

October 12, 1976

The Board of Adjustment met at 7:30 P.M. on Tuesday, October 12, 1976 at the Town Hall to hear the petitions of Thomas F. Holigan, Jr. (Case #21), Mrs. Kathleen Curtis (Case #22) and Mr. and Mrs. Ennio Fabrizio (Case #23). The meeting was called to order at 7:30 P.M. and roll call of the Board was as follows:

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

Also present were Thomas F. Holigan, Jr., Kathleen Curtis, Mrs. Ennio Fabrizio and friend, George McClean, Richard Jackson, Eric Tenney, Mr. and Mrs. Richard Schacht, Mrs. Helene Hills, William O'Neil, Mr. and Mrs. Clyde L. Case, Mrs. Bonnie Jackson, W. Dewey Elliott, Robert Jones, and William S. Lockwood.

The Chairman announced that the Board would take up the petition of Kathleen Curtis (Case #22) first. The Clerk read the petition and reported that notices were sent by certified mail, return receipt requested, to the petitioner, the owner and five abutters or near neighbors. All certified mail receipts had been received. Notices were also sent by regular mail to all members of this Board, to the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and the Building Inspector. It was published in the Peterborough Transcript on September 30, 1976 on page 11 and posted on the Town Bulletin Board. The Clerk also read a letter from the Planning Board not recommending the granting of the petition. Mrs. Curtis was then called on to present her case. She wishes to place a mobile home on rented land of W. Dewey Elliott on North Main Street. She said that one reason was that her children were in the Antrim school and she did not want to move them out because they have had problems but have settled down. The teachers have said it would be detrimental to move them. This is the main reason. She has purchased a

mobile home, a decent looking one, There is a septic system on this lot but if it is not adequate I am willing, and Mr. Elliott is willing for me, to redo it. There is also a water connection there.

The Chairman called for those in favor to speak, and Robert Jones of North Main Street said that Mrs. Curtis works for him doing book work and it will make it very convenient for her not to have any travelling. Mr. Elliott would be getting some rent to help pay his taxes. There were two mobile homes there once. I cannot see that it will take anything away from the neighborhood. The children are already in the school in the town. If she stayed at Longwood Trailer Park in Deering they would have to go to the school there. Dewey Elliott said that there were two mobile homes there and then moved off and he does not feel it degraded anyone's property. Mrs. Curtis presented two letters in favor from abutters Mrs. Hills and Mr. and Mrs. Bezio.

The Chairman asked if there were anyone else to speak in behalf of the applicant, and as there were none he then called on those who wished to speak in opposition. Mr. William S. Lockwood of Mecilbrook Road said he is against it because he bought his property because there was no mobile home there at that time. Mr. Case said that he had just bought the property across the street and thought the area would remain the same. Real estate people give the impression that when there is a mobile home it degrades the neighborhood. I do not believe I would have bought the property if there had been a mobile home there. Mrs. Schacht said she would prefer not to have a mobile home there. It opens up the opportunity for more in many small areas in that neighborhood. There definitely should be a place for a mobile home park and keep such homes there. Mr. McClean asked what was the length of the lease, and Mrs. Curtis replied, five years. The commuting is ten miles but that is not the major problem. The problem is the children, foster children who had a rough life before I brought them here. I had a house on Rte. 202 in Antrim but it was sold and I had to move out last

Saturday. Mr. Jones explained that Mrs. Curtis recently got a divorce and, therefore, was not able to support the house so went to a mobile home in Deering because less expensive. Now she wants to put it in Antrim and keep her children in the school. Mrs. Webber asked how many years since a mobile home was there and Mr. Jones replied five years, maybe four, I am guessing. Mr. Case asked, why can you make an exception anywhere? Mr. Bried answered that it is in the Zoning Ordinance. Mr. Proctor, Mr. Pratt and Mrs. Novak said they had no questions. Mr. Schacht asked a question relating to the granting of a special exception. He said there are five criteria and he is not sure everyone here understands them. You will have to decide the case on the merit of the applicable one. Mr. McClea asked, is it not possible to keep the children in the Antrim School and not live in Antrim? Mrs. Webber replied that Mrs. Curtis would have to pay tuition and that is very expensive. Mrs. Curtis said that another reason in favor is that that location is all set up with water and septic system and the rent is not as much as at the trailer park. Mr. Pratt remarked in reply to Mr. Schacht that one of the duties of the Board of Adjustment is to grant special exceptions. The Chairman said that if anyone has anything else they wish to express now is the time. As there are none I hereby declare the hearing closed at 8 P.M.

Case #23, Mr. and Mrs. Ennio Fabrizio, was then called. The Clerk read the application for a special exception and reported that notices were sent by certified mail, return receipt requested, to the petitioners, the owners and four abutters, and all receipts have been received. Notices were also sent by regular mail to all members of this Board, the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board and Building Inspector. It was published in the Peterborough Transcript, September 30, 1976 on page 11 and posted on the Town Bulletin Board. The Clerk also read a letter from the Planning Board in which they recommended the granting of the petition

with a limitation of five years in which to carry out the project.

