

ZONING BOARD OF APPEALS
238 Main Street, Cold Spring, New York 10516

September 10,2012
7:30 p.m.

PUBLIC HEARING:

NONE SCHEDULED

1.) REVIEW OF MINUTES JULY 9, 2012

2.) ANDREW & SUSAN HOLMOLA Appeal #878 Variance TM# 49.-3-63
24 Woodland Drive (Resolution)

Applicants would like to increase the height of a deer fence around the back of their property from 6' to 8' without setback.

3.) JERRY EDELSTEIN Appeal #880 Variance TM# 49.-3-64
14 Woodland Drive (Resolution)

Applicant would like to increase the height of a deer fence around the back of his property from 6' to 8' without setback.

4.) LAUSCA LLC Appeal#877 Interpretation TM# 27.12-1-10
3166 Route 9 (Review to determine Public Hearing Date)

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.

ZBA ACTIVE APPEALS

#878	Homoloa	Resolution 9/10
#880	Edelstein	Resolution 9/10
#877	Lausca LLC	Review

ZONING BOARD OF APPEALS



JULY 9, 2012

MINUTES

The Zoning Board of Appeals for the Town of Philipstown held a work session on Monday, July 9, 2012, at the Philipstown Town Hall, 238 Main Street, Cold Spring, New York. The work session was opened by Robert Dee, Acting Chairman, at 7:30 p.m.

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

ABSENT: Vincent Cestone - Chairman

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Pledge of Allegiance was said.

Robert Dee - The first issue in the meeting is the review of minutes. Does anyone have any changes?

Paula Clair - There are a couple of typos where you said your, and it should have been Y-O-U-R-E.

Tina Andress- Landolfi - I do verbatim. I was told I have to do verbatim. Even if it makes no sense when typing it out.

Paula Clair - The person said you're, like you are.

Tina Andress- Landolfi - Oh I see. Do you want to give me the correction after the meeting?

Paula Clair - Yes, I knew what you meant, but that would make more sense.

Robert Dee - I make a motion that the minutes be accepted.

Linny Lim - I seconded.

Robert Dee - All in favor?

All members were in favor.

Paula Clair - With the minor changes.

Robert Dee - Ok, with the changes.

Robert Dee - The next one is Andrew and Susan Homola. They had asked for a variance for an eight foot deer fence. There were two together. They were denied at the last meeting.

Dominic Cordisco - They were, and I am still working on the denial resolution, and I will have that for you at the next meeting.

Robert Dee - Ok

Dominic Cordisco - The time period however, for them to appeal that decision actually runs from the time the minutes are filed. The _____ decision provides more flesh on



the bone as far as that is concerned, but just to be clear, my delay in getting a resolution to you does not hold them up from any action they may need to take.

Robert Dee - Ok. The next item on the agenda is Verizon Wireless appeal number 881, special use permit. We are suppose to review this for completeness, but there has been a little confusion on this, on whether they are suppose to appear or not suppose to appear. So, we will have to put it off till the next meeting, and ask them to appear.

Dominic Cordisco - What is the date of the next meeting?

Robert Dee - September 10. There will be no meeting in August.

Paula Clair - Maybe they thought they did not have to appear for the review of completeness.

Robert Dee - No, the Building Inspector already issued a work permit. The Building Inspector felt that they did not need to appear, but our attorney feels that they might. A little lack of communication.

Dominic Cordisco - We will coordinate with them.

Robert Dee - Ok. Under old business is the Lyons Realty, that we all know withdrew their application, so that is kind of put to bed. Does anyone have any other business under old business?

Board Member - I have none.

Robert Dee - Ok, I make a motion to adjourn the meeting.

Linny Lim - I seconded.

All were in favor of adjourning the meeting. The meeting was closed at 7:35 p.m.

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

LAWRENCE J. PAGGI, PE, PC

Consulting Engineering

Phone 845 897 2375

43 Broad Street
Fishkill, New York 12524

Fax 845 897 2239
Email ljpaggi@optonline.net

August 27, 2012

Mr. Vincent Cestone, Chairman
Town of Philipstown Zoning Board of Appeals
c/o Kevin Donohue, Code Enforcement Officer
238 Main Street
Cold Spring, New York 10516

Re: *Philipstown Square – Appeal #877 for an Interpretation*
3166 Route 9, Town of Philipstown
Tax ID No.:27.12-1-10

Dear Chairman Cestone and Members of the Board:

Please find enclosed seven copies of the Amended Site Plan that was approved by the Planning Board at their August 16, 2012 meeting.

