

AS APPROVED MARCH 11, 2010

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2
3 **MINUTES OF REGULAR MEETING**

5 **CHAMPAIGN COUNTY ZONING BOARD OF APPEALS**

6 1776 E. Washington Street

7 Urbana, IL 61801

8
9 **DATE:** February 25, 2010

PLACE: Lyle Shields Meeting Room
1776 East Washington Street

10
11 **TIME:** 6:30 p.m.

Urbana, IL 61802

13 **MEMBERS PRESENT:** Doug Bluhm, Thomas Courson, Roger Miller, Melvin Schroeder, Eric
14 Thorsland, Paul Palmgren

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16 **MEMBERS ABSENT :** Catherine Capel

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18 **STAFF PRESENT :** Connie Berry, John Hall, J.R. Knight

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20 **OTHERS PRESENT :** Anne Ehrlich, Wendy Bauer, Taya Ross. Margaret Olson

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23 **1. Call to Order**

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25 The meeting was called to order at 6:32 p.m.

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27 **2. Roll Call and Declaration of Quorum**

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29 The roll was called and a quorum declared present with one member absent.

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31 **3. Correspondence**

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33 None

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35 **4. Approval of Minutes (February 1, 2010 and February 11, 2010)**

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37 **Mr. Thorsland moved, seconded by Mr. Palmgren to approve the February 1, 2010 and February 11,**
38 **2010, minutes as submitted. The motion carried by voice vote.**

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40 **5. Continued Public Hearing**

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42 None

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44 **6. New Public Hearings**

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46 **Case 660-V-10 Petitioner: Maria Salinas-Hayes Request to authorize the construction of an addition**
47 **to an existing house with a front yard of 20 feet and a setback of 50 feet in lieu of the required 25 feet**
48 **front yard and 55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family**

1 **Residence Zoning District. Location: Lot 18 in Yankee Ridge A-Z Fourth Subdivision in Section 29 of**
2 **Urbana Township and commonly known as the house at 301 Pond Ridge Lane, Urbana.**

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4 Mr. Hall distributed a Supplemental Memorandum dated February 25, 2010, to the Board for review. He
5 said that the description of the variance is from the revised application. He said that the petitioner submitted
6 a more accurate site plan which has been included as an attachment to the Supplemental Memorandum dated
7 February 25, 2010. He said that the front yard has been measured at 20 feet rather than the 18 feet that was
8 previously reported. He said that based on the new site plan the Supplemental Memorandum dated February
9 25, 2010, has new items of evidence as follows: Item #5.C: On February 25, 2010, Wendy Bauer, the
10 petitioner's attorney submitted a revised site plan that indicated the setback from the center line of Pond
11 Ridge Lane is 50 feet, six inches and the front yard is 20 feet. No other revisions were indicated; and Item
12 #10.D: The proposed front yard of 20 feet is 80% of the required 25 feet for a variance of 20% and the
13 proposed setback of 50 feet, six inches is 92% of the required 55 feet for a variance of 8%. Although the
14 setback variance is less than 10% and could therefore be approved as an Administrative Variance, it is
15 unclear whether setback and front yard variances can be approved together as an Administrative Variance;
16 and Item 11.D: on February 25, 2010, Wendy Bauer, the petitioner's attorney, submitted three form letters
17 of support that indicted the neighbors signing the letter approved of the construction of the proposed
18 addition. The following neighbors signed form letters of support: (1) J.K. and Patricia Floess at 305 East
19 Sherwin Circle, Urbana, are located across Sherwin Drive from the subject property at the corner of Sherwin
20 Drive and Sherwin Circle; and (2) Eugene and Catherine Amberg at 305 Pond Ridge Lane, Urbana, are the
21 next door neighbors to the east of the subject property; and (3) Edwin and Carol Scharlau of 301 East
22 Sherwin Drive, Urbana, are located on Sherwin Drive just north of the lot on the northeast corner of Sherwin
23 Drive and Pond Ridge Lane. Mr. Hall stated that the last attachment to the Supplemental Memorandum
24 dated February 25, 2010, is an aerial photograph indicating the location of the neighbors, who signed the
25 letter of support, in relation to the subject property.

26
27 Mr. Hall stated that need for the variance became apparent when the applicant was beginning construction,
28 in fact some of the construction has begun, and realized the front setback issue and they immediately
29 submitted a variance application.

