

September 7, 1976

The Board of Adjustment met on Tuesday, September 7, 1976 to hear the petition of Mr. and Mrs. Francis Giamette (Case #19) and of Forest Fuels, Inc. (Case #20). The roll call was as follows:

Emery S. Doane	- Present
Carole Webber	- Present
Eugene Bried	- Present
Benjamin Pratt	- Absent
Ralph Proctor	- Present
Catherine C. T. Dik, Clerk & Alternate	- Present
Robert B. Flanders, Alternate	- Present
Patricia Novak, Alternate	- Present

Also present were Henry M. Colton representing Mrs. Brown, William C. Abbott, Mr. and Mrs. Gerald Durgin, Mr. and Mrs. Victor Smith, Mr. and Mrs. Wayne Nichols, Richard Schacht, Mr. and Mrs. Francis Giamette, Lawrence S. Duggan, Robert A. Caughey, Adolph Baer, and Mrs. John H. Scott.

At 7:30 P.M. Case #19 for a special exception to allow a restaurant, inn, tavern in the Giamette residence on Route 9 was called. The Clerk read the application and reported that notices were sent by certified mail, return receipt requested, to Mr. and Mrs. Francis Giamette, the petitioners, and five abutters and close neighbors, all receipts being received except from the Giamettes who when contacted by phone said they had received the notice and were aware of the time and place of the hearing. All members of the Board were notified by regular mail as were the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and Building Inspector. Notice was published in the Peterborough Transcript on August 16, 1976 on page 3 and posted on the Town Bulletin Board. The Clerk also read a letter from the Planning Board.

Mr. Giamette was then called on to present his case. Mr. Colton immediately questioned the narrow strip at the back of the property and stated it is not a legal lot. It was quickly pointed out that it was not considered a lot but merely an access from River Road to Lot #2 presently owned by the Peterborough Savings Bank. Mr. Colton also questioned how could they make a go of the business with so many other such places near it. Mr. Giamette explained that

this will not be a money making business, just a long-time dream,--a small place for country dining, something like "David's". They thought of buying "David's" but could not come to terms. We now own this property, formerly DeFoe, and are living in it. That should show our sincerity in the matter.

Referring to the Planning Board's letter Mr. Giamette said they have tried to get the information on the septic system from the Bank but have not yet succeeded. The leach lines were extended by Colonel DeFoe and there is a 750 or 1000 gallon tank. The kitchen facilities are extremely adequate and modern, very large, only slight additions of equipment needed. It is capable of handling the 30-odd people that the facility will seat.

Mr. Flanders asked, do you intend to use the addition that DeFoe put on, and the reply was that that would be the dining room, and then the present dining room, and then the living room will be converted to a very formal dining room for private parties.

Mrs. Webber asked, do you plan to have overnight guests, and the reply was not now; eventually we might. We have an option on the adjoining property and if we buy it then we would use the cabins for overnight guests. Mrs. Webber also asked about parking areas, and Mr. Giamette replied that there is plenty of land around there, on the lawn. It is all flat.

Mr. Doane asked, there would be no need to park on River Road and you would discourage it? Mr. Giamette said he certain would, but he did not think there would be any desire to. He added that there are adequate toilet facilities for public use--one in the addition and three upstairs. The Chairman remarked we are not required to see that you comply with the State regulations.

Mrs. Scott said she was not anxious to have another restaurant in the neighborhood, especially if there is a liquor license, and Mr. Giamette explained that it is not their intention to make a liquor lounge or hang-out for the college students. We would discourage that.

As there were no more questions the Chairman remarked that we would proba

have a decision this evening if you wished to wait. The hearing was then declared closed at 7:45 P.M., and the Board immediately retired to executive session.

The Chairman announced that he had consulted with Mr. Henderson in regard to the right-to-know law and was told that we can go into executive session for discussion but to take the vote and announce the decision in public.

With reference to the Giamette case Mr. Bried said that the Wellers had it as a restaurant and also rented rooms. He stayed there a lot ten years ago. Colonel DeFoe tore off the restaurant part. He feels the area is incorrectly zoned. It is anything but rural.

