

November 16, 1976

The adjourned executive session of the Board of Adjustment convened at 7:30 P.M. on Tuesday, November 16, 1976 in the Town Hall. 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 Messrs. Kevit and Werth, Howard Humphrey, Sr., Mr. and Mrs. Clark Craig, Sr., Norma Bryer, Mrs. Brian Hennessey, Mr. Bagloe, Mr. Nilson, Lloyd N. Henderson, Mr. and Mrs. Gould, and Richard Schacht. The meeting was called to order at 7:30 P.M. and it was immediately moved to open the meeting for the purpose of receiving and/or reading the expected communications.

The Chairman called upon the Town Counsel to make a few remarks with regard to procedure. Mr. Henderson said that the Board is meeting in public session only to receive two items of information pertaining to the meeting of last week. That information will come before the Board in open session. After that the Board will adjourn to Executive Session to deliberate. It will not receive any further facts of information or opinions. He said he will join the Board in Executive Session solely for the purpose of answering any legal questions which may arise, and if there are none he will not say a word.

The Chairman remarked that we will have to operate by the book, I am sure. He then read a letter from Robert L. Edwards and placed it on file. Mr. Werth asked if that was written as a citizen or an office holder. He was referred to the signature on the letter as an individual. The Chairman then presented comparative tax evaluations as estimated by Raymond Damour, State Tax Appraiser. He stated that the initial rule of thumb on site layout

and placement for 1/3 acre lots would be a site improvement charge of \$200.00 per lot over and above present base land assessment:

Present Base	\$25,150.00
122 sites x \$200.	<u>24,400.00</u>

Estimated Assessment	\$49,500.00
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Individual buildings, as developed and completed would add to base according to their individual assessed value.

117 acres N/S Old Butman Road - Land/Vest Inc.

Assessed at \$25,150.00 in 1976

Rate \$27.33 per M

Tax 1976-77 - \$687.35

Of 117 acres - 17 acres classified "Marshy", not suitable for building  
 5 acres estimate for roads, cul-de-sac etc. - Out  
 5 acres minimum lot size per Land/Vest covenants -  
 best possible no. of home sites 19

Based on average assessed value of \$35,000 per home:

Total assessment 19 x 35,000 = \$665,000.00

1976-77 tax rate of \$27.33 M x 665,000 = \$18,174.45 Tax Income

With average 1½ child per home 19 x 1½ = 28+

Conval cost per High School student \$1400.

" " per lower grade - use estimate \$1000

28 x 1000 = \$28,000 potential education

Unable to estimate Town maintenance expense for road servicing resulting from Town acceptance of new roads in subdivision.

The Chairman asked if everyone has a reasonable understanding of what was read and all indicated they had no problem in understanding. These tax figures were then placed on file.

Mrs. Webber moved that we meet in executive session. Mr. Bried seconded and it was a unanimous vote in favor. Mr. Kevit remarked that if this is their prime residence they will be accepted in Conval, otherwise no way. It was asked what if they live here for a year? They could send to Conval. Answer, they will not live here for a year. These are recreational vehicles.

In executive session the Chairman distributed a memorandum outlining the matters we should consider on the evidence presented at the meeting last week.

Mr. Pratt observed that from an instinctive or emotional view point

it is a man's right to do what he wants to do with his land, within limits. Now this particular case is not quite like that. These people want to buy land which they do not now own and then do something with it. That basic difference does not apply legally; there should be no difference.

Mrs. Webber still has some question about the school children. If a person is going to lease a lot and stay he can send the children to school, and if it is more than a mile a school bus would have to go up that road for the children. Mr. Henderson remarked that the one mile limit is Conval's; State law is two miles. Mrs. Webber went on to say in regard to the land fill operation, presuming they are granted a special exception, we have to pay our share on the basis of population. The operation would then cost the Town a good deal of money. Mr. Henderson said he did not really know, and probably no one in Antrim did, just how the charge is reached. Bennington figures it annually and Antrim pays. In regard to the proposed operation Mrs. Webber's feeling is that Kevit and Werth were awfully vague about restrictions and details. When they read their presentation they really did not say anything very specific. It seemed to her that a project of this magnitude should have been prepared by a land surveyer. They did say something about a Conservation map and soil survey, but they should have brought more information. Mr. Henderson pointed out that the Planning Board minutes said they have cleared with the Pollution Control Board. Asked if it is proper for us to know whether any local bank is financing this Mr. Henderson replied that it may or may not be proper but I do not think anyone knows.

Mr. Pratt referred to the specific requirements 2, 3 and 4 of the Zoning Ordinance for a special exception, and said on 2 he does not know exactly where we do stand on that; on 3, the use as developed will not affect the neighborhood, he has major concerns in that area.

On number 2 Mr. Doane replied that he talked with Mr. Merrifield before the press release was written to make sure that he was in agreement that the

Planning Board was not in favor of the petition. Since then I have asked him a second time how we would treat that same situation. If we want to deny this petition do we quote them as having denied or as having approved it. He said, "You may quote them as having denied it."

Mr. Pratt continued that he has concerns about requirement number 3. Number 4 regarding no nuisance or serious hazard to vehicles or pedestrians, I have concerns regarding that one. He has a feeling about camp sites of the type as proposed here. Private ones are found around the country primarily in the White Mts. or in territory of that type where there are very noticeable attractions that draw people to the area and those attractions are what people go to see. They use those camping areas as a base to see them. We do not have such attractions in Antrim. It is my feeling that people who rent land want boating, fishing, trail biking, snowmobiling--that sort of thing. I do not think it is realistic to expect that these activities would be carried on within the confines of the area, and I do not see, with 122 sites, how it could help but be an impact on surrounding real estate. I think the impact would be considerable. I am concerned that these are specific requirements the Board must look at to make a decision.