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31 Mr. Bluhm asked the Board if there were any questions for Mr. Hall and there were none.

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33 Mr. Bluhm informed the audience that this is an Administrative Case and as such the County allows anyone
34 the opportunity to cross examine any witness. He said that at the proper time he will ask for a show of
35 hands for those who would like to cross examine and each person will be called upon. He requested that
36 anyone called to cross examine go to the cross examination microphone to ask any questions. He said that
37 those who desire to cross examine are not required to sign the witness register but are requested to clearly
38 state their name before asking any questions. He noted that no new testimony is to be given during the cross
39 examination. He said that attorneys who have complied with Article 6.5 of the ZBA By-Laws are exempt
40 from cross examination.

41
42 Mr. Bluhm called Ms. Wendy Bauer to testify.

43
44 Ms. Wendy Bauer, attorney for the petitioner, stated that she does not desire to repeat everything that has

1 been included in the background information however she would like to review the critical criteria for
2 granting the variance from her client's perspective. She said that with respect to the special conditions that
3 may be present she would like to mention that this is an oddly shaped corner lot and the house was
4 originally built somewhat askew on the lot. She said that as a corner lot the front yard and the distance to
5 the centerline of the street requirements exist for both the west side of the lot and the north side. She said
6 that with the two street frontages and with the house being somewhat askew it really limits the ability of the
7 homeowner to add a modest addition. She said that the addition that is proposed runs along the existing
8 front line of the house and is the only configuration that makes sense based on a design perspective because
9 it is an extension of the bedroom area of the house. She said that it is important to mention that the lot
10 coverage is still significantly small because less than 17% of the lot area will be covered after the addition.
11 She said that since the R-1 zoning district allows no more than 30% lot coverage and her client is at about
12 one-half of what is required which speaks to the fact that there is still sufficient open space on the lot. She
13 said that the information provided by staff indicates that this is a lot that is smaller than the corner lots which
14 are immediately north and south of the subject property and the size of the lot restricts the building
15 configuration somewhat because of the overall lot area.

16
17 Ms. Bauer stated that with respect to any practical difficulties or hardships related to carrying out the strict
18 letter of the ordinance that relates primarily to the original configuration of the house. She said that since
19 the house is somewhat askew on the lot an extension takes the house closer to the front property line and the
20 centerline of Pond Ridge Lane than the ordinance requires. She said that there is no other land available for
21 purchase because the lot is connected to other developed lots. She said that if the addition were moved back
22 to conform to the setback requirements the addition would be significantly smaller, approximately one-third
23 smaller, than what has been designed and the interior arrangement of the addition would suffer significantly.

24
25 Ms. Bauer stated that with respect as to whether or not the practical difficulties or hardships result from the
26 actions of the applicant it is important to note the reference as stated on the application that the construction
27 had already begun. She said that the hardship is not caused as a result of the construction having begun but
28 the hardship is related to the fact that due to the original placement of the house and the configuration of the
29 lot there was no way to have the modest addition constructed in the proposed location without
30 compromising the zoning setback requirements.

31
32 Ms. Bauer stated that her client's position with respect to whether or not the variance is in harmony with the
33 general purpose and intent of the ordinance is that the addition would enhance the value of the property and
34 at its narrowest point the resulting side yard will still be greater than 23 feet (10 feet is required) and the
35 overall lot coverage will be less than 20% (30% allowed) so that the purposes of securing adequate light and
36 conserving values will be preserved. She said that the intensity of the use of the lot is consistent with the
37 neighborhood and the district and there are no traffic, safety or public health issues impacted.

38
39 Mr. Courson asked Ms. Bauer if a swimming pool with a concrete deck was located behind the home.

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41 Ms. Bauer stated yes.

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43 Mr. Bluhm asked the Board if there were any additional questions for Ms. Bauer and there were none.

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1 Mr. Bluhm asked if staff had any questions for Ms. Bauer and there were none.

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3 Mr. Bluhm called Ms. Taya Ross to testify.

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5 Ms. Ross declined to testify at this time.

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7 Mr. Bluhm called Ms. Anne Ehrlich to testify.