Mr. Proctor said he personally has no objection to the restaurant and inn, but is troubled because the area is only 3.66 acres and according to the Zoning Ordinance it should be five acres for an inn. However, Mr. Giamette has an option on the adjoining property of 8.02 acres which would make 11.68 in all. His only objection is the 3.66 acres instead of the five required.

Do we feel that this five acres requirement is something to adhere to and look into more seriously, or shall we forget it? It was suggested that we call in Mr. Giamette and tell him we have come upon a technicality and cannot give him a decision this evening. Mr. Giamette remarked that there are no qualifications for a restaurant and assured the Board that this is not a lodgings. There is no possible way I could accommodate lodgings with my family in the house. The only time we would do that would be when we acquire the other property. Some consideration was given to this question by Mr. Duggan and the Bank, but they felt that because the property has previously been used for lodgings, and Colonel DeFoe had rented rooms, it came under the "grandfather clause."

Mr. Proctor then

MOVED: That the special exception be granted with the provision that it is understood that it is to be used as a residence and restaurant only.

SECONDED: By Mrs. Webber

VOTED: In favor - Eugene Bried  
Emery S. Doane  
Patricia Novak  
Ralph Proctor  
Carole Webber

In opposition: None

Mr. Duggan protested, saying that without lodgings Mr. Giamette cannot get a Class A liquor license; he can only serve beer. The Wellers had it as a restaurant and when DeFoe subdivided he kept it as an inn. Mr. Giamette would qualify as an inn when he took over the cabins. The Chairman reminded Mr. Duggan that the hearing was closed and we could not reconsider the decision.

At 8:20 P.M. Case #20, Forest Fuels, Inc., was called. Mr. Proctor excused himself and Mr. Flanders was called to fill his place. The Clerk read the application and reported that notices were sent by certified mail, return receipt requested, to the petitioner, the owner, and seven abutters and close neighbors, with all receipts having been received. All members of the Board were notified by regular mail as were the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and Building Inspector. Notice was published in the Peterborough Transcript on August 16, 1976 on page 3 and posted on the Town Bulletin Board. The Clerk also read a letter from the Planning Board.

Mr. Robert Caughey opened his statements by saying that he wished to assure everyone that they are not trying to make a nuisance in the neighborhood. On the basis of EPA test procedures which will be necessary if any of this equipment is to be used industrially or otherwise the emission rate has tested well within the requirements of Massachusetts. It does not smoke or smell. When burning wood there is some smell once in a while. What we really want is to use the building as an engineering laboratory with a test bench for a burner, boiler and drier, testing people's fuel as submitted to us to evaluate it and their

use. It will be mostly evaluating fuels because different people around the country have different kinds--wood chips, sawdust, ground bark. All will burn, but not at the same rate. Therefore, it is necessary to evaluate the fuel. It would not be burning under certain conditions but testing what they would burn. It would be building models of different sizes from units for domestic use up to 200 horsepower boilers. Manufacturing would be done elsewhere.

Mrs. Smith asked about the fire hazard, and Mr. Caughey replied that he has not had any trouble and has had two installations running at his house for months now. He has not had any difficulty with fire insurance companies. Another function would be to test safety equipment. There would not be any sawdust etc. Mrs. Smith asked if he was sure there would not be soot coming down on our clothes etc. Mr. Caughey replied that it would be a lot cleaner and safer than what has been there with the two previous operations.

Mr. Nichols remarked that he understands that the sawdust there now will be cleaned up.

Mr. Caughey went on to say that one of the requirements before we can make any installations is that we have to get authorization from the Air Quality Commission. Massachusetts is very fussy; they do not allow anything up the stack at all. Mrs. Smith asked if a new chimney would be required, and Mr. Caughey said no. We really do not want to make a factory but want to make an engineering operation, but we have to make tests on the fuel for a given boiler with a given type of fuel. We would construct a few prototype models.

