

December 30, 1975

There was meeting of the Board of Adjustment on Tuesday, December 30, 1975 in the Town Hall to hear the petitions of Richard H. Davis and the Continental Telephone Company of New Hampshire. The meeting was called to order at 7:45 P.M. and the Clerk called the roll:

Emery S. Doane	Present
Benjamin Pratt	Present
Robert B. Flanders	Present
Carole Webber	Absent
Ralph Proctor	Absent
Harold Grant	Present
Joyce Davison	Absent
Catherine C. T. Dik	Present
Eugene Bried	Absent

Also present was Lloyd N. Henderson, Town Counsel.

The Chairman called upon the Clerk to read the petition of Richard H. Davis, Case #9, and to relate the procedure of notification,--by certified mail, return receipt requested, to the petitioner and three abutters; by regular mail to all members of the Board, the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and Building Inspector; by publication in the Peterborough Transcript for December 23, 1975 on page 3, and posting on the Town Bulletin Bord.

The Chairman read the procedure for conducting the hearing and then called upon Mr. Davis to present his case. He wishes to divide his property (formerly Warner) on Gregg Lake Road into a house lot of two acres and a lot for his woodworking shop of one acre more or less. Total frontage on Gregg Lake Road is 750 feet. The house lot would have 450 feet frontage and 225 feet depth. The shop lot would have 250 feet frontage, more or less, and the Butterfields have 50 feet for a way into their back land. This way comes between the two Davis properties. The shop is presently located in compliance with all zoning requirements, is 40' by 80' and will have a circular driveway. Asked if this shop is large enough for present or future operations Mr. Davis replied that he sees no problem as to size and it is not necessary to have a large

lumber storage. Mr. Flanders remarked that the shop being placed in the middle of the proposed lot precludes the possibility of a house on that property, and he would have to come before the Board to make any change in use of the shop. Mr. Davis acknowledged this and said that in the spring he would like to obtain more land in back of this whole property, say ten acres, but he does not know whether Mr. Butterfield will sell. Mr. Flanders remarked that the 50' strip retained by Mr. Butterfield can only be used for a road and wonders why he cannot have access to his land from the Route 31 side. Mr. Pratt explained that the lay of the land made that impossible.

As there were no further questions, the hearing was closed at 8:05 P.M.

At 8:10 P.M. the Continental Telephone Company of New Hampshire were called to present their petition, Case #10. Mr. Robinson and Mr. Thomas represented the Company, and Mr. and Mrs. Erwin Chase were present as abutters. The same procedure of notification was used in this case as in the previous one, with an additional notice to the Fire Chief. The Telephone Company wishes to purchase from Mr. and Mrs. Francis Donovan and Mr. and Mrs. Erwin Chase the land behind all three properties and will hold for possible future use. This would merely change ownership of property in three nonconforming lots, each lot remaining nonconforming. It was recently discovered that part of the Chase house is over their property line on the Donovan's land. The Telephone Company will deed sufficient land to the Chases to make a five foot set back of their house from their new rear property line, thus making a straight back line with all of the house on the Chase lot. This would make three lots with the following areas:

Continental Telephone Co. of N.H. - From present	3122 sq. ft.
Summer St. frontage 73.81 ft.	plus from Chase
	plus from Donovan
	7785
	less to Chase
	110
	To
	7675
 Donovan	 - From present
Main St. frontage 40.42	less to Tel. Co.
Summer St. frontage 81	1147
	To
	3301

Chase	- From present	8339
Main St. frontage 67.44	less to Tel. Co.	<u>3516</u>
	plus from Tel. Co.	4823
	plus from Tel. Co.	<u>110</u>
	To	4933

The garage on the Chase land has no access on a street and is a fire hazard so near the Fire Station and house. The Chases have no use for it. Continental Telephone has no plans to use it, but if it wished to access would be from Summer Street on the new driveway. Mr. Doane asked if the Company would consider tearing it down. Mr. Thomas thinks the Company would be more than willing to tear it down and landscape. At present Continental Telephone has no plans for the use of this land. Mr. Pratt asked about a future addition to the present building, and Mr. Thomas explained that a simple wing in back would be the arrangement. At present the Chases have a complete septic system on this land which they will continue to use until a Town sewerage system is installed. The question was asked, if they had had the land would they have built straight back instead of sideways. Mr. Thomas replied that there was divided opinion among the engineers. Mrs. Dik asked whether it is permitted to build over a septic system, and Mr. Thomas said that was one of the considerations in building sideways. Mr. Flanders asked why the building was not faced with brick, and the reply was that they did obtain a bid but it was too expensive.

