

Minutes of the Antrim Board of Adjustment Meeting December 6, 1988

Present: Everett Chamberlain, Howard Humphrey, Sr., Tom Curran, Marianne Moery, Patricia Hammond-Grant, Clerk, and Mary Allen, Chairman.

The Chairman opened the meeting at 7:30 P.M. and outlined the procedure for a Public Hearing and the Deliberations to follow.

Case #131 concerning the request by Peterborough Oil Company for a Variance on Article XIV, Section G, for a non-conforming sign; and Article IV, Section C.3.a., to permit a structure less than 50 feet from the street right-of-way. Property located in the Village Business District. The Clerk read the Application, notice was published in the Messenger/Outlook and notices sent to abutters by Certified Mail Return Receipt. All receipts returned except that of Olive Ashford. The Chairman announced that the hearing would be held under the currently posted Ordinance.(10-27-88) This Application is one of two Applications filed by Peterborough Oil. The first being Case #124 which was withdrawn. David M. Tower, Attorney for the Applicant, presented their case. The Application concerns a lot on Main Street identified as lot 24 on Antrim Tax Map 1A, the dimensions being 69' x 90'. The sign will be 6' x 8' on the existing Citgo pole. The Applicant wishes to replace an old sign with a new sign with the Citgo logo. He also wishes to install a canopy over the new gasoline pump island. It will be 14'6" high and 1'8" from the right-of-way. The Article in question is on page 84 of the Posted Ordinance. Chairman, Mary Allen, noted that the sign presently on the lot was permitted by the Antrim Board of Adjustment as a Variance and that under the Ordinance non-conforming signs should have a maximum size of 25 square feet. She quoted the five conditions for granting a Variance and asked the Applicant to address them in his argument. David Tower, Attorney; Tim Peterson and Joe Hart, owners; and Mark Gelardi, operator; were present for the Applicant. They presented a plan and a picture of the proposed sign, outlined the dimensions of the lot and the location of the building on the lot. The Applicant claims that the size of the lot precludes compliance with the set back regulations. They described the canopy as being 24' x 24' on a single pole. Supported by that pole anchored to the pump island. It will extend on both sides to illuminate the area of the pumps. The Applicant argued that surrounding properties also encroached on the setback area. The idea of the change to bring the facility up to date and to use modern marketing technique for the retail sale of gasoline, similar to that of the Thunderbird. The Applicant stated that the Company presently has a sign in place which is non-conforming. It is 48 square feet which includes the price portion of the sign. The Chairman, Mary Allen, pointed out that the price portion was in question by the Board of Adjustment. The Applicant stated that the new sign will be on the same pole and will include the price information. The Applicant showed the type of sign he planned to use. There will be no change in location and no change of pole. The Applicant addressed the five conditions for granting a Variance. 1. Diminution of surrounding property: The canopy cannot affect surrounding property. 2. Hardship: This is a postage stamp lot and does not lend itself to comply with the Ordinance. The special condition is in the land itself (unique, very small, existed before zoning). Attorney Tower quoted Carter vs Nashua, and stated that for the Board to grant this Variance there was a legitimate argument for the hardship to be in the land. Spirit and Intent of the Ordinance: The area is zoned Business and this is a continued business use. The Applicant wants to operate his business in an up to date way.

