

BOARD OF ZONING APPEALS
Meeting Minutes
Wednesday, September 19, 2012

Call to Order

Those members present: Gary Meyer, Prue Dana, Paul Brady, John Barnhart, and Todd Hollenbaugh.

Those members excused: None.

Staff members present: Jung-Han Chen, Sam Perry, Amy Blankenship, and Steve McHugh.

Staff members excused: None.

Executive Session

Mr. Brady made motion to approve the agenda with the deletion of the Executive Session. Mr. Barnhart seconded the motion. The motion passed 5-0-0.

Adjudication Hearing(s)

BZA-10-2012 36 Lynn Avenue, Taco Bell, variance to Sections 1151.05(a)(3)(C) number of freestanding signs; 1151.05(a)(3)C1B freestanding sign height; 1151.05(a)(3)B1a wall sign height, Kathryn Peterka Owner, Applicant

Mr. Brady made motion to adjourn to BZA-10-2012. Mr. Barnhart seconded the motion. All were in favor.

Mr. McHugh, Law Director, stated that for the record, approximately five or six years ago with respect to a matter that did not involve real estate in this County, he had represented Ms. Peterka on an estate matter, and it did not involve this particular transaction.

Mr. Perry reported that this variance request was for three variances. Mr. Perry stated that the franchise owner wished to follow with an upgrade consistent with many other Taco Bell national designs. Mr. Perry stated the variances were for number of freestanding signs, freestanding sign height and wall sign height. Mr. Perry stated Ms. Peterka submitted an application for a complete remodel of Taco Bell. Mr. Perry added that the Applicant wished to submit Taco Bell signage as well. Mr. Perry displayed the current restaurant signage and reviewed each variance request. Mr. Perry displayed the new signage drawings and reviewed with the BZA. Mr. Perry noted that the Applicant had met with him prior to submitting her application.

Mr. Perry reviewed the existing menu board (a freestanding sign). Mr. Perry referred to the handout distributed at the meeting, which included the new menu board design. Mr. Perry noted that the existing menu board is taller. Mr. Perry stated that he could not find any minutes or drawings from the initial construction. He was only able to find a Planning Commission case for a Conditional Use.

Mr. Perry referred to surrounding business signage and that the majority of properties in the area were zoned commercial.

Mr. Perry stated that the building height would increase.

Mr. Perry referred to the three staff conditions listed in the staff report.

There were no responses received from adjoining properties.

Ms. Kathryn Peterka was sworn in by Mr. Hollenbaugh. Ms. Peterka noted that Taco Bell Corporate required certain signage on the building and that she had gone to Corporate to submit the signage that was shown in the agenda. Ms.

Peterka stated that: the size of the bell was changed; that, the monument sign design, from the sign company, was the smallest sign they had for a monument sign; greenery around the bottom would help mitigate the sign height. Ms. Peterka identified the opening up of Locust Street having lessened the traffic flow and that a monument sign would allow for Contreras Road and Fairfield Road traffic to get a visual of the restaurant.

Mr. Meyer inquired about the current menu board being larger than the first originally approved menu board. Ms. Peterka stated that "extenders" had been installed on the menu board through the years, and that the new sign would not have extenders. Ms. Peterka noted that the extenders were a corporate requirement.

No one With Standing was present.

Mr. Meyer made motion to reconvene to regular meeting. Mr. Brady seconded the motion. All were in favor.

Ms. Dana stated she sympathized in what was demanded by corporate but also was cognizant of Oxford's zoning code. Mr. Barnhart felt that after 21 years with an established business he wasn't sure what signage would draw more people in. Mr. Hollenbaugh felt that corporate should be able to adjust their sign designs. Mr. Brady inquired if the monument sign could be installed on a slab instead of footer. Mr. Perry stated that he had asked to do that but that the sign manufacturer explained that the wiring was attached in the bottom piece of the sign. Mr. Hollenbaugh stated he had an issue with a monument sign no matter what the size as there were too many logo signs in the front yard. Therefore, he would be voting no for the monument sign.

Mr. Meyer referred to surrounding properties' abundant temporary signage.

