

**Minutes**  
**Zoning Board of Appeals**  
**October 14, 2010**

**Board Members Present:** Harold Moffitt (Alternate), James Cooper, Mark Morey, Herb Muller

**Board Members Absent:** Donne Lynn Winslow, Alan Hall, Sr.

**Others Present:** Dawn Brunner, Dan Nichols, Ron and Margaret Zarczynski, Patti Corlew, Chris Belden (Zoning Administrator)

**Meeting Commenced at 7:00 p.m.**

Mr. Cooper - Okay, we're going to call the November 14<sup>th</sup>, excuse me, October 14<sup>th</sup> meeting of the Warrensburg Zoning Board of Appeals to order. The first item of business on the agenda is the roll call. Let the record reflect that Mr. Muller, Mr. Morey, myself and Mr. Moffitt are seated and present. The next item of business on the agenda is approval of the minutes of August 12<sup>th</sup>. I note on page 148 where it says others present. It should be instead of PB member, I assume that stands for Planning Board?

Mrs. Corlew - Ah, yeah. Yeah.

Mr. Cooper - So you're going to correct that?

Mrs. Corlew - I will.

Mr. Cooper - And page 149, about a third of the way down with the line starting 2010-2, the word recluse should be recuse with no "L". (Tape inaudible).

Mr. Cooper - I have no other corrections, so does any other board member have corrections or amendments?

Mr. Morey - I don't have any.

Mr. Moffitt - I don't.

Mr. Cooper - Alright. Let the record reflect that the board approves the minutes of August 12, 2010 by consensus. The next item on the agenda is ZBA 2010-4, matter of Dawn Brunner. Mr. Belden, will you explain to the board how this matter comes before us?

Mr. Belden - Sure. Mrs. Brunner came to my office. She wanted to put on a front addition; however, the way that the lot line is set up and her, her home is facing, she would be too close to the property line. She's in the single family/multi-family 10 district, which requires a side setback of ten feet. The proposed action would require a five foot setback.

Mr. Cooper - Is Mrs. Brunner here tonight? Hi. Would you raise your right hand please? Do you swear to tell the truth, the whole truth and nothing but the truth?

Mrs. Brunner - Yes.

Mr. Cooper - Alright. We have reviewed your application, Mrs. Brunner, and the way I understand it is you want to put an addition on the front of your property which faces Prospect Street. It's essentially one foot in on either side from the existing walls, but it projects out toward the street. The... Mr. Belden, this doesn't require a variance from the street, does it?

Mr. Belden - No, just the side, the side setback.

Mr. Cooper - Okay. And Mr. Belden finds that you're too close to the side to be in compliance with the ordinance, so under the Town Zoning Law, you're required to get a variance which says, particularly with regard to area, which is the problem you have, that strict enforcement of the law creates practical difficulties for you and that's what you're here tonight to explain to us. Okay? If you don't mind, I'll go through the, the criteria of the ordinance and review your answers with you. It says, number one, whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties. And you checked the box 'no'. "This would be a definite improvement to this property. The mobile home had become into a deplorable condition, far beyond fixing. Roof caving in, ceilings falling, mold, mildew so forth". This question relates to the character of the neighborhood and nearby properties. Let me ask you, Mrs. Brunner, if this extension is allowed on your property will it be consistent with the setbacks that other properties have on the street? Will it look basically similar to the other properties on the street?

Mrs. Brunner - Oooh I plan for it to be nicer.

Mr. Nichols - He means (inaudible) disproportionate to what (inaudible).

Mrs. Brunner - Right now it looks odd 'cause there's no front on it.

Mr. Cooper - How long has the structure been on the property?

Mrs. Brunner - The house itself, it was started being built in '68 and we finished it in '75. It's still not quite finished.

Mr. Cooper - Well, is this gentleman next to you related to you?

Mr. Brunner - No, he's a good friend of ours.

Mr. Cooper - Your name, sir?

Mr. Nichols - My name is Dan Nichols.

Mr. Cooper - Dan, would you show this picture to Mrs. Brunner? I'm going to draw an arrow on this aerial photograph that I took off the internet today and I, the arrow points to what I believe to be Mrs. Brunner's property. Is that correct, Mrs. Brunner?

Mr. Nichols - It's right here. That would be where the mobile home used to be. Right?

