

Minutes
Zoning Board of Appeals
February 9, 2012

Board Members Present: Donne Lynn Winslow, Alan Hall, Sr., James Cooper, Mark Morey, Harold Moffitt

Others Present: Michael Bell, Chris Belden (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Cooper - ...February 9, 2012 agenda, or excuse me, Zoning Board of Appeals. I'm reading right off the agenda that's why I misstated myself. Let the record reflect that all five board members are present and seated. And the next item of business on the agenda is approval of the minutes of December 8th. Are there changes or corrections? I have a few, so let's go through my, mine and then if Mr. Hall or anybody else has any other ones, they can do it. On page, the first page, middle of the page, the word "council" should be spelled C O U N S E L, referring to an attorney rather than a, a body. On page 207, nearly four lines up from the bottom, first word on the left-hand margin is "affect". It should be "effect" with an "E". I think I finally got that straight after a lifetime of not knowing when to use one or the other, but if it's a result, than you'd use an "E" with effect. If it's something that's being changed, it's with an "A", affect. Page 213, about five lines down, it's a sentenced ascribed to me, "somebody came to you February 18," and it says 2011. If I said 2011, I meant 2010. So let's correct that to 2010. Yours says 2010?

Mr. Hall - No, I was looking in the wrong place. Okay.

Mr. Cooper - Alright. And let's see here. The next page, 214, almost in the middle says, "and you say," that's the line, and it should be "for purposes of absolute clarity, T Y. Page 219, almost in the dead middle of the page, it says, "that you've got a tough road to hoe," it should be row, R O W, rather than road. Okay. On page 231, the, about a fifth of the way up from the bottom, paragraph beginning Mr. Cooper, "I understand all," it should be competence, C O M P E T E N C E, rather than confidence, at the end of that line.

Mr. Moffitt, do you have any changes?

Mr. Moffitt - No, I don't.

Mr. Cooper - Mr. Hall?

Mr. Hall - None.

Mr. Cooper - The other two board members agree to the modifications made?

Mr. Morey - Yes.

Mrs. Winslow - Yes.

Mr. Cooper - Alright, let the minutes reflect that the minutes are approved, the minutes of December 8, 2011 are approved by consensus. Are you Mr. Bell?

Mr. Bell - Yes, sir.

Mr. Cooper - We're going to take you out of order, Mr. Bell, because the other applicant's not here and yours is a shorter matter, I would assume. So we'll open the public hearing on ZBA 2011-2, matter of Michael Bell. Mr. Belden, as is the custom of the board, would you explain how this matter comes before us?

Mr. Bell - (Inaudible).

Mr. Cooper - No, not you. Him.

Mr. Belden - Mr., Mr. Bell had, had constructed a, kind of a wrap-around porch, one that went from the front of his house to the right side of his home, without a permit. When I, when I did get him to come in to, to obtain the permit, we, we found out that he didn't meet the required 30 foot front setback of his district.

Mr. Cooper - He has 22, but he doesn't have 30?

Mr. Belden - He has 22 feet of, of, a setback from, from the front, ya know, from the front property line, but not the 30, not the required 30 so...

Mr. Cooper - I see the map that's attached here. Ya know, given the, that there could be parallax mistakes or something like, where did you start to measure the setback from? How did you know where his front property line was?

Mr. Belden - That was what Mr. Bell had indicated, that it was the front... It wasn't me that measured it. It's, ya know, it's up to the, it's up to the applicants to determine...

Mr. Cooper - Okay.

Mr. Belden - ...their, their setbacks. But he did admit that (inaudible) 30 feet from the front line.

Mr. Bell - Did you measure from the road, Mr. Bell, or did you measure from the edge of your lawn or what?

Mr. Bell - I measured from the edge of the road.

Mr. Cooper - Okay. So you think it's 22, but it could be less. Ya know, sometimes the rights-of-way actually go into peoples' yards and they're not aware of it.

Mr. Bell - Yeah, usually (inaudible) side of the road. Correct?

Mr. Cooper - No, there's nothing unusual about that. The Town Highway... This might've been laid out by dedication. Oak Street, I don't know, but if not, it's 49 and a fraction wide, three rods, and so you would, from the center, you would divide that by two and then measure over. So we'll take your representation you believe it to be 20 feet. Okay?

Mr. Bell - Okay.

Mr. Cooper - Proceed, Mr. Belden.

Mr. Belden - Sure. So Mr., Mr. Bell had stated that he didn't have the required 30 feet, so he asked what the next step would be and I

indicated to him that he could attempt to get an area variance from the Zoning Board.

Mr. Cooper - So he needs an after-the-fact approval for what he did, is what you're saying?

Mr. Belden - That's correct.

Mr. Cooper - Okay. We'll go through your application and, because it has the requirements set forth for an area variance, Mr. Bell, we'll give you a chance to clarify these things. But first I'm going to ask Mr. Belden, do you swear that the evidence you've given under oath is true to the best of your knowledge?

Mr. Belden - Yes.

Mr. Cooper - Okay, I'm going to swear you, Mr. Bell, in case you have anything to say. Would you raise your right hand please? Do you swear that what you're about to say is the truth, the whole truth and nothing but the truth, so help you God?

Mr. Bell - Yes.

Mr. Cooper - Okay. On your application here, you say whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties created. You checked no, and your answer is, "the addition of the porch will make it look more like the older homes in the area that have porches. Most of the houses in the surrounding blocks are of this nature". Have you ever measured or, ya know, just eye-balled the setback of other porches? Are they all, have about the same front yard that you have now after you've constructed this porch?

Mr. Bell - A lot of 'em have less front yard.

Mr. Cooper - And your second answer is whether the benefits sought by the applicant could be achieved by a feasible alternative to the variance. And you say, "no, the front wall of my house is 30 feet from the edge of the road. That being said, a set of stairs off my front door would put me in non-compliance". So you're saying that whatever changes you've made in the front of your house, large or small, you'd still need a variance, and for that reason, there's, if you reduce the size of your porch, it wouldn't correct the problem?

Mr. Bell - That's correct.

Mr. Cooper - Okay. Three, whether the requested variance is substantial. You say, "no, I'm only asking for eight feet of variance. There are many houses on the blocks," standing in my... ..so forth. Well, the gist of this is the setbacks required are 30 feet. Is that right, Mr. Belden?

Mr. Belden - That's right, the setback is, is 30 feet, yeah.

