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DRAFT Minutes of August 19, 2015 ZBA Meeting

Attendees: Jim Ferguson, Carl Slusarczyk, Donald Schubert, Bruce Skivington and Marisa Roy

Also present: Andy Marchese, Zoning Enforcement Officer/Staff Liaison, and
Debra Sterling, Recording Secretary

The meeting was called to order at 6:38 p.m. by Andy Marchese in his capacity as Staff Liaison as a new Chairman and possibly a new Secretary need to be elected prior to any Applications being heard as shown on the Meeting Agenda.

Andy Marchese explained the procedure for voting either by paper ballot or show of hands. The present Members voted unanimously to elect a new Chairman by show of hands. Andy Marchese asked if there were any nominations for Chairman. Carl Slusarczyk nominated Jim Ferguson as the new Chairman. All Members voted by show of hands and all Members voted unanimously to elect Jim Ferguson as the new Chairman leaving the Secretary position vacant. Andy Marchese asked if there were any nominations for Secretary. Jim Ferguson nominated Carl Slusarczyk as the new Secretary. All Members voted by show of hands and all Members voted unanimously to elect Carl Slusarczyk as the new Secretary.

The opening statement was then read by Jim Ferguson, Chairman of the Board.

Carl Slusarczyk, Board Secretary, read the agenda:

1. Application # ZBA-2015-003 – JANI HATIKA, Applicant, seeking a Variance of Vernon Zoning Regulations, Section 4.4.1.4 Minimum Side Yard Setback: 10 feet, to allow a 7 foot Side Yard Setback from the westerly boundary line for a newly constructed 20 foot by 22 foot garage, on the property located at 184 Warren Avenue, in the R-27 Zoning District.

Jim Ferguson asked the Applicant to come forward. Applicant's brother-in-law and representative, Beni Tena, came forward to speak on behalf of the Applicant, Jani Hatika, due to a language barrier. Jani Hatika also came forward.

Jim Ferguson asked Andy Marchese to discuss the nature of the Application. Andy Marchese explained the circumstances of the requested variance, stated that the Applicant took all the necessary Building and Zoning Permits to construct the garage however, the foundation was not placed in the proper location. Due to the language barrier, Mr. Hatika failed to understand the instructions and failed to provide the foundation as-built to the Zoning Department; he continued to construct the garage. Once it came to the attention of the Building and Zoning Department that Mr. Hatika preceded with his project, he was asked to stop work and provide the foundation as-built. Upon receipt of the foundation as-built, it was noted that the foundation was over the side yard setback line by 2' 10". Andy Marchese suggested to Mr. Hatika that he apply for a variance to seek a 7 foot side yard setback. A copy of the foundation as-built was previously provided to all Members for their review.

Beni Tena explained how he intervened on behalf of his brother-in-law once he learned there was an issue with the garage being oversized. He further stated that Jani simply did not understand the procedure; he apologized for the misunderstanding and said they have been cooperative and have filed all necessary permits as required. Jani purchased the property with the intentions of making it into a nicer property by making improvements; he hoped to sell the property when all construction was complete.

Andy Marchese explained the permit requirements to the Members and gave a brief run-down of the series of events from the time of permit application to the present time.

Don Schubert questioned the inspection process.

Carl Slusarczyk and Marisa Roy questioned why the property was not being maintained, grass was not being cut; property was not being kept up.

Beni Tena again apologized for the lack of property maintenance and said they would make sure, beginning tonight, that the grass is cut and property is kept up going forward.

Jim Ferguson questioned the process of construction.

Andy Marchese indicated all permits were in place, footing and foundation inspections were completed, owner was to provide foundation as-built and due to misunderstanding and the language barrier, the structure was ultimately built over the side yard setback line.

Jim Ferguson questioned the foundation contractor and his qualifications.

Beni Tena described the contractor's background and again stated that once the issue was realized, they have done all that has been asked of them in an effort to try and correct any issues.

Marisa Roy questioned why no neighbors had come forward with complaints. There was one person in the audience waiting to be heard.

Jim Ferguson asked the Members if there were any further questions for the Applicant. There were none.

The individual sitting in the audience was asked to come forward if she wished to speak in favor or opposition of the Application. She introduced herself as Sandra Snyder, abutting property owner. She stated she was not in opposition of the variance but rather had concerns and questions related to safety and if the proper permits and paperwork had been filed. Her concern was the closeness of the garage and it's electrical, and if there was a higher fire risk. She had questions regarding the Town inspectors and how often they were coming to the property to inspect.

Carl Slusarczyk and Jim Ferguson questioned Ms. Snyder as to the nature of the contractors and Applicant during the course of construction, and inquired about the distance from her house to the Applicant's. Ms. Snyder stated the contractors/applicant were always polite, cooperative and neat. She did not know the distance between her house and the abutting property.

Andy Marchese explained the history of permits and inspections from his experience working within the Building Department and having direct contact with the Building Official. He stated the Building Official did find issues with the electrical work and the Applicant made the necessary corrections as required by the Building Official. Additionally, other changes and corrections were requested by the Building Official with respect to the deck and basement; the Applicant made those corrections as well and was compliant. He further explained the Zoning Regulations with respect to the distances to other abutting properties and buildings, and depending on the year built, may be conforming or non-conforming.

Jim Ferguson asked the Members if they had any addition questions. There were none. Jim Ferguson closed the hearing and discussion was held between the Members.

Carl Slusarczyk made a Motion to grant the variance from Section 4.4.1.4 Minimum Side Yard Setback: 10 feet, to allow a 7 foot Side Yard Setback from the westerly boundary line for a newly constructed 20 foot by 22 foot garage, with the hardship being the Applicant's language barrier, not understanding the Zoning codes, and not providing a foundation as-built survey at the proper time. Don Schubert seconded the Motion. All Members were in favor for a unanimous vote. Variance is granted.

Next item on the agenda, review Draft Minutes of the May 20, 2015 meeting. Bruce Skivington made a Motion to approve the May minutes. Donald Schubert seconded the Motion. All Members were in favor for a unanimous vote.

Next item on the agenda, other business. No other business to discuss.

Bruce Skivington made a Motion to adjourn the meeting. Don Schubert seconded the Motion. All Members were in favor for a unanimous vote. The meeting was adjourned at 7:15 p.m.

Submitted by: Debra Sterling

Debra J. Sterling