

Minutes
Zoning Board of Appeals
November 14, 2019

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

Board Member Absent: William Oehler

Others Present: Jeffrey & Jude Lehman, Patti Corlew (Zoning Administrator)

Meeting Commenced at 7:05 p.m.

Mr. Morey - This is the November meeting of the Town of Warrensburg Zoning Board of Appeals. Let the record reflect members present are Mr. Moffitt, Mr. Hall, Ms. Coughlin and myself. Next order of business is approval of previous minutes, June 13, 2019. Does anyone have any corrections or additions? I don't have any, but I do, I did again notice that quite a few places in here said tape inaudible or said inaudible. So it's mostly my fault. I need to, we need to only talk one person at a time because this record, obviously in the event of a challenge or something, could become very important for what is left out or... So we'll have to try harder on that. Any comment on that or?

Mrs. Corlew - There's different reasons...

Mr. Morey - Hm hm.

Mrs. Corlew - ...for the inaudible. Sometimes it's people talking over people, but sometimes people are, somebody rustling papers and at the time we still had the other microphones.

Mr. Morey - Hm hm.

Mrs. Corlew - So you're microphone (inaudible) so if you're rustling papers, that's going to come over, that's going to come across to me over your voices. So that's one of the reasons. And, and then sometimes some people, not you necessarily, but some people mumble. So...

Mr. Morey - I know you've got enough trouble just trying...

Mrs. Corlew - So anyway it's not always because people are talking over each, but a lot of times not so much in the zoning, but a lot of times in the planning board, that's what happens is people talk over each other.

Mr. Morye - I'll make a motion... Can someone make a motion that the minutes be approved?

Mr. Moffitt - I make that motion.
 Mr. Morey - Second?
 Ms. Coughlin - Second.
 Mr. Morey - Ms. Coughlin, you seconded.
 Mrs. Corlew - Second, hm hm.
 Mr. Morey - All those in favor, say aye.

RESOLUTION #2019-19

Motion by: Harold Moffitt
 Second by: Theresa Coughlin

RESOLVED, to approve Zoning Board minutes of June 13, 2019
 (without correction).

**DULY ADOPTED ON THIS 14TH DAY OF NOVEMBER, 2019 BY THE FOLLOWING
 VOTE:**

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

Mr. Morey - New business is area variance ZBA 2019-5. At this time, I'll open the public hearing for ZBA 2019-5. Ms. Corlew, can you tell me how this comes before us.
 Mrs. Corlew - Sure. Mr. Lehman started repairing his roof over the patio and he started doing it without a permit because he, he didn't know he needed one. But he also extended it out and thought their property was further over than what it was, so they're here for a variance to allow for them being short of the ten feet (inaudible) ten feet that they need.
 Mrs. Lehman - Hi. I'm sorry.
 Mr. Morey - Bear with me. I've got to find something here.
 Mrs. Corlew - Yeah, I'm looking for something too. Yeah, they need a variance to have a three foot setback on the left side instead of the ten foot that's required.
 Mr. Morey - I don't have any copy of the oath or affirmation. So to anyone that... This Board swears their witnesses, so if you, if you're going to give any input, I'm sure you'll pretty much, you'll have to, I'll need to swear you in. Would you raise your right hand? Do you swear to tell the truth, the whole truth and nothing but the truth?
 Mrs. Lehman - I do.
 Mr. Morey - And your name for the record please?
 Mrs. Lehman - Jude Lehman.

Mr. Morey - Well, we've heard, we've heard Ms. Corlew's side of the story. You said that you didn't, you thought the property line was further from the...

Mrs. Lehman - Much further.

Mr. Morey - Much further.

Mrs. Lehman - We have a, a wall that I was kind of going by for our property line and that's not where the line is at all.

(inaudible) retaining wall in the front and there was a part of that that I thought was our property line and it's not the line.

Mr. Morey - The, how much have you extended the... You had a, you had a patio there before?

Mrs. Lehman - We had a patio there, yeah.

Mr. Morey - And now it's extended... How far out was that?

Mrs. Lehman - That's within the... It's the five... That has to be five feet, right?

Mrs. Corlew - Right. It had no roof over it. It was a cement patio, right?

Mrs. Lehman - Yeah.

Mrs. Corlew - And that, that, that can be five feet from the property line.

Mr. Lehman - We have a hot tub there and we just wanted to put a roof over it so the snow didn't fall on it.

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

Mr. Lehman - I do.

Mr. Hall - Pardon me, Patti.

Mr. Morey - Any of the board members have some questions? Your name for the record please. Mr..?

Mr. Lehman - Jeffrey Lehman.

Mr. Morey - Jeffrey Lehman, okay. The other applicant.

Mrs. Lehman - He's my husband. I'm technically the owner, but he's my husband and he's doing the, the work. I just want to make sure that my phone doesn't go off like that.

Mr. Moffitt - So basically you're covering up the patio then with a roof?