Mr. Cooper - Yeah, and he will have 22, by his reckoning anyway.

Mr. Belden - Yes.

Mr. Cooper - Even if after the porch is, construction is taken into account. Right?

Mr. Belden - That's right. His, like he said, his, his, the front of his home is set back 30 feet. I believe the, the width of the porch is eight feet, so the resulting setback is 22 feet.

Mr. Cooper - Well, we can agree, I'm not real good at math, at least doing it in my head, but the requested setback is less than 50% out of compliance with the ordinance's requirements. Right?

Mr. Belden - Yes.

Mr. Cooper - (Inaudible) exception.

Mr. Belden - Right.

Mr. Cooper - I think everybody knows what I mean. I hope so anyway. 4, would the variance have any adverse impact on the physical environmental conditions in the neighborhood, and he checks no. Let me ask you this, Mr. Bell. Is your house on the corner or is it in the middle of the block?

Mr. Bell - Middle of the block.

Mr. Cooper - Is this going to obstruct anybody's sight lines backing out of their driveway, so they're liable to get their car whacked when they back out?

Mr. Bell - No, sir.

Mr. Cooper - And the last question is, whether the difficulty was self-created? And you indicate that your house is so old that it antedates the zoning ordinance which went into effect in 1988. So it's not like you made a recent construction and you didn't take the setbacks into account. Any other board members have any questions of the applicant? Mr. Moffitt?

Mr. Moffitt - No.

Mr. Cooper - Mr. Morey?

Mr. Morey - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - No questions. Just an observation.

Mr. Cooper - Go head.

Mr. Hall - I live on that street, and I drove the length of it last couple of the days and out of the, on that, on the side that Mr. Bell is on, I think I could come up with two houses that might meet the 30 foot setback. My own house, I step off the front porch and the second step I'm in the County right-of-way.

Mr. Bell - Hm hm.

Mr. Hall - So his 22 feet is not crowding the line at all compared to the rest of the houses on that street.

Mr. Cooper - As a neighbor on that street, do you have an opinion whether, where the edge of the County or the Town's right-of-way is on Oak Street. Do you think his 22 feet is accurate?

Mr. Hall - I think his 22 feet is reasonably accurate, without a registered survey, yes, because on my own, I had my own property surveyed and allowing for what the County, ya know, set, Town, as for a right-of-way on the street. He's pretty much accurate, if his is the same length.

Mr. Cooper - Mr. Bell, do you want to add anything to what he just said?

Mr. Bell - No. I just, the only thing I'm trying to do is make my house a little bit better and clean up my yard is all.

Mr. Cooper - Maybe you want to avoid cutting as much grass as you did before.

Mr. Bell - (Inaudible).

Mr. Cooper - Alright, I have before me a letter undated from Bryan K. Rounds, who identifies himself as an adjoining property owner. He happens to be on the Town Board too, so I don't know how appropriate it is. He didn't sign it as a board member. He signed it as an adjoining property owner, so I'm going to receive this letter as Board Exhibit 1 without, unless another board member has an objection you want to discuss. No? Alright, then the Board is going to receive Mr. Rounds' letter as Board Exhibit 1. Did this have to go before the County?

Mr. Hall - They don't exist.

Mr. Cooper - Yeah, the Planning Board doesn't exist anymore.

Mr. Belden - I'm sorry. It did. It did go... When this was submitted to the County, we did, we did follow through with the, with the submitting to the County requirement, Section 239 of General Municipal Law, but I guess at that the time, the County Planning Board had been dissolved. So they, they took no action on it.

Mr. Cooper - So how are they handling this. Is this going to be handled at a staff level down there now?

Mr. Belden - Yeah. Right now, it's kind of in limbo, I guess. Right now, I guess an application should be sent to the Lake Champlain/Lake George Regional Planning Board. But that's going to change. It's going to go back to being submitted to the County Planning Department for staff review starting, I think, sometime in March, April. So we wouldn't be submitting them to the County Planning staff, but I guess right now they're just waiting for a public hearing to take place so they can adopt a local law to allow the County Planning staff to review that. It did get submitted and we, we hadn't realized that it hadn't been dissolved and that the County Planning staff wasn't reviewing these. So, but they did submit a transmittal back and, and stated that there was no action on it.

Mr. Cooper - Okay. Anybody have any other personal knowledge of the property that they want to import, as Mr. Hall did? You're done, Mr. Bell?

Mr. Bell - Yes.

Mr. Cooper - Okay. I'm going to close the public hearing at this time, and since this is a Type II listed action under State Environmental Quality Review Act, we don't need to make any findings in that regard. And as is the custom of the Board, I'm going to move the application for an area variance in the affirmative. Is there a second?

Mr. Morey - I'll second that.

Mr. Cooper - Mr. Morey seconds. Discussion. Alright a vote aye will be a vote in the affirmative to approve the application of Michael Bell for an area variance. Mrs. Winslow?

Mrs. Winslow - Aye.

Mr. Cooper - Mr. Hall?

Mr. Hall - Affirmative.

Mr. Cooper - Mr. Moffitt?

Mr. Moffitt - Aye.

Mr. Cooper - Mr. Morey?

Mr. Morey - Aye.

Mr. Cooper - And I vote yes as well.

RESOLUTION #2012-1

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to approve application ZBA 2011-2 by Michael Bell, for tax map #211.9-1-55, located at 43 Oak Street, for an area variance, to allow construction of a porch 22 feet from the front property line.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Mr. Cooper - Mr. Bell, you have your area variance. Whatever other municipal requirements are necessary to bring yourself into compliance with the law will have nothing to do with us, but as far as the area variance, we have granted your area variance. I'll be signing a determination and it'll be filed with the Town Clerk.

Mr. Bell - Okay.

Mr. Cooper - So you can leave now if you'd like to.

Mr. Bell - Okay. Thank you. I appreciate it.

Mr. Cooper - You're welcome.

Mr. Morey - You're welcome.

Mr. Cooper - Okay. The next item on the agenda is ZBA 2011-1, matter of Stephen Schill. Mr. Morey, have you had a chance to read the minutes of December 8th?

Mr. Morey - Yes, I have, and also the other enclosures that I had, minutes of previous years (inaudible).

Mr. Cooper - Hm hm. And Mrs. Winslow?

Mrs. Winslow - Yes, I read it all.

