

**Minutes**  
**Warrensburg Zoning Board of Appeals**  
**August 12, 2010**

**Board Members Present:** Donne Lynn Winslow, Alan Hall, Sr., James Cooper, Mark Morey, Herb Muller

**Others Present:** Glen and Donna Bonura, Shale Miller, Harold Moffitt (Alternate ZB Member), Patti Corlew, Chris Belden (Zoning Administrator)

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

Mr. Cooper - Okay, I'm going to call the August 12, 2010 meeting of the Warrensburg Zoning Board of Appeals to order. Let the record reflect that Mr. Muller, Mr. Morey, Mrs. Winslow and myself are president (present) and we have a new alternate. Your name please?  
Mr. Moffitt - Harold Moffitt.

Mr. Cooper - Harold Moffitt sits in for Mr. Hall. The first item of business on the agenda is approval of the previous meeting minutes of February 11, 2010. Let's go back and do June 11, 2009 first. You've just been divested of your seat, Mr. Moffitt. Are there corrections or amendments to... Are there corrections or amendments to the minutes of June 11, 2009? On page 86, I have a change about a quarter of the way down, the line beginning "interpretation, so that's wise," the word "tact," T A C T should be T A C K. On the next page, page 87, about third of the way down, the line beginning with "lines and so forth," the next word is the abbreviation "we're," and it should be "there were". And about four lines down from that, the line beginning with "supposed to be something," at the end of the line, it says "well thought and to". It should be "well thought out". Next page 88, about a third of the way up from the bottom, the line that starts "that's just my way of example". It should be "by way" B Y. On page 110, very first line, "made a brush bed" should be "made a brush fence", instead of "bed". Page 116 about ten lines up from the bottom, the words "lowered" begins the line. It should be "lower". Page 118, about a third of the way up from the bottom, the line beginning "water? Well, there's flowing water on the property." In front of the word "flowing" should be "no flowing water". Page 121, about five lines down from the top, it says "bull cutters". "Bull" should be changed to "bolt" B O L T. Bull cutters means something else, I think. Okay. Any other corrections or amendments to the minutes of June 11, 200?

Mr. Morey - I have one on page 121.

Mr. Cooper - Go ahead.

Mr. Morey - About a third of the way down. It, the sentence that says "the insurance industry uses the term," it should be "attractive nuisance," not "attracted".

Mr. Cooper - Okay.

Mr. Hall - I have one here.

Mr. Cooper - Mr. Hall, you have a change?

Mr. Hall - I guess I do not. I thought I had one marked, but I can't find it. So I'll accept it as it is.

Mr. Cooper - Okay. Any..? There being no other changes or amendments, let the record reflect the minutes are approved by consensus. I would like to hold the minutes of February 11<sup>th</sup> until after we conclude our business today and get to comments 'cause I have a lot of concerns that maybe we dropped the ball on the question of boundary line adjustments, which is discussed at length in these minutes. And I don't want to hold these people up. Alright, the first item of business on the agenda is matter of Lewis Gallup, ZBA 2010-2. I'm required to recuse myself because Mr. Gallup is a client of mine. So Mr. Morey will conduct this portion of it this evening.

Mr. Morey - We swear our, anyone that cares to speak or give evidence or information, so anyone that would like to do so for this application, state your name and address for the record.

Mr. Miller - My name is Shale Miller. My address is 19 Prospect Street, Warrensburg.

Mr. Morey - Okay. Raise your right hand. Do you solemnly swear that the statements you are going to give the Board are the truth, the whole truth and nothing but the truth?

Mr. Miller - I do.

Mr. Morey - Okay. You can be seated. We'll... Mr. Belden, will you tell us how this comes before us?

Mr. Belden - Sure. Mr. Miller's representing Lewis Gallup who is requesting a five foot variance from the Alden Avenue side. That district is in a single family 10,000 square foot district, requiring a front setback of 30 feet. This is kind of a unique property. It's, it's a corner property; therefore it has two fronts. Alden Avenue requiring that 30 foot setback.

Mr. Morey - Okay. Mr. Miller, do you have something to add or to say?

Mr. Miller - No, just that initially we were, when we first looked at the property we were thinking that the road was the setback and when we were speaking with Chris, we realized that it was the sidewalk and had it been the road, we would've been within the setback. So we were just, without having to downsize the building that we originally wanted to build, we're hoping that we can get a variance (inaudible) to do (inaudible).

Mr. Morey - Okay. I don't see the building location drawn on any of these, this information that we've been supplied. Could you come show the Board where that would, where that would be...

(Tape inaudible).

