

The Board of Adjustment met on Tuesday, August 30, 1977 in the Antrim Town Hall to hear the petitions of Stephen Chase, Jr. (Case No. 33) for a variance to erect a storage building for masonry company's supplies on Depot Street in the Business District, and of Edward O. and Helen Rockwell and Dyno Manufacturing Co. (Robert Lawn) (Case No. 34) to permit the manufacture of women's clothing on Clinton Road in the Rural District. The roll call was as follows:

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

Also present were Mr. and Mrs. Stephen Chase, Gladys Newhall, Howard Humphrey, Sr., Mr. and Mrs. Philip Lang, Peter Merrifield, Mr. and Mrs. Emery S. Doane, Richard Schacht, Eric Tenney, Dana Slater, Mr. and Mrs. Robert Lawn, Smith Harriman, Mrs. Beverly Tenney, and Mrs. Thomas Gallagher.

The meeting was called to order at 7:35 P.M. and the Chairmap announced that there were two hearings this evening for variances and that we would hold the public hearings in the order in which the applications were filed. Then when the public hearings are concluded the Board will sit down and see whether a decision will be made tonight. We have all our regular Board here tonight so Mr. Pratt, Mrs. Webber, Mr. Bried, Mr. Flanders and Mrs. Thomas will serve.

The Clerk read the application of Stephen Chase, Jr. (Case No. 33) and reported that notices were sent by certified mail, return receipt requested, to the petitioner and abutters Gladys Newhall and Beverly N. Tenney and 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 18, 1977 on page 7 and posted on the

Town Bulletin Board. The Chairman then spoke on what the Board of Adjustment's responsibilities or options are in the case of variances and what the purpose of the variance actually is. He said that in his own case, and he suspects most of us on the Board before we came on the Board, were laboring under the same misconceptions. He referred to a booklet put out by New Hampshire Office of State Planning and read from it some sections pertaining to what we are doing tonight. "...many people erroneously believe that the purpose of the public hearing is to gauge the sentiment of the public or to hear personal reasons why individuals are for or against the appeal. Actually the purpose of the hearings is to allow anyone concerned with the case to present evidence, and while this evidence may be in the form of an opinion rather than an established fact, it should support the grounds which the board must consider when making a determination. The parade of witnesses, representing themselves or organizations, who merely wish to 'go on record' as supporting or opposing something has no place in a board of adjustment hearing." To consider whether a given thing is good or bad for the community and try to make a decision on that basis, actually a Board of Adjustment does not have that power. It is narrowly limited by the State laws under which it must work. There are four conditions that must be present:

1. A hardship must exist which is inherent in the land in question and which is not shared in common with other parcels of land in the district.
2. The spirit and intent of the ordinance must not be broken by granting the variance.
3. The granting of the variance will not adversely affect other property in the district.
4. Not to grant the variance would result in injustice.

We are here tonight to try to learn what evidence there is to support those four conditions. I would like to keep our discussion aimed at those particular requirements. There will be a tape recorder running so those who speak will please identify themselves. When the minutes are written we will erase the

tape. Those bringing the application will speak first to present their case. Those in favor will then speak, and then those in opposition.

Then there will be a chance for rebuttal.

Mr. Chase was then called on to present his case and said that the property in question is on the eastern part of the Contoocook River on Depot Street, formerly owned by Tenney and then the Antrim town dump. The building he would like to raise there would be structurally built on cement footing reinforced with steel mesh, of cement block with front of the building facing Depot Street of brick veneer. It is to be used for storage area for supplies and in the winter for repair of equipment. There would be a woodburning stove in it for winter. There is no way that a sanitary condition would arise because he will not be working there eight hours a day. The roof will be asbestos shingles. The windows will be steel sash 8 x 2 and high enough so that the building could not be broken in to. There will be a door 3 x 6 in front and an overhead door on the side. The only things he would put in the building would be machinery and materials. That is all it is needed for.

