

**Minutes**  
**Zoning Board of Appeals**  
**October 22, 2020**

**Board Members Present:** Mark Morey, Matt Kennedy, Theresa Coughlin, Alan Hall, Sr.

**Board Member Absent:** William Oehler

**Others Present:** Kevin and Joanne Monroe, Chris Cipriano, Patti Corlew (Zoning Administrator)

Meeting Commenced at 7:00 p.m.

Mr. Morey - Okay, I've got 7 o'clock.

Mrs. Corlew - You're on.

Mr. Morey - This is the October 22<sup>nd</sup> meeting of the Town of Warrensburg, Zoning Board of Appeals. It's being held on the 22<sup>nd</sup> because we failed to reach quorum on October 8<sup>th</sup>, our regularly scheduled meeting. Let the record reflect that members present are Mr. Kennedy, Mr. Hall, Ms. Coughlin and myself. First order of business is...

Mrs. Corlew - Oh excuse me. I have to add something. I just want to let you guys know that Harold resigned as of yesterday.

Mr. Morey - Oh, he did?

Mrs. Corlew - Just so you know. Sorry.

Mr. Morey - I'll ask later. I don't know if he sold his house, but...

Mrs. Corlew - No, he didn't.

Mr. Morey - Oh.

Mrs. Corlew - It's for, it's because of health reasons.

Mr. Morey - Approval of previous meeting's minutes, of which we have several. Those were held over because the Board members that weren't here... We're waiting to... I guess now it's almost a full board. So the minutes of May 14<sup>th</sup>. Other members besides myself present were Mr. Kennedy and Mr. Hall. Did, does anyone have any corrections to those?

Mr. Hall - I do not.

Mr. Morey - I don't have any corrections. Mr. Kennedy?

Mr. Kennedy - No.

Mr. Morey - Okay. We'll move onto November 25, 2019. Members present were Ms. Coughlin and Mr. Oehler, myself, Harold Moffitt and Alan Hall. Do you have any corrections, Alan and Theresa?

Ms. Coughlin - No.

Mr. Morey - And I don't have any on this one either.

Mr. Kennedy - I would like to sustain from voting on November 25<sup>th</sup> and December 12<sup>th</sup> because I wasn't a member at that time.

Mr. Morey - December 12<sup>th</sup>. December 12, 2019, members present were Ms. Coughlin, myself, Harold Moffitt and Alan Hall. Do you have any corrections, Alan?

Mr. Hall - No, I do not.

Mr. Morey - Theresa?

Ms. Coughlin - No.

Mr. Morey - I do on the last page, 72 where it lists the votes, I believe I voted yes on there. I'm not listed as voting at all.

Mrs. Corlew - Okay.

Mr. Morey - Okay.

Mrs. Corlew - I'll include ya.

Mr. Morey - No one else has anything to add or subtract? I make a motion that the minutes be approved. Is there a second?

Ms. Coughlin - Second.

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

### **RESOLUTION #2020-3**

Motion by: Mark Morey

Second by: Theresa Coughlin

**RESOLVED**, to approve Zoning Board minutes of May 14, 2020 and November 25 and December 12 of 2019 (with above correction).

### **DULY ADOPTED ON THIS 22<sup>ND</sup> DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:**

Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy (abstained from voting on November 12 and December 25 minutes).

Nays: None

Mr. Morey - Next order of business is use variance ZBA 2020-2. In the past, when we've had questions as to whether or not it was necessary or proper to consider a use variance for, because of different circumstances, sometimes another route may be the right way to go. I'd like to discuss that with the Board. In light of research that I've done over the last two weeks and that Mr. Geraghty has done and people that I've contacted and it concerns New York State Executive Law, Article 21-B, Title II, Chapter 425 of the Laws of 2015. Title II of Article 21-B places limits on local government regulation of manufactured

