

**CITY OF SOUTH LYON
ZONING BOARD OF APPEALS
May 21, 2009**

Chairman Weipert called the meeting to order at 7:02 p.m.

PRESENT: Chairman Weipert and Commissioners James Herman, Ron Morelli, Bill Rodman and Joe Rzyzi. Also present, Director of Building Safety and Engineering, Joe Veltri and City Attorney Jennifer Hill.

ABSENT: Keith Bradley

ZBA 05-21-09 ABSENCE

Motion by Rodman, supported by Herman

To excuse Keith Bradley from the meeting.

VOTE:

MOTION CARRIED UNANIMOUSLY

Chairman Weipert – Tom Goodcase sent a letter of resignation since he has accepted another position out of state.

We have a new member tonight, Joe Rzyzi. Welcome.

APPROVAL OF MINUTES:

ZBA 05-21-09 APPROVAL OF MINUTES – February 19, 2009

Motion by Rodman, supported by Herman

To approve the minutes with zero corrections of February 19, 2009.

VOTE:

MOTION CARRIED UNANIMOUSLY

NEW BUSINESS

None

OLD BUSINESS

Jeff Malmsten – 439 Reese Street

Chairman Weipert – The background is that this is a continuation. He brought in an application in December, again in January, again in February. Those minutes reflect that your request was moot because you are changing what you want to do. We are here today with a new application. The other application was tabled.

Inspector Veltri – Just a point of information, Ron continued receiving his packet on the meetings while he was gone and I sent Joe a lot of “back” packets.

Commissioner Rodman – I would like to make a request that the attorney present (Jennifer Hill) explain what a practical difficulty is so Joe has a full understanding.

Chairman Weipert – You can wait for a full board if you want.

Mr. Malmsten – I would like to get this thing moving on, one way or another. My practical difficulty was a sticking point before. I hired a real estate specialist and received a recommendation from JSA Surveyors. Eric feels it is legally sound.

Commissioner Rodman – I would like Joe to fully understand what our obligations are here on the board.

Attorney Hill – Mr. Malmsten has applied for a non-use variance. In order to grant the non-use variance, he needs to satisfy the fact that there is a practical difficulty with the use of his property. Actual prongs necessary in the criteria are set forth on the front of the application and you can read those verbatim. I will go ahead and do that.

1. There are exceptional or extraordinary circumstances or conditions applying to the property that do not apply generally to other properties in the same zoning classifications. **Meaning:** There is something different about his property as opposed to the surrounding areas that make it unfair or justice is not the same by denying him the use of his property in the way he wants to use it.
2. That such a variance is necessary for the preservation and enjoyment of a substantial property right, similar to that possessed by other properties in the same zoning district and in the same vicinity, provided that possible increased financial return shall not of itself, be deemed sufficient to warrant a variance. **Meaning:** In other words, a person legally has the right to use their property in the way that they want to subject to the ordinances. His property is I believe zoned residential so he is using it as a

residential property. He wants to use this accessory structure that he has on there, essentially as a green house to make baskets. He is using it as a hobby area or garden.

The question you ask then is that by denying him the ability to make a bigger structure are you somehow unfairly denying him the use of his property by not allowing him to garden or make baskets on his property.

3. That authorization of such variance will not be substantial detriment to adjacent property, and will not materially impair the intent and purpose of the Zoning Ordinance or the public health, safety and general welfare of the community.
Meaning: You have to take into consideration the surrounding neighbors and the rest of the community and one of the reasons for this ordinance is for ascetic purposes and that is a legally valid purpose that the City can regulate for. It is a valid purpose that you have to take into consideration when you are reviewing it.
4. That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought, is not of so general or recurrent in nature as to make reasonably practical the formulation of a general regulation for such conditions or situation, a part of the Zoning Ordinance. **Meaning:** I don't think it applies to this case. The conditions of his property is that it does not happen so often that you could truly create an exception in this case. It would be specifically in drafting the ordinance. For example, an exception that would apply in this case, if you could find the two (2) structures and have a shed you can add another 200'. It would create a very, very specific exception. The question is, can you create a very specific exception that would apply to other properties? It is a legal criteria that is difficult to explain and I don't think it is very applicable.