The above referenced project was issued a Notice of Violation, dated December 9, 2011, by the Code Enforcement Officer relative to the concrete barrier installed along the northerly property line between the adjacent lots as not in compliance with the Zoning Law, (Local Law No. 2-1968, in effect at the time of site plan approval) section 175-39 C. (7). On behalf of the owner, our office submitted an appeal for interpretation to the Zoning Board, since the concrete barrier was installed as part of a requirement of an approved site plan. The ZBA forwarded this appeal to the Planning Board for review and recommendation.

The Planning Board reviewed the referral at its May 17th meeting and, by unanimous vote, indicated that the concrete barrier, as installed at the time of the notice of violation, was approved in conjunction with the site plan approval granted by the Planning Board on March 24, 2011.

The project owner simultaneously submitted an amended site plan application to the Planning Board to improve the access connection to the adjacent commercial property to the north of the site. This amendment was approved at their August 16 meeting. A copy of Resolution PPB#6 approval is included with this submission.

Based upon the above outlined information, we request, on behalf of our client, that the ZBA issue a determination that the Notice of Violation pertaining to the installation of the concrete curb and barrier between the properties was issued in error and is not valid.

On behalf of our client, we request that this project be placed on the Zoning Board of Appeals September 10th agenda to review this matter.

EXHIBIT # 10

received
8-27-12

TAX

Your consideration of this matter is appreciated. Please do not hesitate to contact our office if we may be of any assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Lawrence J. Paggi". The signature is fluid and cursive, with a prominent initial "L" and "P".

Lawrence J. Paggi, P.E.
President

Enclosures

cc Lausca, LLC

**DRAKE LOEB HELLER
KENNEDY GOGERTY
GABA & RODD_{PLLC}**
ATTORNEYS AT LAW

File COPY
555 Hudson Valley Avenue, Ste. 100
New Windsor, New York 12553

Phone: 845-561-0550
Fax: 845-561-1235
www.drakeloeb.com

James R. Loeb
Richard J. Drake
Glen L. Heller*
Marianna R. Kennedy
Gary J. Gogerty
Stephen J. Gaba
Adam L. Rodd
Dominic Cordisco
Timothy P. McElduff, Jr.
Ralph L. Puglielle, Jr.

Jennifer E. Wright
Stuart L. Kossar
Benjamin M. Wilkinson
Nicholas A. Pascale

*LL.M. in Taxation

August 17, 2012

Town of Philipstown
Zoning Board of Appeals
Town Hall, 238 Main Street
Cold Spring, NY 10516

Attention: Chairman Vincent Cestone

Re: Mordhorst vs. Town of Philipstown ZBA
Index No. 1292-2012
Our File No.: 6082 - 65085

Dear Chairman Cestone:

I am pleased to report that, following our motion to dismiss, the plaintiff agreed to discontinue the lawsuit against the Town of Philipstown Zoning Board of Appeals in the above-referenced matter. Enclosed herewith please find a copy of the Stipulation of Discontinuance which is being filed in the case. As soon as the Stipulation is filed the case will be over and we will be closing our file.

I trust this matter has been handled to your satisfaction. If you have any questions or comments feel free to contact me.

Very truly yours,


STEPHEN J. GABA

SJG/ef/Enc./242664

cc: Edward W. Doyle, Esq.

Writer's Direct
Phone: 845-458-7310
Fax: 845-458-7311
sgaba@drakeloeb.com

received
8-23-12
TAK

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF PUTNAM

-----X
WILLIAM MORDHORST,

Plaintiff,

-against-

ZONING BOARD OF APPEALS OF THE
TOWN OF PHILIPSTOWN,

Defendant.
-----X

Assigned Justice:
Honorable Lewis J. Lubell, J.S.C.

Index No. 1292-2012

STIPULATION OF DISCONTINUANCE


IT IS HEREBY STIPULATED by and between the undersigned, the attorneys of record for all the parties to the above entitled action, that whereas no party hereto is an infant or incompetent person for whom a committee has been appointed and no person not a party has an interest in the subject matter of the action, the above entitled action be, and the same hereby is discontinued, ^{with prejudice (576)} without costs to either party as against the other.

This Stipulation may be filed without further notice with the Clerk of the Court.

Dated: Peekskill, New York
August 8, 2012



WILLIAM J. FLORENCE, JR., ESQ.
Attorney for Plaintiff
One Park Place, Suite 300
Peekskill, New York 10566
Tele: (914) 737-7001



**DRAKE LOEB HELLER KENNEDY
GOGERTY GABA & RODD PLLC**
By: Stephen J. Gaba, Esq.
Attorneys for Defendant
555 Hudson Valley Avenue, Suite 100
New Windsor, New York 12553
Tele: (845) 561-0550

received
8-23-12
JAK