

## MINUTES OF THE BOARD OF APPEALS MEETING, AUGUST 26, 2006

ATTENDEES: Bobbie Aranyi, John Gardner, Rich Kaplan, Harry Molloy, Tim McCarthy, CEO Paul White, Alternate Dave Lowe, recorder, Patricia Karpacz

AUDIENCE: David & Jan DiGregorio, Claire & Dwight Drake(abutters), Joe Potts (representing Frye Island Inc., abutter), Kathy Potts, Kathy Huchthausen, Wayne Fournier, Town Manager

The meeting was called to order at 9:35 AM.

Minutes of the previous meeting were read. Motion to accept made by D.Lowe and seconded by B.Aranyi

Chairman, Molloy, established the following format for the meeting.

1. All appropriate forms for this application have been submitted.
2. The DiGregorios will make an oral presentation.
3. The Code Enforcement Officer will make a presentation.
4. Input from the public, including abutters will occur.
5. The Board members will discuss whether the hardship criteria have been met.
6. The Board will vote on the variance request.

Petitioner, DiGregorio's Remarks

1. Bought property in 2002 and hired a contractor to build a log house kit in 2003.
2. Contractor gave the house a right angle turn on the property contrary to owner's wishes. He obtained a Building Permit from the previous CEO based on a drawing that indicates the reoriented house as 55 feet back from the road
3. In 2005, owner contacted the Town CEO about obtaining a Certificate of Occupancy and learned that the house was not in compliance with the 50 foot set back requirement.
4. Owner contacted an attorney and an engineer to see what his options were.
5. The owner has spent approximately \$100,000 on the house. It would cost around \$92,000 to move it back 17 feet. Because it would meet the septic system in only 9 feet, the septic would also have to be moved.

Code Enforcement Officer's Remarks

1. Paul produced the original drawing submitted for the Building Permit.
2. He questioned whether the previous CEO drove out to look at the site before he signed off on it.
3. He recognizes that there was a serious disconnect between the builder and the owner.
4. Based on his visit to the property in October of 2005, he recommends that the building be moved to be in compliance.

Abutters' Remarks

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Mr. & Mrs. Drake believe that the old CEO should have issued a cease order when the errant project began. However, they are not contesting the house site at this time.

Mr. Potts, representing Frye Island Incorporated, drove by the site and found the look not offensive and acknowledges the hardship. He is not opposed.

## BOARD DISCUSSION

Chairman Molloy reminded all present that as a judicial body, their decisions must be based on the letter of the law and not emotions. The four criteria for hardship will be reviewed and voted on individually.

Tim McCarthy asked if a consent agreement is possible. CEO said not in this case.

VOTE ON CRITERIA ONE The land in question can not yield a reasonable return.

Unanimous vote affirming that it meets this criteria without the variance. The owners can have no occupancy, cannot sell the property without a loss and it cannot be rented.

VOTE ON CRITERIA TWO There are unique circumstances to the lot which are not similar to the general conditions in the neighborhood.. Discussion on this was postponed until later in the meeting...

VOTE ON CRITERIA THREE The house will not alter the essential character of the neighborhood. Unanimous agreement that this residential area will not suffer a negative impact from this 32 by 29 foot house. There are other noncompliant homes in the area.

VOTE ON CRITERIA FOUR The hardship was not the result of action taken by the applicant. The applicant hired the contractor assuming good faith. The contractor refused to make changes requested by the owner.. The CEO at the time did not look at the site before he signed off on the permit. The plan submitted for the permit erroneously had a 55 foot set back. According to a document furnished by the current CEO, the septic system was designed in 1983 and updated for this project. Unanimous agreement that the hardship was not the result of action taken by the applicant.

RETURN TO CRITERIA TWO After more discussion including the fact that the septic was already in before the house was built, the very steep grade on one side and many boulders on the lot, the Board voted unanimously that the project meets the criteria.

MOTION John Gardner moved that the variance be granted to the DiGregorios for a 17 foot reduction in the front set back because the former CEO did not advise the applicants of the non compliance due to a lack of due diligence by said CEO in the performance of his duty. The motion was seconded by Rich Kaplan. The vote was unanimous in favor.

OTHER BUSINESS the Board members would like written evidence from the Town Manager that the members are bonded and protected. Paul White said he would ask the Town Manager for this.

The next meeting will be on Saturday, September 16..

A motion to adjourn was made by Rich Kaplan and seconded by Tim McCarthy at 12:10.

Respectfully submitted,  
Patricia Karpacz, temporary recorder