Chairman Weipert – Lets review the new proposal and what your practical difficulty is.

Mr. Malmsten – In the second meeting I said I had no defense against the ordinance with the third structure. In the first meeting, it was the suggestion of somebody that how come I did not do an addition. So when I came in the second time around the changes were so much it was not accepted. I took the suggestion of making an addition instead of a third structure. They are only four feet (4') apart. That left us with a change in square footage for the accessory buildings. To figure it, you take a footprint of the house divided by two (2) and come up with a number. Now my accessory buildings are 178 sq. ft. over.

Inspector Veltri - You have to take the square footage of the garage subtract that from one-half of the dwelling portion of the residence and the excess would be..... look at one of the sheets I gave you and you will see figures on it. You will see the 1,377, the 688.5 minus the 360 then you see the 506 minus the 328 and that gives you the 178 sq. ft. over. That is how we came up with all the numbers.

Commissioner Herman – That does not have anything to do with the breezeway.

Inspector Veltri – No, the breezeway connects the garage to the house. That means in joining the two together, he has one. The structure that is put together is 178 sq. ft. over what is allowed.

Mr. Malmsten – Just to clarify, the breezeway was a potential option and that is off the table at the moment.

Chairman Weipert – The breezeway is not to the garage?

Mr. Malmsten – No, that was a thought I had for the third accessory building issue. If I combined the house and the garage together, then there were only the two (2) accessory buildings, but that does not help with all this. It is a wash.

Inspector Veltri – So you are not doing the breezeway.

Mr. Malmsten – No.

Chairman Weipert – If you don't do the breezeway, then what are the numbers? With the breezeway he needs 178 sq. ft. variance.

Inspector Veltri – That is not what was advertised. What was advertised is what I took off his building permit application which shows the breezeway and connecting the sheds.

Commissioner Morelli – Does the breezeway have to be enclosed?

Inspector Veltri – Not necessarily, it does not have to be enclosed. It has a permanent roof and foundation.

Mr. Malmsten – It did not help. I thought it might help, the breezeway thing, eliminating the third building and combining the two (2) but then getting with Joe that this was not the way to take this.

Commissioner Morelli – I asked you when you were before us a couple of years ago, I asked if your house was a single family home and you said currently it was but you weren't sure if it would stay that way and I am just asking you again, is your house still a single family home?

Mr. Malmsten – It is. I don't think it will ever change from that. I guess I should never say never. I plan on living there, retiring there, this is my permanent residence since 1978.

Mr. Morelli – Was it ever a multi-family home?

Mr. Malmsten – It was when I first purchased it.

Inspector Veltri – It will be around 400 sq. ft. over. That will be all the out buildings.

Mr. Malmsten – The 400 sq. ft. over is based on half of the footprint of the house.

Inspector Veltri – No. What I advertised was that. When you submitted for the permit, I called and told you what you are submitting is not going to accomplish what you want. When you join the garage with the house, they become one. To figure out how much room you have for an accessory structure, you take the square footage of the garage, you subtract one-half of the square foot of the residential area of the dwelling unit. Anything in excess of the one-half that is what you are allowed for an accessory structure. Then, I subtracted the square footage of his accessory structures and you were 178 sq. ft. over. That is what was advertised on what you presented to me with your application.

Mr. Malmsten – I am over that much on those two (2) little bitty buildings based on a house that big with an attached garage?

Inspector Veltri – We just use the footprint. Your first floor is 1,377. Half of that is 688.5 minus 360 that leaves 328. That is what you are allowed for accessories. Your accessory structures come up to 506 minus 328 that leaves 178 sq. ft. over the 328 that you were allowed. That is using the breezeway, since that is what you submitted.

Commissioner Rodman – If he doesn't use the breezeway, he is about 400 sq. ft. over? What is under review here is actually what was submitted correct?

Inspector Veltri – That is what was advertised.

Mr. Malmsten – I did not submit the building permit and the variance at the same time.

Inspector Veltri – Took documents to Mr. Malmsten and showed exact submittal dates (2-24-09).

Commissioner Rodman – What is your practical difficulty for asking for the variance?

Mr. Malmsten – The practical difficulty boils down to it is a double lot, there is non-conforming buildings, RM-2 Zoning. I can't build another duplex or two (2) more structures because of the locations of the existing buildings.

