

**Minutes**  
**Zoning Board of Appeals**  
**April 11, 2019**

**Board Members Present:** Alan Hall, Sr., Mark Morey, Harold Moffitt

Board Members Absent: Theresa Coughlin, William Oehler

Others Present: Courtney Beadnell, Shale Miller, Patti Corlew  
(Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Morey - This is the April 11 meeting of the Town of Warrensburg Zoning Board of Appeals. Let the record reflect Mr. Moffitt, Mr. Hall and myself are here and Mr. Oehler...

Mrs. Corlew - He's not here at the present time.

Mr. Morey - And Theresa isn't here also. Theresa Coughlin. Boy, this is... This aging stuff is starting to get a little old. Mrs. Corlew - Well, I guess I should have still put her name plate up and put it towards you...

Mr. Morey - Turn it towards me. (Laughter). First order of business is approval of previous meeting's minutes. Does anyone have any corrections?

Mr. Hall - On page 21, not quite halfway down, it says Mr. Hall, "what's most of them" and then it says... I said, "that's where most of them" and then it says inaudible. The word was enter.

Mrs. Corlew - Enter?

Mr. Hall - Yeah.

Mrs. Corlew - Okay.

Mr. Hall - Yeah, that's where most of them are entering the building.

Mrs. Corlew - Entering, okay.

Mr. Hall - And that's all I have.

Mrs. Corlew - Alright, thanks.

Mr. Morey - Mr. Moffitt?

Mr. Moffitt - I didn't have anything.

Mr. Morey - I don't have anything either, so I make a motion to approve the minutes of March 14, 2019. Is there a second?

Mr. Hall - I'll second.

Mr. Morey - All in favor, say aye.

**RESOLUTION #2019-13**

Motion by: Mark Morey  
Second by: Alan Hall

**RESOLVED**, to approve the Zoning Board minutes of March 14, 2019 (with the above correction).

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt

Nays: None

Mr. Morey - First order and only order of business tonight is ZBA 2019-3. I should tell you people that because there's only three of us here, you've got to get a, you've got to convince all of us, so if you'd like to postpone it until you got the full board or you want to take your chances..?

Mr. Miller - Well, do you want to talk about it first and maybe we'll..?

Mr. Morey - We can... You can...

Mr. Miller - Does anybody feel like they're not going to approve it or, at this point or..?

Mr. Morey - Well, we haven't discussed it.

Mr. Miller - Okay.

Mr. Morey - That's what we're here for.

Mr. Miller - Let's get the discussion out of way somehow.

Mr. Morey - Okay. Alright, you'll be speaking for...

Mr. Miller - Yeah.

Mr. Morey - ...Mr. Witz? Okay. It's the custom of this board to swear the witnesses, so if you'd raise your right hand. Do you solemnly swear that the statements you are going to give the board are the truth, the whole truth and nothing but the truth?

Mr. Miller - I do.

Mr. Morey - Thank you. And if you have to offer anything, we'll have to swear you at that time.

Mrs. Beadnell - Okay.

Mr. Morey - Patti, would you tell us how this comes before us?

Mrs. Corlew - Sure. Fred wants to construct a new building on the lot where the Luck-E-Star restaurant is, and that property is in the Business Industrial zone, and in that zone, two principal buildings are allowed on, per square acre lot and, so this would be a third principal building, so that's why it needs a variance, because there's a third building for the acreage

that they have, which is 1.29. They're just a little short of having the acreage requirement for the third building.

Mr. Morey - How short? Did you...?

Mrs. Corlew - Well, it's 1.29 acres and if you're to subdivide a lot for one building in that zone, it has to be 20,000 square feet.

Mr. Morey - So it has to be...

Mrs. Corlew - So it's not... I don't know how many square feet that it's short, but it's...

Mr. Morey - Well, there's 43,560...

Mrs. Corlew - In an acre...

Mr. Morey - ...in an acre.

Mrs. Corlew - Right.

Mr. Morey - Correct.

Mr. Miller - The lot, the area that, if you don't mind me speaking.

Mr. Morey - Yeah. No, go ahead.

Mr. Miller - What I did was I, I provided a line on the drawing that shows the potential...

Mrs. Corlew - The second page.

Mr. Miller - ....future subdivision. Yeah, second page. Page A-01. I showed a line that, that the potential, future subdivision if Mr. Witz decides to sell the property, break it in half. The left-over in that area is 21,768, and that would be one building in that area.

Mr. Morey - So that would be in compliance?

Mr. Miller - Yes.

Mr. Morey - You have any questions, Alan or?

Mr. Hall - Yeah, I went up with the first set of drawings that we had and... Is this going to come right top of that office for, or....

Mr. Miller - The office is leaving. The office is going to be gone.

Mr. Hall - The sales is going to be gone?