Mrs. Brunner - Is that lot 25?

Mr. Cooper - Well, the tax map indicates that that's the property that's assessed to you, the one that I pointed to you, the arrow. There's three 50 foot lots and yours in the one furthest to the right, looking in from Prospect Street.

Mr. Nichols - (Inaudible).

Mrs. Brunner - 25.

Mr. Nichols - (Inaudible). She's aware of this. We've spoken about this, the property...

Mr. Cooper - You're going to have to raise your hand if you're going to give testimony, okay. State your name for the record please.

Mr. Nichols - Daniel Nichols.

Mr. Cooper - What's your address, Mr. Nichols?

Mr. Nichols - 3813 Lakeshore Drive, Diamond Point, New York.

Mr. Cooper - And you swear to tell the truth, the whole truth and nothing but the truth, so help you God.

Mr. Nichols - So help me God, sir.

Mr. Cooper - Okay. So the reason I gave you that aerial was because it shows that the property line, it shows that most of the residence that's on Mrs. Brunner's lot is, according to the tax rolls, constructed on the neighbor's parcel. And I'm aware 'cause I'm an attorney. I mean, I review these things frequently and the, there's a phenomenon in aerial photography called parallax where the photograph is taken from an angle rather than absolute vertical to the ground, you're going to get inconsistencies in regard to where the boundary lines fall on the land and where the structures are. This seems so out of proportion to those variables, that's it's hard to believe that parallax accounts for this. So you said she's had conversations with her neighbors about this. You want to summarize them for her or?

Mr. Nichols - I'm just going on what she said to me and I assume they... She said they'd spoken and they knew about this as a problem and it sounds as though there's another problem with one of the other lots too.

Mrs. Brunner - I wasn't aware of all of this though. I only became aware of the problem when they showed me their survey they had done.

Mr. Cooper - You want to raise your hand please, sir?

Mr. Brunner - My neighbor is Ron Zarczynski.

Mr. Cooper - State your name for the record.

Mr. Zarczynski - Ronald Zarczynski, 47 Prospect Street, Warrensburg.

Mr. Cooper - Do you swear to tell the truth, the whole truth and nothing but the truth?

Mr. Zarczynski - Yes, I do.

Mr. Cooper - Are you the neighbor of Mrs. Brunner?

Mr. Zarczynski - Yes, I am.

Mr. Cooper - So if you look in from the property from the right-hand side, you would be her immediate neighbor to the, to the right. Correct?

Mr. Zarczynski - Correct.

Mr. Cooper - And have you had your property surveyed?

Mr. Zarczynski - Correct.

Mr. Cooper - Did you bring a copy of your map here tonight?

Mr. Zarczynski - (Inaudible).

Mr. Cooper - Would you bring it up to the desk here please?

Mrs. Zarczynski - There are two maps there.

Mr. Cooper - Are these copies for the board or are they your only copies?

Mr. Zarczynski - They're our only copies.

Mrs. Zarczynski - I can have copies made (inaudible).

Mr. Cooper - Okay. I'm showing a map. I'm going to, for purposes of identification, write on the back of the one Board Exhibit #1. Let me borrow this for a second, fellows. And the other map we'll write Board Exhibit #2. Now since I have #1 in front of me and Mr. Morey and Mr. Muller have #2 in front of them, we'll, we'll discuss #1 for a second. This was done. I'm looking at a survey map prepared by William Schaeffer. It's dated December 19, 1977. Did you commission this map, Mr. Zarczynski?

Mr. Zarczynski - Yes.

Mr. Cooper - And what generally does this map show? With regard to the issue of where Mrs. Brunner's property is.

Mr. Zarczynski - Well, if you look at the right, you'll see her whole house is going to show it's still on our lot, one of our lots. We have three lots and she's on one of our lots.

Mr. Cooper - So she, she's mentioned a couple of times here. I didn't really understand what she was talking about, but she owns lot 25 and on this map, the, the lots are laid out, I assume these aren't tax map numbers. I assume this is from the original subdivision of the property.

Mr. Zarczynski - Correct.

Mr. Cooper - And you, your assertion is that this survey map indicates that the construction of the frame building and the so called decrepit trailer that she described in her application was done almost completely on lot #26, which you own, along with lot 27 and 28. Is that correct?

Mr. Zarczynski - Correct.

