

TOWN OF WILTON

ZONING BOARD OF ADJUSTMENT MINUTES

MAY 8, 1991

Chairman Neil Faiman called the meeting to order at 7:33 p.m.

AGENDA: Thomas A. Dorward; application for Special Exception.

Edward J. Abbot Memorial Trust, Inc.; application for variance.

CLERK: Diane Nilsson

CASE # 5/18/91-1- DORWARD

Thomas A. Dorward, Maple Street, Lot K-036 in the Residential District, requested a Special Exception under the terms of Section 5.3.1 of the Wilton Zoning Ordinance to operate a clock repair shop as a home occupation in his home on Maple Street.

VOTING BOARD: Neil Faiman, Steve Blanchard, Herb Klein, Tom Mitchell and alternate Joanna Eckstrom, sitting in for Grayson Parker.

Mr. Faiman explained that Sections 5.3.1 and 4.4 of the Wilton Zoning ordinance provide criteria which need to be satisfied for the granting of a home occupation.

Mr. Dorward presented his plan, stating that there would be no exterior changes to his home. The clock shop would be located in a small room behind the entrance hall. There is presently a hair salon located in the room at the front of the entrance hall. A small sign will list both businesses. He stated that this will be a very small business, carried out only in his spare time.

There were no abutters present.

Mr. Blanchard asked about the hours of operation and Mr. Dorward explained that he works different shifts every week so the hours would be constantly changing.

Mr. Blanchard asked if the stairway would be blocked and Mr. Dorward answered that it would not be.

Mr. Mitchell asked Mr. Dorward to explain the parking situation. Mr. Dorward stated that there are six off-street parking spaces.

Mr. Faiman reviewed the restrictions placed on the hair salon home occupation by the ZBA last July: The restrictions state that hours of operation be restricted to 10 a.m. - 5 p.m. Monday through Saturday, customers would be by appointment only and that fact clearly indicated on the sign and that the owners would be responsible for operating the business so that 2 parking spaces in the driveway would prove adequate and that no more than one non-family employee be allowed on the premises.

The Board reviewed criteria for Sections 5.3.1 and 4.4 and found that Mr. Dorward was in compliance.

Resident Dick Rockwood asked how many home occupations were allowed in one dwelling unit.

Mr. Mitchell answered that it is unlimited.

Mr. Faiman answered that it is limited by the capacity of the residents to conduct them and by the capacity of the building to accomodate the businesses as purely incidental and secondary to the residential use of the building.

MOTION: Mr. mitchell moved to grant the Special Exception with the provisions that no non-family employees be allowed for the clock shop and that at least two off-street parking spaces be maintained for the clock shop clients. Mr. Blanchard seconded the motion.

Mr. Rockwood asked for clarification on the numbers and sizes of the parking spaces. The Board determined that there are six 10' X 18' parking spaces in the driveway. Two are designated for the hair salon, two would be designated for the clock shop, leaving two for family vehicles.

MOTION: Ms. Eckstrom modified the motion to add that the hours of the clock shop be by appointment only and that this be specified on the sign. Mr. Mitchell agreed to modify his motion.

VOTE: The motion passed unanimously.

The Board agreed that compliance, in this case, with the terms of the ordinance is sufficiently obvious that there was no need for special findings of fact to justify it.

The case was concluded at 8 p.m. and Mr. Faiman stated that Mr. Dorward would receive a written notice of decision within the next few days and that it would also be posted in the Town Hall.

He also stated that the selectmen, any party to the action or proceedings, or any person affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Tuesday, May 28, 1991, and must fully specify all grounds on which the rehearing is requested.

CASE # 5/8/91-2 EDWARD J. ABBOT MEMORIAL TRUST, INC.

Edward J. Abbot Memorial Trust, Inc., Route 31, Lot J-104 in the Industrial District requested a variance to the terms of Sections 8.2.1 and 8.2.2 of the Wilton Zoning Ordinance, to permit the subdivision of Lot J-104 into two substandard lots and the subsequent development of one of the resulting lots.

