

Zoning Board of Appeals Meeting with Public Hearing
July 24, 2018
Corning Town Hall

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Members Present:

Chair, Mike Donnelly
Member, John MacMahon
Member, Phil Zarnoch

Members Absent:

Member, Mike Pambianchi

Others Present:

Applicant Loren VanCuren
Bampa's House Representatives
Attorney for the Town, John Ryan
Code Officer Chuck Coons
Supervisor Kim Feehan
Secretary Avonne Dickerson
Visitors

- 1.) Meeting brought to order with a roll call vote at 4:35 pm.
- 2.) **Minutes**
Motion by John MacMahon seconded by Phil Zarnoch to approve the May 22, 2018 minutes as presented. Motion carried, all yes.

- 3.) **Appeal for a variance**

Loren VanCuren, 2944 Gorton Rd-setback variance - Tax map: 337.00-02-019.100

Mr. VanCuren is adding an addition of a carport onto the front of his property. This addition will bring the front yard setback to 21'. Parcel is in an R-3 zone and a 30' setback is required by town zoning. He is seeking a 9' variance.

After discussion, John MacMahon made a motion to allow the variance and to go through the 5-step area variance determination:

1. Granting the variance would not produce an undesirable change in the character of the neighborhood.
2. The benefit by receiving the variance could not be achieved by any other method which would be feasible for applicant to pursue.
3. The requested variance is not a significant amount.
4. The variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
5. The alleged difficulty is self-created.

Motion seconded by Phil Zarnoch to approve the 9' variance for Mr. VanCuren. All in favor, motion carried.

At 4:45 pm Mike Donnelly made a motion to open the required Public Hearing for Mr. VanCuren.

At 4:46 pm and after hearing no adverse comments, Mike Donnelly closed the Public Hearing.

- 4.) **Appeal for a variance**

Ted Brew, Hickock Rd, 2853 Gorton Rd - Tax map: 319.11-01-011.000

Mr. Brew is building a new home towards the back corner of the property. Due to the odd shape of the lot, he is requesting a rear setback variance of 4' from the

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required 80' rear setback to reasonably place a residence.

Being that Mr. Brew was not in attendance, John MacMahon made a motion seconded by Phil Zarnoch to table the request until the next ZBA meeting. All yes, motion carried.

5.) **Appeal for interpretation**

Brown Road residents have requested an appeal to the ZBA for their interpretation of "Nursing or Convalescent Home".

The appeal is concerning CEO Coons determination of his interpretation of "Nursing or Convalescent Home". There is no direct definition in the current Town of Corning Zoning Law that pertains to a "comfort care home", he feels that "nursing" and/or "convalescent" is the closest definition that would be acceptable for proposed Bampa's House residence"?

At 4:50 pm Chair Donnelly opened the meeting to the public for discussion. Please note that this was not a public hearing. The required public hearing had previously been held.

Chair Donnelly stated that the question is: does Mr. Coons interpretation of nursing or convalescent home meet zoning regulations?

Mike MacMahon-reviewed the zoning code for the definition in question and in his opinion the use of the word "or" (as listed in the definition) is rather unusual and equates to synonyms. After researching the definition of Nursing Home and Convalescent Home he opined that they are synonyms of each other, as they both require skilled nursing care and are defined as the same. Therefore, he voted no, that Bampa's House does not meet the definition of a Nursing or Convalescent Home per the Town of Corning Zoning Law.

Phil Zarnoch-stated that he feels the same as Mr. MacMahon and voted no, that Bampa's House does not meet the definition of a Nursing or Convalescent Home.

Mike Donnelly-also voted no, that Bampa's House does not meet the definition of a Nursing or Convalescent Home. These comfort homes are something new and he could see why CEO Coons might feel that the definition in question because it is the closest that is in the zoning law. Mr. Donnelly has been on the ZBA Board for at least 22 years and finds it difficult to confirm a conditional use permit in an R2 zone for a proposed comfort care home. Request will be turned over to Code Officer Coons for further review.

CEO Coons-stated that an update to the zoning law could change regulations.

6.) **Other Business**

Supervisor Feehan-stated that the Town Masterplan has been updated and, the current red-line version of the Town's Zoning Law was previously e-mailed to all Town of Corning Boards to review for updates and / or changes.

At 5:25 pm, John MacMahon made a motion, seconded by Phil Zarnoch to close the meeting. All yes, motion carried.

Respectfully submitted, Avonne Dickerson, ZBA Secretary