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9 Ms. Ann Ehrlich, who resides at 303 Yankee Ridge Lane, Urbana stated that she received the public notice
10 of tonight's meeting because her residence is located within a certain distance of the subject property. She
11 said that the request for the variance for Case 660-V-10 is caused by the unfamiliarity of the regulations
12 established by the Champaign County Department of Planning and Zoning and it is her view that such
13 unfamiliarity is a very poor reason to grant the requested variance. She asked if the Zoning Board of
14 Appeals habitually grants variances because people fail to learn the construction requirements or will this be
15 the first in the rural area which goes around the City of Urbana and is subject to dual control, city and
16 county. She asked if the general public throughout the area will assume that errors in design or
17 implementation are valid reasons for granting variances. She said that she believes that the requested
18 variance in Case 660-V-10 is a box of trouble just waiting to be opened and it should be denied. She added
19 that the new information that has been provided is very interesting but it does not change her concern about
20 letting people ignore or by-pass regulations. She said that the addition could have been designed differently
21 to accommodate the regulations that are in place.

22

23 Mr. Bluhm asked the Board if there were any questions for Ms. Ehrlich.

24

25 Mr. Miller asked Ms. Ehrlich to indicate on the aerial photograph the location of her residence in relation to
26 the subject property.

27

28 Ms. Ehrlich stated that her residence is located south of the subject property on both the triangular shaped
29 lot and the property east of the triangular shaped lot on Yankee Ridge Lane. She said that her home was
30 originally built by a different owner and when it was discovered that the home was too close to the property
31 line the property line was moved.

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33 Mr. Bluhm asked the Board if there were any additional questions for Ms. Ehrlich and there were none.

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35 Mr. Bluhm asked if staff had any questions for Ms. Ehrlich.

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37 Mr. Hall asked Ms. Ehrlich to repeat her statement regarding the property lines for her property.

38

39 Ms. Ehrlich stated that her home was built before the road was constructed and the current house to the west
40 of her property, located in Yankee Ridge II Subdivision, was not constructed yet. She said that when her
41 home was completed the inspector indicated that the home was too close to the west property line because it
42 was within the 10 feet side yard. She said that because of this fact it was determined that the property line
43 would be changed resulting in the triangular lot and she now receives a tax bill for the triangular lot and the
44 lot which her home is located upon.

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Mr. Bluhm asked the audience if there were any questions for Ms. Ehrlich and there were none.

Ms. Ross requested the opportunity to testify in response to Ms. Ehrlich's testimony.

Mr. Bluhm allowed Ms. Ross the opportunity to testify.

Ms. Taya Ross, designer of the addition for the petitioner, stated that she is working with the homeowner and the contractor in coordinating the entire project. She said that she hired with the homeowner, a contractor and engineer of the CAD drawings for the addition and the changes on the interior of the house. She said that the contractor took his measurements to the County to obtain a building permit and additional measurements were requested from the addition to the centerline of the street and the front property line. She said that once the requested measurements were added to the submitted site plan the permit was approved. She said that after the permit was issued and construction had begun she and the contractor re-measured from the foundation for the addition to the centerline of the street and discovered the five foot error. She said that if a measurement is taken from the front of house perpendicular to the centerline of the street there are no issues but the curve on Pond Ridge Lane creates some shorter distances to the home and the addition. She said that this was not an act that was attempted to sneak past the County nor was it something that was intentionally done.

Mr. Bluhm asked the Board if there were any questions for Ms. Ross and there were none.

Mr. Bluhm asked if staff had any questions for Ms. Ross and there were none.

Mr. Bluhm asked the audience if there were any questions for Ms. Ross and there were none.

Mr. Hall stated that the approved revised site plan indicates the initials D.W. He asked Ms. Ross to indicate the relationship of D.W. to the project.

Ms. Ross stated that D.W. is the general contractor/builder.

Mr. Bluhm asked the audience if anyone desired to sign the witness register at this time to present testimony regarding Case 660-V-10 and there was no one.

Mr. Bluhm closed the witness register.

Mr. Bluhm stated the initial site plan attached to the Preliminary Memorandum dated February 19, 2010, indicates that the Amberg's home, which is located east of the subject property, is only 51 feet from the centerline of the street.

Mr. Hall stated that the plan attached to the Preliminary Memorandum dated February 19, 2010, has some incorrect dimensions because it also indicates that the proposed addition to the subject structure is 48 feet from the centerline of the street.