Commissioner Rodman – This is still viewed a one (1) parcel?

Inspector Veltri – Yes, one (1) parcel.

Mr. Malmsten – Right across the street from me, lots have been split into little shoeboxes.

Commissioner Rodman – We are only allowed to discuss the parcel in question. The practical difficulty has to apply to that parcel, not what could happen in the future.

Mr. Malmsten – Not according to my attorney. The fact that it is split is legally sound.

Attorney Hill –The other parcels come into play when you look at what is affecting or how it affects the surrounding homes, how it affects the appearance of the surrounding homes, how it blends in with the neighborhood, etc.

Mr. Malmsten – Great point. All my neighbors love what I have done. Nobody has any problems. I have one of the nicest yards in my neighborhood which is a whole mixed bag of all kinds of buildings. It is not a public nuisance or a hazard, I get compliments all the time on how good everything looks. This has quality construction, is vinyl sided, it has 50 year shingles on it, two (2) windows and a steel door, it is top notch. With respect to RM-2 Zoning, my density of land square footage vs. what is built on there, is not even close to what RM-2 allows.

Chairman Weipert – Anything else? We can find that you do have a double lot; it is RM-2 so you have mixed use difference density; you have an old house built before zoning or any set-backs and the lots can't be split. It is a unique parcel.

Mr. Malmsten – I think it looks better separated.

Commissioner Morelli – I have a problem with a couple items. I like what you have done on that corner. It has never looked better. I commend you. I don't like the tall fence. You built this without a permit, if I look at the area where you have the three (3) structures, it just looks like three (3) buildings and I don't think they match very well. It would be easier if you came in and said I am tearing down all three (3) buildings and I am going to build one (1) structure that matches the house, which has the same square footage of all three (3) all together. It would be easier for me to approve that then go with this. It is well built and does look nice.

Mr. Malmsten – There is lots of green space.

Commissioner Morelli – The ordinances are still in place and nobody wants to set a precedent. There are still three (3) structures and you are only allowed two (2). It is 400 sq. ft. over and that is a lot over. If you asked for 40 sq. ft. – maybe okay. You have been through this building process before so the reason you didn't come in here to pull a permit before is because you knew this would be an issue. It is easier to ask for forgiveness than to ask for permission. Now you are here asking for permission for this thing and I have to look at it as if the structure is not there. If asking for permission to build this at that time I would respond "no", but now it is there, it throws us a new curve and now you are asking for forgiveness and the structure is already there. That is where I have the problem. There are ordinances in place and this is a third structure, it is over

and you are asking us to bend twice, once on the third structure and once on the square footage. We have had a lot of things before us like this. I am still on the fence, but those are my concerns right now.

Mr. Malmsten – You can see from what I submitted before there are three (3) other conditions in the neighborhood that have three (3) structures.

Commissioner Morelli – I understand that but were they grandfathered in, are they non-conforming, all of those things we have to take into consideration. Just because they are there already, about four (4) houses down there is an industrial building there. We would never do that again in the City. If someone came in now and wanted to put an industrial building right next to my property since there is one (1), five (5) houses down, we are not doing that anymore. Going forward, these are the things that we are trying to clean up. That is why I asked you if it was a single family home. We have had houses that have come before us that are non-conforming and they use to be single family and then went to multiple units.

Mr. Malmsten – Two (2) of them are older and they have been around a long time. By the railroad tracks, the third structure was placed on there about five (5) years ago.

Chairman Weipert – The neighborhood is mixed use and you have an auto parts store four (4) doors down.

Committee Morelli – If that looks like crap it does not mean we will let this look like crap. I am not saying yours looks like crap, I think it looks nice. The yard is nice and you have done a lot of work.

Attorney Hill – I would like to re-explain the criteria number four (4) since I have had an opportunity to think about it.

4. That the condition or situation of the specific piece of property or the intended use of said property for which the variance is sought, is not of so general or recurrent a nature as to make reasonably practical the formulation of a general regulation for such conditions or situation, a part of the Zoning Ordinance. Meaning: Seeing how it is applicable in this case, what we are talking about is the square footage of an accessory structure. I think the only condition that you actually pointed out in his request for a variance is the fact that he has a double lot. I think what that criteria means in this case is that when they were drafting this ordinance and setting the limit on the square footage for accessory structure did they not take double lots into consideration. In order to grant the variance, you would have to say that they did not take the double lot into consideration.