The Chairman asked if there was anyone who would like to speak in favor and Mr. Doane presented Mr. Chase's application for a building permit for the Board's review. Mr. Chase said the building size would be 30 x 40, about 1200 square feet. Around the building from the river bank to the Baldwin Bridge there would be a fence anchored to it, and eventually a paved driveway into it.

Mr. Flanders asked if he was not afraid it would settle, and Mr. Chase said that the ground would be dug and filled with tamped gravel. Mr. Bried asked if he would dig down through the fill below the frost line, and the reply was he expected to but it was difficult to know how deep the fill is. The Chairman called for anyone in favor to speak and as there was no one he called for those in opposition; also none. Mr. Flanders asked what was his plan for construction. Answer: Probably in October before the bad weather so as to get the mixers, truck, mortar and plaster etc. inside.

Mr. Tenney remarked that this is really the only type of thing that can be put on it. Mrs. Webber asked whether he would have a sign on the building or on the grounds. Answer: Just a small sign to identify it for deliveries. Would you have a telephone? Answer: Yes, probably. How many feet from the river bank? Probably 30 feet. Is this an area where the river floods? It might, but it would have to be a good deal of water to do that. Mrs. Tenney said that her place had never flooded. The Chairman asked the Building Inspector if he sees any problem about this. Reply: He sees none. Mrs. Tenney remarked that it would be a gain for both Bennington and Antrim--to get rid of what is in the center of the town and Antrim would gain taxes on the building. Gladys Newhall, an abutter, laughed and said she was thinking just that but didn't want to say it. The Chairman asked if there was anything else to say. As there was not the hearing was closed at 7:55 P.M.

The Clerk then read the petition of Edward O. and Helen Rockwell and Dyno Manufacturing Co. (Robert Lawn) (Case No. 34) and reported that notices were hand delivered to and receipts signed by:

Edward O. and Helen Rockwell  
 George E. Edwards, Pres., E. H. Edwards & Sons  
 Mrs. Marian Robinson  
 Ralph Whittemore  
 Arthur Bryer  
 Mrs. Penelope Lewis  
 Mr. and Mrs. Roger Brooks  
 Mr. and Mrs. Norman Stacy  
 Mr. and Mrs. Stanley Ordway

By certified mail, return receipt requested, to:

Robert Lawn, Dyno Manufacturing Co., Jaffrey  
 Mrs. Thelma Robinson, Wakefield, Massachusetts  
 Christie Ellingwood, Sr., Antrim

and all receipts have been received.

By regular mail to:

All members of this Board  
 Selectmen

Town Clerk  
Town Counsel  
Chairman of the Planning Board

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The Chairman asked if there is anyone here to speak in behalf of the Rockwells who are not here tonight. Robert Lawn rose to say that he can only answer questions that the assembly may have. I do not know what you want to know. Some have seen my place in Jaffrey. We started in July 1971, and we have just outgrown ourselves. We have nowhere to go from where we are without enormous expense. We are looking outside for a labor market and where we can put a shop. Mr. Schacht of North Main Street, Antrim, said that he thinks the thing that was brought up very early in the hearing is important. We can talk about the advantages,--Mr. Lawn can give jobs, enlarge the tax base, etc., but we can go directly to the hardship. When you look at the building where the Rockwells live, the loading docks, etc., this is all it is suited for. If you deny it you are doing them an injustice. There is no other use but for one more apartment, or perhaps a flea market. I think you would be doing a hardship.

The Chairman asked if there was anyone else to speak in favor, and there were none. Anyone in opposition? None. Any questions? Mr. Flanders raised the questions of approximately how many people, what kind of machinery, and parking area. Mr. Lawn replied that he plans no more than 16 people. The area does not allow any more than that,--exits, entry, egress, ~~ped~~etic system, weight on floor limit it. We use commercial sewing machines; stand and table go about 100 pounds and are 20" x 48". I do not know that I would put in 16 machines, perhaps 12 or 14 at outside. The parking area we have mentioned is behind the building where the old town barn stood and Mr. Rockwell has filled where it stood. I have approximately 2 cars and three trucks, a pick-up, van and rack body. The van

would be used to bring material from Jaffrey and I would travel back and forth in my own vehicle.

