The regular meeting of the Town of Cape Vincent Zoning Board of Appeals was held on Monday, August 28, 2023, due to Labor Day, at Recreation Park. The Chair opened the meeting at 6:00 p.m. with the Pledge of Allegiance.

Board Members Present: Ed Hludzenski, Chair Craig Stevenson, Vice Chair

Darrel Aubertine Michael Nebbia

Steve Docteur

Board Members Absent: Bill DeSouza, Alternate

Other: Cody Higgins, ZEO - present

There were 12 visitors.

Privilege of the Floor: None

Approval of Minutes:

Board members approved the minutes of the August 7, 2023 meeting.

Old Business: Lee Kistler Area Variance Application Public Hearing at 36921 Rock Beach Road W., Clayton, NY 13624 (Tax Map #: 30.09-1-41)

The Chair reviewed with the guests before opening the Public Hearing that in order to speak during the hearing, one must have standing, an immediate neighbor, and for speakers to not repeat what has already been said by another speaker. The Chair opened the Public Hearing at 6:02 pm. Emily Guethera, who has standing, stated that if Mr. Kistler is granted his variance, it would prevent her from using part of her lawn. She would have to take out her shrubs in order to get her wheelbarrow and lawn mower through on that side of her house. Russell Bennett, who has standing on the other side, suggested moving the fence to the opposite side of the staircase and moving the gate, therefore no variance on that side would be needed. Alan Wood clarified the amount of the variance which is a 40 foot front. Mr, Kistler reiterated to the Board that all he is trying to do is to put up a fence to have privacy. Mrs. Bennett asked Mr. Kistler how many people walked through his yard. The Chair reminded the guests that comments are to be based on the variance itself. Mike Wiley, a neighbor, stated that aesthetically it would not be pleasing. They are all good neighbors and he was not aware that Mr. Kistler was upset with people walking across his property. With no other comments from the public, the Chair closed the Public Hearing at 6:10 pm. The Chair and the Board reviewed Mr. Kistler's 1' side and 40' front variance to install a fence in the front of his house. Mr. Aubertine stated that he has difficulty supporting the 40' front variance. The 1' side variance is not an issue but will prevent the neighbor from using her property due to the close proximity of the lots. Mr. Stevenson suggested to Mr. Kistler to put up cameras to prevent people from walking across his property. Mr. Docteur agrees with Mr. Aubertine and Mr. Stevenson. Mr. Nebbia stated that the 40' front

variance is too substantial but agrees with the 1' side. The Chair stated that he feels it would be a disservice to the neighbors if he supported it. He suggested that Mr. Kistler put up no trespassing signs. The Board then 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: 5-yes, 0-no
- 2. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance: 3-yes, 2-no
- 3. The requested variance is substantial: 5-yes, 0-no.
- 4. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood: 5-yes, 0-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. Aubertine made a motion to deny the 40' front variance. Mr. Stevenson seconded the motion and it carried, unanimously. Mr. Nebbia made a motion to accept the 1' side variance. There was no second, therefore the motion was not accepted. Mr.

Aubertine made a motion to deny the 1' side variance. Mr. Stevenson seconded the motion and the motion carried with 4 members voting aye and Mr. Nebbia voting nay. Due to both variances being denied, it was determined that the benefit to the applicant does not outweigh the detriment to the neighborhood or community and the requested variance is denied.

New Business: none

Next Meeting: The ZBA will meet on Monday, October 2, 2023 at 6 p.m. at Recreation Park.

Meeting Adjourned: With no further business, Mr. Aubertine made a motion to adjourn the meeting. Mr. Stevenson seconded the motion and the Chair adjourned the meeting at 6:20 pm.

Respectfully submitted,

Sharon A. Nebbia ZBA Secretary