

Present: Chairman Matthew Morton, Russell Cooke, Edna Mosher, John Frink, John Newick,
Also Present: Attorney Bernard Pelech, William Creighton ,Planner Tom Morgan.
Meeting was opened at 7:05 p.m.

Correspondence: None

Minutes: Minutes of meeting held 1-22-02, were accepted on a motion by Russell Cooke,
seconded by Edna Mosher.

Board agreed to hear item 5 (2) at this time.

Request by Esther Wong for Lot Line Adjustment:

Cohen Cartier of Millette & Assoc, represented the Wong's and described the relocation of a lot line between a residential lot and the Asia Restaurant. Board was advised that the restaurant is using a portion of the abutting residential lot for parking and they would like the land transferred to restaurant ownership. A variance is required as the transfer would reduce the residential lot to 17,230 sf, where 120,000 sf are required. It was noted that the residential lot is presently non-conforming in area.

Mr Cohen addressed the five criteria - stating that the variance could meet all of the requirements.

Chairman Morton noted that there had been no response pro or con from abutters.

Mrs Marcia LeClaire, Patterson Lane asked about the exact location (115 River Road) and also asked if both parcels are in one ownership. Mr Cohen advised that the residential and commercial lots are in separate ownership.

Russell Cooke moved to grant the variance, seconded by John Frink.

Russell Cooke questioned Tom Morgan about mixed uses in a zone. Tom stated that it is always hoped that the non-conforming uses will eventually revert to a conforming use.

It was noted that the residential lot has a residence on it.

The 5 criteria were considered:

1. All agreed that there would be no decrease in property values.
2. Granting the variance would not be contrary to the public interest.
3. Board fully supported the concept that to deny could cause unnecessary hardship- that there is little room for anything else on this property and the variance will not change the present uses.
4. All agreed that justice would be served by allowing the variance for lot line adjustment
- 5 All agreed that the variance would meet the spirit and intent of the ordinance by separating the residential use from commercial use..

The motion to grant the variance carried unanimously.

Board agreed to hear item 5 (1) at this time.

Administrative Appeal by GSM Realty Trust of Town Planners Interpretation of Article V, Section 6 of the Zoning Ordinance.

John Frink stepped down and left the meeting as he was not present at the 1/22 meeting.

Attorney Bernard Pelech represented GSM and stated that he had reviewed the ordinance after the last meeting and his interpretation is that the ordinance allows for ocean resources and as salt is a resource of the ocean a variance is not required.

Edna Mosher stated that she had done some research on road salt and found that a major percentage come from mines in various countries and are some distance from an ocean. Attorney Pelech stated that the salt was from the ocean at one time.

Russell Cooke noted that the intent of the zoning is to use ocean going vessels to transport the product to the Waterfront Industrial site.

Chairman Morton noted that storage of salt on GSM's site has been permitted in the past - its how it gets to the site that is the question. He added that the fact that the site does not have direct access to the water will have to be addressed sometime - that in his opinion, the site should not be zoned 'W'.

Attorney Pelech stated that any permitted use on this property will require a variance due to the fact that there is no access from the ocean.

Tom Morgan stated that his interpretation of the ordinance comes from the fact that the salt being trucked is not derived from the ocean and zoning requires the activity must depend on ocean transport or be an ocean resource.

Russell moved to deny the appeal and uphold the Town Planners interpretation of the ordinance. Motion was seconded by Edna Mosher who stated that the intent of the ordinance is to use the river for transport. Motion carried unanimously.

Request for Rehearing by GSM Realty Trust:

Attorney Pelech, representing GSM Realty Trust requested a rehearing regarding their application for a variance to permit salt storage at 193 Gosling Road where the product stored will not be shipped by ocean-going transport.

Charman Morton advised that a rehearing required that new information be submitted or show that an error was made.

Attorney Pelech stated that GSM were willing to agree to stipulations and conditions including the number of trucks and times of shipments and possible use of railroad. Also would agree to an impact fee to cover any damages to town roads.

Tom Morgan stated that this is the third variance for this site in 6 years which maybe shows that the zoning needs to be checked and the appropriate board to discuss the issue is a policy making board such as the Planning Board.

Attorney Pelech agreed that the zoning should be checked but added that there is a present hardship, that the Planning Board can't change the zoning - only present it at the 2003 Town Meeting. In the meantime a variance from BOA is the owners only alternative available at this time.

Russell Cooke stated that he was willing to take a look at the conditions and stipulations for a variance - that if salt could be shipped by rail it would be an answer to the safety concerns.

Edna Mosher stated that she had thought that rail transport had been turned down - but if this is an option it should be looked into - that safety is truly the main issue.

William Creighton stated that truck traffic goes along with industrial activity - that should a pier ever be built on the site it would generate higher prices and more truck business.

Chairman Morton asked about 'lightening up' the volume of trucks. Mr Creighton stated that he estimates the number of trucks from the Portsmouth Pier to the GSM facility will be 3 to 9 per hour, less than was estimated for the Sprague terminal

Russell Cooke moved to grant the request for a rehearing. Motion was seconded by Edna Mosher.

Chairman Morton stated that the Board wants to accommodate the applicant but still satisfy the public safety issue.

Tom Morgan again asked that Attorney Pelech bring the zoning issue to the Planning Board and Attorney Pelech agreed that he would.

Board voted unanimously to grant a rehearing and set date of March 3, 2002 at 7 p.m.

Chairman Morton asked that the proposed concessions re: hours, number of trucks and method of transport be spelt out in an application.

Meeting was adjourned at 8:15 p.m.

Pat Main
Secretary