1 Mr. Bluhm stated that there is testimony included in the Draft Summary of Evidence indicating that other
2 homes in the neighborhood were built closer than the 55 foot setback.
3
4 Mr. Hall stated that the last sentence in Item #12, Page 7 of 10, of the Preliminary Draft Summary of
5 Evidence dated February 19, 2010, indicates the following testimony from the Petitioner: Other properties
6 in the neighborhood appear to also have been built with less than the 55' front setback to the centerline of
7 the street.
8
9 Mr. Bluhm asked the Board if there were any additional questions regarding this case.
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11 Ms. Ehrlich asked Mr. Hall if the measurement is taken from the centerline of the road or the centerline of
12 the pavement.
13
14 Mr. Hall stated that the measurement is taken from the centerline of the pavement.
15
16 Mr. Courson stated that Item #10.F. indicates that the requested variance is not prohibited by the *Zoning*
17 *Ordinance*. He asked if this statement is being used as reason to grant the variance.
18
19 Mr. Hall stated that staff has not suggested that Item #10.F. is a reason to approved the variance. He said
20 that sometimes variances are prohibited by the *Zoning Ordinance* and this is a way for staff to indicate to the
21 Board that this request is not a prohibited variance.
22
23 Mr. Courson asked Mr. Hall if swimming pools are not considered buildable area on the lot.
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25 Mr. Hall stated that swimming pools are not included in the lot coverage.
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27 Mr. Courson asked Mr. Hall to explain what category swimming pools are considered under for zoning
28 purposes.
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30 Mr. Hall stated that swimming pools are considered an accessory structure.
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32 Mr. Courson asked if accessory structures are considered during the computation of lot coverage.
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34 Mr. Hall stated no. He said that the yards for accessory structures in the residential districts are basically
35 five feet but are less than that within home rule municipalities such as City of Champaign and City of
36 Urbana. He said that in some instances in the City of Urbana's ETJ there can actually be less than five feet
37 on one side of the principal structure.
38
39 Mr. Bluhm stated that there are no special conditions recommended by staff therefore the Board will
40 continue to the Finding of Fact.
41
42 Mr. Hall stated that a new Item #5 should be added to the Documents of Record indicating the following:
43 Supplemental Memorandum dated February 25, 2010, with attachments.
44

Finding of Fact for Case 660-V-10:

From the documents of record and the testimony and exhibits received at the public hearing for zoning case 660-V-10 held on February 25, 2010, the Zoning Board of Appeals of Champaign County finds that:

- 1. Special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district.**

Mr. Courson stated that special conditions and circumstances DO exist which are peculiar to the land or structure involved, which are not applicable to other similarly situated land and structures elsewhere in the same district because the roads in the subdivision which are close to the intersections are crooked which makes the right of way difficult to establish.

Mr. Thorsland stated that the subject property is a corner lot with two road frontages. The lot is smaller than typical for the subdivision which reduces the available space for an addition to the dwelling.

Mr. Bluhm stated that the house which was built by previous owners was built in askew to the road.

- 2. Practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction.**

Mr. Miller stated that practical difficulties or hardships created by carrying out the strict letter of the regulations sought to be varied WILL prevent reasonable or otherwise permitted use of the land or structure or construction because construction has already begun and the intent is justified because of the application and approval of the existing building permit.

- 3. The special conditions, circumstances, hardships, or practical difficulties DO NOT result from actions of the applicant.**

Mr. Thorsland stated that the special conditions, circumstances, hardships or practical difficulties DO NOT result from actions of the applicant because the lot was part of the original subdivision and the previous owner selected the current structure's location.

- 4. The requested variance IS in harmony with the general purpose and intent of the Ordinance.**

Mr. Thorsland stated that the requested variance IS in harmony with the general purpose and intent of the Ordinance because there is no increase in traffic or change in use of the land and the property conforms to all other zoning requirements.

Mr. Bluhm stated that the setback could have been considered as an Administrative Variance.

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5. The requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare.

Mr. Courson stated that the requested variance WILL NOT be injurious to the neighborhood or otherwise detrimental to the public health, safety or welfare because it doesn't impact traffic patterns, visibility or access to the property.

Mr. Bluhm stated that the lot coverage is still minimal compared to the requirements of the district.

6. The requested variance IS the minimum variation that will make possible the reasonable use of the land/structure.

Mr. Palmgren stated that the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because the construction has already been started and the house was already set in its current location by the previous owner.

Mr. Thorsland stated that the requested variance is not prohibited by the *Zoning Ordinance*.