Mr. Morey - Yes, but it doesn't show the roads and the...

Mr. Miller - (Inaudible) Here's Alden Ave. Here's the building.

Mr. Morey - And this is..?

Mr. Miller - This is the property line to the, the adjacent property lines. (Inaudible) right here and this is the ten foot setback on that side. (Inaudible).

Mr. Morey - For the record, he's referring to the plot plan on the last page of our application.

Mr. Miller - (Inaudible) from River Street towards (inaudible).

Basically he wanted to put it as far back as possible to just relieve some of the noise and sight line from 418.

Mr. Morey - I'm a little rusty at this, but we haven't had a meeting in quite awhile. I haven't conducted one in even longer, but... Was this... Do you know if this has gone to the County? Has there been a...?

Mr. Belden - Yes, the County found no impact.

Mr. Morey - No impact? Any questions from anyone else on the Board?

Mr. Hall - I have a question for the...

Mr. Miller - Sure.

Mr. Hall - Do you know where your true corners are? Have you had this surveyed so that you don't (inaudible) maybe your corners are actually out in the road because some of these town roads infringe quite heavily on...

Mr. Miller - Yeah, there is a survey map, I believe. Do you have that (addressing Mr. Belden)?

Mr. Belden - Hm hm.

Mr. Miller - I believe Lewis had that done when he bought the property.

Mr. Morey - Is that a stamped copy of the map?

Mr. Miller - Yeah.

Mr. Morey - Can we have that as a... (Inaudible) copy of that.  
(Tape inaudible).

Mr. Belden - No, I think that is just...

Mr. Miller - It does have a copy with a stamp on it.

Mr. Belden - That is a copy?

Mr. Miller - Yep.

Mr. Morey - Let the record reflect that we'll enter that as Exhibit 1...

Mr. Hall - (Inaudible) setbacks.

Mr. Morey - ...ZBA 2010-2.

Unknown - Okay.

Mr. Hall - Can we admit this as..?

Mr. Morey - Yes, that's...

Mr. Hall - (Inaudible).

Mr. Morey - I had them enter that as Exhibit 1 (inaudible) marking that as...

Mrs. Winslow - There's a "for sale" sign on the property. Is it, has it been sold? Shale?

Mr. Miller - I'm not sure. I'm the... Ya know, he hired me to, to do this. (Inaudible).

Mrs. Winslow - Okay, 'cause I went down to look at the piece of property and there's a "for sale" sign on it.

Mr. Miller - That may have been there for awhile now. I'm not sure. It would certainly help the marketability of it if it was. They'd be able to put that house on there.

Mr. Morey - Any other questions from the board members? At this time, I'll make a motion in the affirmative to, I guess to grant ZBA... Not grant, but to consider ZBA 2010-2 and then we'll proceed to discussion if the motion passes.

Mr. Cooper - You got to do SEQRA before that.

Mr. Morey - I make a motion that this is a, would be a Type II listed action under SEQRA.

Mr. Morey - Second.

Mrs. Winslow - I'll second.

Mr. Morey - Mrs. Winslow seconds. Discussion? Mr. Muller? Mr. Hall?

Mr. Hall - Do we have a filled out SEQRA sheet?

Mr. Morey - It's a, it's a two.

Mr. Hall - It's a two, okay. That's... I stand corrected.

Mr. Morey - Let the record reflect that the motion passed.

#### **RESOLUTION #2010-5**

Motion by: Mark Morey

Seconded by: Donne Lynn Winslow

**RESOLVED**, to deem application ZBA #2010-2 by Shale Miller for Lewis Gallup for tax map #210.20-5-36.1, located on River Street, for an area variance, as a Type II listed action under SEQRA; therefore there is no significant environmental impact as a matter of law.

#### **DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, Mark Morey, Herb Muller

Nays: None

Mr. Morey - And if it's in the proper sequence, we'll proceed to the motion that I made prior to that. Is there a second? Did I get a second to that?

Mr. Hall - I'll second.

Mrs. Winslow - Not yet.

Mr. Morey - Mr. Hall seconds. We'll proceed to the discussion.

We'll go through the application here. And the first question on your application is how substantial the variation is in relation to

the requirement. You answer, 'we are asking to reduce the setback from 30 feet to 25 feet from the existing sidewalk. The sidewalk being the public right-of-way. It adds considerable depth to the public right-of-way, influencing the already small building lot. This refers to the Alden Avenue side of the property'. Did you count... Well, it would be five, it would be a 25 percent nonconformity.

