

minutes of the Antrim Board of Adjustment Meeting November 29, 1988

Present: Everett Chamberlain; Joseph Timko; Mariann Moery; Mary Allen, Chairman; Patricia Hammond-Grant, Clerk.

Case #129 Ken Moore, Cynthia Zawacki, and Paul and Elizabeth Matthes, for a variance on Article V, Section C.3. (1974 Edition) to permit annexation with less than 210 foot frontage in the Rural District. The Chairman opened the meeting and outlined the procedure to be followed. The Clerk read the Application, notice having been published in the Messenger/Outlook and notices posted on the Town Hall Bulletin Board and the Public Notice Board. Notices mailed to abutters return receipt, all receipts returned. The Applicants showed a drawn map of the properties and explained the original lots and the proposed plan. Mary Allen asked if they had talked to the Planning Board. Mr. Moore said that they have met with the Planning Board twice and also with a surveyor as well as the Selectmen. They all agreed that this should be heard by the Board of Adjustment. Moore said that the properties would not diminish in value and the annexation would benefit the public interest because his well is too close to the creek and this would help as he would have room to have another well put in. There is unnecessary hardship if denied because his well is showing bacteria and his septic system needs to be moved also. Substantial justice would be done and both lots would benefit. This is not contrary to the spirit and intent of the Ordinance. No one spoke for or against the proposal.

Case #128, William W. MacCulloch, for a Variance on Article VII, Section F of the Zoning Ordinance. Applicant proposes to have a commercial woodworking shop and to sell hardwood lumber from property located on Gregg Lake Road in the Rural Zone. The Chairman opened the hearing at 8:05 P.M. She outlined the procedure to be followed and read the Article in question. The Clerk read the Application, notice having been published in the Messenger/Outlook and posted on the Town Hall Bulletin Board and on the Public Notice Board. Notices sent to abutters return receipt. William MacCulloch presented his case addressing the five criteria for granting a variance. 1. He has improved the property; 2 It would be of public interest because people cannot get a service like his for a few hundred miles. The use of unskilled labor would be a possibility; 3. The building cannot be used for anything else. The building was first used or built for a woodworking shop (unnecessary hardship would be done); 4. Justice would be done because woodworking is a rural resource; 5. This is not contrary to the spirit and intent of the Ordinance. MacCulloch outlined what his business will be doing and the amount of traffic involved for shipping and delivery. He would have 2-3 employees. MacCulloch stated that Davis (prior owner) has had as many as 30 employees. He felt that he would not have more than 12 customers one day or 1 another day. His hours would be from 7A.M. til 5P.M. six days a week. There is a septic system just not hooked up. There is also an artesian well. The machinery would not be noisy and he would not use any chemicals stronger than those used in a home. There is insulation for sound proofing. The Chairman asked Mr. MacCulloch to explain his hardship which should be in the land. MacCulloch said that the hardship is not in the land but in the building. It is too big for a home. The building was built originally as a commercial building not as a home based business. The Chairman gave a summary of the hearing. MacCulloch also showed a septic system design to explain the distance from the closest neighbor. Case #128 was closed.

Deliberations Case #129. The Board entered discussion for granting the Variance. The Board was in favor unanimously, all conditions having been met. Joseph Timki moved to grant a variance on Article V, Section C.3. (1974 Zoning) for Ken Moore, Cynthia Zawacki, and Paul and Elizabeth Matthes, to permit an annexation to the Moore/Zawacki lot leaving the Matthes with no less than 151 foot frontage. All five criteria were met. Mary Moery second. Passed unanimously.

Deliberations Case #128. The Board entered discussion. Everett Chamberlain expressed the opinion that there is no problem with having this building remain commercial. Joseph Timko felt that woodworking would be better than some other uses that are allowed in the Rural District. This woodworking shop was approved back in 1974. Noise was brought up as a concern wondering if the noise level would be too high for the neighbors. The issue of the Variance remaining on the property if it were to be sold. Mary Allen read from the previous minutes when the Variance was granted in 1974 (Case #5). Joseph Timko observed that this is different from the Artek Case, light industry is different from woodworking. Discussion continued on the five criteria for granting a Variance. 1. no diminution in value to surrounding property. The building is in better condition, but a concern about noise was raised. Mary Allen felt that there would be diminution as this is a commercial business in a rural zone. 2. It is a benefit to the public interest as it would provide employment and provide a service. It would also keep a business in Town. Mary Allen felt that spot zoning is not a benefit to the public interest. 3. Unnecessary hardship is in the building and not in the land. This is an unusual situation. Mariann Moery asked how many buildings like this are located in the rural zone. Mary Allen was of the opinion that there are very few, Antrim Lumber, NH Flakeboard and the sawmill up the road. Marianne Moery felt that this makes the case unique and that it would not set a precedent. 4. Substantial justice was agreed upon by the Board. 5. Spirit and intent of the Ordinance. Mary Allen and Patricia Hammond-Grant felt that it was not in keeping with the spirit and intent of the Ordinance. Mary Allen expressed the opinion that this should be taken to the Planning Board and change the zoning in the rural zone to state woodworking shops. Discussion followed that this is a "Use" variance. Marianne felt that legal counsel would be able to answer this. Everett Chamberlain expressed the opinion that there was no further need for delay. Joseph Timko moved to grant the variance to Article VII, Section B of the Zoning Ordinance, to allow a commercial woodworking shop and to sell hardwood lumber from property located on Gregg Lake Road in the Rural Zone given the following restrictions: 1. Maximum employment at the site will not exceed six (6) employees. 2. Hours of operation will be 7:00 A.M. til 5:30 P.M., six (6) days a week. (Monday through Saturday). 3. The Business shall not produce excessive noise, vibration or electrical interference to adjacent properties. 4. The Board would like to make known that the variance being granted is for a woodworking shop and to sell hardwood lumber in the rural district. Any other non-residential use of the property by the current or future owner will not be permitted without review of the Board. The Board finds that the five conditions for granting a Variance have been met. The Board feels that the request has special characteristics, not limited to the building's original construction as a commercial structure and its inappropriateness as a residence; which makes this decision unique and it should in no way be viewed as a precedent. Marianne Moery second. The vote went as follows:

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Everett Chamberlain, approved; Joseph Timko, approved; Marianne Moery,
approved; Patricia Hammond-Grant, not approved; Mary Allen, Not approved.
Motion carried 3 to 2.

Respectfully submitted,

Barbara L. Elia
Antrim Board of Adjustment