

May 17 , 2012 Town of Corinth Planning Board Minutes

Minutes for May 17, 2012 at 7:00 p.m.

Meeting called to order at 7:05 p.m. by Chairman Eric Butler

ROLL CALL:

Eric Butler, Chairman, present; Althea Rivette, present; Louise Reed, present; Joan Beckwith, excused;

Philip Giordano, present; Dan Willis, Alternate, absent; Attorney Pozefsky, present; Leon Hickok, Code Enforcement Officer, present; Kate Halliday, Planning Board Secretary, present.

Dan Willis will be sitting in for Joan Beckwith

PUBLIC PRESENT:

Dave Barrass, Surveyor, Thomas Wayne Clothier, Jr., Beverly French, Ricky French, Tim Halliday, Joshua Halliday, Dara Halliday

OLD BUSINESS:

***MOTION TO APPROVE MINUTES from April 19, 2012 as so written (correction made to spelling of Phil Giordano's name)**

Motion: Philip Giordano

Seconded: Althea Rivette

Polled as follows:

Eric Butler, yes; Althea Rivette, yes; Louise Reed, yes; Philip Giordano, yes; Dan Willis, yes

Motion Passed and Carried

NEW BUSINESS:

Family sub-division: Beverly French 86-6-1-7 (Zoned R2) Case #2012-05

Presented by Dave Barrass, Surveyor for Beverly French. Mr. Barrass explained the process the case has taken with the Zoning Board of Appeals and a brief history of the background of the property. One year ago Mrs. French was before the Planning Board for this family sub-division. She is trying to secure a reverse mortgage and needs a separate deed for each parcel, her residence and her son's residence. The

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Planning Board referred Mrs. French on to the Zoning Board of Appeals for an Area Variance. ZBA initially denied Mrs. French the Area Variance. The ZBA agreed to reconsider the request with the following changes taken into consideration: move the dividing property line forming one substandard lot instead of two, move the garage door to meet required setbacks, drill a separate well for the second parcel. Under these stipulations the ZBA granted the Area Variance and the case was now back to Planning Board for family sub-division approval.

Chairman Eric Butler referred to Attorney Pozefsky as to what choices the Planning Board has with the creation of a sub-standard lot with the front parcel. Chairman Butler stated in his history with Planning this is the first time the Zoning Board of Appeals has sent a case back to Planning saying they approve of the Area Variance with stated conditions.

Attorney Pozefsky stated the Zoning Board of Appeals has approved the Area Variance creating the substandard lot and are okay with that. Therefore the Planning Board can no longer look at the issue of the creation of a substandard lot. What has been done is legal, but not in compliance with the Town Land Use. Chairman Butler asked the Planning Board members if they had any questions or concerns.

Dan Willis inquired as to exactly what was meant by the contingencies or conditions that were put in with the approval of the Area Variance. What did that mean legally. Attorney Pozefsky stated normally these contingencies are normally put in place by the Planning Board but the ZBA felt they wanted them stated with their Area Variance approval. ZBA wanted to be sure the well was put in place. It is perfectly legal for ZBA to put in any conditions they want to. Dan Willis asked what would happen if they (French) did not meet the contingencies. Attorney Pozefsky stated they would lose their zoning variance. Which then would be raising an interesting question, would any subdivision then be void because it was based on the zoning variance which would now be lapsed. Leon Hickok, Code Enforcement Officer stated they could be brought into court and fined for non compliance if conditions are not met by the end of the one year time frame.

Althea Rivette stated she did not have a problem.

Chairman Butler stated without further questions or discussion the matter would be set for a Public Hearing next month. Dave Barrass asked the matter be allowed to proceed due to the fact the Zoning Board of Appeals held a public hearing on the Area Variance and no one from the public was in attendance. It has already been dragged out one year and it is a financial hardship for Mrs. French. Why does it have to be dragged out another month with additional cost to Mrs. French of \$45.00 for certified mailings. Chairman Eric Butler stated he was not ready to waiver the public hearing. Attorney Pozefsky reinforced the need for a Public Hearing separate from the ZBA Public Hearing. Surveyor Barrass stated there had been a precedent set before of waiving the Public Hearing for Planning by using the ZBA Public Hearing. Dan Willis inquired as to whether approving this was setting a legal precedent. Attorney Pozefsky stated other Area Variances have had conditions set on them. Philip Giordano stated he would be more comfortable with the well put in and the garage door moved prior to the Planning Board approving the subdivision. Concern was expressed over enforcement if the contingencies are not met. Leon Hickok, Code Enforcement Officer stated that was his job. Dave Barrass stated he felt the

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Planning Board was missing the point with this case. This was not a big developer trying to do a subdivision this was an elderly woman trying to get equity out of her property to live and who needs a separate deed to do so. The residences were all done legally prior to the Town's Land use going into effect. The Town has a responsibility in this due to the fact they have now created an undue hardship with their Land Use for Mrs. French. There is no way Mrs. French can undo this. She needs the money. She cannot go out and get a loan. The Board needs to look at this from the human point of view. Chairman Butler stated he understood, but the hard part going down was the setting of a precedence of allowing a substandard lot. Chairman Butler said a vote could be taken to see where the other members stood on the issue or it could be moved to next month for a Public Hearing. Attorney Pozefsky supported Chairman Butler with the need for a Public Hearing simply due to the fact an Area Variance has been granted to give approval to the subdivision and the public should be made aware of this.

Chairman Butler moved it to a Public Hearing next month, June 21st at 7:00p.m.

With no further items on the agenda for discussion, Chairman Butler asked if anyone else in the audience had anything to discuss. Thomas Wayne Clothier, Jr. came forward as per his conversation with Leon Hickok, Code Enforcement Officer in regards to his property and placement of a mobile home. Chairman Eric Butler stated if it was not zoned mobile and it was a zoning issue not a Planning Board matter. Attorney Pozefsky advised Mr. Clothier needed to go to the Zoning for a Use Variance. Leon Hickok, Code Enforcement advised he would put Mr. Clothier on the next Zoning Board Meeting.

Chairman Butler advised the Board of future training being offered and also stated he would like to discuss further Use Variance.

Called for a motion to adjourn.

***MOTION TO ADJOURN PLANNING BOARD May 17, 2012 MEETING**

Motion: Philip Giordano

Seconded: Althea Rivette

All Planning Board Members in favor

Motion Passed and Carried

Next Planning Board Meeting with a 7:00p.m. Public Hearing, June 21, 2012

Respectfully submitted,

Kate C. Halliday,

Planning Board Secretary

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