homes. Section 6-16 of Title II expressly provides that a manufactured home that is affixed to a permanent foundation and conforms with the identical development specification and standards, including general aesthetic and architectural standards applicable to conventional site-built single family dwellings in a residential district in which the manufactured home is to be sited shall... And they use the word shall. ...be deemed to be a conforming single family dwelling for purposes of the applicable local zoning law or ordinance. Similar protections are extended to manufactured home parks. Now there is some question about the specifications. Directly below that in, in the next paragraph Title II uses the phrase identical development specifications and standards, and the phrase has been defined to include access, building setback, distance, enclosures and vehicle parking space. Title II defines a single family dwelling to mean a building designed as a one family residence and used or occupied or intended to be used or occupied as a home or a residence of one or more persons maintaining the household. The, Title II uses but does not define the phrase permanent foundation. As of August 2019, the Department of State is not aware of any reported court case that has interpreted Title II. So there's no case law on that. Now in talk... I... I know that Ms. Corlew contacted Mr. McKinney. Mrs. Corlew - I did.

Mr. Morey - And I also contacted Mr. McKinney last week and there was a little misunderstanding. The question you put to him was whether there was a difference between factory manufactured housing and modular housing and according to his email here, but anyway, the and they're built differently. There's a lot... There's a few differences, ones a Federal regulation and one's a State, but New York State has come out with this law that said that, it's Title II that must, shall it says, consider manufactured housing on the appropriate foundation as long as it conforms to all the other requirements of the zone. It has to be considered a conforming single family dwelling. So in light of that... And I checked with Mr. Geraghty. I checked with our attorney, Mr. Schachner. He didn't have anything to add other than we needed to live with it.

Mrs. Corlew - Right.

Mr. Morey - And I checked with Laura Moore because Mr. Geraghty told me that the Queensbury Supervisor told him that they didn't allow that, but our former Planning Board Chairman, Laura Moore, checked with their Code Enforcement Officer and their

administrator, and they have to. That's... So in that light of that, I think that we need to... I know when, when I did (inaudible) I think we need to amend the application and add to it. I know in the past with Mr. Cooper, we considered an interpretation and depending on whether that motion or that fails or not, then it would proceed on to the use variance. So this would be adding a motion to be considered, and as I said, depending on whether it passes or fails, if it fails, then we'll proceed to the use variance and see how that goes.

Mrs. Corlew - Okay.

Mr. Morey - So do any of the board members have any questions? I'd like to add one more thing. That with the Reynolds application, we did the same thing. We had to do the same thing. They also state in our instructions here that you, you need to be consistent in your decisions. So Mr. Hall, do you understand what we're talking about?

Mr. Hall - I'm not sure it pertains to this (inaudible) but I live next to a manufactured home.

Mr. Morey - Hm hm.

Mr. Hall - Which came into two sections. It's foundation is piers but I would consider it a permanent foundation, so it doesn't actually have to be a, like a cellar under it or anything. It can be just a, on piers.

Mr. Cipriano - Can I add something to that?

Mr. Morey - Yes. Yes, you can.

Mr. Cipriano - The foundation actually isn't piers. The foundation is the slab that the piers are sitting on. And that is supplied to us, the specs by the manufacturer.

Mr. Morey - And I would add that Mr. McKinney has the County specs for what, what will be approved for a foundation in Warren County and in Warrensburg. He's the...

Mr. Cipriano - He has the same paperwork I have.

Mr. Morey - Exactly. So, and I questioned him on that the last time, whether the foundation that they would require would be suitable under this definition. And you say yes, it is.

Mr. Cipriano - Yep, it has to be built specific for the region. There's all rules around it, 12 inch (inaudible), insulation two feet down, two feet out. I mean, there are regulations around. It's not just concrete poured on the ground. They are actually very over-regulated slabs. You don't need that much. You could put one of these in the middle of Alaska and it'll never move.

Mr. Morey - Well, they're in an earthquake, so...

(Tape inaudible).

Mr. Hall - Aren't you supposed to request information as to who is making that comment?

Mr. Morey - No. Actually, you should state your name for the record.

Mr. Cipriano - My name is Chris Cipriano. I'm with Showcase Homes. I am a certified installer and retailer of manufactured housing.

