

Call to Order: Chairman Morton Called the meeting to order at 7:00 P.M.. Board members in attendance: Edna Mosher, Ralph Estes, Vincent Frank, Richard Ford, Chair, Matt Morton, and Town Planner, Tom Morgan. John Frink was absent.

Correspondence:

Minutes: Ralph Estes made a motion to accept the minutes as presented, Vincent Frank seconded, motion carried.

Public Hearing

- A) The Estate of Barbara Baird requests a variance in in order to allow two building lots with a total road frontage of 398 feet where Article VI of the Zoning Ordinance requires 400 feet. The property is located at 316 Newington Road, Tax Map 53, Lot 5.

Representing the Barbara Badger Baird Trust regarding the application for a dimensional variance from Article IV (revised) was Erin Baird, granddaughter of Barbara Baird.

Attorney Lyons was present to represent James and Susan Carroll, 320 Newington Road, Newington. Mrs. Carroll was present for the meeting.

Ms. Baird submitted a six-page summary and argument which outlined the five-part test set forth by New Hampshire courts to guide zoning boards in determining whether a variance should be authorized. (document attached)

Attorney Lyons stated at prior meetings there had been no submission of required \$50 fee or application form. Chairman Morton stated the Bairds had been before the Board three times, however there were procedural issues. Town Planner Morgan advised Attorney Lyons that the Bairds did submit an application and check. However, these had been returned when the applicant was asked by the Board to withdraw.

Attorney Lyons felt the abutters to the Baird property had not been notified timely of this meeting, and that he had not had time to properly prepare. Morgan stated that all had been sent Certified Mail advising them of all Public Hearings in this matter.

Attorney Lyons felt the Public Hearing should be postponed. Morgan asked how much time would the Attorney need to prepare. The Attorney asked when the next meeting was scheduled. Morgan advised there are no scheduled meetings unless there is a request for a hearing. Morgan asked if two weeks would be enough time for Attorney Lyons to prepare. He said it was. Chairman Morton asked if the Bairds and the abutters agreed. The Board agreed that the hearing should be postponed. Public Hearing to be continued to June 18.

- B) Request by Rockingham Electric for outdoor storage at 437 Shattuck Way where such storage is not permitted by Article V Section 2 of the Zoning Ordinance.

Representing Rockingham Electric were Attorney David Brown, James Pender, President and representative of Ames, MSC.

Chair felt request for above had been accepted. Planning Board felt variance request for use of outside storage area had not been included in the approval of previous request. Planning Board Chair felt request to the Zoning Board had not specifically outlined allowing outside storage. The two requests that were submitted were approved.

Zoning Board Chair Morton apologized that out storage had not been specifically included in approval. There was discussion regarding earlier requirements that originally pipes were not allowed to be stored inside. Applicant would store spools, pallets, etc. in the storage area. Applicants asked if they could put the storage area of sight as the company has had two back-ins recently.

After more discussion, Edna Mosher made a motion to grant the variance addressed in article 5, Richard Ford seconded. Attorney David Brown outlined five criteria. Motion carried.

- C) Request by Craig Daigle to construct a garage at 62 Nimble Hill Road that is Less than the 15 feet from the side lot line that is required by Articles VI & XIII of the Zoning Ordinance,

Craig Daigle stated that he currently has a 30X32 garage that is falling apart. He Would like to build a 24X40 ft. garage that would be 10' from the road. Chair Morton asked if the applicant owned the garage and if there was a cement floor. Mr. Daigle said he did own the property and garage and there is a cement floor. He plans to add to the existing floor. He will do this himself.

After some discussion Estes made a motion to accept, Vincent seconded. Mosher reviewed the five criteria which were all agreed upon by the Board. Motion carried.

- D) Request by Mo Wong to sell groceries and gifts at the Asia Restaurant (347 Shattuck Way) where such a use is not permitted by Article V Section 2 of the Zoning Ordinance.

Mo Wong, applicant, Herb Nickerson, property manager and, representing the applicant, was Attorney Pelech.

Mr. Henderson outlined history of restaurant and reason Mr. Wong would like to have the store in the restarant. Many things have happened over the 30 years the Asia Restaurant has been in business. There has been an expressed desire to have store that has Japanese food, spices, etc.

Mr. Henderson went to outline how the restaurant has operated over the years. The area the restaurant is located was originally zoned as the business section. It is now zoned as office and Mr. Henderson feels it will be hard to get any office to come into this area.

There were questions from the Board regarding need for sign and whether they might come back for another variance. She feels eventually they will need a sign. Chair Morton questioned whether there would be a big fish tank in there. Mr. Wong stated only dry goods and frozen. Board members discussed reasonable use of the property.

The Chair and Town Planner expressed concern about setting a precedent of granting this type of request. They reminded Board of the Simplex case. They accused the Board of granting anything. Morton and Morgan felt the Board should have discussion with Legal before taking any action on this request. They suggested that any action should not take place before this discussion. The Board agreed. Attorney Pelech agreed and would be available for meeting on June 18.

Morton motioned to adjourn, seconded by Mosher, Motion carried. Meeting adjourned at 8:30 P.M.

Respectfully submitted,

Sandra W. Sweeney, Secretary