Mr. Cooper - Well, I'm sorry. I want to apologize to the Board, but circumstances beyond our control, I couldn't attend the meeting of

January and since Mr. Morey is the Deputy Chairman or Vice Chairman or Chairman of Vice.

(Laughter).

Mr. Cooper - Whatever he is, would be thrown into something that he had been cold on in December. It didn't seem fair to ask him to go ahead and do it, so I suggested to Mr. Belden that he indicate to the applicant that it might be a good idea to put it over to February where he might have a full board here. And I guess everybody was agreeable to that. Is that right, Mr. Belden?

Mr. Belden - And the weather kind of helped us out too, I think. We decided to call the meeting off.

Mr. Cooper - Yeah. Okay. So here we are. The public hearing is still open in this matter. We were prepared to take more proof from the applicant tonight, but he hasn't appeared. And Mr. Belden, you reserved the right to give us more evidence. Did you think of anything appropriate or relevant to this issue?

Mr. Belden - I have, yes.

Mr. Cooper - You have other things you'd like to present?

Mr. Belden - Yes.

Mr. Cooper - Okay. Why don't you do that at this time.

Mr. Belden - Okay. Well, I guess I'll start, I guess, if you guys had a chance to read through the, the minutes. For those of you who weren't here, there was a discussion, a pretty lengthy discussion back in December about some, some, some court cases that, that had happened; not, not in Warrensburg but elsewhere. Precedents were set with regard to zoning in the regard to something called complete cessation, and that being that essentially if you have two non-conforming uses on a property, you take one off, you're, you're able to bring back another non-conforming use because, because you technically never lost your non-conforming use with the other one that was left there. So that was kind of an issue that I brought up to Jim and the Board and that the, the applicant thought applied to him. So I guess I'll start with what's referred to as, as Structure A, and I don't know... I hope all of you have had a chance to the look at the property. Structure A is what we were calling that, the home where they're putting an addition on it. I guess a component of that home is a mobile home and there's also a structure B on the property which is just a stand-alone mobile home. So I'll start with structure A and I guess... I don't think I brought this up at the last meeting, but I guess a point I wanted to bring up with saying why structure A is not a mobile home, which would, which would, I guess, kind of, in my opinion, put a dent in, in the applicant's case. I, I don't believe that structure A is a mobile home because, I guess to be, to be a mobile home I guess that kind of lies with it that the home was mobile, transportable. But the entirety of structure A, in my opinion could not be transported because a majority of it, even before their most recent addition, had subsequent additions around

the, the building. So a mobile home, in my opinion, would be something that could be moved, and that's not what I think that is. Mr. Cooper - Isn't that what our zoning code says, by definition, that a mobile home is transportable?

Mr. Belden - I believe it does say something to that effect and (inaudible) another reason why I believe that with (inaudible) definition, but...

Mr. Cooper - A structure, transportable in one or more sections, which in traveling mode, is eight body feet or more in width or 20 body feet or more in length, but when erected on a site is a three hundred and twenty more, or more square feet, which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation when connected to the required utilities.

Mr. Belden - And that, that brings me to my next point about the def, the definition of what a mobile home is and that would be that... I'm sorry. I'm sorry. I'll back up. That was about something else. But yeah, that, that's really... That was really one, one of my other arguments. I had some other arguments about why I believe that structure was not a mobile home, but I guess that, to me, if you look at what the definition of what a mobile home is, as Jim stated, it's a, it's a transportable structure, and that home could not be entirely...

Mr. Cooper - Could I interrupt you, Mr. Belden?

Mr. Belden - Yep.

Mr. Cooper - It seems to me what you're doing now is in the nature of argument rather than a submission of additional facts. Do you have any additional facts to give us? Let me ask this question, 'cause this is important to me, I think. The applicant, himself, said that the, before he filed the application in what was it, October or November of 2011, that he was involved in renovations of structure A prior to that time, and he said prior to that time, he had removed the wheels and the tongue, and a substantial portion of what used to be the trailer in connection with improvement he was, he made all prior to the time that he filed the application.

Mr. Belden - For the, for the appeal and use variance...

Mr. Cooper - Yes.

Mr. Belden - Right.

Mr. Cooper - So it seems to me; I don't think we can disregard his own statement in that regard, that... And he said two and half years that he lived on the property, prior to that time, walls had been taken out of the mobile home for additions and doors had been enlarged and removed from the mobile home and I asked him if you were to hook it up and pull it away from the property and leave all the additions and improvements behind, what would have, and he said well, you have a mobile home with a lot of holes in the walls.

Mr. Belden - That's right.

Mr. Cooper - And so it seems to me that at the time he filed the application by his own statements, it was not transportable, and therefore, if we measure the question of whether structure A allowed structure B to be piggybacked at the time the application was filed, structure A was clearly not a mobile home at the time the application was filed. Do you disagree with that analysis?

Mr. Belden - I don't.

Mr. Cooper - So that's what I'm looking at. I was hoping to hear more from Mr. Schill tonight that perhaps clarify that, but his position was that, twofold; one was that we classified the structure A as a mobile home when we did the, what was it, the Desantis appeal back in '96 or so?

Mr. Belden - '91.

Mr. Cooper - '91? And that was with his (inaudible) and the second one was that it was a, I guess, it was once a mobile home and continued to be a mobile home 'cause I think he understood that in order to justify structure B, he had to establish that structure A continued to be a mobile home on the property at the time, at the time it was relevant to his application.

Mr. Belden - That's right.

Mr. Cooper - So I did want to hear about those considerations again tonight, but he's not here. Do you have any facts you'd like to impart to the Board, anything discovered factually in your observations or records or documents that came up that weren't before us before?

Mr. Belden - Sure. I guess something... I did have a lot of information I wanted to, I guess, argue, but as far as factual stuff, I mean, a lot of that was submitted before hand. I did... We... (Inaudible) discussion about how his daughter had been camping out as we called it in structure B. I, I spoke to the Building Department about kind of some of the living standards that he says she was living in that, ya know, not having electricity, not having adequate, ya know, adequate heating system, the water, the sewer, those types of things. And, I mean, I don't know how much it, it really means to you, but there are some New York State Building Codes that, ya know, that that you've got to have a working shower, toilet, kitchen sink. You've got to have them connected to a public water, public or private water system.

Mr. Cooper - What code would you cite that for the record please?

