

Minutes
Zoning Board of Appeals
June 13, 2019

Board Members Present: Theresa Coughlin, Mark Morey, William Oehler

Board Members Absent: Alan Hall, Sr., Harold Moffitt

Meeting Commenced at 7:00 p.m.

Mr. Morey - This is the June 13 meeting of the Town of Warrensburg Zoning Board of Appeals. Let the record reflect members present are Ms. Coughlin, Mr. Oehler and myself. First item of business is approval of the minutes from April 11, 2019. I don't have any changes.

(Tape inaudible).

Mr. Morey - I make a motion we approve the minutes. Is there a second?

Ms. Coughlin - Second.

Mr. Morey - All those in favor.

RESOLUTION #2019-16

Motion by: Mark Morey

Second by: Theresa Coughlin

RESOLVED, to approve the Zoning Board minutes of April 11, 2019 (without correction).

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler

Nays: None

Mr. Morey - Okay, now we're getting to the interesting part. The business we have is use variance ZBA 2019-4, but there's been a State law that was passed in 2015 that we learned about in one of our training classes, and in checking with a couple people, one of them being Tom McKinney from the County Building. This is my own research... This law was passed specifically to prevent municipalities from zoning out manufactured housing. So have you read this, Theresa?

Ms. Coughlin - (Inaudible) not that.

Mr. Morey - It's in our...

Mrs. Corlew - It's in your packet.

Mr. Morey - It's in your packet.

Ms. Coughlin - Right. Yes. Yeah.

Mr. Morey - And in light of that, what I read here, I don't see where... I believe that the town is (inaudible) because I know you have to go by what our ordinance says. It's the only thing you can do, but I'm going to read an excerpt here from our own words. The Zoning Board of Appeals may reverse or affirm, wholly or in part or modify any order, requirement, decision, interpretation or determination made by officials charged with the enforcement of this code. The concurring role for the majority of the members of the Zoning Board of Appeals shall be necessary to reverse an order, requirement, decision or determination or any such administrative, of any such administrative official or to grant a use variance or area variance. It goes on to say in our James L. Coon Local Government Technical Series, "it is possible for an applicant to make a request or interpretation and in the same application ask for a variance if a favorable interpretation is not granted". So with that in mind, and we've done that a few times in the past, where things have come up and it was never quite so profound as the changing of a state law, but, so if the Board would like to talk about that, I, and I'll ask the applicants, would you be adverse to us deciding whether or not you actually need a variance or if that should be permitted by, as a result of this law that was rendered. That section of the code is really moot. We need a... Does everybody understand what I'm talking about?

Mr. Oehler - Yep.

Mr. Morey - Okay. This Board swears anybody who is going to give information to us, so I assume that you both will have something to add depending on how this goes.

Mrs. Bruce - Hm hm.

Mr. Morey - 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?

Mrs. Bruce - I do.

Mrs. Reynolds - I do.

Mr. Morey - So we'll... In talking... Should I make a motion to... I think I should. At this time, I'll make a motion that we review the implications of the State Law or the new law that was passed and that, would someone... Do I have a second for that?

Mr. Oehler - I'll second.

Mr. Morey - All those in favor.

RESOLUTION #2019-17

Motion by: Mark Morey
Second by: William Oehler

RESOLVED, to review the implications of the New York State Law, Sections 60-617 of Article 21-B.

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler

Nays: None

Mr. Morey - So in talking with Mr. McKinney and I've got a couple questions for Mrs. Corlew as well, he said that since they're, they do the inspections for the town, that all manufactured housing now has to have a permanent foundation. So my question to him was is it different, does it meet the requirements of this law to be permanent. He checked with HUD and with the State and what we, what they would be required, what you would be required to put in for a foundation does meet the requirements. And that's what he would be looking for, so whether you get a use variance or don't need one, they still have to put that type of foundation in.

Mrs. Corlew - Right.

Mr. Oehler - That's standard for all trailers now.

Mr. Morey - Yes.

Mr. Oehler - I, I've done this.

Mrs. Corlew - Yes, it is.

Mr. Oehler - Put a slab in.

Mrs. Corlew - Hm hm.

Mr. Morey - So in that situation then, according to this law, it's permanently attached to that foundation, and he stated you have to remove the tongue and you have to remove the wheels and it has to be anchored in compliance. And there's several different methods to anchor it. They would go over with you (inaudible).

Mr. Oehler - There is no way for them to just to take the trailer out now and replace it with what's there? You have to go by this, conform to what this new regulation/law is. You have to put this thing on a slab. It has to have a haunch all the way around the outside of it and then it has to be, I think, it's four or six inches and then you have to literally put them, put bolts in the concrete and strap it up to the bottom of the trailer.

(Tape inaudible).

Mrs. Bruce - Whatever trailer company, mobile home company we go with would (inaudible)...

Mr. Oehler - Yeah.

Mrs. Bruce - They'll do that, right?