Everett Chamberlain asked about the height of the sign from the ground. The answer being 12 feet. Mary Allen asked about advertising on the side of the canopy. There is a Citgo logo. The Applicant stated his intention of replacing the present sign with one sign eliminating the price signs on the pole. The only other sign being a roll away sign and flag that indicated the station is open. Mary Allen explained the definition of a sign and indicated the Board's desire to limit signs. It was indicated that the illumination by the canopy would direct the light down and that the hours of use could be from 6 A.M. to 7 A.M. and that the station would be open until 8 P.M. These hours would be subject to the time of year and condition of the weather. The proposed canopy was compared to the Texaco canopy which was determined to be larger. There will be four lights in the Citgo canopy with an average wattage of 400W. There was some discussion about the size of the lot and the need for a 48 square foot sign. Attorney Tower stated the need to modernize the whole operation. The idea is to remodel and update. Attorney Tower reiterated the hardship argument and indicated that Peterborough Oil has owned the property in excess of ten years and it was time for improvement. If the company were obliged to use old methods of marketing it would hinder its ability to do business. The company must make changes to be competitive. Mary Allen asked about the need for a canopy on a full service station. Attorney Tower answered that the gas companies have determined that a fully lit canopy is safer for all concerned. The Board asked about the need for the stated size and if it could be smaller. The Applicant felt that it could be shortened but that they would need the 24 foot width. Tom Curran asked if the signs on the canopy would be lit. The answer being yes. He also asked about other signs. It was determined that the sign on the post was a "no smoking" sign. The Chairman asked if the Applicant could consider the canopy without the logo as she felt that the canopy was a de facto sign. The Chairman also mentioned the abutter Olive Ashford and any concerns that she might have as she is presently in Florida. The owner expressed the opinion that the new sign will be less objectionable than the old ones. He indicated that he did not need the sign on the canopy but he did need the canopy. Operator, Mark Gelardi, indicated that he would cooperate with the Board as he wants the station neat. Tom Curran asked if the 48 square foot size was the only one they could use. The Applicant showed the Board other possibilities and referred to the past Variance. The Chairman, Mary Allen closed the testimony and summarized the hearing. Mark Gelardi made a final comment to the effect that the canopy will increase safety on the premises, protect customers and the help, and will give the station a neater and cleaner appearance. As far as the sign is concerned he feels that the new one will be less offensive. The Board sitting on this hearing will be: Tom Curran, Howard Humphrey, Sr., Everett Chamberlain, Patricia Hammond-Grant, Clerk, and Mary Allen, Chairman. The Chairman informed the Applicant that deliberations will be held in public later this evening or at a later date. At the time of deliberations no public testimony will be taken. The Chairman closed the hearing.

Case #132 concerning the request by N.H. Flakeboard, Inc. for a Variance on Article XIII, Section E.1., to erect a temporary shed in the Rural Zone. The Board sitting for this hearing will be: Mary Allen, Chairman, Patricia Hammond-Grant, Clerk, Tom Curran, Marianne Moery, Howard Humphrey, Sr. The Chairman outlined the procedure and read the Article in question. Patricia Hammond-Grant, Clerk read the Application. Notice was published in the Messenger/Outlook and notices sent to abutters return receipt. No abutters appeared. Robert Caughey presented the case for N.H. Flakeboard, Inc.

He described the business as that of research and development to design special equipment for the disposal of paper mill sludge, etc. He is about ready to market a piece of equipment and needs to build a larger prototype in order to do environmental tests required by EPA. He needs a shed to house the equipment temporarily. The piece of equipment will be a mobile unit housed by the shed. The shed will be 48' x 24' maximum. It will be approximately 36' from the siding, will have electricity and will produce heat. The Chairman asked if it will stay in place or will it be disassembled. She also asked about the maximum time it will be in use. Caughey answered that this will depend upon the EPA timetable. This will not be a noisy operation, there will be no fumes and smoke from the chimney will be tested to prove emissions are acceptable. It will run two to three hours and will process 1000 pounds per hour. There will be only about sixty five customers for this type of equipment. Mary Allen asked about by products which will be wood fiber and clay and emissions which consist of water and carbon dioxide. It will run cleaner than a wood stove. Incineration temperature will be from 1800 to 2000 degrees farenheit. The Chairman summarized the hearing. This will be a metal shed with setbacks in excess of 20'. The present use of this parcel is an existing non-conforming use. Public hearing closed.

Case #132 Deliberations. The Chairman noted that there seemed to be no problem as this is a temporary condition and that the Board should make the stipulation that it ~~be setback~~ ^{the setbacks} from side and backline be complied with. The five conditions for granting a Variance were addressed with the Board in agreement. Tom Curran moved that the Variance on Article XIII, Section E.1. be granted to N.H. Flakeboard, Inc. to erect a temporary shed for housing prototype biomass dryer equipment in a rural zone. The Board finds that all five criteria for granting a Variance are met. The following conditions are that 20 foot setbacks from side and rear lot lines must be met. The vote: Marianne Moery, yes; Patricia Hammond-Grant, yes; Mary Allen, yes; Tom Curran, yes; Howard Humphrey, Sr., yes. So moved.