VOTING BOARD: Neil Faiman, Steve Blanchard, Herb Klein, Tom Mitchell and alternate Jim Tuttle, sitting in for Grayson Parker.

Wil Sullivan, Attorney for the Trust, presented information regarding what the Trust wishes to do and the reasons why a variance is justified. The total parcel size is 3 acres and includes parts of Stony Brook and land on the other side of the brook. There are approximately 1.3 acres of dry land.

Background info: In the early sixties, Abbot Machine Corp. placed dried cyanide salts inside a cement structure with 2'-3' thick walls of concrete and layers of concrete on top.

In August 1986 the Trust hired a group to test the soils and water. There was no cyanide found in the soil. Of three wells dug, 2 wells close to the bunker did show cyanide levels, the other well which was further out, did not.

In November 1987 the Trust met with officials from the Department of Environmental Services who stated that they didn't want the vault disturbed because that could increase the chance of environmental risk. They also stated that they (the State) would test the site (soil & water) quarterly. They did test in April 1988 but have not been back since.

The 1986 test showed cyanide levels of .66 mg./liter. The 1988 test showed cyanide levels of .081 mg./liter, representing an 800% drop in cyanide levels over a two year period.

In February 1991, Mr. Sullivan received a call from the owners of the Wilton Pressed Metals building. The owners expressed a need for parking in order to make use of their building.

Mr. Sullivan contacted the State Dept. of Environmental Safety and asked what their opinion would be of subdividing the land in question. The spokesperson stated that the department had no objection and stated that the department is satisfied that the environmental threat is minimal and in fact did not intend to do anything further in regards to monitoring the property.

The proposal before the Board is to subdivide the land so that 4,175 sq. ft. of the property, where the vault is located, could be retained by the Abbot Trust and the rest of the land could be sold. The owners of the Wilton Pressed Metals bldg. are interested in purchasing it for a parking lot, in which case, a minimum of 10 spaces would be provided for public parking. The sale price for the piece of land is \$35,000. The frontage is 216' including the bridge.

Mr. Sullivan spoke to the hardship question and stated that the state wants the salts to remain undisturbed, they won't even allow testing of the salts in the vault. The property is unsaleable without separating the cyanide area from the rest of the land.

Mr. Sullivan stated that there would be four winners if the Board grants this variance. 1.) Abbot Trust, 2.) Wilton Pressed Metals - would make use of their building possible and would increase value of their bldg., 3.) Merchants in Town - increased parking and 4.) The Town of Wilton - increased tax base.

Selectman Stuart Draper expressed concern about what would happen to the 5000 sq. ft. piece of land down the road if it doesn't get sold and the Trust doesn't pay the taxes on it. The Town won't want to accept liability by assuming the deed.

Mr. Faiman asked if the Trust was going to exist forever. Mr. Sullivan stated that it would not.

Selectman Dick Greeley asked if the Trust would be willing to put up a bond for \$35,000 to cover potential clean-up costs and future taxes owed the Town. He also stated that when Wilton Pressed Metals was in operation, they used the Congregational Church for parking.

Mr. Sullivan, responding to the bond question, stated that he thought the answer would be "no".

Mr. Sullivan stated that the parcel of land in question is basically worth zero right now because of the cyanide. If the Trust applied for a tax abatement, they should most likely be granted one. He also stated that parking at the church, although a temporary solution, could not be considered a viable long-term solution.

Evelyn Harwood, President of the Wilton Business Asso. stated that when the church parking was rented, it was not used by the employees as planned, instead, the street parking in the downtown area was used. She also stated that she thinks this project is a fine idea and a good use of this land. She asked how many parking spaces there would be in total.

Ken Bergeron, part-owner of the Wilton Pressed Metals Bldg. stated that although the plan is not completed, he believes that there will be approximately 100 spaces, and many more than 10 could be dedicated to public parking.

Abutter Stuart Campbell stated that he thought this parking lot idea would be a good use of the land and good for the Town.

Mr. Faiman stated that his concern was the same as Mr. Greeley's - that if the property is subdivided, the small piece will be a worthless piece that could never be sold and if property taxes are not paid, it will be worthless to the Town.

