

BOARD OF APPEALS MEETING

September 29, 1987 Pike Memorial Hall

Meeting called to order 7:37 p.m. by Chairman Day.

Members present:

Danny Day; Nat Watson; Don White; Connie Forbes

1) It was agreed that both the variance and Adm. Appeal would be heard tonight.

M. Oullette: June 10, 1987 closed on buying lot. D. Birchfield had been contacted twice about whether it would be possible to obtain building permits. Birchfield said it was o.k. Had soil tests, deeds then got purchase agreement for several lots. Then Birchfield said no. July 11, Birchfield said all three selectmen said o.k. for permits. Road was built after which Selectmen had a meeting and said problems about permits.

Elmer Runyon, Attorney for appellants, Subdiv. approved Jan. 8, 1976 on March 6, 1978 town zoning ordinance passed. Birchfield denied permit on Sec. 4.2. They think CEO misinterpreted zoning ordinance. He pointed out 2.6, last sentence is an exception which allows their lots. 4.2 is inconsistent with the rest of the ordinance and is ambiguous. 2.6 allows their lots in the subdivision because they are grandfathered.

M. Ouellette: pointed out that no precedents will be set because there are no other subdivisions in town like theirs.

Runyon: Undue hardship - no reason - able return can be gotten due to the placement of the road which they received permission to build.

John Seelye: Agrees with appellants.

CEO David Birchfield; said Ouellette's meetings with him, there were 5, were at first about whether it was a legal subdivision. The later meetings were about lot size, where he did make a mistake?

Clifton Whitney asked what size the lots are?

J. Hoyt: 23,332 - 42,213 is the range of lots.

Charlotte Black; How many lots?

J. Hoyt: 14 lots on 16 acres.

C. Black: How can lots be used to include wells and septic tanks.

Birchfield. lots meet state requirements.

Nancy Rogers: Is against - doesn't want 14 houses across the street.

Donald Jack: Stated that land was taxed as one lot, not #3 - 16.

Dianne Parkinson; questions why people would buy lots of 1/2 acre.

Runyon: value of land is in the eye of the purchaser

Warren Neal: Tax cards, lots are being taxed as 16.6 total acres, not as individual lots.

Walt Stickney: 4.2 - all lots approved prior to April 1979 must meet zoning ordinance standards. On April 24, 1979 every other lot was sold in an obvious attempt to circumvent the ordinance. Lots can be subdivided to meet requirements of lot size. Posing the question of how will 14 more wells affect the other wells in that area and the town water system.

D. Birchfield - stated that Hoyt and Ouellette did not know about the checkerboarding.

D. Day: asked if they were aware of checkerboarding.

Ouellette: didn't feel they had to. Felt 2.6 grandfathered them.

D. Day: Further questioned soil test.

J. Hoyt: Each lot has been soil tested by Philip Spiller of Westbrook.

D. Day: Asked out Ouellette's meeting with Planning Board?

M. McCulloch: was a workshop with Madge Baker of Me. Municipal Assoc.

R. Othuse: Was never asked about this.

Runyon: A letter from Madge Baker on 2.6 and 4.2 says there is an inconsistency. Bring 2.6 in line with 4.2. He thinks Planning Board should bring 4.2 in line with 2.6. Madge Baker's letter was read.

D. Perkins: June 16 received a copy of lots and told the person the lots were substandard before the road was built.

T. Carper: Was saddened about learning of the checkerboarding.

Chris Vaniotis; why can't the lots be combined to meet approved sizes?

Runyon: not economically feasible.

C. Vaniotis: Are any lots under contract?

Ouellette: #16, 11, 6, 3 are under contract. Will enter these agreements on record.

Runyon: Submitted subdivision plan for our record. Stated that deeds of lots could be entered.

D. Day: The date for a subsequent meeting will be on October 8 at 7:30 p.m. in Pike Memorial Hall.

C. Vaniotis: Legal issues will be outlined. Function of BGA - hear and decide individual appeals, a specific case. Adm. Appeal - interpret and make sense of zoning ordinance. They will be required to be periodic should be issued. Zoning Ordinance 30,000 sq. ft. of one 200' frontage 4.2 sec. 1 & 2 repeats 2.6. Courts say if zoning is ambiguous rule in favor of land owner. Another rule is the specific rules over the more general. Also can take ordinance as a whole and try to interpret it that way. Variance - must meet all requirements of 1) undue hardship. Courts say reasonable return doesn't mean maximum return. 2) not result of actions taken by owner.

Runyon - closing statements.

Meeting adjourned.

Respectfully submitted,
Connie Forbes
Connie Forbes, Secretary

jlb