

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, April 18, 2017**  
**6:00 p.m.**

SEQR = State Environmental Quality Review  
PB = (Town of Bolton) Planning Board  
WCPS = Warren County Planning Staff  
APA = Adirondack Park Agency  
LGPC = Lake George Park Commission  
DEC = Dept. of Environmental Conservation

**Present:** Jason Saris, Jeff Anthony, John Whitney, Holly Dansbury, Lorraine Lefevre, Alternate Carla Cumming, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

**Absent:** Joy Barcome & Tom McGurl,

The meeting was called to order at 6:00 pm.

Jason Saris asked if there were any corrections or changes to the February 14, 2017 minutes.

**RESOLUTION:**

**Motion by John Whitney** to approve the February 14, 2017 minutes as presented. **Seconded by, Lorraine Lefevre. All in Favor. Motion Carried.**

- 1. V16-48 BREW, ROBERT & JEAN.** Represented by Patrick Peterson. To alter single family dwelling, specifically to add a 16'x 20' addition with adjacent 10'x 14' screened porch, seek area variance for deficient setbacks. Front: 50' is required, 40' is proposed from the private right-of-way. Side: 20' is required, 19.3' is proposed. Section 156.00, Block 2, Lot 18, Zone RM1.3. Property Location: 5329 Lake Shore Drive. Subject to WCPS review. Tabled at the February 2017 meeting pending additional information.

Mr. Brew presented the following:

- He submitted a letter to the Board and summarized it.
- They stated the difficulties with the suggestion of a west end addition placement.
- They affirmed their essential reasons for a north end placement.
- They have expanded on their comments on the additional application.
- They cited language in their deed allowing them to add an additional driveway on the far north end of the property with the distance of 70' from the proposed north end addition.
- The letter provides environmental consequences of an additional driveway.
- They have included a plot plan illustrating the potential new drive.
- As post script, they have contributed to the maintenance of the existing driveway over the years.

- They wish to work with the Board and the Town in this matter and believe that the Board will now be able to see its way clear to grant them a variance with this additional information.
- They believe their request of 10' on the north end and 9' on the east end are reasonable and sensible accommodations which balance their real-life benefit against potential deterrent to the neighborhood or community, which is difficult to imagine in their remote hillside location.
- He asked the Board to review page 4 of the submitted letter for additional comments.

Jason Saris asked if their intention was to put in a new driveway. Mrs. