

Minutes of the Antrim Zoning Board of Adjustment Meeting October 25, 1994

Present: Robert Bryer, Chairman; David Rust; Boyd Quackenbush; Paul Matthes

Continued Public Hearing concerning the application of Erik Nycklemoe for a Variance to Article V, Section C.l.e. of the Antrim Zoning Ordinance for property located on Old North Branch Road in the Highway Business District Tax Map 8C Lot 224. The Applicant wishes to build a garage within the 20' setback area.

The Board without Paul Matthes met at the site for a review at 4:30 P.M. and returned to the Town Hall for deliberations. The Chairman called the meeting to order at 5:35 P.M. and introduced the Board. Erik Nycklemoe represented himself for this hearing and commented that Kristin Cleveland his wife had presented the proposal on October 18 and for the moment he had nothing to add. Chairman Bryer gave a summary of the Public Hearing held October 18 and continued until tonight October 25, 1994 for site review and deliberations. The Chair discussed the five conditions for granting a variance and gave an explanation of what is meant by hardship. The Board brought Paul Matthes up to date on the site review. The leach field, property line and slope are as indicated on the application. It is 87' to the rear property line, the garage will be 24' and the well is 50' from the house. There are some nice trees that would have to be removed to place the garage on the south side of the house and the abutting neighbor's house is only 3' from the property line. Rust commented on the setback from the well. Quackenbush suggested that the Applicant might be able to acquire enough property from the Contoocook Valley Telephone Company to make the situation legal. Reference was made to the Handbook for The Board of Adjustment in New Hampshire distributed by the NH Office of State Planning in the matters of a definition of a "Variance" and the definition of "Hardship". The Chair asked the Secretary to read the Application, which was read along with Mr. Nycklemoe's statement of purpose and a letter from the James M. Hanley Assistant Manager Operations for the Contoocook Valley Telephone Company the abutter on the North side of the property. Mr. Nycklemoe argued that placing the garage on the south side would site it in the middle of a green space and argued that the north side would be more desirable. He argued that the spirit and intent of the Ordinance is to make the area more open and that he is only asking for ten feet. Nycklemoe testified that Building Inspector Arthur Stenberg has done a walk around and in his opinion given tacit approval. There is no written statement from the Building Inspector for the file. The Chairman closed the public hearing and continued deliberation by discussing the five criteria.

1. Diminution of surrounding property - The Board unanimously agreed that granting the variance would not diminish the value of surrounding properties.

2. Public Interest - Boyd Quackenbush voted a qualified yes as he believes that there are other means. Paul Matthes, yes; Robert Bryer, yes; David Rust, yes.

3. Hardship - Robert Bryer commented that this is a fifty fifty deal the garage could be placed on the south side of the property. After viewing the property he believes that the garage could be placed elsewhere. Paul Matthes expressed the opinion that there are other options i.e. talk to the telephone company, realign the garage or place it on the south side of the house. David Rust read from section 3 of the handbook as it pertains to "hardship" and commented on the statement that "the Board cannot change the Ordinance". Did not vote. Boyd Quackenbush voted a qualified no commenting that there is nothing to be gained by the strict enforcement of the Ordinance. Erik Nycklemoe asked if a decision can be based on precedent.

4. Substantial Justice - The Chair commented that the handbook explains that: "Any loss to an individual that is not outweighed by a gain to the general public is an injustice." The vote: Unanimous no. Nycklemoe argued about the function of the Board of Adjustment and the Handbook interpretation.

5. Must not be contrary to the spirit and intent of the Ordinance. Boyd Quackenbush referred to Article I, Section B. of the Antrim Zoning Ordinance - Purpose as referenced in the Handbook explanation of the meaning of this question. David Rust commented on any possible future use for the Telephone Company land and how granting this variance would affect this use.

The Chair returned to item #3 - Hardship as he felt the Board wanted to discuss it further. Eric Nycklemoe suggested that the Board look at the wetlands setback requirement as it applies to the Telephone Company lot and any future use of this lot and he suggested that the Board seek counsel of an attorney. The Chair closed the deliberations and prepared for the vote.