Mr. Hollenbaugh inquired about the menu board and the base measuring over seven feet. Mr. Brady felt the new sign was an improvement over the current menu board sign and was favorable with the new menu board design variance and the condition to prevent the addition of extenders. Mr. Brady stated that he did have a problem with the monument sign height, but not the sign itself. Mr. Barnhart inquired about the location choice of the monument sign. Mr. Brady felt the applicant wanted the sign to be seen from Fairfield Road. Ms. Dana felt the location was due to the trees blocking views. Ms. Peterka stated the directional signs were going to be replaced with shorter, NO logo signs. The menu board would not include a logo either. Mr. Chen stated that the BZA, when voting, could limit the height of the monument sign, but reminded them that the applicant was asking for one additional sign. Mr. Chen referred to both freestanding signs' height variances.

The Decision Standards were reviewed.

- a) The property in question will yield a reasonable return and can be used beneficially without the variance.
- b) The variance is not substantial.
- c) The essential character of the neighborhood would not be substantially altered, nor would adjoining properties suffer a substantial detriment, by granting the variance.
- d) Governmental services would not be adversely affected with this variance request.
- e) The owner did purchase the property with the knowledge of the zoning restriction (not applicable).
- f) The Appellants' predicament can be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

After considering and weighing the facts and circumstances, the Board found that practical difficulty was shown sufficient to warrant granting the variances with conditions:

- 1. That, the height of the menu board be granted as proposed and that no extenders be permitted without applications to the Oxford Board of Zoning Appeals;
- 2. That, an additional free-standing monument sign is granted as proposed, with the exception that the sign shall be limited to six feet in height;
- 3. That, temporary signs will be permitted only as per the Zoning Code;
- 4. That, the wall sign height be granted as proposed (4' in height);
- 5. That, all directional signs shall not include any logos.

Paul Brady moved to approve BZA-10-2012 36 Lynn Avenue, Taco Bell with conditions. Prue Dana seconded. The motion passed with the following roll call:

AYE: Gary Meyer, Prue Dana, Paul Brady, John Barnhart, Todd Hollenbaugh (5)

NAY: None (0)

ABS: None (0)

BZA-08-2012 [201 E. Chestnut Street, Miami Village, variance to Sections: 1137.08\(e\) occupancy reduction; 1141.03\(a\) multiple buildings on a lot; 1143.06\(c\)\(2\)\(A\) front yard setback; 1143.06\(c\)\(4\)\(A\)\(1\) lot coverage; 1149.03\(e\) parking spaces; 1149.04\(3\) parking setback; 1149.05\(e\)\(4\)\(F\) parking islands; 1149.05\(e\)\(5\)\(B\)\(1\)\(a\) parking trees; 1149.05\(e\)\(4\)\(B\) perimeter screening, Scott Webb, Applicant, Agent \(Agenda August 15, 2012\)](#)

Mr. Brady made motion to adjourn to BZA-08-2012. Mr. Barnhart seconded the motion. All were in favor.

Mr. Hollenbaugh inquired if the Applicant, Mr. Scott Webb, wished to proceed since City Council was dealing with some of the issues he was asking variances for. The applicant wished to proceed.

Mr. Perry stated that the application was for a 100% rehab of the interior structures including the floor plan located at 201 E. Chestnut Street, Miami Village. Mr. Perry described the property: currently there were 78 units; the plan is to reduce the occupancy to 176 people and 44 units; the units would become 4-bedroom units. Mr. Perry described the existing parking and the proposed parking. Mr. Perry referred to the site plan and stated that the existing building in the center of the development would be removed. Mr. Perry provided photographs of the existing buildings. Mr. Perry stated there would be two buildings located on the site. Mr. Perry referred to and discussed the table included in the agenda that provided a summary of all of the variance requests. Mr. Perry discussed the utility easement and concluded that the lots should be consolidated. Mr. Perry stated that the R3 zoning text language (multi-family residential district language) would be going into effect later in October which would change the underlying zoning code in the R3 District. Mr. Perry pointed out that some of the Applicant's requested variances would go away with the new code. Mr. Perry reminded the BZA that their decision would be based upon the code that existed at the time of this application.

Mr. Hollenbaugh inquired if the BZA could hold off making a decision on those affected variances. Discussion followed. Mr. McHugh reminded Mr. Hollenbaugh that the Applicant stated earlier that he wished to proceed.

There were no further questions from the Board.

Mr. Scott Webb, Applicant, was sworn in by Mr. Hollenbaugh.

