

**MINUTES**  
**FIRE ISLAND PINES PROPERTY OWNERS' ASSOCIATION**  
**BOARD OF DIRECTORS' MEETING**

June 11, 2011

Directors Present: Alan Brockman, Alan Brodherson, Jane Groveman, Michael Hartstein, Greg Henniger, Roger Kluge, Chris Lovito, Jay Pagano, Tad Paul, Anthony Pietrangolare, Henry Robin, Michael Savino, Ed Schulhafer, Jon Wilner, Jim Vandernoeth and Lori Zeller

Attending By Phone (but not voting): Eric Sawyer

Directors Absent: Ariadne Villarreal and Randy Wilson

Also Present: Stephen Hayes, Ed Lewis, Mark Ostfield, Glen Wielgus, (FIPPOA Members), Jon Gilbert (Marina Committee Co-Chair), Ignacio Ceriani (Director of Finance) and Ken Pollard (Director of Administration)

Meeting called to order by President Jay Pagano at 10:39 in the Solstice Room in Whyte Hall the Fire Island Pines Community Center, New York, NY.

Pagano said since there is no official policy and the bylaws are silent on the issue, he has allowed Eric Sawyer to attend today's meeting by phone. The Center, where we have our winter meetings, does not have any conference call facility. For the time being one Director can attend by phone and it will be the first Director asking Pagano.

Paul motioned to approve the May minutes. Brockman seconded and the motion carried.

Pagano asked the incumbents whose terms are up this year to advise Pagano and Andy Baker of their intentions regarding their candidacy.

**President's Report**

**Police**

- There has been some crime in the community this spring.
  - While some perceive it as an increase, the police report that it is actually less than prior years at this time of the season.
  - Pagano met with the police prior to this board meeting.
  - There was one burglary on Bass Walk.
    - A window was broken to gain access.
  - There were two burglaries on Shell Walk.
    - A screen was cut out to gain access.

**Mosquitoes**

- Suffolk County Vector Control has been applying larvacide in the Pines, but not spraying for adult mosquitoes.
- Regular Thursday spraying for adult mosquitoes will begin the last week of June.

## **Finance**

Mike Hartstein, Treasurer, reported:

- Treasurer and FIPPOA Office have been very busy with the auditors.
  - Financials are looking good as of the end of May
    - Administration expenses are a little on the low side
    - There is some concern regarding harbor income
      - Seasonal income is budgeted at \$160,000 for the year.
      - Transient income is budgeted at \$35,000 for the year.
      - Harbor plans marketing campaign aimed at transients.
        - Currently only one reservation for the July 4<sup>th</sup> weekend.
        - All local marinas are empty.
          - Possibly due to the high price of fuel.
  - As per the 2011 budget, FIPPOA will donate \$2500 to the Fire Island Association.

Jane Groveman motioned to empower the Harbor Committee to adjust rates to attract income over the Fourth of July. Schulhafer seconded and the motion carried unanimously.

## **Zoning**

There was a broad discussion of zoning by the board.

Paul, FIPZAC Chair, provided some history:

- **Background**
  - Federal code was originally written with the National Park (FINS) legislation in the 1960's, then refined in the '80's and '90's
  - All 17 communities within the Park are subject to the same Federal Code
  - Brookhaven code was substantially conformed to the Federal requirements in the 80's and then approved by the Secretary of the Interior
  - Once approved, authority to enforce the code devolved to Brookhaven, with the Federal government retaining only two remedies:
    - issuing "subject to condemnation" letters
    - declaring the entire Brookhaven code invalid and all properties subject to condemnation until code conforms to Federal requirements again
- **Recent Turmoil**
  - Years of Brookhaven "interpreting" the code had generated many conflicts.
  - Violations of the code were routinely overlooked for many years
  - 2008 FINS study (200 pages inclusive of bibliography) shows rampant Brookhaven and Islip disregard to language of both local and Federal codes
  - 2009 FIPPOA ZAC expressed concern over conflicting metrics for surveys and permits, to no avail
  - Switzgable vs Brookhaven appellate court decision, 2010 overturned grant of certain variances previously granted
  - Brookhaven upset with court's intervention as well as FINS intervention
  - Homeowners who had filed variances during this period were caught between competing and conflicting interests
- **No New Code**
  - No new laws have been created by the Switzgable case
  - No new code has been created in response to the case

- Brookhaven BZA is now conforming to court ruling and FINS requirements
- **The Way Forward**
  - Clear understanding of the existing codes as written decades ago
  - Review Soller letter
  - Review recent BZA decisions issued in May 2011
  - Provide homeowners access to information or links to relevant codes
  - Provide homeowners, contractors, and realtors access to clear and consistent information on how our homes can be legally improved and enlarged
  - Decision Points:
    - Continue dialog with Brookhaven and FINS to secure definitions for survey & permit metrics
    - Increase the value of our substantial investment in our homes through adhering to the code, or
    - Determine which authorities, or which codes, local or Federal, to challenge and how to accomplish it

Hartstein provided options:

Zoning questions are complex and interrelated; the three sections below have been structured to separate the issues into manageable segments for discussion and decision by the Board. Where there are more than two choices and one of them does not receive a majority of votes cast, the option with the lowest vote total will be eliminated and a second (and, if needed, third) vote will be taken -- until one of the options receives a majority.