Commissioner Morelli – Whether it is a double lot or a triple lot if the ordinance says you take one-half square foot of the house and that you can have an accessory building it does not matter how big the property is.

Inspector Veltri – If the garage is attached. You take one-half of the square footage, if the garage is attached.

Commissioner Morelli – If the garage is not attached?

Inspector Veltri – 576 sq. ft.

Commissioner Morelli – It does not matter if he is sitting on ten acres or a 40' lot, you still take one-half the house.

Commissioner Rodman – No, you take 576 sq. ft.

Inspector Veltri – 576 sq. ft. if the garage is de-attached. If it is attached you take one-half of the footprint. There are two (2) parts to this.

Commissioner Rodman – It would not matter if he was on 5 or 10 acres or whatever or a City lot.

Mr. Malmsten – If it was on five (5) lots then you could split them and build a bunch of duplexes. I can't split the lots and that is a practical difficulty.

Commissioner Morelli – You are not here asking for living space, you are here asking for a shed.

Mr. Malmsten – True. I could put an east wing on my house and that would be fine. It does not make any sense to me. I know I can, I found that out last week. I don't want to, my house is big enough.

Commissioner Rodman – You would not be in front of us if you wanted to put an addition on your house.

Mr. Malmsten – I know. Because my house is not big enough I can't have some buildings that I need. We use all of our space very efficiently. This came up because my wife is an avid gardener and makes baskets but has no place to do it.

Commissioner Morelli – Is this building up to code?

Inspector Veltri - I don't know. I know there is electricity and no electrical permit has been pulled.

Commissioner Rodman – It is not how well it looks it is how it pertains to the ordinance and you will be over by just about 400 sq. ft.

Inspector Veltri – Change that to around 300 sq. ft., I re-did the math.

Commissioner Rodman – As Ron has mentioned, if you were adding on to the existing shed and wanted to add 40 sq. ft. I can understand something like that. In this case, if it was one (1) lot or if it was four (4) lots you can still look at as either a third out building or an excessively large amount over what is deemed viable by the ordinance. I don't see based on the representation by the attorney that we did not take this into account when the ordinance was written. We don't deny anyone the use of their property; we just say that you can't have any structures than X based on this criteria.

Mr. Malmsten – If the lot was half the size could they build exactly what I have?

Commissioner Rodman – If it was half the size and you wanted 576 sq. ft. and you came in and wanted an extra 300 sq. ft. we would have to view it just like if it was twice the size. That is what the ordinance says.

Commissioner Morelli – As long as you don't go over your coverage of 25%.

Mr. Malmsten – I should have brought Eric, he might explain it a bit better because he seems to think that this is gold and legally sound. That it cannot be split because of non-conforming buildings. I have the opportunity to build out the property according to RM-2 Zoning.

Commissioner Morelli – You are not asking us to build it out. The fact that you can't sell this lot and turn it into a profit has nothing to do with the fact that you built a shed whenever you built it and now you want to add it as an accessory building. One has nothing to do with the other. The fact that it is a double lot and you cannot split it has nothing to do with this. You can't split, sell it, or build another house, you can't do anything. I feel sorry for you. That has nothing to do with the fact that you have this little salt box structure you built for a hobby. One has nothing to do with the other one does it?

Mr. Malmsten – I thought that was the practical difficulty. That is what it sounded like when I left last month. Eric seems to know quite a bit about real estate, he represents JSA Surveyors and he told me Jeff, this is what you want to do, I don't even need to be there, it is golden. You have a legally, sound defense for practical difficulty.

Commissioner Morelli – The only thing I can figure if he is looking at it as the shed is on that other piece of property so it should not even enter into the equation. If that the way he is thinking. The fact that you can't split it or sell it has nothing to do with the fact that

you went ahead and built a new building and now you have three (3) accessory buildings in an RM-2.

