

Through phone calls and emails it was determined that the Board could not meet until December 11, 2007 at 7 pm.

Mary Repole posted notices and notified Mr. Wigley, Mr. Scott and the Board members.

The meeting was called to order by Mary Repole at 7pm. Present were Mary Repole, Greg Noyes, Martha Leister, Marilyn Mills, Nancy Kratky. It was established that we had a quorum present.

Ms. Repole began by making comments concerning the volatility of the earlier part of this meeting on 11/27/07.

She stated that it would not be allowed again and that the people who were there needed to know that this continuation of the previous meeting was not a public meeting but a ZBA meeting. She apologized to Mr. Wigley for the tone of the 11/27/07 meeting.

She said that in reviewing this case with the MMA attorney she discovered that the ZBA could not address the issues of the homeowners association and their covenants. The board of the homeowners association is responsible to the landowners to pursue any legal means necessary to enforce the covenants.

She also said that she had been notified that more than 10% of the abutters had notified us that they were opposed to the variance so we would now have to have at least four Board members approve it for it to pass, not just a majority.

Discussion opened with Mr. Noyes reading his personal findings and decision concerning the variance. They are attached. He was opposed the granting of a variance because he was aware of the restrictions prior to purchase of the property and nothing has been changed or added since then. Since he has not tried to sell his property it would be impossible to prove that he couldn't get a reasonable return.

Ms. Repole stated that the job of the Board seemed to be to uphold the cities stated setback requirements except in very unusual cases. Although she was sympathetic to the Wigley's it was not their prerogative to make changes unless the criteria in the ZBA ordinances were strictly applied and met. Since there were many places on the property where a house could be built it wasn't an undue hardship. He had purchased the land for below market value and most of the other property owners in the neighborhood had to bring in "fill" to complete their projects making his situation similar to others, not unusual. We were not responsible for increasing his return and we had no proof that he wouldn't get a reasonable return. This case did not meet the requirements needed as far as she could determine.

Marilyn Mills agreed and said that although we might be sympathetic and inclined to want to allow it, the criteria clearly were not met and it should be denied.

Mary Repole asked if there was any more discussion. No one spoke. She asked if someone wanted to call for a vote. Martha Leister moved that the discussion be closed and a vote be taken. Greg Noyes seconded. The vote was unanimous for the variance to be denied.

Mr. Noyes moved that the meeting be closed and it was seconded by Martha Leister. The vote was unanimous.