

TOWN OF WILTON
ZONING BOARD OF ADJUSTMENT MINUTES
MAY 9, 1990

VOTING BOARD: Joanna Eckstrom, Neil Faiman, Tom Mitchell, Grayson Parker and Roger Wellington.

CLERK: Diane Nilsson

AGENDA: Roland & Lorraine Reynolds, Special Exception; Robert Levesque, 2 Variances, 2 Special Exceptions; Minutes 4/11 & 5/2; Board elections.

Chairperson Tom Mitchell called the meeting to order at 7:30 p.m.

Case # 5/9/90-1 REYNOLDS

Roland & Lorraine Reynolds, 5 Prince Street, Lot K-069 in the Residential District, requested a Special Exception according to the terms of Section 5.3.7 to allow two dwelling units on less than $\frac{1}{2}$ acre.

Mr. Mitchell stated that he, Mr. Faiman & Mr. Parker looked at the property earlier that evening. Ms. Eckstrom added that she had looked at the property on another occasion.

Lorraine Reynolds explained that she had received a bldg. permit in November, 1988 to add a kitchen for a second dwelling unit. She asked the Board why she was not notified by the Bldg. Inspector at that time that she needed to appear before the ZBA to request this Special Exception.

Mr. Mitchell responded that there must have been an oversight and that at that time in 1988, second dwelling units were not allowed by Special Exception and a Variance would have to have been requested.

Mrs. Reynolds explained that the kitchen was completed in March, 1990 and when she applied for an occupancy permit, the Bldg. Inspector denied it saying that she must first come before the ZBA for a Special Exception.

Mr. Mitchell then moved on to help Mrs. Reynolds address the criteria for the Special Exception.

The Board agreed that the lot is just over $\frac{1}{4}$ acre, and agreed that there is ample room for four 9X18' parking spaces for the two units.

The calculations for the open space requirement are: lot = 9975 sq. ft.; bldg. footprint = 1450 sq. ft.; parking = 1600 sq. ft.
Total bldg. & parking = 3050 sq. ft.
Lot = 9975 sq. ft.
Open space = 6925 sq. ft.

The open space requirement is met because open space is more than twice the total bldgs. and parking.

There was no abutter input and no further discussion by the Board. All the terms of the ordinance were met.

MOTION: Ms. Eckstrom moved to approve the Special Exception.

Mr. Faiman seconded the motion. The motion passed unanimously.

Mr. Mitchell reminded Mrs. Reynolds that she must next go before the Planning Board for a Site Plan Review and stated for the record 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 rehear this case.

Case # 5/9/90-2 LEVESQUE

Robert Levesque, Gray's Corner & Hwy 101, Lot F-143, 4.2 acres in the Industrial District, requested a Variance to Section 8.2.4 to permit reduction of required setbacks from 100' on Route 101 to 50' and from 75' on Isaac Frye Highway and Mansure Road to 35'. His plans are to build retail and restaurant bldgs. on the site.

Karen White, land planner with Design Strategy in Milford, represented Mr. Levesque and explained that if Mr. Levesque were forced to follow the setback requirements of the Industrial District, he would have less than one acre of buildable area out of 4.2 acres. She then reviewed the variance criteria (see application).

Mr. Parker asked what type of landscaping or buffers would be provided. Ms. White responded that a 4' hedge of Yews or Boxwoods would be planted to screen the parking area and clumps of deciduous and evergreen trees would be planted in open space areas including between Route 101 and the parking area.

Mr. Parker stated that the 100' setback requirement on Hwy 101 was instated for aesthetic purposes and this request seems to be a large deviation from the ordinance.

Ms. Eckstrom felt that commercial uses should have different requirements than industrial uses and a 25' thick buffer is not necessary for a commercial use.

Mr. Faiman agreed with Mr. Parker in that the intention of the ordinance is to keep bldgs far back from Hwy 101. This request would be a substantial departure from that setback requirement. He also stated that he was not sure if allowing parking within the 100' could be a compromise.