Case #131 Deliberations. The Chairman opened deliberations and made reference to the original variance granted for the existing sign. Case #28 April 26, 1977 to allow a 6' x 6' sign. The prices presently appearing underneath this sign were not allowed under this variance. The Board compared the Citgo and Texaco signs with it being noted that the Ordinance only allows for a 25 square foot sign. The Board discussed the number of signs on the property. It was noted that the Board should be making a decision on a 48 square foot sign as this is what was in the Application. Mary Allen noted that this is a nice sign but saw no hardship in denying it as a large sign will have an impact on Mrs. Ashford's property. The size of the sign was discussed with the Chairman expressing the opinion that a sign that large was not necessary. Patricia Hammond-Grant stated that the new sign would be an improvement but the size was a problem. Tom Curran and Howard Humphrey, Sr. expressed similar opinions. The Board addressed the five conditions for granting a Variance. 1. Diminution of surrounding property: Patricia Hammond-Grant and Everett Chamberlain felt that it would not. Tom Curran had reservations and Howard Humphrey, Sr. felt that the size was a problem. 2. Public Interest: The consensus was that it is a nice sign but it is too large with Mary Allen expressing the opinion that it could be done within the constraints of the Zoning Ordinance and Everett Chamberlain being of the opinion that it is a nice sign all in one piece.

3. Hardship: The Board agreed that there was no hardship as there was a sign in place. 4. Substantial Justice: Everett Chamberlain felt that the sign could not be placed elsewhere. Patricia Hammond-Grant had a problem with the size but felt that there was no justice if the Texaco sign is as large. Tom Curran felt that there would be no justice to people denied previously. Mary Allen stated that justice would not be done as others have been denied on the basis of size. Howard Humphrey, SR. yes it would improve the situation. 5. Spirit and Intent of the Ordinance: Everett Chamberlain, yes but with everything on one sign; Patricia Hammond-Grant, yes; Tom Curran, yes; Howard Humphrey, Sr., yes; Mary Allen, it is contrary to the spirit and intent of the ordinance. Tom Curran expressed the opinion that the 48 square foot sign could be denied but the Board could consider a 32 square foot sign. The Board discussed granting a Variance for a smaller sign but it was determined that this could not be done as the Application was for a 6 x 8 foot sign. Patricia Hammond-Grant moved to deny Peterborough Oil's request for a Variance to Article XIV, Section G. The Board feels that denial of a 48 square foot sign would not create an unnecessary hardship, that this size sign is contrary to the spirit and intent of the Ordinance and that substantial justice will not be done; Tom Curran second. Everett Chamberlain commented that if this were not contrary to the spirit and intent of the Ordinance the Applicant would not need a Variance. The Chairman stated the need for following the letter of the Ordinance. Howard Humphrey, Sr. commented that the Applicant has 48 square feet at the present time and that this is an improvement. Mary Allen commented that the Applicant has permission by Variance for 36 square feet and that she is strongly against this proposal. Tom Curran stated for the record that there are smaller signs that could be considered. The vote was taken: Patricia Hammond-Grant in favor, Tom Curran in favor, Howard Humphrey, Sr. in favor, Everett Chamberlain against, Mary Allen in favor. The vote is 4-1 Application denied. The Board proceeded to deliberations on the Variance for the canopy. This will be a variance from the front setback requirement. Tom Curran observed that it was no closer to the road than Wayno's. Mary Allen stated that this is a very small lot and almost anything will impact on Main Street. She is concerned and is not totally satisfied that it is the same size as what is proposed. She expressed a desire to go to the site and review the impact. She stated that she is not opposed to granting the canopy but has a problem with the size and the signs. Tom Curran observed that this was an improvement. Patricia Hammond-Grant stated that safety should be considered as a factor. Tom Curran referred to hardship as the land is a small lot. Mary Allen again expressed her desire to go to the site and compare the size with Byams and Texaco. The Board agreed to meet at the Town Hall at 7:30 on December 14, 1988 for a site review. Deliberations to continue after the review. Mary Allen, Chairman informed the Board that David Penny wished to be considered on inactive status as an Alternate to the Board. He will be available in an emergency.

Meeting Adjourned at 10:55 P.M.

Respectfully Submitted,

Barbara L. Elia
Board of Adjustment