Mr. Morey - Okay.

Mr. Hall - Thank you.

Mr. Morey - But ya know, Alan, that Mark Schachner told us that we don't need to swear the witnesses anymore, so we're not doing that.

Mr. Hall - Okay, good.

Mr. Morey - Yeah.

Mrs. Corlew - Yeah, I know.

Mr. Hall - That's a lot better.

Mr. Morey - Theresa?

Ms. Coughlin - I'm good.

(Tape inaudible; people speaking at once).

Mr. Morey - Okay. At this time, I'll make a motion that due to the State Law... I don't...

Mrs. Corlew - Article 21-B?

Mr. Morey - State Executive Law, Article 21-B, Title II, Chapter 425 of the Laws of 2015, that requires the Town to consider manufactured housing as a conforming single family dwelling. As such, it wouldn't require a use variance to go in that zone. Do I have a second?

Mr. Kennedy - I second.

Mr. Morey - Mr. Kennedy seconds. Okay, we'll proceed to discussion. On the... Thoughts, Alan, on the, on the, the... I want to add one other thing that we should talk about, and that's that the general aesthetic and architectural standards. So the way it was explained to me by Mr. McKinney and a couple of others, that if you were going to put a, say a 12 foot wide by however long traditional manufactured home into an area where there aren't any, where they were all stick built, ya know, one and two story homes, possibly an older neighborhood where there weren't any, then it wouldn't conform to the general aesthetic condition, situation and architectural standards in the area. And from the renderings that Mr. Monroe has given us, this has a 5/12 pitch, that's correct?

Mr. Monroe - Yes, it's upgraded to a 5/12 pitch.

Mr. Morey - And did you..? You have the, the drawings and the pictures in front of you, Alan? Theresa?

Mr. Hall - Yes, I do.

Ms. Coughlin - Hm hm.

Mr. Morey - It's my opinion that it, it looks like every other place around there, so but if someone else has something to add here, the Board.. We can't take anything really now from the audience, but...

Mr. Hall - Have you looked at that lot at all?

Mr. Morey - The lot?

Mr. Hall - Yeah.

Mr. Morey - Yes. Yes, I have.

Mr. Hall - You've got a solar panel farm on one side, set of power lines overhead and okay, Red Sherman has the motorcycle shop there, but the next one down is, those people won't complain.

Mr. Morey - No.

Mr. Hall - They're...

Mrs. Corlew - I've sent them a notice and they haven't, they haven't complained about it or questioned it.

Mr. Hall - Yeah.

Mr. Morey - Yeah, those, those points would be something that would be useful if we consider, if we, if the motion I just made fails and we proceed to the use variance. But the motion that we're talking about is whether we agree that the State Law says what it says and that the word "shall" means shall, so I guess if everybody's ready, we can proceed to a vote. A yes vote allows the building to be habitable (inaudible) building permit on that lot and a no vote means we'll have, we'll have to consider a variance for it to be sited there. Is everyone clear on that? Don't be afraid to speak up if there's any questions.

Ms. Coughlin - I do.

Mrs. Corlew - For me or for Mark?

Ms. Coughlin - One of you. What is the difference, (inaudible) where the manufactured home can be reclassified as a single family?

Mrs. Corlew - That isn't a question for me.

Mr. Morey - What is the difference, Theresa?

Ms. Coughlin - Right. Because it has been done in the past.

Mrs. Corlew - That would be a question for the Assessor.

Ms. Coughlin - For the Assessor, okay.

Mr. Morey - Well, it and even... I don't know about that. That is a good question. The, but as far as from 2015, the State says that they are as long as the only real exception is if they don't meet the general aesthetic or architectural standards of the neighborhood. Other than that, it, this is written in a way

our Town Attorney interprets that it has to be considered, so, a conforming single family dwelling. Mr. Hall, are you ready to vote?

Mr. Hall - (Inaudible).

Mr. Morey - A yes vote grants the... Yes vote grants the interpretation.

Mr. Hall - Yes.

Mr. Morey - Ms. Coughlin?