Mr. Miller - Yeah, there, there is a location on the property where the house would fit without a problem. It's too far forward for it to be desirable. It's so, it'd be so close to 418 that, ya know, you'd be constantly (inaudible) traffic and lights and trying to get in and out. That's why he pushed it back as far as he could, but unfortunately when we did that, it went beyond the setback.

Mr. Muller - If you (inaudible) any further, you'd be cutting down on the visibility on 418.

Mr. Miller - (Inaudible), yep.

Mr. Muller - Coming out 418.

Mr. Miller - Tried to maximize the view too up, sitting like this, looking this way. So it's looking up the river and if it was here, ya know, you'd be looking more down this way (inaudible). Or if it was farther (inaudible) like this, it would've been (inaudible). But we were able to bring it back and that's basically what, where he wanted to put it. It makes the most sense.

Mr. Morey - And in that corner... I've lived on River Street... I lived on River Street for, well while I was growing up. I've seen vehicles up on that lawn from time to time.

Mr. Miller - Yeah.

Mr. Morey - Tracks where they've been...

Mr. Miller - The farther back the better. Any, any discussion or questions on..?

Mr. Hall - Your, your driveway is actually going to come out into Alden Avenue?

Mr. Miller - On Alden Ave., yeah. In front of the house. So it's, it's a good distance from the corner. There's a garage underneath the, underneath the house in the front.

Mr. Morey - Okay, no other questions, we'll proceed to number two. The effect of the increased population density thus produced on the available governmental facilities. You answer, 'none. Another single family residence will not increase the demand on any government facilities'. Makes sense. Pretty hard to argue with that one. Anyone else have a, an opinion? Then we'll proceed to number three. Whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties created. You answer, 'none. The area is residential with commercial in view, so one more home will not change the neighborhood'.

Mr. Hall - Just the other side of the road, you butt up against the riverfront commercial zone.

Mr. Miller - Actually, yeah, that is, that, there is, that lot's not commercial, but yeah, I think you're right, on the other side of the road is riverfront commercial and then I think there's even some stuff that's non-conforming down there.

Mr. Morey - (Inaudible) to continue. Any discussions, questions?

Mrs. Winslow - No.

Mr. Morey - We'll proceed to number four. Really the crux of the application, in my opinion. Whether the difficulty can be obviated by some method feasible for the applicant to pursue other than that variance. You answer, 'the location of the lot on the corner of two very busy roads dictates that the location of the house and the subsequent driveways are best served by locating them in the back right-hand corner of the lot as viewed from Route 418. The driveway location is placed so as to keep... ..so as to keep it' from the intersection, 'as far from the intersection as possible. The desired view and floor plan also are...'

(Tape inaudible).

Mrs. Winslow - A factor, I think.

Mr. Morey - Yeah, 'a factor for home value'.

Mr. Miller - (Inaudible) typed in too long. Should've typed it.

Mr. Morey - We, we discussed the, that it probably is wiser to get it back from 418 and (inaudible) the Alden Avenue side is probably just as busy, although they don't have a straight as shot at ya. Any of the other board members...? Mr. Muller?

Mr. Muller - I'm just confused. He said on the right-hand side of (inaudible).

Mr. Miller - I can show you. (Inaudible). The house will be right here basically.

Mr. Muller - Hm hm.

Mr. Miller - And the driveway will be right in front of it, and there's a, a garage underneath the house. (Inaudible).

Mr. Muller - Oh, okay.

Mr. Miller - (Inaudible) be driving in...

Mr. Muller - (Inaudible). (Inaudible) same page.

Mr. Miller - (Inaudible) lot. The house will sit on the lot like that. Here's the garage and that's the front of the house.

Mr. Muller - Oh, okay.

Mr. Miller - So it'll be down a little bit from Stone Street, as far back from the road as we can get it.

Mr. Muller - Okay.

Mr. Miller - I mean, he'll want a little bit of grass, but, in front of it, but (inaudible).

Mr. Muller - (Inaudible).

Mr. Morey - Any other questions? Mr. Hall?

Mr. Hall - Makes sense now. A U-shaped driveway. (Inaudible).

Mr. Morey - Okay. Then we'll proceed to number five. Whether the view of the manner in which the difficulty arose in considering all the above factors, the interest of justice will be served by allowing the variance. You answer, 'we feel the plot plan submitted best served the applicant and the town. Whether the home value can be raised by a different position escapes us. Given the location, views, traffic patterns, etc., the interest of justice is best served by allowing this variance'. Do any of the board members care to comment on that or ask a question?

Mrs. Winslow - No.

Mr. Morey - Then I guess at this time, if there's no other questions, we'll proceed to a vote. An aye will grant the application. Mrs. Winslow?