1. Diminution of surrounding properties - Unanimous yes
2. Public Interest - Paul Matthes, yes; Robert Bryer, yes; David Rust, yes; Boyd Quackenbush a qualified yes.
3. Hardship - David Rust, yes; Boyd Quackenbush, qualified no; Paul Matthes, no; Robert Bryer, no.
4. Substantial Justice - Robert Bryer, no; Paul Matthes, no; David Rust, yes; Boyd Quackenbush, yes.
5. Not contrary to the spirit and intent of the Ordinance - Boyd Quackenbush, yes; David Rust, yes; Robert Bryer, yes; Paul Matthes, yes.

Robert Bryer moved to deny the Application of Erik Nycklemoe for a Variance under the terms of Article V, Section C.1.e. of the Antrim Zoning Ordinance. The Applicant proposes to build a

garage within the 20' setback area of his property on Old North Branch Road in the Highway Business District Tax Map #8C Lot #224. The Board finds that the Applicant did not meet the conditions of all of the five criteria to grant a variance. The vote: Paul Matthes, yes; David Rust

The Applicant commented that: Judging from the conversation the Board did not understand Rule #4. He further commented that the interpretation of rule #4 was too widely converse and he suggested that the Board needs some clarification of the rules.

Meeting adjourned at 7:00 P.M.

Respectfully submitted,
Barbara Elia, Secretary



**CONTOOCCOOK
VALLEY
TELEPHONE**

October 13, 1994

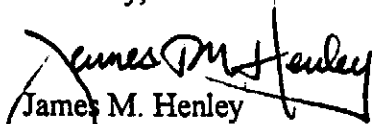
Mr. Robert Bryer, Acting Chairman
Antrim Zoning Board of Adjustment
Antrim, NH 03440

Dear Mr. Bryer:

Based on the plan of the proposed garage location and a subsequent meeting between Mr. Nyclemoe and myself at the site on October 13, 1994, Contoocook Valley Telephone Co., Inc., can see no negative impact to our property or operation of the switching substation located there.

I hope that this letter provides your Board with assurance that we have no opposition to the granting of this variance.

Sincerely,


James M. Henley
Assistant General Manager
Operations

October 4, 1994

Board of Adjustment
Town of Antrim
Antrim, NH 03440

Dear Board of Adjustment members:

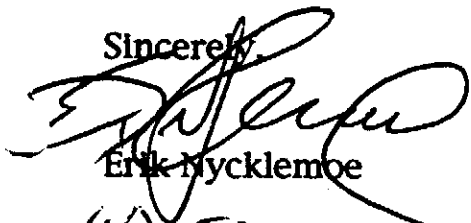
We are seeking a variance from the zoning ordinance in order to build a garage on our property located on Old North Branch Road in Antrim. To build the garage it is necessary to get a variance from the 20 foot side set-back requirement. We seek to build the garage between our septic system and ten feet from property now owned by the Contoocook Valley Telephone Company. The company owns the tract of land between our home and the river and has a small telephone switching building in the middle of their property. We have talked with both of the abutting property owners about our proposed plans and they have told us that they have no problems with our plans to locate a garage in the area described above.

The location of the placement of the proposed garage would not diminish surrounding property values because it will be located behind a small hill on our land and it will be built to look like a small New England barn. Our home was built 90 years ago to serve as the North Branch school house. According to Antrim's Zoning and Building Enforcement Official, Arthur Stenberg, the front set-back requirement does not apply to us because our home was grandfathered in to the Zoning Ordinance. Stenberg says as long as the garage were to be built behind the front of our home we would be in compliance with the ordinance. Our nearest neighbor, Vernice Grant, has a house which is located three feet away from our southern property line. If we were to build the garage on the south side of our property it would be located very close to Mrs. Grant's home. This is the main reason we want to build the garage on the north side of our property. To build on the north side it is necessary to get a side set-back variance.

We hope to build the garage before the snow arrives, so it is necessary to get a hearing on the variance as soon as possible. Please let us if you need any more information, and let us know how we can help to expedite this process.

Thanks for you time.

Sincerely,



Erik Nycklemoe

(H) 588-2102

(W) 226-0850



Kristin Cleveland