Mr. Belden - Sure. It'd be under the New York State Building Code, under Property Maintenance, and I guess it'd be Section 502.1, 505.1, 602.2 and 604.2, and also that you need to have, you need to maintain, need to be capable of maintaining heating facilities, a room temperature of 68 degrees in all habitable rooms, and also that every occupied building shall provide an electrical system in compliance with Section, Section 605, which is another section of the Building Code. So with that, I guess what I would think is kind of

our view is that with, with that consideration that she was, she was living in the dwelling illegally, and I don't believe that any sort of occupancy by, by Mr. Schill's daughter could count towards anything if it was not, in fact, legal occupancy.

Mr. Cooper - His argument is that she was there from time to time. I got the impression that in the real severe months, she lived with her parents in structure A, but being a teenager, she wanted her independence and she moved out in the shoulder seasons and in the summertime, and in the shoulder seasons, she heated it with a space heater...

Mr. Belden - Hm hm.

Mr. Cooper - ...that had a long extension cord that came off of structure A to heat the, the living room, I guess, where she lived. Your argument is, she can't claim to be occupying it as a mobile home when in fact, it wasn't occupi-able as a mobile home.

Mr. Belden - Yeah.

Mr. Cooper - (Inaudible) State Code?

Mr. Belden - Yes. And that's...

Mr. Cooper - She was there, even if you concede she was there, her occupancy wasn't living in it as a mobile home. Her occupancy was living there as a squatter or somebody in an abandoned building.

Mr. Belden - Exactly. And the other, the other point would be that even, I believe if we have the same page numbers here, in the minutes, it was on page 223, there, he stated that his daughter had moved into the structure B in September of 2010.

Mr. Cooper - Yeah.

Mr. Belden - (Inaudible) and so one of my arguments is, is the code states that after a period of six months, ya know, if there is a non-conforming use, that, that it shall be discontinued. If you, if you go from February 18th when the water was turned off by the property owner, and ya know, six months down the road, it's August 18th, so literally there, there, the discontinuance clock was already out of, ya know, they were already passed that six month period as required by the, by the town code. And then she went in there and lived in, ya know, lived in the building with, ya know, contrary to what, what the New York State Building says that she should..

Mr. Cooper - What do you think of his argument that the Town is estopped or barred, ya know, I, just for purposes of the board.. You're all familiar with the criminal concept of double jeopardy and there's a similar concept in the civil law code, res judicata or estoppel and that says that once something is established, litigation or an administrative decision, that the Town can't go back and make a different finding in the future, which is slightly different than what we've talked about before, about being arbitrary and capricious, but this argument, although he's not an attorney, smacked of the estoppel argument that this Desantis decision is 1991 barred the Town, to wit, Mr. Belden from contending that structure A is not a

mobile home. And I wonder if you folks read the Desantis minutes and what your thoughts are in that regards. Do you have any comments, Mr. Morey?

Mr. Morey - Yes, I read that, and the... In fact, in the minutes here earlier you said that he had removed the axels and the tongue prior to the application, but I guess the application, here in the minutes on page 226, said that they were removed in September of this year, although it would be last year, 2011.

Mr. Cooper - And the application was made in October or November, wasn't it, Mr. Belden?

Mr. Belden - October or November. The, the, he might've meant, when he moved 'em in September. He received a permit to demolish a portion of the mobile home and some of the additions that were present on the property to construct a larger addition; not the portion of that there. So he might've taken those, the axels off back in September, but the application was made...

Mr. Cooper - He said 226, what Mr. Morey's referring to, I think, a fair summary of his testimony is that the rear of the trailer was demolished in the Summer of 2010. The axels and wheels were removed.

Mr. Belden - Hm.

Mr. Cooper - Let's look at page 226 and see if my notes are justified by that.

Mr. Morey - Down here it says, took place in September; it doesn't say what year, but I assumed it was the year that...

Mr. Cooper - I did this, this afternoon, so I might be a little, might have been a little punchie. Let's just see.

Mr. Morey - I just wanted to clarify that, and...

Mr. Cooper - Well, do you dispute, Mr. Morey, that it was done before he filed the application for the use variance and the interpretation?

Mr. Morey - Well, I don't know if I can dispute it, because it's not, it's not clear to me when that occurred. That's what, why I was...
...or if it...

(Tape inaudible).

Mr. Cooper - (Inaudible) 2010. I'm generally being careful about that. I just don't know if that's a summary from a page in front of the page behind, but I can see that on, on 226, it doesn't say 2010 anyplace.

Mr. Morey - But even still, as Mr. Belden said, he filed the application to demolish part of the mobile home, which (inaudible) that is, was still at that point a mobile home.

Mr. Cooper - Well, presume that he thought it was.

Mr. Morey - Yes.

(Tape inaudible).

Mr. Cooper - ...was.

Mr. Belden - This might help you guys. This was... His application he made, the first page here is what was present before he... He got the permit back August 16th from us. This was what was present on the

property at the time he got the permit, and the yellow, the yellow shaded area is what he was going to demolish, so it's just this portion here, and he was (inaudible) and this, this outline is the existing mobile home on the back of the property, on, on the back of the home, and these are additions around it. The yellow still being what was there, but what was demolished and then this additional blue area was, was the larger addition around there. So...

Mr. Cooper - You want to mark that your exhibit #1, Mr. Belden?

Mr. Belden - Sure.

Mr. Cooper - And we'll receive it. You just want to tear that page off or what?

Mr. Belden - I'll make a note and... Do you guys need a copy right now for it or should we...

Mr. Cooper - Well, why don't you hand it around the board here so that board members can look at it. Anybody that can find the part of the minutes where it says he took the tongue off and removed the wheels, that would certainly add some (inaudible). Specifically he made that...

Mr. Hall - (Inaudible) blind here.

Mr. Cooper - Hm?

Mr. Hall - This is what I got. I got, it said copy of Danny Desantis, one sheet, two sheets and then I got this and I've got nothing in between.

Mr. Belden - Oh.

Mr. Cooper - That just might be the Decision page, I don't know.

Mr. Hall - That's all I have.

(Tape inaudible; people talking at once).

Mr. Belden - Okay. Maybe she didn't copy it right. (Inaudible).

Mr. Cooper - Okay. It says here, I asked him, "do you know to your knowledge whether they were ever removed" (referring to the tongue and the wheels)? And he says, "absolutely, I do, because we were doing, since we are and I am still doing the demolition. Well demolition's taking place and we are doing a rebuild, a part of the structure exactly as Chris had told you. The rear of the trailer is what is the portion that was demolished, and that's the portion that had the axles and the wheels which were intact until the demolition and that took place in September". So that would've been September of 2011. What's the date of his application here?

