

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

November 7, 2016

The regular meeting of the Town of Cape Vincent Zoning Board of Appeals was held on November 7, 2016, at Recreation Park. The Chair opened the meeting at 6 p.m. with the Pledge of Allegiance.

Board Members Present: Hester Chase
Dennis Faulknham, Chair
Edward Hludzinski
Joseph Martin
Michael Saliby
Geoffrey Culkin, Alternate
Stephen Docteur, Alternate

Other: James Millington, ZEO

There were 22 visitors.

Privilege of the Floor:

Michelle Oswald, village resident, - complimented Mr. Hludzinski on chairing the meeting last month.

Approval of Minutes:

The Board reviewed and approved the minutes of the October 3, 2016, meeting as written.

Vice Chair Hludzinski took over this portion of the meeting (Old Business) as Mr. Faulknham was not present at the last meeting. Mr. Docteur came to the table to take Mr. Faulknham's seat for this portion of the meeting.

Mr. Hludzinski shared that he felt that the board, especially at last month's meeting, had digressed away from their role as an appellate board. He reminded board members that the ZBA does not enforce the law. He stated that enforcement was the responsibility of the Zoning Enforcement Officer, and the Planning Board is charged with certain powers and duties as outlined in the Zoning Law that are specific to the Planning Board.

Old Business:

James Stringer – Application for an Area Variance

At 6:04 p.m. the Vice Chair opened the public hearing on the revised application for James Stringer. Mr. Stringer requested an area variance to place a 28'x66' manufactured modular home and garage in the Lake Front District at 2665 Humphrey Road, Cape Vincent, Tax Map #59.08-1-67. He asked if there were any comments from the public.

David Bailey, on behalf of the O'Dells, neighboring property owners, read a letter asking that the variance be denied.

With no further comments, the Vice Chair closed the hearing at 6:06 p.m. He asked the board for their input as they reviewed the five criteria for 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.

Board members discussed at length the size of the requested variance and other proposed options for placement of the home and attached garage. After their discussion, the Vice Chair asked for a motion

on the variance. Mr. Martin made a motion that the home be placed 65' from the center line, a one-foot side setback on the east side, and a five-foot side setback on the west side be approved. Mr. Docteur seconded the motion; and carried 4-1 (Hludzinski, Docteur, Saliby, Martin- yes; Chase - no).

Christopher Morley – Application for an Area Variance

The Vice Chair opened the public hearing at 6:32 p.m. on the application for a 10' front variance to build a 26'x30' garage at 10341 CO RT 9, Town of Cape Vincent, Tax Map #30.18-1-9 as submitted by Christopher Morley. The Vice Chair asked for any comments from the public. There were none and the public hearing was closed at 6:33 p.m. Mr. Martin read the criteria to consider for 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.

Board members and the applicant discussed at length the size of the requested variance, revised drawings of the garage, measurements and placement of the garage, and a concern that stakes were not in the ground when all board members visited the site. Mr. Martin made a motion to table the variance until the proposed placement of the garage can be staked out and board members can revisit the site. Mr. Docteur seconded and carried; all voting aye (5-0).

David Brugno – Application for Area Variance

The public hearing on the application submitted by Mr. Brugno for a 5' or less side setback to build a 16'x38' storage shed with covered deck at 27802 Lisa Drive, Tax Map #59.06-1-16.6 in the Town was opened at 6:53 p.m. There were no comments from the public and the hearing was closed at 6:53 p.m. Board members reviewed the application and updated drawings and asked Mr. Brugno questions concerning his project while considering the criteria for 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.

Mr. Martin made a motion to approve a 2' or less front corner setback and 5' or less rear corner setback variance. Mr. Saliby seconded the motion. The variance was approved 3-2 (Saliby, Martin, Hludzinski-yes; Chase, Docteur-abstain*)

Chase and Docteur abstained from voting as they did not visit the site.

At this point in the meeting (7 p.m.), the Zoning Enforcement Officer left the meeting.

Mr. Martin left the table at this time and Mr. Culkin took his seat at the table.

United Wind – Applications for Area Variances and Special Use Permits

The decision was made by the board that the three applications for the area variance (Giaquinto, Radley, Lawrence) would be heard individually.

Frank Giaquinto – Area Variance

The Vice Chair asked for a motion to take up the application for Frank Giaquinto for an area variance that was previously tabled. Ms. Chase made the motion and seconded by Mr. Docteur; all voting aye.

The board discussed the requested variance of a setback of 2 ½ times the height of the tower rather than six times. Sections of the Law on Tall Structures were discussed, i.e., flying balloons. The Vice Chair asked for a motion on the area variance and read for the board to consider for all three applications the criteria for 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.

Mr. Docteur made a motion to approve the setback variance of 2 ½ times the height of the tower. Mr. Saliby seconded and carried 4-1 (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no).