Mrs. Brunner - Except our deed is for lot 25.

Mr. Cooper - Yeah, right. Now have you exchanged... The gentleman indicates that you have had discussions with your neighbor about this?

Mr. Zarczynski - I stopped over last night to explain what was going on and what would be going on at the meeting here tonight.

Mr. Cooper - Okay. Well, I can tell you generally. I'm not... It's not the business of the board or me in particular to give you legal advice, but construction of a dwelling in particular is very strong evidence of this, of adverse possession and if it's been there for more than ten years, you probably own at least the dirt that the house is under, whether it's on lot #26 or lot #25, this would depend on a lot of variables, like whether it was done by permission, whether it was rented from Mr. Zarczynski or something like that.

But I can also tell you, it's not the function of this board to resolve boundary line disputes and one of the criteria we have, the very first one, it says whether an undesirable change would be produced in the character of the neighborhood or a detriment to the nearby properties. I don't see... Ya know, we can kick this around a little more, but I don't see how we can give you a variance on property to which you may not have a legal right. I don't mean the house. That's not the issue as far I'm concerned, but if you're going to build something more on this property, you're going to cover, according to this survey that I'm looking at, more lands owned by the Zarczynski's and that would be a detriment to the Zarczynski's. Just like if somebody built something on my front yard. Now I'm sure you believe you own, you own the dirt where your structure is.

Mrs. Brunner - And the new part would be much smaller than the (inaudible) removed.

Mr. Nichols - It's irrelevant, what he's saying (inaudible).

Mrs. Brunner - I see it as two separate issues. One is my building project to try to put a small front, have a front door to my house. And the second is for us to, and the neighborhood to straighten up the land issues, because everybody seems to be on everyone's land and we agree that we want it straightened out. Except I don't particularly want to go through the winter with no front on my house.

Mr. Cooper - Can I have that...

Mr. Nichols - Yes, sir.

Mr. Cooper - ...aerial back? I'm going to mark the aerial Board's Exhibit #3. Mr. Moffitt, I don't think you've seen this yet. This is the, the arrow here. This is the property that's in question.

Mr. Moffitt - Okay.

Mr. Cooper - What I'm going to do is have Mr. Belden, as best he can, make a photocopy of the survey, particularly the parts that are portrayed and affect this property. Do you know what the... The words escape me right now but the mast head of the survey, the identification part of the corner where the surveyor is.

Mr. Belden - The corner.

Mr. Cooper - Yeah, I want that and I want the part of it that shows this, this controversy. Okay? Yeah?

Mrs. Zarczynski - Do I need to be sworn in?

Mr. Cooper - If you're going to give testimony.

Mrs. Zarczynski - I just wanted to let you know what the difference in those two maps.

Mr. Cooper - Alright. Why don't you raise your right hand. State your name and address for the record please?

Mrs. Zarczynski - Margaret Zarczynski, 47 Prospect Street, Warrensburg, NY.

Mr. Cooper - Do you swear to tell the truth, the whole truth, nothing but the truth, so help you God?

Mrs. Zarczynski - Yes, I do.

Mr. Cooper - Okay. What testimony do you want to give with regard to Board Exhibit 1 and Board Exhibit 2?

Mrs. Zarczynski - On those two maps that you saw, there's one section where it's outlined in red, that is the section on our left side that we're trying to settle with our neighbors.

Mr. Cooper - Uh huh.

Mrs. Zarczynski - Okay, and then what you see are the shadow lines of occupations and the solid dark lines are our property lines. I'm sure you probably knew that, but I just, I know, I wasn't sure if you had a question about what that read...

Mr. Cooper - Do our, does our copy machine do, do color?

Mr. Belden - No.

Mr. Cooper - Okay. Well, go ahead and make copies, and we'll try to make notations on the copies what the, what the witnesses just...

Well, Mrs. Brunner, I'm inclined to agree with you. It does sound like a two phase problem.

Mrs. Brunner - Yes.

Mr. Cooper - But I disagree with you with regard to the order, unless you can convince me to the other, the contrary.

Mrs. Brunner - (Inaudible).

Mr. Cooper - The order of solving the problem. I think before we can give you a variance, you have to straighten out where your boundary lines are with your neighbors, one way or the other, either by agreeing...

Mr. Zarczynski - That's what I told her last night.