Mr. Belden - October 24, 2011.

Mr. Cooper - Okay. Well, then my... I think my position is unchanged in that regard, even though I got the date wrong. I think we've been straightened out by Mr. Morey.

Mr. Morey - And I believe he's saying here, because on the next page... I didn't mean to interrupt, but...

Mr. Cooper - 227.

Mr. Morey - Yes. You asked if a truck were to back up to that tongue and hook on, would they be able to move that?

Mr. Cooper - I think that preface was saying it was a hypothetical, didn't I?

Mr. Morey - I don't know. (Inaudible).

Mr. Belden - Yes.

(Tape inaudible; people talking at once).

Mr. Cooper - Okay. "Let's just hypothesize here for a minute. Suppose a tractor trailer came along and was able to hook up to that tongue? Uh huh. And pull that thing away from all those other structure, what would you see if you walked around the trailer? Would there be walls breeched or missing as a result of those doors that were constructed and additions that were put on? Yeah, you'd have holes there, correct". So I don't think that we can assume from that answer that the tongue was intact as a, at our hearing date, which was December. I think it's pretty clear he took it off in September. That's the way I read it anyway. So I don't, I guess you folks read the minutes. I think Mr. Belden made a very strong argument about the square footage and that the, the portion of structure A that remained a trailer or a mobile home, was approximately 36% of the square footage. That's what I read in the minutes early on, Mr. Belden. Is that about right?

Mr. Belden - Yes. It was 36% of the home pre-demolition and post demolition about 16%.

Mr. Cooper - So 16% of the structure A at the time he filed the application was the vestige of former mobile home, is that right?

Mr. Belden - That's right.

Mr. Cooper - Now any other discussion or comments?

Mr. Morey - Did anyone ask if how that would be considered by a realtor or a bank?

Mr. Cooper - Not specifically. We asked how it was assessed and...

Mr. Belden - Yes, and I did look into that question, and I spoke to the Assessor about it. It is, it's identified as being a mobile home or manufactured home; however, I asked him is there any... The Assessor's... The Assessor's program allows him to, to identify what, what types of structures are on the property, but one thing they don't do and he's actually looked into for, for different reasons is there's not a selection for hybrid structures, and I guess that's, if you had to call this thing anything, it's, it's not a mobile home. It's not, ya know, it's not purely a mobile. It's not purely a stick built home. It's kind of a little bit of both, but he, ya know, so that, he has to call it something and that's what... I'm not sure if he had called it that, but at least some Assessor at some period in time deemed it a mobile home.

Mr. Cooper - 84% of it at the time the application was filed was a frame structure?

Mr. Belden - Correct.

Mr. Morey - But the Town was still calling it a mobile home.

Mr. Cooper - Well, let's go back to the Desantis Decision 'cause I was bothered by it a little bit. The superficial analysis is that in 1991, the property owner came to us and said I have two mobile homes on the lot. I want to replace one with a bigger one, and Mr. Lace, the Zoning Administrator at the time, said our ordinance doesn't allow for two mobile homes on one lot, and we made an interpretation that the applicant was entitled to replace one of the mobile homes with a bigger mobile home, and essentially overruled Mr. Lace at the time. Now I guess the applicant here would say that in doing that, we tacitly determined that structure A was a mobile home in 1991 and we're stuck with that for all time. What do you think of that, Mrs. Winslow? Your husband's a judge.

Mrs. Winslow - I don't agree with that. I...

Mr. Cooper - I think my... The reason I was troubled by it is that superficially it looks like a precedent, but ya know, that was a (inaudible) issue. Nobody was contending that structure A was a hybrid structure at the time. Nobody brought facts to the Board at that time to point out that it was hybrid structure or not. It was just presented that the issue was whether you could have a second mobile home on a lot that was, both of which were prior non-conforming uses, and replace that second structure with a bigger one of the same type, which was another mobile home. So I, I think, ya know, if a Judge ever looked at this, that would be my explanation to the Judge. What do you think, Mr. Hall?

Mr. Hall - I, I think you want to be a little careful with this tongue, no tongue deal on the house trailer. Remember, I owned two or three.

Mr. Cooper - Hm hm.

Mr. Hall - And I had one problem where I wanted to put one back on and didn't. It looks like had I put that mobile home back on, dropped the tongue off from it, it wouldn't have been a mobile home anymore by what your, criteria you're using tonight. Also, a lot of the older mobile homes and some of the newer ones we (inaudible) up with a (inaudible) and you unbolted the tongue and took it away. If you wanted to move it, you brought a tongue back and you put it on. So you want to be a little careful of what we do there too.

Mr. Cooper - Well, that's not the only evidence that I hung my hat on or that I'm thinking along those lines. I'm just saying that, ya know, when you start deducting from the mobile home, buy taking pieces away.

Mr. Hall - Yeah.

Mr. Cooper - Those are two of the pieces that they took away. You ended up with 16% of the structure as, is former mobile home. And I'm not saying that the tongue and the wheels by themselves decide the case. I'm just saying that's part of what they subtracted from the original mobile home.

Mr. Hall - I don't think you could say that those are (inaudible) subtracted, but when he's chopped that much off the rest of it, then I'm in agreement with you.

Mr. Cooper - Okay.

Mr. Hall - I'm saying to...

Mr. Cooper - Well, we can have...

Mr. Hall - ...protect ourselves.

Mr. Cooper - ...a gentlemen's agreement.

Mr. Hall - ...down the line.

Mr. Cooper - Sure.

Mr. Morey - Can I add to that?

Mr. Cooper - Sure, go ahead, Mr. Morey.

Mr. Morey - Possibly, the reason that no one brought up whether that was a hybrid or a mobile home or a house in 1991 was that everyone that I know, that if you added, no matter what you've really done to a mobile home, if you've added on to that, it's still considered a mobile home, and the Town obviously still considered that, at least for tax purposes, that you could erase the fact that its roots, its beginnings were a mobile home.

Mr. Cooper - What do you do with the fact that what percentage of the, at what point do you say it's not a mobile anymore?

Mr. Morey - I guess that would be up to the Town Board to determine, I guess if you cross a threshold for square footage or, or whatever arbitrary line they'd like to make, then it ceases to be a mobile home and you're, you're taxed as a stick built structure, but I'm almost positive that if you went to sell that house at this time, that the (inaudible) and the bank would still consider that as a mobile home.