Mrs. Webber asked if there would be more than one shift, and the reply was no. She asked what hours would they work, and Mr. Lawn said either 7 to 3:30 or 8 to 4:30 whichever was preferable to the employees. Mrs. Webber mentioned that there is a school bus stop right there, and he said that time should be avoided. She asked what was the noise factor and would the machines interfere electrically. The reply was that there would be no interference unless there is a tap off the line to a home. The noise inside is a mere whir or buzz. Going by outside you would not know what was going on. Any retail sales? No. You are leasing this? Yes. In that event would it be up to Mr. Rockwell to put in fire escapes. Answer: It would be Mr. Rockwell's responsibility, but because of the way I want to set the plant up, as we have proposed in discussion with the Rockwells, we will light the building, provide fire protection--3 20-pound ABC fire extinguishers. No sprinkler system? No.

Mrs. Thomas: Is this an overlap of your help coming here, or would it be Antrim people? No, Antrim people. The only people over here would be to do training and our management.

Mr. Flanders asked about the septic system. Reply: There is a 1000 gallons tank. Our injection into the system would be approximately 5% of what a family of two would be. The well produces  $1\frac{1}{2}$  gallons per minute which, according to well people, is a minimum supply. Our demand would be less than 8% of demand on supply. Mr. Flanders asked if they would be in the part where the old store was? Answer: Correct.

Mr. Bried asked if the apartment where the people live is upstairs? Answer: Yes, it is all separate. There are two avenues of exit, in fact three, from the store where we propose to go. They are situated far enough apart so that it is no problem.

Mr. McLean: I have always understood that the size of the leach bed is more important than the tank. How big is the leach bed? Answer: That we do not know.

Mr. Flanders: If it is not adequate you are going to be in big trouble because of the river right there. You will have the State all over you. Answer: Right. Mr. Schacht: Would not the onus of the septic system be on the one using it? If something goes wrong it would have to be fixed. Did this go to the Planning Board? Mr. Merrifield replied no, for a variance it is not necessary to go to the Planning Board first. There is sort of a gentlemen's agreement, but we did not know of this case.

Mr. Flanders addressed Mr. Lawn: You assured us that there will be no problems with parking. Mr. Lawn: That was my first consideration. There is no way to park on the street. This is why we measured off the back to give us sufficient parking. Mr. Flanders: When school is in session there is a great deal of traffic. Reply: We have no intention to park on the street. Mrs. Webber asked how many cars will 16 people use? Reply: I expect 16. Just using the back? What would be the entrance? Reply: The entrance is on Old Hancock Road, a 20-foot right of way to parking beyond Mr. Edward's land. The Rockwell's line is approximately at the end of their building and the beginning of Mr. Edwards'. Mr. Flanders: In the Rural District "ample off-street parking" is necessary.

Mr. Tenney remarked that under the four conditions for a variance number 2 says that "the spirit and intent of the ordinance must not be broken by granting the variance". The townspeople wanted controlled growth. We have a business district which is fairly arbitrary. It is what you have to put a little business in to get started in this town. Are we going to require people to go to Route 202 and put up a brand new building? If a person wants to get started where can he? I do not believe that is the spirit and intent of the Zoning Ordinance. Mr. Flanders: asked who built

the Rockwell building and Mr. Humphrey replied that Mr. Dawson from Bennington built it sixty years ago and the loading docks were for grain.

Mr. Schacht remarked that this is an area that we all want to grow and work in and earn a few extra bucks. Can the Rockwells do much else with it but put in a business or one more apartment? There is not physically very much that can be done with it that will allow them to get the full value out of their property. You are in fact telling them you are limited in what you can do with it.

Mr. Merrifield, speaking as a citizen and not as Chairman of the Planning Board, said there is only one thing I would like to say for your consideration. I realize there are many facets of this question to be considered, but we have rules and regulations to follow. This would definitely be spot zoning. If we allow this it would happen all over town, and I would weigh this factor very heavily.

