

February 22, 1977

The Board of Adjustment convened on Tuesday, February 22, 1977 at 7:30 P.M. at the Antrim Little Town Hall to hear the petition of Robert P. Jones (Case No. 25) to place a mobile home and erect a maintenance garage on his property on Clinton Road. The roll call was as follows:

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

Also present were: Robert P. Jones, petitioner
 Mrs. Marion Robinson and daughter Mrs. Smith
 Mr. and Mrs. Richard Schacht
 Mr. Hervey Patch
 Mr. and Mrs. Charles Elliott
 Mrs. Kathleen Curtis
 Mr. Herbert Nilson
 Mr. and Mrs. Irving Gardner
 Mr. Robert Caughey
 Mr. Lloyd N. Henderson, Town Counsel

The meeting was called to order by Chairman Emery S. Doane at 7:35 P.M. and the Clerk read the application and reported that notices were sent by certified mail, return receipt requested, to the petitioner and the following abutters:

Clarence Chandler	Clinton Road, Antrim, N.H. 03440
Alan Gould	" " " " "
Marion Robinson	" " " " "
Hervey Patch	" " " " "
Robert Caughey	" " " " "
Ms. Esther Cuddihy	" " " " "
Charles Elliott	" " " " "
Ms. Mary Boynton	" " " " "
Mr. and Mrs. Victor Smith	" " " " "

and that all receipts had been received; by regular mail to all members of this Board, the Selectmen, Town Clerk, Town Counsel, Chairman of the Planning Board, and Building Inspector. Notice was published in the Peterborough Transcript for February 10, 1977 on page 7 and posted on the Town Bulletin Board.

Mr. Jones was then called upon to present his case. He said that the main reason is that we have a maintenance garage in Washington where we have been doing work on a development there on road construction. The work is now almost complete. I am doing more work around the State as a private contractor from Washington. Most of the men who work for me are from around here. It is expensive to drive that distance every day. The garage will be placed at the back of the lot and will be scarcely visible from the road. I did have vandalism last year--\$15,000 worth--and want someone there to watch equipment not in the garage. On the frontage of the lot I plan to seed and do some planting in the spring. We do want to keep the place neat--not like a junk yard. I do not know of any opposition. Everything will be kept back but will be going in and out the same roadway as now. The property in Washington is now for sale. It is lake property and expensive for a maintenance garage. I hope to sell it and reinvest the money in the place here. I have talked with a building contractor about the cost of a building of metal. The value of the garage will supersede \$15,000 for the building itself. A plot plan was circulated to the Board and participants in the hearing.

The Chairman then called upon those in favor of the petition to speak. Mr. Schacht said, speaking for himself and not as a Selectman, that he is half for and half against this petition. He would have no objection for the business use. He thinks it would be great to have the industry come into the town. But in bringing the mobile home into it we have displayed our feelings in another meeting. There is an article coming up at Town Meeting to confine mobile homes to registered parks.

Mrs. Robinson has no objection, but would like to point out that the iron fence near where her land abuts is not the boundary line. She has had it surveyed and will have better markers put there as soon as the snow goes. She has had a lot of gravel taken out of there erroneously. Mr. Jones replied that his land does not go that far. This is on Gould's property which is, actually,

the second gravel pit. It is unfortunate, but it is not over the line from him.

Mr. Elliott remarked that he is in support of Mr. Jones. If he bought the land, which he did, he should be able to do as he pleases on the property. He is not in favor of having a trailer there, but on the other hand he cannot see how his neighbors can tell Mr. Jones he cannot. He is not in favor of zoning.

Mr. Nilson said he is a strong advocate for good zoning. On this particular case he goes along on half the proposal. On the mobile home he disagrees. When Mr. Jones bought the property I went to the Planning Board and asked how could this happen. They replied that they could not do anything about it. He has checked and finds that Mr. Jones does a very clean operation. He is back far enough off the road. The Selectmen gave approval for moving a small garage there without going through the Board of Adjustment. He pays taxes to the Town and to the State from which a portion comes back to the Town.

Mr. Caughey said he is inclined to second Mr. Nilson's remarks. He is an abutter across the street. He sees no reason why he should not have his operation there, and asked what is the ordinance for a single mobile home. The Town Counsel explained the present ordinance in regard to a mobile home. The Planning Board is supposed to find that a site complies with all requirements of the State. If we have an ordinance we should go by it. He went on to say that a single non-conforming lot is a lot that existed before zoning as a buildable lot. It is still a buildable lot subject to the fact that there is some restriction on it because of zoning. The Chairman explained that when the application was made out the applicant, to protect himself in case it was necessary, he asked for a variance on the required frontage. The lot consists of 3.6 acres with 162' frontage.

The Chairman then read letters from:

Hazel and Victor Smith who are not in favor of having a mobile home or a garage on Clinton Road.

Alan and Cynthia Gould who are not opposed to a maintenance garage in the vicinity, but are opposed to a mobile home in the vicinity.

The Planning Board opines it is not in the best interest of the town to locate a mobile home on the property, and implied that it favored the business use.

All letters are on file with the application.

