



**TOWN OF KNOX
ZONING BOARD OF APPEALS (ZBA)
April 28, 2022**

Chairman Kristian Snyder called the meeting to order at 7:38 p.m., followed by the Pledge of Allegiance.

Roll Call-Chairman Snyder, Ernie Cupernall, Lee Empie, and Sue Mason

Absent: Rose Pritchard

The March 24th, 2022, minutes were reviewed.

Minutes approved, with the exception of changing Keating attempting to sign into Google Meet but met with was she was unable to.

A motion was made to approve the April, 2022 minutes by Chairman Snyder and second by Lee Empie, all in favor, Aye, motion carries.

Old Business:

Chairman Snyder opened Old Business, second by Lee Empie, all in favor, Aye

Ms. Deirdre Keating applied for a Building Permit and forwarded it to the Building Inspector Dan Sherman. BI Sherman denied the Building Permit due to the setbacks. Chairman Snyder conducted a site visit, and a few e-mails were exchanged. Some of the recent e-mail exchanges lead us to go through the Zoning Ordinance and try to interpret what it was saying.

I don't think that we are able to interpret what it does say. The ZBA believes the Town Attorney should be contacted to clarify what the Zoning Ordinance is saying. If the Town Attorney agrees, the Area Variance may be changed to a Building Permit, and should be forwarded to BI Sherman. If the Area Variance is changed to a Building Permit the Zoning Ordinance should be modified to clarify the difference between a Building Permit and an Area Variance.

If need be, a Special Session would be warranted. Chairman Snyder requested time to follow up with the Town Attorney on the grounds of the building permit being denied due to some confusion on the ordinance wording. If the Attorney believes that Ms. Keating should go back to BI Sherman and apply for a Building Permit, Ms. Keating would not

need to go to the ZBA for an Area Variance. If the attorney agrees, the Zoning Ordinance may need to be rewritten.

Lee stated it was his understanding that the existing under sized lots had to do with when they made the ordinance not necessarily when you bought the lot, like if you had owned the property when the ordinance was written but I imagine you didn't own the property when the ordinance was written back in the 70s.

Ms. Keating stated one of the things she's concerned with is the definition of a premise or a building for human habitation, whether or not a garage qualifies as such. So, we need to know that before we can render a decision, we don't want to set a precedence and then find out later what the original intent was.

Ms. Keating inquired about the Special Session; how soon can the Town Attorney resolve this. As you all know, building prices are going up every day and wondered, how soon a Special Session could be scheduled, if need be. Keating advised they are desirous to get this rapped-up as soon as possible.

Chairman Snyder advised he can't speak for the Town Attorney, but he'll definitely keep in touch and reach out to her (Keating).

Ms. Keating stated if they do amend the law, subsequently, it would not necessarily apply retroactively to her application that was previously submitted.

Ms. Mason advised she didn't think they would change to original intent but we need to know what the original intent is.

Chairman Snyder stated if it's clarification and if there needs to be an amendment done that would be after we settle the deal. If Keating needs an Area Variance we would have the paperwork already, but if it's decided that Keating gets a Building Permit it would be sent back to BI Sherman. If the attorney tells Keating that the garage is not necessarily intended for human habitation, we have a little more leeway. Ms. Keating's friend stated that as he sits in the meeting, he has a hard time understanding how one could decide that a garage with no facilities is intended for human habitation.

Ernie stated that we probably would not disagree with you, we're laymen, so we don't know what the intent of the law is, and obviously when you talk about legal definition and legal terms a decision can turn on what that interpretation of that term is.

Chairman Snyder states it seems like any building being put up should have setbacks this seems like it's a burning issue, if you put up a garage you should have setbacks.

Ms. Keating asked should the garage have human habitation? Ms. Keating stated were they just talking about dwellings, or were they talking about outbuildings. It wasn't spelled out as to what they wanted. Ms. Mason advised it comes down to the way it was worded, the building or the premises, it wasn't spelled out.

Chairman Snyder stated they are not qualified to determine what they intended by habitation.

Ms. Keating advised if we get to the Area Variance and has special sessions hearing, should be granted as in this case, it's in harmony with the other houses. Ms. Keating advised ten of the 19 houses on Cedar Lane have garages that do not have the setbacks.

Chairman Snyder wondered if the garages on Cedar Lane were erected prior to the statute being instituted. Ms. Keating stated she did not know when those garages were built. Those garages may have been put up before the ordinance or could have been put up without a permit.