Mr. William O'Neil, Realtor, presented the case for Mrs. Fabrizio. He described the property. The Fabrizios wish to build a restaurant to seat about 150 people on a 22-acre lot on Route 9 with frontage of 1537.8 feet and extending back to the Old Keene Road. The building would be sited about mid-way on the property with a set back from the street of 200 to 250 feet, taking advantage of scenic views. It would be about 500 feet from the driveway of the Jackson property. Mr. O'Neil said he had been to the State Highway Department which says they will give the right of way to the Fabrizio property when they are the owners. The question was asked if this would be a fast food type of restaurant and the reply was no, a sit-down type, specializing in sea food. Mrs. Fabrizio showed a sketch of the kind of building. She said we are talking about a summer type restaurant with a porch on one side. There will be a fence in the rear where garbage etc. will be kept. The driveway will be one entrance-exit on Route 9 and will circle in front of the building with parking on one side. Asked if the family will live there the reply was no, we are keeping our home in Massachusetts. We have friends who are moving here and we will either stay with them or make other arrangements just for the summer. We plan on seating 150 people including the porch. Mrs. Webber asked if there is sufficient water there and Mr. O'Neil replied that there should be but we have not yet taken that step but will investigate that after this hearing. The land rises from the street and then flattens off. We will have to cut a way for the driveway. Mrs. Webber asked, if you ever want to could you put a home on the property? Reply, yes, but not for now. We have a son in high school in Massachusetts and so want to stay. Mr. O'Neil pointed out that the Zoning Ordinance requires that there be 150 feet to the residence. According to the plot plan there are 750 to 800 feet from the Jackson home. On this basis and the large acreage and placement in the middle of the property Mrs. Fabrizio requests

approval of her petition. Mrs. Webber asked if they had ever been in the business before. Mrs. Fabrizio said never, but her husband was a cook in the Army and studied in Germany and has put on dinners for organizations etc.

The Chairman called for any remarks from those opposed. Mrs. Bonnie Jackson said it is going to depreciate her home. I do not want people around at night. I live alone. I would have to sell my home if a restaurant went in there. Mr. Jackson said he had nothing against such a thing. I do not really think it would detract from anything in that area. It is a rural area. Mr. O'Neil said that as a real estate person I do not think that a good looking restaurant being spaced so far away from Mrs. Jackson's home would in any way detract from her home. Mr. Jackson's office is about 500 feet from the beginning of the property. The Chairman asked what hours they would operate, and the reply was it probably would be only six days a week with Monday off. We would stop serving by 11 and be over by midnight. It was asked would you have a liquor license? Reply, just for a restaurant,--an eating place--no bar for people just to sit around. Mr. McClean asked what if you decide on fast food in four and a half years--decide you do not want a restaurant? What can stop you? Mrs. Novak said this is one of the things that concerned the Planning Board and thus suggested a five-year limit on the special exception granted.

The Chairman called for any further comments. As there were none he declared the hearing closed at 8:25 P.M.

The case of Thomas F. Holigan, Jr. (Case #21) was then called. The Clerk read the petition for a special exception to place a mobile home on a lot on Willard Pond Road, and reported that notices had been sent by certified mail, return receipt requested, to the petitioner and three abutters and all receipts had been received. Notices by regular mail were also sent to all members of the Board, the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and Building Inspector. It was published in the Peterborough Transcript on

September 30, 1976 on page 11 and posted on the Town Bulletin Board. The Chairman then called on Mr. Holigan to present his case. He said he purchased the land from William Weston in 1970. At the Planning Board meeting we could not find records in the office, but I have been receiving my tax bill right along. At the time I bought the land I called the Selectmen and was told there were no restrictions,--no zoning then. But by the time I put the mobile home there in the fall of 1975 zoning had gone into effect. I was notified that I had violated the Zoning Ordinance. It has been a year now and I have been trying to catch up the loose ends. I have approval from the State for the septic system. The Chairman remarked that the lot is approximately one acre. Mr. Tenney remarked that at the time of purchase the Planning Board was approving half-acre or quarter-acre lots but that times have changed since then. There is another mobile home around the corner in Hancock. Have you got a building permit yet? Not until the septic system was approved. The Chairman said you realize that if we grant this we would require that you put it on a permanent foundation. Two or three feet into the ground. Mr. Holigan said the septic system as per State requirements cost \$1800. Mr. Tenney said that he is satisfied that Mr. Holigan has cooperated completely since we notified him of the violation. It is probably our fault that it has gone on so long. The Chairman remarked that the lot is one acre but he might be able to acquire the land in back. It is a gravel pit that the Road Agent has the rights to, but the gravel is all gone now and it is about to be closed down. It would be better to have it cleaned up. It is a non-conforming lot but has legal status as a building lot. He has a right to put a mobile home there provided we approve the special exception for it. I do not see that it would harm the neighborhood. There are one or two modest homes there. From one you can see no one. Everyone is well separated. There is a total of four on the whole road in both towns. As there were no further remarks the hearing was closed at 8:45 P.M.