At this point Mr. Elliott, who had declared himself as not in favor of zoning in general, left in disgust.

Mr. Jones remarked that it seems to him the main objection to a mobile home is that people are afraid it is going to deteriorate and will look bad in the neighborhood. We have had this vandalism problem which is no nickel and dime proposition (it amounts to \$15,000). We have equipment in various places in New Hampshire but I feel that at least one instance was damage in the gravel pit. I have a mobile home in Newport; Kathy Curtis, who works for me, lives in one. It will be put on a permanent foundation, that is no problem. We are willing to cover the outside with textured siding or shingles. That is cheaper than building a house. When asked about the type of garage he planned Mr. Jones said it would be a rectangular building with a two-pitch roof similar to Wyman's garage in Hillsborough, and added that it looks to him that people are in favor of the garage building but are worried about the mobile home. If there is anything that he can do to blend it in with the other homes in the neighborhood he would be willing to do it. He has talked with the Small Businessmen's organization about the vandalism and they suggest either a chain link fence which is very expensive or putting dogs in there. With small children in the neighborhood that is not a good idea.

Mrs. Webber asked if Mrs. Curtis would live there. Would it be a safe place for your children? She replied, "Yes."

Mr. Jones explained that he has 15 pieces of construction equipment. The garage would take care of about three pieces in it. He was asked if the equipment is gone all day. He replied that we have from 12 to sometimes 6 minimum there. In the summer time we would have someone there most of the time. It was asked if it would be a paved road in, and Mr. Jones replied that he would leave it gravel. Activity going in and out would not be much greater than what is there now. It would basically be trucks in and out. I admit the egress and exit is bad, but we are living with it now. Mrs. Dik asked if there could be signs of trucks entering to warn traffic, and he replied that he feels that a fine idea. He has talked with Mr. Thompson, state district road man, about cutting the bank down and cutting down some trees to improve the situation. Mr. Patch remarked that he sits in the window of his house across the street now and sees them going up the bank, into my garden, etc. Did not the Town vote against the use of the gravel pit because of that bad driveway? Mr. Jones said that he bought the property in 1973 so it pre-dates zoning. Mr. Doane asked what volume of business have you had to date, and do you plan to expand? Reply: Backhoe, bulldozers, graders, trucks. I do not plan to expand the company size. Question: Would you have 15 pieces of equipment on the premises? Reply: Mostly, I usually have six maybe seven; I have had it all there at different times. It could be there all at the same time, but not so now.

Mr. Gardner asked, how do you move the backhoe? Reply: on a flatbed or tag-along instead of flatbed. Could you have a flag man up the street or a truck with beacon lights?

Mr. Nilson asked the Board, if you do go with the trailer is there any way to put some restrictions on that trailer so that if Mr. Jones sells that property the permit for the trailer would not go along with the land? Mr. Doane replied that the Board can put on any restrictions they wish.

Mr. Jones noted that the trailer (mobile home) will be back 400' from the road and only slightly visible. Question: Would it be landscaped?

Mr. Jones noted that the mobile home will be back 400' from the road and only slightly visible. Question: Would it be landscaped?

Mr. Doane remarked that the Board's options are to grant either, both, or neither.

Mrs. Schacht said that the Town has not dealt adequately with mobile homes. There is something coming up at Town Meeting which will show the feeling of the Town, and I think we should not grant anything until the vote on this has been taken.

The Chairman said he assumed that everyone has asked Mr. Jones all the questions that come to mind so declare the hearing closed. Mrs. Thomas moved that the Board go into executive session; Mrs. Webber seconded; and it was so voted unanimously.

The Board met in executive session at 9:10 P.M.

Mr. Pratt remarked that we do not have to deal with the variance because it is a legal non-conforming lot.

Mrs. Thomas questioned about spot zoning. She regrets the Davis decision, and Mr. Pratt remarked that we were then, and at the moment we are still, operating under the zoning ordinance as adopted. As it was then, and it has not changed, under the circumstances we had to grant Davis his request.

Mrs. Webber said she was sorry we had to. Mr. Pratt said that there is some impact on the Town, but the prime harm is to Mr. Davis; there is a definite impact on the value of his own property. As for Mr. Jones, there is a building there; the story is that the Selectmen said if it is under \$300 value it is all right. Mrs. Webber asked if that building would remain there; that it did not pre-date zoning. He had no structures there when he bought it. Mr. Pratt left the meeting to ask Mr. Jones and returned with the reply that the building would remain there.

Mrs. Webber asked if we can hold the ruling on the mobile home until after the Town Meeting when we know the feeling of the Town? The Chairman asked the Town Counsel who replied that if the changes pass then the mobile home is out of order. We can grant the mobile home knowing that the Building Inspector cannot issue the building permit until after the meeting and be guided by that. Mr. Pratt asked, considering just for the garage, can the Building Inspector issue the building permit now? The Chairman replied that if we grant everything tonight and the changes are accepted then he would lose everything and would have to come back to this Board for a variance which is harder to get than a special exception.

The Planning Board letter was brought up and noted that it should have given the reason for approving the business use.

