

Minutes
Zoning Board of Appeals
July 11, 2013

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

Others Present: Gary Baker, MacKenzie Baker, Patti Corlew, Chris Belden (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Cooper - I call the July 11, 2013 meeting of the Zoning Board of Appeals of the Town of Warrensburg to order. The first item of business is to have the transcript reflect that all five board members are present and seated. The next item of business is approval of the minutes of June 13, 2013. Do any board members have any amendments or corrections to those minutes? No one having indicated that change is required, let the record reflect that the minutes are approved by consensus.

The Zoning Board of Appeals' minutes of June 13, 2013 are approved by consensus of the Board.

Mr. Cooper - Mr. Belden, would you raise your right hand please? Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Belden - Yes.

Mr. Cooper - And are you Gary Baker, II?

Mr. Baker - Yes.

Mr. Cooper - Do you intend to give testimony here tonight?

Mr. Baker - Yes, I do.

Mr. Cooper - And how 'bout Darcy Baker, is that the lady next to you?

Mr. Baker - No, this is my daughter, MacKenzie.

Mr. Cooper - Gary, would you raise your right hand please. Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Baker - (Inaudible).

Mr. Cooper - Okay. Mr. Belden, would you explain how this matter comes before us?

Mr. Belden - Sure. Mr. Baker's property, located at 10 Commercial Avenue, is located in a district that requires a 10 foot setback on all sides. He's looking to construct an addition on the left side of his home, which would leave the front of the building seven feet from the front property line. And the other matter before you is, he's looking to reconstruct a shed, I guess behind his driveway, which would end up being only one foot from the property line, and, but the requirement for the shed would be a five foot setback. He'll need to

tear down the existing shed to make room for the addition and that, that's (inaudible).

Mr. Cooper - What is the name of the neighbor, do you know?
(Tape inaudible).

Mr. Cooper - The one that would be impacted by the new shed.

Mr. Baker - Jerry Reed, Gerald Reed.

Mr. Cooper - Have you received any communications from Mr. Reed?

Mr. Belden - No, we haven't received anything (inaudible).

Mr. Cooper - How about you, Mr. Baker?

Mr. Baker - Yes. He's actually my uncle. I went over the plans with him (inaudible). The shed is basically going back to where it was prior to the zoning tax map (inaudible).

Mr. Cooper - I took a view of the property before the meeting started tonight. Mr. Hall was there as well. Perhaps other board members have personal knowledge of your property, but I'm going to say some factual statements and you can correct me when I'm done. Okay?

Mr. Baker - Okay.

Mr. Cooper - Your property has a porch on the Commercial Avenue side, and for purposes of this discussion, I'm going to say Commercial Avenue runs East and West, so your property would be then on the South side of the Commercial Avenue. Do you agree?

Mr. Baker - Okay.

Mr. Cooper - Okay, and it has the porch there? Will this addition be parallel to the front of the porch or parallel to the front of your house?

Mr. Baker - Parallel to the front of the house.

Mr. Cooper - Okay. And at this time, there's a stockade fence that runs roughly parallel to Commercial Avenue in an East/West fashion and if that were continued, I don't remember, as I sit here, would it come to the front of the porch or would it come to the front of your building?

Mr. Baker - That would be to the front of the building. (Inaudible).

Mr. Cooper - And even with the tight quarters you have there on Commercial Avenue, the stockade fence is like what, two or three feet off the road or off the macadam?

Mr. Baker - I believe that it's, runs parallel to my house.

(Inaudible) point, it (inaudible) past my house (inaudible). The way the road curves towards the (inaudible) it's probably, probably narrows up to four or five feet (inaudible).

Mr. Cooper - That's going to go if you build the addition?

Mr. Baker - Yeah, the addition will go on and after the 16 feet of the addition, they'll be the stockade fence (inaudible).

Mr. Cooper - Mr. Belden, do you have any opinion about that as to whether he needs a variance to have a fence in addition to the addition? I mean, if he's going to take it down and then put up the addition and then reestablish the fence, does he need a variance for that too?

Mr. Belden - You're not going to be establishing a fence. You're gonna... Well, I guess you would have to take it down to...

Mr. Baker - I would take it down to (inaudible). I wouldn't be taking down the part where the fence (inaudible); only the part where the addition is.

Mr. Cooper - So the fence would basically be a projection beyond the point where the addition would be constructed?

Mr. Baker - Correct.

Mr. Cooper - You're going to remove the portions of it that are going to be, would be right immediately in front of the wall of your house, correct?