Mrs. Webber wonders if they have anything that shows that there is enough interest in doing this in this area.

Mr. Bried remarked that we have no way of knowing; you are really groping. Mrs. Webber: no, but if I were going to do this I would want some assurance. Mr. Pratt: Look at it from the standpoint that the operation would be successful and properly operated. On that basis what would be the impact on the community and the surrounding area. Mr. Bried: You feel that the area does not have enough to offer them without infringing on other people's property. Reply, yes I think you are right.

Mr. Henderson said that he recommended to the Planning Board that they

put in their letter to this Board that you should consider the six requirements for a special exception. If the petitioners fulfilled all the State requirements the Planning Board felt they must go along with the recommendation. He added that he did not think we necessarily need "hang our hats" on the letter from the Planning Board. There was a feeling to some extent that some members of the Planning Board did not speak up at the first meeting but did in their second meeting, and Kevit and Werth left the first meeting feeling that they were in good shape. This Board had a full discussion at your hearing, and your minutes are full and accurate. In giving your reasons, sticking to the wording of the Ordinance so far as possible is the best procedure. The Chairman referred the Board to the sheet headed "Board of Adjustment Procedures". Mrs. Webber remarked that it says we cannot take public opinion as a basis for a vote. Mr. Henderson's reply was that if an abutter expresses a concern then it becomes significant.

Mr. Bried suggested considering the six considerations:

1. No, they will not be similar. - But Mr. Henderson read the used permitted in the Rural District (see Ordinance) and Mr. Bried and Mr. Pratt conceded this one. Yes.
2. The Planning Board has found the use appropriate to the site. Because of conflict between Mr. Merrified's indication of the Planning Board's lack of approval with the records of the two Planning Board's meetings which clearly indicate that the Board had voted to approve the application, on the basis of this conflict this Board did not include this requirement. This Board felt they could not properly include the Planning Board's action.
3. The use as developed will not adversely affect the neighborhood. It definitely would.
4. No nuisance or serious hazard to vehicles or pedestrians. No, there would be.
5. Adequate and appropriate facilities. Just because they say they will have them does not mean they will. All these things should be there when they start. To open they must have a place to dump sewage, place to wash, and washing machines. The State says they have to provide comfort stations within 500 feet of each trailer. We have to depend upon Pollution Control to set it up right.

5. Adequate and appropriate facilities would be provided.  
Conceded - yes.

Phase 1	would provide	32	units
Phase 2	"	"	47
Phase 3	"	"	43
Total		122	"

6. The proposed use shall comply with all the frontage, setback, minimum area, sanitary protection, sign, parking and/or other applicable requirements for itself or its most similar use. Part of this is Pollution Control's problem. Signs, Selectmen. Frontage with 100 foot buffer zone could not be better. Mrs. Novak questioned parking. Are we sure they will comply with that? There is allotted on the plan quite a large area for that.

Mr. Henderson said if you approve this you can approve it with any number of restrictions and if they do not meet these they can be denied. It was asked if you have to use all six in making our decision. Reply, you can deny on any one of them. If they comply with all six we would have to grant, but if we think it is fine but they fulfill only five we have no recourse but to deny it. Mr. Pratt asked would the position of the Board be more secure with one or two statements which are very difficult to refuse, or with a larger number of positions some of which are vulnerable? Mr. Henderson said stick to one or two good ones. Mr. Pratt, conceivably this project would mean a great deal to the gentlemen involved and they might appeal. Mr. Henderson replied that as far as he knew they have not sought legal advice. They should have.

The Chairman asked Mr. Henderson to explain the Land/Vest covenants August 10, 1976 that are on record (dated June 30, 1976. Recorded/Hillsborough County Registry of Deeds, Vol. 2472, p. 291). The proposed camp site use seems to be incompatible with the proposed use of the rest of the area.

Mrs. Novak remarked that there would be an adverse effect on the neighborhood. She then asked, assuming it is appealed to court would the judgment be based only on the minutes of the Executive Session and the hearing itself? Mr. Henderson's reply, it would be looking for errors in law and procedural conduct. They look at the minute's only to

see if there is enough information to support your decision. Even if the judge did not agree with your decision he would rule against you only because of procedure. The judge would send it back and say you have not done it right and do it all over again.

The Board then moved to open session and Mrs. Novak.

MOVED: That the application of Joseph Kevit and Charles Werth to establish a year-round camp site as provided for under Article V, Section C at Old Butman Road be denied for the reasons given in the following resolution passed by a majority of the appointed members of the Board of Adjustment.

- Resolved:
1. A nuisance or serious hazard to vehicles or pedestrians would exist in that the town roads leading to the proposed site are narrow and inadequate to handle the increased traffic to be produced by the proposed use.
  2. The use as developed would adversely affect the neighborhood in that it would greatly increase the population of the area thus adding vehicular and pedestrian traffic.
  3. The proposed use is incompatible with the restrictions of record on abutting property, and is in fact opposed by a majority of the abutting landowners present at the hearing.

SECONDED: By Mr. Bried

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

In opposition: None

At 9:45 P.M. Mrs. Novak made a motion to adjourn which was seconded and unanimously voted.

Respectfully submitted,

*Catherine C. T. Dik*

Catherine C. T. Dik, Clerk