

The Board of Adjustment met on Tuesday, November 15, 1977 in the Antrim Town Hall to hear the petitions of Russell J. Cuddihy (Case No. 37) and Harold E. and Helen Hammond (Case No. 38). 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 Mr. Emery Doane, Edward Clarke, Ronald Elliott, Dr. and Mrs. Hammond, Robert B. Flanders, Russell J. Cuddihy, Mr. and Mrs. Everett Chamberlain, Sr., Howard Humphrey, Theodore Hardwick, Mr. and Mrs. Albert Thornton, Wayne DeKoning, William Bartlett, and Mr. and Mrs. David Phinney.

The meeting was called to order at 7:40 P.M. and the Chairman announced that the members of the Board serving this evening would be: Mr. Pratt, Mr. Bried, Mrs. Thomas, Mr. McLean, and Mrs. Dik. The Chairman outlined the procedure for the hearings and asked that people identify themselves when speaking because we will have a tape recorder running. When the minutes are typed and approved the tape will be destroyed.

The Clerk then read the application of Russell J. Cuddihy for a variance to permit a 25 foot right of way to an interior lot, and reported that notices were sent by certified mail, return receipt requested, to the petitioner, Camp Sachem of the Minuteman Council Inc., Boy Scouts of America, Charles Bean, Dr. Winslow Caughey and Marvin Cuddihy and that all receipts had been received; by regular mail to all members of this Board, the Selectmen, Town Clerk, Town Counsel, and Chairman of the Planning Board. Notice was published in the Peterborough Transcript on November 3, 1977 on page 8 and posted on the Town Bulletin Board.

Mr. Cuddihy was then called upon to present his case. He wants to sell two parcels of land and cannot give more than a 25 foot right of way to the

interior lot because a 50 foot one would go through his barn. He showed a plot plan of the small subdivision he wishes to make. The right of way, or easement, would be over Lot 1 which he owns and goes to Lot 2 which is in back of Lot 3. It was remarked that if he ever transferred Lot 1 to anyone else the right of way would have to go with it. Mr. Pratt asked if the town is likely to be asked to take care of the right of way, and his answer was, "Never. The Lot 2 people want to keep it private; they are to build the road themselves and take care of it." Mr. Pratt asked if the Planning Board has anything to say on this. Mrs. Thomas said no, the petition is for a variance from the 50 foot requirement. Mr. Pratt asked if there were any further questions, and as there were none he declared the hearing closed at 7:30 P.M.

The Clerk then read the petition of Harold E. and Helen Hammond, prospective purchasers, for a variance to permit the dividing of the first floor apartment in the building at the corner of North Main Street and Route 31, presently owned by Ronald and Aino Elliott, into two units for either residence or professional purposes, making a total of four units in all instead of the present three units, and reported that notices were sent by certified mail, return receipt requested, to Dr. and Mrs. Hammond, Ronald and Aino Elliott, Francis and Elizabeth Kurowski, Everett and Mae Chamberlain, Wayne and Maurine DeKoning, James Robinson and Elizabeth Irving who are now selling to David T. and Sherry Phinney who were also notified. All receipts have been received. Notices by regular mail were sent to all members of this Board, the Selectmen, Town Clerk, Town Counsel, and Chairman of the Planning Board. It was published in the Peterborough Transcript on November 3, 1977 on page 8 and posted on the Town Bulletin Board.

Dr. Hammond was called on to present his case, and he said there was not much more that he could add to what had been read from the application. The first floor would be made identical to the second floor where there are two apartments now. There is too much space on the first floor for one tenant to lease, and too costly to heat.

The Chairman asked if there was anyone present who wished to speak in favor, and as there were none he called for those in opposition. Mr. Chamberlain said that he lives opposite to this house, and has quite an investment in his place. The property now with the three apartments is not taken care of too well now and he is afraid if it is made into four apartments it will get worse. He does not think the sewage system is adequate to take care of another apartment; it has not been changed from when it was two apartments; and to the best of his knowledge he does not believe it has been changed for twenty years. He does not know Dr. Hammond at all, but he understands that he owns a place on Concord Street. If he does not take any better care of this place than that one he is afraid it will be a detriment to his property.

Edward Clarke, an abutter, voiced an objection to the addition of one apartment mainly because it is probably the most dangerous intersection in Antrim. At the present time, going down North Main Street in the first six houses there are three apartment houses having approximately 17 apartments or family units. In these there are approximately 16-20 children between the ages of 3 and 12. I have been called down there on police calls relating to the problems of children, parking, bicycle riding through this area. There is in this area a town ordinance of no parking on the street. We have a parking problem because of the number of apartments. In my opinion we have too many apartments in this area at the present time.

Mr. Elliott said there is plenty of room for parking on the circular driveway plus the lower end of the drive. We bought this property as an investment four or five years ago, but he works full time for an agency, lives in the town of Deering, and cannot get here often enough to keep it up, particularly with the number of tenants moving in and out of the place. The cost of heating is too much. The building is of very sound construction and by dividing into one more apartment it would make it a

more rewarding business venture.

