments stating first, that the ordinance was designed to allow a certain amount of flexibility from the existing requirement of $\frac{1}{2}$ acre per dwelling unit, allowing up to 2 dwellings per $\frac{1}{2}$ acre. But this request is for 3 dwelling units on $\frac{1}{4}$ acre, a density that is much greater than what is allowed by the ordinance or by Special Exception. He felt that there was a clear intention in the ordinance to restrict the density, allowing a moderate increase but not an unlimited increase. He felt that this request would be a substantial increase.

Second, he felt that the open space may or may not be adequate, but in any case the lot is very small and not suited for three families.

Third, the argument for hardship is that having a big barn at the back of the lot is a hardship. He was not convinced that this is a true hardship.

Ms. Harris felt that the large house and barn on the small lot was a hardship.

if they make their driveway as short as possible and place the parking area immediately behind the barn - assuming the driveway is 10' wide.

Mr. Mitchell reiterated that he feels that the spirit of the ordinance seems to be conflicted because it allows for two but not three dwelling units with a certain amount of acreage. This request asks for more dwelling units on less acreage than the Special Exception allows for. He felt the Town would have an illegal variance if the Board grants it.

MOTION: Mr. Parker moved to grant the variance as submitted with the stipulation that the SanSoucie's follow the criteria for keeping 2/3 of the property open space. Mr. Faiman seconded the motion

DISCUSSION: Ms. Laurenitis felt that the location of the property next to the American Legion Hall creates a unique hardship as far as vandalism is concerned.

VOTE: Yes - Ms. Harris, Ms. Laurenitis, Mr. Parker
No - Mr. Faiman, Mr. Mitchell

Motion passed. The variance was granted.

Mr. Mitchell reminded the SanSoucie's that they must go before the Planning Board for a Site Plan Review and stated to the audience that an appeal may be made by an affected person within 20 days by stating in writing, to the ZBA, the reasons why the Board should re-hear this case.

Reasons of the majority:

1. **The value of surrounding property will not be diminished because** the surrounding property is already multi-family. The request will improve property values.
2. **This request is in the public interest because** it will provide affordable housing, get rid of an eyesore and prevent vandalism.
3. **The hardship that makes this property unique** is that it is located next to The American Legion Hall which is frequently unoccupied, encouraging vandalism. There has been a high rate of vandalism at the property - 5-7 times since November 1989. The property also has very large buildings on a small lot.
4. **Granting this variance would do substantial justice because** it will improve the property, reduce vandalism and create affordable housing.
5. **this request is not contrary to the ordinance because** the open-space requirement has been met and the request will reduce vandalism.

The case was adjourned at 8:21 p.m.

Case # 3/14/90-2 WINSLOW H. MACDONALD

Winslow H. Macdonald, Trustee, River Road Realty Trust, Lot D-093, requested a variance to Article VI, Section C4b which would permit a Cluster subdivision with less than 500' of frontage on the principle route of access.

Mr. Mitchell began the hearing at 8:26 p.m. and Wil Sullivan represented River Road Realty Trust. Mr. Sullivan handed out plans and explained that the proposed Cluster subdivision is on 28 acres of land, the principle proposed route of access being Maple Street which has 260' of frontage. The frontage on Whiting Hill Road is just over 800' and with wetlands crossings could be used for the principle route of access but Maple Street is preferred. Mr. Sullivan then addressed the five variance criteria (see application).

Planning Board member Minot Ring read a paragraph from the 1/17/90 Planning Board minutes (see Planning Board Minutes file) documenting the Board's preference for the Cluster subdivision plan vs. a Conventional Subdivision.

Mr. Sullivan added that the Trust would be willing to accept, as a condition of the granting of the variance, the stipulation that the Trust would not be allowed access from the Maple Street route of access, to land in Milford owned by the trust, which may be developed in the future.

Abutter Viola Paro asked why the Trust wants to use Maple St. access rather than Whiting Hill Rd. Mr. Mitchell responded that in the criteria, the Trust stated that they and the Planning Board wish to preserve the wetlands areas and the pond which would be disturbed by a Whiting Hill access. Ms. Paro then stated that Maple St. has as much traffic as it can stand right now and that additional traffic would be detrimental.

Abutter Carol Kennedy felt that more traffic on Maple Street would create a hazardous situation, especially because Maple St. is so narrow.

Abutter William Abbot also stated that there is too much traffic on Maple St. now.

