

**Village of Tivoli
Zoning Board of Appeals Meeting Minutes
January 23, 2012**

CALL TO ORDER / DETERMINATION OF QUORUM

The meeting, held at the Historic Watts dePeyster Hall, was opened at 7:05 pm and a quorum was determined to be present for the conduct of business.

ZBA Attendees:

Chair Laura Gail Tyler
Karen Cleaveland
Bob Zises

Also present:

Trustee Susan Ezrati
Bessina Harrar (applicant)
Dave Cleaveland

Absent:

Bob Juliano

The first item of business was to approve the draft minutes from the August 11, 2011 meeting. Chair Tyler suggested some information be added to the minutes before approving them. She explained the changes and the Board reviewed the minutes as amended. Chair Tyler suggested that a meeting be held next month to approve the minutes even if there is nothing else on the agenda so too much time won't pass before they are finalized. Chair Tyler asked Karen Cleaveland if she agreed with the changes, since they were the only ones present who were at the August meeting. Karen stated she agreed and some discussion regarding the changes followed. The changes to the minutes are as follows:

The addition of the following to the first paragraph under New Business, after the first sentence: *Initially the application was unclear because the old frontage requirements prior to 2010 were cited on the application and because it was unclear that the existing 86.4 ft of frontage was to be subdivided. The map included also did not initially show proposed new lot lines or dimensions. A discussion with the applicant followed and the application was clarified to be for an area variance for the road frontage of a new lot to be created.* The sentence *The board examined the map of the property and a discussion followed* was deleted. In the third paragraph the following was added after the last sentence: *concerning driveway placement and individual access to each lot.* The following was added after the first sentence in the fifth paragraph: *The applicant drew the proposed subdivision lines onto her map for clarification showing a flagpole of 36.4 feet wide.*

Karen Cleaveland made a motion to approve the minutes as amended, Chair Tyler seconded. Motion carried.

NEW BUSINESS

23 Broadway – Area Variance: Chair Tyler handed out an attorney client memo to the Board which they had not previously seen regarding the business that was before them. To explain the business for the meeting, Chair Tyler stated that Bessina Harrar had done her subdivision plat for the Planning Board and Bob Fennell in reviewing it wrote a letter of denial saying that she could not move forward with the subdivision because the map was not the same as what the ZBA did for the variance in their last meeting. Instead of having 36.4 feet continuous straight back in the lot she has 36.4 feet at the frontage and it angles in and narrows to 21.39 feet straight back. Therefore, Bob Fennell and the Zoning Enforcement Officer had an issue and referred her back to the ZBA for a new variance for the narrower width.

Chair Tyler also stated that the second issue was that after making out an application for a new area variance, the ZBA received a letter from Bessina's attorney suggesting that she doesn't need a new variance. The Board then took time to read the letter from Bessina's attorney and the denial letter issued from Bob Fennell.

Chair Tyler said that this meeting was going to be procedural to figure out what Bessina would like to do and how to proceed from here. Chair Tyler read from the Village Code that once a written declaration is made by the Zoning Enforcement Officer it can't be disregarded. Bessina will have to either apply for a new variance which she has or make a formal appeal to the Zoning Board. Chair Tyler then turned it over to Bessina to explain what she wants to do with her property and then how she would like to proceed.

Bessina Harrar spoke and expressed her concerns and frustration with the process. She stated that what she originally wanted to do was to add an accessory dwelling but was told she would need to subdivide. Chair Tyler explained that the Board doesn't want to prevent her from subdividing. The Board just wants to make sure that everything is done to follow Tivoli's Zoning.

Bessina Harrar stated that she never wanted her driveway to be 36.4 feet wide all the way back; that it would then go too far over and she would have to amend the deed. A discussion followed regarding the size of the lot and how having the 36.4 go all the way back would affect its shape, the access to it and the proximity to her neighbors. Chair Tyler stated that at the ZBA meeting in August 2011 when Bessina appeared and received her variance the width of the driveway was not discussed, only whether it would be a shared driveway and where it would be located.

Chair Tyler said that the Board grants the minimum variance required which is why they granted the 36.4 feet. The Board wants to avoid making access to lots too narrow because a future owner might want to subdivide it back and they need 50 feet for a road. The concern is about access in the future. Bessina stated that access is not an issue, but she thought it was being made an issue.

Chair Tyler stated that the question for tonight is how Bessina would like to proceed. She has three options and they are:

1. Run 36.4 feet straight back which will require a variance for side set-back on lot with house. Total side yards need to be 30 feet (14.2 feet on one side (west) and 15.8 feet on east
2. Apply for an amended area variance for frontage, either 21.39 feet or 30.59 feet—widest with side set-back variance
3. Apply for an interpretation of Bob Fennell's decision

All three would require a public hearing. Chair Tyler also informed Bessina that the Planning Board would have to make their own judgment about the map and that they may have concerns about access and other issues. Bessina was advised that she could get help with filling out an application form from Bob Fennell if needed in the future.

ADJOURNMENT

Bob Zises moved to adjourn the meeting at 8:24 pm. Karen Cleaveland seconded, all in favor. Motion carried. The next meeting of the ZBA will be Monday, February 27, 2012 at 7:00 pm.

Respectfully submitted,

Claire Roff, ZBA Secretary