

Effingham Zoning Board of Adjustment Meeting Minutes December 4, 2013

5 Present: Jory Augenti, Tim White, Mike Cahalane, Jim Pittman, Fran Marchand
Guests: Alan Taylor and Patty Libby, Pat and Joe Benzing, William Taylor, Jan Smith, Carol
Taylor, Michael Davidson
Minutes prepared by Barbara Thompson

10 The meeting was called to order at 7:07 pm.

Minutes: Fran moved and Jory seconded to accept the November minutes with corrections. The motion passed. Line 12, correct Tim's name from Time to Tim. Add that Fran abstained from voting on the minutes.

15 Correspondence: Town and City magazine. Jory briefly explained the purpose of the magazine.

Old Business: Annual Report: Jim said he was working on the report. He plans to start with an explaining the purpose of the ZBA, then cite the number of cases and follow up with an invitation for membership.

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Public Hearing 7:20 PM

Case #073

West Parsonfield Citizens Association

25 **Application for Variance**
Tax Map 417, Lot 31

Jim opened the hearing with roll call and the reading of the application. The Association is asking for relief from setback requirements relative to placement of an 8'x12' shed.

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Patty Libby spoke for the Citizens Association and explained that the church is located on a nonconforming lot and there is no other place the shed can be located. She explained a great deal of time was spent deciding the best placement and style of the shed. The Association determined the best location would be on the same site as the original carriage shed near the back of the lot but detached from the church.

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Michael Davidson, abutter, expressed concern the shed would be visible from his house and would be too close to the boundary between their properties. Patty explained the shed would not be visible from his house; that he would have to go into his backyard to see it. William Taylor presented a picture of the shed to demonstrate the aesthetics. The other abutter, Allen Crabtree, sent an email to Patty stating he has no objections and fully supports their application. Jim said the board should not use this email in the decision making as it is not a hard copy. Pat Benzing received a copy of the letter and verified the content. A comment was made the letter will probably be in Thursday's (Dec 5) mail delivery.

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Mike then expressed his concern that the map supplied with the application was not accurate and would like a better map. Jim felt the drawing was good as it relates to the shed setbacks and not the church. It was also noted from the reading of the public notice that there had been at least 10 days prior to the hearing for Mr. Davidson to check on the site. William Taylor explained that the shed location had been staked out for about two months.

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Pat Benzing closed the public comment reiterating the lengthy process in deciding the style and placement of the shed. The committee was greatly concerned on having the shed be visibly pleasing.

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Motion

Jory moved and Fran seconded to close public comment. The motion passed and the public comment closed at 7:58pm.

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Deliberation

Fran opened discussion stating there are actually two violations: setbacks (relative to Section 402.1) and lot density (relative to Section 708). He feels both issues must be dealt with.

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Jory felt the Code Enforcement Officer should have included this in her denial. He offered the possibility of re-noticing for another hearing to include both issues at no cost to the applicant. Jim felt the discovery process might come up with other issues but that does not negate what the denial is for. The main issue is the setback and that is what the board is being asked to decide. The lot density does not prevent the board from making the decision. Mike also expressed concern that lot density be included in the decision process in order to be reflected in the minutes.

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Jory surmised that the lot density criteria would ultimately be the same as for the setbacks. Further discussion resulted in the feeling that although lot density was not listed on the denial, the lot density issue will not change the outcome of the board's decision.

Motion

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Mike moved and Jory seconded to proceed with the evaluation of the setback application noting that Section 708 was not on the application but pertains to the property and will not affect the outcome of the decision for Section 402.1. The motion passed.

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Jim wanted to point out that relative to the hardship criteria the size of a building can be included and read from the Law Lecture Series handbook, page 32 under section c "...the size of a building may constitute the "special conditions" that form the basis for "unnecessary hardship." As the church comprises most of the lot, Fran agreed the building is a hardship.

Vote

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A vote was taken on each of the criteria resulting in no dissensions. The variance was granted.

The hearing was closed at 8:35 pm.

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Mike wanted to discuss issues raised by the budget committee. He reported some on the budget committee felt budgets are over inflated and they want better projections and better detail. Jim is being asked to appear at the January 7th budget committee meeting to go over the ZBA budget. The board members thanked Mike for the information.

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Fran reported that he will be out of the area until May.

Fran moved and Tim seconded to adjourn the meeting. The motion passed and the meeting adjourned at 8:45 pm.

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These minutes are considered draft until approved at a future regular meeting of the ZBA. Any changes or corrections will be noted in the next meeting minutes.