

**TOWN OF CAPE VINCENT
ZONING BOARD OF APPEALS**

July 2, 2012

The regular meeting of the Town of Cape Vincent Zoning Board of Appeals was held on July 2, 2012, at Recreation Park. The meeting conducted by the Board Chair, Dennis Faulknham, opened at 6:02 p.m. with the Pledge of Allegiance.

Board Members Present: Dennis Faulknham, Chair
Hester Chase
Edward Hludzenski
Joseph Martin
Keith Walker
David Docteur, Alternate
Michael Saliby, Alternate

Others: Edward Bender, Zoning Enforcement Officer
Kathleen Pierce, Board Secretary

There were 15 visitors.

Privilege of the Floor:

Robert Brown, Ponds Shore Drive, informed the Board and visitors that the proposed amendment to the Town of Cape Vincent Zoning Law has been sent to the Supervisor and Town Board for their review. A public hearing has been scheduled for July 21, 2012, on the proposed amendment.

Approval of Minutes:

Board members reviewed the minutes of the meeting of June 4, 2012, and were accepted as written.

Old Business:

Mr. Faulknham shared that he had received two comments concerning the proposed By-Laws. A change will be made under the secretary's duties and a change in the wording regarding the role of the alternates. A corrected copy will be sent to board members and they will be asked to officially accept the By-Laws at their August meeting.

Public Hearings:

Mr. Faulknham opened the public hearing at 6:07 p.m. concerning the application of Richard Macsherry for a variance of local Zoning Law, Article III, Section 300, paragraph D., Lot Dimensions, for a deck with stairs 10'x10' to the shoreline of his property at 33071 CO RT 6, Cape Vincent. Board members reviewed the application and drawings as submitted by Mr. Macsherry. Mr. Faulknham asked if there was any public comment. With no comments from the public, Mr. Faulknham declared the public hearing closed at 6:10 p.m. Chair Faulknham asked for a motion to approve the variance. Mr. Walker made the motion and seconded by Mr. Hludzenski; all voting aye.

At 6:10 p.m. Chair Faulknham opened the second public hearing concerning the application of Mark VanDeViver who is requesting a variance of local Zoning Law, Article III, Section 305, paragraph D., Lot Dimensions, to build a 20'x20' free-standing deck at 34287 Downing Lane, Cape Vincent. Board members reviewed and discussed the application. There was a concern and discussion among board members regarding the height of the deck and railing. Mr. Faulknham asked for comments regarding the application from the public. There were none and the hearing was declared closed at 6:16 p.m. Mr. Walker made a motion to grant the variance with the stipulation that the railing will be no higher than four feet (4') above the existing walkway. Mr. Martin seconded the motion and carried; all voting aye.

The public hearing for the application of Laurie Nicoson opened at 6:18 p.m. Ms. Nicoson is requesting a property line adjustment at 34121 Tripoli Shores Road, Cape Vincent, Tax Map #s 40.06-1-3, 40.06-1-4, and 40.06-1-5. Board members reviewed and discussed at length the application and drawings submitted for the property line adjustment creating two parcels with a 40' right-of-way from the current three contiguous parcels of property she owns. Mr. Faulknham asked for public comments. Mr. Stephen Gebo, attorney representing Laura Teuchler a neighboring property owner, spoke against granting the variance. Mr. Gebo expressed concern, if a variance was granted, that the Board would violate a number of ordinances in the Town Zoning Law (Sections 305, River Front District; 600, Intent; and 605, Non-Conforming Uses) and felt it would negatively affect his client's property value. He also expressed concern that the variance was substantial and would adversely affect the environment. He indicated that the difficulty was self-created and that there was no justification for a variance and asked that the Board not grant a variance. Board members discussed at length the shift in lot lines and its impact on adjoining properties. They reviewed the drawings submitted and indicated that a number of the parcels in the area are non-conforming. Ms. Joanne Hall, adjoining property owner on the east side, stated she was in agreement with Mr. Gebo and Ms. Teuchtler's comments and is opposed to granting a variance. Chair Faulknham asked if board members had enough information to make a decision and if their questions were answered sufficiently to vote on the request for a variance. If not, the board could table the application for a month and continue the public hearing at the August meeting. Several board members asked to delay their decision for a month. The Chair asked for a motion to table the application and continue the public hearing at the August meeting. Ms. Chase made the motion; Mr. Hludzinski seconded. The vote passed 3 to 2. (Chase, Hludzinski, Faulknham – yes.)

New Business:

Ed Bender, Zoning Enforcement Officer, informed board members that they would be receiving an application for a variance from Mr. and Mrs. John Kirsch II. The board will review the application for a variance at their next meeting.

Items for Information:

- Mr. Faulknham shared that there would be a new format for Resolutions considered by the board for a variance. The Resolution will include all the relevant information about the property and the five points the board takes into consideration when reviewing a request for a variance.
- He asked board members to look at an alternate date in September for the board to meet as the first Monday in September is a holiday. The meeting date will be set at the August meeting.
- He informed board members that if the proposed amendment to the Town's Zoning Law is approved, they will each receive a hard copy for their use and reference.

Communications: No communications were received.

Next Meeting: Due to vacation conflicts, the next ZBA meeting will be August 13, 2012, at 6 p.m. at Recreation Park. The Chair asked the secretary to put a notice in the paper indicating the change in date.

Adjournment: 7 p.m., with no other business, Mr. Faulknham asked for a motion to adjourn the meeting. Mr. Martin made the motion. Mr. Hludzinski seconded and carried; all voting aye.

Respectfully submitted,

Kathleen M. Pierce
ZBA Secretary