Mr. Wellington also agreed with Mr. Parker that the spirit of the ordinance is to prevent commercial encroachment along the Hwy 101 corridor and that is precisely why the 100' setback was instated in the ordinance. Reducing setbacks in order to encourage commercial development is a sharp departure from the spirit of the ordinance. He added, that the history of the Industrial District setback requirement is such that they used to be 200' and were later reduced to 100' with the added requirement of a 25' thick dense buffer.

Mr. Faiman stated that he could see the hardship argument for reduced setbacks on Mansure Road and Isaac Frye Highway.

MOTION: Mr. Wellington moved to grant the variance as requested.
Ms. Eckstrom seconded the motion.

MOTION: Mr. Faiman moved to amend the motion under consideration to read: to make the setback from Hwy 101 be 75' rather than 50' and to require all buildings to be setback at least 100'.
Mr. Parker seconded the amended motion.

VOTE: (on whether to change the language of the proposed variance request and to add a requirement)
YES - Mr. Faiman, Mr. Mitchell, Mr. Parker
NO - Ms. Eckstrom, Mr. Wellington

VOTE: (on the amended motion)
YES - Ms. Eckstrom, Mr. Faiman, Mr. Mitchell, Mr. Parker
NO - Mr. Wellington

Mr. Mitchell stated that the amended setback variance request has been granted and it allows a 75' setback from Hwy 101 and a 35' setback from Mansure Road and Isaac Frye Highway with an added requirement that all buildings be set back at least 100' from Hwy 101.

He also stated that an appeal may be made by an affected party with 20 days by stating in writing, to the ZBA, the reasons why the Board should rehear this case.

Case # 5/9/90-2 LEVESQUE

Robert Levesque, Gray's Corner & Hwy 101, Lot F-143, 4.2 acres in the Industrial District, requested a Variance to Section 8.2.5 to permit reduction of buffer requirements from a 25' dense visual screen to a less strict application of decorative trees and shrubs around buildings and thicker foliage around parking lot areas.

Karen White, land planner with Design Strategy in Milford, represented Mr. Levesque and reviewed the Variance criteria (See application).

She argued that since Mr. Levesque is proposing an attractive commercial use on the site, rather than an industrial use, the buffer requirement is not applicable.

Mr. Faiman expressed concern that the request states that a visual screen is not needed because what will be there will be an attractive commercial use, however, in truth, all that exists at this point for the Board to see are conceptual plans. Permanent plans have not been drawn yet. He was reluctant to grant a variance to remove the required buffer when it is not yet known what exactly might need to be buffered.

Mr. Mitchell pointed out that the request calls for "less strict" application of trees and shrubs and that gives the Board very little information with which to make a decision. In other words, what is "less strict"? There is not enough information to go on.

Mr. Wellington stated that the applicant is asking for an elimination of the buffer to be replaced by typical commercial landscaping. He also stated that the hardship argument that the applicant is using assumes that the property will be used for a commercial venture, retail in nature, when in fact the property is in the Industrial District.

Mr. Faiman stated that he was not willing to grant a variance for this project without more specific information such as a concrete proposal.

Mr. Parker agreed that the best approach would be for the applicant to come back with complete plans.

The Board discussed the Variance application in depth.

Mr. Levesque stated that all he was really interested in right now was getting a buffer requirement variance to permit a seasonal food stand - but had decided to apply for a variance for the permanent commercial use for his future plans.

Mr. Faiman suggested that if all Mr. Levesque needs right now is the buffer variance to permit the seasonal food stand, perhaps the Board could make a decision on that request only at this time.

Mr. Levesque did not respond to this suggestion.

MOTION: Mr. Wellington moved to grant the Variance as requested.
Ms. Eckstrom seconded the motion.

VOTE: NO - Mr. Faiman, Mr. Mitchell, Mr. Parker, Mr. Wellington
YES - Ms. Eckstrom

Mr. Mitchell stated that the Variance request was not granted and 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 rehear this case.