Mr. Miller stated that the Petitioner testified that the addition is a natural extension of the front line of the house and the interior bedroom area. No adjacent land is available to purchase to mitigate the situation.

Mr. Courson stated that he is concerned about including text in the findings regarding structures that are already constructed. He said that this is the third or fourth case since he has been on the ZBA that a petitioner has come before the Board requesting a variance for a structure that has already been constructed. He said that including text indicating that a hardship exists because the structure is already in place is setting a bad precedence.

Mr. Bluhm stated that in most cases there has not been a request for a permit but in this case a permit was requested and approved. He said that once the petitioner realized that they were too close to the front property line and the centerline of the road they ceased construction.

Mr. Hall stated that Mr. Courson has made an excellent point.

Mr. Bluhm stated that Mr. Palmgren could amend his statement as follows: the requested variance IS the minimum variation that will make possible the reasonable use of the land/structure because the construction has already been started with an approved Zoning Use Permit and the owners ceased construction when it was realized that the measurement to the front property line and centerline of the road was in error. He said that the house was already set in its current location by the previous owner.

Mr. Palmgren agreed with revision to his statement.

Mr. Hall stated that when the Board is dealing with structures that are already in place it is staff's advice that if the Board could go back in time, which is obviously impossible, when the structure was not there is there justification for that location. He said that if the Board can find justification for that location then that is a

1 reasonable basis for granting the variance but if no justification can be found then the Board cannot grant the
2 variance just because it is already there.

3
4 Mr. Bluhm asked the Board if there were any additional changes or amendments to the Summary of
5 Evidence, Documents of Record or Finding of Fact and there were none.

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7 **Mr. Thorsland moved, seconded by Mr. Courson to adopt the Summary of Evidence, Documents of**
8 **Record and Finding of Fact as amended. The motion carried by voice vote.**

9
10 **Mr. Palmgren moved, seconded by Mr. Schroeder to close the public hearing for Case 660-V-10. The**
11 **motion carried by voice vote.**

12
13 Mr. Bluhm informed Ms. Bauer that one Board member is absent from tonight’s meeting therefore it is at
14 her discretion to either continue Case 660-V-10 until a full Board is present or request that the present Board
15 move forward to the Final Determination. He informed Ms. Bauer that four affirmative votes are required
16 for approval.

17
18 Ms. Bauer requested that the present Board proceed to the final determination.

19
20 **Final Determination for Case 660-V-10:**

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22 **Mr. Thorsland moved, seconded by Mr. Miller that the Champaign County Board of Appeals finds**
23 **that, based upon the application, testimony and other evidence received in this case, that the**
24 **requirements of Section 9.1.9.C. HAVE been met, and pursuant to the authority granted by Section**
25 **9.1.6.B of the Champaign County Zoning Ordinance, the Zoning Board of Appeals of Champaign**
26 **County determines that the variance requested in Case 660-V-10 is hereby GRANTED to the**
27 **petitioner, Maria Salinas-Hayes, to authorize the construction of an addition to an existing house with**
28 **a front yard of 20 feet and a setback of 50 feet, six inches in lieu of the required 25 feet front yard and**
29 **55 feet setback, in regards to Pond Ridge Lane, a minor street in the R-1 Single Family Residence**
30 **Zoning District.**

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32 The roll was called:

33
34 **Courson-yes Miller-yes Palmgren-yes**
35 **Schroeder-yes Thorsland-yes Bluhm-yes**
36 **Capel-absent**

37
38 Mr. Hall informed Ms. Bauer that the variance has been approved therefore the builder can proceed with
39 construction. He said that staff will send out the appropriate paperwork as soon as possible.

40
41 **7. Staff Report**

42
43 Mr. Hall informed the Board that there are three text amendments which staff is seeking direction from the
44 Committee of the Whole at their meeting on Tuesday, March 2, 2010. He said that if the Committee gives

1 staff direction to proceed the amendments will be before the ZBA within one month with hopefully more in
2 April. He said that if no additional zoning cases are received the Board and staff will be busy with text
3 amendments.

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5 **8. Other Business**

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7 None

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9 **9. Audience participation with respect to matters other than cases pending before the Board**

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11 None

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13 **10. Adjournment**

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15 **The meeting adjourned at 7:16 p.m.**

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20 Respectfully submitted

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25 Secretary of Zoning Board of Appeals

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ZBA //

DRAFT SUBJECT TO APPROVAL DRAFT

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