Mr. Webb provided a PowerPoint presentation. Mr. Webb stated this project had been in the works for over a year.

Mr. Webb described the existing, deteriorated buildings. Mr. Webb added that these buildings did not meet the Ohio Code for safety requirements. Mr. Webb provided pictures of the new design which included a reconfigured apartment design, 2-bedroom apartments becoming 4-bedroom apartments with laundry in each apartment. The center buildings were more complicated as they would become 4-bedroom interlocking townhouses with private stairs and entrances.

Mr. Webb outlined each variance request: The existing roof connection would be removed; the buildings would remain connected at the corners to access all apartment levels. Mr. Webb stated that currently there were no sprinkler systems in the buildings. The office/clubhouse would be removed and a new landscaped island would be installed in the existing parking area. Mr. Webb stated that the owner wished to construct two new entries to improve the look of the Chestnut Street facade.

Mr. Webb reviewed lot coverage's stating that with the removal of the office/clubhouse, lot coverage would decrease to 70.3%. During Mr. Webb's presentation, he referred to the recent City Council approval of the R3 District language that would be going into effect in 30 days.

Mr. Webb continued saying that storm water management would not need changed. Mr. Webb described the existing 76 parking spaces and that the reconfiguring of the building and site would result in an increase of 13 parking spaces for a

total of 89 parking spaces. Mr. Webb continued that the new configuration would create 44 dwelling units requiring 110 spaces; however, a variance would still be required.

Mr. Webb discussed the parking setbacks: parking islands would be one variance. Mr. Webb provided an alternative parking island design for the Board to review and stated that it was either one or the other - more parking or more trees (when speaking of a landlocked site).

Mr. Webb discussed the parking lot trees, perimeter screening and headlights facing into residences.

No one With Standing was present.

Ms. Dana made motion to reconvene to regular meeting. Mr. Meyer seconded the motion. All were in favor.

Mr. Brady discussed an easy remedy for the perimeter screening variance - put up a fence. Ms. Dana agreed it necessary and significant for the re-use of the buildings. Mr. Brady agreed with more parking and felt the new design benefits the project and benefits the City to become up to code.

Ms. Dana agreed with everything Mr. Brady stated. Mr. Barnhart felt this was a win-win situation; and that if it didn't occur the buildings would continue to be there and continue to fall apart; therefore, he couldn't see any negatives in the project. Mr. Meyer stated he would like to see more trees.

Mr. Hollenbaugh stated he felt two buildings on one lot were moot.

Decision Standards were reviewed and voted upon individually:

Variance 1137.08(e) - Occupancy Reduction.

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is not substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance.
- d) The variance would not affect the delivery of government services.
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could not be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance

Paul Brady moved to approve BZA-08-2012 Variance 1137.08(e) Occupancy Reduction, 201 E. Chestnut Street. John Barnhart seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1141.03(a) - Multiple Buildings on a Lot

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could be obviated through some method other than a variance.

- g) The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the variance.

Paul Brady moved to deny BZA-08-2012 Variance 1141.03(a) Multiple Buildings on a Lot, 201 E. Chestnut Street. John Barnhart seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart(4)

NAY: Prue Dana(1)

ABS: None (0)

Variance 1143.06(c)(2)(A) - Front Yard Setback

- a) The property in question will yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is not substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The redevelopment of this project will neither increase nor decrease the nonconformity.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-2012 Variance 1143.06(c)(2)(A), Front Yard Setback, 201 E. Chestnut Street. Prue Dana seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1143.06(c)(4)(A)(1) - Lot Coverage

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament feasibly cannot be obviated through some other method other than a variance
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-2012 Variance 1143.06(c)(4)(A)(1), Lot Coverage, 201 E. Chestnut Street. John Barnhart seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1149.03(e) - Parking Spaces

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services

- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament feasibly can be obviated through some other method other than a variance
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-2012 Variance 1149.03(e), Parking Spaces, 201 E. Chestnut Street. Prue Dana seconded the motion. The motion passed with the following roll call:

AYE: Gary Meyer, Paul Brady, John Barnhart, Prue Dana (4)

NAY: Todd Hollenbaugh (1)

ABS: None (0)

Variance 1149.04(3) - Parking Setback

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is not substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could not be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-2012 Variance 114.04(3), Parking Setback, 201 E. Chestnut Street. Prue Dana seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1149.05(e)(4)(F) - Parking Islands

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is substantial
- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could not be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-2012 Variance 1149.05(e)(4)(F), Parking Islands, 201 E. Chestnut Street. John Barnhart seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1149.05(e)(5)(B)(1)(a) - Parking Trees

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is not substantial

- c) The essential character of the neighborhood would not be substantially altered and the adjoining properties would not suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could not be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance.