### 1. FIPPOA and ZAC

In recent years, FIPPOA has spent considerable time, attention, and energy on questions of zoning. The Zoning Advisory Committee (ZAC) is established under the Brookhaven Zoning Code which spells out FIPPOA's role in nominating Committee members for confirmation by the Town. ZAC interfaces with the Brookhaven Zoning Board of Appeals (BZA) which forwards variance applications to ZAC for comment.

In practice, ZAC functions much more like a committee of FIPPOA and is perceived by the community as such.

ZAC has created a mission statement, approved by FIPPOA, which guides its operations. It will have to be reviewed depending on the outcome of these Board deliberations.

Options:

a. Fully integrate ZAC as a FIPPOA Committee. While FIPPOA has attempted to distance itself from ZAC, it has been unsuccessful in doing so. Zoning is a critical area for many property owners and, as such, FIPPOA should be a resource to assist in navigating the difficulties entailed.

**Brockman motioned for this option (a). Hartstein seconded and the motion carried with Zeller and Brodherson against.**

b. Separate ZAC completely from FIPPOA. Establish a ZAC website for variances, develop new communication tools, etc. FIPPOA personnel could not maintain the ZAC website or input information to it. Our Board would have little influence over ZAC's procedures and decision making nor would we be held accountable for its conclusions. ZAC members would probably not be covered under FIPPOA's D&O insurance, making it difficult to recruit Committee members.

c. Status quo -- a loose affiliation between FIPPOA and ZAC.

**No vote on b and c since a was approved.**

## 2. ZAC and the Property Owners

While ZAC is a valuable resource that can be helpful to property owners in filing variances, its positive services to the community need to be better communicated.

Over time, the Committee has developed three important functions:

- 1) It has become a resource on variance questions, available for consultation to property owners.
- 2) It takes on broader zoning issues of concern to the community (e.g. reconciling the different metrics applied by Brookhaven and FINS to reduce confusion as to how a property owner must comply.)
- 3) It reviews all proposed variances and provides commentary to the BZA

Where ZAC is in agreement with the variance application or believes the request is relatively benign, it files a letter of "no objection".

In some cases, where ZAC has concluded that a variance should *not* be granted, residents have been upset that "their" organization is lining up against them. It is these cases that take so much effort from both ZAC and the Board.

Options where ZAC opposes the variance:

a. ZAC files an objection letter -- current practice

2. ZAC, in coordination with the FIPPOA President, reaches out to the property owner, demonstrating where and how the request is deficient and helping him/her to revise the filing. If the property owner does not choose to correct the deficiencies, ZAC's objection letter will first be reviewed by the FIPPOA president and/or attorney and they have the opportunity to get more

involved. The Chairman of ZAC makes the ultimate determination regarding any communication.

**Hartstein motioned for this option. Groveman seconded and the motion carried unanimously.**

### 3. Variances on the Website

Post no zoning variance applications

**Eight directors voted for this option and the motion carried by a majority.**

### Political Action Committee (PAC)

Henry Robin, PAC Chair, reported

- The 2011 PAC solicitation to the membership was sent out last week.
  - So far we have received over \$4,000
    - Individual contributions range from \$25 to \$1,000.
  - Thanks to all the Directors who have solicited donations from their friends.
  - All Directors should continue to “sell” the PAC whenever possible.
- There will be a fundraiser for Congressman Tim Bishop on July 9
  - Goal is to raise \$10,000.
  - Allan Baum and Frank Liberto have graciously volunteered the use of their home.
    - 235 Beach Hill at noon until 1:30 pm.
- Working on a fundraiser for Tim Mazzei
  - Goal of raising \$5,000 for Mazzei
  - Mark Rose has agreed to host the event.
- Joe Conforti and Doug Jakubowski are hosting a fundraiser for Senator Gillibrand
  - August 6<sup>th</sup> is the date

### Security

Chris Lovito reported

- FIPPOA has hired four security guys for the Invasion on July 4<sup>th</sup>
  - Two of the security guys will remain throughout the night
  - Memorial weekend highlighted the need for security with all the crowds.
  - Looking into arm rests for the benches so that people cannot lay down to sleep.
  - Sayville Ferry is willing to run a 6:30 am boat, but there is concern that this may encourage day trippers to stay overnight.
- 

Meeting adjourned at 1:59 pm.

Respectfully submitted,  
Ken Pollard  
Director of Administration