

**Minutes of FI Board of Appeals Meeting and Public Hearing
Friday, July 25, 2008
Frye Island Community Center**

Present: Tim McCarthy, Rich Kaplan, Bobbi Aranyi, John Gardner, Bill Trenchard, Frye Island lawyer Larry Clough, Paul White CEO, Catherine Kane, applicant, Kevin Kane, Alison Zea, applicant, Harry Zea and Robert Neault Esq.

Attendees: Steven Aranyi 271, Jim O'Connor 1054, Michael Evans 272, Susan Scarritt 272, John Scarritt 272, Marge Hommel 68, Stephen Kaplan 34, Ed Charrette 79, Jim Kuiken 323, Marie Rachid 813, Ernie Wrzesinsky 285, Wayne Fournier 1113, Town Manager, Paul L. Bourdur 1682, Phil and Nancy Perry 273, John Nun 269, Robert and Talli Sutherland 31, Robert DeFelice 202, Scott Calaldi ,Town police officer.

Chairman Tim McCarthy called the meeting to order at 7:02 pm.

AGENDA

Approval of Minutes

The board reviewed the minutes of the June 20, 2008 meeting. Bobbi Aranyi noted that John and Kelly Gass Lot 57 and Marge Hommel Lot 68 needed to be added to those in attendance. Rich Kaplan moved to accept the minutes with the changes; seconded by John Gardner with unanimous approval.

Public Hearing

The chairman explained to the applicants the criteria and process that was about to take place.

First Applicant: Catherine Kane –Variance request Lot 928 for a reduction of the front set back from 50 feet to 41 feet and reduction of the front set back from 30 feet to 24 feet. When asked to explain the reason for their variance request, Kevin Kane asked the board for a continuance until the August 22, 2008 meeting in order to have a resurvey done.

John Gardner moved to accept the request; seconded by Bobbi Aranyi; passed unanimously.

Second Applicant: Alison Zea regarding Lot 273- with a request for an Administrative Appeal as well as a variance request for a reduction in the shore set back of 100 feet to 97 feet; a reduction of the side set back of 15 feet to 11.42 feet; and a reduction in the road set back of 50 feet to 48.35 feet.

When recognized by the chairman to explain the reasons for their request Robert Neault Esq, lawyer for the Zeas, asked for a continuance as their key witness who was involved in pouring the foundation was incarcerated and was unable to be present today. Alison Zea stated that the witness worked with Mr. White as to where the stakes should be placed.

Larry Clough, Town Lawyer, said according to Maine law, an applicant cannot rely on the CEO as to where the stakes go as it is the home owner's responsibility to know where his boundary lines are.

John Scarritt 272, an abutter, objected to the request for a continuance stating he drove 270 miles to be here for this meeting.

Harry Zea and Atty Neault both stated that they did not know the witness would not be able to be here. Atty Clough questioned Atty Neault as to why he didn't get a written testimony from the witness to present today. Atty Clough suggested hearing testimony from those here tonight and hearing the rest at our next meeting. Rich Kaplan moved to hear the witnesses here tonight; Seconded by Bill Trenchard.

Mr. Zea voiced his concern that he is not getting a fair opportunity for a hearing. Rich Kaplan explained the Board voted to hear the witnesses that are here tonight as the Town Lawyer is unavailable for the next meeting and both he and Mr. McCarthy feel it is important for Paul White to be here as the Zeas stated that he is the one who put the stakes in for the foundation.

Atty Neault felt there are two issues to consider: the NOV appeal and the variance request. He feels the BOA should look at the Administrative Appeal first and determine whether or not the CEO did make a mistake. If the BOA determines an error was made. Then the variance request would not be necessary.

After much discussion Atty Clough recommended that the BOA grant a continuance. Tim McCarthy suggested that the BOA accept a continuance with the next available date for a special meeting set for when the Town's lawyer and Paul White can attend. Both lawyers are to work out a date when all appropriate parties are available. Tim McCarthy stipulated to Atty Neault that he must get a deposition if the witness is still incarcerated.

The chairman read a letter from abutters Dick and Elaine Vande Hei , 277 Leisure Lane, stating their objections and reasons why the BOA should deny Alison Zea's variance request. This letter will be on record in the Board of Appeal's minutes.

Tim McCarthy submitted letters to the recording secretary from Mike Morse, Assistant Shoreland Zoning Coordinator, Bureau of Land and Water Quality and from Roger Paradis, Water Resources Specialist, Portland Water District. Both letters will be on record in the minutes for future reference.

Rich Kaplan made a motion that the Zea's hearing be moved to a date no later than September 22, 2008 with the understanding that all involved must have all the needed documentation available. Please note that this will be the last available date.

Atty Neault wanted to go on record stating that his clients are consenting to waiving any defense or prejudice resulting from the later scheduled date.

Next Board meeting scheduled for Friday, August 22, 2008 at 7:00 pm.

Bill Trenchard moved to close the meeting; seconded by John Gardner with unanimous approval. Meeting adjourned at 8:00 pm.

Respectfully submitted,
Inez "Smitty" Kaplan, Recording Secretary