

ZONING BOARD OF APPEALS

238 Main Street, Cold Spring, New York 10516

MEETING AGENDA

October 15, 2012

7:30 p.m.

PUBLIC HEARING

- 1.) LAUSCA LLC Appeal#877 Interpretation TM# 27.12-1-10**
3166 Route 9

The applicant is appealing the Notice of Violation dated 12/9/11 issued by Code Enforcement Officer Kevin Donohue. The violation states that no barrier is shown on the 3/24/10 Planning Board approved Site Plan, and therefore must be removed. Applicant was sent to the Planning Board for their review and recommendation on this matter, specifically the Boards intention and clarification of the site plan, as well as possibly implementing new warning stripes and signage. The Planning Board completed their review, and the applicant is ready to move forward with the ZBA.

REGULAR MEETING

- 2.) REVIEW OF MINUTES September 10, 2012**

- 3.) OLD/ NEW BUSINESS**

ITEMS MAY NOT BE TAKEN IN ORDER AS LISTED

ZBA ACTIVE APPEALS

#877 Lausca LLC Public Hearing

ZONING BOARD OF APPEALS

SEPTEMBER 10, 2012

MINUTES



The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, September 10, 2012, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Vincent Cestone, Chairman, at 7:30 p.m.

PRESENT: Vincent Cestone	- Chairman
Robert Dee	- Member
Bill Flaherty	- Member
Linny Lim	- Member
Paula Clair	- Member
Dominic Cordisco	- ZBA Council
Tina Andress- Landolfi	- Secretary

ABSENT:

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Approval of Minutes- Pg. 2
Homola and Edelstein- Pages 2, & 7 thru 8
Lausca LLC - Pages 3 thru 7



The Pledge of Allegiance was said.

Vincent Cestone- Ok. Lots of no Public Hearings, so that will make this short. Lets go right into this, and the minutes of July ninth. Are there any additions, corrections, or deletions?

All members said they had none.

Vincent Cestone- I will make a motion to accept the minutes as submitted. Do I have a seconded?

Paula Clair- I will second.

Vincent Cestone- Paula seconds. All those in favor?

All members were in favor.

Vincent Cestone- We have two resolutions. I am going to ask Dominic to read up to the conditions, and that is it.

Dominic Cordisco- I must apologize, because I ran out of my office without bringing a copy.

Vincent Cestone- I don't have a copy, because I did not print it.

Tina Andress-Landolfi- Would you like me to run downstairs and get a copy?

Vincent Cestone- Yes, Please.

Vincent Cestone- While Tina is doing that, lets go right into the interpretation, and Public Hearing _____. We got the Planning Board information back. I guess all we have to do is put it on for a continuation for a Public Hearing.



Dominic Cordisco- Correct. The Public Hearing we never closed.

Vincent Cestone- What we will do is put it on for the October meeting. The second week of October is the fifteenth.

Leonard Lim- Fifteenth or the eighth? The second Monday?

Vincent Cestone- Second Monday is the fifteenth.

Leonard Lim- Ok.

Dominic Cordisco- The second Monday would actually be the eighth, but that also falls on Columbus day.

Vincent Cestone- Oh yea the eighth. I did not realize.

Paula Clair- Are we closed Columbus Day?

Vincent Cestone- That is Columbus Day. Does anyone have a problem making it the third Monday of the month, or do you want to meet on Columbus Day. I would suspect probably not. Lets leave it on the fifteenth, and then we wont have to meet on Columbus Day. What does everyone think?

All members agreed.

Dominic Cordisco- Just so you know, I will not be here that night. I will ask Adam Rodd to attend.

Robert Dee- How much do we have going on? Do we have anything going on next month?

Vincent Cestone- No

Robert Dee- Just The one?

Vincent Cestone- Yea.

Robert Dee- Do you want to move it to the first Monday?



Vincent Cestone- Would that be Ok for you?

Dominic Cordisco- I have a conflict that night unfortunately.

Vincent Cestone- So the two things we have are Homola and Edelstein.

Dominic Cordisco- Correct.

Vincent Cestone- Those are the fences, which the group here denied?

Dominic Cordisco- Correct.

Vincent Cestone- Do you guys want to see the resolutions? I have Tina printing them downstairs.

(inaudible)

Vincent Cestone- I will remind Tina, when there is a resolution to just print them and bring them up.

Robert Dee- This thing was the curb thing? The guy with the curb where the lady ran into it?

Vincent Cestone- That is the Public Hearing.

Robert Dee- I thought we had a Public Hearing.

Vincent Cestone- The Public Hearing is open for us to talk about it, and for us to, we would also have to close it. We would have to make a determination of it on whether the Planning Board says is true. We have to go through the motions.

Robert Dee- We cant do that tonight?

Vincent Cestone- I don't think we can, because it has been to the public.

Dominic Cordisco- He was not on the agenda as a Public Hearing tonight, so anyone who was following this would not know tonight would have been their last night.



Vincent Cestone- That is right, and that is why she has to advertise it again.

