

**APPROVED: 8/17/09**

**MINUTES OF THE  
CONSOLIDATED ZONING BOARD OF APPEALS  
OF THE  
TOWN OF HIGHLANDS AND VILLAGE OF HIGHLAND FALLS  
JULY 20, 2009**

A regular meeting of the Zoning Board of Appeals was held in the Court Room, Town Hall, Highland Falls, New York, on Monday, July 20, 2009, at 7:00 P. M.

**THERE WERE PRESENT:**

**Board Members:**

David Weyant, Chairman  
Ray Devereaux  
Tim Donnery  
Jack Jannarone  
Tony Galu

**Absent:**

Tim Doherty  
Jim Miller

Alyse Terhune, Attorney

**ALSO PRESENT:**

John Hager, Building Inspector, Scott and Katherine Fish, John Giordano, Henry E. Woodruff, Brian Larkin, John Sullivan, and Amy Yavorek.

**The meeting was called to order by the Chairman, at 7:00 P. M., with the Pledge to the Flag. It was noted that a quorum was present.**

MR. WEYANT: I am going to open the Consolidated Zoning Board of Appeals for the Town of Highlands meeting of July 20, 2009, and note that we have a quorum and members that are absent are: Mr. Doherty and Mr. Miller. The first matter is to approve the Minutes of June 15, 2009, which have been sent to you prior to tonight's meeting. Are there any corrections or changes to the Minutes?

**A motion was made to approve the June 15, 2009 Minutes.**

**Motion: Mr. Donnery Seconded: Mr. Jannarone Approved**

**MR. WEYANT:** The first Public Hearing will be for Mr. Scott Fish, 130 Mountain Avenue, Highland Falls, NY. Mr. Fish, please step forward. There is an Affidavit of Mailing, duly noted and notarized, and an Affidavit of Posting prior to tonight's hearing. I would note for the record that the Notice of Publication which this Board gave to the News of the Highlands in time to be published correctly for tonight's meeting, unfortunately it was not published on the correct Friday, ten (10) days ago. It was the fault of the News of the Highlands. They did not print it in time. They did

print it on this past Friday. This gives us a problem. We will hold the Public Hearing tonight. We will open it up to the public and review everything. This Board will not be able to make a decision tonight unfortunately because of this publication problem. We will hold over the Public Hearing to our August meeting. We will re-publish it again in August and we will be voting on your application then. Do you understand this?

MR. FISH: Yes.

MR. WEYANT: It is out of our control. We did everything correctly. The News of the Highlands is very apologetic. They did not publish it within the ten (10) day New York State requirement. We will have to re-publish this. We will hold the Public Hearing but we will not be able to make a decision tonight, but we will at our August meeting.

MR. GALU: Will you be putting a driveway in next to your addition? There is a State highway.

MR. FISH: Yes, I will.

MR. GALU: You will need permission from the New York State Department of Transportation to make that cut.

MR. FISH: That is correct.

MR. WEYANT: That is not an issue for this Board.

MR. FISH: The first step is to get the variance to get permission to build.

MR. WEYANT: Everything was done properly by you. You do not have to re-mail or re-post. We have to have the formality of the publication done correctly. I apologize. We will hold the hearing right now, but we will have to hold the hearing open, and we will give you a decision in August.

**Mr. and Mrs. Fish, please hold up your right hands. Do you solemnly swear that the information provided herein to be accurate and true to the best of your ability?**

MR. FISH: We do.

**At 7:05 P. M., the Public Hearing was opened.**

MR. WEYANT: Please review with us what you would like to do with your addition.

MR. FISH: The existing house right now is 12.2 feet from the right-of-way from the road. I would like to put an addition on and the closest part of that addition is 13 ½ feet from the road right-of-way line. On the rear corner of the house is one story. I would like to make that a two story. That is 2.8 feet from the property line.

MR. WEYANT: We are looking at a front yard variance for your addition of approximately 16.5 feet.

MR. FISH: Yes.

MR. WEYANT: You need a side yard variance of 7.2 feet.

MR. FISH: Correct.

MR. WEYANT: Those two variances. Would anyone from the audience like to speak towards this application?

MR. JOHN SULLIVAN, 128 Mountain Avenue, Highland Falls, NY. I am his immediate neighbor - 12 feet away. Personally I have no issue with this. I am surprised there is any objection. If you walked in that neighborhood and saw things that were done to other homes, particularly the one across the street which has doubled in size, it is astounding to me that he was denied.

MR. WEYANT: He has not been denied anything.

MR. SULLIVAN: That is what this letter says.

MR. HAGER: He was denied a Building Permit.

MR. WEYANT: Because of the way the Code reads. You have to understand, sir that this home probably yours also, pre-existed. It is a non-conforming property to our Code. That is why we have to go through this. I would imagine if you did the same thing to your property, we would have the same situation.

