

**DRAFT**  
**Zoning Board of Appeals Public Hearing and**  
**Regular Meeting Minutes April 10, 2019**  
Held in the Aurora Firehouse Meeting Room at 7:00 PM

**Present:** Chair Karen Hindenlang, Alexis Boyce, Laura Holland, Ann Tobey and Jeri Vargo

**Others Present:** G. Alan Clugston, C.J. Koepp, and Jay O’Hearn

**Call to Order:** Ms. Hindenlang called the meeting to order at 7:00 p.m.

**Changes to the Agenda:** No changes.

**Approval of Minutes:** On motion by Ms. Vargo, seconded by Ms. Tobey, the ZBA voted to approve the minutes of March 13, 2019.

AYES: Hindenlang, Boyce, Holland, Tobey and Vargo

NAYS: None

Motion carried.

**Announcements:** No announcements

**Old Business**

**Appeal Form Revisions:** On motion by Ms. Vargo, seconded by Ms. Boyce, the ZBA voted to add the word “current” before “survey map” on the ZBA Appeal Form as a final change to the revisions.

AYES: Hindenlang, Boyce, Holland, Tobey and Vargo

NAYS: None

Motion carried.

**New Business**

**Fee Schedule:** Ms. Hindenlang asked the Board to consider instituting a fee schedule for variance requests. Ms. Hindenlang referred to the amount of time expended by the clerk and the code enforcement officer and noted that it is standard in other municipalities. Ms. Hindenlang informed the Board that she found municipalities who charged as little as \$50 and as much as \$500. Ms. Holland agreed with the concept and suggested that the change might help prepare us for future developments.

Ms. Boyce cautioned that the fee not be so substantial as to be cost prohibitive for an applicant. Ms. Boyce acknowledged clerk and code enforcement office time spent on applications, as well as, Local Law #3 of 2012 which authorizes that applicants are responsible for any consultation fees associated with their application but questioned if filing applications should be viewed as a reasonable part of their office duties. Ms. Hindenlang noted that appeal requests, as well as permit applications, benefit the applicant not the entire community so establishing a fee schedule is reasonable.

Ms. Hindenlang remarked that the clerk, treasurer and the mayor agree it was worth considering and suggested that the other Boards may also see the benefit. Ms. Boyce agreed to consult with the Planning Board and Community Preservation Panel chairpersons for their input and will report any findings at the May 8, 2019 ZBA meeting.

On motion by Ms. Hindenlang, seconded by Ms. Holland, the ZBA voted to explore adoption of a fee schedule and authorize Ms. Boyce to consult with the Planning Board and Community Preservation Panel chairpersons for their opinions.

AYES: Hindenlang, Boyce, Holland, Tobey and Vargo

NAYS: None

Motion carried unanimously.

**Swearing in Procedure:** Ms. Hindenlang recommended, with attorney encouragement, swearing in individuals during ZBA Public Hearings. Ms. Hindenlang noted that the ZBA, as a quasi-judicial board, issues determinations as opposed to approvals, like the Planning Board and Community Preservation Panel, and applicants may better understand their responsibilities and the complexity of the ZBA's role if they are required to swear an oath to tell the truth during the proceedings. Ms. Vargo and Ms. Holland favored the idea.

Ms. Tobey cautioned against intimidating speakers and that the ZBA shouldn't come across as discouraging residents from making public comments. Ms. Boyce agreed adding that public comment is often subjective and the ZBA shouldn't dissuade those from expressing an opinion. However, Ms. Boyce acknowledged that, given the ZBA's role, applicants and officers should be sworn in during proceedings. Ms. Hindenlang reminded the Board that, unlike the other Boards Public Hearings, the ZBA collects evidence, has subpoena power and can call witnesses, which is much more formal. Ms. Hindenlang did recognize the members discomfort with swearing in the general public and suggested consulting the Village Attorney for guidance.

On motion by Ms. Boyce, seconded by Ms. Vargo, the ZBA voted to institute the swearing in of applicants and officers during Public Hearings and consult Village Counsel regarding swearing in the general public.

AYES: Hindenlang, Boyce, Holland, Tobey and Vargo

NAYS: None

Motion carried unanimously.