Mr. Baker - Correct. I may have to, I have to take a couple more down temporarily (inaudible).

Mr. Belden - Mr. Cooper, I'm sorry. Mr. Baker had also given us some photographs of some things too, so I don't know if you'd like to see them...

Mr. Cooper - Alright, we'll let...

Mr. Belden - ...now.

Mr. Cooper - Let's mark that Board Exhibit #1 and we can hand 'em to the Board up here to look at.

Mr. Belden - Sure.

Mr. Cooper - Now on three sides of your property, or is it two sides of your property, are surrounded by commercial business, Curtis Lumber Company?

Mr. Baker - Two sides.

Mr. Cooper - Two sides.

Mr. Baker - The rear and the left.

Mr. Cooper - And what's behind you there, the rear and the left side is basically their lumber yard, isn't that true?

Mr. Baker - Correct.

Mr. Cooper - That's where they store their materials that they sell and it's not part of their retail store in the sense that people are going in to buy paint or anything like that. Correct?

Mr. Baker - Correct. (Inaudible).

Mr. Cooper - Yeah, it looks like that side yard where you're going to be building this addition is pretty, pretty well grown up. Am I wrong?

Mr. Baker - Yes, it is. It's grown up. It's come a long ways over the years. When we bought it, it was pretty barren and (inaudible).

Mr. Cooper - And there are a couple of full grown trees that'll have to be removed, I assume, to build the addition. One is a black locust and the other one looks like a Box Elder. Do you know what I'm talking about?

Mr. Baker - Yes. Box Elder, we'd take one limb off of (inaudible) and the other two that are by the porch definitely one of 'em going to come down.

Mr. Cooper - The property immediately to your west that would be impacted by this shed replacement will not see the new addition at all, will they? It'll be screened off by your house?

Mr. Baker - No.

Mr. Cooper - And across the street, across Commercial Avenue from the new addition is somebody's back yard. In other words, you're not building across from a residential structure where their picture window is going to be now looking out at your new structure.

Mr. Baker - (Inaudible) back yard.

Mr. Cooper - Just the back yard. I'm going to take just a second and look through these photographs here. Just for purposes of clarity for the Board members, all these pictures portray your property looking in from the Commercial Avenue. So if I were to say the East, it would be to the left and West would be to the right. Is that correct?

Mr. Baker - Right.

Mr. Cooper - Okay. Now with regard to this shed you're going to build, you said there was one there before?

Mr. Baker - Correct. There was an 8 x 10 shed there.

Mr. Cooper - Is it going to be like for a garage or is it going to have an actual, some other function?

Mr. Baker - Pool storage, lawn mower storage, such as that. (Inaudible).

Mr. Cooper - Are you going to build this from scratch or are you going to go buy one of these Quaker sheds or something like that and locate it there?

Mr. Baker - We've looked at both options and we feel right now financially it'd be better for me to build it. (Inaudible).

Mr. Cooper - Our ordinance requires that you, to get an area variance, that you establish certain criteria and the first of which is whether an undesirable change will be produced in the character of the neighborhood or detriment to nearby properties will be created by the granting of the area variance. I think we've covered some of that with your testimony already.

Mr. Baker - Yes, I think we have. (Inaudible).

Mr. Cooper - You said, "see attached sheet and photos". Are you referring to the type-written sheet?

Mr. Baker - Yes. (Inaudible).

Mr. Cooper - Does paragraph one of the type-written sheet correspond with the answer number one or is it just, this is kind of free form?

Mr. Baker - Yes.

Mr. Cooper - Okay. Well, since it's typed out, I'll let the board members take a second to read paragraph one. Paragraph or criteria number two says whether the benefit sought by the applicant can be achieved some other method feasible for the applicant to pursue other than the area variance. Were you to build on the rear of your house

as opposed to the side, tell us why that's not a feasible alternative.

Mr. Baker - The rear of the house, right now there's a pool located there.

Mr. Cooper - In-ground or above ground?

Mr. Baker - Above ground.

Mr. Cooper - Where's your... Are you on municipal sewage and water?

Mr. Baker - Correct.

Mr. Cooper - Okay. And immediately to the rear of your house, is there enough room to build the addition of that size you had?

Mr. Baker - (Inaudible).

Mr. Cooper - Let the board take a minute to read his answer to number two.

Mr. Baker - I think my drawing kind of throws it off a little bit 'cause (inaudible) not to scale (inaudible).

Mr. Cooper - Our ordinance requires it to be to scale, but I think that's pretty unreasonable (inaudible) scale as you can work it out, right?

