

Town of Milton  
Board of Adjustment Committee  
Minutes  
August 23, 2005

Members Present:

John Collier	Marion Jones	Joanie Martin-Brown	Larry Savage
Town Members:	Eric Evans		

*John Collier opened the meeting. Mr. Collier introduced the application from Colby Cox. Mr. Cox is requesting a variance from the Municipal Code of the Town of Milton, Article 7, Section 7.4 (minimum side yard set back for accessory buildings). The applicant is requesting a reduction in the minimum side yard set back from 6 feet to 4 feet. The property is located at 424 Chestnut Street further identified by Sussex County Tax Map and Parcel number 2-35-20.07-31.00.*

Colby Cox introduced himself and proceeded to explain his request. He stated he purchased the historic home two years ago with the plans to renovate it. The shed is a two-part structure that is 6 inches from the side yard and 20 feet from the rear yard originally. The front section, which was not historical, was overridden with termites, carpenter ants and bees and he felt it was best to tear it down. The original structure in the back is historic. He wanted to move the building further away from the house to give himself a yard. He moved the garage up 3 ½ feet further from the side yard then it was but because it was grand fathered in originally, it no longer was in compliance with the current ordinances of 6 feet. If he does not get the variance, he has no problem tearing down the garage or moving it. The lot is narrow and the garage is basically sitting in the middle of the yard.

John Collier asked for the dimensions of the building. Mr. Cox stated it was 12 feet wide by 15 feet long.

Mr. Cox apologized for moving the building without going through these proceedings. He was under the impression since it was a dirt floor building it was not a permanent structure and did not fall under the guidelines until Eric Evans notified him.

Ms. Jones asked if a demolition permit was issued for the front structure? Mr. Evans replied “No”. Mr. Collier asked if it was because it was a modern structure. Mr. Evans replied “No, no permit was issued because he identified the violation after the fact.”

Mr. Collier stated that in the photographs he noticed that the siding is not finished on the building, it was noted that a stop work order was issued to cease any work. Mr. Collier asked Mr. Cox if he proceeded even after he received the stop work order. Mr. Cox stated that was correct, the stop work order was for several things, he continued work since there were still items in the shed and siding had already been removed from his home and it continued to rain.

Mr. Collier asked the board if anyone had any further questions.

Ms. Jones asked Mr. Cox what made him come up with the 4 foot limit when he moved the building the first time. Mr. Cox stated he was just flying by the seat of his pants and thought he was moving the building to a spot that would fit.

Mrs. Martin-Brown asked how many of the board members have reviewed the site? Mr. Collier, Mr. Savage and Ms. Jones have visited the site.

Mrs. Martin-Brown stated she had visited the site before the meeting and had spoken to Mr. Cox in great length. She wanted to know if the outdoor BBQ structure was put in before or after he moved the shed.

Mr. Cox responded that the BBQ was put in after he moved the shed.

Mrs. Martin-Brown stated she was perplexed since Mr. Cox was a well known developer in Milton, why he did not investigate what the siding requirements might be for the building apart from the demolition

because he is certainly in the business. Mr. Cox stated that he was looking at the situation logically and that his logic told him that he was moving the garage further away from the side yard then it was and he fully understands that it was not in compliance and if the board does not grant the variance then he will not hold that against them and he understands their position. However, his position was that the house was falling apart when he bought it and he has been gradually been fixing it up. Mr. Cox stated he did not do the research. He is asking for mercy on the situation and stated he was sorry. Mrs. Martin-Brown asked Mr. Cox if the variance was denied what would be his recourse. Mr. Cox responded he was a non-confrontational person and would probably move the shed. When asked if that was still possible, Mr. Cox stated yes, but he would have to cut down part of his BBQ.

Mrs. Jones made a recommendation that the variance be denied on the grounds that Mr. Cox is in the business and the fact that it wouldn't have taken much for him to check into the rules. Ms. Jones stated it would please her to see Mr. Cox follow the rules. Motion seconded by Mr. Savage. There were no questions to the motion. Chairman Collier allowed Mr. Cox to address the board. He appreciated what the board was saying and he did not want the board to get the impression that he did not care about the rules, he always has and always will do what is good for the town. Mr. Cox considers this a slap in the face, he will do what ever the board requires him to do but it was not moved because he doesn't care about the rules.

Chairman Collier asked for any other questions. Called members on the vote. All members in favor to deny the motion. Chairman Collier wanted to publicly state that it was not the intention of anyone on the board to punish him per say. The rules and regulations were public record and available to anyone. There was a break down and it appears to be on Mr. Cox's part.

*Mr. Collier introduced the application from John and Melissa Vessels. The Vessels' are requesting a variance from the Municipal Code of the Town of Milton, Article 5, Section 5.1 Table 1 (Density Control Table) minimum side yard set back R-1 zoning. The applicant is requesting a reduction in the minimum side yard set back from 10 feet to 7 feet. The property is located at 315 Mill Street further identified by Sussex County Tax Map and Parcel number 2-35-20.08-37.00*

Mr. Collier read correspondence from Mr. Peterson of 317 Mill Street. Mr. Peterson stated his is in favor of granting the variance. Correspondence from Mr. Burton on Broad Street also stated he does not have any problems with granting the variance. Mr. Vessels addressed the board and stated that they would like to add on a room to their house for much needed space. They are asking for a variance so they can put a front door in the new room. The current space is not usable for living space and does not have much value. The ceiling is very low and the foundation is not up to code.