Commissioner Rodman – Or even have 300 extra square feet. I don't see this shed and the excessive square footage you are asking for diminishing the value of your property if you don't get it. I don't see that it deters you from doing anything else with that property. Unfortunately we cannot talk about splitting it, you are the person responsible to see if they can be split however it gets done. This particular shed is 300 sq. ft. over the ordinance and is on a parcel of land. It doesn't matter if that parcel is 100 sq. ft. or 100,000 sq. ft. It is 300 sq. ft. over our ordinance.

Mr. Malmsten – I think the issue now is because of the fact that there are non-conforming buildings I can't split the lot and I can't build another structure and two (2) accessory buildings, I can't do it because of the position of the buildings on those lots. One (1) accessory building straddles the lot line and you have my house that is almost right on the lot line. I can't split it.

Commissioner Herman – If you owned Lot #9, you still could not put that square footage on Lot #9.

Mr. Malmsten – I understand that.

Commissioner Rodman – You said because you can't split it, it is the reason why you need that 300 sq. ft. If you split it, you would still need the 300 sq. ft. extra.

Chairman Weipert – If he could split he could put items on there.

Mr. Malmsten – Yea, I could put all kinds of stuff on there. I am not asking for a maximum density at all, very minimal. If I could split, I could put up a duplex and two (2) accessory buildings. I can't do it.

Chairman Weipert – You can't split the lot and need 300 sq. ft.

Mr. Malmsten – I will combine it so I have the two (2) accessory structures and not put up the breezeway.

Inspector Veltri – We have a notice problem here. That is not what is on the table. What is on the table is 178 sq. ft. with an addition of a breezeway. That is what was advertised from the application.

Mr. Malmsten – Do you have a copy of my application Joe?

Inspector Veltri – Yes, right here.

Mr. Malmsten – It just says add to existing shed, it does not say breezeway.

Inspector Veltri – That came with this (drawing).

Commissioner Herman – That is the way I took when I see the application and the drawing with it.

Mr. Malmsten – When Joe called me back and told me about the situation with the breezeway and that it brought it into a new arena of how the math is figured. He said Jeff it will not work for you, the breezeway was out the door.

Chairman Weipert – The application says add to existing shed. His hardship is a double lot, it cannot be split and Joe advertised the applicant is requesting a 178 sq. ft. variance to combine accessory structures.

Inspector Veltri – That is because he submitted the building permit for the breezeway. It would not be 178 sq. ft. That is why he is adding the breezeway since it takes away the garage as an accessory structure.

Mr. Malmsten – The breezeway idea I thought would solve the whole problem. Also, I thought it would solve the problem with the square footage issue since you are taking almost 400 sq. ft. for the garage and putting it on the house. I thought that would be okay.

Commissioner Morelli – There is a house in almost the same situation you are in at Ten Mile Road and Wellington. He tore down all the other accessory structures and he is redoing the entire thing. It looks nice. He came in for a variance and we approved it. He met all the criteria we had. You would have better luck if you got rid of everything and built one (1) great big building that would match the house. I know that is easier said than done. The 178 sq. ft. you are asking for is not really what you are after.

Inspector Veltri – We are here to join the two (2) sheds with the breezeway. One works with the other.

Commissioner Rodman – The additional square footage to combine the two (2) sheds. So we would only have two (2) out buildings.

Inspector Veltri – No. He will only have one (1) accessory structure after the breezeway. That one (1) accessory structure is going to be 178 sq. ft. over what he would be allowed.

Commissioner Morelli – What he wants now is no breezeway and to combine the buildings so he meets the criteria but now he will be 300 sq. ft. over.

Chairman Weipert – We can only talk about what was advertised. On his application for a building permit was for a breezeway, so does he need a permit for the breezeway?

Inspector Veltri – No. He could have just done that. Look at the drawing where it shows the breezeway.

ZBA 05-21-09 – JEFF MALMSTEN – 439 REESE STREET

Motion by Morelli, supported by Rodman

Motion to deny the request that is before us for a breezeway for a 178 sq. ft.

VOTE: 4 YEAS, 1 NAY

Mr. Malmsten – The breezeway was out, Joe told me it would not work.

Inspector Veltri – I said what you are doing is not going to solve your problem. You are still going to be over.