Mr. Baker - Yeah.

Mr. Cooper - Number three, whether the requested area variance is substantial. And Mr. Belden says that you're going to go from an existing compliant setback to seven feet. Is that right, Mr. Belden?

Mr. Belden - Well, the structure currently is not compliant.

Mr. Cooper - The house isn't, but I mean, if he projects it. As it is now, there's setback there that's compliant, isn't there; except for maybe the shed, existing shed?

Mr. Belden - The existing shed would be compliant right now. Are we talking about the shed or the addition?

Mr. Cooper - I'm talking about both. I'm just talking about, as the property, is on the, exists now, without the addition, he's compliant with the ten foot setback on Commercial Avenue?

Mr. Belden - No, I believe it's eight feet, eight?

Mr. Baker - Eight feet to the home and (inaudible) porch.

Mr. Belden - He has it on the current one that says current plan, the porch is 1 foot, 8 inches from the road and eight and a, almost eight and a half inches for the add, the existing home.

Mr. Cooper - You mean 1.8 feet? You said 1.8 inches.

Mr. Belden - Oh did I? Okay. 1 foot, 8 inches from the road.

Mr. Cooper - We understand you're going to project the wall of your house to the East and that will become the front wall of the new addition. And did you, did I misunderstand your statement, Mr. Belden, that when he's done with that, he'll be, have a seven foot setback. Is that correct?

Mr. Belden - I think so. And I believe that's because the home is, well, I think the, well I believe the home is, might be situated kind of crooked to Commercial Avenue.

Mr. Cooper - Yeah, and the avenue, the avenue, as he indicated, curves slightly there.

Mr. Belden - Right.

Mr. Baker - The road is curved to the house. (Inaudible) the house was there before the road.

Mr. Belden - Yeah.

Mr. Baker - (Inaudible).

Mr. Belden - That wide.

Mr. Baker - Actually getting (inaudible).

Mr. Cooper - Well, the, even after construction, he'd still be 70% in compliance with the requirements of the code, correct?

Mr. Belden - According to Tom Belden, the Senior Water Operator, to give a letter, he gave a letter, ya know, indicating that he didn't believe that there would be any issues. The water lines and the sewer lines wouldn't be impacted by the addition, if that makes any difference to the Board.

Mr. Cooper - We'll note those remarks for the record. Number four, whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Basically, your statement there is you live in a pretty aesthetically beat up neighborhood and this can only make it better. Is that it?

Mr. Baker - Correct. I don't want to hold back on that (inaudible).

Mr. Cooper - Number five, whether the alleged difficulty was self-created. When was your house built, do you know?

Mr. Baker - 1920.

Mr. Cooper - Well, I wouldn't ask you, except you made it part of your application. You said your family is growing. How many family members do you have?

Mr. Baker - I have (inaudible). So that's, that's growing. They do not reside with me (inaudible) gatherings (inaudible).

Mr. Cooper - How many stories is this addition going to be?

Mr. Baker - One.

Mr. Cooper - Alright. I'll turn it over to my fellow board members for any questions for you. Let me just ask one final question. That one foot setback from your uncle, ya know, he's not going to be the uncle on the property forever. Somebody else is going to come to live there eventually.

Mr. Baker - Correct.

Mr. Cooper - And that might be a real pain in the neck for them. It might cut off their ability to have sunlight to have a garden or whatever. Is there any way you could move that shed to a different location so there was more, you got closer to the ten foot setback on the sideline?

Mr. Baker - (Inaudible).

Mr. Belden - But a shed, there's a five... The size of his shed, it would only require a five foot setback.

Mr. Cooper - Okay. But this is still 80% out of compliance when...

Mr. Baker - (Inaudible) one foot between the line. As you get to the front of the shed, it will, it will be five feet from the line. The line the way runs diagonally, the shed's parallel to the driveway. The only reason (inaudible) we have access to the back yard in that area. If I was to move it over (inaudible) towards the house, we're afraid the snowfall from the (inaudible) house (inaudible).

Mr. Cooper - Mr. Moffitt, do you have any questions for the applicant?

Mr. Moffitt - No.

Mr. Cooper - Mr. Morey?