Dominic Cordisco- This is an appeal from Notice of Violation that was issued by the Code Enforcement Officer. It might be something that the applicant might want to do, but in-light of the Planning Board confirming that the concrete wall indeed was required as part of the sight plan approval, that makes it very clear that the Notice of Violation was issued in error. Perhaps the Code Enforcement Officer would be willing to withdraw the Notice of Violation.

(inaudible)

Dominic Cordisco- The purpose of the appeal was for you to determine whether or not the Planning Board required the concrete wall. You sent them to the Planning Board and the Planning Board said yes, not only did we require the concrete wall, but then they made some other improvements to the site plan as well on their way back. It seems clear the direction this is going in subject to your concerns, but one of the other possibilities would be for the Code Enforcement Officer to withdraw the Notice of Violation in-light of the fact that the Planning Board has confirmed that, Yes that is what they wanted.

Leonard Lim- I see they also put the sign up. They have the sign there also.

Vincent Cestone- I guess the best thing to do is talk to Code Enforcement, and ask them if they would like to withdraw or cancel their violation.

Dominic Cordisco- Right. Based on the evidence you have in front of you, your decision seems that it is going to have to go a certain way. The only issue before you is did the Planning Board require it. The board told you that they required it, it would be hard pressed for you say no, that the Planning Board did not require it and uphold the Notice of Violation. That would kind of be a wonky position to be in.

Robert Dee- If he withdraws the violation, then there would be no need for a Public Hearing?



Dominic Cordisco- Right, because then there is no appeal. That would seem to be the most economic way to go.

Vincent Cestone- I will send him an email and ask him if he would consider it.

Dominic Cordisco- In-light of the Planning Boards sight plan clarification, and plus there amendments _____.

Vincent Cestone- Right

Robert Dee- Basically their problem is taken care of.

Dominic Cordisco- Yea.

Vincent Cestone- Tina, we set up our next meeting for the fifteenth of October because the second Monday is Columbus Day. We are having it on the third Monday next month. Our meeting.

Tina Andress- Landolfi- Ok

Vincent Cestone- We were also discussing the interpretation that is on the agenda for tonight. Since the Planning Board basically affirmed what the applicant was saying, then I will give Code Enforcement a call and ask if they want to withdraw their Notice of Violation.

Tina Andress- Landolfi- Ok, and if they don't ?

Dominic Cordisco- Then they will have a Public Hearing. It would be put on the agenda I believe for the October 15 meeting.

Vincent Cestone- Yes. It is on the agenda for the October meeting, but if the Notice of Violation is withdrawn, then it probably will be unnecessary.

Tina Andress- Landolfi- Ok

Vincent Cestone- Ok, since the resolutions were basically identical you only have to do this once.

Dominic Cordisco- Ok. This was in connection with Andrew and Susan Homola and also there was a related application with their immediate adjacent neighbor Jerry Edelstein. The applicants in this case Andrew and Susan Homola and Jerry Edelstein are the owners of a parcel of property located at 24 Woodland Drive in the Town of Philipstown. The parcel is improved by a single family dwelling, and is within the Rural Conservation (“RC”) Zoning District. The applicants seek to erect a new deer fence, eight (8) feet in height, fifty (50) feet in length, along the side and rear of their property, which, for the reasons set forth herein, will not strictly conform with particular setback requirements set forth in the Town of Philipstown Zoning Code. Specifically, Section 175-30 H (1) of the Zoning code provides that “[t]he setback requirements of this chapter shall not apply to retaining walls of any height or to fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.” In this application, the height of the applicants’ proposed fence would exceed the code by two (2) feet. Furthermore, Section 175b, Attachment 2, Dimensional Table, of the Zoning Code requires, in the RC Zoning District, a minimum rear yard setback of fifty (50) feet and a minimum side yard setback of thirty (30) feet. In this application, the applicants’ fence is proposed on the property line, without any setback (zero (0) foot setback)).

Vincent Cestone- Since these are two appeals, I guess we have to do them separately. I make a motion to accept the resolution as submitted, which is a denial for Andrew and Susan Homola. Do I have a second?

Leonard Lim- I will seconded.

Vincent Cestone- All those in favor of accepting the resolution as submitted say aye.

- Paula Clair - Aye**
- Robert Dee- Aye**
- Vincent Cestone Aye**
- Leonard Lim- Aye**
- Bill Flaherty- Aye**

Vincent Cestone- Opposed? Carried. Now on to Jerry Edelstein. I make a motion to accept the resolution as submitted, which is a denial. Do I have a seconded?



Paula Clair- I will seconded.

Vincent Cestone- I have a seconded with Paula. All those in favor say aye.

Paula Clair-Aye

Vincent Cestone- Aye

Bill Flaherty- Aye

Robert Dee- Aye

Leonard Lim- Aye

Vincent Cestone- Opposed? Carried. With that, unless there is old or new business with anyone, I will make a motion that we close our meeting for tonight.

Leonard Lim- Second

Vincent Cestone- All those in favor?

All members said Aye

Vincent Cestone- Opposed? Thats it.

NOTE: These minutes were prepared for the Zoning Board of Appeals and are subject to review, comment, emendation, and approval thereupon.

DATE APPROVED: _____

Respectfully Yours,
Tina Andress- Landolfi, ZBA Secretary