Mr. Flanders contended that there would not be sufficient parking for four apartments; in fact there is not enough for three. He also pointed out that there is a sewage problem. He said he had walked in the field in back and he is not sure there is any sewage system there. There is a brook there that goes underneath the road. It is all going into the brook which is already polluted. One more apartment will pollute it all the more. The gentleman speaks of possible professional use. He thinks we ought to know what professional use he is thinking of. Mr. Flanders understands that Dr. Hammond owns other property in Antrim, and asked what property it is. Could he identify it for us? How long has he owned it? If there is a professional office or four apartments, if each has two cars, he does not see any way at all how the Board can justify putting in another apartment in that area. One thing the town feels most strongly about is apartments. That is why we are here tonight. Zoning is against it.

Albert Thornton who lives on North Main Street said that not too long ago that house was a two apartment house; he does not know when it became three apartments. There are cars parked on the street all the time and in the summer it is almost impossible to get down the street. He is not against apartments in general; we have some nice ones in town, some with restrictions, but we probably have some without restrictions. Sometimes a tenant moves in and soon five or six others move in with him. If we have another apartment there it is going to be that much worse. He would hate to see another apartment there. He would hope the Board would not grant this.

Mr. McLean asked if the house is insulated. Answer: Only partially. Has it one furnace? Yes, If there is only one furnace how do you determine the heating cost for the downstairs? Could you give me some specifics on the hardship? Mr. Elliott replied that from October to October 3564 gallons of fuel oil were used for the entire building. I suppose divide that by three, but downstairs is a big apartment. Mr. McLean asked whether he had looked into assistance in

insulating? Dr. Hammond said the second floor was the same size as the first and he intended to add three furnaces, each have his own, Do you have figures on that? No. But you do not know the cost of heating one apartment. No. How is the rent allotted? In other words the rent for the first floor is too much for one tenant? If this petition were approved he would change the furnaces and the cost of heating would be paid by the tenants, not the landlords. Whenever he has been in the house the tenants were gone and the temperature was about 90 degrees. They were not paying for it so they did not give a damn. If they were paying for the oil themselves they would be more careful,--not leave doors open or the thermostat turned up when not at home. We have done this to other properties around and about, and have been able to set them up this way.

Mr. DeKoning said that his land abuts this land and there is an awful lot of sewage running around. A professional office or another apartment could only make it worse. The parking is not adequate and has not been for a long time. The heating is not that bad compared to other big houses around. If he is going to buy it he can well afford to insulate and set up new heating systems. It cost me about \$1400 to heat my house. I am not turning it into apartments. I cannot see a hardship.

Mr. Flanders asked if it is proper to ask Dr. Hammond what professional use he might make of this property and to identify the other property he owns in Antrim. The Chairman replied that he did not know the answer to that question. As far as the Board is concerned it is the question of another apartment or professional use. Dr. Hammond said: I submit that is prying and none of the gentleman's business. Mr. Flanders: I contend that he hardship Dr. Hammond has submitted is certainly not a hardship under the Zoning Ordinance of the Town of Antrim; it would be a problem of the landlord.

Mr. Clarke asked, am I to assume that should the Board grant this for professional use that there is no governing agency in the town which

would have any jurisdiction on how it was used? The Chairman replied that he assumes that perhaps the Board of Selectmen would have that authority. If granted this may be used for either another apartment or professional use. If used for professional use that caused some hardship or unhappiness in the neighborhood it would then turn on whether the use constituted a public nuisance. This Board is being asked simply to grant a variance to allow the first floor to be subdivided either for an apartment and professional office or possibly two professional offices or two apartments. Mr. Flanders further questioned whether if he used it for a professional office would he have to come before the Board? The Chairman replied that if the variance were granted it could be used for professional purposes without coming before this Board. The use would be bound under the permitted uses without coming before the Board or anyone else. If the professional use could not fall under those categories then some additional permission would have to be granted either by this Board or whatever appropriate agency. Mr. Clarke remarked that Dr. Hammond would be an absentee landlord; this would be an investment venture. Dr. Hammond confirmed that his residence is in Frankestown.

The Chairman then read a letter from Mr. Hurlin who was not able to be present this evening. He feels "it is time to stop changing the character of what was once a one or two family residential area, by holding to the terms of our Zoning Ordinance. The letter was then placed on file.

Mr. Thornton remarked that he was surprised he did not burn more oil.

Mr. Flanders continued: In conclusion I would like to say that in listening to the case presented by Dr. Hammond I do not see any hardship whatsoever. If he wants to be a landlord I think he will have to pay the oil bill. I have to pay mine.

Dr. Hammond replied that is not a very pleasant way to become introduced to the neighborhood. Mr. DeKoning remarked that Dr. Hammond is not coming^{to} Antrim. While cars are parked all over the place and sewage is coming out of the ground he is going to be over in Frankestown.

