

November 12, 1974

There was a hearing before the Board of Adjustment on the petition of John W. Caughey, Jr. and E. Kenneth Delp for a variance concerning Article V, Section C, 3 of the Zoning Ordinance. There were present: Robert B. Flanders, Chairman, William C. Abbott, Emery S. Doane, Eric Tenney, Mrs. Willard B. Dik, Clerk, and Mrs. Webber, alternate. Also present were John W. Caughey, Jr., E. Kenneth Delp and Mrs. Thelma Nichols. The meeting was called to order at 7:30 P.M., and as Benjamin Pratt had not arrived Mrs. Webber was called to sit on the Board in his place. Mr. Pratt arrived shortly after the beginning of the hearing.

The Clerk read the petition which proposes deeding to an association of landowners the well and pump house with land thereon on property located on the South side of high tension power lines of Public Service Company of New Hampshire and abutting West side of property of Maurice W. Sherburne of Elm Avenue, Antrim. The plot of land consists of 0.42 acres and is in the Rural District. The Clerk also recounted the method of notification of this hearing by publishing in the Peterborough Transcript on November 7, 1974, posting on the Town Bulletin Board, sending certified mail return receipt requested to three abutters, which included the petitioners, all receipts being returned, and by regular mail to each member of this Board and the two alternates, the Selectmen, the Town Clerk, Town Counsel, Chairman of the Planning Board, and the Building Inspector.

The Chairman then read a letter from the Planning Board denying approval for a subdivision in the area covering well supplying water to various lots because of substandard lot size and questionable access across land presumably owned by the Public Service Company. Mr. Abbott explained that the only objections were because of under size and doubtful access, and stated that as far as the present usage it is a proper site.

The applicants then presented their case. Mr. Caughey showed a plan

of the land in question, and Mr. Delp stated that they wish to deed the well, pump house and land to an association of the owners of the lots that are served by this well. The Chairman then summarized the case as follows: These people want to give this away. They do not want to be a water company.

As there were no proponents or opponents to speak on the question, the Chairman called upon the members of the Board for any questions. Mr. Abbott asked what access will these people have to get to the well and pump house for repairs etc. Mr. Delp read from the deed from Public Service Company of New Hampshire to John W. Caughey and E. Kenneth Delp dated July 14, 1966 and recorded in Hillsborough County Registry of Deeds, Vol. 1889, page 339 as follows:

Also granting to the Grantees the right to pass and repass with vehicles and on foot over and across the strip of land herein reserved along driveways or roadways so located as not to interfere with the Grantor's use of said strip of land and which, in particular, shall not be located within twenty-five (25) feet of the Grantor's transmission line structures. The Grantor may from time to time require relocation of said driveways or roadways elsewhere on said strip of land, provided such relocation is not required unreasonably.

Mr. Flanders asked if they have formed an association, and Mr. Delp presented a document entitled "Steel's Pond Improvement Association, Articles of Association of Voluntary Corporation" signed by the Secretary of State and recorded in Records of Voluntary Corporations, Vol. 606, page 371, June 30, 1971. It was noted that the only names on it were Caughey and Delp who are the present owners. Mr. Delp remarked that they are going to resign as soon as this petition is granted and give back a deed. William O'Neil will take care of presenting it to the landowners. He will carry the ball. Mr. Pratt remarked that this is a legal entity turning it over to owners Caughey and Delp so at this moment there is a legal association of landowners.

Mr. Doane remarked to the petitioners that they must realize that

they are obliged to provide pure and safe water. You could be held financially responsible for it. Mr. Delp replied that if we had known what the State required we would have made the lots larger and let each one put in his own water.

Mr. Caughey remarked that they were the first subdivision registered in town to put on restrictions long before there was any Zoning Ordinance.

Mrs. Webber asked what size are the lots, and the reply was 100 x 150 feet -- not large enough according to the State for separate wells.

The Chairman called for any further questions and as there were none declared the hearing closed and that the Board would go into executive session.

Respectfully submitted,

Catherine C. T. Dik

Catherine C. T. Dik, Clerk

The Board went into executive session at 7:55 P.M. immediately following the hearing on the petition of John W. Caughey, Jr. and E. Kenneth Delp.

Mr. Doane remarked that we are trying to create a lot without frontage on a street. It is a parcel of land rather than a lot. It is there and was there before zoning was passed. The owners are now charging for the water, but when owned by an association they will charge only for the upkeep.

Upon inquiry of Mr. Flanders of the owners it was determined that 25 lots are served by this well that produces 65 gallons per minute, more or less.

Mr. Pratt remarked that the sole function of this plot is to serve these people in the association. If anything happened to Caughey and Delp it would be an impossible situation.

Mr. Flanders would like to hear from Lloyd Henderson and William O'Neil before coming to a decision. Mr. Abbott said that the Planning Board was not happy with Mr. Henderson's presentation--it was all indefinite, no assurance, and the question of right of way to get to the land. Mr. Abbott

approves of the petition if the legal angle is right. He agrees there is a viable organization which is interested. Mrs. Webber would like to see a list of the landowners served by the well.

Mr. Doane then

MOVED: That the Board delay a decision until an appointment can be set up for a meeting with Mr. O'Neil and Mr. Henderson sometime within two weeks.

SECONDED: By Mr. Abbott

VOTED: Unanimously in favor

The Clerk was instructed to send postcards to the Board and Mr. O'Neil and Mr. Henderson when the date is set.

Mr. Abbott then raised the question of whether the \$15.00 filing fee was sufficient to cover the cost of a hearing. There was a good deal of discussion. Mr. Flanders will talk with Thelma Nichols about the actual costs of the hearing and discuss with the Selectmen the possibility of graduated fees based on number of abutters. Also he will ask that an appropriation for the Board of \$250.00 be put in the budget for next year.

As a means of cutting expense it was

MOVED: By Mr. Abbott as an amendment to the by-laws to dispense with Board members returning the minutes to the Clerk. If a member has any corrections he should telephone the Clerk within three days.

SECONDED: By Mr. Doane

VOTED: Unanimously in favor

As there was no other business to come before the meeting it was adjourned at 8:35 P.M.

Respectfully submitted,

Catherine C. T. Dik

Catherine C. T. Dik, Clerk