

**Town of Zebulon  
Board of Adjustment  
Minutes  
August 12, 2010**

Members Present: Tad Adams, Jay Estes, Gerald Lanier, Erica Parsons, Julie Wilkins-Planning, Mark Hetrick-Planning, Lisa Markland-Town Clerk, James Furr-Attorney

Absent: Larry Loucks

The meeting was called to order at 7:30 pm by Tad Adams.

The first item on the agenda would be the election of officers.

Erica Parsons nominated Larry Loucks for chairman. There were no other nominations and Larry Loucks was unanimously elected as chairman.

Jay Estes nominated Tad Adams for vice chairman. There were no other nominations and Tad Adams was unanimously elected as vice chairman.

Gerald Lanier made a motion, second by Jay Estes to approve the minutes of December 17, 2009. There was no discussion and the motion passed unanimously.

**NEW BUSINESS**

VA 2011-01—Mike Mazur—205 Dulcimer Lane

James Furr read the guidelines that needed to be followed for the meeting and how the Board must go about applying the ordinances of the Town of Zebulon.

Vice Chairman Tad Adams asked town staff the followings questions; was the hearing being held no longer the 60 days after receiving the petition; notice of the time and place of the hearing was given by first class mail to petitioners and property owners at least 20 days prior to the hearing; that notices were placed in and around the property as deemed appropriate at least seven days prior to the hearing; and a general circulation newspaper was notified twice of the date, time and place of the hearing in time for publication prior to the hearing.

Staff answered yes to all the above questions.

James Furr stated that the vote on the petition had to meet the 4/5 requirement.

James Furr said that all those wishing to speak would have to be sworn in, then staff would present the case, the petitioner would present and then those in favor and those against the request. All discussion and questions were to be addressed to the Board not directly to the individuals.

Board of Adjustment  
Minutes  
August 12, 2010

Tad Adams swore in Mark Hetrick and Mike Mazur.

Mark Hetrick gave a PowerPoint presentation which reviewed the case stating that Mike Mazur was requesting a variance for the side yard setback at the 205 Dulcimer Lane. It was to attach a garage to the house.

Mark explained that the Board could grant a variance if it concluded that strict enforcement of the ordinance would result in hardships for the applicant, that it was not a result of the applicants own actions, the applicant could not make reasonable use of the property and it relates to the land and not personal circumstances.

Staff was recommending denial since it was truly a result of the applicants own actions, the applicant did have use of the property and it was specifically associated with the personal circumstances.

There was review of the applicant's site plan, application, and the notice published in the paper.

Mike Mazur came forward and presented his case and stated that the lot was pie shaped. He purchased a home that was preexisting and had no say on where the home was built on the lot or that a garage was on the home when purchased. He continued by stating that they did homeschooling and that they wanted to be able to do the schooling in the garage where there would be more space.

Mr. Mazur stated that there were no utilities between the homes where the proposed garage would go and where the utility easement was shown.

Gerald Lanier asked if an architect was doing the work or if Mr. Mazur was doing the work himself. Mr. Mazur said that the drawings were his. Gerald asked if there was a way of moving the garage. Mike Mazur said that he was informed that he could not build the garage forward of the front of the home, it would have to be flush or pushed back from the front of the home.

Tad Adams asked Mark Hetrick if that was correct. Mark stated that he would have to check the ordinance, but said that he knew if it was detached it could not be in front of the home but was not sure about whether that was correct if it was attached.

Erica Parson asked if it was the 4.8 feet and wanted to know if they could adjust and pull it forward. Mike Mazur said yes that was correct, but stated pulling it forward would make it so that he would not have access into the garage or bonus room with the preexisting doors in the home.

Erick Parsons asked about the previous variance that they received in 2001.

Jay Estes stated that it would be visually encroaching on the neighbor's yard and thought that it could be moved forward and still have access with the help of an architect drawing the plans. Mr. Mazur said that there was not an architect and he was the general contractor.

Board of Adjustment  
Minutes  
August 12, 2010

Jay Estes asked about the slope and the drainage if it was built on top of it. Mr. Mazur said that where the house sat it was flat but from the front of the house to the street it sloped down. There would be trees that would have to be removed if the garage was moved forward.

Tad Adams said that where they were planning to put the building made perfect sense but it didn't meet the setback requirements. It might be best to hire someone to design it so that it did meet those requirements by pulling the building forward or moving it to the backyard. Mike Mazur said that it would be an increase in expense to him and a hardship for him. Tad Adams said that there would only be a hardship if they built the garage, there would be no hardship if the garage was not built. Tad Adams stated that by building Mr. Mazur was creating his own hardship.

There was discussion by the Board that there were ways to design the building so that it would not need a variance and financial hardships were not a consideration that the Board was able to consider.

Jim Furr suggested that they look at the six things that the Board had to find and that maybe they should talk through them to come up with their answer.

The Board discussed how to redesign the addition to meet the ordinance and not need a variance. Gerald Lanier asked if Mr. Mazur was willing to look at a plan B or C that would fall within the ordinance. Mike Mazur said that he spoke to the planning department many times about wasting his \$500 by filing for a variance and he thought that they should have told him that they would recommend denial and it wasn't in his best interest to file. He thought the planning department should have told them how to make changes so that it would meet the ordinance.

Mark Hetrick stated that the applicant was before the Board with the current request for a variance. Mike Mazur said that the hardship was due to the property and its shape. Jay Estes said that there was no hardship when the house was purchased. Mr. Mazur said that they did not want to move the building forward because they would have to cut down a tree.

Jay Estes made a motion to deny.

Tad Adams said that no more testimony would be heard. Tad stated that they would go over the six things that they had to consider to make their decision. Tad Adams stated that to grant the variance they would have to agree with all six of the things to be considered. If any of the six fail then the request was denied. So instead of having a motion and voting on it they needed to just go through the six things.

Tad Adams read all six statements and took a poll of the Board on each one. The Board unanimously disagreed with all six of the statements but number three which stated "the hardship relates to the applicant's land, rather than personal circumstances."

Tad Adams stated that VA 2011-01 was denied.

Board of Adjustment  
Minutes  
August 12, 2010

Jay Estes stated that he was not opposed to Mr. Mazur building but said he needed to change the design.

**STAFF REPORT**

Mark Hetrick stated that the ETJ extension would be reviewed by the Board of Commissioners at the work session.

Jay Estes asked the attorney about the ST Wooten case and the special use permit and if they won their appeal would the special use permit become null and void. Jim Furr stated that was correct.

Jay Estes made a motion, second by Gerald Lanier to adjourn the meeting. There was no discussion and the motion passed unanimously.

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Tad Adams—Vice Chairman

SEAL

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Lisa M. Markland, CMC—Town Clerk