Mr. Elliott said, regarding the sewage I have had no complaint whatsoever from any of the tenants or from any of the sanitary engineers in town so I do not understand where the citing of the sewage problem is coming from. Mr. Flanders said that when he was on the Board of Selectmen we made a survey of that area. That is not the only system in the area that is not working. There has not been any enforcement of the State sewer regulations since I have been living here, now pushing 18 years, because of our sewerage system which is in the works and will be in use I cannot say when, but it is in the future. It indeed has not been working but it has not been brought to your attention.

Mr. Hardwick said he felt the points were well taken regarding vehicle parking and sewerage. Primarily the reason we have zoning in the town is because of the apartments. It was passed by a majority vote and the apartments were the reason for it.

Mrs. Hammond remarked that whenever we have purchased property, which is not too frequently, we have made a great point to embellish the property and make it a more attractive place,--better, not worse than before. Mr. Flanders addressed Mrs. Hammond and said that before she came in he asked that the other piece of property you own in Antrim be identified and was refused. If the property is not identified we cannot compare. She said that we have not worked too much on that property in Antrim... whereupon Dr. Hammond told her not to answer that; "that is a real wise guy back there." Mr. Flanders requested that that remark be in the record.

The Chairman then said that if there are no further comments either in favor or in opposition he will declare the hearing closed. There were none so the hearing was closed at 8:20 P.M.

The Board then went into executive session. Mr. Doane of the Board of Selectmen spoke briefly about the question of the budget, saying that pro-

bably they will have to pay secretarial work perhaps on an hourly basis, or monthly, or whatever. Mr. Pratt thinks we should establish an hourly rate because the cases vary so. Mr. McLean thinks the job should be carefully defined in writing. Mr. Doane said that an alternative would be to rely on the tapes and store them, but the Board felt that that would be very expensive and cumbersome. It was asked how long would we be required to store the tapes. The Chairman asked when we had to make a report and a proposed budget to the Selectmen and the reply was by mid-December.

The Board then turned to consideration of Case No. 38. Mr. McLean feels that the hardship cited is an artificial one. Dr. Hammond had no facts or figures to support it. The Board again reviewed the criteria for a variance.

Case No. 37 was then discussed. Referring to the plot plan, which is now on file, it was noted that the barn is nearer to the proposed right of way than the plan shows. The barn is in bad condition. He is going to take it down and build a new one on the same foundation. The right of way would not be a road, merely an easement for access to Lot 2. The owner of Lot 2 would have the right to use the easement over Mr. Cuddihy's property. If he were going to sell it at a later date--do something with Lot 1 of 23 acres--the right of way would stand. This is a small subdivision. Mr. Cuddihy brought in a home made sketch to the Planning Board and the Board required a survey. His first plan was for four lots. The Planning Board does not object to what he proposes except it is not within its power to approve a 25 foot access. If he chooses at some later time to try to subdivide Lot 1 he might find himself at some embarrassment because he is bound to keep this easement. If his intent is to provide access to one lot, a 50 foot access 850 feet long is a tremendous waste of property for that purpose and the 50 foot requirement for one lot does not make much sense. If somebody is going to build a development and put a road through it 50 feet is fine, but to do something else, there should be some guidelines in the Zoning Ordinance. By putting in an

easement like that he is forestalling ever having that accepted by the town. He is proposing doing nothing, leaving it to the owner of Lot 2. The building of a road is up to the Selectmen to put requirements on. It was agreed that if this easement is granted there should be some restrictions. Mr. McLean said we are talking about two things,--a 25 foot right of way to an interior lot with no frontage on a road, and then read from the subdivision requirements of the Planning Board. Mr. Pratt remarked that for a simple access to an interior lot it does not seem necessary to have a 50 foot one. Mr. McLean said that Lots 1 and 3 are big enough lots and both have the required frontage; this Lot 2 of 9.4 acres is large enough so it does not matter not having the required frontage. It is not violating the spirit of the subdivision ordinance. Mr. Pratt said this is not a good way to divide the property, but we cannot protect a person from himself.

The Board returned to open session and the following motions were made, seconded and voted:

Case No. 38 - Mr. McLean

MOVED: That the application for a variance to divide the first floor of the building at the corner of North Main Street and Route 31 presently owned by Ronald and Aino Elliott into two units for residence or professional purposes, thus making four units instead of the present three, be denied.

SECONDED: By Mrs. Thomas

VOTED: In favor: Benjamin Pratt
Eugene Bried
George McLean
Patricia Thomas
Catherine C. T. Dik

In opposition: None

Resolved: That the proposed addition meets none of the established grounds for granting a variance.

Case No. 37 - Mrs. Thomas

MOVED: That the variance be granted for a 25 foot right of way over Lot 1 to interior Lot 2 only, as shown on "Land Subdivision Plan of property of Russell J. and Mary Virginia Cuddihy in Antrim, New Hampshire, dated October 1977" to be presented to the Planning Board.

SECONDED: By Mr. Bried

VOTED: In favor: George McLean
Eugene Bried
Benjamin Pratt
Patricia Thomas
Catherine C. T. Dik

In opposition: None

Resolved: That there is a hardship because of the shape of the property in question and the position of the structure.

The meeting was adjourned by unanimous consent at 9:25 P.M.

Respectfully submitted,



Catherine C. T. Dik, Clerk