Mrs. Winslow - Aye.

Mr. Morey - Mr. Hall?

Mr. Hall - Aye.

Mr. Morey - Mr. Muller?

Mr. Muller - Aye.

Mr. Morey - I vote aye as well. You have your variance. You still have to comply with any other regulations.

Mr. Miller - Yep. Sure. Thank you.

Mr. Morey - Thank you.

Mr. Muller - Hm hm.

#### **RESOLUTION #2010-6**

Motion by: Mark Morey

Seconded by: Alan Hall

**RESOLVED**, to approve application ZBA #2010-2 by Shale Miller for Lewis Gallup for tax map #210.20-5-36.1, located on River Street, for an area variance, to allow construction of a single family residence 25 feet, 10 inches from the front (Alden Avenue) property line.

#### **DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, Mark Morey, Herb Muller

Nays: None

Mr. Morey - (Inaudible) back over to Mr. Cooper.

Mrs. Corlew - (Inaudible; speaking to Mr. Miller).

Mr. Miller - Okay. Thank you.

Mrs. Corlew - You're all set.

Mr. Cooper - Alright. The next item of business on the agenda is ZBA 2010-3, matter of Donna Bonura. Are you Donna Bonura?

Mrs. Bonura - Yes.

Mr. Cooper - Are you going to give testimony here tonight?

Mrs. Bonura - Yes, I am.

Mr. Cooper - Would you raise your right hand please? Do you swear to tell the truth, the whole truth and nothing but the truth, so help you God?

Mrs. Bonura - I do.

Mr. Cooper - Okay. Is your hus... Is this your husband here?

Mrs. Bonura - Yes, Glen Bonura.

Mr. Cooper - Are you just going to wait and see what she says before you decide whether you're going to contribute? Okay, well that's good, good strategy for a lot of reasons. Okay. Mr. Belden, will you tell the Board how this matter comes before us?

Mr. Belden - Sure. Donna is... Donna would like to put an addition on the side of her home. She has an existing home there that was built prior to zoning, which is set back about 20 feet. Her front porch, which is set back about five to ten feet, she'd like to put the addition flush with the house, not the porch, to make it fit in the home, character of the home. However, she's in the single family 10,000 square foot district, which requires a front setback of 30 feet. So she's requesting a ten foot variance to allow the placement of the addition 20 feet back from the front property line.

Mr. Cooper - Thank you. Now since you submitted this application, you've modified it and submitted an amendment to the application, Ms. Bonura?

Mrs. Bonura - Yes, sir.

Mr. Cooper - And that means that you're going to... Your plan is, instead of the original plan, you're actually going to enlarge the structure that you propose to put on your house, but it'll be enlarged towards the rear. Correct?

Mrs. Bonura - Yes.

Mr. Cooper - So it doesn't affect the front setback at all as far as our concern is here.

Mrs. Bonura - Right.

Mr. Cooper - Okay. You can sit down. You don't have to stand up. Alright. Let's go down through the criteria of the ordinance here. The first question is how substantial the variation is in relation to the requirement. You might note for your form you've got a typo in that first line there. The variation is 33%. The front's back is thirty... The front setback is 30 feet. The proposed addition will start 20 feet from the front property line, so the variation is ten feet into the setback. I think that covers that subject pretty well, don't you gentlemen?

Mr. Muller - Yes.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - Yep.

Mr. Cooper - Number two, the effect of increased population density thus produced on the available governmental facilities. She says, 'her father already lives in Warrensburg, so there will not be an increase in any governmental facility'. Like the last application, I

can't help noting, ya know, you could increase incrementally a camel until its back breaks, but that's really not what this is directed towards. This answer is directed towards uses that will have macro effects on the community, like community gatherings, multiple residence houses, like type of thing. So I don't think it's really relevant to this type of situation. Number three, whether a substantial change will be produced in the character of the neighborhood or a substantial detriment to adjoining properties. She answers, 'we are taking special care to design the proposed addition to blend into the character of our 1927 bungalow. Details will be added to the addition to match the front porch details. Siding size and color will match the house as well as window size and style'. Actually, I drove down there tonight and took a look at your property and there are a lot of bungalow type structures or Arts and Crafts architecture on that street, aren't there? And would you say, Ms. Bonura, that the majority of them don't comply with the front sideline, the front setback required by the statute? That almost all of them don't have 30 feet in the front?

Mrs. Bonura - Yes, sir because they were all built prior to the regulation.

Mr. Cooper - So in that sense, your constructing this addition 20 feet back will be, will not be out of character with the other architecture in the community. Is that right?