Frank Giaquinto – Special Use Permit

The Vice Chair asked for a motion to bring back to the table the Special Use Permit application for Frank Giaquinto. Mr. Saliby made the motion and seconded by Mr. Hludzenski and carried 4-1 (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no). The Vice Chair polled board members for their input. The Vice Chair asked for a motion to approve the Special Use Permit for Mr. Giaquinto subject to Site Plan Review by the Planning Board. Mr. Culkin made the motion and seconded by Mr. Saliby and carried. 4-1 (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no)

Richard Lawrence – Area Variance

The Vice Chair asked for a motion to take up the application for Richard Lawrence for an area variance that was previously tabled. Mr. Culkin made the motion and seconded by Mr. Saliby and carried 4-1. (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no).

The Vice Chair asked if there was any discussion on the variance of a setback of 2 ½ times the height of the tower. The Vice Chair asked for a motion on the variance. Mr. Culkin made a motion to approve the setback variance at 2 ½ times the height of the tower. Mr. Saliby seconded and carried 4-1 (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no)

Richard Lawrence – Special Use Permit

The Vice Chair asked for a motion to bring back to the table the Special Use Permit application for Richard Lawrence. Mr. Culkin made the motion and seconded by Mr. Saliby and carried 5-0. The Vice Chair polled board members for any comments. The Vice Chair asked for a motion to approve the Special Use Permit for Mr. Lawrence subject to Site Plan Review by the Planning Board. Mr. Culkin made the motion and seconded by Mr. Saliby and carried. 4-1 (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no)

Jarrold Radley – Area Variance

The Vice Chair asked for a motion to take up the application for Jarrod Radley for an area variance that was previously tabled. Mr. Docteur made the motion and seconded by Mr. Saliby and carried 4-1. (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no) Board members discussed that this application was more sensitive than the other two applications as it is located on State Route 12E corridor which is designated as a Scenic By-Way by the federal government and the location of the tower may have a visual impact on the land side of Route 12E. A motion was made by Mr. Saliby to grant the area variance of a setback of 2 ½ times the height of the tower. Mr. Docteur seconded. The variance was denied 3-2 (Culkin, Hludzenski, Chase- no; Docteur, Saliby- yes)

Jarrold Radley – Special Use Permit

Mr. Culkin made a motion to bring back to the table the Special Use Permit for Mr. Radley. Mr. Saliby seconded and carried 4-1. (Saliby, Hludzenski, Culkin, Docteur- yes; Chase-no)

The Vice Chair noted that Mr. Radley's area variance was denied; and therefore, the Special Use Permit could not go forward. He asked for a motion to deny the Special Use Permit. Mr. Culkin made the motion and seconded by Mr. Saliby and carried; all voting aye to deny. 5-0

Interpretation of Farms to Residences – Public Hearing

The public hearing was opened at 7:32 p.m. by the Vice Chair. There were no comments from the public and the hearing was closed at 7:32 p.m. Ms. Chase felt the statement was too broad. Mr. Hludzinski shared that he stated he wanted to make the applications residences. Ms. Chase made a motion to rescind the interpretation of farms to residences. Mr. Saliby seconded and carried; all voting aye (5-0).

Ms. Chase gave copies to board members of a similar letter that she had read at last month's meeting and asked that it be entered into the minutes.

"Dear Fellow ZBA Members,

The following points were brought up last month to help make sure we have processes that treat people fairly and people know when they are being treated fairly.

- 1. Deputy ZEO David Rowe and former Town Board and Village ZBA Chairman Michelle Oswald both shared the form where the area variance is actually filled out during the meeting and the Resolution is written during the meeting and then vote on what is written.*
- 2. If variance application is turned in by the second Thursday of the month to the ZEO the application will be heard at a public hearing.*
- 3. Read and follow bylaws as to scope of the chairman's duties.*
- 4. Open the mail together under "correspondence."*
- 5. Ask the Town Board to ask for town emails so we do not use private emails for town business.*
- 6. Ask the Town Board to ask the Town attorney if "work session" and "budget meetings" require minutes.*

There needs to be better process and structure in our local government."

Sincerely,

Hester Chase

At this point, Mr. Faulknham came back to the table and thanked Mr. Hludzinski for chairing the meeting in his absence.

New Business:

John Corso – Application for an Area Variance

Mr. Corso presented an application for an area variance of side setbacks—9' and 6' to build a home at 5524 Merlin Drive, Town of Cape Vincent, Tax Map #40.31-1-6 in the River Front District. Board members reviewed the application and drawings with Mr. Corso. The Chair accepted the paperwork and scheduled a public hearing for 6 p.m. on December 5, 2016.

Next Meeting: The ZBA will meet on Monday, December 5, 2016, at 6 p.m. at Recreation Park.

Adjournment: At 8:03 p.m., with no further business, the Chair asked for a motion to adjourn. Mr. Hludzinski made the motion, seconded by Mr. Martin; all voted aye.

Respectfully submitted,

Kathleen M. Pierce
ZBA Secretary