MR. SULLIVAN: As an immediate neighbor, I have no objection to it. It is what everybody would want to do to their home – an improvement. Not to mention a little more size and more taxes. It has been there 100 years, why is this a problem now?

MR. WEYANT: I understand. It is because of the way the Code is written now.

MR. JANNARONE: Thank you for your input. That is the kind of thing we need to hear, what the neighbors think.

MR. WEYANT: Is there anyone else who would like to speak on this application.

MR. HAGER: On the same subject. I think one of the reasons that question was asked is because I believe the building across the street we are speaking of was recently increased long after the Zoning Code came into effect. There has been a policy change in the Building Department. We have changed personnel. Things that used to be considered not to be an increase in the nonconformity now are. We have reinforced that a month ago with the interpretation that the Zoning Board of Appeals made. That is the reason Mr. Fish is here. His permit was denied even though in the past, some of them were issued without a Zoning Board opinion or action. Once that interpretation was made last month, from that point forward all similar applications will be treated that way.

**MR. WEYANT: Gentlemen, any questions or comments? Hearing no other discussion from the audience, I will adjourn this Public Hearing to our August 17, 2009 meeting. We will re-publish and make a decision at that meeting.**

MR. AND MRS. FISH: Thank you.

MR. DONNERY: John, do you have any problems with what he is doing?

MR. HAGER: I don't. Full plans have not been developed yet and submitted. It was my recommendation to the Applicant that he present what he had in this format to see if he could obtain the necessary variances before he went through the expense of getting the designs done. Based on what I have seen so far, I have no problems.

MR. WEYANT: I would like to note for the record, the Orange County Planning Board was notified of your application because of your closeness to a county highway, and they had no objection, leaving it up to this Board to do their determination.

MR. WEYANT: Mr. Giordano, please step forward. I note that for Mr. Giordano's application for a variance at 142-144 Main Street, Highland Falls, NY, we have an Affidavit of Mailing, notarized, and an Affidavit of Posting. Unfortunately, the same situation arises with your publication for tonight's hearing. It did not get published on a timely basis. Therefore, we have the same situation. We will hold the Public Hearing tonight but will be held open until next month and this Board will not make a decision tonight. We will re-publish and make a decision in August.

**Mr. Giordano, please hold up your right hand. Do you solemnly swear that the information provided herein to be accurate and true to the best of your ability?**

MR. GIORDANO: I do.

**At 7:11 P. M., the Public Hearing was opened.**

MR. WEYANT: Please review with us what you would like to do.

MR. GIORDANO: We purchased the building because we have a construction company in town. We outgrew our building. We are going to use approximately half of the building for storage and a shop for our use, and part of the building to move our office into. There is an existing professional space. There are doctors in there and they are going to stay. We are going to split up what is left into a couple of office spaces. By doing that, we laid out a parking plan and we believe for the square footage that we have for making the offices, we needed approximately 36 spaces. With modifications suggested by the Planning Board's engineer, we only came up with 31. That is one of the variances.

The other variance we are looking for is on the south side of the building. We are going to put a handicapped ramp in and are encroaching on the side yard set-back restrictions a couple of feet. That is the other variance.

MR. JANNARONE: When you were here the last time, you had not been before the Planning Board with the latest plan. Has that occurred?

MR. GIORDANO: Yes. They are fine with it.

MR. JANNARONE: There was no change by them?

MS. TERHUNE: There was no change at the Planning Board level. They are waiting for your determination.

MR. JANNARONE: That was the big issue last time. They are fine with it.

MR. WEYANT: We are down to these two variances that you need. Is there anyone in the audience that would like to speak on Mr. Giordano's application?

MR. BRIAN LARKIN, 9 Regina Road, Highland Falls. My house is right across from the main door that you just put it. I have never been to any of these meetings, and I am not sure if I am here for the right thing. I wondered what I was going to be living across from.

MR. GIORDANO: I have seen you, Brian. What we are going to do is put professional space where you see the new storefront. We have about 1,500 square feet of storefront. We are looking to put professional people in there, not any food. If that happens fine, but I do not favor that. A chiropractor was interested last year.

MR. LARKIN: You also mentioned it would be used for construction.

MR. GIORDANO: Warehouse for our scaffolds and planks everything will be inside.

MR. LARKIN: Will there be heavy machinery?

MR. GIORDANO: None, we don't have heavy machinery. We have rack body trucks and a couple pickups.

MR. LARKIN: No big piles of concrete or rocks?

MR. GIORDANO: No.

MR. LARKIN: I don't know if I am wasting time with these questions.

MR. WEYANT: No. I would like to point out that this is going back to the Village Planning Board after we get done with it. They will also hold a Public Hearing. Your questions will be apropos at that meeting.

MR. LARKIN: I was on vacation and returned and saw the mailing.

MR. WEYANT: Whatever this Board does, is still subject to the Village Planning Board decision.

MR. JANNARONE: Would you like to see the plans?

