

VILLAGE OF COLD SPRING ZONING BOARD OF APPEALS
85 MAIN STREET, COLD SPRING NEW YORK 10516
PHONE (845) 265-3611
Workshop meeting

August 2, 2012

Members: Chairman; Donald Mac Donald, Greg Gunder, John Martin and Richard Turner

Member absent: Edward Murphy

Also present were Paul Henderson, Beth Sigler, Mr. Robert Lusardi (Henderson /Sigler Attorney), Fred Norgaard, Susan Peehl, Andrew Hall and Ms. Camille Linson (Peehl/Hall Attorney).

At 7:10 p.m., Chairman Mac Donald opened a workshop meeting concerning two appeals by Peehl/Hall alleging the unauthorized, illegal construction of a backyard shed at 14 Stone Street, Cold Spring, NY, allegedly in violation of certain specified provisions in the Village Zoning Code.

1. Minutes:

1. The minutes of July 9, 2012 were reviewed and approved as submitted.
2. The minutes of June 7, 2012 were reviewed and amendments were discussed.

J. Martin moved to accept an amended copy of the June 7, 2012 minutes, and also to include a copy of the tape recording from the Public Hearing. R. Turner seconded the motion. The motion was approved 4-0.

3. The minutes of July 19, 2012 were tabled until the next meeting.

Chairman Mac Donald distributed a proposed findings of fact and decision submitted by Village attorney, Steve Gaba for the ZBAs consideration. The ZBA Board, after careful review, amended the findings of fact and decision to comport with its understanding of the record, the issues presented, and the conclusions to be drawn therefrom.

Chairman Mac Donald suggested after the decision is made each party (i.e., Hall/Peehl, Norgaard and Sigler/Henderson) would be given five minutes to respond or comment on the decision if they choose to.

D. Mac Donald read the Findings of Fact and Decision, as amended, aloud at the workshop meeting. The Board, upon motion by R. Turner, seconded by G. Gunder formally voted to approve the Findings of Fact and Decision.

4. R. Turner voted - Aye
5. J. Martin Voted - Aye
6. G. Gunder voted - Aye
7. D. Mac Donald - Aye.

The motion was approved 4-0.

Chairman Mac Donald handed out a second resolution.

D. Mac Donald read the ZBAs second decision that addressed the second appeal filed by Susan Peehl and Andrew Hall.

J. Martin moved to approve the ZBAs decision resolving the second appeal, and G. Gunder seconded the motion.

8. R. Turner voted - Aye
9. J. Martin Voted - Aye
10. G. Gunder voted - Aye
11. D. Mac Donald - Aye.

The motion was approved 4-0.

D. Mac Donald opened the meeting for comments

Ms. Linson (represented Hall/Peehl) noted she did not hear a resolution to the second appeal, which alleged a violation of the Village Code based on construction without a required variance, as well as the building inspector's refusal to take appropriate action as to such construction, which was the second part of the complaint by Peehl and Hall.

J. Martin responded that the Building permit for the shed described the size and height of the shed and there were no objections at that time.

J. Martin noted that the Building permit is the official document and the referral that accompanied the building permit was not a document that could be considered as modifying or altering the permit issued by the building department.

R. Turner noted that the building permit issued by then Building Inspector George Tomkins had no conditions on it and noted that even assuming the permit had been issued in error, it was what the ZBA Board was left with.

Ms. Peehl noted the following

12. Some paperwork requested from Mr. Lusardi was not submitted.
13. The complaints pertained to unauthorized, illegal construction that warranted variances, and the complaints were not to be viewed as a mere challenge to the validity of the building permits issued.

R. Turner left at 8:39 P.M.

Mr. Norgaard then had a chance to speak. Mr. Norgaard noted the following:

14. The fact that the building inspector did not send the project to the ZBA for a variance which was the process that was to be followed by the Village officials. He noted if things went the way they should have, he should have received notice in his mail box in 2008 of the proposed shed construction.
15. Mr. Norgaard noted his main objection was to the size of the shed (as framed in late February 2012), as well as to the Villages process of authorizing construction, providing insufficient notice of the proposed construction to surrounding neighbors, and the Villages subsequent inspection and approval of the new shed construction. He contended that the construction footprint and height exceeded the original plans, and that such construction violated the Village's Zoning Code.

Mr. Lusardi thanked the board for all their hard work.

Mr. Henderson wanted to acknowledge there is a lot of pain, and that hopefully the parties could move on. He thanked the Board for a reasonable and fair decision.

Butterfield Library, 10 Morris Ave.

D. Mac Donald read the proposed decision to approve the proposal. The Board members reviewed and amended the decision. J. Martin moved to approve the decision as prepared on August 2, 2012, and G. Gunder seconded the motion. It was approved 4-0.

Phil Mackintosh, 5 Railroad Ave.

Chairman Mac Donald read the proposed decision. J. Martin moved to approve on the requested side-yard and area coverage with the contingency that the Board receives a written approval of the project by the adjoining neighbor. The motion was seconded by G. Gunder. It was approved 4-0.

J. Martin moved to adjourn the meeting and G. Gunder seconded the motion. The meeting was adjourned at 9:15 P.M.

Donald Mac Donald, Village of Cold Spring Zoning Board
Of Appeals Chairman

Date