Paul Brady moved to approve BZA-08-012 Variance 1149.05(e)(5)(B)(1)(a) Parking Trees, 201 E. Chestnut Street. Prue Dana seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Gary Meyer, Paul Brady, John Barnhart, Prue Dana (5)

NAY: None (0)

ABS: None (0)

Variance 1149.05(e)(4)(B) - Perimeter Screening

- a) The property in question can yield a reasonable return and there can be beneficial use of the property without the variance
- b) The variance is substantial (8 trees from 20)
- c) The essential character of the neighborhood would be substantially altered and the adjoining properties would suffer a substantial detriment as a result of the variance
- d) The variance would not affect the delivery of government services
- e) The (potential) property owner is aware of the zoning restrictions (the purchase of this property is contingent upon the BZA hearing outcome)
- f) The property owner's predicament could be obviated through some method other than a variance.
- g) The spirit and intent behind the zoning requirement would not be observed and substantial justice would not be done by granting the variance.

Paul Brady moved to deny BZA-08-2012 Variance 1149.05(e)(4)(B) Perimeter Screening, 201 E. Chestnut Street. Prue Dana seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Paul Brady, John Barnhart (3)

NAY: Gary Meyer, Prue Dana(2)

ABS: None (0)

Prue Dana continued with approval contingent upon two staff recommendations/conditions, lots consolidated and utility easement vacated. John Barnhart seconded the motion. All were in favor

BZA-09-2012 [Vine Street, Parcel #H4100006000035 variance to Sections 1141.03\(b\) principal entrance upon an alley and 1143.03\(c\)\(3\)\(D\)\(3\)front yard lot coverage, Dave & Pamela Kellems, Applicants \(Agenda Item August 15, 2012\)](#)

Mr. Brady made motion to adjourn to BZA-09-2012. Ms. Dana seconded the motion. All were in favor.

Mr. McHugh issued a statement on behalf of the City. Mr. McHugh stated that what was before the BZA was two variance requests; however, the City has taken the position that there are several more variances needing to be granted. Mr. McHugh referred to having obtained a copy of the Deed for this property which showed that the property was transferred on December 29, 2011 to Mr. and Mrs. David Kellems. Mr. McHugh showed Mr. Bennett his copy of the Deed and allowed him to review.

Mr. McHugh referred to the earlier 2012 BZA hearings having taken place regarding this property.

Mr. McHugh referred to a January 3, 1991, Planning Commission case, PC-01-1991, requesting a lot consolidation. Mr. McHugh referred to this information being provided in tonight's agenda. Mr. McHugh distributed copies as well.

Mr. McHugh made reference to the owner at that time and that staff found records of a Summary Sheet and Building Application in reference to a lot consolidation (new Lot 2822) at this property. However, while reviewing all Butler County records, no time-dated documents were found.

Therefore, Mr. McHugh concluded, the action being taken is based upon evidence found by staff of a building permit having been issued and specific references made to a lot consolidation and the addition to the structure which explains why there was a significant encroachment across the lot line.

Mr. McHugh also noted that Mr. Kellems should have received constructive notice of the encroachment at the time of purchase. Mr. McHugh made reference to the two different Surveys he provided the BZA at the June 2012 meeting where the obvious encroachment was shown. Mr. McHugh continued that while the applicant contends that there was no lot consolidation it was still an open issue. Mr. McHugh stated that the BZA was present tonight for two variances. The City's position is because the building was built across the lot line, it made sense that a lot consolidation took place, and that we still are running into the issue of a Use variance. Per the Oxford Zoning Code, it prohibits Use variances and is outside of the authority of the BZA. The City maintains that due to the encroachment, a perpetual easement has been proposed.

Mr. McHugh continued review of each variance.