Mr. Malmsten – I did not have any intention to use the breezeway.

Commissioner Morelli – I would like to amend my motion.

Commissioner Rodman – I will remove my second from the table also.

ZBA 05-21-09 – JEFF MALMSTEN – 439 REESE STREET

Amended Motion by Morelli, supported by Rodman

Motion to deny the request for 178 sq. ft. to combine accessory buildings.

VOTE: MOTION CARRIED UNANIMOUSLY

Mr. Malmsten – Run this by me again. It was obviously posted incorrectly because I had no intention on putting on the breezeway.

Commissioner Morelli – I took that motion back for 178 sq. ft. which is not the case now. I voted not to give you the 178 sq. ft. variance. You need 300 sq. ft. All I did was make the motion to deny the request of 178 sq. ft. variance because you don't want that

anyways. I was not here before so I don't know what your previous applications were. What should have been before us was combining the two (2) buildings with the right math and instead of 178 sq. ft. it would have been whatever the math is.

Mr. Malmsten – That is what I thought I was here for.

Commissioner Rodman – Does the applicant get copies of everything?

Inspector Veltri – No. He submits them.

Commissioner Rodman – So, the applicant applied for 178 sq. ft. variance?

Inspector Veltri – No, I calculated that.

Commissioner Rodman – He applied to combine the two (2) existing buildings.

Inspector Veltri – Yes, with a breezeway.

Commissioner Morelli – One would assume that this is what you submitted and is what you are asking for.

Mr. Malmsten – Once he called me up and told me this plan would not work for what I was trying to get accomplished, I did not pick up a building permit. I have no intent on building it. It did not solve my problem.

Commissioner Morelli – You still need 178 sq. ft. When I received this packet, I assumed that this is what you wanted to build.

Mr. Malmsten – I received that notice too and it did not say anything about a breezeway.

Commissioner Morelli – No is doesn't. It just show 178 sq. ft.

Mr. Malmsten – How would I have known?

Inspector Veltri – The variance wasn't for a breezeway. Your building permit was for a breezeway. That is what got you to this point.

Mr. Malmsten – It has nothing to do with joining these two (2) buildings together.

Inspector Veltri – It is on your survey.

Mr. Malmsten -- Not after you told me it would not work.

Commissioner Rodman – Legally we have to vote on what was published.

Commissioner Morelli – That’s what I thought we did. It said 178 sq. ft. Now you want 300 sq. ft.

Mr. Malmsten – I don’t know what I want; he (Joe) would have to tell me.

Attorney Hill – I think you have to be clear about what you want and hopefully you can be clear enough in the application. The Chairman can direct on how you want to take these proceedings. The common denominator among both requests is that you want a variance somewhere between 178-300 sq. ft. The ZBA does have the ability to do justice if the Chairman feels possibly that in the interest to do justice by hearing your appeal which requests somewhere between 178–300 sq. ft. because there is a possibility of confusion in whether or not the breezeway was an actual part of the application. I think that the way that I had heard it presented was that the breezeway actually was not part of the variance and you were able to build the breezeway but the question is whether or not the accessory structure exceeds the amount of square feet permitted under the ordinance. That is the common question among both applications. It is up to the Chairman to decide how he wants to proceed.

Chairman Weipert – I pointed out that your application does say add to existing shed 178 sq. ft. which presupposes the breezeway.

Attorney Hill – I also think the discussion is whether or not you want to make a substantive motion. I think at this point it is a procedural motion based on the fact that it sounded to me that the facts were more based on a notice that has been abandoned for the request for 178 sq. ft. I think, at this time if you choose, make a substantive issue and decide the actual request for the variance and whether or not he should be allowed to keep his structure which is anywhere between 178-300 sq. ft. This is his third time here and it is up to you if you can come to some agreement I think that could be a way to proceed also. If you want to come back and put together another plan with your 300 sq. ft. so that it is clear that you post it or you can make a motion articulating facts on granting the variance or denying the variance. The structure as presented I think it will be the same the only difference is the breezeway. You are also entitled to have an agent come represent you as well. Which you were given an opportunity to at the beginning of this hearing. There is obviously some confusion.

Chairman Weipert – Do I do this on my own?