MR. GIORDANO: The mess you see there now is as bad as it is going to get as well as the deliveries. Once it is cleaned up, we will be out of sight and out of mind.

MR. LARKIN: What about the outside of the building?

MR. GIORDANO: We are going to stucco the outside and clean it all up, including the parking area. This will take some time. We are doing it in our spare time.

MR. WEYANT: Is there anyone else that would like to speak on this application?

MR. HAGER: I can shed a little bit of light on the one comment on whether it will be office or retail space. Once the Building Permit is granted, if for some reason the tenant chose to use it for a retail purpose, it would generate another visit to the Planning Board. It has to fall in to what is in our Zoning Code allows. If he chooses to rent it to something mercantile, it would be in a different classification, it would have to go back to the Planning Board.

MR. JANNARONE: Is the need for parking spaces driven by the office space or the warehouse space?

MR. GIORDANO: Office, majority. The warehouse is three spaces and we have put them inside the warehouse.

MR. JANNARONE: Right now that lot is not full at all. I go there all the time for the doctor's office. I can't really see that we are going to get a lot more traffic in there. I am trying to get a feel for what the parking realistically would be.

MR. GIORDANO: The front area where we are going to put the handicap ramp is going to be our office area. We hardly have any visitors beside the mail people. The little office in the front there if you could get two or three people in there is going to be a lot. The largest one is on the side which really there is hardly anyone who parks toward the back of the building. That will take care of that whole area.

MR. WEYANT: I would like to note for the record, the Orange County Planning Board was notified of your application because of your closeness to Main Street. They will leave it to this Board as a matter of local determination. They have no input for this request for a variance.

**MR. WEYANT: Gentlemen, any questions or comments? Hearing no other discussion from the audience, I will adjourn this Public Hearing to our August 17, 2009 meeting. We will re-publish and make a decision at that meeting.**

MR. GIORDANO: I should come to this meeting?

MR. WEYANT: Yes.

MR. GIORDANO: I was going to work the ramp, but I better not.

MR. WEYANT: No, don't do anything.

MR. DONNERY: Did we have a question on the side yard variance the way the book reads?

MR. WEYANT: From last month.

MR. JANNARONE: The minimum/the maximum in the notes in the minutes is 12 feet. None or 12 feet.

MS. TERHUNE: If any, 12 feet are required. None or 12 feet.

MR. WEYANT: We are under the impression that 12 feet are required. The parcel has 10 feet.

MR. DONNERY: We have to go off the 12 feet.

MS. TERHUNE: Yes. He needs a variance. If the building went to the line in B1, it would not need a variance. The Code is worded that way.

MR. WEYANT: We will see you next month.

MR. WEYANT: Amy Yavorek, 11 Cedar Lane, Highland Falls, NY. Please come forward. For the record, it is possible that Board Member, Mr. Galu could become the contractor for this project. He will not be able to vote on the determination of the variance request. Please review with us what you want to do.

MS. YAVOREK: I want to add a one-story, two-car garage to the existing structure that would basically encompass most of the driveway. The garage as it is turns in and it is a very difficult turn. It would be flush with the front of the house but that is five (5) feet short of the 30 feet to the street. Because of the angle of the property line on the side, the back of the structure would be two feet closer.

MR. WEYANT: We are looking at a front yard variance of approximately five (5) feet and a side yard variance of approximately two (2) feet.

MS. YAVOREK: Yes.

MR. WEYANT: We are looking at setting you up for a Public Hearing at our August 17, 2009 meeting.

MR. GALU: We would like to amend the plans from 24 by 22 feet to 24 by 24 feet.

MS. YAVOREK: The additional two feet would be in the back. It does not change the variance.

MR. WEYANT: Could we get new drawings prior to our next meeting.

MR. HAGER: This was presented as just a sketch. It was explained to the Applicant that the Zoning Board may ask for more detailed drawings. It could change the side setback.

MR. WEYANT: We would like revised plans. You could recopy this and give the Board new copies for August.

MR. JANNARONE: Just make sure you have enough for the new corner.

MR. GALU: If we are going to go ahead with the project, an architect will draw blueprints.

MR. DONNERY: Make sure you ask for the correct variance, you would not want to have to come back.

MR. GALU: We are asking for a preliminary approval. Do we need to hire the architect?

MR. WEYANT: No. Just come back with a new drawing. We will set you up for the Public Hearing on August 17. Prior to the hearing, we need new copies.

MS. YAVOREK: Do we need architect drawings for the August meeting?

MR. WEYANT: No, just make the correction. There are posting and mailing requirements that Mr. Hager will help you with. We will set you up for the Public Hearing in August.

MS. YAVOREK: Thank you.

**At 7:33 P. M., a motion was made to adjourn the meeting.**

**Motion: Mr. Donnery    Seconded: Mr. Devereaux    Approved**

Respectfully submitted,

Fran DeWitt  
Recording Secretary

**The next Consolidated Zoning Board of Appeals meeting is  
Monday, August 17, 2009**