

**LOWELL BOARD OF ZONING APPEALS MEETING
SEPTEMBER 10, 2015**

President David Shilling called the meeting to order at 6:35PM. The Pledge of Allegiance was recited. Recording Secretary Dianna Cade called the roll. Members answering the roll call were David Shilling, Rick Kelley, and David Foust, Jim Konradi and Sean Brady were absent. Also present were Town Attorney Nicole Bennett, Planning Consultant Jim Mandon, Director of Public Works, Greg Shook, and nine citizens.

APPROVAL OF MINUTES

Mr. Kelley made a motion to approve the July 9, 2015 regular meeting minutes, seconded by Mr. Foust and carried by voice vote.

PUBLIC HEARING

BZA #15-015 823 Kankakee, James Durnavich, Variance from Developmental Standards – to erect an accessory structure that is higher than what is permitted in ordinance §155.033(B)

Mr. Durnavich approached the podium and stated his name and address for the record. Mr. Durnavich stated he is asking for a height variance in order to gain some needed dry storage. Mr. Durnavich stated that his property is in the older section of town and he has very limited storage. Mr. Durnavich stated that he is building a workshop for himself and would like to add some storage. Mr. Shilling asked if the workshop was for personal use. Mr. Durnavich stated yes, he was a woodworker by trade. Mr. Kelley asked what the exact variance was. Mr. Mandon stated that the maximum height allowed for an accessory structure was sixteen (16') feet, the petitioner is requesting seventeen feet eight inches (17'8"). Discussion followed.

Mr. Shilling opened the public hearing, with no one to speak for or against the petitioner, the public hearing was closed.

Mr. Kelley made a motion to approve the variance of one foot and eight inches (1'8"), seconded by Mr. Foust, and carried by a roll call vote of all ayes. **VARIANCE GRANTED**

BZA #15-016, 5948 Debra Lane, Denise Milcarek – Variance from Developmental Standards – to retain an accessory structure that is located in a drainage and utility easement and is not permitted as stated in ordinance §155.075 (5)(a).

Mrs. Milcarek approached the podium and stated her name and address for the record. Mr. Shilling stated that everything that he has reviewed indicates that it was an existing structure when the petitioner purchased the property. Mrs. Milcarek stated that is correct, it was there when we bought the property, it appears that the previous owners obtained a permit and they were supposed to put it outside the easement and they did not. Mrs.

Milcarek stated that they did not know they were non conforming with the ordinance until we went to apply for a fence permit and it was brought to our attention. Mrs. Milcarek stated the shed was built fourteen (14) years ago. Mrs, Milcarek stated that they have gotten letters from both of the neighbors stating that they have had no drainage problems in their yards because of it and they also received a quote to have the shed demolished for a cost of \$4100. Mrs. Milcarek stated that it is going to cost a lot of money to have it moved and purchase a new shed. Mrs. Milcarek stated that she brought along some pictures of the shed if anybody would like to look at them. Mr. Kelley stated he would like to see the pictures. Mr. Mandon stated that the code requires fifteen feet in rear setback. Mr. Mandon stated that the main issue here is if it is a problem because it is on top of a drainage easement. Mr. Mandon stated that he talked with Greg Shook, Director of Public Utilities and Mr. Shook was here tonight to discuss if this poses a problem for the Town. Mr. Shook stated that the utilities that are out there are actually in front of the shed, and he does not believe that the shed is causing any problems at all. Mr. Mandon stated that the one important condition is that, in the case of the town needing that easement for installation of utilities it should be the property owners responsibility to move the shed. Mrs. Milcarek stated that she had submitted a letter that she proposed that they would sign, stating they would take the shed down if need be. Mr. Shilling stated that any motion would have to include that this commitment be signed and notarized and filed. Mrs. Milcarek stated we would have it recorded. Mr. Shilling stated that let the record show that we do have a letter on file from the neighbor to the east in support of the shed. Mrs. Milcarek stated that she also has a letter from the neighbor to the west which she did not have when she turned in the other letter.

Mr. Shilling opened the public hearing with no one to speak for or against the petitioner the public hearing was closed.

Mr. Kelley made a motion to approve the Variance from Developmental Standards with the stipulation that if the Town of Lowell or any utilities needs the easement and the shed is an encumbrance, that the homeowner would bear the responsibility to remove the shed, seconded by Mr. Foust and carried with a roll call vote of all ayes. VARIANCE GRANTED

BZA #15-017 – 17238 Oak Valley Dr., Kevin Lee – Variance from Developmental Standards – Mr. Shilling stated this petition has been postponed until October 8th, 2015.

BZA #15-018 – 1745 E. Commercial Ave., - Slobodan (Danny) & Gina Lakich – Variance from Developmental Standards – to construct an addition with a side setback that is non conforming with what is allowed in the district standards of the B2 zoning as stated in ordinance §155.38(B).

Mr. Lakich 2726 Jarrett Dr., Schererville, IN – stated his name and address for the record. Mr. Lakich stated that he did not have anything to add to the petition for the record. Mr. Shilling stated that it appears from the drawing that the existing building is too far over the line and they are proposing an addition and they are not getting any

closer to the line they are just extending due north. Mr. Mandon stated the setback required in the code is twenty five (25') feet. Discussion followed.

Mr. Shilling opened the public hearing.

Myra Harris 174 W. Commercial Ave., Lowell, asked what the address was of the property that the petitioner was requesting a variance for. Mr. Lakich stated 1745 E. Commercial Ave., Lowell. Mr. Shilling closed the public hearing.

Mr. Kelley asked what the amount of footage the variance was for. Mr. Mandon stated that the variance was for fifteen feet and 4 inches (15'4"). Mr. Mandon stated that the location of the setback to the foundation wall will be nine feet six inches (9'6"), the requirement is twenty five feet. Mr. Mandon stated that what you are giving him is the differential between those two. Mr. Shilling stated you are giving him fifteen. Mr. Kelley stated fifteen feet four inches (15'4") Mr. Foust asked if this is what was allowed in the original building and this is just an extension of that? Mr. Mandon stated that is correct.

Mr. Foust made a motion to grant the variance for a side setback of fifteen feet and four inches (15'4"), seconded by Mr. Kelley and carried by a roll call vote. **VARIANCE GRANTED.**

NEW BUSINESS:

ANNOUNCEMENT:

Attorney Bennett stated that for those of you who have petitions, they will be set over until next month for Findings of Fact, so you cannot take action until the next month when the formal Findings of Facts are read into record.

PUBLIC COMMENT

A gentleman asked about the hearing for 155.075. Recording Secretary, Dianna Cade asked the gentleman to show her the public hearing notice that he was holding. It was determined that he was inquiring about BZA petition #15-017, which was postponed until October 8th, 2015.

Mr. Shilling reiterated the Findings of Facts will be read into record next month.

ADJOURNMENT:

With no further comments or questions Mr. Kelley made a motion to adjourn the meeting at 6:50pm, seconded by Mr. Foust, and carried with a voice vote of all ayes.

David Shilling, President

James Konradi, Secretary

