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**Zoning Board of Appeals
Regular Meeting Minutes September 3rd, 2020
Norma Drummer Room/ Zoom Meeting
7:30pm**

Members Present: Rich Demko, Jeff Hanowitz, Paula Chapla, Phil Whilhemy

Members Absent: John Duke, Bob Nerone

Others Present: Maria Desosa, Malia McCool

1. Call to Order

Rich Demko called the meeting to order at 7:36pm.

2. Pledge of Allegiance

All stood for the Pledge.

3. Seating of Alternates

There were no alternates.

4. Public Comment

There was no public comment.

5. Approval Public Hearing Meeting Minutes; March 5th, 2020

Motion to accept the Minutes: Phil Whilhemy

Second: Paula Chapla

All in favor.

4-0

6. Approval Regular Meeting Minutes; March 5th, 2020

Motion to accept the minutes: Phil Whilhemy

Second: Paula Chapla

All in favor.

4-0

7. 4 Buckingham Road Variance-Public Hearing at 7:15 p.m.

Phil Whilhemy said the statutory hardship explanation is the burden on the applicant to explain how the zoning regulations as they stand, either destroys or greatly limits the ability of fixing the applicants problem. The existing house is nonconforming on one side. His opinion is that a reasonable use of the property would be to build the garage. His opinion is always, if someone would like to build a garage on a property, it is a reasonable use of the property. What this applicant is asking for, is to add to the current garage. The current regulations state that it is the opinion of the board that matter greatly, but they also don't say that this is a reasonable use of property. This is more of a want, than a need. His opinion is that there should be a plan b and plan c, which he asked about in public comment. He asks the applicant for a plan B, because it

is an addition, not a garage. He asked Keith Rosenfeld, the Town Planner, what the regulations state on this kind of addition.

Keith Rosenfeld said there is a set back. The idea of a hardship is based on the inability to follow the rule, for the reasonable use of this property. He was not going to weigh in on if the applicant should or should not get the variance, or if it is a hardship. His opinion is if this commission believes due to the typography and due to wetlands and the irregular shape of the property, then the variance would be granted.

Phil Whilhemy said he is stuck on the reasonable use of property because it is a want. He said there is a responsibility on the Commission to decide on the reasonable use of the property. If there was no garage and they were proposing one, absolutely. This application feels to him as though, it just wants more of a garage, before the hardship. He said there is no hardship in play, if there was no request for more garage.

Jeff Hanowitz says he understands what Phil is saying, however, the Board has approved in the past that could be called additions. He does not see an issue there. He does see it as a want, but he is willing to say yes. He is virtual so he does not have the maps in front of him, but from what he heard he said it sounds reasonable.

Phil Whilhemy said he understands, however, he believes that each individual application stands on its own and should not affect other decisions. He says if Jeff does not have the proper documentation in front of him tonight, we can ask the applicant to come back with a plan B and for you to make your decision.

Hanowitz agreed and said he knows that each application stands on its own, however, past experience advises future experience.

Paula Chapla said that she is not 100% sure the hardship exists.

Phil Whilhemy said there is no hardship on the property, unless they ask for an addition.

Rich Demko said that he believes the Board is here to determine if there is a statutory hardship. He understands where Phil is coming from but because the zoning regulations were amended after this parcel was created there is a statutory hardship. Using this hardship as an example, this Board has approved a lot of other applications like this. There was no public comment and no one spoke out against this happening. He can justify the statutory hardship because it is an existing nonconforming lot that was created prior to the zoning regulations.

Phil Whilhemy said he understands no one is here opposing the regulations, but the members of this Board were appointed to hold up these regulations. Hardship has nothing to do with this property, but it is a want, therefore it is not needed.

Demko said that because it's a four bedroom home, there should have been the assumption that there would be at least 2 drivers with cars in the home. The Board heard the reasons for the want, which justifies somewhat of a need.

Whilhemy says that his responsibilities state that there should be a plan B that is less nonconforming than the regulations. He says he would like that the Board tables the application,

and come back next month with a Plan B, Mr. Horbal could try to find any other situation that is less nonconforming.

Whilhemy makes a motion to table the application until next month.

Paula Chapla seconded.

Discussion:

Jeff Hanowitz says he is okay with tabling the application.

Demko says that he does not think it needs to be tabled.

Whilhemy says that he thinks this application should be denied. He is looking for a reason to pass it in good conscience, by tabling it and asking for a plan B it is a good responsibility. Demko asked Keith Rosenfeld, if the applicant went back to Horbal and Judson, is this a whole separate fee with a whole other project.

Keith Rosenfeld said that any plan change that is done for ZBA could be written into the plan. If the Board feels that it is a major change and a different piece of property and changes dramatically, then he would suggest the Board deny the application and accept it as a new application.

Demko said that plan B is going to require a whole other service because it will change the distance between the property.

Demko asked for a vote to table it to next month.

Paula Chapla- yes Phil Whilhemy- yes Jeff Hanowitz- yes
Rich Demko- no

3-1-0

The applicant, Maria Desosa, asked to speak, and the Chair allowed it.

The applicant stated that she understood Phil Whilhemy's point, she said she explained how there was a plan B of trying to put the garage in different areas of the house, but it would not work. She asked where Whilhemy would like her to put it.

Whilhemy restated his thought process again.

Demko said that he does not think they need to set a precedent of having a plan A, B, C, & D for every addition onto a garage.

8. Staff Report

There was no staff report.

9. New Business

There was no new business.

10. Correspondence

There was no correspondence.

11. Public Comment

The applicant, Maria Desosa, asked what the difference would be to be 9 feet away from her neighbor's plotline or 12 feet away. She reiterated her points from the evening.

Jeff Hanowitz said that he wants to wait because he does not have the charts in front of him, however he is not sure if there is other space on her parcel. He understands that might not be the case, but he cannot in good faith pass it tonight.

Demko asked for each board member for a comment.

Phil Whilhemy said there is a reason between reasonable use of a property and a want or an addition. This board must show some type of responsibility. To postpone it for 30 days, is the transparency of the Board for using responsible action. The last thing he wanted to do was take up the applicants time. He just wants to ensure there is reasonable responsible action on the part of the Board.

Jeff Hanowitz restated what he said earlier in public comment.

Paula Chapla said that nothing is ever cut and dry, after listening to Phil, she understands his point and therefore having a responsibility of a Board member, she agreed the application should be tabled. She does feel bad for the applicant having to come back in 30 days. Rich Demko apologized to the applicant. He said this seems extremely clear, however, next meeting they will see plan B and hopefully move forward.

12. Adjournment

Motion to adjourn: Paula Chapla

Second: Phil Whilhemy.

All in favor: 4--0