Mr. Cooper - Either by way of agreement or a court action.

Mrs. Brunner - Well we agree we intend to do it. It's just it takes how long to do it, ya know. I probably...

(Tape inaudible; people speaking at once).

Mr. Zarczynski - ...found out the lot values (inaudible) have a survey and come up with the measurements that makes everybody happy. To do it right, without those two things, you can't get a variance because you have to own the lot. I can't give it to you if you don't own the lot.

Mrs. Brunner - And another thing is their survey, plus the town records show the lots all going, heading south, but... No. Somebody's got the lots going in this direction.

Mr. Cooper - They're all on a diagonal. Alright?

Mrs. Brunner - It's a different angle. Some are like this and then some are like that. I think it's the Town... You, you...

Mr. Cooper - There's a map attached to your application which we've looked at. This one here. See?

Mrs. Brunner - Okay. That doesn't agree, I don't think, with the Zarczynski's...

Mr. Cooper - No, it doesn't.

Mrs. Brunner - So (inaudible) on Prospect Street...

Mr. Cooper - But you got to understand this. Where boundary lines are is a question of law and if parties can't agree on that, then it has to be determined by a court or you go on into the future as this has been in the past with people living out their lives and living in...

Mrs. Brunner - (Inaudible).

Mr. Cooper - Are you going to let me finish my sentence please? Okay? I won't interrupt you. So either you're going to have to establish in court where the boundary lines are, you're going to have to come to an agreement with the Zarczynski's with regard to where the boundary lines are or you're going to have to do nothing and go into the future until somebody else has to kick this into a resolution mode. But we can't give you a variance as long as it appears that you, the property you're asking to invade with a variance and a new structure belongs to somebody else. That's the way I see it. Any, any other board members disagree with me on that?

Mr. Muller - No.

Mr. Cooper - That's the nut of the problem. And it's unfortunate that events unfolded this way up on Prospect Street. It's almost incredible to believe that a period of time would pass when people built, repeatedly built structures on other people's property and there was no resolution of the issue.

Mrs. Brunner - Right.

Mr. Cooper - What you've got going for you is the law in New York says if you've been on property for more than ten years and your ownership has been open, hostile, notorious, continuous and exclusive, that you own the property underneath where you performed these acts. So the Zarczynski's of record, their deed and their survey shows that you're on their land, but the law may say that you own where you are, but the point of the matter is, you're not asking us a question relating to where you are, where the foundation and footprint is you are.

Mrs. Brunner - I understand.

Mr. Cooper - You're asking us to allow you to expand into another part of the property that apparently that the Zarczynski's own and we can't do that 'cause that would affect your neighbor and that's one of the criteria of our ordinance. So if you want to do that, you're going to have to get busy trying to work something out with these people. At least that's the way I see it, okay.

Mr. Zarczynski - And I'm trying to do that with her.

Mrs. Brunner - We planned...

Mrs. Cooper - Well she seems like a nice lady and you would hope in a perfect world that reasonable people could come to a reasonable solution of a problem.

Mrs. Brunner - It's just that I see that taking much longer and I'm without a front on my house and it's October.

Mr. Cooper - Yes, sir?

Mr. Nichols - This structure is not bigger than...

Mrs. Brunner - No, it's smaller.

Mr. Nichols - ...the one that was there (inaudible).

Mrs. Brunner - Much, much less than the mobile home was.

Mr. Nichols - Based on what was there.

Mr. Cooper - That's a good point. You're saying there was a mobile home right across...

Mr. Nichols - It was there.

Mr. Cooper - Yeah. And this addition would be within the footprint of that mobile home?

Mr. Nichols - Correct.

Mr. Cooper - But that also requires that we accept proofs with regard to adverse possession and ownership of this property that we're competent to do. I think that's a good argument to make in front of a judge.

Mr. Nichols - Hm hm.

Mr. Cooper - But I'm not a judge and neither is anybody else up here.

Mr. Nichols - I understand. Now if, in fact, we get that cleared up, we have to do it civilly (inaudible)?

Mr. Cooper - Well, I think the first step for her is got to be to sit down and have a head to head with the neighbors and find out if there's some way this can be resolved.

Mr. Nichols - Hm hm.

Mrs. Brunner - We already have a plan for that.

