

The regular meeting of the Town of Cape Vincent Zoning Board of Appeals was held on, Monday, May 6, 2019, at Recreation Park. The Chair opened the meeting at 6 p.m. with the Pledge of Allegiance.

**Board Members Present:** Ed Hludzinski, Chair                      Geoffrey Culkin  
   Steve Docteur    Dennis Faulknham  
   Craig Stevenson, Alternate                      Michael Nebbia, Alternate

**Board Members Excused:** Michael Saliby

**Other:** Cody Higgins, ZEO

There were 10 visitors.

**Privilege of the Floor:** none

**Approval of Minutes:**

The board reviewed and approved the minutes as written of the April 1, 2019 meeting.

**Old Business:**

**Shailesh Patel Public Hearing- Area Variance: 32426 NYS Route 12E, Cape Vincent, NY 13618 (Tax Map # 39.20-1-12.21)**

The Chair opened the public hearing at 6:02 pm. Mr. Michael MacLean voiced that he had no objections. With no other comments, the hearing was closed at 6:03 pm. The Chair and the Board reviewed Mr. Patel's request for a 7 ft. side setback in order to replace the existing trailer with a new modular home.

Board members reviewed and discussed each of the five criteria when considering an area variance and voted as follows:

1. An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties: 0-yes, 5-no
2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance: 0-yes, 5-no.
3. The requested variance is substantial: 3-yes, 2-no.
4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood: 0-yes, 5-no.
5. The alleged difficulty was self-created: 5-yes, 0-no.

After taking into consideration the five factors, the Chair asked for a motion on the variance. Mr. Culkin made a motion that the benefit to the applicant does outweigh the detriment to the neighborhood or community and the requested variance should be approved with the following contingencies: that Mr. Patel adheres to the 15 ft. setback on the east side, moves the home back to be in alignment with his neighbors, and bury the electrical services if possible. Mr. Stevenson seconded and the motion carried; all voting aye (5-0).

**New Business:**

**James Rhodes Area Variance Application: 32126 State Route 12E, Cape Vincent, NY 13618 (Tax Map #39.20-1-1)**

Board members were given a copy of an application for an area variance submitted by Mr. Rhodes. Mr. Rhodes is requesting a 21 ft. front setback and 15 ft. rear setback in order to install a gazebo on the water side of the property. The Chair stated that it is the duty of the Zoning Board of Appeals to grant the minimum variance necessary. Mrs. Rhodes, who was speaking on behalf of Mr. Rhodes, stated she received an inheritance that was allocated for either a dock or a gazebo and she would like a screened gazebo. Mr. Faulknham stated that historically there are no covered gazebos along the river. This is discussed in the long range goals of the Town Comprehensive Plan and how covered gazebos do not fit with the efforts of open space for viewing the river. Mr. Faulknham also stated of the ZBA's resistance of anything similar that has been proposed in the past. for Mrs. Rhodes made mention of several existing structures along the river. The Chair stated that when instituting a zoning law, the town cannot make a property owner tear down a pre-existing building or structure. The Board accepted the application and a Public Hearing has been set for June 3, 2019 at 6 pm at Recreation Park in Cape Vincent, NY.

**Eric and Stacy Clum Area Variance Application: 35271 Old Co. Rt. 7, Cape Vincent, NY 13618 (Tax Map# 29.19-1-33)**

The Board did not act on this application as it will be revised and resubmitted.

**Duane Farney Area Variance Application: 31975 County Route 6, Cape Vincent, NY 13618 (Tax Map # 49.06-1-37)**

Board members were given a copy for an area variance submitted by Mr. Farney. Mr. Farney is requesting a 20 ft. rear setback from the lake in order to construct a recreational use shelter for fishing. The Board reviewed and discussed the application. The Chair stated that if Mr. Farney moves the shelter back another 10 feet or so, he would be in compliance and not need a variance. Mr. Farney agreed to move the shelter back and meet the zoning code. He is entitled to a refund of his application fee.

**Grievance:** The Chair stated that he has filed a grievance with the Town of Cape for Mr. Aubertine's gazebo located on NYS Route 12E.

**Next Meeting:** The ZBA will meet on Monday, June 3, 2019 at 6 p.m. at Recreation Park.

**Meeting Adjourned:** At 6:49 p.m., with no further business, the Chair adjourned the meeting.

Respectfully submitted,

Sharon A. Turner  
ZBA Secretary