Mr. Miller - Completely removed from the property.

Mr. Hall - Okay.

Mr. Miller - Okay? And the building is going to be roughly in that same area, a little bit to the left.

Mr. Hall - Okay.

Mr. Morey - Do you know the square footage of the building that they're taking out?

Mr. Miller - The building is, is, It has two individual spaces, one is 1,126 and the other is 576.

Mrs. Corlew - No, the one you're taking out.

Mr. Morey - The one you're taking out.

Mr. Miller - Oh, the one I'm taking out?

Mr. Morey - Yeah.

Mr. Miller - No, I don't. I'm sorry. I didn't even think that was a... It's small. It's... If it's 400 square feet, I'd be surprised. It's small. It's just an office and a bathroom, I think, is the only thing that's in there. It was for the auto sales. Bill will not be coming.

Mrs. Corlew - Oh, did you hear from him?

Mr. Morey - The... Well, at this time, we'll open the public hearing and there's not much public here, but... I'll make a motion to approve ZBA #2019-3. Is there a second?

Mr. Hall - I'll second.

Mr. Morey - We'll proceed to discussion and going down through the application. First question is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting the area variance. You say, "no. The new building will be of similar architectural style as the existing building on the lot". Which existing building, Luck-E-Star?

Mr. Miller - Luck-E-Star. The same, same materials. Not necessarily exactly the same look, but ya know, earth tones and cedar siding probably or of (inaudible). You can see the rendering on the front page. Clapboard siding, corner boards.

Mr. Morey - The character of that neighborhood, that area's definitely commercial. That's not going to make any changes there.

Mr. Hall - I got just one question. Is this going to be a... This is going to be a slab, poured slab?

Mr. Miller - It'll be... No, it'll be a, a front wall with a floor system, with a crawl space.

Mr. Hall - Crawl space.

Mr. Miller - Yeah.

Mr. Hall - 'Cause the water table in that area is...

Mr. Miller - Yep, we're fully aware of that. That's why we're going to keep it up. Ya know, I, I had suggested that to Fred that we keep it low, but he said the water table's low, so we want to keep it up out of the ground a little bit.

Mr. Morey - Out of curiosity, is, does Luck-E-Star have a crawl space under it?

Mr. Miller - I don't think so. I think that is slab on grade. Which may be why he's not wanting to do it again.

Mr. Morey - I've never noticed any water in there, but...

Mr. Miller - No, either have I, but...

Mr. Hall - The parking lot's (inaudible).

Mr. Miller - Yeah.

Mr. Morey - Mr. Moffitt?

Mr. Moffitt - No. I was up and looked at it and ya know, I just could not come up with any reason in my mind why it couldn't be built.

Mr. Morey - Okay. We'll...

Mr. Moffitt - I don't consider it really residential.

Mr. Miller - You can, ya know, consider the elimination of another car lot in town, for one thing, as an improvement.

Mr. Morey - Well, we just approved one, so...

Mr. Miller - Well, I'm not saying there's anything wrong with that, but this is, ya know, this is a little more... It's definitely more taxable.

Mr. Hall - I was kind of hoping it was going to be a barber shop for Carl.

Mrs. Corlew - Well, it is going to have a barber shop, right? Yeah, 'cause Heidi's going up there.

Mr. Miller - It will have a barber shop in there, yes. Part of it is going to be a barber shop and part of it's going to be a hair salon.

Mr. Beadnell - If Carl wants to come on board, he's more than welcome to.

Mr. Hall - I think Carl's got (inaudible) can handle.

Mr. Moffitt - If this goes your way tonight, are there free hair cuts for three guys..?

Mrs. Beadnell - Sure.

Mr. Miller - No, that's...

(Laughter).

Mr. Morey - That's definitely out of bounds, so.

Mrs. Beadnell - I'm okay with that.

Mr. Morey - Well...

(Laughter)

Mr. Morey - We'll proceed to the question number two.

(Laughter).

Mr. Morey - Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance. You state, "no. This lot is owned by the father of the hair salon owner. It will be a family business and thus he would like to use property he owns to construct this building". I see that you have a proposed property line...

Mr. Miller - Yeah, it's just, ya know, I mean, Fred's not an old man yet. He's getting there, but, ya know, eventually he may

want to subdivide the property and, and deed it to her, ya know, in full, so depending on how Luck-E-Star goes... Luck-E-Star was always supposed to buy the land, buy their business, but they've never done that, so he's been sort of stuck with renting to them, so... But right now, it's one lot. He'd like to keep it that way and, but we sort of, tried to design it in a way that would allow for a subdivision.

Mr. Morey - I don't see... I've got to go back to the square footage. This proposed, this 13,239...

Mr. Miller - That's just the buildable area.

Mr. Morey - Oh.

Mr. Miller - That's within the setbacks.