Mr. Morey - No, I don't.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - I have no question, but I have a little warning for you. I had a shed of my own on my property across from where I live (inaudible) I own. During the winter I had a tree come down, a tree limb (inaudible), our ordinance said I could rebuild on that existing foundation. I had to go down to the County center and get my demolition permit; no problem. When I went to build on it, the County man came up, took one look at it (inaudible) your ordinances are worth the paper they're written on. You can't build on that; you gotta be five foot from the property line no matter what Warren County's (Town of Warrensburg's) ordinances says. Be careful when you're demolishing or moving a shed around. Incidentally my (inaudible). So I got to build it, but I had no idea; our ordinance said I could built right back on it, so be advised that you may have a pitfall at the County level. You might want to check into that before you take a building down or start moving it 'cause you're kind of close to some lines here. That's all I have.

Mr. Baker - Okay.

Mr. Cooper - There is a... We usually conclude these proceedings by saying, ya know, if we've given you your variance, that that only applies to the, to the extent of our jurisdiction. If you are required to get other permits or approvals from different, other governmental entities, it has nothing to do with us.

Mr. Baker - Right.

Mr. Cooper - So if Alan is correct and either the Warrensburg Zoning Ordinance is superseded by State Building Code or general law passed by the Warren County Board of Supervisors, that you might have a problem, but it's not our problem. It's your problem.

Mr. Baker - Okay.

Mr. Cooper - Anything else, Mr. Hall?

Mr. Hall - That's it.

Mr. Cooper - Okay. We don't have a County Planning Board, do we?

Mr. Belden - Yeah, well...

Mrs. Corlew - Not a Board, but we have to send referrals to the Planning Office.

Mr. Belden - They have a Planner that reviews projects.

Mr. Cooper - Is this, was this sent to them for some reason..

Mrs. Corlew - Yes.

Mr. Cooper - ...a jurisdictional thing kicked in?

Mrs. Corlew - They..

Mr. Belden - Yes, because they were, they were within 500 feet of the..

Mr. Cooper - 418?

Mr. Belden - 418. They found, they found the issues to be of local nature, so..

Mrs. Corlew - So no County impact.

Mr. Belden - No County impact.

Mr. Cooper - Okay. At this time, I'm going to move that the Board find that this is a Type II listed action under the State Environmental Quality Review Act and therefore, that there is no significant environmental impact as a matter of law. Is there a second to the motion?

Mr. Moffitt - I second.

Mr. Cooper - Mr. Moffitt seconds. Any discussion on the motion? All those in favor, indicate by saying aye.

RESOLUTION #2013-5

Motion by: James Cooper

Second by: Harold Moffitt

RESOLVED, to deem application #2013-2 by Gary Baker, for tax map #210.20-4-36, located at 10 Commercial Avenue, for two area variances, as a Type II action under the State Environmental Quality Review Act; therefore there is no significant environmental impact as a matter of law.

DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - I think with regards to the balance of the application, we'll have to take it in two parts because there are two separate variance requests here, so with regard to the ten foot setback variance sought concerning the construction of the addition as it approaches Commercial Avenue, as is the custom of the Board as Chairman, as I'll move the application in the affirmative. Is there a second?

Mr. Morey - I'll second.

Mr. Cooper - Mr. Morey seconds. Any discussion with that, with regard to the addition? Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - No.

Mr. Cooper - Mr. Moffitt?

Mr. Moffitt - No.

Mr. Cooper - Mr. Morey?

Mr. Morey - No.

Mr. Cooper - Okay. Then I'll call the question. All those in favor of granting the variance for the ten foot sideline setback, ten foot front line setback for purposes of constructing an addition to the applicant's house, indicate by saying aye. Let the record reflect that the Board is unanimous in its approval of that aspect of this application.

RESOLUTION #2013-6

Motion by: James Cooper

Second by: Mark Morey

RESOLVED, to approve application #2013-2 by Gary Baker, for tax map #210.20-4-36, located at 10 Commercial Avenue, for an area variance, to allow construction of an addition seven feet from the front property line.

DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - Now we'll move on to the second part with relates to the new shed that the applicant says he has to have to replace the existing shed that is going to be obliterated by the construction. As is the custom of the Board, I'll move that portion of the application in the affirmative. Is there a second?

Mr. Hall - Second.

Mr. Cooper - Mr. Hall seconds. Discussion. Mrs. Winslow?

Mrs. Winslow - I have nothing.

Mr. Cooper - Mr. Hall?

Mr. Hall - (Inaudible).

Mr. Cooper - Mr. Morey?

Mr. Morey - (Inaudible).

Mr. Cooper - Mr. Moffitt?

Mr. Moffitt - No.

Mr. Cooper - Call the question then. All those in favor of approval of this aspect of the application, allowing construction of a shed

one foot from the western property line of the applicant, indicate by saying aye.