Attorney Hill – You can open the discussion with him coming back to hear more about the request for 300 sq. ft. So, you can entertain the topic of whether or not you want to make a substantive motion on the request on the increase of square footage.

Commissioner Rodman – I don’t see a practical difficulty. If it were two (2) lots or ten acres he would still be here.

Chairman Weipert – Attorney Hill was saying that we can consider this confusion and make a substantive motion on that issue of his request. Do you want to make a motion on his request for 300 sq. ft.?

Commissioner Morelli – Here is what I would like to see. I don't have a problem if there is waiver on his fee. I don't think he needs to pay another \$200.00 but that is not up to me. That you will combine the buildings together and I want to see how you're going to meld them together and make them look. I want to make sure the building material is the same on all of them. So it looks like it belongs and that the building materials are the same all the way around, that both buildings are totally up to code. Even if that means you have to bust out some interior walls to allow the electrical inspector in there to look at it. Bring back (know the math needed is it 300 sq. ft. or 320 sq. ft. etc...) I would like to see what it will look like and how you combine these two (2) buildings are you doing it with beer cans or make it look like it all fits. That you meet all the requirements.

Mr. Malmsten – My intention is to continue with the salt box line construction and roof line.

Commissioner Morelli – I can't guarantee even when you come back that it would be approved. I would want to approve the plan. A picture/drawing of what it is supposed to look like. On condition that it meets every building code that we have today, not what the codes might have been when this first barn type thing was constructed. It has to meet what it is today. You may have a better chance then, but I cannot guarantee it. Know exactly what the math is. All we have now is the drawing where you connected the two (2) buildings and you have a breezeway. I want to see what it looks like. Make sure the siding on this is the same siding on the other one. The whole thing matches all the way around.

Attorney Hill – You can move to adjourn it to the following month so it is still the same request for the variance.

Chairman Weipert – If you want to listen to the pitch on this 300 sq. ft. because of the confusion not his application but the publishing and the fact that there was some confusion. We can make a motion to consider that and we can adjourn it so he does not have to pay another fee.

Attorney Hill – The motion should say: A motion to hear the amended application for the variance to allow 300 sq. ft. The safest way to do it would be to republish it so that in case there is a neighbor that says you only posted 178 sq. ft. where now we have the 300 sq. ft. structure. You are looking at neighbors who could come in and contest it. The best way to do it is to republish it.

Inspector Veltri – That will add more confusion since people are going to look for an additional 300 sq. ft. building.

Attorney Hill – It is arguable and there would definitely be a difference in opinion. I can research it further and I would like to research it further as to what material amendment in an application is or if there even is such a case out there and then suggest whether or not they should republish. You can move to consider the application and move to adjourn it.

ZBA 05-21-09 – JEFF MALMSTEN – 439 REESE STREET

Amended Motion by Morelli, supported by Rzyzi

Move to amend the application to allow the consideration of the 300 sq. ft. variance.

VOTE: **MOTION CARRIED UNANIMOUSLY**

STAFF REPORTS:

There will be a meeting on the third Thursday in June.

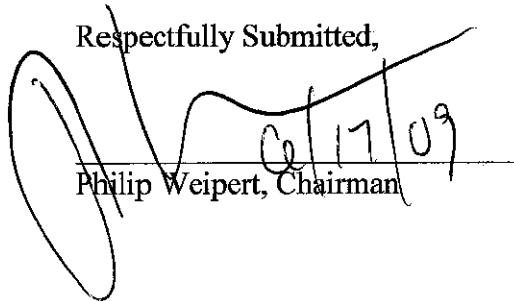
ZBA 05-21-09 – ADJOURNMENT

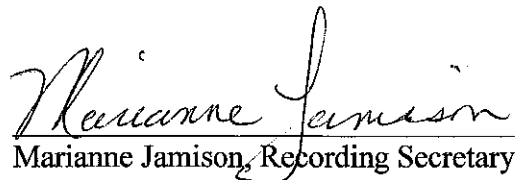
Motion by Morelli, supported Rzyzi

To adjourn the meeting at 8:10 P.M.

VOTE: **MOTION CARRIED UNANIMOUSLY**

Respectfully Submitted,


Philip Weipert, Chairman


Marianne Jamison, Recording Secretary