

Kathy Kiernan	Aye
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Chairman Wick stated that there were two (2) items (applications) under review to determine if the letters of CEO Jaffee were correct.

08-23-24-01 Karabec Appeal of CEO June 28, 2024 Letter of Determination - §123-24(A)

CEO Jaffee stated that the issue pursuant to §123-24(a) was not width but rather the classification of the cabins and that they were not subject to the requirements. It was the opinion of Chairman Wick that the cabins were not subject to the requirements of §123-24(a) and the 18’ rule did not apply. No further public comment was being heard and discussion was to be conducted by the ZBA. A Motion was needed to either confirm that the determination of the CEO was or was not correct. A sample had been provided by Attorney Harris and the ZBA could vote on accepting the Resolution.

Member Zahedi motion to accept the approval resolution. Chairman Wick read a portion of the Resolution which stated in part - “Now therefore be it resolved, that the ZBA finds that the building width requirement does not apply to summer cottages... tourist cabins based on the following findings....summer cottage structures, including tourist cabins, similar structures are excluded from the definition of one-family dwellings” indicating the Code was available to the Members and he was paraphrasing. Chairman Wick stated that pursuant to the Code, the 18’ width doesn’t apply, the units were not dwelling units pursuant to the definition.

The Chairman continued reading...”BE IT FURTHER RESOLVED, that notwithstanding the applicability of the term “dwelling unit” to the project, in the Zoning Code lot width is measured parallel to the lot frontage and likewise, the building width should be measured parallel to the lot frontage, making the proposed cottages compliant with the requirement regardless of whether these structures are subject to the provision.

BE IT FURTHER RESOLVED, that if any part of this resolution is annulled by a court of competent jurisdiction, the remainder of this resolution shall remain in full force and effect; and

BE IT FURTHER RESOLVED, that this decision shall take effect immediately [upon approval] and a copy shall be filed with the Town Clerk.” Essentially, the dwelling unit restrictions do not apply because it has its own section in the Code.

Chairman Wick seconded the Motion to accept the resolution for approval.

Member Tomassetti asked how the “building width parallel to the road” is practically applied. Chairman Wick stated that the Town Board should be notified that clarification was needed. Attorney Harris stated he could make a recommendation to amend the Code. Member

Tomassetti recommended deleting the paragraph (third from the end) and follow up through the appropriate channels.

Member Pittner confirmed that the Appeal was based upon the CEO’s determination which stated the section of the Code does not apply and the Appeal made was challenging that determination.

Chairman Wick polled the Board for a Motion approve the Resolution with the votes as follows:

Member:		Vote
Karl Wick, Chairman	§123-61 and §123-24 are very clear there are exceptions to the dwelling unit and it has its own section in the Code and not under the auspices of §123-24	Aye
Guy Brought		Excused
Gloria Van Vliet		Excused
Katie Zahedi	In favor for the same reasons stated by Chairman	Aye
James Tomassetti	In favor for the same reasons stated by Chairman	Aye
Mike Pittner	CEO Determination, in the literal sense, referenced “dwelling units.”	Nay
Kathy Kiernan	Was willing to vote on Resolution with suggested paragraph removed. She felt that the units were still a “dwelling unit” pursuant to the definitions in the Code although there were exceptions.	Nay

The vote to approve the Resolution failed by a vote of 3-2-2.

CEO Jaffee had used the phrase “dwelling unit” as a “term of art” for NYS Uniform Fire Prevention and Building Code and how it was used didn’t apply to Zoning Code. Attorney Harris stated definition of “dwelling unit” under the State Fire Prevention Code would be defined differently than the Esopus Zoning Code. Discussion regarding the Code definitions and applicability ensued. Member Zahedi stated that decision needed to be based on the Zoning Law and not personal feelings.

Attorney Harris stated the failure to have a majority vote to approve the Resolution resulted in the failure of the vote to approve. Member Tomassetti stated that a vote had been taken within the 62-day requirement to make a decision upon the close of a public hearing. Attorney Harris reviewed the law to determine his recommendation relative to procedure. Upon review, Attorney Harris stated that since it was a vote on an appeal, the vote was considered denied. After further review, he stated that once the public hearing was closed, the ZBA had 62 days to make a decision. Under Town Law, if there was not an affirmative vote on a motion, the ZBA

may deny or amend the failed motion/resolution as long as it occurs by the 62nd day. If there was a stalemate and majority vote couldn't be obtained, it would be considered a denial. Attorney Harris stated the ZBA could be polled regarding the denial of the Motion to grant the Appeal of the CEO's determination. Without an affirmative vote of a majority to approve the appeal, the appeal is denied. His recommendation was to make a Motion to approve the Appeal.

Upon Motion of member Tomassetti, seconded by Member Zahedi, the Motion to accept the Appeal, the Motion failed by the following vote:

Member:	Vote
Karl Wick, Chairman	No
Guy Brought	Excused
Gloria Van Vliet	Excused
Katie Zahedi	No
James Tomassetti	No
Mike Pittner	Yes
Kathy Kiernan	Yes

Member Tomassetti noted that if the Appeal had been granted, the units would have been allowed to be much larger.

08-23-24-02 Karabec Appeal of CEO June 28, 2024 Letter of Determination - §123-24(B) - Density

A sample resolution had been provided for consideration and the Members agreed to vote on the Resolution as proposed. Chairman Wick noted that §123-13D was specific regarding the density of cabins. Member Tomassetti stated the Code was very clear.

Upon Motion of Chairman Wick, seconded by Member Tomassetti, the Motion passed by the following vote 4-1-0-2:

Member:		Vote
Karl Wick, Chairman	Agreed that the density had been calculated appropriately based upon information provided by the Engineer	Yes
Guy Brought		Excused
Gloria Van Vliet		Excused
Katie Zahedi		Yes
James Tomassetti	Based upon the calculations provided by the Engineer, the	Yes

	proposed density was supported	
Mike Pittner		Yes
Kathy Kiernan		Abstained

Upon Motion of Member Kiernan, seconded by Member Pittner and all in favor, the meeting was adjourned at 8:02 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on February 12, 2025

Approved: February 18, 2025