

**Village of Cape Vincent
Zoning Board of Appeals
[UNAPPROVED DRAFT]**

February 7, 2019

The Village of Cape Vincent Zoning Board of Appeals held a meeting on February 7, 2019 at the Village Offices on E. Joseph Street. The Chair called the meeting to order at 7:00 pm and opened with the Pledge of Allegiance.

Board Members Present: Michele Carlton, Chair
Doug Putnam
George Mingle

Other: Silke Emissé, ZEO
Jeffrey Brooks, Planning Board
Richard Hodge, Planning Board
William Kirchgessner, Planning Board

Visitors: 15

New Business:

Case #1: Todd Ewing – Public Hearing – Application for an Area Variance: The Chair opened the public hearing on the application for an area variance submitted by Todd Ewing. Mr. Ewing requests variance to demolish existing garage and replace with a 2-story 30' x 30' garage. The 2nd story to be an apartment. Mr. Ewing also request a consolidation of lot lines as he owns both properties (Tax Map 39.81-1.9 and 39.81-1.10).

Chair opened the floor to public comments: No comments made

Board commented that the consolidation of lot lines is outside the scope of this committee, therefore, no ruling made.

Board confirmed the garage setback variance requested is 8', applicant is asking for variance of 6'. Garage will run parallel and encroach to the other house that is also owned by Todd Ewing.

The Chair asked for the Board's input as she read each of the criteria when considering 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

All three members voted yes to grant the variance (3-0). The variance for garage is granted.

Case #2: Coal Docks Appeal of ZEO Determination: The Chair opened the public hearing on the interpretation of whether the Zoning Enforcement Officer's decision was wrong, and did she correctly apply the zoning regulations relative to the Coal Docks Restaurant dumpster placement. The complaint form was submitted by citizen, Mary Rupp, December 18, 2018 to the Zoning Officer. The complaint requested that the Site Plan approval is not being followed relative to dumpster placement and that it should be enforced.

Chair reviewed all the files provided including but not limited to minutes of the Planning Board meetings where this issue was discussed, application for restaurant and letter to Coal Docks regarding moving the dumpster, zoning laws, drawings, other Site Plan Reviews for Restaurants, Site Plan Reviews for previous restaurant owners for same location.

Chair opened the floor to public comments:

1. Ron Trottier (property owner) stated to his knowledge there are no zoning laws specific to dumpster placement. There are 14 other dumpsters in Cape Vincent and to his knowledge there is no site plan review for dumpster placement criteria. There are limited options for alternate locations for the dumpster. Commented on need for propane trucks have access to tanks.
2. Marcie Travers-Barth (Coal Docks business owner) stated the drawings referenced in this meeting were not submitted by her or her business partner as part of the application process. Also, at the time of application there were no stipulations of where the dumpster needed to be placed. Marcie stated the dumpster has been cleaned 3 times and it's been swapped out at least 2 times.
3. Mary Rupp (property abutter) stated the dumpster is not placed where it is placed in the drawings and that everything else in the drawings are exactly where the drawings indicate except for the dumpster. Where the dumpster is placed currently, in the summer time, smells to the extent they are unable to enjoy their deck or have the children play in the back yard. Also, the dumpster has been placed too close to their garage that when the lid is opened it has damaged the garage siding. Mary does not agree that moving the dumpster to the location indicated on the drawing would impede any delivery trucks including propane.
4. Richard Hodge (Planning Board member) stated that he was part of the Planning Board/Site Review public meeting. The two

drawings in the file are related. One of them shows exactly the patio the way it is built now and the other one shows the dumpster in a different location than it is now.

5. Silke Emissé (Zoning Enforcement Officer) stated her process to come to the finding there was no zone enforcement issue. It includes a complete review of the Zoning laws including Article 2 Definitions; Article 4 Zoning District Regulations, Section 4.2, Article 5, Section 5.8 related to solid waste disposal and Article 6, Section 6.5 specifying conditions. Reviewing case files for past restaurants for specific conditions to dumpster placement, there were none. Consulting with other code enforcement officials. Reviewing the application and Planning Board minutes. The application question for dumpster was not answered and the question for map submitted was not completed.
6. Kathleen Pearce (previous Planning Board Secretary) stated she took the Planning Board minutes for the public hearing. The Planning Board reviewed the application and they did discuss the dumpster.

Chair closed the floor to public comments.

Chair states that given the following for consideration:

- There is no mention of placement of dumpsters in the previous site plans for restaurants at same location (i.e. The Carlton, The Cape, Porters Corners).
- The Site Plan Application was not complete related to maps and dumpster questions.
- No zoning law addresses specific placement of dumpsters, therefore no zoning law violation
- Site Plan Planning Board meeting minutes do not address placement of dumpster of a condition of that review

- No Site Plan Review was completed specific to Coal Docks

The question for this Board is: Did the Zoning Officer make the right decision based on the information she had. All three members, Michele Carlton, George Mingle and Doug Putnam voted they agree with the Zoning Officer's decision (3-0). The Zoning Officers decision is upheld.

Case #3: Nancy Girard – Public Hearing – Application for an Area

Variance: The Chair opened the public hearing on the application for an area variance submitted by Nancy Girard. Ms. Girard requests variance to build a 24' x 24' garage so they can have off street parking.

Chair opened the floor to public comments: No comments made

Board confirmed the garage driveway is coming off from Kelsey Street. There is 15'. It will be a two story but no living space on 2nd floor but storage is possible. The roof will be pitched to match the Victorian style of the home but not to the same height. All other garages in the area are one story. The shed closest to Kelsey Lane will be removed by owners as it is their shed. Confirmed there will be 5' from the neighbor's property and from driveway. Confirmed no issues with neighbors.

The Chair asked for the board's input as she read each of the criteria when considering an area variance:

- f. An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties;
- g. The benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than a variance;
- h. The requested variance is substantial;

- i. The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood, and
- j. The alleged difficulty was self-created

All three members voted yes to grant the variance (3-0). The variance for garage is granted.

With no further business, the Chair moved to adjourn the meeting at 7:55 pm. The motion was seconded by George Putnam.

Minutes prepared by: Carolyn Rossi