Mr. Morey - Right. I'd make sure they understood... I mean, they have to, to get the...

Mrs. Corlew - Yeah, they would know that.

Mr. Oehler - Yeah.

Mrs. Corlew - Yes.

Mr. Oehler - If you're going to buy a brand new one or even a used one, I mean, they're going to, they're going to tell you.

Mrs. Corlew - She's getting a brand new one, right?

Mr. Oehler - Okay, yeah.

Mr. Morey - It's the same as if you replace a septic system, it has be brought up to code.

Mrs. Corlew - Right.

Mr. Morey - The ones that are there are, can remain, but the minute you have to (inaudible) you have to bring it up to code, and the code has changed. So in, the result of changing the code and then this law renders our section of the ordinance moot, in my opinion. It may not...

Mr. Oehler - We have no jurisdiction on that, more or less. If they go by what this... 'Cause what this law says...

Mr. Morey - They have to go by this.

Mr. Oehler - (Inaudible) had to by that law, they don't need a variance from us.

Mr. Morey - Right. They don't need the variance.

Mrs. Corlew - But that's... But that's not what... I'm told to go by what the ordinance says...

Mr. Morey - Exactly.

Mrs. Corlew - ...so I can't issue a permit...

Mr. Morey - Yeah, she...

Mrs. Corlew - ...without you guys rendering some kind of decision to tell me to issue her a permit because I cannot, I will not issue them one because I'm not, I'm not allowed to.

Mr. Morey - Well, one of our... And that's exactly (inaudible).

Mrs. Corlew - But that's what you're here for.

Mr. Morey - That's what we're here for. That's one of our, one of our powers. It's listed in the range of powers the ZBA has. And of course the town can appeal that if they don't... They got 60 days if they don't agree. I don't think they'll prevail, but... So I'll make a motion that a use variance isn't required because that, that's a residential zone, right, Patti, and everything else.

Mrs. Corlew - It is.

Mr. Morey - Okay, so they wouldn't need any... There's already an existing structure there, but the, the setbacks are fine.

Mrs. Corlew - Yes.

Mr. Morey - Pre-existing lot, it doesn't have the...

Mr. Oehler - Is that... Is that trailer on the same property as the house?

Mrs. Corlew - No.

Mrs. Bruce - No.

Mrs. Corlew - It's a separate lot.

Mrs. Bruce - It's a separate lot.

Mr. Oehler - Okay.

Mr. Morey - The only caveat to that law is that if it changes the character of the neighborhood, but there's another manufactured home about 200 feet away from it, so it's going to be kind of hard to...

Mrs. Corlew - Yeah, that was the other thing too is that, is it going to aesthetically look like the other homes in the neighborhood and Mark and I discussed that at one point, there are, there is another mobile home on...

Mr. Oehler - That's on a full foundation.

Mrs. Corlew - Two, one property over. On the other side.

Mr. Oehler - Yep.

Mr. Morey - I'm not exactly sure how to word this, but...

Mrs. Corlew - I don't know either.

Mr. Morey - I'll make a motion that no variance is needed because it's, as a result of the new state law, that a permit should be issued because it'd be considered a single family residence in a single family zone.

Mr. Oehler - I'll second it.

Mr. Morey - All those in favor, say aye.

Ms. Coughlin - Aye.

Mr. Morey - Aye.

Mr. Oehler - Aye.

Mr. Morey - Just so you understand what we're doing here, is we're overruling the decision of the... We're actually telling her she has to issue you a permit.

Mrs. Corlew - So should I word that in the resolution?

Mr. Morey - What, the..?

Mrs. Corlew - That you're overruling. I don't even know...

Mr. Morey - It's written in the... You'll have to bear with us. We don't do this very often.

(Laughter)

Mr. Oehler - You might not even get to talk.

Mrs. Bruce - That works.

(Laughter)

Mr. Morey - Okay.

Mrs. Corlew - Oh, in the Decision?

Mr. Morey - Yes.

Mrs. Corlew - Okay, yeah, alright.

Mr. Morey - The action of the Zoning Administrator should, we should not reaffirm, so I guess we're not affirming your action, with no malice, of course.

Mrs. Corlew - None taken.

Mr. Morey - Okay, at this point, a yes vote will pass the motion.

Ms. Coughlin?

Ms. Coughlin - Yes.

Mr. Morey - Mr. Oehler - Yes.

Mr. Morey - And I vote yes as well.

RESOLUTION #2019-18

Motion by: Mark Morey

Second by: William Oehler

RESOLVED, to deem that a variance is not necessary as a result of the enactment of New York State Law, Section 600-617 of Article 21-B; therefore the action of the Zoning Administrator should be not be affirmed and a permit should be issued for placement of a manufactured home on tax parcel #211.17-2-45 located at 17 Smith Street.

