

TOWN OF WILTON
ZONING BOARD OF ADJUSTMENT MINUTES
JUNE 13, 1990

VOTING BOARD: Steve Blanchard, Neil Faiman, Herb Klein, Tom Mitchell & Grayson Parker.

CLERK: Diane Nilsson

AGENDA: Ben Bingham, Variance request; By-laws changes; minutes.

Chairperson Neil Faiman called the meeting to order at 7:35 p.m.

Case # 6/13/90-1 BINGHAM

Ben Bingham, Joyce/Petty Rd., Lot C-121 in the Residential District requested a variance to Section 12.3c2 in order to allow for a reduced density requirement in the Aquifer Protection District. The applicant plans to subdivide a 2-acre parcel into two 1-acre lots.

Mr. Faiman noted that all members of the voting board had visited the site in question.

Ben Bingham presented his reasons for the Variance request and stated that the Red house was deeded to the White house in 1935. The entire lot is a little under 2 acres. The subdivided lots would each be under 1 acre.

Abutter Leo Bird stated that he was upset by the idea of subdividing the land but also stated that he had no objection to the project.

Abutter John Griffith asked if a new septic system could be put in if the present one failed.

Mr. Bingham responded that he believed there was a spot up the hill where one could be put in.

Mr. Faiman added that the septic issues would eventually have to be reviewed by the Planning Board as part of their Subdivision Review, and by the State of N.H.

The applicant addressed the five criteria for the variance request (See application).

Mr. Blanchard stated his concern that the wet areas of the property are not shown on the applicant's map and questioned whether there was enough dry area, away from the edges of the wet areas, to put in another septic system if needed. He felt that this information was needed in order to make an informed decision and added that the Planning Board would need this information also.

Mr. Faiman stated that the Planning Board might require a high intensity soil survey in this case, which would require hiring a soil scientist.

Abutter Bird stated that Mr. Petty, the previous owner of the property, had a soil study done when he put in the pond. The study should still be available At the County extension office in Milford.

Mr. Blanchard stated that he was not prepared to vote on this variance request without further soil information.

Mr. Mitchell stated that he had received a call from abutter Boyd Garbutt who stated that he had no objection to the project as long as there would be no new construction in the form of a building or septic system.

The Board further discussed the possibility of replacing a failed septic system or installing an additional system.

Mr. Faiman read the requirements of the Site Plan Review that would be addressed by the planning Board for Mr. Bingham's information.

Mr. Bingham requested that his case be continued in order to give him time to locate the soil study information on the property.

Mr. Mitchell questioned whether Mr. Bingham's request meets the hardship criteria, and if not, why should Mr. Bingham go to all the trouble of collecting soil information if the Board will still turn down his request due to the hardship criteria not being met.

Mr. Bingham asked the Board for a definition of hardship.

The Board responded that it's interpretation of hardship is whether or not the applicant has reasonable use of his land. In this case, it appears that Mr. Bingham does have reasonable use.

Resident Joanna Eckstrom stated that she felt the property is unique in that there are two residences located on one lot of record.

MOTION: Mr. Mitchell moved to continue this hearing until the next scheduled meeting, which is July 11, 1990.

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

This hearing was continued to July 11, 1990.

BY-LAWS REVISION: Role of Alternates in various activities of the Board.

Mr. Faiman stated that he spoke to Town Counsel about this and his opinion was, that with regard to hearings, the Alternate is either on the Board or off the Board. The Board consists of five voting members. Anyone who is not on the Board during a case is part of the general public as far as the case is concerned.

Mr. Faiman suggested that, with respect to the hearing of cases, the Board formalize a policy which states that only the members and alternates who are actively sitting on a case will participate as Board members for that case. With respect to other Board business, Mr. Faiman suggested that alternates be allowed to participate and have equal voting rights.

The Board concurred with this suggestion and Mr. Faiman stated that he would write the language to be added to the By-laws.

BY-LAWS REVISION: Appeals of a decision of an administrative officer (bldg. inspec.)

Mr. Faiman stated that the Board needs to adopt a definition of "timely appeal" for this process. Mr. Mitchell suggested looking at "timely appeals" from other towns and submitted the ZBA by-laws from the town of Hudson for the Chairperson to study.

The Board decided to look at "timely appeals" used by other towns before making it's decision.

FORM FOR MAKING DECISIONS:

Mr. Faiman had a discussion with Town Counsel about this. He felt that the decision that is formally made by the Board ought to be not just a yes or no , but ought to include the reasons for that decision.

Mr. Faiman suggested that before formally voting, the Board take a straw vote to see whether the Board will write an approving or disapproving decision. The Board will then decide on the reasons of approval or disapproval of the majority, as a Board. He stated that the findings ought to be included in the decision of the Board.

The Board decided to formally take the vote first, and then write out, as a Board, the findings of fact of the majority. The Board will then vote on the findings of fact. The Board will try this procedure at the July meeting.

MINUTES OF MEETING - May 9, 1990

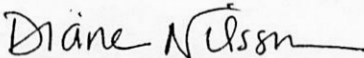
Page 2, line 4 - should be **Mansur Road**, not Mansure Road.

Page 2, MOTION #2 - add... **from highway 101...** at end of motion.

MOTION: Mr. Mitchell moved to accept the 5/9/90 minutes as amended.
Mr. Parker seconded the motion. The motion passed unanimously.

The meeting was adjourned at 9:12 p.m.

Respectfully submitted,


Diane Nilsson, Clerk

Posted: June 19, 1990