Mr. Lawn said that one thing they pride themselves in, and he thinks we all do, is that we want specifically to get along with the people in the town, in North Branch, and our neighbors, and if there is to be any dissension in the town we do not want to move in. I feel very strongly about that.

Mrs. Lang remarked that she wholeheartedly agrees with Mr. Schacht and Mr. Tenney because the concensus of opinion in Antrim is going so much against zoning that people are beginning to strike out against it and say to heck with it I am going to do what I want to do. I am afraid if we deny too many of these things they are going to rebel. These people pay taxes on this property and if we say they cannot do anything with it they would tear it down.

Mr. Flanders asked if there were any abutters present; he did not believe there were any.

The Chairman called for any further comments--going, going, ... and Mr. Humphrey cried "sold". The hearing was declared closed at 8:30 P.M.



The Board then met in executive session and turned to discussion of Case No. 33. Mr. Flanders remarked that the yard cannot be kept in a mess because he would not have anything there very long for it would be stolen. Mrs. Thomas felt that we should emphasize that any sign must conform with our regulations. Mr. Flanders: What other use can this be put to? The sewage plant will be on one side, the river on the other, and Miss Newhall on the other.

Mr. McLean: Use variances are just a plain no no. The people voted in a Business District and in both cases what it would be doing for the town is against what the majority ruled. Why do people vote in the first place if we spot zone all over? Mrs. Webber: This gives the idea the Board of Adjustment need not exist if we go on doing that. McLean: Use variance only, the Board has other things to judge. Mr. Flanders asked if he meant these remarks for Case 33. Reply: For both Cases 33 and 34. Mr. Flanders replied we are working under Section V, A for Case 33. This is a Business District. I do not think there is any problem. The only reason he had to come before the Board is because a contractor's yard is not mentioned as an accepted business. Mr. McLean then acknowledged confusion because he did not realize this was in the Business District, and requested that a Zoning Map be made available.

Mrs. Webber asked what is the setback from the street? The building permit says 50' back from the paved road, and because this property is located within the Precinct that setback is permitted.

Mr. Flanders then moved that the variance be granted to allow Mr. Chase to erect a storage building for masonry company's supplies and the motion was seconded by Mr. Bried.

The Board then turned to deliberation of Case No. 34 for a variance under Section V, C in the Rural District. The Chairman remarked that there is no special exception now that speaks to a business in the Rural

District. They are now asking for a variance based on a hardship.

Mr. Flanders: From what I heard tonight I see no problem.

Mr. Bried: The buildings are there. We are not asked to allow a new building.

Mrs. Thomas: The purpose of zoning is to keep business within the Business District. This is one thing we are trying to stop,--spot zoning. The Planning Board worked hard to establish a Business District and thus eliminate spotting business throughout the Rural District and this was voted by a majority of the town.

Mrs. Webber: We did not put the other businesses there; they were already there.

Mr. Proctor: What they are asking is not permitted as a special exception. There is now provision for business in the designated Business District and he feels the Board has no grounds for granting the variance.

The Chairman gave a little background on this application saying that the original application as was filed was not acceptable for the Board of Adjustment to act on. It spoke of the hardship of the people which is not anything this Board could get involved with. There were other difficulties. The list of abutters was not complete. It was my intention at first to reject the application, and then it seemed that there was enough interest so that if it was rejected for lack of legal requirements being squared away it appeared that the whole thing was going to stop right there, and I was afraid that there was going to be a lot of feeling in the town just because it was not put in correct form. So we put it in correct form. The original application was jointly submitted by Mr. Rockwell and Dyno and the second application was, because of geographic difficulty in getting signature, in Rockwell's name alone.

Mrs. Webber: Would it not have been wise for the Rockwells to have sent a written statement why this was a hardship? Mr. Flanders did not think this was necessary.