The Chairman opened the Executive Session with the statement that in fairness to the Connecticut people we will discuss their cases first.

Case #21. The Chairman said he has been to see the property. Mr. Weston has been away but he had talked with him this morning. Mrs. Novak remarked that Mr. Holigan has been through a lot. He came in a year ago and said what shall I do? It really is not his fault. Mr. Pratt said he gathers we can reasonably assume that the Planning Board has no objection. As long as that is a part of the Zoning Ordinance and is one of the preconditions the Board would protect itself better if it did have a formal indication from the Planning Board on things of this type. The Chairman asked that Mrs. Novak convey that message to the Planning Board.

Mr. Pratt

MOVED: That we grant the special exception on the basis that the site appears to be appropriate for the use.

SECONDED: By Mrs. Webber

VOTED: In favor: Emery S. Doane
 Carole Webber
 Eugene Bried
 Benjamin Pratt
 Ralph Proctor

In opposition: None

Mr. Bried suggested that it be granted with the stipulation that Mr. Holigan put in a permanent foundation within one year. This was unanimously agreed to.

Case #23. In the general discussion it was pointed out that the right of way had been brought up and Mr. O'Neil had said he has been to the State Right of Way Department. They approve, but cannot give it in writing until the Fabrizzios actually buy the property. They can get a liquor license for a restaurant because they would not be living in the building. It is not a question of their building a restaurant and then building a house. It is a simple case of whether we are going to grant a restaurant on the property with the stipulation that the State requirements be met for access to the property.

The area should be zoned for business. If in 25 years from now only that restaurant is on the 22 acres, that is low use of that land compared to what else will be in the area. Traffic has increased enormously. Mrs. Novak remarked that the Planning Board was not in agreement on the Industrial District matter. It thinks it needs more discussion and should not be rammed through. Mrs. Webber said she is probably more in favor of their trying a restaurant on this land rather than they put a restaurant on it and then subdivide and put up several houses. Mr. Proctor would be satisfied to have a restaurant. Also Mr. Doane, Mr. Pratt and Mr. Bried would be satisfied to have a restaurant.

Mrs. Webber

MOVED: That the special exception be granted with the condition that it will expire at the end of a five-year period if the construction is not completed.

SECONDED: By Mr. Bried

VOTED: In favor: Emery S. Doane
Carole Webber
Eugene Bried
Benjamin Pratt
Ralph Proctor

In opposition: None

Case #22. The discussion brought out that there are good reasons against granting this special exception,--the Planning Board and the neighbors. This Board does not have the right to grant it because the Planning Board disapproves. In effect this woman made the situation. She had lived in Antrim and had her foster children in the Antrim school and now has bought a trailer in Deering. She based the need on the matter of keeping the children in the Antrim school because they have had problems and the teachers feel that it would be detrimental to move them. Mrs. Webber is not in favor of having the mobile home in the area. It is about four years since there has been a mobile home on the site. Mr. Proctor

MOVED: That the Board concurs with the Planning Board that the site is inappropriate for the proposed use.

SECONDED: By Mr. Pratt

VOTED: In favor: Emery S. Doane
Carole Webber
Eugene Bried
Benjamin Pratt
Ralph Proctor

In opposition: None

The Chairman brought up the matter of notification of Decisions. It is costing a lot of money to issue the notices of hearings, which by statute of the State are sent by certified mail, return receipt requested. There is nothing said about newspaper notices and the posting on the Bulletin Board. Then in the Zoning Ordinance and in the Board of Adjustment by-laws notice of hearings are to be sent by certified mail, return receipt requested, to the petitioner and abutters, published in the Peterborough Transcript and posted on the Town Bulletin Board. Notice of the decision is to be sent to the Selectmen and they will notify the applicant by certified mail, return receipt requested. We can omit at least notice of decision to the members of this Board because they receive a copy of the minutes. There is no requirements that we notify by certified mail of a decision. It was agreed that:

The Decision be sent to the applicant by certified mail, return receipt requested;
to abutters by regular mail;
to Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board and Building Inspector by regular mail;
posted on the Town Bulletin Board;
and published in the Peterborough Transcript.

Do not send decisions to the members of this Board because they will receive the minutes of the meeting.

The meeting was adjourned at 9:50 P.M.

Respectfully submitted,

Catherine C. T. Dik

Catherine C. T. Dik, Clerk