Mr. Cooper - You plan to do it, but you don't have a plan, a mechanical plan in place (inaudible). Is that right, Mr. Zarzcynski?

Mr. Zarzcynski - (Nodded in the affirmative).

Mr. Cooper - Okay. What you've got going for you is most probably 99% of the judges in this state would say you own the footprint of wherever you buildings are now because they've been there for a long time.

Mrs. Brunner - We've been on the property since the 50's.

Mr. Cooper - Right. So the Zarzcynski's can be obdurate about it, but the fact of the matter is, most judges would say well you own where you are. So they have an incentive to be reasonable with you and not try to shake you down for a lot of money or something to, to work this out. And let's just hope that you do. You can you're your maps back. Well, wait a minute. Let me get the red, red line out. Now the red triangle represents your efforts to resolve this issue with another neighbor, is that right?

Mrs. Zarzcynski - (Inaudible).

Mr. Cooper - Okay. I'm going to make a note on this one map.

Mr. Belden - I've indicated Board Exhibit 1 and 2 on both of those.

Mr. Cooper - Thank you.

Mr. Belden - There's two copies of each.

Mr. Cooper - Is there any other difference between the maps that you wanted to call our attention to?

Mr. Zarczynski - No.

Mrs. Zarczynski - No.

(Tape inaudible; people speaking at once).

Mr. Cooper - I'll let you fold it up. You've had a lot of practice apparently huh? I'm not good with road maps either.

(Tape inaudible).

Mr. Zarczynski - We've gone through three attorneys (inaudible) absolutely no help at all. So, because I think, because they saw it as a big mess and they didn't want to get involved.

Mr. Cooper - Well, I've been practicing law for 35, 36, 37 years, I lose track, and a lot of it was here in Warrensburg, and I wasn't aware of this problem over on Prospect Street.

Mrs. Zarczynski - What are you doing?

Mr. Cooper - Pardon me?

Mrs. Zarczynski - What are you doing?

Mr. Cooper - Well, I can't represent you. That's for sure.

Mrs. Zarczynski - Yeah, I know.

(Laughter).

Mr. Cooper - Did you want to say anything else, Mrs. Brunner?

Mrs. Brunner - (Inaudible).

Mr. Nichols - Can I just ask for a quick suggestion?

Mr. Cooper - Sure, go ahead.

Mr. Nichols - Can, can... I'm asking you to give us a suggestion to us to have this come to a head to have this changed in terms of time.

Mr. Cooper - Well, I think Mrs. Brunner has either got to decide whether she wants to spend the money on the addition, rather... I mean, put it this way, she could reallocate the money she was going to spend on the addition to getting a survey done for herself. If she doesn't believe the survey that the Zarczynski's did.

Mr. Nichols - I understand.

Mr. Cooper - And use the balance of the money, if there is any, to make an offer to the Zarczynski's to enter into a boundary line agreement, and to readjust the boundary lines between the properties. And that would be subject to negotiations between the two parties. That doesn't mean that you'll come to an agreement even though you'd like to because they may want more money than you have to give or whatever.

Mr. Nichols - If, in fact, we come to agreement, we come to (inaudible) agreement, then we can go forth with the variance?

Mr. Cooper - What I would suggest is if you came up with an agreement, that you move it over five feet so you don't need a variance from us at all.

Mr. Nichols - Completely understand that. That's why I'm asking the questions.

Mr. Cooper - Doesn't that make sense?

Mr. Nichols - Yes, sir. Yes, it does.

Mrs. Brunner - But, no, I still would need a...

Mr. Nichols - Not if you transfer...

(Tape inaudible; people speaking at once).

Mr. Nichols - There are other ways to go about it, Dawn, that we can (inaudible).

(Tape inaudible).

Mr. Nichols - That's what I'm saying. We can discuss (inaudible) nothing to do with that transaction. (Inaudible).

Mrs. Brunner - But I would have to go through the winter without a front on my house and no front door.

Mr. Nichols - Not necessarily. (Inaudible) we can figure this out.

Mrs. Brunner - They're not going to put a front on my house.

Mr. Nichols - I understand that (inaudible).

Mr. Cooper - Now what I'm going to do now, Mrs. Brunner... Let me ask you this, do you think that we've been rude to you or treated you unfairly or not giving you an opportunity to say what you want to say?

Mr. Brunner - Oh, yeah. No, I have.

