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TOWN OF WILTON
ZONING BOARD OF ADJUSTMENT
JULY 17, 1990

Chairman Neil Faiman called the meeting to order at 7:30 p.m. Present were members Steve Blanchard and Alternates Roger Wellington and Joanna Eckstrom. Mr. Faiman explained that there was only a four member Board and that an affirmative vote of three to one was needed. Each applicant had the option of having his case heard by four members or the full five member Board. Both applicants, Thomas Dorward and Frank Flanders elected to be heard by the Board present.

Case No. 7/11/90-1 - Special Exception

Thomas A. Dorward (Applicant) and the Estate of Marie Wright (Owner) Lot K-36, Maple Street

Chairman Faiman read the notice and noted that Mr. Dorward would have to appear before the Planning Board for a site plan review for a commercial activity. The Chairman also noted that all the members sitting on the Board this evening had visited the property at one time or another.

Mr. Dorward presented: He and his wife, Stephanie, would like to put a beauty parlor in a front room of the house (currently a sitting room). The entrance would be through the front door; a bath, for the convenience of the customers, would be installed underneath the staircase which is now a closet. The rest of the residence would be set off from the parlor and there would be no changes to the outside of the house other than painting the door red. The house would remain white with the same green shutters. They are interested in the preservation of the historic house. Currently only his wife will be operating the business, however, in the future she may add only one assistant since the room is large enough to hold two people without expansion. He is planning on putting the drive back as it was but pave it slightly larger so it could accommodate more cars (5). The business would be "by appointment only" and there would be one vehicle at a time. Mr. Dorward went over the requirements of Section 5.3.1 of the Wilton Zoning Ordinance in the affirmative with addition to Section 5.3.1 d - "only two sinks and two chairs in the room" and they have no plans to "expand the business but will eventually convert it back

into a residence"

In response to questions from Board members and the audience, Mr. Dorward explained the hours of operation would be from 10:00-5:00 p.m. Monday - Friday with one or two Saturdays. There would be a colonial, in design, sign - no more than four square feet and no more than six feet above the ground with the wording "Stephanie's Village Shoppe". It would be located by the front walk but inside the sidewalk and hanging into the front yard.

A point by abutter, Deanne Dubois, that "it was very commercial in nature" prompted Richard Rockwood of the Planning Board, to point out that he was working with the Wilton Business Association and with the N.R.P.C. in a downtown study in hopes of creating a portion of Maple Street into an office/professional area and move retail trade into the downtown section. His concern is that there is a problem with traffic and what is going to happen about traffic signs?

Deborah Deegan, abutter, felt there is a fair amount of traffic on this street and she has four children which are a major concern. She stated she would be opposed to having more than two employees at the house since it would mean having more than four cars in the driveway and that the business may affect her property values.

Mr. Dorward explained if they would expand to two employees, there would only be two people parking at one time and it would be spaced out. Parking on the street in winter would prove a problem for the plows for both himself and his neighbors and he would not like this situation.

Concerns of Deanna Dubois were the "no parking signs" were not enforced; their drives were blocked by funeral and wedding parking; placing "by appointment only" on the sign so it would not encourage drop ins.

Chairman Faiman asked Mr. Dorward his general perception of Section 4.4 of the Zoning Ordinance: (1) There are commercial ventures in this area; (2) The occupation will not effect the area as there is a funeral home locally and his occupation will not change the quiet atmosphere, however, there will be some traffic. (3) It is a home occupation without noise and that there won't be any real increase in traffic flow if the "by appointment only" is adhered to. (4) There are no plans to put in another apartment; it will be one family. (5) No diminutive values instead it should increase and only enhance the neighborhood since the house and

lawns have been neglected for awhile and traffic had been addressed before and again he felt there would be no major changes. There is Town water and sewer; there is adequate off street parking - if any customers park in the street, they will be asked to move their cars to the drive; it will certainly not be detrimental to the attractiveness of the Town and that he believes the proposed use meets all other criteria.

Discussion: Ms. Deegan pointed out the home had been extremely well cared for while Mr. Rockwood stated that the beauty parlor is not going to enhance the neighborhood while "living in it" would. Mrs. Deegan advised the Board that traffic in Mrs. Wright's driveway was practically nil for the past 50 years, she didn't drive or have many callers. She indicated she would like assurance that there won't be parking in the street because of her children. Mr. Wellington questioned parking space inside the garage and Mr. Dorward stated there were two. Mr. Rockwood questioned what evidence did the applicant present to the Board regarding diminution of value? Mr. Dorward replied it was his opinion that it would remain realistically the same. Mr. Rockwood questioned what "Mr. Dorward's qualifications were"? Mr. Dorward said he held a Real Estate license in the State of Maine - it was an estimate and the next person may not want the shop. Mrs. Deegan was also concerned about grandfathering - however, this is not the case and if the home is sold, it will go back to a residence.