Mr. Doane asked what type of fabrication, riveting or welding? The answer was that there is no riveting any more; work would be done mostly in Keene or outside. Mr. Doane pointed out that a roof of a shed fell down because of the snow load and fell against a tree. Someone propped it up by 2 x 4. Mr. Nichols said that he telephoned Mr. Baker in Florida and told

him that one was down flat and another about to be. He said to pull them all down. What will happen to them eventually I do not know, but I hope they will be cleaned up and thus allow the sawdust disposal truck to come in.

Mr. Durgin asked how many people he intended to employ, and the reply was 4 or 5. Mr. Smith asked if there would be any heavy equipment and Mr. Caughey said only what I can lift. Mr. Nichols said he watched Mr. Caughey touch one off. He used something like a blowtorch and pumped it up. All you see is the red glow, no flames flaring up. Less smoke than from a fireplace, or as in this room tonight. What about noise that would disrupt the TV? Reply, not like Mr. Proctor. Mr. Doane asked are there toilet facilities on the property? Is there a dug well that is sufficient for your needs? Yes, because we have very few people. Mr. Bried said he was satisfied. Mrs. Webber asked if this burner was ever to be used in homes, or just industry? Reply, yes, I have one just for household size adapted from any 1000 BTU like a house furnace up to the biggest size. Could be fed by a conveyor belt and run by a thermostat. Asked if this would be the same operation as he now has in his garage Mr. Caughey replied, neater I hope. I would have more room, better facilities and a test bench which would involve a burner, boiler and drier because the major economy we can achieve is by recovering the heat from the stack. The test bench would need as much length as this room. This place looks like an ideal place to do it and it becomes available at the right time. The hearing was then declared closed, and the Board retired to executive session.

Mrs. Webber said we should not have hurried our decision on Case #19, but should have taken our time. We should have started Mr. Caughey's hearing at 8 o'clock on time.

Mr. Flanders has seen the Forest Fuels' operation and has no objection. Mrs. Webber questioned whether the water was fit to drink. Mr. Flanders said Mr. Caughey would use the water for industrial use only. Mr. Flanders than

MOVED: That the application to establish an engineering operation and laboratory for the design, construction and testing of prototype drier and burner equipment for use with various types of wood fuels be granted.

SECONDED: By Mrs. Webber

VOTED: Abstained: Eugene Bried  
 In favor: Emery S. Doane  
 Robert B. Flanders  
 Patricia Novak  
 Carole Webber

In opposition: None

Resolved: That the Board finds this use is acceptable to the area.

Returning to consideration of Case #19 Mr. Proctor said he would like to grant his request for an inn but as we have a technicality here in black and white then can we? If we have the technicality what are the alternatives? It is doubted that DeFoe ever took roomers in his home. Now Mr. Giamette wants to have one room for rent so he can get a liquor license. The Chairman called the Town Counsel for some clarification who felt that what precipitated the problem was the fact that Duggan and the applicant should have been aware of the five acres requirement and have asked for a variance for the 3.66 acres. He wanted to know who brought up the question and was told Mr. Proctor pointed out the Zoning Ordinance. The Chairman went on to say that it might be that we are entitled to take a broad view point of the same vote and extend it to the variance so he can get his liquor license.

Mrs. Novak thinks he should buy the land.

Mr. Proctor pointed out that as a Board of Adjustment we have in our by-laws two things we can act on,--special exceptions and variances. If we had the power or the right to change his application so that we can interpret it for a special exception and a variance I could pass it in one minute.

Mrs. Webber feels we should stick with our decision. The liquor license business came to us after we announced our decision.

Mr. Proctor suggested that Mr. Giamette be asked to apply for a variance

regarding the acreage. They are claiming that the "Grandfather clause" would hold, but they would have to prove it to us.

The Chairman suggested having another hearing with the Town Counsel present to give us legal advice and give Mr. Giamette the opportunity to apply for a variance. The Chairman will call on Mr. Giamette tomorrow and take him another application form for a variance. He remarked that people talk about the "grandfather clause" but do not know what they are talking about. They are really confused.

The meeting was adjourned at 10 P.M.

Respectfully submitted,

*Catherine C. T. Dik*

Catherine C. T. Dik, Clerk