

September 28, 1976

The Board of Adjustment met at 7:30 P.M. on Tuesday, September 28, 1976 to hear the petition of Mr. and Mrs. Francis Giamette (Case #19a) for a variance. The roll call was as follows:

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

Also present were Mr. and Mrs. Giamette and Lloyd N. Henderson, Town Counsel. The Clerk read the petition and reported that notices were sent by certified mail, return receipt requested, to the petitioners, five abutters and near neighbors and that all return receipts had been received. Notification was also sent by regular mail to all members of this Board, the Selectmen, Town Counsel, Chairman of the Planning Board and the Building Inspector. Also a notice was published in the Peterborough Transcript for September 16, 1976 on page 3 and posted on the Town Bulletin Board.

Mr. Giamette was then called upon to present his case. He said that in order to qualify for an inn-restaurant liquor license we must show intent to have at least three rental rooms on the premises. A Class A license requires separate home residence, separate egress and separate kitchen for the restaurant. We would be seeking an inn or hotel-inn-restaurant license. Because of these requirements and because we have only 3.66 acres it is necessary to come before this Board for a variance from the required five acres for an inn. Without a liquor license we would be at a great disadvantage in competition with other establishments. I understand that the Planning Board has met and is considering the possibility of rezoning the area from River Road east as a commercial and industrial district. So, if this proposition is put before two public hearings this petition is merely an interim request. It is really beside the point.

The Chairman then called for any questions and Mrs. Webber raised the point that at the first hearing for a special exception Mr. Giamette made it very clear that they did not want to rent rooms to people. We did not know they needed a liquor license until after the announcement of our decision. Mr. Giamette replied, no that is not what I intended to say. The only reason is we would have to show that we will have rooms for rent. If someone comes we cannot turn them away. We would have access to the cabins and those would be used for rental. He was asked if he would display a sign and he said it would be "Hawthorne Inn", not mentioning lodgings. He went on to say that previously he had said they would be choosy about what kind of clients they had. Mrs. Webber remarked that it is not our prerogative to aid and abet illegally in getting a liquor license. Mr. Giamette said they would be at an unfair disadvantage if they do not have a license. Mrs. Webber asked what would be the opposition to making it five acres? The reply was that the Bank is not interested in subdividing; it is all or nothing at all. We would have liked to buy directly behind or one or two of the cottages. We do have an option. We would like to arrange with the Bank to rent on a yearly basis. If we cannot then I would have to remodel one or the other buildings on the property, but on a cash flow basis the rental is better. Mr. Pratt further questioned, does it make any difference that these cabins which would be the means by which you could make the establishment of an inn on the Bank's property (which is not at issue at this hearing tonight)? Reply, we are asking for a variance of my property so if I wish we can rent the rooms and live in the cabins ourselves, or run an inn and rent our facilities from an abutter. Again, we are in an area to discuss with the liquor people. We maybe will have to live in the cabins. He was asked, if you are living in the cabins, would it mean you can get a Class A license? No, there would be rooms upstairs for rent. Is there any problem with your property being used as a portion of an inn with the rental part not being directly next to or on the same plot?

Reply, the "Grandfather Clause" applies to that. That property has been and is known to be rental property. Whether I am a lessee should not concern the Board. I cannot assume at this time that I would have to live in the cabins. One possibility is to live in the main property and operate a restaurant, but in order to get an inn liquor license we would have to show three rooms for rent on adjoining property. Suppose Mr. Giamette rented the Bank property and maintained lodgings in the cabins, would he have to come before this Board? The Town Counsel replied, Yes, for the restaurant. So far as the ownership or leasing I do not think so.

Mr. Giamette said he would not go before the liquor board before he has the necessary variances and special exceptions. The local autonomy of the liquor board is powerful. It is conceivable that we will not have to go to the Bank at all, but no one knows and it all depends on Mr. Kiblin.

