

TOWN OF CAMPBELL
PLANNING AND ZONING COMMISSION
NOVEMBER 7, 2012

PRESENT:

Steve Earp	Jeff Schroeder	Town Clerk/Treasurer Chadwick Hawkins
Steve Hockenbery	Helen Vitale	Town Board Supervisor David Wilder
Scott Johnson	Joe Weitekamp	Residents: William Pfafflin
Pat Post		Rosalie Schnick
		Mrs. James Wille

Chairperson Post called the meeting to order for the purpose of a public hearing for conditional use, special exceptions permits, variances, zoning changes and ordinance

When the chairperson called for approval of the October 2, 2012 minutes, Helen Vitale corrected an error on the lower left hand corner of page 1. The dated should have been C.P.&Z.C. 10/12 instead of 1/12. The second correction is the time of the November 7 meeting was given on one set of minutes as 6p and on another set as 5p. It should have been 6p and since we are meeting at 5p, it is now irrelevant.

With the corrections made by Mrs. Vitale, Joe Weitekamp moved we approve the minutes. The motion was seconded by Steve Hockenbery. The motion passed unanimously.

Under OLD BUSINESS the chairperson called for a motion to send a final draft of our new zoning ordinance to the town board for approval and to send to the county for final action.

Helen Vitale moved we send the final draft of the new zoning ordinance to the Campbell Town Board and recommend they send it to the county board for approval. The motion was seconded by Steve Hockenbery. The motion passed unanimously.

Under NEW BUSINESS, the commission heard the appeal of James Wille, 3025 Edgewater Lane for a variance needed to build a garage attached to the existing house. Mr. Wille represented himself.

Mr. Wille said he is asking for a variance to build the garage on the road side of the house and is not asking for side yard variances.

Steve Hockenbery pointed out the entire property sits within the shoreline district and requires approval from the county to do anything.

Jeff Schroeder asked if the access to the properties along Edgewater Lane is defined as an easement or a road. Mr. Wille replied the county defines it as a road and not a street. Mr. Schroeder said he spent considerable time at county offices and records do not say to whom this property belongs. There is a recorded easement but no indication of Edgewater Lane as town property. He suggested Mr. Wille get legal help on the issue.

In answer to Helen Vitale's question on the size of the variance needed, Jim Wille replied the new garage would be just within his property line and within any required setbacks. He added the existing house is already within the setbacks.

Chairperson Post referred to documents received by the town board showing the access drive is not town property but an easement over property originally owned by a Mr. Hanson.

Scott Johnson said there is no record of the property ever having been deeded to the town nor that the town ever accepted ownership of the property. There might be a basis for acting on the variance even if the property was never deeded to the town, had the town recognized the property as a street or road for 25 years or more. As is, there is no way the town can issue a variance. Mrs. Post added the town does not plow the lane in the winter as it does all town roads.

Helen Vitale stated the town cannot grant a variance for property it does not own.

Scott Johnson said the legal questions concerning ownership of the property must be answered before the commission or the town can take any action.

Jim Wille suggested the easement might be an invalid one and it was up to the town to settle the legal question of ownership. Chairperson Post replied, since the town was not asking for anything, it was up to Mr. Wille to come with adequate proof of town ownership so that the town can make an informed decision.

Scott Johnson repeated, based upon what Jeff Schroeder learned at the county offices, there is no documentation of the town's legal ownership of the property. Therefore, we cannot, at this time, issue a variance.

Scott Johnson added, even if the county were to issue a variance, he, as Campbell Town Chairperson, would not issue Mr. Wille a building permit. A building permit would be issued only after the legal issues of ownership are settled.

Chairperson Post read a letter from Davy Engineering giving the size of setbacks from a sewer line. After measuring, Mrs. Post found the Willes are not in compliance in regard to the sanitary sewer lines. In addition, according to Xcel Energy, a pine tree sits directly over the gas line. In order to build a garage, the gas and sewer lines would have to be moved.

Scott Johnson observed, if the property were, indeed, a town road, the Wille's proposed garage would be directly on the edge of the road with no setbacks. A variance would not be granted for placing a structure that close to any road or street.

The chairperson pointed out the new garage would also infringe on the William Pfafflin driveway and could impede his access to his property.

Scott Johnson moved we deny Jim Wille's request for a variance until legal questions concerning the ownership of Edgewater Lane are answered. Joe Weitekamp seconded the motion.

During the discussion phase, William Pfafflin, resident in the questioned area, testified his late father purchased the lots on which he currently resides from Oscar Hanson in 1942. In the same year a right-of-way to the property was granted. In 1963 the senior Pfafflin purchased an additional 20 acres from Mr. Hanson. At that time the Pfafflin property was encompassed by Breezy Point Road, Youngdale Avenue, Miller Street and the junior Pfafflin's property. An easement to the properties was granted in 1963. Mr. Pfafflin furnished an abstract of title describing the easement. The described easement is the only way he can get to his property. There is no mention of deeding the access property to the town.

The chairperson called for a vote on the motion before the commission. The motion passed unanimously.

Joe Weitekamp moved we adjourn. Steve Hockenbery seconded the motion. The motion passed unanimously.

These minutes have not been approved.

Helen Vitale