Ms. Coughlin - Yes.

Mr. Morey - Mr. Kennedy?

Mr. Kennedy - Yes.

Mr. Morey - And I vote yes as well.

#### **RESOLUTION #2020-4**

Motion by: Mark Morey

Second by: Matthew Kennedy

**RESOLVED**, that pursuant to State Executive Law, Article 21-B, Title II, Chapter 425 of the Laws of 2015, the Board considers the manufactured home in application ZBA 2020-2 as a conforming single family dwelling. As such, it does not require a use variance for a permit to be granted for the manufactured home to be placed on the property at 184 Hudson Street, owned by Kevin and Joanne Monroe.

#### **DULY ADOPTED ON THIS 22<sup>ND</sup> DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:**

Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy

Nays: None

Mr. Morey - So hopefully we don't create any case law. You don't need your use variance to, for Ms. Corlew to issue you a permit and, and for, for you, Patti, I mean, I understand you're... I mean, you're working with an eight year ordinance that they're going to, they're going to be working on in January, Mr. Geraghty says. So I guess you'll just have to keep coming in here whenever this comes up.

Mrs. Corlew - Yeah, until either the Town or the State..

Mr. Morey - Right.

Mrs. Corlew - ...comes up with something..

Mr. Morey - Something else. If the State changes the law or the Town changes their wording and I hope that..

Mrs. Corlew - Yeah, 'cause I'm kind of in a spot.

Mr. Morey - Right. It shows the importance of having clear, understandable wording in their...

Mrs. Corlew - Yes.

Mr. Morey - ...ordinances. Thank you, people, for coming. I'm really... I apologize again for us not having a quorum last time and the delay it caused. I hope that the weather enables you to get everything in, in time.

Mr. Monroe - With today's Coronavirus stuff, everything's off-kilter so we just take it day by day. Thank you for your time and patience to...

Mrs. Monroe - We thank you.

Mr. Monroe - ...rule on this and...

Ms. Coughlin - I'm sorry I couldn't have been...

Mrs. Monroe - Thank you, Chris.

Mr. Cipriano - No problem. I enjoyed it. I got overtime.

Mrs. Corlew - Kevin, you can come in, in the morning and I'll... (Tape inaudible; people speaking at once).

Mrs. Corlew - Because the one I issued to you before said modular, so now I can...

(Tape inaudible).

Mr. Cipriano - I was going to fill out a new application because that was... The guy I'm training did that by accident. He put modular.

Mrs. Corlew - No, he didn't. He didn't put modular.

Mr. Cipriano - Oh, he didn't?

Mrs. Corlew - No. No, he didn't.

Mr. Cipriano - Oh, he told me he did.

Mrs. Corlew - No. He put single family dwelling.

Mr. Cipriano - Which... That's a lot of different structures.

Mr. Morey - Not according to...

Mrs. Corlew - He put single family dwelling and I was under the understanding that they were putting in a modular, so I said, oh no, it's a modular. They said it was a modular, so... And anyway, when it was taken down to the County, they said, the town isn't going to let, allow this because he saw that it was manufactured home. So that's where, that's how this all came to be.

Mr. Cipriano - It's actually becoming more and more common for towns to have stipulations for private property. Nobody cares when you put 'em in a park, but a lot of towns are coming up with aesthetics, rules...

Mrs. Corlew - Yes. Yes, because of this law... Yeah. Yes, yeah. And we, we don't have them yet.

Mrs. Monroe - Do you want them to redo the paperwork?

Mrs. Corlew - No. No, I'm going to just re-do the one, one permit page, the top page and then the zoning compliance.

Mr. Monroe - Do you want me to pick that up (inaudible).

Mrs. Monroe - Because you guys did it in the first place... (Tape inaudible).

Mr. Morey - I don't want to interrupt, but we have more business (inaudible).

Mrs. Monroe - Thank you.

Mr. Morey - Thank you for coming.

Mrs. Corlew - Have a good night.

Ms. Coughlin - You're welcome. Thank you.

Mr. Cipriano - Thank you.