Mr. Cooper - Well, they don't make the decision for us.

Mr. Morey - No, but we're in an area that we're trying to decide whether or not it's a mobile home and...

Mr. Cooper - Looks like a problem for the Planning Board to address before the, brought in front of the Board (inaudible).

Mr. Belden - I'll add one other thing too, I guess. I, I stated that the Assessor's rolls indicate that there's a mobile or a manufactured home on the property, but his records also do reflect that there are the additions on the home, so it's, ya know... So it's not that he's being taxed merely on the manufactured home component of the, of the, of the place, but, but also the other additions around it.

Mr. Morey - But it's still as a mobile home?

Mr. Cooper - Well, the property is listed as mobile home. He happens to have a mobile home on it, undisputedly structure B is a mobile home.

Mr. Morey - Okay. If we move beyond this to more discussion. I've got...

Mr. Cooper - Go ahead.

Mr. Morey - ...more things. (Inaudible). In the applica, in the Martha Smith... This Board has been pretty lenient as far as what constitutes discontinuance in regards to mobile home, as you could see from the Martha Smith variance or interpretation, I guess. (Inaudible) gave her a use variance and all that she had left there was a septic system and a, and a hook up to the pole.

Mr. Cooper - There were sporadically at least travel trailers in there.

Mr. Morey - Yes.

Mr. Cooper - And from time to time she had had mobile homes in there too; moved 'em in and out and there was no gap of six months. I'm not even sure that was an issue in the case.

Mr. Smith - No, she said there was a gap of two years between when...

Mr. Cooper - And you testified in that thing that every time you go by there, you saw a trailer hooked up.

Mr. Morey - Yes, you did, yep.

Mr. Cooper - So it seems to me that's some evidence that it was never discontinued.

Mr. Morey - So if someone were to go to Florida for six months, would the town would be in... I've got a question for Mr. Belden, do you know if Mr. Schill was informed that if he shut his water off for more than six months, that he'd lose the right to reoccupy that trailer?

Mr. Belden - No, and it's because the, the application for discontinuance of water service remains in the Town Clerk's office. It's nothing that they would come in to me to do. I think, I think there was an intent... I think there was an intent... We, we had received communications from, from them back after the water was turned off, about permits that were necessary to remove the structure, demolish the structure, both by the former tenants of the building and, and I believe also once by Mrs. Schill. So I, I think there was an intent to, to get rid, get rid of this, this structure at one time. There was never, it was never stated to him that if, if he went beyond the six month time period... There may have been times in the past where it had been mentioned to him, but not, not when he turned his water off, no.

Mr. Morey - So if you wanted to... If we took a vacation or someone moved away, I mean, lots of mobile homes go unoccupied in this town for a period of time and, and as far as I know, this is the, certainly the first time it's come before us. Whether or not that would be considered to be discontinuance.

Mr. Cooper - Well, the counter-argument, Mark, and I'm listening to what you say and you've changed my mind in other arguments, so I think you got to give me credit for being amenable to being turned around.

Mr. Morey - Hm hm.

Mr. Cooper - But part of the problem I'm having with what you're saying is, it wasn't a habitable mobile home; it was a derelict, had no furnace. The windows had been taken out. They put up plaster board or some, or Sheetrock or something to keep the elements out of the place. It didn't have water. It had no electricity and it seems to me that's a far cry from the example you're giving as somebody that goes to Florida for vacation and leaves a habitable mobile home behind.

Mr. Morey - In the extent of whether it's habitable or not, but I don't think we should make our whole decision and base that on just the fact that another mobile home or part of a mobile home would allow this second one to be replace or rehabilitated. I think we also have to look at whether or not we want to set that threshold, that six month deadline to something that Mr. Schill had testified that it wasn't livable, but he also testified that he was trying to stabilize it and keep it from deteriorating even more so that he could rehabilitate it.

Mr. Cooper - Well, I think he wanted to sell it and then when his daughter moved in and his plans changed, it was someplace for her to live. He wanted to get it off of there, and he wasn't, he didn't do anything to rehab it. He just wanted... He had, he said he had some Combs, Combs' look at it to haul, see if they'd haul it off and some other people. So... And we can't lose sight of the fact that the, the statute here doesn't place any weight on intentions. It says, was its use discontinued? And that's an objective standard. It's not subjectively what Mr. Schill or his family thought. It's what do the facts tell us about the condition of the property and whether a reasonable man or woman could assume that this was a functioning mobile home.

Mr. Morey - In the past, I think it's been the opinion of the Board that discontinuance meant removal. That's why Mr. Hall wasn't able to replace the mobile home across from his house.

Mr. Hall - (Inaudible).

Mr. Cooper - Well, that's not what the statute says. When you discontinue a use, you stop using it. So, ya know, you're entitled to your prospective of what our philosophy has been over the years, but I don't agree with it.

Mr. Morey - If a house sets vacant on Main Street, where there's no single family, they're out of, any single family residence on Main Street is out of compliance, is that right? Is it pre-existing?

Mr. Cooper - Well, actually this is one of the problems with the zoning ordinance that's going to be addressed with the new one. We talked about that. I brought it up at the meetings that you have an estate situation, where somebody dies, it may stand vacant for months, if not years, and it doesn't mean it's discontinued.

Mr. Morey - Well, it's also...

Mr. Cooper - But I'm not, but it's not a derelict house...

Mr. Morey - Well, a der, a lot of those houses has been derelict that have stood there...

Mr. Cooper - There's no windows, no furnace, no water, no electricity?

Mr. Morey - If someone wanted to come in and fix that up, would they be told no. That that had to be torn down because you can only have commercial and residential's only on the second floor?

Mr. Belden - Well, we, we could make them... I guess that maybe there would be a way to make them tear it down, but we wouldn't make them tear it down, I wouldn't think. And that's not what we're... We're not forcing to... We're not forcing the Schill's to tear it down or move it. It's just that... The zoning, I mean... You guys are here to help with, I guess, the flexibility of the zoning code.

Mr. Cooper - Hm hm.