Mr. Morey - And so the twenty one thousand...

Mr. Miller - The 21,768 is down below and that's the lot size.

Mr. Morey - That would be the lot...

Mr. Miller - Proposed...

Mr. Morey - Proposed lot size...

Mr. Miller - ...if it was subdivided, yes.

Mr. Morey - We don't know the total, remaining lot size... I mean, he sold off the piece where the flower shop is, right?

Mrs. Corlew - Yes. That's already separated.

Mr. Miller - That's gone.

Mrs. Corlew - That's Becky's. I don't know how much is left.

Mr. Morey - You gave me a figure for the total lot.

Mrs. Corlew - The total was 1.29 acres.

Mr. Morey - 1.29.

Mrs. Corlew - Hm hm.

Mr. Miller - I can... Hang on, I'll do it for you.

Mr. Morey - Multiply...

Mrs. Corlew - Thanks, Shale.

Mr. Morey - 1.29 times 43,560.

Mr. Miller - Total square feet, for 1.29 is 56,192.

Mr. Morey - 3, he would 60 (inaudible).

Mr. Miller - Yeah, so I'm 1,000 square feet off.

Mr. Morey - So it's not a big...

Mrs. Corlew - No, it's not huge.

Mr. Morey - I mean, if this does get subdivided, it won't be a big percentage out of compliance.

Mrs. Corlew - Right. That's right.

Mr. Morey - I'm looking at the next variance.

Mrs. Corlew - Oh, I know. Shale and I were looking at that too.

Mr. Morey - Okay. It's a little self-serving, but that's why...

Mr. Miller - Hm hm.

Mr. Morey - ...if this does divide off, I'm certain he'll be back in here for that.

Mrs. Corlew - If he wants to deed them, the lots off.

Mr. Miller - Yeah.

Mrs. Corlew - Hm hm.

Mr. Miller - That's what I was aiming for, ya know.

Mr. Morey - Well, I appreciate that. Or we appreciate that. Any thoughts on other methods that they could use to, that wouldn't require a variance?

Mr. Hall - Not that I can see. I've been up and looked it over pretty good too.

Mr. Morey - Well, short of buying a little land off somebody to get 1,000 feet, he's...

Mr. Hall - Quintal sell some land? He's working on a restaurant.

Mr. Morey - Okay.

Mr. Miller - Excuse me?

Mrs. Corlew - He is? Is that what you've heard?

Mr. Morey - Okay, we'll...

Mr. Hall - Maybe I... Maybe I let the cat out of the bag on that one.

(Tape inaudible).

Mrs. Corlew - I've kind of been hearing that for years.

Mr. Hall - Asked when he bought Joe Barlow's place, I said, what are we going to do, name this Quintal Lane instead? And he said, no, he said, but we're looking to put a restaurant in down there and he said (inaudible) he said I'm buying the property.

Mrs. Corlew - Okay.

Mr. Hall - Take it for what you want.

Mrs. Corlew - Yeah. Okay.

Mr. Morey - Question number three...

Mr. Miller - I don't... I don't, ya know, I mean, I understand that thought of buying the other land but I think, ya know, one, I don't think Jerry wants to sell any of that land over there.

Mr. Hall - That's it.

Mr. Miller - Ya know, and Fred is trying to use what he has.

Mr. Morey - Okay.

Mr. Miller - It's a definite improvement to what's there.

Mrs. Corlew - Yeah.

Mr. Hall - (Inaudible).

Mr. Miller - Fred doesn't build bad stuff.

Mr. Morey - No.

Mr. Miller - We know that.

Mr. Morey - Okay. Question number three, whether the required, requested area variance is substantial. We just talked about that to some extent but you answer, "no. The proposed area to be used is less than a third of the lot". And we refined that down to square footage and actually the lot you're going to create would be in compliance if it stood alone.

Mr. Miller - Right.

Mr. Morey - Mr. Moffitt?

Mr. Moffitt - No questions.

Mr. Morey - Okay. Proceed to question number four. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. You answer, "no. By constructing this building, it improves the lot and taxable value of the lot. The building will be of the same architectural style as the adjacent building". The physical, the look of the lot obviously won't change a lot. I don't know... I mean, you're not putting in something that's... You're not putting in a chemical plant or something like that.

Mr. Miller - No.

Mr. Morey - (Inaudible) going to affect it environmentally. You don't dump your hair dyes out the back window, right?

(Laughter).

Mr. Morey - Well, I guess this'll be a good time to make a motion that this is a, the board finds this a Type II listed action under the State Environmental Quality Review Act and that there are no significant environmental impacts. Is there a second?

Mr. Moffitt - I'll second.

Mr. Morey - All in favor, say aye.

