

**Town of Urbana
Zoning Board of Appeals
Minutes
September 30, 2009**

Board Members Present: Chairman, Richard Watson, Charlie Egresi, Michael Adams, Richard Frey and Alternate, Bob Domras.

Board Members Absent: Nichole Dresser

Others Present: Attorney, Peter Baker, Jim Estep, Karen Estep, Mr. & Mrs. Anthony Cavallero, David Iocco, Mr. Rigby and Dominic Romeo.

The Town of Urbana Zoning Board of appeals held a public Hearing on September 30, 2009 at the Town Hall.

Chairman, Watson opened the Public Hearing at 7:02PM.

Chairman, Watson stated he had a quorum.

Public Notice was placed in the Corning Leader. Notice was read by Chairman, Watson. Notice on file with the Town Clerk's Office.

Anthony Cavallaro, 21 Houghton Circle, Corning NY; has applied for five variances to enlarge a single story residence located at 10523 East Lake Road, Hammondsport NY. The property is owned by Mark & Todd Cavallaro, 21 Houghton Circle, Corning NY. The proposed addition would result in a structure which would require relief from the following codes:

1. 105-16. R Districts
 - a. The minimum permitted lot area, lot width and yard depth and the maximum lot coverage and building height in R districts shall be as follows:
 - i. For all uses
 1. Yard depth:
 - a. Side yard depth shall be a minimum of 10'
2. Lot Coverage shall be a maximum of 25%.

The applicant is seeking following side yard variances:

1. 8.7' of relief on the Southeast corner; resulting in a 2.2' setback
2. 7.8' of relief on the Northeast corner; resulting in a 1.3' setback
3. 1' of relief on the Northwest corner: resulting in a 1.5' setback
4. 1' of relief on the Northeast corner; resulting in a 1.0' setback

The applicant is also seeking a variance to increase the percentage of lot coverage from 44.83% to 48.4%.

Chairman, Watson indicated that meeting notification letters were sent to all neighbors. The Board received a letter from Peter J DeSocio; who is against the project. Letters

were also received in favor of the project from Philip Murphy (a family member and not a neighbor), Charlie & Sharon Frysinger and Kevin Havens. Chairman, Watson read all letters to the Board.

The Board received the M239 response from the County Planner; deferring judgment to the Board.

The Board received a written response from the Town Planning Board; recommending a denial for area relief. Attorney, Baker indicated that a notice was sent to the applicant; regarding the Planning Board meeting and were not given the opportunity to respond.

Mr. Dominick Romeo (direct neighbor on the North side) was present at the meeting. Mr. Romeo agreed with the letter from Mr. DeSocio. Mr. Romeo's concerns regarding this project are as follows:

1. If these variances are passed and the project moves forward. This sets a bad precedent for the future.
2. The current state of the property is a safety hazard.
3. Parking concerns. Parking limited in this area. Parking has been a long standing issue.
4. A 30' wall would be located a 1 ½' from the property line.

The Board held an extensive discussion with the applicants, their Attorney, Peter Baker, their contractor, Mr. Rigby and their PE, David Iocco.

Mr. Frey questioned the validity of the stop work order that was issued on this project. He indicated that the contractor did what he was supposed to do, by stopping all work when the problem occurred. Mr. Frey did not understand why the applicants could not address the Planning Board with this issue.

Mr. Egresi made a motion to recess the public hearing until 8:05PM. Seconded by Mr. Adams. All in favor.

Meeting re-opened at 8:05PM.

Mr. Cavallaro addressed the Board and indicated that the property location in question has been owned by his family for 45 years. Mr. Cavallaro also indicated that he respectfully wants the Board to protect his rights as a property owner.

CEO, Magee addressed the safety issue at the project location. He indicated that there is a wall flush with the road with a 12-14' drop off the back side of it. He requests the applicants to secure that area. Mr. Cavallaro said he would address this issue.

CEO, Magee discussed with Board the State's definition of a hardship. A true hardship according to the State is one of a land encumbrance. Mr. Magee also discussed the mean high water. A new survey was done on the project and new calculation of the mean high water.

Questions and Concerns from the Board with response were applicable; are as follows.

1. Do the applicants dispute any of the findings? Mr. Iocco - no.
2. How do you plan on working on the side of building with out being on the neighbor's property? Contractor, Mr. Rigby – planks would be used along the side the building.
3. Why can't the original plans, approved by the Planning Board still apply? Mr. Iocco explained that the front wall was not sound enough to remain standing even with braces and need to come down. Mr. Iocco also indicated that Terry Debuck, Building Code Inspector; agreed with the need for the wall to be removed. Mr. Iocco explained that the wall that was removed was to remain standing per Planning Board's approval.
4. Were the walls and foundation evaluated before starting the project? Mr. Iocco – inspected as much as possible.
5. Were there any variances required from the previous approval from the Planning Board? CEO, Magee – none, due to errors and omissions on his part and that of the Planning Board. The encroachments that the applicants are requesting relief from; were in the approved plans from the Planning Board.

CEO, Magee held a discussion with the Board regarding the construction process of the project and the modifications that were required to the original approved plans. CEO, Magee also discussed the issue of defining this project as a remodel or new construction. The applicants and CEO, Magee had a meeting with Charlie Bliss from the State. CEO, Magee explained that Mr. Bliss indicated in his opinion that the ground is considered to be the foundation. CEO, Magee has contacted the State and got an advisor opinion that the foundation is not the ground.

Mr. Adams made a motion to recess the meeting and reconvene Wednesday, October 7, 2009 at 7PM at the Town Hall. Seconded by Mr. Egresi. All in favor.

Meeting recessed at 845PM

Respectfully Submitted

Carly McConnell, Recording Secretary