Mr. Doane called upon the Chases to see if they were in accord with the arrangements. They said they were and were particularly pleased to have the back line straightened so that their house stood on their land, thus making the property saleable.

Mr. Henderson inquired of the Telephone Company about their parking. The reply was that the new driveway would accommodate two vehicles. While installing the equipment there will be some parking on the street, but that will be a temporary condition.

Mr. Henderson also inquired whether the agreement regarding the Chases'

use of the septic system says anything specific about the right being passed on to new owners. Mr. Thomas replied that it is definitely their intent to have it pass on. Mr. Chase said that he had talked this matter over with the Company and their reply was that it would be passed on. Also, in case they should build on the land in ten or fifteen years they would relocate a system at their expense, even if it were a holding system to be pumped out on a regular basis. Mr. Chase produced the agreement and after reviewing it Mr. Henderson said there was no specific mention of this right passing to new owners and he would like to see that in the agreement. Mr. Pratt remarked that he suspects the existing system, because of its location, cannot conform at all to present State requirements. If you are going to make any changes it might bring up many problems. Mr. Thomas assumes that Town sewerage would come before there is any expansion of the telephone building.

Mr. Flanders asked Mr. Chase if he was concerned about only five feet between his house and the back lot line. Mr. Chase is not concerned for he feels there is room enough to get a ladder in there to maintain the building.

The Clerk read a letter from the Planning Board in which it is suggested that the Telephone Company incorporate these three pieces of land in one deed. The Chairman asked the Town Counsel if he thought this was necessary, and the reply was that he did not.

The Chairman asked if the Donovans were in accord with this plan.

Asked about underground wires, Mr. Robinson replied that at present they are underground on Main Street and forecasted that sometime in the future all wires will be underground.

The Chairman called for any further questions and as there were none the hearing was closed at 8:48 P.M.

In executive session at 8:40 P.M. the Board took up consideration of the petition of the Continental Telephone Company of New Hampshire. It was pointed out that this is not only a question of a variance but also a sub-

division so they would need a milar (?) copy of the plan to be registered in Probate Court.

Mr. Flanders does not like the mere five feet set back in the rear of the Chase house. He feels strongly the property should have a back yard. Why bail out the Telephone Company and harm the Chase property?

There was considerable discussion about why the Telephone Company does not buy the Donovan property instead and leave the land with the Chase property. Mr. Flanders thought the function of the Board of Adjustment was to protect from something like this. Mr. Pratt feels that we are not bailing out the Telephone Company but that this arrangement would be good for the town to clean up the back yard and remove the garage which is a fire hazard. By acquiring these bits of property puts the Telephone Company in a position where they do not have to buy anything more. I do not think we can protect people from themselves.

Mr. Henderson thinks it is only a matter of time before the Telephone Company buys the Donovan property. They have come down considerably on their price.

Mr. Doane said he was inclined to go along 80% with Mr. Flanders.

Mr. Grant thinks it will be a long time before the Telephone Company uses that land. He thinks that if they have an opportunity to get the Donovan building, he guesses they would take it.

Mr. Doane showed to Mr. Henderson the State statute whereby public utilities may be exempted from local zoning ordinances if they appeal to the Public Utilities Commission. Mr. Henderson has not heard of this happening and it is the sort of thing that if the town had good reason to deny the request, it is not likely that the Commission would overrule. With the existing 18 inches between the Donovan and Chase house and the five feet in back the Board will have to have a very good reason to deny it. Mr. Pratt feels that legally the Chases have a pretty good case because part of their building sits upon somebody else's property.

Mr. Flanders asked if the bank would allow them to have only five feet in the rear and would like to hear from them. Mr. Henderson remarked that probably from the money the Chases receive for the land the bank will get a large part of it. He feels that nobody really knew what each one owned. A title search would not show that the portion of Chase's house sat on somebody else's land. To sell I am sure the Chases would have to straighten the matter out. It was felt that the bank knows all about this and we should not go to them.

The Chairman suggested that the Board might be ready for a vote on this petition. Mr. Flanders

MOVED: That this case be tabled and that this plan be shown in confidence to the bank, asking how they felt about it.