Mr. Faiman pointed out that if the Trust is not granted a variance for a Cluster subdivision with Maple St. access, the ordinance states that they do have enough frontage on Maple St. for a Conventional subdivision, in which case the traffic question is not really a consideration for this decision.

Resident Kim Morgan, corner of Maple & Prince Sts. stated that speeding traffic is caused by Maple St. residents and this is possibly more of a problem than the traffic that would be caused by ten new houses.

Abutter Abbot would like to see a stipulation that the Trust cannot ever continue the Cluster access road to adjoin their Milford property.

Abutter Brenda Kittle expressed concern about property values falling due to the additional traffic that would be generated by 10 additional houses.

Mr. Faiman tried to clarify the issues for the abutters by stating the three probable outcomes; 1.) Cluster as proposed, with Maple St. access
2.) Cluster with Whiting Hill access or 3.) Conventional Subdivision with Maple Street access.

He then stated, based on the previous four Planning Board meetings he has attended, that if the variance for a Cluster with Maple St. access is denied, the Trust will opt for the Conventional subdivision with Maple St. access due to economical considerations.

Mr. Faiman then asked Mr. Sullivan if the developers would be willing to provide a walking path for public access from the cul-de-sac to the frog pond.

Mr. Sullivan felt that it would most likely not be a problem.

Mr. Parker asked John Sennott of Moran Engineering if he had anything to add.

Mr. Sennott responded that the Trust does want to use Town water & sewer for this development. In order to make this economically feasible, a certain number of lots must be developed. If the variance is denied and the Trust chooses to do a Conventional subdivision, they will most likely be forced by economics to continue the road into Milford in order to get the needed frontage to allow for more lots.

Public discussion closed at 9:08 p.m.

Mr. Mitchell summarized his criteria arguments:

He felt that property values would be increased or there would be no impact.

He felt that granting the variance would be in the public interest because more living spaces near the village area would be created and because of the large conservation effort to protect the pond and wetlands area.

Denial would cause hardship because the uniqueness of the property due to the pond and wetlands makes it better to bring the road onto Maple St. in order to avoid the pond and wetlands.

Substantial justice would be done because of the large acreage being kept open.

Spirit of the ordinance is upheld because the houses will be set far back keeping open space near Maple Street.

Ms. Laurenitis suggested two conditions for granting the variance.

- 1.) Eliminate future access to Milford property.
- 2.) Include walking path from proposed road to proposed open space.

MOTION: Ms. Laurenitis moved to grant the variance request to Article VI, Section C4b to permit less than 500' of frontage on a principle route of access with the following two conditions:

- 1.) That the possible future access road as indicated on the plan be eliminated.
- 2.) That the plan will include a public access walking path from the proposed road to the proposed open space.

Motion was seconded by Mr. Parker and Mr. Faiman.

VOTE: Motion passed unanimously. The variance was granted.

Reasons of the majority:

1. The value of the surrounding property will not be diminished because the houses will be set far back from the road, creating no impact on surrounding properties.

2. This request is in the public interest because housing will be created consistent with the Town master plan and important conservation values are preserved.

3. **The hardship that makes this property unique is** that the lot is unusually deep relative to the width and it has unique conservation features to be preserved.
4. **granting this variance would do substantial justice because** the land will be more economically developed than would a conventional subdivision while preserving a major public value.
5. **This request is not contrary to the ordinance because** the benefits to the Town of a Cluster Subdivision far outweigh the frontage requirement. The benefits are: preserving wetlands areas, preserving the pond for public enjoyment and the use of Town water and sewer rather than septic systems in the subdivision.

Mr. Mitchell stated to the audience that an appeal may be made by an affected person within 20 days by stating in writing, to the ZBA, the reasons why the Board should re-hear this case.

The case was adjourned at 9:20 p.m.

Case # 3/14/90-3 **BOWLER**

Douglas Bowler, Route 101, Lots D-094, L-064 & L-065, requested a variance to Article VIII, Section C3a which would permit buildings, parking area, septic leachfield or water supply to be located less than 100' from the edge of the public right-of-way for N.H. Route 101.

Mr. Bowler addressed the five variance criteria (see application).

Mr. Mitchell read a letter from Eastview Condominiums Asso. which represents 45 abutters (see case file). The condominium owners felt that the operation of a commercial venture at this location would cause multiple problems as far as traffic is concerned.

Mr. Mitchell also read a letter from Steven Mohegan, the owner of the property, which granted Mr. Bowler permission to use the property.