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler

Nays: None

Mr. Morey - So you don't need a use variance. You do need comply with the County's regulations, as far as how they, how they install a trailer, but like you said you're installer should, should take care of that and they're not called trailers anymore. They're manufactured homes.

(Tape inaudible).

Mrs. Corlew - I don't think anybody's going to change their way of saying it though.

(Tape inaudible).

Mr. Oehler - They have that stigma.

Mrs. Corlew - We went from saying trailers, to mobile homes and now we're still trying not to say trailers. But now we have to say manufactured housing or homes, so.

Mr. Morey - Well they have... The new ones have titles and some of the admin, some of the other localities have put in some conditions

that it has, that prevents something older than a 1997 from being installed.

Mrs. Corlew - Yes, which...

Mr. Morey - So even if they...

Mrs. Corlew - I thought the town was looking into doing something like that.

Mr. Oehler - I thought the town did have that, like eighty something they said. Years ago, I thought...

Mrs. Corlew - I don't think they ended up putting a year in it.

Ms. Coughlin - I thought that there was because of the... This was like...

Mrs. Corlew - We don't have anything in the code that I...

Mr. Oehler - So anybody, they could put a '68 if they wanted to?

Mr. Morey - 1992 was the...

Mrs. Corlew - If Tom McKinney's going to approve it, yeah. I mean, ultimately.

Mr. Morey - Well...

Mrs. Corlew - But see, that's the...

Mr. Morey - It's got to be by our...

Mrs. Corlew - Right. I mean, if they're going to bring it up to code and everything, I guess they could. I don't know.

Mr. Oehler - Yeah.

Mrs. Corlew - In the zones that allow mobile, trailers, mobile homes.

Mr. Morey - Even that has been, as he stated, just for information, the manufactured housing park on Route 9 just going into Chestertown, the guy has removed all those in the last three years and placed slabs under them and decks and whatever, and brought up to code. So even though that's designated as a manufactured home park, those are all considered single family residences by the State of New York.

Mrs. Corlew - Right.

Mr. Morey - And their law trumps ours.

Mrs. Corlew - Yes, it does.

Mr. Oehler - But what are the, what are the tax implications.

Mr. Morey - So what are the tax implications when it becomes a single family home, compared to a trailer.

Ms. Coughlin - Don Post's is that way.

Mrs. Corlew - It's probably going to be a nightmare.

Mr. Morey - I know the insurance...

Mrs. Corlew - I've talked to Greg about it and he's like...

Mr. Oehler - How do you, I mean, really.

Mrs. Corlew - Yeah.

Mr. Oehler - I mean, you spend 30,000, 40,000 on a trailer and then they assess you for a 100,000 'cause it's a house and..

Mrs. Corlew - Hm hm. I don't think Greg's looking forward to..

Mr. Morey - (Inaudible) comparable value.

(Tape inaudible).

Mr. Morey - ...claims adjuster; that's the law.

Ms. Coughlin - Don Post (inaudible).

Mrs. Corlew - On Theresa James.

Mr. Oehler - Oh yeah.

Ms. Coughlin - It's a single family home. It is, it is a mobile home.

(Tape inaudible).

Mrs. Corlew - There's a couple that are like that.

Mr. Morey - Is there... We don't have... We didn't have a public hearing. It doesn't say you had to. I checked on that. Only if we go to the appeal.

Mrs. Corlew - For what, this?

Mr. Morey - Yes.

Mrs. Corlew - Oh. Well, I set it for one, but... But you didn't open it, so that's fine 'cause you didn't go through it.

Mr. Morey - I didn't open it up because it didn't say you had to. I've been studying this all day.

Mr. Morey - Good job, Mark.

Mr. Oehler - He's got it right down to a science.

Mrs. Corlew - I mean, it wouldn't have hurt if we did anyway, I guess, but..

Mr. Morey - No. If there's no other business, I'll make the motion that we adjourn.

Mr. Oehler - I'll second that.

Mr. Morey - All in favor.

Motion by Mark Morey, second by Bill Oehler and carried to adjourn the Zoning Board of Appeals meeting at 7:15 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

Zb06132019

RESOLUTION #2019-16

Motion by: Mark Morey
Second by: Theresa Coughlin

RESOLVED, to approve the Zoning Board minutes of April 11, 2019 (without correction).

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler
Nays: None

RESOLUTION #2019-17

Motion by: Mark Morey
Second by: William Oehler

RESOLVED, to review the implications of the New York State Law, Sections 60-617 of Article 21-B.

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler
Nays: None

RESOLUTION #2019-18

Motion by: Mark Morey
Second by: William Oehler

RESOLVED, to deem that a variance is not necessary as a result of the enactment of New York State Law, Section 600-617 of Article 21-B; therefore the action of the Zoning Administrator should be not be affirmed and a permit should be issued for placement of a manufactured home on tax parcel #211.17-2-45 located at 17 Smith Street.

DULY ADOPTED ON THIS 13TH DAY OF JUNE, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, William Oehler
Nays: None