

August 23, 1977

The Board of Adjustment met on Tuesday, August 23, 1977 in the Antrim Town Hall to hear the petition of Fred B. Elliott (Case No. 32) for a variance for his land on Forest Street and Summit Avenue to permit the adjustment of property lines and accept 47-foot frontage for an independent lot of 5.6 acres. The roll call was as follows:

Benjamin Pratt, Chairman	- Present
Carole Webber, Vice Chairman	- Absent
Eugene Bried	- Present
Robert B. Flanders	- Absent
Patricia Thomas	- Present
Ralph Proctor, Alternate	- Absent
George McLean, Alternate	- Present
Catherine C. T. Dik, Alternate & Clerk	- Present

Also present were Peter Merrifield, Emery S. Doane, Mr. and Mrs. Fred B. Elliott, and Ray Taylor and daughter, Mrs. Morse. The Chairman called the meeting to order at 7:33 P.M. The Clerk read the application and reported that notices were sent by certified mail, return receipt requested, to the petitioner and abutters Mrs. Alice Hurlin, David and Barbara Ostram, Contoocook Valley Regional School District, Ray Taylor, and Lawrence Greene. All receipts have been received. Notices were sent by regular mail to all members of this Board, the Selectmen, Town Clerk, Town Counsel, and the Chairman of the Planning Board. Notice was published in the Peterborough Transcript on August 11, 1977 on page 8 and posted on the Town Bulletin Board. The Clerk mentioned that there were copies of various plans of the land on file for reference.

Mr. Elliott was then called on to present his case and said in selling his house on Lot 1 he had to move the side line so as to include the driveway, and in so doing it presented problems for the required frontage under the Zoning Ordinance for Lot 2. Therefore, the side line of Lot 3 adjoining Lot 2 was abolished to make 147-foot frontage for Lot 2. On further thought he felt that this was not a wise move. It deprived him of one building lot. There is a possibility of six building lots on the 5.6-acre lot sometime in the future, and he felt it is advantageous to the town to keep this land available for

future development. If this variance is not granted, if he understands the Zoning Ordinance correctly, only one house can be built on this 5.6 acres plus the $\frac{1}{2}$ -acre former lot, so some land for future house lots is being blocked off.

The Chairman called for those in favor to speak, and as there were none he called for those in opposition. There were none. He then called for anyone who wanted to ask questions. Mrs. Thomas, who is also a member of the Planning Board, said that Mr. Schacht came to them with a plan to take three feet by slanting the side line of Lot 1 in order to make the required 50-foot roadway into Lot 2, but the Planning Board felt that was not wise. It said the minimum has to be 50 feet and that in order to meet that requirement the line between Lot 2 and the 100' x 200' lot was obliterated. When Mr. Schacht returned with that agreement with Mr. Elliott, thus showing there were 50 feet for a roadway, on that understanding, the Planning Board approved it on September 8, 1976, and it was so recorded in Hillsborough County Registry of Deeds. Mr. Merrifield said that had the petitioner said at the beginning that he would come before the Board of Adjustment for a variance for the 47-foot frontage the Planning Board would have abided by it. Mr. Doane remarked that the original plan approved by the Planning Board was not drawn in waterproof ink and, therefore, was not acceptable at the Registry of Deeds and had to be redrawn. He went on to say that Forest Street is a two-rod road and so a fifty-foot road on beyond would not be essential. Mrs. Thomas asked Mr. Elliott if he didn't think he would have a better buyer by selling both pieces (Lots 2 and 3) together, and Mr. Elliott replied he could still sell together. His concern is that the land in Lot 2 will be land locked and the town will be the loser. Mr. Bried asked how could it be land locked with the 47-foot frontage. The reply: Because it is not the required 50 feet. Mr. Pratt remarked that that is the whole basis of this hearing for a variance.