Mrs. Bonura - Yes, that's true.

Mr. Cooper - Anybody have any questions on number three?

Mr. Morey - No.

Mr. Muller - I agree with what you said.

Mr. Cooper - Number four, whether the difficulty can be obviated by some method feasible for the applicant to pursue other than the variance. Your answer is, 'it is not feasible for the addition to be built anywhere else on the house. There is practical difficulty due to the location of the kitchen and the back porch. Please see attached explanation and pictures'. Why don't you tell us a little bit about why your options are narrowed to that one location.

Mrs. Bonura - Well, where we would like to put the addition is right on the side of the house which parallels the, the living room, but really a stairwell to both the upstairs and the downstairs. And there's a little window, window here which is in the little stairwell here. And this is a kitchen window. So we want the extension to go from here to here. So my Dad's place will be in this, this area here and this will just bump out the kitchen. So we initially, we just let 'em put it here, have a 12 x 16 addition here, but we ran into complications as far as the entrance to his room because the stairwell is here. He would only have a doorway that was maybe 24 inches wide. So we decided, the contractor said bumping it out another nine feet would, would increase the cost but not substantially and then my Dad would have an entrance in the kitchen

and have a regular (inaudible) 30 inch or 36 inch wide door. And we will expand the kitchen area, so, but it won't have to start right at the front of the house here.

Mr. Cooper - Okay, you're not understanding my question.

Mrs. Bonura - Okay.

Mr. Cooper - I can under, I understand completely what your plan is. The question is why you didn't build on the back of the house, why you didn't build on the other side. I assume, because you don't have enough room between the structure and the boundary.

Mrs. Bonura - Right. And the back has a back porch on it and the sewer line comes out of the back right out the back side of the house. The, the side, like you said, is, is right on the property line, 10 feet from the property line to the neighbor's. That big space will be on this side of the picture.

Mr. Cooper - (Inaudible).

Mrs. Bonura - Yeah, that's my neighbor's.

Mr. Cooper - (Inaudible).

Mrs. Bonura - That's my neighbor's yard.

Mr. Cooper - Yeah, but on the, on the side that you propose to build it, you're building it into a lawn, approaching your driveway, is that correct?

Mrs. Bonura - Right. And there's nothing there. There's no lines of any kind, so that's really the only, only place that it can go.

Mr. Cooper - Anybody have any questions about the, number three, or number four rather? Excuse me.

Mr. Muller - (Inaudible).

Mrs. Winslow - No.

Mr. Morey - I don't have any.

Mr. Muller - No, I don't either.

Mr. Cooper - Do you... Anything else you care to offer?

Mrs. Bonura - No, I think I covered everything as far as how I felt it would be the best way to do it. I don't really have anything else to say.

Mr. Cooper - Okay. Number five, I think we're going to have to look at the Town Law again and see whether we have these expressed exactly right because five is generally designed to deal with situations in which there was lesser or greater extent self-created hardships. And it says, ya know, weighting all the considerations you could overlook the self-created hardship or partially self-created hardship, things of that nature, but the lady answers here. 'Our house was built...' You don't mind me calling you "lady" do you? I had someone yell at me once for doing that.

Mrs. Bonura - That's fine.

Mr. Cooper - Okay. 'Our house was built before the current codes were decided upon.'. So you're indicating that your structure, the structure of your house was built before 1988.

Mrs. Bonura - Yes.

Mr. Cooper - And the non-conformity, the front setback, you can't do anything about it because that's where the house was when the ordinance went into effect.

Mrs. Bonura - Yes.

Mr. Cooper - 'We want to do the responsible thing for my father and have only his best interests and mine at heart. We also need to have a functional kitchen to serve the needs of our family. We hope considering the matter is explained about the kitchen, you will, in the interest of justice, allow this variance,' etc. We're supposed to take into account the unique conditions of the property which limit your options to do what you want to do and not be swayed by the personal circumstances of your family. So myself, as, speaking as one board member, I'm just looking at this as an addition on your house. Not because you want to have dad nearby and he needs watching or somebody has to make sure he takes his meds or whatever. I'm... Those are all human factors; very important, but they're not supposed to relate to zoning issues. The, the question we're supposed to address is will your change be in accord, reasonably in accord with the community's plan for development. Okay? And the land use. So that having been said, anybody else have any questions for Mrs. Bonura?

Mr. Hall - You are going with a wider doorway, right?

Mrs. Bonura - Yes. Off the kitchen, it will be 30 or even maybe 36 inches.

Mr. Hall - Make is 36, a wheelchair won't fit a 30.