Mr. Sullivan responded that, unfortunately, subdivided or not, the entire piece is worthless.

Resident Dick Rockwood stated that it makes no difference whether it's a 5000 sq. ft. no-value piece or a 3-acre no-value piece.

Mr. Draper expressed concern about who would be responsible in the future if the EPA decides to require a clean-up of the cyanide and the Trust is no longer in existence. He doesn't want the Town saddled with the clean-up responsibility.

Mr. Sullivan responded that the only parties responsible for cleaning up a toxic waste site are 1.) the person who dumped it or 2.) The person who holds title to the property. No one else can be held responsible.

Mr. Sullivan also stated that if someday the State decided that the cyanide had to be cleaned up, \$35,000 wouldn't come close to covering the cost of doing that. He added that, after speaking to State officials, he got the feeling that this site is probably the one with the lowest priority in the State.

Resident Joanna Eckstrom asked why the State has not come out and tested since 1988, when they said they would be testing quarterly.

Mr. Sullivan replied that when the toxicity level dropped 800% in two years, the State felt the site was no longer a major problem and not worth spending money on.

Mr. Mitchell stated that the parcel should remain as one piece. Once the small piece with the cyanide is carved out, it might be abandoned. If it stays with the larger piece, whoever owns it will be responsible.

Mr. Tuttle asked if the Town was obligated to take the deed on the property if the taxes were not paid.

Mr. Greeley answered that the Town is not obligated to take the land.

Mr. Blanchard agreed with Mr. Sullivan's legal arguments re: parties responsible for cleaning up toxic wastes. He also stated that he feels the size of the small piece should be increased for reasons of leaching. He also asked if testing could be done.

Mr. Sullivan answered that soil and water testing could be done. He then handed out maps showing the well sites where cyanide was found.

Mr. Rockwood stated that he feels the benefits of this project far outweigh any potential liability to the Town.

Dick Putnam, owner of Putnam's Clothing stated that the liability or potential liability exists no matter what the size of the lot. It seems it would be better to do something positive for the Town and for the public good by accepting this project.

The Board discussed the issue of hardship and self-created hardship and why there is a hardship in this case.

Mr. Sullivan reminded the Board that he is seeking permission to subdivide. He cannot guarantee to the Board that the sale to Wilton Pressed Metals will go through and therefore cannot promise that the land will be used for a parking lot, so the Board may want to tie the variance to use as a parking lot.

Mr. Faiman took a straw vote to see where the Board stood. The Board seemed to favor the granting of the variance. Discussion followed on the details of the motion.

MOTION: Mr. Blanchard moved to grant the variance as indicated on the plan with a notation on the ultimate plan that the smaller parcel cannot be developed. And to require that, in conjunction with any development of the larger lot, at least 10 parking spaces shall be dedicated to public use. The motion was seconded by Mr. Tuttle and passed with four in favor, with Mr. Mitchell opposed.

MOTION: Mr. Blanchard moved to accept Mr. Sullivan's finding of fact, Mr. Tuttle seconded. The motion passed with four in favor, with Mr. Mitchell opposed. (See file.)

Mr. Faiman stated that the requested variance has been granted with restrictions as stated in the motion.

He also stated that the selectmen, any party to the action or proceedings, or any person affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Tuesday, May 28, 1991, and must fully specify all grounds on which the rehearing is requested.

OTHER BUSINESS - ELECTION OF OFFICERS

MOTION: Mr. Blanchard moved that Mr. Faiman remain as chairperson, seconded by Mr. Klein. Motion passed unanimously.

MOTION: Mr. Mitchell moved that Mr. Parker remain as vice-chairperson, seconded by Mr. Blanchard. Motion passed unanimously.

APPROVAL OF MINUTES - April 10, 1991

MOTION: Mr. Klein moved to approve the 4/10/91 minutes, seconded by Mr. Mitchell. Motion passed unanimously.

MOITON: A motion was made and seconded to adjourn the meeting. Motion passed unanimously. The meeting was adjourned at 9:35 p.m.

Respectfully submitted,
Diane Nilsson, Clerk

Posted: 5/14/91