Mr. Hall - Aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

Mrs. Winslow - Aye.

Mrs. Corlew - Jim, who seconded on that one?

Mr. Cooper - Mr. Hall.

Mr. Cooper - Okay. Thank you.

Cooper - I'm going to vote in the negative on that, but the motion carries by the majority of the Board.

RESOLUTION #2013-7

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to approve application #2013-2 by Gary Baker, for tax map #210.20-4-36, located at 10 Commercial Avenue, for an area variance, to allow construction of a shed one foot from the right side property line.

DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

Ayes: Donne Winslow, Alan Hall, Mark Morey, Harold Moffitt

Nays: James Cooper

Mr. Cooper - So you may have your variances, Mr. Baker, but again the caveat is that if you require County approval for one reason or another or even the APA which certainly is an absurd example, but just to cover the field, I use that, you understand there are other governments out there that have jurisdiction in the Town of Warrensburg.

Mr. Baker - Right.

Mr. Cooper - And I will be receiving from Mr. Belden a, a form, approval for me to fill out indicating what the Board's action was. Since there's nobody here jumping up and down saying that, ya know, they protest it, you're going to do this and that we allowed you to do it, it probably isn't a great urgency to get that completed, but you should be harking to Mr. Hall's advice and perhaps make inquiries with the Warren County Codes before you start building your new shed anyway. Okay?

Mr. Baker - (Inaudible).

Mr. Cooper - Anything further in this regard, Mr. Belden?

Mr. Belden - No.

Mr. Cooper - Okay. We're done with you, if you'd like to go home.

Mr. Baker - Thank you (inaudible).

Mr. Cooper - You're welcome.

Mrs. Corlew - Have a good night.

Mr. Baker - You too.

Mr. Cooper - Next item of business on the agenda is old business.

Mr. Morey indicates that we neglected at the last meeting to select a night for our board meetings. And this is largely determined by what other municipal entities require use of the room, and Thursday night has always been pretty much our only choice. Has that changed?

Mrs. Corlew - No. It's even busier now, so there's (inaudible).

Mr. Cooper - I'll move that the Board schedule it's monthly meetings when they're called for, the second Thursday of the month at 7:00 in the afternoon. Is there a second to the motion.

Mr. Hall - I'll second.

Mr. Cooper - Mr. Hall seconds. Any discussion? All those in favor, indicate by saying aye. Let the record reflect the Board unanimously approves the motion.

RESOLUTION #2013-8

Motion by: James Cooper

Second by: Alan Hall

RESOLVED, to hold Zoning Board meetings on the second Thursday of each month.

DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

Nays: None

Mr. Cooper - Is there any other business to be brought before the Board tonight, Mr. Belden?

Mr. Belden - No, there's not.

Mr. Cooper - Everybody got a copy of our zoning ordinance?

Mr. Belden - Hm hm.

Mr. Hall - I'd like to make one statement just for the record.

Although Jim and I both arrived at the same time to view this property, there was no discussion between he and I. I did not get out of the vehicle until after he left.

Mrs. Corlew - Okay.

Mr. Cooper - That doesn't mean he doesn't like me.

(Laughter).

Mr. Belden - Was that coordinated?

Mr. Cooper - By accident.

Mr. Hall - Clearly by accident.

Mr. Cooper - Alright, I'll declare the meeting adjourned. Let's hope we don't go quite so long without business as we did the last time.

Mr. Belden - I think we'll have another meeting next month, use variance, two use variances.

Mrs. Corlew - Two.

Mr. Belden - Same applicant; two use variances.

Mr. Cooper - That ought to get some blood flowing.

Mrs. Corlew - Yes.

Mr. Cooper - Alright, thank you everybody.

The Zoning Board meeting of July 11, 2013 was adjourned at 7:23 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

Zb07112013

RESOLUTION #2013-5

Motion by: James Cooper
Second by: Harold Moffitt

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DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-6

Motion by: James Cooper
Second by: Mark Morey

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

RESOLUTION #2013-7

Motion by: James Cooper
Second by: Alan Hall

RESOLVED, to approve application #2013-2 by Gary Baker, for tax map #210.20-4-36, located at 10 Commercial Avenue, for an area variance, to allow construction of a shed one foot from the right side property line.

DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

RESOLUTION #2013-8

Motion by: James Cooper

Second by: Alan Hall

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DULY ADOPTED ON THIS 11TH DAY OF JULY, 2013 BY THE FOLLOWING VOTE:

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

Nays: None