Mrs. Lehman - Yes.

Mr. Moffitt - You're not making it bigger?

Mrs. Lehman - Right.

Mr. Lehman - Correct.

Mrs. Corlew - Did you go by it, Harold?

Mr. Moffitt - Yeah, I did.

Mrs. Corlew - Okay. 'Cause I do have pictures here.

Ms. Coughlin - I didn't, Patti. Can I see those?

Mrs. Corlew - Sure.

Ms. Coughlin - Thank you.

Mrs. Corlew - Jim took those.

Ms. Coughlin - Okay, thank you.

Mr. Moffitt - I couldn't figure out where the property line...

Mr. Lehman - We spoke with our direct neighbor, Rob, Rob Ripp. He's right next to us in that house and he has no problem with anything either so.

Mrs. Lehman - He actually helped with some of it.

Mr. Hall - Patti, I've got a little problem. When did we have to get a permit to do repairs to a roof?

Mrs. Corlew - Always, unless you're replacing the tin or the shingles. If you're doing any structural work, you have to get a permit.

Mr. Hall - By structural, you mean, timber and stuff like that. Just a new roof, like sheet metal or something?

Mrs. Corlew - No, you don't need a permit for that.

Mr. Hall - (Inaudible). (Looking at photo in file).

Mrs. Corlew - No.

Mr. Hall - Okay. I can see why. All I've got is google map and...

Mrs. Corlew - Yeah. No... You all didn't get that. That was something Jim took for me, before they... Jim took that before any of this occurred.

Mr. Morey - I guess we'll note for the record that there are no neighbors or other people that would be close enough to be effected by this at present tonight.

Mr. Lehman - I did go around to all the neighbors that were going to get this letter too and nobody had a problem with it.

Mr. Morey - Did this have to go to the County?

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

Mr. Morey - No County impact.

Mr. Hall - (Inaudible) county?

Mrs. Corlew - No County impact.

Mr. Hall - 'Cause King Street is a County street.

Mrs. Corlew - It is and even if it wasn't, it's within 500 feet of Main Street, so.

Mr. Morey - Okay, at this time I'll make a motion that... I'll make a motion to approve ZBA 2019-5 and then if I get a second, we'll proceed to...

Ms. Coughlin - I'll second.

Mr. Morey - ...discussion.

Mr. Morey - All those in favor. No, we don't do that. We've got (inaudible). Save the vote for the end. Okay, we'll go

down through the application. Number one is whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance. You answer, "no, we simply want a roof covering our patio which holds our hot tub. It is being constructed by a professional. This will not negatively affect the neighborhood". Any comments? I have... Do you intend to, I suppose, enclose this like with lattice work or something else? Mr. Lehman - Probably a little privacy eventually. Maybe next summer. Something like that.

Mr. Hall - Right now it's plastic wrap.

Mr. Lehman - Yeah, we just put some plastic around it to block the wind.

Mrs. Lehman - Snowstorm.

Mr. Lehman - Snow.

Mr. Morey - Question number 2, 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 answer, "no. This area is within 10 feet of our property line. There is no other area to put the hot tub". Do you have any questions on that? So how do you... If this is here, how do you access the back portion of your property?

Mr. Lehman - We go around the other side.

Mr. Morey - The other side, there's...

Mr. Lehman - Yep.

Mr. Morey - We can't, from this picture here, it's... I guess that's a shadow of the house. It almost looks like there's some sort of something there.

Mr. Lehman - Maybe the wood pile. On the other side you're talking about?

Mrs. Corlew - He's looking at this picture right here.

Mr. Lehman - Oh yeah, that's just a shadow of the house.

Mrs. Corlew - That's just a shadow of the house, yeah.

Mr. Morey - Mr. Moffitt, any questions?

Mr. Moffitt - Nope, not so far.

Mr. Morey - Mr. Hall?

Mr. Hall - None so far.

Mr. Morey - Ms. Coughlin?

Ms. Coughlin - None so far.

Mr. Morey - Question 3, whether the requested area variance is substantial. You answer, "no. The area is three feet from the property line". Historically, this board has felt that anything in excess of 50% out of compliance is considered substantial. This would be 70% out of compliance. That's not to say... It's

an area variance. You don't have to... You don't have to meet all the conditions, just the majority of them, so (inaudible). And we, to be honest, we've given variances that were much more substantial than this warranted by, ya know, different circumstances. Not something that... Not just as a matter of fact because we've done it in the past. Each one's looked at individually. Which gets back to my question about, if you were going to enclose that or...? Do we still have the... We used to, if you had a roof over it, you could enclose it.

Mrs. Corlew - Yeah. They can... They would be able to. They wouldn't have to come back to you for a variance or anything.

Mr. Morey - No questions? 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. There is no physical or environmental change to putting this roof over our patio". I'm pretty much in agreement with that. Number 5, whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but not necessarily preclude the granting of the area variance. You answer, "yes". It's pretty hard to answer no on this one.