Mrs. Bonura - Right. This is my dad.

Mr. Cooper - Yeah, I'm sure that's the first thing, that's the first thing all of us thought about when you said a 20 inch door, there's going to come a time where he might need the wider door for one reason or another. Okay. Anything else? Mrs. Winslow? Mr. Hall? Do you remember that application we had over by where Carmen Maciariello used to live before his house burned down. Right across the street, a lady wanted to put in an, an addition for her mother. I was the only one on the board that voted against it. Not a good sign. But that, that neighborhood there, she was going to come out into an area that was, that was in conformity with the statute and she was going to invade an area of lawn, which I thought was no different... Ya know, it just didn't work for her and because she wanted to put a granny apartment in there, that was her, the whole reason for doing it. So I voted no, but the rest of you disagreed with me. I would just point the, point out that this is a different situation. We have a, an established neighborhood where virtually all of the residences are non-conforming in terms of the sideline, or the front setbacks and so that's how I would distinguish my vote in that instance in what I propose to do tonight. Unless someone talks, talks me out of it. But any other comments to be made about this?

Mrs. Winslow - No. I own a house on that street, just up the street. Same kind of house.

Mr. Cooper - Okay, and that's not going to affect your vote?

Mrs. Winslow - No, it's not.

Mr. Cooper - Then I'll move that we find this is a Type II listed action under the State Environmental Quality Review Act. Is there a second to the motion?

Mr. Hall - I'll second.

Mr. Morey - I'll second.

Mr. Cooper - Mr. Hall seconds. Discussion? All those in favor, indicate by saying aye.

Mr. Morey - Aye.

Mr. Hall - Aye.

Mr. Morey - Aye.

Mrs. Winslow - Aye.

Mr. Cooper - Opposed? Let the record reflect that the board is unanimous in finding no significant environmental impact as a matter of law.

#### **RESOLUTION #2010-7**

Motion by: James Cooper

Seconded by: Alan Hall

**RESOLVED**, to deem application ZBA #2010-3 by Donna Bonura for tax map #210.20-3-7, located at 74 Library Avenue, for an area variance, as a Type II listed action under SEQRA; therefore there is no significant environmental impact as a matter of law.

#### **DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Herb Muller

Nays: None

Mr. Cooper - Now at this time, as is the custom of the Board, I, as Chairman, will move the application in the affirmative. Is there a second?

Mr. Muller - Second.

Mr. Cooper - Mr...

Mr. Belden - Jim?

Mr. Cooper - Mr. Muller seconds.

Mr. Belden - If I could just add that there was no county impact to this, to this application.

Mr. Cooper - Yeah. I don't think there's any County Highway within 500 feet is there?

Mr. Belden - Library Avenue.

Mr. Cooper - Oh really?

Mr. Belden - Or is it Milton Avenue that's...

Mrs. Corlew - No, when you, when you go to Library Avenue extension, that's... Or...?

Mr. Belden - Milton Avenue is definitely County.

Mrs. Corlew - Yeah, okay. I'm getting confused.

Mr. Cooper - Okay.

Mrs. Corlew - There's something about...

Mr. Cooper - Well, thanks for correcting me, Mr. Belden. Let's see, the motion to approve has been made and seconded. Proceed to discussion. Any comments, Mr. Muller?

Mr. Muller - (Inaudible).

Mr. Cooper - Mr. Morey?

Mr. Morey - No.

Mr. Cooper - Mrs. Winslow?

Mrs. Winslow - No.

Mr. Cooper - Mr. Hall?

Mr. Hall - I have no more.

Mr. Cooper - Okay. I'll call for a vote. A vote aye is to approve the application. Mrs. Winslow?

Mrs. Winslow - Aye.

Mr. Cooper - Mr. Hall

Mr. Hall - Aye.

Mr. Cooper - Mr. Muller?

Mr. Muller - Aye.

Mr. Cooper - Mr. Morey?

Mr. Morey - Aye.

Mr. Cooper - I vote in the affirmative as well.

#### **RESOLUTION #2010-8**

Motion by: James Cooper  
 Seconded by: Herb Muller

**RESOLVED**, to approve application ZBA #2010-3 by Donna Bonura for tax map #210.20-3-7, located at 74 Library Avenue, for an area variance, to allow construction of an addition 20 feet from the front property line.

#### **DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Herb Muller

Nays: None

Mr. Cooper - Your application for a variance is approved, but you do have to satisfy any other municipal approvals. Okay?

Mrs. Bonura - Yes.

Mr. Cooper - Alright. Thank you for coming.