#### **RESOLUTION #2019-14**

Motion by: Mark Morey

Second by: Harold Moffitt

**RESOLVED**, to deem application ZBA#2019-3 by Shale Miller for Fred Witz, tax map #210.12-2-1.1 located at 3984 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act, with there being no significant environmental impacts.

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt  
Nays: None

Mr. Morey - Question number five, whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. You answer, "no," it's not self-created. That's a difficult question.

Mr. Miller - Yeah. As you read that, that, I, it is sort of self-created because, ya know, he does want to change the use of the property but I also think that, again, you've got to look at what's, what it's doing, ya know... (Inaudible) self-created is not a detriment necessarily is what I'm trying to say.

Mr. Morey - It, yeah... I guess by definition anybody that comes in here and asks for something is...

Mrs. Corlew - Self-created.

Mr. Miller - Self-created.

Mr. Morey - ...self-created a problem. But...

Mr. Miller - Chicken in front of the egg kind of thing.

Mr. Morey - We're... I guess he's not really changing the use of the property. He's changing the density of the building.

Mrs. Corlew - The lot, yeah. Yeah, hm hm.

Mr. Morey - And not very much.

Mrs. Corlew - No, not very much.

Mr. Morey - So I guess, if we agree it is self-created, at least it's not a very big difficulty. At least that's my opinion. The other board members may not share that, but... Patti, did this go to the County?

Mrs. Corlew - Yes, it did. No County impact.

Mr. Morey - Well, if no one else has any other questions or anything else, I'll close the public hearing and we'll proceed to a vote. We have our 15 minutes, so.

Mrs. Corlew - Oh, you don't even have to keep it open 15.

Mr. Morey - Oh, I don't? It says 15 on my notes.

Mrs. Corlew - No, I don't think there's a requirement...

Mr. Miller - I don't think you have to, but... Back in my Planning Board days...

Mr. Morey - You guys had more controversy than we do.

Mrs. Corlew - They did, yes.

Mr. Miller - I don't miss that. Of course I don't think Stewart's will be building anything new in town anytime soon.

Mr. Morey - Well, they've done very well with that.

Mr. Miller - Yeah.

Mr. Morey - Okay. A yes vote will approve the application ZBA 2019-3. Mr. Hall?

Mr. Hall - Yes.

Mr. Morey - Mr. Moffitt?

Mr. Moffitt - Yes.

Mr. Morey - And I vote yes as well.

### **RESOLUTION #2019-15**

Motion by: Mark Morey

Second by: Harold Moffitt

**RESOLVED**, to approve application ZBA#2019-3 by Shale Miller for Fred Witz, tax map #210.12-2-1.1 located at 3984 Main Street, for an area variance to allow construction of a third principal building (to house a hair salon and office) on the property where the maximum number allowed is 2 per acre.

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt

Nays: None

Mr. Morey - You can proceed with your, putting your father to work.

Mrs. Beadnell - I'm good with that.

Mr. Hall - I'm used to seeing you on heavy equipment; not as an advocate for something like this.

Mr. Miller - Who me? I don't do that. I draw houses. I don't drive any heavy equipment.

Mr. Morey - Patti, have we had any communications or?

Mrs. Corlew - Just the Towns & Topics I left for you, that's all.

Mr. Morey - Okay. I make a motion that we adjourn.

Mr. Moffitt - I second.

Mr. Morey - All those in favor.

Motion by Mark Morey, second by Harold Moffitt and carried to adjourn the Zoning Board of Appeals meeting at 7:23 p.m.

Respectfully submitted,

Patti Corlew

Recording Secretary

Zb04112019

**RESOLUTION #2019-13**

Motion by: Mark Morey  
Second by: Alan Hall

**RESOLVED**, to approve the Zoning Board minutes of March 14, 2019 (with the above correction).

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING**

**VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt  
Nays: None

**RESOLUTION #2019-14**

Motion by: Mark Morey  
Second by: Harold Moffitt

**RESOLVED**, to deem application ZBA#2019-3 by Shale Miller for Fred Witz, tax map #210.12-2-1.1 located at 3984 Main Street, for an area variance, as a Type II listed action under the State Environmental Quality Review Act, with there being no significant environmental impacts.

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING**

**VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt  
Nays: None

**RESOLUTION #2019-15**

Motion by: Mark Morey  
Second by: Harold Moffitt

**RESOLVED**, to approve application ZBA#2019-3 by Shale Miller for Fred Witz, tax map #210.12-2-1.1 located at 3984 Main Street, for an area variance to allow construction of a third principal building (to house a hair salon and office) on the property where the maximum number allowed is 2 per acre.

**DULY ADOPTED ON THIS 11<sup>TH</sup> DAY OF APRIL, 2019 BY THE FOLLOWING**

**VOTE:**

Ayes: Alan Hall, Mark Morey, Harold Moffitt

Nays: None