Mr. McHugh continued by saying that it was the City's position that the variances should not be granted. Mr. McHugh distributed a draft motion that the City proposed for the situation at this meeting. Mr. McHugh provided Mr. Bennett a copy as well.

Mr. Jay Bennett was sworn in by Mr. Hollenbaugh. Mr. Bennett represents the Kellems. Mr. Bennett expressed that he was not happy having received documents during Mr. McHugh's speaking and found it disturbing that the City distributed a motion for this case. Mr. Bennett provided a history of his client's transaction. There was no lot consolidation. The 1991 owner never recorded the consolidation. Mr. Bennett referred to having contacted the Butler County Engineer's office, Butler County Recorder's Office; the Auditor's Office and no transfer was documented. Mr. Bennett continued saying that at that time the 1989 code was in effect. Mr. Bennett read the code which referred to a Recording needing made and that the premise the City is taking was false and that the City was not abiding by their own code. Mr. Bennett provided a definition for a Lot of Record. This lot consolidation does not exist - never has existed. Mr. Bennett stated that he didn't believe the word encroachment existed in the zoning code. It is a pre-existing non-conforming lot and pre-exists the supplemental record.

Mr. Bennett reviewed the Decision Standards.

Ms. Dana inquired if the BZA was accepting that it was a lot consolidation and therefore would become two buildings on one lot. Mr. Hollenbaugh stated that the question was, is it a consolidated lot or not. Mr. Brady stated that evidence showed there was an encroachment on the lot. Mr. Brady continued that the applicant has asked for specific variances; and that looking at as separate lots you still have an encroachment, which gets into a Use variance.

Mr. Hollenbaugh read the paragraph from page 32 of the agenda which stated: "The applicant may argue that the lot consolidation was not effective based on the provision mentioned above in italics, and, therefore there were still two parcels. However, the same provision also states that no permit shall be issued unless such record has been made. If the lot was not consolidated by reason of the consolidation not being recorded, the building permit then was not valid and the addition was added without a valid permit and must be removed. Furthermore, the rear yard requirement for this zoning district would also preclude the addition from being constructed without a variance granted by the Board of Zoning Appeals."

Mr. Hollenbaugh continued that as it existed now, it was two buildings on one lot and that the paragraph just read from the Agenda said it all.

Mr. Brady moved to deny Section 1141.03(b) and 1143.03(c)(3)(D)(3) and find that the information presented showed that the structure built on Lot 346 encroached onto Lot 345; the applicant stated that they would do some demolition but that the structure would still encroach the lot line. The Applicant is building a second structure on Lot 345; thus requiring a Use variance. Mr. Barnhart seconded the motion.

Findings of Fact were discussed: regarding encroachment and the question concerning a lot consolidation approved by the Oxford Planning Commission on 1/31/91 by information presented by staff and Lot 346 and Lot 345 was now new Lot

2822. The consolidation was not recorded at the Butler County Recorder's Office. The BZA finds that the City did issue a building permit subsequent to that date for an addition to the house that was on Lot 345 for the purpose of an addition. The addition is now part of Lot 2822 or encroaches onto old Lot 345. The BZA moved to deny because of the question of encroachment, and whether this is one or two lots.

The Decision Standards were reviewed:

- a) The variances were substantial.
- b) The Applicant's predicament can be obviated through some other method other than a variance.
- c) The spirit and intent behind the zoning requirements would not be observed and substantial justice would not be done by granting the variances.

After considering and weighing the facts and circumstances, the Board found that practical difficulty was not shown sufficient to warrant granting the variances requested.

Mr. Brady made motion to deny BZA-09-2012 based on Findings of Fact. Mr. Barnhart seconded the motion. The motion passed with the following roll call:

AYE: Todd Hollenbaugh, Paul Brady, John Barnhart , Gary Meyer, Prue Dana(5)

NAY: None (0)

ABS: None (0)

Approval of Minutes of the August 15, 2012 Regular Meeting*

Mr. Brady made motion to approve the August 15, 2012 minutes as written. Mr. Meyer seconded the motion. All were in favor.

Old Business

There was none.

New Business

Staff announced there would be one case for October. Mr. Hollenbaugh announced he would not be in attendance.

Adjournment

Mr. Meyer made motion to adjourn the meeting. Mr. Barnhart seconded the motion. The meeting was adjourned at 11:00 p.m.