Mr. Pratt said he was inclined to vote yes on the business use and no on the mobile home as one of the requirements is not met and that is the recommendation of the Planning Board is not in favor, and there is substantial opposition from some of the abutters. Mrs. Webber agrees. The Chairman stated that in actuality we have been asked to expand a non-conforming use. He said Mr. Jones reported there are about 10,000 yards of gravel left which could possibly be moved out in one day. He knows that he has reached the end of the beneficial use of the sand and gravel but it is an ideal place for his equipment. A maintenance garage does not work 8 to 5 five days a week. He plows for the State and often is out all night. There are going to be all kinds of noise, but people do not seem to realize it. If this is appealed to the courts all they do is rule on errors in procedure of the Board. As the ordinance stands we must give a decision within 30 days. Mr. Pratt feels we must adhere to the present ordinance. The Chairman remarked that we could deny both subject to appeal by Mr. Jones; we could grant both subject to the Building Inspector's with-

holding of permits until after Town Meeting. We would thus dispose of the case. If the amendments to the zoning ordinance are voted then the Building Inspector could not issue the permits and then our permission would be null and void. If we cannot come to a decision then we would be in violation of the Antrim Zoning Ordinance requiring a decision within 30 days. Actually we would not violate because the State does not specify any time. Mr. Pratt remarked that as it stands now he does not see any serious legal problems that we need a ruling on by the Town Counsel. Mr. Pratt repeated that he is in favor of the business use but denies the mobile home. Mrs. Webber agrees, and added that if she was inclined to vote in favor then she would think she ought to wait. It would be wrong to vote for that mobile home, if we do not want it, and think that maybe the Town will vote against it. Mr. Pratt said he sees no justification to hold off. It does not have grounds enough to grant it.

The Chairman suggested that Mr. Jones be told that the mobile home is denied, and hold up on the decision of the business use. Mr. Pratt said that the abutters have not objected to the business use. Whereas under the Zoning Ordinance as presently drawn he is entitled to make that use, so in my own mind I am in favor of granting that right. Then if the zoning changes are voted down he could get his permit and go ahead. But if the Town adopts the changes then our permission is useless. He would have to come back and that same purpose, in light of the Town's acceptance, might be entirely different. By granting that tonight I do not see I am jeopardizing the rights of the townspeople. If granted under the existing by-laws then permission will be withheld by the Building Inspector until after Town Meeting. Then if accepted by the Town he does not have a thing. Only one abutter has objected to the business use. If these changes are adopted then the Town has started to speak where they want this business use.

Mrs. Thomas: What harm would we be doing by waiting? Mr. Pratt: Perhaps none. I can see no harm in acting tonight because if the townspeople

do not feel adequate protection by the existing Ordinance then by their vote they can prevent this very thing we are considering tonight.

The Chairman asked would it be the sense of this meeting that we anticipate a decision tonight but we do not know just when? Mrs. Webber: I would say all right to the business but no to the mobile home. Mr. Pratt agreed. Mrs. Thomas feels that the people in the area should be the ones most concerned. She would hate to see a bad accident. She is against the mobile home. Mrs. Dik is in favor of business use with the provision that steps be taken to safeguard entering and exiting traffic by signs, or flashing lights, or man with flag. She is against the mobile home. Mr. Pratt remarked that if we do not reach a decision tonight he will be gone all next week and what his schedule for the following week will be he does not know. Mrs. Thomas repeated that she is not in favor of the mobile home and does not see how we can get the man out as he has been there so long but would like to restrict him so that we cannot get into a situation like we did on Rte. 202.

After more discussion on points already made, and with the approval of the Town Counsel, the Board returned to open session where the following votes were taken: Mr. Pratt

MOVED: That a special exception under terms of Article V, Section C,2,1 to place a mobile home be denied because the site is not appropriate for the use and the proposed use is not similar to those permitted in the district.

SECONDED: By Mrs. Webber

VOTED: In Favor: Emery S. Doane
Benjamin Pratt
Carole Webber
Catherine C. T. Dik
Patricia Thomas

In opposition: None

Mrs. Dik then

MOVED: That a special exception under the terms of Article V, Section C,2,k to erect a maintenance garage be granted with the following restrictions:

That in order to avoid nuisance or serious hazard to vehicles or pedestrians, applicant shall make arrangements with the State Highway Department to erect signs warning of trucks entering and exiting, and take such other steps as may be necessary or appropriate for maximum public safety; and it is understood that the Business will be operated during normal business hours, except in cases of an emergency. When it is necessary to perform work at unusual hours applicant shall make reasonable efforts to avoid unnecessary noise.

SECONDED: By Mrs. Thomas

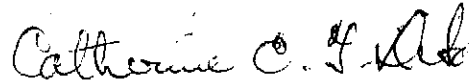
VOTED: In favor: Emery S. Doane
Benjamin Pratt
Carole Webber
Catherine C. T. Dik
Patricia Thomas

In opposition: None

It was agreed that the request for a variance on frontage was not required because this is a legal non-conforming lot.

The meeting was adjourned at 10:20 P.M.

Respectfully submitted,



Catherine C. T. Dik, Clerk