

**PLANNING BOARD  
MINUTES**

**June 13, 2022**

On the above date Planning Board Chairman Barry Horas called the meeting to order at 7:05 PM. After the Flag Salute he made a statement in compliance with Sunshine Law.

**Roll Call**

Members Present: Kathy Brady, Kevin Cain, Gail Haviland, Robert Haviland, Mayor Niki Giberson, Barry Horas, Doreen Kelly, Joe Martin, Bill Montag, Donna Riegel, and Paul Smisek.

Board Attorney Joe McGroarty and Board Secretary Vicki Cantell

**Minutes** – On the motion of Gail Haviland, second of Donna Riegel and carried unanimously to accept the minutes of May 9, 2022.

**City Council Report** – Mrs. Riegel stated that there was nothing to report but reminded everyone of the Port Anniversary celebration on Saturday.

**NEW BUSINESS**

**Allen Variance, B 14, L 7** – Attorney William Gasbarro appeared representing Clark and Sheryl Allen who were sworn in. Kevin Cain, Building Official, was appearing as a witness and recused himself from otherwise participating in the meeting. The original variance was for height only. This application is for a front set-back variance which can be considered for either a C1 or C2.

Mrs. Allen testified as to her recollection of what had transpired. She stated that she believed that they had the set-back as she understood that Clark and Kevin had measured the distant from the edge of the road and they were only waiting for the electric and didn't understand the delay. She went on-line to ask information on obtaining the permit and that she did not file a complaint about Kevin Cain. The original survey and the wetlands delineation were on separate plans instead of combined and there appear to be discrepancies in set-back numbers. The as-built survey was received toward the end of October Mr. Gasbarro asked if she felt the pole barn had any detrimental impact on the neighborhood to which she replied no. She stated that the barn was no closer to the road than other buildings on the road and it had been extensively landscaped.

Mr. Gasbarro stated that the County has more than one place to start measuring such as the center of the road and the edge of the road which can cause confusion. All agreed that no survey version shows the set-backs.

Debra Dahl of Doran Engineering presented the engineering report and agreed that county has more than one way of measuring.measuring

Mr. Smisek posed some questions to prove good faith: regarding wetlands set-backs and wording of the letter regarding same.

Mr. Cain testified that when he was called out to inspect the holes for the footings that he believed to be set by the surveyor. He thought they appeared too close to the road and raised the issue of the set-back. He never measured the distance himself as he does not have the expertise to do so. He relied on Mr. Allen's statement that it complied.

Mrs. Allen denied this and said that the issue was never raised until the barn was erected.

Mr. Cain was asked if a complaint had been filed and replied that he had a copy of same. Mr. Gasbarro acknowledge that he had seen it but that Mrs. Allen did not intend to file a complaint. They are willing to provide a letter stating same.

Mrs. Allen stated that all the information they received was verbal and they had never received anything in writing.

Mr. Allen stated that they tried to do everything that was asked, that nobody was at fault and asked how it can be corrected. He further stated that Mr. Cain had said it would be approved.

Mrs. Reigel asked Mr. Cain if he agreed with the Allen's version of events and he did not.

Mr. Gasbarro reminded the Board that they have the authority to grant the variance rather than have it be taken down.

Kathy Brady asked if they had considered moving it. They did not as the barn is set in concrete and could not be moved without destroying it.

Mr. Gasbarro asked the variance be granted under a C1 Hardship as there is no proof of bad faith but will admit to confusion in less than perfect conversation. There was no direct disobedience. A C2 variance would also apply as the building does not interfere with the neighbors, traffic, sight lines, and is generally in keeping with other buildings in the area.

**OPEN TO THE PUBLIC** – There was no public in attendance.

On the motion of Bob Haviland, second of Joe Martin, to approve a C1 and C2 set-back variance.  
Yes: Kathy Brady, Niki Giberson, Bob Haviland, Gail Haviland, Barry Horas, Joe Martin, Bill Montag, and Donna Reigel. No: Paul Smisek

### **OLD BUSINESS**

**Adams Resolution, B 21, Lot 2** – On the motion of Donna Reigel, second of Gail Haviland and carried by unanimous roll call vote to approve the resolution.

**Animal Ordinance** – The committee was recognized for having done a thorough job on the draft. There are few typos to be corrected. There was some discussion regarding the interpretation of “proper screening” so it was decided to delete this wording. On The motion of Paul Smisek, second of Kathy Brady and carried to approve the draft with the changes made. Motion carried unanimously.

**CORRESPONDENCE** – None

**BILLS** – None

**ADJOURNMENT** – On the motion of Paul Smisek, second of Katy Brady and carried unanimously to adjourn the meeting at 8:43 PM.

Respectively submitted,

Vicki L. Cantell, Board Secretary