(Laughter).

Mr. Morey - "We placed a hot tub on the patio and would like it covered from winter snow".

Mrs. Lehman - Can I say something?

Mr. Morey - Yes.

Mrs. Lehman - Just to kind of explain why this is the only logical place for it, all of our doors... We have our front door, obviously there's no room in the front yard to put a hot tub there. The other two doors are both on that same side of the house. There's nothing... There's no access from the other side of the house and (inaudible) hot tub in the winter, it really doesn't make sense to run with a bathing suit around the house, so that's, just to explain to those of you who haven't been there.

Mr. Morey - Hm hm.

Mrs. Lehman - That is why that is the most logical place for it.

Mr. Morey - Well, we used to have a category of practical difficulty.

Mrs. Corlew - That was taken out.

Mr. Morey - I know, but that would have fit that. That's for sure.

Mrs. Corlew - Hm hm, yeah.

Mr. Morey - I make a motion that the Board find this is a Type II listed action under the State Environmental Quality Review Act, and there are no significant environmental impacts. Is there a second?

Mr. Moffitt - I'll second it.

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

RESOLUTION #2019-20

Motion by: Mark Morey

Second by: Harold Moffitt

RESOLVED, to deem application ZBA 2019-5 by Jude & Jeff Lehman in reference to tax map #211.9-3-6, located at 38 King Street for an area variance, as a Type II listed action under the State Environmental Quality Review Act, and there are no significant environmental impacts.

DULY ADOPTED ON THIS 14TH DAY OF NOVEMBER, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, Harold Moffitt, Alan Hall

Nays: None

Mr. Morey - Okay. Do you... If no one has any questions or would like to bring anything up, I guess we'll proceed to a vote if that's alright with the Board. A yes vote will grant the variance. Ms. Coughlin?

Ms. Coughlin - Yes.

Mr. Morey - Mr. Moffitt?

Mr. Moffitt - Yes.

Mr. Morey - Alan?

Mr. Hall - Yes.

Mr. Morey - And I vote yes as well. So you can, you can continue your work.

Mr. Lehman - Alright.

RESOLUTION #2019-21

Motion by: Mark Morey

Second by: Theresa Coughlin

RESOLVED, to approve application ZBA 2019-5 by Jude & Jeff Lehman in reference to tax map #211.9-3-6, located at 38 King

Street for an area variance, to allow replacement and extension of a sunporch roof 3 feet from the left side property line.

DULY ADOPTED ON THIS 14TH DAY OF NOVEMBER, 2019 BY THE FOLLOWING VOTE:

Ayes: Theresa Coughlin, Mark Morey, Harold Moffitt, Alan Hall

Nays: None

Mrs. Corlew - You can come in and get your permit anytime. And I'll give you your application for the County.

Mr. Hall - What contractor did the work without knowing..

Mrs. Corlew - Him.

Mrs. Lehman - My husband. He's done construction for 17 years.

Mrs. Corlew - He was going by the advice of a very dear relative.

(Laughter).

Mr. Hall - Do the work first and beg forgiveness afterwards.

Mr. Lehman - No, it was more of a 'you don't need a permit if you're only extending your roof', which he had to redo the, the roof in that area, so he's like we'll just bring it right out. That's where that came from. He knows a lot, but apparently he doesn't know anything about this.

(Laughter).

Mr. Morey - Now you can inform him.

Mr. Lehman - Oh we did already.

Mrs. Corlew - I think she probably already did.

Mrs. Lehman - I did.

Mr. Morey - Okay. At this time, I'll close the public hearing for ZBA 2019-5. Is there any new business?

Mr. Morey - No new business for tonight. You guys are all set.

Mrs. Lehman - Thank you so much.

Mr. Morey - You're welcome.

Mrs. Corlew - Cook your dinner.

Mr. Morey - I hope this was worth you holding up dinner.

Mrs. Lehman - I got called into work early, so that's where I'm heading.

Mr. Lehman - Thanks everyone.

Mr. Morey - You're welcome.

Mrs. Corlew - Talk to you soon.

Mrs. Lehman - Very soon, Jeffrey.

Mr. Morey - Okay, then I'll make the motion to adjourn.

Ms. Coughlin - Second.

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

Motion by Mark Morey, second by Theresa Coughlin and carried to adjourn the Zoning Board meeting at 7:25 p.m.

Respectfully submitted,

Patti Corlew
Recording Secretary

Zb11142019

RESOLUTION #2019-19

Motion by: Harold Moffitt
Second by: Theresa Coughlin

RESOLVED, to approve Zoning Board minutes of June 13, 2019
(without correction).

**DULY ADOPTED ON THIS 14TH DAY OF NOVEMBER, 2019 BY THE FOLLOWING
VOTE:**

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

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Environmental Quality Review Act, and there are no significant
environmental impacts.

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Nays: None

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Second by: Theresa Coughlin

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VOTE:**

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