Ms. Martin-Brown asked if the summer kitchen would be demolished. Mr. Vessels stated he would like to move it back.

Mr. Collier stated that the project looks like it would increase the house by 264 square feet and according to the ordinances, if you are not increasing by more then 15%, then a variance is not needed.

Mr. Vessels stated he is coming before the board just in case, so that nothing is missed.

Mr. Collier asked if the board had any question.

There was question as to whether a variance was even needed. Mr. Collier stated the gray area was if Mr. Vessels removes the summer kitchen, then he has to put something back in its place. Mr. Vessels stated he is going on a square footage basis.

Mr. Collier stated that he is making a recommendation to approve based on the support of the neighbors and the fact that it stays within the existing, non-conforming line. Mrs. Martin-Brown seconded the motion. All those in favor. All board members in favor to grant the variance.

Mr. Evans wanted to clarify that Mr. Vessels has to take every precaution to move the summer kitchen and not demolish it.

## Historic Preservation Board

*The applicant, Colby Cox, is requesting an exterior building permit for the property located at 424 Chestnut Street further identified by Sussex County Tax Map and Parcel number 2-35-20.07-31.00 which is located in the Historic Overlay District.*

Colby Cox explained he wants to place traditional colonial style siding on the exterior of the house. The storm windows will be replaced on the front porch with a similar style window with six lights instead of the four or two light style. The current chimney is concrete block and he would like to put a brick fascia over the block. He would like to install a 4 foot white wooden picket fence. Mr. Collier stated once the fence reaches the front set back, it must drop to 42 inches high. Mr. Cox did not plan on extending the fence that far. There would also be a 6-foot privacy fence installed. The fence will be brick pillars capped with limestone and wooden panels with a lattice top between the pillars.

Mr. Collier stated normally the applicant shows samples of what they would like to do. If the application is granted, the board may ask Mr. Cox to sign off that he will stick to using the materials described.

Mr. Collier asked the board if they had any more questions for the applicant. No questions. Mr. Collier had no problem with what was described. He asked Eric to make notes on the plot plan as to what work Mr. Cox stated he will do and have him sign off on the notes. Mr. Cox agreed.

Mr. Collier recommended approving the application. Ms. Jones, Mr. Savage and Mrs. Martin-Brown concurred.

*The applicants John and Michele Vessels are requesting an exterior building permit for the property located at 315 Mill Street further identified by Sussex County Tax Map and Parcel number 2-35-20.08-37.00 which is located in the Historic Overlay District.*

Mr. Vessels stated he would like to replace the door, windows and siding. He provided pictures to the board. Mr. Vessels stated he had not selected a style of door yet. Mr. Collier stated the board was not provided with a hard materials list making it difficult to approve the request. Eric provided a picture with the storm door covering the main door. Mr. Vessels stated he would be replacing the door with something that matches what is on the side of the house, similar in character. The chimney and foundation will be brick faced. Mrs. Martin-Brown asked Chairman Collier if Mr. Vessels could note on the plans the exact changes to be made and sign off what is promised. Mr. Collier stated that could be done. Mr. Vessels would also like to install a transom on the front door. Mr. Collier asked the board if they had any more questions. There were no questions.

Mrs. Martin-Brown recommended approving the plans presented as amended and discussed with the additional notations. Mr. Jones and Ms. Jones concurred. Chairman Collier asked Mr. Vessels to remain and sign off on his intent and what was approved.

*The applicant Glenn Howard is requesting an exterior building permit and demolition permit for an accessory building for the property located at 402 Union Street further identified by Sussex County Tax Map and Parcel number 2-35-20.07-108.00 which is located in the Historic Overlay District.*

Mr. Howard stated he would like to restore the side porch to the original condition that is underneath of it and remove the siding and repair with vinyl. He would also like to remove part of the garage. There will not be any window replacement and the roofing materials will not change. Ms. Jones wanted to clarify that the exterior of the porch will be removed. Mr. Collier stated there were no sample materials provided for the replacement part of the project. Mr. Evans stated he did not have the applicant provide the samples because he assumed it was to remove and open up the porch. The next-door neighbor addressed the board and would like to offer her support for the applicant's request. Mrs. Martin-Brown

asked if there was merit in making the request into three separate requests. Chairman Collier stated he would like to treat each request individually.

Mr. Collier recommended approving the applicant's request to restore the side porch to its original condition. Mr. Howard will be able to remove the asbestos siding but he must come back before the board for approval of the replacement material and provide samples to the board. Mr. Collier also recommended partial removal of the garage. Mr. Evans wanted to clarify that the porch will remain open with no screen. Mr. Howard said that was correct. Mrs. Martin-Brown wanted clarification on what the garage would look like after partial demolition with some type of drawing. Mr. Howard stated it would be two separate buildings but he was ok with the board denying the request and he will come back later. Mr. Collier suggested the request be withdrawn. Mr. Howard withdrew the request.

Mr. Collier restated his recommendation to proceed with the restoration of the side porch to its original condition. To allow the removal of the asbestos siding and the applicant must return before the board with samples of the replacement materials before installation. The request for partial demolition of the garage was withdrawn. Mrs. Martin-Brown, Mr. Savage and Ms. Jones concurred.

The Historic Preservation Committee was then closed.

---

Marion Jones

---

Joan Martin-Brown

---

Larry Savage

---

John Collier