Mr. Morey - You're welcome. Let me see your agenda, Matthew. I lost mine in my pile of papers. Thank you. Okay. Next order of business is organization of the board. First of that is confirmation of meeting night and time. I propose that we keep the second Thursday of the month. Is that agreeable to everyone?

Ms. Coughlin - That's fine.

Mr. Kennedy - That's fine.

Mr. Morey - Okay. The next order of business is appointment of Chairperson, Vice Chairperson and Secretary.

Mr. Hall - I make a motion that we keep the same slate of officers.

Mr. Kennedy - I second.

Ms. Coughlin - (Inaudible).

Mr. Morey - Who is our Vice Chair. Wasn't that Mr. Moffitt?

Mrs. Corlew - Yeah, so... Yeah. So you'll have to vote for somebody else on that. Or appoint somebody else.

Mr. Morey - Well, I nominate Ms. Coughlin.

Ms. Coughlin - Thank you.

Mr. Hall - Nominate who?

Mrs. Corlew - Theresa.

Mr. Morey - Theresa.

Mr. Hall - Oh.

Mrs. Corlew - As Vice Chair.

Mr. Hall - Unless you want in, Matthew.

Mrs. Corlew - And who's Secretary?

Ms. Coughlin - It was Billy.

Mrs. Corlew - Okay.

Mr. Morey - He's not here. He can't speak for himself. Okay, well I'll make a motion that... I don't know if I can make a motion for myself.

(Tape inaudible).

Mr. Morey - We'll make a motion that with the addition of, with the exception of Vice Chairperson, that the other offices stay the same and that the Vice Chairperson will be Theresa Coughlin.

Is there a second?

Mr. Kennedy - I second.

Mr. Morey - All those in favor.

Mr. Hall - Aye.

Mr. Kennedy - Aye.

Ms. Coughlin - Aye.

Mr. Morey - Aye.

Ms. Coughlin - Thank you.

#### **RESOLUTION #2020-5**

Motion by: Mark Morey

Second by: Matthew Kennedy

**RESOLVED**, that Mark Morey and William Oehler remain as Chairman and Secretary, respectively, and that Theresa Coughlin be appointed as Vice Chairperson.

#### **DULY ADOPTED ON THIS 22<sup>ND</sup> DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:**

Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy

Nays: None

Mrs. Corlew - Okay.

Mr. Morey - Did we have anything on the agenda?

Mrs. Corlew - No.

Mr. Morey - Thank goodness. Any comments? I'll make a motion to adjourn. Is there a second?

Ms. Coughlin - Second.

Mr. Morey - All those in favor.

Motion by Mark Morey, second by Theresa Coughlin and carried to adjourn Zoning Board meeting at 7:24 p.m.

Respectfully submitted,

Patti Corlew

Recording Secretary

Zb1022020

**RESOLUTION #2020-3**

Motion by: Mark Morey  
 Second by: Theresa Coughlin

**RESOLVED**, to approve Zoning Board minutes of May 14, 2020 and November 25 and December 12 of 2019 (with above correction).

**DULY ADOPTED ON THIS 22<sup>ND</sup> DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:**

Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy  
 (abstained from voting on November 12 and December 25 minutes).  
 Nays: None

**RESOLUTION #2020-4**

Motion by: Mark Morey  
 Second by: Matthew Kennedy

**RESOLVED**, that pursuant to State Executive Law, Article 21-B, Title II, Chapter 425 of the Laws of 2015, the Board considers the manufactured home in application ZBA 2020-2 as a conforming single family dwelling. As such, it does not require a use variance for a permit to be granted for the manufactured home to be placed on the property at 184 Hudson Street, owned by Kevin and Joanne Monroe.

**DULY ADOPTED ON THIS 22<sup>ND</sup> DAY OF OCTOBER, 2020 BY THE FOLLOWING VOTE:**

Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy  
 Nays: None

**RESOLUTION #2020-5**

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Ayes: Mark Morey, Alan Hall, Theresa Coughlin, Matthew Kennedy  
 Nays: None