Mr. Cooper - You've had your chances?

Mr. Zarczynski - And the for (inaudible) I sat in her house last night for two hours and explained all the details, different ways to look at it and I did my best as a good neighbor.

Mr. Cooper - Do you have..? Do you have..? This gentleman here with you is just a friend? He's not a relative?

Mrs. Brunner - No. But a good friend; my husband and mine.

Mr. Cooper - Uh huh. Do you have any children?

Mrs. Brunner - Step-children.

Mr. Cooper - Well, maybe you should involve them in this too. Maybe they could help explain it to you in a way that you, you'd know they were your allies and somebody wasn't trying to maneuver you into a position that you didn't want to do.

Mrs. Brunner - Oh, I don't...

Mr. Cooper - If you have loved ones telling you it was the right thing to do, maybe that would be easier for you to accept.

Mrs. Brunner - Yeah. My son-in-law works for the Town.

Mr. Cooper - Well, that doesn't make him a bad person.

(Laughter).

Mr. Cooper - Alright. What we...

Mrs. Brunner - They've got their own problems.

Mr. Cooper - What we do as a matter of course, and it doesn't have anything to do with your application or anything, but I've felt as a board that people had a right to have a vote and some boards in the County, if nobody moves the application, then the applicant just sits there like a mope and the thing gets disapproved because there's no action on it and he goes home feeling like at least he was entitled to a vote. So from the start of this board, we've always had as a custom the Chairman move the application in the affirmative, meaning to grant it. Not meaning that the Chairman supports that position,

but just to get it before the board and they'll be a second 'cause there never has not been a second and then we decide what we're going to do. Okay? So right now I'm going to move the application in the affirmative, as is custom of the board. Is there a second?

Mr. Morey - I'll second.

Mr. Cooper - First let's find that there's no significant environmental impact as a matter of law under the State Environmental Quality Review Act because it's a Type II listed action. Is there a second to that motion?

Mr. Muller - Second.

Mr. Cooper - Discussion on that? Mr. Moffitt, do you know what we're doing now?

Mr. Moffitt - Hm hm.

Mr. Cooper - Okay. All those in favor, indicate by saying aye.

Mr. Muller - Aye.

Mr. Morey - Aye.

Mr. Moffitt - Aye.

Mr. Cooper - Let the record reflect that the board is unanimous in finding there's no significant environmental impact because it's a Type II listed action.

#### **RESOLUTION #2010-9**

Motion by: James Cooper

Second by: Herb Muller

**RESOLVED**, to deem application ZBA 2010-4 by Dawn Brunner, for an area variance for tax map #211.13-3-13 located at 43 Prospect Street, as a Type II listed action under SEQRA, therefore, there is no significant environmental impact as a matter of law.

#### **DULY ADOPTED ON THIS 14<sup>TH</sup> DAY OF OCTOBER, 2010 BY THE FOLLOWING VOTE:**

Ayes: Harold Moffitt, James Cooper, Mark Morey, Herb Muller

Nays: None

Mr. Cooper - Now we move on to discussion of the primary application.

Mr. Morey, do you have anything to add to what we've discussed here tonight?

Mr. Morey - No, I don't.

Mr. Cooper - Do you feel that this boundary line dispute makes it impossible to us for us to make an affirmative finding that it has no impact on the neighboring property?

Mr. Morey - Yes, I do.

Mr. Cooper - Mr. Muller?

Mr. Muller - Same.

Mr. Moffitt - Same.

Mr. Cooper - You feel that way, Mr. Moffitt?

Mr. Moffitt - Yes.

Mr. Cooper - As do I. So at this time, I'll call for a vote on the application. And let me say this, Mrs. Brunner, you can't come back to us with the same application, but if you come to an agreement with your neighbor as to changing the boundary lines, then it'll be a new application. It'll be changed circumstances, so you can come back to us if you need a variance based on what you worked out with these people, if you do. Okay? So I'll call for a vote on the main motion at this time. A vote aye will be in the affirmative to grant the application. A vote nay will be to deny it.

Mr. Muller - Nay.

Mr. Cooper - Mr. Morey?

Mr. Morey - Nay.

Mr. Cooper - Mr. Moffitt?

Mr. Moffitt - Nay.

Mr. Cooper - I vote in the negative as well. The application is denied. I wish you well working out this problem with your neighbor.