Mrs. Bonura - Thank you very much.

Mr. Bonura - May I ask a question.

Mr. Cooper - Do I have to swear you first?

Mr. Bonura - What would happen if one Board member disapproved? Does it still get approved or?

Mr. Cooper - Yeah, it's a democracy.

Mr. Bonura - I was worried.

Mr. Cooper - Okay.

Mrs. Bonura - Thank you very much.

Mr. Cooper - Goodnight.

Mrs. Bonura - Thank you for your help.

(Tape inaudible).

Mr. Cooper - Alright, let's stay on the record for this communications and comments because I, I want to say I almost tripped badly or maybe I have because between the time we did this last February and today, I was confronted with a situation in which a client of mine came to me and wanted a boundary line adjustment. The boundary line actually went through his house. He was in a position to control both properties. Somewhat like Mr. Hall's application that brought this all about and we had a surveyor draw a line to split the two properties so that there'd be a foot or two on each side evening and we went and found, filed the boundary line adjustment. After I checked with Patti and Mr. Belden and said that, ya know, my recollection was that we would only have to approve a boundary line adjustment if number one, it increased, it, it created a non-conforming lot where formerly there was one conforming or two, it increased the non-conformity of the lot and she said that's the way she understood it. And I went ahead.. But ya know, reading these minutes, I'm not so sure that that's what, in my convoluted thinking, I said to the board back in February of 2010. I made this bold statement here.. Let's see here. Let's see. On page 138 of the minutes. It says, we're now finding for purposes of the future, if this comes up again, that a boundary line adjustment does require a permit from the code administrator. Okay? It's good to remember that because it will come up again some time in the future. Well, for me it came up a few months later. I still think that's what we intended to do, but maybe I'm wrong. That's why I'm, I'm bringing this up and ask, sounding the board out on that. We can, we can perhaps proceed to hear these minutes and approve them as corrected and then come back next month or whenever we have business again and everybody having studied the issue and maybe they can, we could kick the can around a little bit and decide whether we, we, we should correct what we did and supplement, or we could send a letter to the Town Board saying we think the ordinance is vague in this regard and suggest that it should be changed. Or we can leave it the way it is and have everybody require a, a variance who has a boundary line adjustment, even in a situation like I had where there was a line

through a piece of property, actually through the structure and I think common sense would dictate that you would try to split the baby in two and, which is what we did. So what are your thoughts about it, Mr. Morey?

Mr. Morey - You're saying that the only time, that it's your understanding the only time that we would need to grant a variance is if it increases or, a non-conformity or it creates one?

Mr. Cooper - Yeah, that's, that was what I thought we did, but the minutes don't lie. How do you feel about that?

Mr. Morey - I think that would be a good, a good way to go. I don't think that we should delve into anything that doesn't... Boundary line adjustments are pretty common and if they don't create a problem, I don't think we should create another layer of administration.

Mr. Cooper - Ya know, I've always kind of felt that way as a lawyer that you can go to the land before the boundary line adjustment was created and you go to the land after the boundary line adjustment was created; it's pretty much going to look the same way. And for us to force people to file an application fee and come before the Board for something that's probably 99% of people would say is a common sense thing. If there's no, nobody harmed, they should be able to redraft their boundaries, then maybe that's what we ought to do. How do you feel about it, Mr. Muller?

Mr. Muller - I agree with what you're saying. Why, why bother everybody for something that's obvious has to be done.

Mr. Cooper - Mr. Hall?

Mr. Hall - Since, since I'm one of the parties who was on the original application, I think I'm going to pass on any statement.

Mr. Cooper - Well, it's all done though.

Mr. Hall - Yeah, I know, but, but what would, what would've done was, it would've, had you do it your way now, it would save a lot of headaches. And I'm...

Mr. Cooper - But in your case...

Mr. Hall - I'm inclined to agree with you. I like your way better.

Mr. Cooper - But in your case, wasn't the, didn't what we do increase the non-conformity of one of the lots?

Mr. Hall - It increased the non-conformity of an already non-conforming lot.

Mr. Cooper - Yeah. So that was our jurisdictional hook there and we had to go ahead and bite the bullet and do our job. So that wouldn't change based on what we're discussing.

Mr. Hall - Okay.

Mr. Cooper - Mrs. Winslow.

Mrs. Winslow - I wasn't here for that meeting, so I'm a little...

Mr. Cooper - Well, since this is being transcribed, this would be part of the minutes we'd approve the next time we meet and I'm hearing three of the board members say, perhaps Mr. Hall as well, that if the boundary line adjustment either creates a non-conforming

lot or substandard lot I guess is the proper way to express it. Or increase the substandard lot, that then it would require a variance. Is that, is that the way you want to express it, Mr. Morey?