He asked, is it correct that this land was subdivided when you sold Lot 1? Mr. Merrifield said that at the Planning Board we were told by the real estate agent that the line between Lot 2 and 3 was obliterated and on that basis it gave sufficient frontage to get at that back 5.6 acres. Mr. Pratt summed it up by saying that originally there were three separate lots all purchased by the Elliott family at different times (1903, 1913, and 1930) and what you did was make an adjustment of a boundary line between two lots. Mr. Elliott remarked that due to the archaic methods most measurements are "more or less" and it is very difficult to find an exact point. The Chairman said that so far as we are concerned we pass judgment tonight on the figures as presented tonight. He asked if there was anything more to be said on the matter, and as there was not he declared the hearing closed at 8 P.M.

The Board then met in executive session. Mr. Bried remarked that we are going to get into trouble sometime if we do not require a survey, but Mr. Pratt said that the only way we can work is on the basis of the figures given us and if later it turns out they were incorrect then the variance is overturned. It is the Planning Board's responsibility to get the correct figures. The Planning Board could not approve that erasure of the lot line, and it could not be recorded, without Mr. Elliott's approval. I believe Mr. Schacht went to Mr. Elliott and told him that he had to do it in order to get the Planning Board's approval. Later Mr. Elliott thought it over and changed his mind.

Mr. McLean: I do not see one reason for granting the variance. He does not seem to care one way or another. There is no hardship.

Mr. Pratt: I guess it might be that the application should have been filled out differently. I have no question in my mind of what he intended. If this variance is granted it will allow this 5.6 acres lot to be broken up into lots and in the future will be immensely more valuable than for just one house lot. If you take three feet from Lot 3 it becomes a non-conforming lot.

The hardship is that he loses one lot.

Mr. McLean: I do not think that anyone of us can say this land is going to be more valuable by dividing it into a lot of little lots. By his admission he does not care one way or other. Why did he come before us?

Mr. Pratt: Obviously he wants it granted or he would not have spent \$32 to come before us. It is obviously why he wants the variance,-- strictly on the potential. He wants to maintain the integrity of the half-acre lot and also this lot of 5.6 acres. The thing is that he lacks three feet for an access road. The Zoning Ordinance says he cannot have an access of less than 50 feet, but that is running off an accepted town road that is 33 feet wide. He can provide 47 feet. Assuming this variance is granted it would allow an entrance of 47 feet. If he or somebody else were going to put a road in here and put in lots, the road has to meet the town standards. If someone wants to do anything different he must come back to this Board, or somebody, and get a special dispensation.

Mr. McLean: I fail to see why we are granting a variance.

Mr. Pratt: What he wants to do is to maintain this lot and that lot and Zoning says he cannot do it. It is this unique quality of lacking three feet, and so that means erasing, under the Zoning Ordinance in this section of town, a half-acre lot. He must, therefore, sell something in the vicinity of six acres as one lot, and that is in my way of thinking a hardship. Mr. McLean: He himself said he thought he could get the same amount of money either way. By his own testimony and by what we have heard from the Planning Board and a reviewing of the facts I would not grant the variance.

Mrs. Thomas: This puts more burden on the 33-foot road by granting this.

After considerable discussion and reference to the plot plan it became evident there was no good way to make a 50-foot access. Mr. Pratt pointed out that the minimum requirement is substantially more than what the

town has already provided, but fails to meet the Zoning requirements. The town is no where near providing what he is able to provide. He is being enjoined from doing what he wants to because of that requirement. I think that legally he has a strong case for a hardship. That is a very basic hardship. Where the town provides only 33 feet and he has 47 there is an injustice because he can't provide 50. The commonsense potential of that is tremendously different. The value of that piece of property will be greatly diminished if the variance is denied. Mr. Bried remarked that he thinks we have to use commonsense in these cases. The Chairman asked if the Board was ready to vote on this tonight, and as the answer was in the affirmative it returned to open session and Mr. Bried

MOVED: That the variance for a 47-foot frontage to Lot 2 containing 5.6 acres be granted.

SECONDED: By Mr. Pratt

VOTED: In favor: Eugene Bried
Benjamin Pratt
Catherine C. T. Dik

In opposition: George McLean
Patricia Thomas

Resolved: That the denial of the variance would needlessly restrict the owner in the disposition of his property.

It was moved, seconded, and voted to adjourn at 8:55 P.M.

Respectfully submitted,

Catherine C. T. Dik

Catherine C. T. Dik, Clerk