The Town Counsel said basically the only question before this Board is the question of the acreage. Mrs. Webber said that granting an exception this way this Board has a responsibility for the future. Mr. Giamette agreed, but pointed out that exceptions or variances do not set a precedent. In small towns it is a little different.

Mr. Bried said he had no questions. He understands the matter and knows where he is going. Mrs. Novak said the Planning Board did not comment on the situation; they had this notice.

The Chairman called for any further questions. Mrs. Webber said the cabins are mostly two and a half rooms. They all have sinks in them. Mr. Giamette replied that they have been completely redone,--completely insulated, modernized, showers, hot water, electric heat, each metered individually. They are three or two and a half rooms with a kitchenette. Two cabins that are larger are presently rented by the Bank. Not sure of the number of rooms.

The Chairman remarked that the purpose of the five acres is so there

will be room around and be away from the other homes. This is a corner lot and having directly behind a right of way that the Bank owns, and behind that a large tract which goes in back of the Bank's land and fronts on Route 9. Mr. Healy leased the cabins, but never exercised his option to buy. The property remained subdivided and is so designated.

The hearing was closed at 8:05 P.M.

The Board then met in executive session. Mrs. Webber said she will approve the variance on the basis that it would be a hardship to operate without a liquor license, and to obtain that is up to Mr. Giamette. She hopes this area is zoned for industrial; that would make a big difference to the work of this Board. If Mr. Giamette gets this license he may well buy the cabins and keep them up.

Mr. Bried feels you cannot draw the line too severely by adhering to the letter of the law. Mr. Pratt said, actually the reason that he obviously wants to get the variance is to enable him to get the liquor license, but that is not our province. It is purely and simply to enable the man to operate an inn. Doesn't it come down to whether an inn can be properly operated on 3.66 acres? Mrs. Novak does not think the Bank will just sit back and wait. She would think they would do everything to help him acquire it.

The Chairman remarked that he is trying to shove this "Grandfather Clause" down our throat a bit. Mr. Henderson said he had debated the matter with him and told him he did not have a very good case. Mr. Pratt asked is there any detriment to the Town of Antrim to allow him to run an inn on that property now with the possible embarrassment of this Board in the future in refusing someone else to do so on less than five acres? In regard to anything similar, we can assume that the Town will vote the area industrial. Mr. Henderson said Mr. Kiblin of the licensing board is apt to keep tabs on who is keeping the liquor laws and is better at this than anyone else around. I do not think he will tolerate any breaking the laws.

Mr. Henderson remarked that it is beside the point maybe, but these seem like very nice people, but he could sell it in two months to someone who is undesirable. A variance holds as long as it continues in the same use, and can go on indefinitely. Only when it changes do they have to come before the Board. He also said that there is no legal reason why a person cannot apply for both a special exception and a variance at the same hearing. It is often done.

Mr. Pratt remarked that it would be confusing for someone who might read the minutes of these two hearings. They might wonder what went on because Mr. Giamette changed his intent about lodgings.

The discussion then ended, and the Giamettes were invited to come in and hear the decision and vote.

Mr. Bried

MOVED: That the request of Mr. and Mrs. Giamette be granted that they be allowed to use the premises for inn lodgings.

SECONDED: By Mr. Pratt

VOTED: In favor: Eugene Bried  
Benjamin Pratt  
Patricia Novak  
Carole Webber  
Emery S. Doane

In opposition: None

Resolved, that denial would prevent the proper enjoyment of the applicants' land under the strict terms of the Zoning Ordinance and thus constitute an unnecessary hardship.

Mr. Giamette thanked the Board and assured us that he would make the property an asset to the Town. He understands our concern about what might become of the property should he sell.

The Chairman called the attention of the members of the Board to the meetings in Marlborough of the Municipal Training Consortium for Planning Boards, Boards of Selectmen, Boards of Adjustment and Boards of Conservation, and suggested they might be of interest and value.

The meeting was adjourned at 9 P.M.

Respectfully submitted,

*Catherine C. L. Aik*