Mr. Morey - Yes.

Mr. Cooper - Mr. Muller? (Mr. Muller indicated yes by nodding his head). I think so too. I guess that's the way you feel about it, Mr. Hall?

Mr. Hall - I would agree with you.

Mr. Cooper - How about you, Mrs. Winslow now that we...?

Mrs. Winslow - It makes sense to me.

Mr. Cooper - Okay. So if we approve the minutes next time, what you'll probably have to do, Patti, is go back and put a big star on these and with a referencing "see the minutes of August 16, 2010".

Mrs. Corlew - Okay.

Mr. Cooper - Alright. So let's go to consider the minutes of February 11<sup>th</sup> now that we've beat this pretty much to death. I have a change on page 135, third of the way down, the line says "we can get into a finer lay of detail". The word lay should be layer. And near the bottom, about ten lines up, it says precedence... This is the kind of un, unavoidable mistake you get if, if people speak commonly and they don't announce like an Englishman. But precedence should be T S, not C E. Okay?

Mrs. Corlew - Okay.

Mr. Cooper - And on Page 138, four lines down, it says "but if you page, page for", it should be F O U R. And then same sentence, flip forward to use, why don't you put use in quotation marks, because we're focusing on a word.

Mrs. Corlew - Okay.

Mr. Cooper - Either apostrophes or quotation marks.

Mrs. Corlew - Okay.

Mr. Cooper - Okay, page 140, about eight or nine lines up, the sentence or the line beginning "overcome this problem without," towards the end of that line, it says "an easement". It's probably what was said, but I'm sure I mean 'a variance'. That's it. Anybody else have changes or amendments for those minutes? Okay. Let the record reflect that the Board approves the minutes of February 11, 2010 by consensus. Is there any other business to be brought before the Board tonight?

Mr. Belden - No.

Mr. Cooper - Okay. I thank you all for coming, and do you have any indication whether we have any matters of the agenda for September?

Mr. Belden - There's one person interested in possibly getting a, an area variance, but they have not filed anything yet, so.

Mr. Cooper - Okay. We're, we're doing this with such infrequency that we're forgetting how to do it.

Mrs. Corlew - Yeah, that's why I forgot the Decisions, so I'll send them to you in the mail. (Inaudible)...

Mr. Cooper - Okay. I forgot that I didn't get 'em.  
Mrs. Corlew - ...beginning of the week, so.  
Mr. Cooper - Okay. Thank you everybody.

**Zoning Board meeting was adjourned at 7:45 p.m.**

Respectfully submitted,

Patti Corlew  
Recording Secretary

zb08122010

**RESOLUTION #2010-5**

Motion by: Mark Morey  
Seconded by: Donne Lynn Winslow

**RESOLVED**, to deem application ZBA #2010-2 by Shale Miller for Lewis Gallup for tax map #210.20-5-36.1, located on River Street, for an area variance, as a Type II listed action under SEQRA; therefore there is no significant environmental impact as a matter of law.

**DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, Mark Morey, Herb Muller  
Nays: None

**RESOLUTION #2010-6**

Motion by: Mark Morey  
Seconded by: Alan Hall

**RESOLVED**, to approve application ZBA #2010-2 by Shale Miller for Lewis Gallup for tax map #210.20-5-36.1, located on River Street, for an area variance, to allow construction of a single family residence 25 feet, 10 inches from the front (Alden Avenue) property line.

**DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, Mark Morey, Herb Muller  
Nays: None

**RESOLUTION #2010-7**

Motion by: James Cooper  
Seconded by: Alan Hall

**RESOLVED**, to deem application ZBA #2010-3 by Donna Bonura for tax map #210.20-3-7, located at 74 Library Avenue, for an area variance, as a Type II listed action under SEQRA; therefore there is no significant environmental impact as a matter of law.

**DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Herb Muller  
Nays: None

**RESOLUTION #2010-8**

Motion by: James Cooper  
Seconded by: Herb Muller

**RESOLVED**, to approve application ZBA #2010-3 by Donna Bonura for tax map #210.20-3-7, located at 74 Library Avenue, for an area variance, to allow construction of an addition 20 feet from the front property line.

**DULY ADOPTED ON THIS 12<sup>TH</sup> DAY OF AUGUST, 2010 BY THE FOLLOWING VOTE:**

Ayes: Donne Lynn Winslow, Alan Hall, James Cooper, Mark Morey, Herb Muller

Nays: None