**Public Hearing:** On motion by Ms. Holland, seconded by Ms. Vargo, the ZBA reconvened the Public Hearing at 7:27 p.m. for Application #18-38 from Cynthia Koepp & John Place for an Area Variance for dock stairs at 327 Main Street. (Tax Map # 181.16-1-26)

AYES: Hindenlang, Boyce, Holland, Tobey and Vargo

NAYS: None

Motion carried.

Ms. Holland recused herself, as per her written statement at the Public Hearing's opening in March.

Ms. Koepp agreed to the swearing in process and was sworn in by Ms. Hindenlang.

Ms. Koepp submitted a written request (attached) for a postponement of the Public Hearing, as due to a purchase offer by the projected new owners of the Zwigard property (331 Main Street) to buy the railroad land behind Ms. Koepp's house from Mrs. Suzanne Holland. Ms. Koepp apologized for not following proper procedure when first requesting the postponement and Ms. Hindenlang reminded Ms. Koepp that the Guidelines for Filing an Appeal were emailed to her and will be helpful to her moving forward with the process.

Ms. Koepp noted that she only became aware of the purchase offer when she was notified by the Village Clerk of the Planning Board March 27, 2019 Public Hearing for the subdivision of the property (It is Village policy to notify neighboring property owners of applications that require a public hearing). Ms.

Koepp believes that the new owners may be more agreeable to her Area Variance request than the current owner and that this might improve her chance of ZBA approval.

Ms. Koepp also noted that, if her appeal is denied, it would be difficult to have the Board reconsider. Ms. Hindenlang explained that there is a process for a re-hearing of an appeal application, but the Board does have to vote unanimously to re-hear the appeal.

Ms. Hindenlang reminded Ms. Koepp that variances are granted for properties, not to property owners. Ms. Koepp acknowledged that fact but felt that the new property owner might not have the objections of the current property owner and would, therefore, help her case.

Ms. Boyce also noted that neighbor concern is only one criterion that the ZBA considers when making their determination. Ms. Boyce then read the list of criteria that the ZBA considers:

1. whether an undesirable change will be produced in the character of the neighborhood or whether a detriment to nearby properties will be created by the granting of the area variance;
2. whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue;
3. whether the requested area variance is substantial;
4. whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zone; and
5. whether the alleged difficulty was self-created

Ms. Hindenlang questioned Ms. Koepp on the status of the survey map requested at the March 13, 2019 meeting. Ms. Koepp referred to the architect's drawing that she submitted previously. Ms. Hindenlang reminded Ms. Koepp that without a current survey map, showing easements, the dock and the western boundary, making a determination is risky for the ZBA and could hinder the process. Ms. Vargo echoed that the Board would have a difficult time making a determination without the survey map and Ms. Boyce agreed, referring to the site visit by herself and Ms. Hindenlang, that the map submitted is not an accurate depiction of the property.

Ms. Hindenlang explained to Ms. Koepp that she has the option of withdrawing her appeal if she cannot provide a survey in a timely manner, or to understand that if the ZBA proceeds with less than ideal documents it might hinder her chances for a productive decision. Ms. Hindenlang also questioned if Ms. Koepp is considering purchasing the adjoining property herself, which would negate the need for a variance. Ms. Koepp replied that she does not know who is purchasing the property, or if/what they would sell it for.

The ZBA questioned Ms. Koepp on how long of a postponement she is requesting. Ms. Hindenlang also questioned when Ms. Koepp will submit the requested documents and informed Ms. Koepp that 2 weeks prior to the meeting is required. Ms. Koepp initially requested postponing until the June 12, 2019 meeting but then indicated that she would be ready for the May 8, 2019 meeting.

On motion by Ms. Boyce, seconded by Ms. Vargo, the ZBA voted to grant the postponement request for continuation of the Public Hearing for Application #18-38, conditioned on an updated survey map clearly showing the western boundary, easements and structures, be submitted no later than April 24, 2019.

AYES: Hindenlang, Boyce, Tobey and Vargo

NAYS: None  
Motion carried unanimously.

Ms. Holland returned to the meeting.

**Adjournment:** On motion by Ms. Hindenlang, seconded by Ms. Tobey, the ZBA voted to adjourn the meeting at 7:55 p.m.

AYES: Hindenlang, Boyce, Holland, Tobey, and Vargo

NAYS: None

Motion carried unanimously.

Respectfully submitted,

Ann Balloni  
Village Clerk