Mr. Belden - My job is to, is to interpret the zoning code as, as it, as it is, as it lays now, and ya know, it's, the code says if it's in, it's discontinued for a period of, per, period of six or, six months or more, that, that it shall conform to the, ya know, to the, to the uses that are permitted in that zone. And I guess, if you're to look at what, a, what the use is, it's not, it doesn't say whether or not it's removed. I mean, it says purpose for which a building (inaudible) structure is, may be arranged, designed, intended, maintained or occupied. The structure wasn't occupied. They, the tenant that was in there, I think, in kind of a rage, stripped everything out of the mobile home because he had intention of taking the mobile home and there was a whole issue with that, that they wouldn't let him take it, but they took everything out of it. They turned the water off. They, they, they, they, they were, I guess camping out in it for, ya know, I guess, close to a year. And it wasn't until... It wasn't until they called to have the water turned off that... They had been living in this for a over a year, not paying a water bill... I mean it was...

Mr. Cooper - Well, you're rehashing facts that we already know too well.

Mr. Belden - Yeah, sure. But I mean...

Mr. Cooper - Let me ask you this though. If, if this committee denied the applicant his request for an interpretation that structure A was a mobile home and therefore structure B rode in piggyback, grandfathered on that, all we're going to do is deny them a, what is it, a land use and development permit?

Mr. Belden - Yeah.

Mr. Cooper - Which means nobody can live in the derelict. It doesn't mean that he has to remove it from the property or that he can't sell it. He can leave it there if he wants. He can store (inaudible) in it if he wants, but nobody can live it in as a mobile home. Correct?

Mr. Belden - Unless the, unless the mobile home gets to a, such a state that, ya know, the Town Board deems it to be dangerous or

unsafe, in which they would go through the procedure to either have him remediate it, remove it or have the Town Board do so, but no, I don't know that the... It's not my intention; I don't believe it's the Town's intention to, to force him to remove it. It's just...

Mr. Cooper - Nobody can live in it.

Mr. Belden - Nobody can, can occupy it as a mobile home.

Mr. Cooper - And the fact that it's mobile and can be transportable, I think takes it out of the class of an analogies to (inaudible) built structures, which by analysis you can't move, and so if you had a situation where a house was not occupied on Main Street, it would be a different animal than a mobile home, that in theory, you can, even if the wheels and tongue are removed, you can hook 'em back up again and haul it off to someplace else, where it is permitted.

Mr. Morey - I don't agree with that. Your argument went from whether he would be forced to move it or and the, an example is the house right next to the new, well, the, not the VFW or the Oddfellows Hall it used to be called. I don't know what they call it now, the museum. That is vacant. The porch is falling off it. If someone came in here and wanted to rehabilitate that now as a single family residence which it was, that's non-conforming. It's been vacant for more than six months. The fellow died.

Mr. Belden - Right.

Mr. Morey - Would you deny that?

Mr. Belden - If it's not permitted in the use table now, yes. I, and I wasn't here when that was occupied. I mean, all I know it to be was, was a bed and breakfast. I didn't realize it was...

Mr. Cooper - What, the White House?

Mr. Belden - The White House was (inaudible). But yeah, I mean, but that's... See, and right now we're, we are undergoing some zoning changes and hopefully they're adopted, and it will allow for some flexibility with, with single family dwellings. But right now, what we have to work with is this zoning and, and even with, with the proposed zoning, it wouldn't make accommodations for Mr. Schill's property. So...

Mr. Cooper - But it would be specifically for single family residences. Correct?

Mr. Belden - It would... It is...

Mr. Cooper - It will allow us to make allowances for... Allow you to make allowances for White House Lodge situations.

Mr. Belden - I believe so. I believe so.

Mr. Cooper - Yeah. That was at my suggestion, wasn't it?

Mr. Belden - To, to avoid that...

Mr. Cooper - (Inaudible) watch out for Mr. Morey.

Mr. Morey - 'Cause I don't like to argue, so.

Mr. Cooper - Well, we can't assume that the new ordinance is going to be passed, but I can also add that this situation is not likely to come in the future for another reason, that they, if it's enacted the

way it's proposed, the non-conformity would be pushed out to a year and not six months. So you can look at that one of two ways. You could say well, why, gee why should Mr., poor Mr. Schill get hung up on the six months when six months from now it might be a year and another Mr. Schill wouldn't be. But he, it's more than six months to me here. It's...

Mr. Belden - About 19 months.

Mr. Cooper - Yeah. And we don't know what happened between 1991 and he said he's lived there two and a half years, I think. He didn't know himself who was in there; how it was used. Presumably it was 'cause the tenant, it was enough for the tenant to live in, strike a deal and then raise hell when things fell apart between him and the property owner. Anyway, I think we're beating this to death. I don't really care one way or the other what the Board decides, so I'm going to call the question. Do you have anything you want to say, Mr. Moffitt. You're the only one who hasn't had a chance to chime in.

Mr. Moffitt - No, not really. I've looked at it.

Mr. Cooper - Alright. I'm going to try to fashion a motion in the affirmative here, which is the custom of the Board. I believe in words are substance that Mr. Schill withdrew his use variance application last time, and I'm going to move that we find that there are no factual bases upon which to grant a use variance. So we'll take that part of it first. Is there a second to the motion.

Mr. Hall - I'll second it.

Mr. Cooper - Further discussion? I guess I find it a negative, but it's clear on the record what I said. So a vote aye will be to strike Mr. Schill's request for a use variance for maintenance of an additional mobile home or a mobile home in addition to structure A on the lot. I should've have said additional. So I'd ask you, your vote?

Mr. Moffitt - Aye.

Mr. Cooper - Mr. Morey?

Mr. Morey - Aye.

Mr. Cooper - Mr. Hall?

Mr. Hall - Aye.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - Aye.

Mr. Cooper - And I vote in the affirmative as well.

RESOLUTION #2012-2

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, the Zoning Board finds that there are no factual bases upon which to grant a use variance for application ZBA #2011-1 by Stephen Schill for tax map #210.20-4-17, located at 21 Commercial Avenue.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Mr. Cooper - So his, that part of his application seeking the use variance is denied. Which will bring us to the part of the application seeking an interpretation, and it's denominated on the application as an appeal of action, but the gist of it is, we have to make an interpretation. So in this instance, I'll move that we affirm the determination of the Zoning Administrator that the applicant's right to use the property at 21 Commercial Avenue for a mobile home and maintenance of specifically structure B should be denied. A vote will be to uphold Mr. Belden. Is there discussion on..? I need a second.

Mrs. Winslow - I'll second.

Mr. Cooper - Mrs. Winslow seconds. Further discussion?