Eastview resident David Welch expressed concern about the high amount of Westbound traffic of 101 in the afternoons and stated that cars waiting in the Westbound lane to turn into Eastview, cause vehicles to pass them on the right shoulder at a high rate of speed since this is a 50 mph speed zone. He was concerned about cars parking on the shoulder of 101 instead of driving into the proposed ice cream stand and people walking along the highway from their cars and felt that these cars and people could be hit by vehicles passing on the right shoulder. He also expressed concern about people walking from Milford or Eastview along the highway to get to the ice cream stand. He felt that a traffic impact study should be done before a variance is granted and stressed that safety is the biggest issue.

Ms. Laurenitis requested that the Board look at the issue of the setback requirement and asked for clarification of the setback variance that the applicant was proposing.

Mr. Bowler responded that the distance from the back of the bldg. to the edge of the river, including the slope, is 20'-25', and from the State right-of-way to the bldg. is approximately 10'-20'.

Public hearing ended at 9:50 p.m.

Mr. Faiman summed up his criteria arguments by stating that he believed that there was a serious question about the public interest raised by the traffic issue. His interpretation of the spirit of the ordinance in the Industrial District is to have uses that will be set well back from the road, behind a landscaped buffer, to avoid any development along the road. This request seems to be directly contrary to that spirit.

He also felt that there was not the least trace of hardship. The question of hardship hinges on whether there are other potential uses of the land that are more conforming to the ordinance. This lot has 10+ acres and lots of setback in other parts, so it could easily be put to good use for something.

Ms. Laurenitis agreed with Mr. Faiman.

Mr. Parker agreed with Mr. Faiman but feels that the entire parcel has a safety problem.

Mr. Mitchell agreed with Mr. Faiman.

Mr. Parker pointed out that in most cases, commercial uses generate more traffic than industrial uses, making the safety concerns even more important.

Mr. Parker moved to grant the variance request to Article VIII, Section C3a as submitted. Ms. Laurenitis seconded the motion.

Motion failed by a vote of 5-0. The variance was denied.

Reasons of the majority:

1. **The value of surrounding property will not be diminished because** Commercial use is allowed by Special Exception in an Industrial zone and there is little property around the site to be affected.
2. **This request is in the public interest because** it would employ young adults from the local area but it is not in the public interest because it will create an adverse traffic situation and will create a safety hazard.
3. **There is no hardship that makes this property unique because** there are other uses for this property and the commercial business could be placed on another part of the property.
4. **Granting this variance would do substantial justice because** it would allow the operation of this business but it would create a very hazardous traffic situation and it would not be buffered from the highway.
5. **This request is contrary to the ordinance because** the Industrial District is intended to have substantial setbacks with buffers. Granting this variance would reduce the setback to 20' and would provide inadequate off-street parking.

Mr. Mitchell stated that an appeal may be made by Mr. Bowler within 20 days by stating in writing, to the ZBA that he has additional information to present to the Board or that he believes there has been a technical error.

The case was adjourned at 10:03 p.m.

Case # 3/14/90-4 BLANCHARD

Steven & Margaret Blanchard, Maple Street, Lot K-026, requested a Special Exception according to Article V, Section D2a-e which allows a third dwelling unit on over $\frac{1}{2}$ acre.

Mr. Blanchard presented plans showing the conversion of a barn into a third dwelling unit.

Mr. Mitchell read the ordinance criteria and found that the Blanchard's have satisfied all the terms of the ordinance.

There were no abutters comments and no discussion by the Board.

Ms. Laurenitis moved to grant the Special Exception as presented. Mr. Parker seconded the motion. Motion passed unanimously. The Special Exception was granted.

Mr. Mitchell stated that an appeal may be made by an affected person within 20 days by stating in writing, to the ZBA, the reasons why the Board should re-hear this case.

MINUTES - 2/13/90 meeting

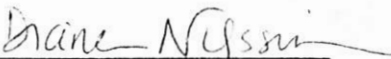
Page 4 - BURSEY - insert before Motion #1...

MOTION: Mr. Maiman moved to set the variance decision aside until the boundary line could be ascertained. The motion was not seconded.

MOTION: A motion was made to accept the minutes as corrected.
Motion passed unanimously. The minutes were accepted.

The meeting was adjourned at 10:11 p.m.

Respectfully submitted,


Diane Nilsson, Secretary

Posted: 3/21/90