Mr. Henderson thinks there is not much they can do about it now. In the future if the Chases were to sell the bank would probably require that their consent be obtained. As there was no seconding of Mr. Flander's motion he withdrew it as probably none of our business. He still feels that it would benefit the town if the Telephone Company bought the Donovan property and the Chase land remained the same. Mr. Grant remarked that they do not need it immediately so probably would not buy it. Mr. Pratt feels that if this petition is refused the Telephone Company would probably not be upset, but the Chases would be very upset. Mr. Flanders asked, "Should we let the Chases make a mistake?" Mr. Pratt replied, "Our responsibility is to allow people to do what they want to with their property unless it is something against the town ordinances." Mr. Flanders pointed out that everything has to have a yard. Mr. Chase has more than 20 feet of back yard. Should we allow him to cut it down to five feet? Mr. Pratt replied that if the Board does not grant this it would have to have very definite reasons. We cannot tell a man how to live his life. Mr. Grant said that now the children play by choice at the side of the Coffee Shop on the pavement. Mr. Doane remarked that we need something in the Zoning Ordinance about business buildings covering only a certain percent of the land.

Mr. Flanders then

MOVED: That the variance be denied.

As there was no seconding Mr. Flanders withdrew the motion.

Mr. Pratt then said that it was his feeling that we had covered the matter as thoroughly as possible. As there was general agreement he

MOVED: That the variance be granted.

SECONDED: Mr. Grant

VOTED: In favor: Benjamin Pratt
Harold P. Grant
Catherine C. T. Dik
Emery S. Doane

Opposed: Robert B. Flanders

The Chairman asked if we should request the Telephone Company to tear down the garage. Mr. Pratt remarked that the Chases would like it, the Telephone Company would like it, and he thinks it will just disappear.

The Board then turned its attention to Case #9, the petition of Richard H. Davis for a variance in order to subdivide his property (formerly Warner) on Gregg Lake Road into a two acre house lot and a nonconforming lot for his woodworking shop.

Mr. Flanders remarked that as he sees it it would not help Mr. Davis at all to buy ten acres in back.

Mr. Pratt said that when Mr. Davis came to the Board previously he had no idea how things would work out. Had he come and said I would like to buy the Warner property, divide the property, sell the house, and build a shop on a nonconforming lot, sell the other house and live out of town but conduct my business in Antrim, because the Zoning Ordinance is grossly deficient in that it does not provide a Commercial District, by special exception the Board of Adjustment must grant this in a Rural District unless they can show specific reasons that it would be harmful, would we not have been obligated to grant the exception? What it comes down to is that the Board of Adjustment is being required to write the Zoning Ordinance, and that we should not do. It was

suggested that Mr. Davis keep his equipment at the shop and not in his house yard.

Mr. Pratt asked Mr. Henderson how he felt about the plan Mr. Davis presented. Is it legal? Mr. Henderson replied that the State is very casual. The Planning Board should be the one to require a better plan.

Mr. Doane told of figuring the area to be a total of 2.83 acres. We are faced with the fact that he has one acre more or less for the shop. I see no harm in this.

Mr. Flanders

MOVED: That we grant the variance.

Mr. Pratt questioned whether there are any principles here. There is discussion around town that this would set a precedent. His feeling is that he does not agree with that. If someone else wanted to do a similar thing, if abutters objected, that would be different. Mr. Henderson remarked that every case is an individual one so this is not really establishing a precedent.

SECONDED: Mr. Grant

VOTED: In favor: Benjamin Pratt
Harold P. Grant
Catherine C. T. Dik
Emery S. Doane
Robert B. Flanders

Opposed: None

Upon request of the Chairman Mr. Pratt read the minutes of the last meeting of the Board.

The Chairman instructed the Clerk to send to the Selectmen an amended annual report, bringing it up to date through tonight.

The Chairman then told that he and Mr. Henderson went over the Zoning law. Mr. Flanders feels it is not our problem; Mr. Doane agrees but thinks we are being made the goat without something decent to work with. He has made some charts which show up where we need to make some changes to clarify, and gave copies to everyone present to study.

He brought up the question of raising the fee to \$20 or maybe to \$25.

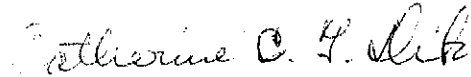
Mr. Pratt feels that this is steep for a person wanting to build on a porch.

Mr. Flanders thinks the Board of Adjustment should not attempt to clarify the Zoning Ordinance, but Mr. Doane feels it is at least his personal right and he thinks the Board can. We have small businesses all over the place now. But is it right for Antrim to require a man to buy land in a Commercial District for \$30,000 when he already owns land? These are questions to consider carefully.

It was remarked that the Gordon coffee shop had no approval from the Planning Board. They just had permission from the Selectmen for a sign only.

As there was no further business to come before the meeting it was adjourned at 10:30 P.M.

Respectfully submitted,



Catherine C. T. Dik, Clerk