Mr. Morey - I just want to clarify that I believe that even though there's, there's pros and cons to this, I think Mr. Schill's application falls into a grey area as to what we've done in previous times, and also the, I think it's significant that the Town still considers that a mobile home or is calling that a mobile home on the assessment rolls. So that's just, I'd like everyone to keep that in mind.

Mr. Cooper - Okay. I understand that argument. My counter-argument would be that the assessment rolls don't interpret our code, our zoning ordinance, which does define mobile home as a...

Mr. Belden - Hold on...

(END OF SIDE ONE)

Mr. Belden - Okay, we're live.

Mr. Cooper - I believe where Mr. Morey had made a point that the Town for all purposes classifies structure A as a mobile home and I responded that the other purposes don't relate to interpretation of our zoning code. That's where we left it off. Wasn't it, Mr. Morey?

Mr. Morey - Yes, it was.

Mr. Cooper - And we haven't had any discussion since then on the record. We had a little trouble getting the second tape to run. So the motion was made and seconded, I believe. Is that right? You seconded that Mrs. Winslow?

Mrs. Winslow - Yes.

Mr. Cooper - So a vote aye will be to uphold the determination of Mr. Belden and I'd ask you, Mrs. Winslow, your vote?

Mrs. Winslow - Aye.
 Mr. Cooper - Mr. Hall?
 Mr. Hall - Aye.
 Mr. Cooper - Mr. Moffitt?
 Mr. Moffitt - Aye.
 Mr. Cooper - Mr. Morey?
 Mr. Morey - No.
 Mr. Cooper - And I vote in the affirmative as well.

RESOLUTION #2012-3

Motion by: James Cooper
 Second by: Donne Lynn Winslow

RESOLVED, the Zoning Board affirms the determination of the Zoning Administrator that the applicant's right to use the property at 21 Commercial Avenue for a mobile home and maintenance of Structure B should be denied, this is for application ZBA #2011-1 by Stephen Schill for tax map #210.20-4-17.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:
 Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey,
 Harold Moffitt

Mr. Cooper - So you can inform Mr. Schill that his application was denied.
 Mr. Belden - Okay.
 Mr. Cooper - And I have your copy here, but I'll try to fill it out toute suite sweet so that if he wants to bring an Article 78, he will have a determination to work from.
 Mr. Belden - Okay.
 Mr. Cooper - I want to... The final thing on the agenda here tonight is the organization of the board. As I indicated at the December meeting, the Town Board, it turns out under the Town Law, has to appoint the Chairperson and they appointed me in January, according to the Town Clerk, so that leaves us to appoint a Vice Chairman, a Secretary and make a designation and meeting night and time. So I nominate Mr. Morey to be the Vice Chairman.
 Mr. Hall - I second it.
 Mr. Cooper - (Inaudible), Mr. Morey?
 Mr. Morey - I (inaudible) ruined my chances a minute ago.
 (Laughter).
 Mr. Cooper - All those in favor, signify by saying aye.
 Mrs. Winslow - Aye.
 Mr. Moffitt - Aye.
 Mr. Cooper - Alright. Let's let the record reflect that the minutes reflect it was unanimous, except Mr. Morey in modesty abstained, and

I would appoint, move that Mrs. Winslow be appointed the Secretary of the Board. Is there a second.

Mr. Morey - I'll second.

Mr. Morey - Aye.

Mr. Cooper - Any further nominations? Alright, all those in favor, indicate by saying aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

Mr. Cooper - Let the minutes reflect that the Board is unanimous, with the abstention of Mrs. Winslow.

RESOLUTION #2012-4

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to appoint Mark Morey as Zoning Board Vice Chairperson.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Harold Moffitt

Nays: None

Abstention: Donne Lynn Winslow

RESOLUTION #2012-5

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to appoint Donne Lynn Winslow as Zoning Board Secretary.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Abstention: Donne Lynn Winslow

Mr. Cooper - We don't have any choice with meeting night and time, do we? I mean, this is pretty much our slot.

Mr. Belden - Unless you guys... Ya know, I could always ask Sherryl, but I think that's, I guess, the typical time for us.

Mr. Cooper - Well, this is good as any, so let's continue with Thursday at 7:00. Anybody have any objections to that or suggestions for another time?

Mrs. Winslow - No.

Mr. Cooper - Okay.

Mr. Belden - So that is the second Thursday of every month 7:00?

Mr. Cooper - Yeah.

Mr. Belden - Okay.

Mr. Cooper - Alright, if there's nothing further to be brought before the Board, we can adjourn. Anything else? Thank you for your work on this. This was an intellectually challenging one. We'll see you next month if we have any business.

The Zoning Board of Appeals meeting of February 9, 2012 was adjourned at 8:05 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

Zb02092012

RESOLUTION #2012-1

Motion by: James Cooper
 Second by: Mark Morey

RESOLVED, to approve application ZBA 2011-2 by Michael Bell, for tax map #211.9-1-55, located at 43 Oak Street, for an area variance, to allow construction of a porch 22 feet from the front property line.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey,
 Harold Moffitt
 Nays: None

RESOLUTION #2012-2

Motion by: James Cooper
 Second by: Alan Hall

RESOLVED, the Zoning Board finds that there are no factual bases upon which to grant a use variance for application ZBA #2011-1 by Stephen Schill for tax map #210.20-4-17, located at 21 Commercial Avenue.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey,
 Harold Moffitt

RESOLUTION #2012-3

Motion by: James Cooper
 Second by: Donne Lynn Winslow

RESOLVED, the Zoning Board affirms the determination of the Zoning Administrator that the applicant's right to use the property at 21 Commercial Avenue for a mobile home and maintenance of Structure B should be denied, this is for application ZBA #2011-1 by Stephen Schill for tax map #210.20-4-17.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey,
 Harold Moffitt

RESOLUTION #2012-4

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to appoint Mark Morey as Zoning Board Vice Chairperson.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Harold Moffitt

Nays: None

Abstention: Donne Lynn Winslow

RESOLUTION #2012-5

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to appoint Donne Lynn Winslow as Zoning Board Secretary.

DULY ADOPTED ON THIS 9TH DAY OF FEBRUARY, 2012 BY THE FOLLOWING VOTE:

Ayes: Alan Hall, James Cooper, Mark Morey, Harold Moffitt

Nays: None

Abstention: Donne Lynn Winslow