Ms. Keating's friend stated if it can be decided pretty promptly, we won't object. It's going to take a long time to order the garage and as stated previously, the cost have raised up \$1,000s of dollars. She is having the garage made by the Mennonites and they will assemble there but she doesn't know how the garage will be placed on Cedar Lane.

A motion was made to return this to the Town Attorney by Ernie Cupernall and second by Lee Empie, all in favor, Aye, motion carries

New Business:

A motion to open New Business by Chairman Snyder and second by Lee Empie, All in favor, Aye, Motion Carries

Anna Leftkadtis appeared for Vasilios Leftkadtis, her husband, regarding an application for a Special Use Permit. She had all copies of the application and she requested a Public Notice at the next meeting of the ZBA. She stated that her husband, would like to rent an office space at 2160 Berne-Altamont Rd., Altamont, N.Y. 12009 from Mr. Vedder and Ms. Salisbury. Her husband stated he wants to construct an office in the building but it was changed to renovate the office space.

Chairman Snyder made a Motion to accept Vasilios Leftkadtis Special Use Permit and second by Ernie Cupernall, all in favor, Aye, Motion carries

A young lady attended the meeting (she did not say what her name was) and advised she was asking for information for Mr. Hughes. Does it matter that some of the property is attached to the house and other properties owned by Mr. Hughes are not attached to the house but they are all on the same deed. Approximate year Mr. Hughes bought the land was in 1971, as is the year of the deed.

The young lady advised she spoke with BI Dan Sherman and he advised her to go to the ZBA. Mr. Hughes daughter gave the young lady permission to come before the ZBA. She advised Mr. Hughes owns a big farm right before Knox-Gallupville Road. He was very ill last year and sold a portion of his property on Street Road not knowing he needed the money to live in his house. She stated he is not a wealthy man and now he's doing much better residing in an assisted living center in New Jersey. She advised Mr. Hughes needs more money to stay in the assisted living center so he can get better and come home. But he doesn't have any money and now wants to sell another chunk of his property not connected to his house or farm. His daughter was reading it as, "you can subdivide twice but wait 18 months and the third time all of it has to go with the house." According to BI Sherman it's basically one piece of property but it's split by Street and Witter Road.

Mr. Cupernall stated that it's one piece of property but it's split by Street and Witter Road and advised that greater minds than mine would have to answer this question, and I'm not qualified.

BI Sherman stated that he would have to speak with Jess about this and it would be something either for interpretation or the ZBA or going to the Planning Board who manages subdivisions.

Ms. Mason wondered why BI Sherman referred the young lady to the ZBA as opposed to the Planning Board. BI Sherman stated he wasn't sure why he referred her. He stated it was quite a while ago that they spoke. Mr. Empie stated that verbiage in the ordinance from the zoning about subdivisions so it makes sense that we would be talking about it.

According to Chairman Snyder he didn't think the ZBA would have the 18 months but the Planning Board may have the 18 months condition.

Mr. Cupernall stated that within the purview of the zoning law that's it. In other words, this law allows somebody to divide land in different parcels, right, that's the only area I can see where we could be involved in it. So, something that's already divided in essence there may be a deed or several deeds that attach to those parcels. I don't see where we would have a jurisdiction to make a ruling on something like that, my humble opinion. The only question is, does the zoning law allow that parcel to be subdivided once again.

Mr. Empie advised he remembers something being in there like you're saying there's a certain amount of time period. The law may allow it but there may be other factors that may play on whether or not it can be done.

Mr. Cupernall asked what are you asking us to rule on. The young lady stated she would like either the ZBA or the Planning Board to allow them to sell the property separately.

Mr. Cupernall stated he didn't think that's within our jurisdiction.

Mr. Empie advised if they're different parcels you shouldn't have to separate multiple pieces of the property in one town it isn't really a subdivision.

BI Sherman stated Mr. Hughes would have to get two separate deeds for the property.

Ms. Mason advised he could actually do that now without selling, unless he wanted to subdivide that one several times, then it's a different story.

Mr. Cupernall stated if those parcels are divided all he would need is a second deed made up for the parcel of land he wants to sell.

With no further business, a motion was made by Chairman Snyder and second by Lee Empie to close the meeting. All in favor, Aye, motion carries. Meeting closed at 8:30 p.m.

The next Zoning Board of Appeals meeting is scheduled for June 23, 2022, at 7:30 p.m.

*Respectfully Submitted
Val Ackroyd, Secretary
Zoning Board of Appeals*