

July 13, 1976

The Board of Adjustment met on July 13, 1976 at 7:30 P.M. in the Town Hall to hear the petition of Carter H. Proctor, prospective lessee with option to buy, for a variance to the terms of Article VI, Section B, to change from an existing non-conforming use in the Rural District to another non-conforming use (Case No. 18). The meeting was called to order at 7:35 P.M. and the roll call was as follows:

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| Emery S. Doane | - Present |
| Carole Webber | - Present |
| Eugene Bried | - Absent |
| Benjamin Pratt | - Present |
| Ralph Proctor | - Present but notparticipating |
| Robert B. Flanders, Alternate | - Present |
| Patricia Novak, Alternate | - Present but not participating |
| Catherine C. T. Dik, Clerk and Alternate | - Present |

The Clerk was called upon to read the petition and to recount the method of notification. Certified mail, return receipt requested, was sent to the petitioner, the present owner and three abutters or near neighbor. Notice by regular mail was sent to each member of this Board, to the Selectmen, the Town Counsel, Town Clerk, Chairman of the Planning Board, and the Building Inspector. Notice appeared in the Peterborough Transcript on July 1, 1976 on page 3, and was posted on the Town Bulletin Board.

Mr. Proctor was then called upon to present his case. He said that he would do woodworking and probably eventually enlarge the building and operation. He was contemplating going on to two shifts before long, and eventually might even go to three. There would probably be a great deal of noise as the planer, gang rip saws and sanders are tremendously loud. The operators wear ear plugs or muffs. The machinery does not run all day and sometimes not at all. There is no question there would be a great deal of noise,--a lot noisier than at present. The only one who is really going to hear it is Paul Kerber. The Clerk was then called upon to read a letter from an abutter, Paul F. Kerber, who was unable to attend the hearing. He objected to possible

noise pollution, but would favor a variance if his four suggestions were carried out and adhered to. The four suggestions are:

- "a) All noises emanating from all machines must be confined within their respective buildings by soundproofing or other means.
- b) All machine operations to cease and desist by 6 P.M.
- c) No machines or equipment to be left outside in view of road.
- d) No shopwork of any nature to be conducted outside confines of building."

Mr. Flanders and Mrs. Webber asked questions regarding the planer, and if it could be scheduled for day time only. Mr. Proctor replied that that is what he is doing at present but could not promise when he went on two shifts. At the new place it is different. At his present place the noise of the machines is not sufficient to disrupt the use of the telephone in the office which is on the floor above in a wooden building. But in the new place it would be different; the office wall between the shop and office would have to be insulated. The building is of concrete block construction and there is no way of knowing what the noise level will be until the machines are set up and used.

Mrs. Novak asked is it possible to put suppressors on the machines. Mr. Pratt remarked that if you have difficulty with TV or radio reception you have the right to complain to FCC. They will come in and find where the interference comes from and can shut down an operation. Mrs. Novak commented that if the noise is bad we can go to New Hampshire State for a sound test, and wondered if that could be done now and avoid future trouble. Mrs. Novak also questioned about tractor trailers in the yard--how many and how long would they be there. Mr. Proctor replied that they would be there just for loading. I manufacture the floor; I do not install it. The tractor trailer would come, load and go. These companies will not leave a flatbed there for long. The pieces are 12" wide and 45' long. A tractor trailer would come to pick up a load of pieces and they would take it down to the company who would do the repairing (installing).

Mr. Flanders remarked that he could see a lot of problems with night work; but probably not during the day. Mr. Kerber could make life miserable, and also the Cutters and Goffs.

Mr. Proctor went on to say that in the new place the ceilings are insulated but the walls are cement block. It probably will be "hell" inside but not outside. There is no way to tell in advance. The key to the situation is to keep the doors shut when the planer is in use. OSHA, a Federal organization, inspected the present operation and found nothing to complain of, and I have had no complaints outside of the Nichols. Mrs. Dik remarked that her TV is badly disrupted at times. Mr. Proctor felt that it must come from somewhere else.

Mr. Flanders asked what if you move in and it is noisy and the neighbors go to Concord and bring the government in? Mr. Proctor said that a Marlboro firm told him not worry; they cannot do anything. But that is not my attitude. If there is anything I can do to help my neighbors I will. Mr. Flanders said that at least you are aware that this can happen and that it is your responsibility. Mr. Proctor said that he and Mr. Kerber had talked over the operation at length, and he seemed in favor at that time. His objections are based on misinformation. The trailer flooring cannot be done before I put on a large addition which is way in the future. It would be in the back of the building and would be all inside. The lumber has to stay 9% moisture or less so it has to be stored indoors. The lumber is birch, maple, oak, mahogany.

It was asked how many people are employed, and the reply was just two in addition to self. The plot of land is between five and six acres with about an acre of parking there. Mrs. Webber asked if there are proper toilets and septic system and was assured that it is all new.

The Chairman called for any further questions or remarks from Mr. Proctor, and as there were none the hearing was declared closed at 8:30 P.M.

The Board met immediately in executive session. Mrs. Webber remarked that we really need to push for an industrial area, and Mr. Flanders agreed emphatically. Mr. Pratt agreed, and said we are going to have more and more difficult situations if there is no designated area. He summed up the problem by saying that the premises are to be put to a somewhat similar use, woodworking instead of metal working which will entail more noise. He does not need manpower but needs man hours in the over all process. Mr. Ralph Proctor remarked that if he wants to run three shifts there would be no problem in scheduling the use of the planer so as not to be troublesome. There is nothing in the law to prevent three shifts.

The Chairman suggested that consideration be given to the four suggestions contained in Mr. Kerber's letter:

- a) It is impossible, but noise level can be improved. We should have a responsibility to say no if we felt what he proposed to do is utterly unfit for the site.
- b) All machine operations cease and desist by 6 P.M. Impossible.
- c) Nothing to be left outside as explained by Mr. Proctor because wood must be kept dry.
- d) Could not take equipment outside.

Outside equipment or shopwork not likely to happen.

Mr. Pratt remarked that there is every indication that he can operate, but if he is not careful he will have difficulty with the neighbors and the State.

It was again noted that it cannot be known that there will be a noise pollution problem until he moves in and runs the operation. If the Town had an industrial area he would have an alternative to turn to, but as it does not he has no other place to go, lacking hard evidence to deny his petition. Therefore

Mr. Pratt MOVED: That the variance be granted, and resolved that the Board of justment approves the change from an existing non-conforming in the Rural District to another non-conforming use, as it found the proposed use is in general suitable for the proposed site.

SECONDED: By Mr. Flanders

VOTED: In favor: Emery S. Doane
Carole Webber
Catherine C. T. Dik
Robert B. Flanders
Benjamin Pratt

Opposed: None

The Chairman raised the question about open executive sessions and said that he had consulted with the Town Counsel who agreed that we were conducting our hearings and executive sessions properly, but that the minutes of the meetings should be available to the public on request within 24 hours.

The Chairman brought up again the question of change in fee for a second vote, and some members who were not present at the first vote felt that they would like further discussion with the Town Counsel. Mr. Pratt remarked that the State law is very plain. Mr. Flanders feels that the work of the Board of Adjustment is for the benefit of the Town and that it, therefore, should absorb the additional expense above the filing fee. Mrs. Webber asked whether we have to abide by the State law, or can we let the Town assume the extra expense. It was agreed to postpone a vote until the next meeting.

The meeting was adjourned at 9:15 P.M.

Respectfully submitted,

Catherine C. T. Dik

Catherine C. T. Dik, Clerk