#### **RESOLUTION #2010-10**

Motion by: James Cooper

Second by: Mark Morey

**RESOLVED**, to approve application ZBA 2010-4 by Dawn Brunner, for an area variance for tax map #211.13-3-13 located at 43 Prospect Street, to allow construction of an addition 5 feet from the right side property line where the setback requirement is 10 feet.

**DULY ADOPTED ON THIS 14<sup>TH</sup> DAY OF OCTOBER, 2010 BY THE FOLLOWING VOTE:**

Ayes: None

Nays: Harold Moffit, James Cooper, Mark Morey, Herb Muller

#### **MOTION DENIED**

Mrs. Brunner - I'm going to freeze this winter.

Mr. Nichols - (Inaudible).

Mr. Cooper - I guess that's a chance we all run, one way or another.

Mr. Nichols - Thank you.

Mr. Cooper - Okay. Mr. Belden?

Mr. Belden - Yeah.

Mr. Cooper - Will you take these three exhibits and make them part of the record please? Okay, is there any other business to be brought before the Board tonight, Patti?

Mr. Belden - Yes, it's come to the attention of the Zoning Department that a building department (permit) was issued by Warren County Building Codes without ever having, without the applicant having

acquired a permit and a zoning compliance from the Zoning Department here.

Mr. Cooper - With this case?

Mr. Belden - No, not this case. Up on Mill Avenue. The applicant is 16 feet away or is, is 16 feet from the property line in a zone that requires 20 feet. The next meeting would have been on November 11<sup>th</sup>, which is Veterans Day, so your meeting is cancelled, so I wanted to ask you guys if it would be an okay thing for you to meet 7:00 on November the 18<sup>th</sup> for an area variance application.

Mr. Cooper - That's on a Monday night?

Mr. Belden - No, a Thursday night.

Mr. Cooper - Oh, I'm sorry. I'm looking at the wrong calendar. Don't we normally meet the third Thursday?

Mr. Belden - Usually the second.

Mrs. Corlew - Second.

Mr. Cooper - Oh, I'm sorry.

Mr. Nichols - Thank you very much.

Mr. Zarczynski - Thank you.

Mr. Cooper - Your welcome. Good luck. I hope things work out. (Tape inaudible).

Mr. Cooper - Okay. How about... How do you fellows feel about that? Do you have conflicts?

Mr. Morey - I don't have any conflict.

Mrs. Brunner - Goodnight.

Mr. Belden - Goodnight.

Mr. Cooper - Let's book it and reserve the room for the 18<sup>th</sup>. Just be sure to send out a special notice...

Mr. Belden - Yep.

Mr. Cooper - ...to the Board so that we don't show up on the usual day and make a mistake okay.

Mr. Zarczynski - Senior moment.

(Laughter).

Mr. Cooper - Alright. Is there anything, anything else, any of the board members want to bring up anything? Okay, let... We'll adjourn at this time until the November meeting of the board.

**Zoning Board meeting adjourned at 7:30 p.m.**

Respectfully submitted,

Patti Corlew  
Recording Secretary

Zb10142010

**RESOLUTION #2010-9**

Motion by: James Cooper  
Second by: Herb Muller

**RESOLVED**, to deem application ZBA 2010-4 by Dawn Brunner, for an area variance for tax map #211.13-3-13 located at 43 Prospect Street, as a Type II listed action under SEQRA, therefore, there is no significant environmental impact as a matter of law.

**DULY ADOPTED ON THIS 14<sup>TH</sup> DAY OF OCTOBER, 2010 BY THE FOLLOWING VOTE:**

Ayes: Harold Moffit, James Cooper, Mark Morey, Herb Muller  
Nays: None

**RESOLUTION #2010-10**

Motion by: James Cooper  
Second by: Mark Morey

**RESOLVED**, to approve application ZBA 2010-4 by Dawn Brunner, for an area variance for tax map #211.13-3-13 located at 43 Prospect Street, to allow construction of an addition 5 feet from the right side property line where the setback requirement is 10 feet.

**DULY ADOPTED ON THIS 14<sup>TH</sup> DAY OF OCTOBER, 2010 BY THE FOLLOWING VOTE:**

Ayes: None  
Nays: Harold Moffit, James Cooper, Mark Morey, Herb Muller

**MOTION DENIED**