

**Town of Phelps
Zoning Board Meeting
Minutes
August 18, 2011**

MEMBERS PRESENT Scott Fremouw, Chairman, Jeff Caves, Steve Studley, Zoning Board Officer, Steve Westfall, Alternate, Glen Wilkes

 Absent: Joyce Mitchell, Brooks McKinney

CALL TO ORDER Chairman Scott Fremouw called the Zoning Board Meeting to order at 7:03 p.m. at the Phelps Town Courthouse.

 The Pledge of Allegiance was said by all.

 Introductions were made.

 Steve Westfall, Alternate was appointed as board member for the meeting.

MINUTES The minutes of the July 21, 2011 meeting were considered. Two corrections were noted.

 A motion was made by Mr. Wilkes to approve the minutes as corrected. The motion was seconded by Mr. Westfall. The motion carried.

PUBLIC HEARINGS Application 624-11: David Rasmussen, 2346 Wheat Rd. Clifton Springs
Request is for an area variance for deck in front of the house.

 Publish date for the public hearing was August 16, 2011. The request was submitted to the paper on August 12, 2011. There was a discussion on timeframe allotted for notice regarding the public hearing. Mr. Wilkes made it clear that the paper prints when they want regardless of request. It was asked why the information can't be sent to paper for publication immediately following the meeting. Mr. Fremouw said that would be too early for publication (one month in advance of the public hearing meeting). Using the town Merchandiser was discussed in place of the Finger Lakes Times, but it was believed that a daily paper was required. Mr. Fremouw did believe some of the delay of the posting was due to a change in zoning officers involved.

 There were no changes to the application. Mr. Fremouw opened the floor for public hearing on application 624-11 at 7:19 p.m. There were no public comments or concerns. The hearing was closed at 7:20 p.m.

 Findings:

 1) The setbacks exceed the minimums.

 2) A positive recommendation from the Planning Board.

 3) No concerns from the Code Enforcement Officer.

 4) It does not adversely alter the character of the neighborhood.

 5) No traffic is impacted.

 6) No public concerns.

 7) The variance does not exceed 8 foot.

 A motion was made by Mr. Wilkes to approve application 624-11.
The motion was seconded by Mr. Caves.
The motion carried unanimously.

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REVIEWS

1) Application SPR 080511: Steve's Electric Co. LLC, 2372 Route 96, Clifton Springs
Replace existing overhang on front of building; install new overhangs on either side of existing overhang and one down right side of building as per drawings.

Mr. Fremouw asked Mr. McCarrick what his intent is. Mr. McCarrick explained he is adding some overhang on the front of his building along with replacing some existing overhang. Mr. Fremouw asked if the board members had any questions. The site plans were reviewed. Mr. McCarrick says he is changing the pitch a bit on the overhang. It will also be extended a bit. It will all be matching. There will be some stone work done as well. The board had no issues and Mr. Fremouw instructed Mr. McCarrick to attend the Planning Board meeting schedule for August 25, 2011 and the next Zoning Board meeting scheduled for September 15, 2011. Mr. Caves asked for clarification on the exact location and measurements of the overhang. It was determined that a 2 foot variance is being requested.

A motion was made by Mr. Caves to declare Application SPR 080511 a Type 2 action per SEQR 617.5 (10) and (15), which read as follows:

- (10) Construction, expansion or placement of a minor accessory/appurtenant residential structures, including garages, carports, patios, decks, swimming pools, tennis courts, satellite dishes, fences, barns, storage sheds or other buildings not changing land use or density; and
- (15) minor temporary uses of land having a negligible or no permanent impact on the environment.

Mr. Wilkes seconded the motion.

The motion carried unanimously.

2) Application VOR081011: Jerry Fronczak, 1460 Maryland St. Phelps
Build an apartment using an existing garage (bathhouse) for disabled daughter.

Mr. Fremouw has medical documentation pertaining to the owner's daughter's condition. Site plans were reviewed and accurate building was determined. The property owner was not present. The board had several questions. Mr. Fronczak was called and arrived a few minutes later (7:51 p.m.). This is in front of the board because it will mean there are 2 residences on 1 property. Mr. Fremouw asked Mr. Allen (Planning Board Chairman) to review as he was present. The square footage of the apartment was determined. The various dwelling requirements were read/reviewed by Mr. Studley. Mr. Fremouw questioned splitting the residence into two parcels (subdivide). This would make it a legal residence that they could sell in the future. The important question was regarding removing the variance once the owner changes or the daughter moves out of the apartment. How can the town be sure this will convert back to its previous state? Mr. Caves said that a use variance goes with the land not with the owners. What stipulations can be put forth to make this work for the current need? It was also determined to be in an agricultural area. Once the homeowner arrived, Mr. Fremouw asked Mr. Fronczak what his plans were and why. Mr. Fronczak explained the need for his daughter to have some independence. This living arrangement would meet both the needs of the parents and the daughter. Mr. Fremouw explained the issues at hand. The town doesn't allow having 2 residences on 1 property. Mr. Fremouw did ask about subdividing the property. The homeowner stated he didn't want to do that. Mr. Allen explained that the Planning Board's issue is having a building that is not removable on the property. How would the board be assured that no one in the future would use this as a rental? Mr. Hurdle asked if building an addition to the existing house had been considered. Mr. Fronczak said he wasn't interested in doing that as the house is already very large.

The board needs to determine how to stipulate returning the building to its natural state once the situation changes. Mr. Fremouw asked if the board would be more comfortable

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with attorney involvement. The board and Mr. Allen (Planning Board Chairman) agreed this was the best course of action. Mr. Studley agreed to contact the town's attorney and hopefully have an answer for Mr. Fronczak prior to the Planning Board Meeting (August 25, 2011). There was an issue of timeframe discussed. If the answer from the attorney wasn't available prior to this month's Planning Board meeting, this would be delayed past the 60 days allowed for action. Mr. Hurdle stated that with the home owner's approval, that can be extended. Mr. Fremouw requested Mr. Fronczak to be present at the Planning Board meeting (August 25, 2011). If there is no communication with the attorney prior to the meeting the home owner will be contacted so that he doesn't have to attend meeting.

Mr. Wilkes made a motion to send the application to the attorney for review.

Mr. Caves seconded the motion.

Motion carried unanimously.

OLD BUSINESS

Minutes were received by all except Mr. Westfall. His email address was given.

Mr. Studley wanted clarification on how to send applications electronically per Mr. Clark's comments last month. It was discussed that the applications get scanned and emailed. The drawings will be viewed in the usual fashion if they are too big for scanning.

NEW BUSINESS

There was no new business.

ZONING OFFICER BRIEFS

None.

PUBLIC COMMENT

None.

ADJOURN

A motion to adjourn the meeting was made by Mr. Wilkes. Mr. Westfall seconded. The motion carried unanimously. The meeting was adjourned at 8:30 p.m.

Respectfully submitted,

Stephanie Kelly
Secretary