

OTSEGO COUNTY ZONING BOARD OF APPEALS

Minutes of the August 25, 2009 regular meeting

Meeting called to order at 7:00pm by Chairman Hoffman

MEMBERS PRESENT: Chairman Hoffman, Vice Chairman Wagar Mr. Stults, Mr. Alexander, Kevin Sagasser, Ms. Bono and Mr. McCarthy

MEMBERS ABSENT: None

OTHERS PRESENT: Joe Ferrigan, Director Otsego County Land Use Services; Sharon Bolinger, Recording Secretary; and Allen West, Enforcement Officer

Approval of minutes: Mr. Wagar I will make the motion to approve the minutes from the 7-28-09 meeting as presented. Mr. Alexander: support, motion passed

Citizen comments: None

PUBLIC HEARINGS:

ZBA09-01 Robert & Kristine Conden, Chairman Hoffman opened the public hearing at 7:06 pm

Mr. and Mrs. Conden presented their case to the Planning Commission. Mr. Conden presented the Zoning Board of Appeals with pictures of the residence before and after the deck was built asking that they be made part of the record.

Chuck Berlin 3406 Geigler: voiced his support for the variance

Bob Zeilinger 877 North Tall Tree: voiced his support for the variance

Tom Roach President Otsego Lake Association: voiced his support for the variance

Diana Natter 900 North Tall Tree: Voiced her support for the variance

Lisa Steers: voiced her support for the variance

There was some discussion between the Planning Commission members and the public

Chairman Hoffman read some correspondence to the other members:

Greg and Mary Gritmaker 711 North Tall Tree wrote supporting the variance request

Rick Barber 829 Lancewood Street wrote in opposition of the variance

Another letter supporting the variance signed by nine property owners

Michael and Joann Upcott wrote supporting the variance

Mark and Sandra Yovich: wrote supporting the variance

There was discussion among the planning Commission members, Joe Ferrigan and the public regarding a deck that was built across the canal from the Condens without a permit.

The Public hearing was closed at 7:40p.m.

Chairman Hoffman Directed the other members of the Zoning Board of Appeals to Article 23 of the Otsego County Zoning Ordinance specifically section 23.5.3 and the four requirements that shall be met for the Board to grant a variance.

The Zoning Board of Appeals read through the proposed finding of fact for ZBA09-01

The Board approved the general finding of fact (attached)

Mr. Stults: I would make a motion that the finding of fact numbered 1-21 be approved.

Mr. Wagar: Support

Vote was unanimous to approve the finding of fact

Chairman Hoffman: Now back to 23.5.3 specifically at 23.5.3.1

That there are exceptional or extraordinary circumstances or conditions applicable to this property or to its use that do not generally apply to other properties or uses in the same district.

There was discussion among Zoning Board members regarding 23.5.3.1

Finding of fact under 23.5.3.1

1. That the existing structure had only one walkable means of egress on the main floor

Chairman Hoffman asked for a roll call vote on the proposed finding of fact for 23.5.3.1

Yes: Mr. McCarthy, Mr. Wagar, Mr. Sagasser, Ms. Bono,

No: Mr. Hoffman, Mr. Alexander, Mr. Stults

Motion passes 4 to 3

Chairman Hoffman Called for a roll call vote on 23.5.3.1

Has been met: Mr. Wagar, Mr. McCarthy, Ms. Bono, Mr. Sagasser

Has not been met: Mr. Stults, Mr. Hoffman, Mr. Alexander

Motion passes 4 to 3

23.5.3.2 That such variance is necessary for the preservation and enjoyment of a substantial property right possessed by other property in the vicinity.

Chairman Hoffman called for a roll call vote

Has been met: Mr. McCarthy, Mr. Wagar, Mr. Alexander, Ms. Bono, Mr. Sagasser

Has not been met: Mr. Stults, Mr. Hoffman

Motion passes: 5 to 2

23.5.3.3 That granting of such a variance or modification will not be materially detrimental to the public welfare or be materially injurious to the property or improvements in the district in which the property is located.

Has been met: Mr. Alexander, Ms. Bono, Mr. Stults, Mr. Sagasser, Mr. McCarthy

Has not been met: Mr. Hoffman, Mr. Wagar

Motion passes 5 to 2

23.5.3.4 That the granting of such a variance will not adversely affect the purpose or objective of the zoning plan of the county.

Finding of Fact under 23.5.3.4

1. Two photographs submitted by the Applicant that have been marked "A" & "B" the picture marked "B" is a before the new deck picture and the picture marked "A" is an after the deck was built picture

There was discussion among the Zoning Board of Appeals members regarding 23.5.3.4

Chairman Hoffman asked for a roll call vote on adding the pictures as a finding of fact under 23.5.3.4

Yes: Mr. Alexander, Ms. Bono, Mr. Sagasser, Mr. Hoffman, Mr. Wagar, Mr. McCarthy Mr. Stults

Motion passes 7 to 0

Chairman Hoffman called for a roll call vote on 23.5.3.4

Has been met: Mr. Alexander, Mr. McCarthy, Mr. Sagasser, Ms. Bono, Mr. Wagar

Has not been met: Mr. Stults, Mr. Hoffman

Motion passes 5 to 2

Motion by Ms. Bono

I, Christa Bono, make a motion to approve variance request PZBA-09-01 based upon the approved finding of fact and 23.5.3.1, 23.5.3.2, 23.5.3.3 and 23.5.3.4.

Support by Mr. Wagar

Chairman Hoffman asked for discussion, there being none we will have a roll call vote on the motion.

Yes: Mr. Alexander, Mr. Wagar, Ms. Bono, Mr. Sagasser, Mr. McCarthy

No: Mr. Stults, Mr. Hoffman

Motion passes 5 to 2

Old Business:

Zoning Board of Appeals by-laws

Chairman Hoffman: According to the minutes of our last meeting a motion was made to amend the by-laws and we are to vote at this meeting to approve the proposed amendments.

Mr. Hoffman called for a roll call vote

Yes: Mr. Stults, Mr. Sagasser, Mr. Alexander, Mr. Hoffman, Ms. Bono, Mr. Wagar, Mr. McCarthy

Motion passes

Communications:

Joe Ferrigan asked the member, when you are preparing for each case in the future and you come across something in the ordinance that doesn't make sense to you please bring it to me so I can take it to the Planning Commission and have them work on clearing it up.

Mr. Stults: when you bring items to the Planning Commission give us time to do it, it may take up ninety days if everything go's perfect.

Meeting adjourned at: 9:14pm