Reasons of the majority: (see attached).

Case # 4/11/90-1 LEVESQUE

Robert Levesque, Gray's Corner & Hwy 101, Lot F-143, 4.2 acres in the Industrial District, requested a Special Exception according to the terms of Section 8.6.2 to allow a temporary, seasonal food stand in the Industrial District.

Karen White, land planner with Design Strategy in Milford, represented Mr. Levesque and reviewed the Special Exception criteria (see application).

Mr. Mitchell reminded the applicant that the buffer requirements in the Industrial District would still apply since that requested variance was denied.

Ms. White drew in the 25' buffer on the plan for the seasonal take-out stand in order for the Board to see where it would be.

MOTION: Mr. Wellington moved to approve the Special Exception as submitted with the condition that the applicant meet the requirement of Section 8.2.5b which calls for a 25' thick buffer.
The motion failed for lack of a second.

MOTION: Mr. Faiman moved to approve the Special Exception, including as part of the approval, the attached plan as annotated with the location of a 25' thick vegetative buffer.
Mr. Wellington seconded the motion.
The motion passed unanimously.

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 rehear this case.

Case # 5/9/90-2 LEVESQUE

Robert Levesque, Gray's Corner & Hwy 101, Lot F-143, 4.2 acres in the Industrial District, requested a Special Exception according to the terms of Section 8.6.2 to allow permanent commercial (retail & restaurant) uses in an Industrial District.

Karen White, land planner with Design Strategy in Milford, represented Mr. Levesque and addressed the Special Exception criteria (see application) and stated that Municipal sewer will be brought to the site.

She then modified the plan and drew the required 25' vegetative buffer on the plan.

MOTION: Mr. Parker moved to grant the Special Exception as presented with the modification of the 25' thick buffer shown on the plan.
Ms. Eckstrom seconded the motion.

VOTE: YES - Ms. Eckstrom, Mr. Mitchell, Mr. Parker
NO - Mr. Faiman, Mr. Wellington

Mr. Faiman & Mr. Wellington stated that they voted against granting the proposal because they thought there was insufficient evidence that the applicant had met all the criteria.

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 rehear this case.

MINUTES - April 11, 1990 meeting

Page 2, paragraph 2 LEVESQUE - add... David & Jane Glines spoke as abutters.

Page 2, paragraph 2 SAN SOUCIE, line 2 - change want to **need**.

Page 2, paragraph 2 SAN SOUCIE, line 3 - add... A Special Exception is needed after the Variance, which mistakenly was not requested at the Variance hearing.

Page 3, VOTE - add, after NO - Mr. Parker - ...Because the driveway, turnaround & parking area is not considered open space.

MOTION: Mr. Parker moved to accept the 4/11/90 minutes as amended.

Mr. Wellington seconded the motion. The motion passed unanimously.

MINUTES - May 2, 1990 meeting

MOTION: Mr. Mitchell moved to approve the 5/2/90 minutes.

Mr. Wellington seconded the motion. The motion passed unanimously.

ELECTIONS - 1990

MOTION: Mr. Mitchell nominated Neil Faiman as Chairperson of the ZBA.

Mr. Parker seconded the motion. The motion carried.

MOTION: Mr. Mitchell nominated Grayson Parker as the Vice Chairperson of the ZBA.

Mr. Wellington seconded the motion. The motion carried.

MOTION: Mr. Mitchell nominated Diane Nilsson as Clerk for the ZBA.

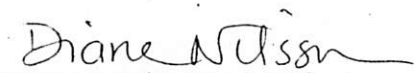
Mr. Parker seconded the motion. The motion carried.

OTHER BUSINESS:

The ZBA has received a Wetlands Board Application from the NH Dept. of Environmental Services for George A. Bier, Route 101, Wilton N.H. for Lot F-70/D-99 (See attached).

The meeting was adjourned at 11:05 p.m.

Respectfully submitted,


Diane Nilsson, Clerk

Posted: May 16, 1990