The Chairman gave further background information on the application. As he said before one thing that concerned him during this application business was the sewage system. That is not a responsibility of this Board, but he thought that if there were something about the sewage that could not meet the State requirements it was not right to let the Rockwells spend the money for a hearing if it was condemned before the hearing. The Selectmen contacted the Water Supply and Pollution Control Commission and when they were told that there is a 1000 gallon tank there they said it would be all right and never questioned the leach field. There may still be legitimate questions about the sewage and about the fire protection requirements, etc. Mr. Doane spoke in his letter that he would pursue it further. If this Board should choose to grant this variance for that business it still may not go in there. When the sewage goes in for the Town of Antrim, if they still find pollution in the brook, the State will pressure vigorously.

Nr, Flanders asserted that the building cannot conform to accepted use in the Rural District and so there is an inherent hardship in the property. He felt that it was only suitable for a business use such as this, but it was pointed out that it could be made into another apartment or have other uses.

Mr. Pratt stated there is no provision in the Ordinance for business in the Rural District. That is agreed. So any action by this Board to put business in that Rural District where it is not spoken to must have very compelling reasons. I have thought about this all week. I will be in favor of granting the variance because I believe a hardship does exist which is inherent in the property which is not shared in common with other parcels in the District. The conditions of that property are unique. The property is obviously intended for commercial use, and it is nearly surrounded with businesses,--Whittemore, Edwards & Company, and Forest Fuels,

and so in my judgment a hardship would exist after they were not permitted to use it for this particular type of business. The type of business is important. I consider this is a benign type of business. If someone wanted to put a small machine shop in there I would consider that something else again. Taking all conditions and looking at other types of business it is a hardship to prohibit that use. And given those conditions the spirit and intent would not be broken. I believe the variance would not have adverse effect on the district because no abutters appeared tonight. Given all those facts I think not to grant the variance would be a hardship. That was not an easy decision to come to.

Mr. Flanders then moved that the variance be granted for the manufacture of women's clothing and the motion was seconded by Mr. Bried.

Mr. McLean raised the question of granting a limited variance of five years, and there was considerable discussion of the advantages and disadvantages of this restriction. Mr. Flanders felt that one should vote either for or against the variance, and Mr. McLean remarked that he was not a member of the acting Board tonight and so could not vote. Mr. Proctor felt strongly that to put a five-year limit on the granting of the variance would never be accepted by any business. We should either grant it or deny it

Mr. Pratt moved an amendment to the above motion that the variance be granted for a period of five years at which time, if it were desired to be extended, it would have to come back before the Board of Adjustment. The Chairman called for a seconding of that amendment but there was none so the amendment was dropped.

Mr. Flanders asserted that when the changes in the Ordinance were voted at Town Meeting last March the people did not know what they were voting. If they had realized that a business in the Rural District was eliminated they would not have voted for it. He then moved the question which was seconded by Mr. Bried and unanimously voted to bring the original motion to vote immediately.

The Board returned to open session for presentation of the following two

motions and for voting:

Mr. Flanders

MOVED: That the variance be granted to allow Mr. Chase to erect a storage building for masonry supplies.

SECONDED: By Mr. Bried

VOTED: In favor: Eugene Bried  
Carole Webber  
Benjamin Pratt  
Robert B. Flanders  
Patricia Thomas

In opposition: None

Resolved: That the proposed site appears to be appropriate for the proposed use.

Mr. Flanders

MOVED: That the variance be granted for the manufacture of women's clothing.

SECONDED: By Mr. Bried

VOTED: In favor: Eugene Bried  
Benjamin Pratt  
Robert B. Flanders

In opposition: Patricia Thomas

Abstain: Carole Webber

Resolved: To deny the variance would constitute a needless restriction on the use of the building.

Resolved: That all employee parking be restricted to the rear of the building; that the number of employees be no more than 16 people; and that all State requirements be complied with.

It was moved, seconded and unanimously voted to adjourn at 10:10 P.M.

Respectfully submitted,

*Catherine C. T. Dik*

Catherine C. T. Dik, Clerk