

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

**May 4, 2015**

The regular meeting of the Town of Cape Vincent Zoning Board of Appeals was held on May 4, 2015, at Recreation Park. The meeting conducted by the Board Chair, Dennis Faulknham, opened at 6 p.m. with the Pledge of Allegiance.

Board Members Present: Dennis Faulknham, Chair  
Hester Chase  
David Docteur  
Edward Hludzenski  
Joseph Martin  
Michael Saliby, Alternate, Absent  
Geoffrey Culkin, Alternate

Other: James Millington, ZEO – Absent

There were eight visitors.

**Privilege of the Floor:**

**Darrell Burton** said he was not able to view April's ZBA meeting on the web site and was wondering if the video had been posted. Mr. Weed, videographer, said he would look into it for Mr. Burton.

**Joe Martin** inquired if the storage building on Stephanie White's property in Mud Bay had been moved.

**Approval of Minutes:**

The Board reviewed the minutes of the April 6, 2015, meeting and approved them as written.

**Old Business:**

**Gerald Aubertine – Application for a Variance-** Robert Busler of LaFave, White & McGivern, L.S., P.C., was present representing Mr. Aubertine. The Chair reviewed survey maps with the proposed lot-line adjustment and minor subdivision of the property. He also shared that the storage building on Mr. Aubertine's property was built approximately five feet from the property line. No variance was requested or granted on the placement of the storage building when it was built several years ago. Mr. Aubertine is buying a portion (0.38-acre) of Tax parcel #30.00-1-5 (Mason property). After acquiring the parcel, Mr. Aubertine will request from the Planning Board a lot-line adjustment and then would like to subdivide Tax parcel #29.16-1-2.4 into two lots. The first lot will be 1.1-acres and the second a 0.67-acre lot. The second lot would be a non-conforming lot size per the Town Zoning Law, Section 3.3, River Front District, paragraph 2. "Lot Requirements." The Chair opened the public hearing on the application at 6:08 p.m. and asked for any comments from the audience.

**Paul Mason**, neighboring property owner, expressed a concern on behalf of neighboring property owners, Joseph and William Oliver. There concern is over the existing water line that is on the .38 acre parcel to be purchased and future development on the parcel and how it may affect the water line.

**Darrell Burton**, told the board that he strongly supports the Zoning Law's lot size requirements in the River Front District and is concerned that the requested variance would create a lot that is less than an acre.

**Alan Wood**, suggested that the subdivision could have two lots of .9 acre each.

The Chair shared that the variance application was for a .67-acre lot and a 1.1-acre lot and that is what the ZBA will act on.

At 6:16 p.m., with no further comments from the audience, the Chair closed the public hearing. The Chair referred board members to Section 3.3., River Front District, in the Zoning Law and read paragraph 1. Intent. He shared that he was in favor of one-acre lots for residential as per the Zoning Law and asked board members to share any observations and/or remarks on the application. Mr. Martin agreed with Mr. Faulkham on maintaining one-acre lots and reviewed and discussed each of the five criteria considerations when granting an area variance:

- a. an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties;
- b. the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
- c. the requested variance is substantial;
- d. the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood, and
- e. the alleged difficulty was self-created.

Ms. Chase stated that perhaps two lots could be created--one being slightly smaller and the other slightly larger and shared that she was not adverse to the proposed application for a variance. Board members discussed and reviewed the impact of creating a non-conforming lot (.67-acre) and came to a consensus that they were not in favor of granting a variance to create a non-conforming lot. The Chair asked for a motion on the variance. Mr. Martin made a motion to deny the variance; seconded by Mr. Hludzinski and carried all voting yes to deny the variance (5-0).

**Mr. Robert Busler**, representing Mr. Aubertine, thanked the board for their time and fully understands the decision and will pass the decision on to Mr. Aubertine.

**Mr. Cyril Cullen**, Town Planning Board Member, asked if the ZBA knew if there would be a new configuration proposed for a subdivision on the above-referenced matter.

**Item for Discussion:**

The Chair continued the discussion on distribution of ZBA minutes to the other boards in the Town and to the Highway Supervisor. Board members each had input on the topic and whether or not they wanted to receive each month other boards' minutes. It was noted that the Town Board sends a liaison to each board's meetings who in turn reports on the meeting to the Town Board. Minutes are available on the Town's web site, from the Town Clerk, and a video of each meeting is on the Internet shortly after a meeting takes place. A majority of the board members said they can easily request minutes if they wanted them and felt that they were openly shared through the above-referenced channels.

**Next Meeting:** The ZBA will meet on June 1, 2015, at 6 p.m. at Recreation Park.

**Adjournment:** At 6:38 p.m., with no further business, Mr. Docteur made a motion to adjourn, seconded by Mr. Martin; all voting aye.

Respectfully submitted,

Kathleen M. Pierce  
ZBA Secretary