Mr. Blanchard pointed out that a special exception goes with the land, not the individual. Mr. Wellington questioned what additions or changes would be made that would make it impractical to revert back to the residence? Mr. Dorward said only two sinks which could be removed. Mrs. Deegan asked what assurances she would need if the special exception is granted and that the terms will be adhered to? Mr. Blanchard advised that the Board of Selectmen is the enforcing agency, while Chairman Faiman pointed out that the Zoning Board of Adjustment can write in any condition when granting a permit.

The Board closed the public hearing and went into deliberations at 8:30 p.m.

Their discussion involved the two employees and whether the occupation could substantiate a second person; does one person do all facets of hairdressing or are several people needed to do each facet i.e. shampooing, cuts, etc. Parking - adequate or not; could the employee occupy the first

cuts, etc. Parking - adequate or not; could the employee occupy the first space and customers take the rear areas; values on abutting property; Maple Street being a high traffic area along with protecting the privacy of the neighborhood. Restraint of trade (as mentioned by Tim Farrell). Whether Mr. Dorward could live with just his wife working or is a second employee needed? (The second employee could bring in followed cliental thus creating additional traffic flow.) Hours of operation - control by the owners that scheduling doesn't fill up the spaces; owner's assurance that there is no on-street parking.

Mr. Blanchard moved to grant the special exception with the requirement that hours of operation be from 10:00 a.m. to 5:00 p.m. Monday through Saturday; that the business be "by appointment only" and that it be noted on the sign; that the owners will be responsible for operating the business so that two customer parking spaces in the driveway will prove adequate. Mrs. Eckstrom amended the motion to limit the number of non-family employees on the premises to one and that if these requirements are not met, the applicant is requested to appear before the Zoning Board of Adjustment again. The motion was duly seconded with all in favor. The special exception was approved unanimously.

Chairman Faiman reminded the abutters and interested parties that if anyone felt the Board made a technical error or that evidence which was not available at the time of the hearing may appeal the decision within 20 days of this date and if the Board feels there is consideration for a rehearing, the case may be rescheduled.

Case 7/11/90-2 - Variance

Frank R. Flanders, Lot H-66, Isaac Frye Highway

Chairman Faiman read the notice and requirements to be met in granting a variance. He acknowledged that all the members of the Board viewed the site in question.

Mr. Flanders presented: Their home has no storage, no cellar, no attic area; they have no garage in which to keep equipment out of the elements. The proposed garage is not within the required 35' setback. There is a problem with the topography of the land and the entire lot is sloped - a flat area was cleared for the driveway and house and well (297 feet deep) and the only placement for the garage, is the flat space

left.

Mr. Blanchard asked Mr. Flanders to justify the criteria in granting a variance. Mr. Flanders quoted from his application (see attached).

Mr. Flanders responded to questions from the Board: Garage is two stories 24" wide 30 feet deep with storage overhead; it will be located five feet +/- from the well; recommendation not to build over the well because of pollution from leaking oil, etc.

Mr. Blanchard and Mrs. Eckstrom both felt the lot was a classic case of hardship, however, Mr. Faiman felt it is not a necessary hardship in the sense of the law. It may be a personal hardship because of the inconvenience of not having a garage or storage space but that it was a self created hardship in that the house could have been built larger or with storage.

Mr. Rockwood countered "should Mr. Flanders have to endure those hardships that somebody else created?"

Mr. Blanchard pointed out it meets the criteria. Mrs. Eckstrom stated "it was a permitted use in the zone and not to grant the variance would be an injustice" while Mr. Faiman didn't believe they would be denied a reasonable use of the property.

Mr. Blanchard moved the Board approve the application as submitted, seconded by Mrs. Eckstrom, vote three affirmative with Mr. Faiman voting in the negative. Motion passed. Chairman Faiman requested Roger Wellington, Steve Blanchard and Joanna Eckstrom outline the five criteria that was needed to grant the request, copy of Findings of Fact attached.

Roger Wellington moved to approve the variance based on the Findings of Fact, seconded by Mr. Blanchard all in favor with Neil Faiman opposed. The variance was granted.

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Minutes of July 11, 1990 - Mr. Blanchard moved that the Board continue the Bingham case until they receive a letter of withdrawal or notification of his intentions, seconded by Mrs. Eckstrom with all in favor. Mr. Blanchard then moved to accept the minutes with this modification, seconded by Mrs. Eckstrom, all in favor.

The Board held an informal discussion on the time frame for appeal if a permit is denied after 15 days. The Board will look further into other 'Towns' requirements. Since it will be a change in the By-Laws and

there was only two full members in attendance this evening the Board elected to continue discussion at a future meeting.

Minutes of June 13: There were not enough members present to approve the minutes - the Board will wait until there are more members in attendance to approve them.

Mr. Blanchard moved to adjourn the meeting, seconded by Roger Wellington, all in favor. Meeting adjourned at 9:30 p.m

Respectfully submitted,

Sharon L. Frydlo

Sharon L. Frydlo
Acting Clerk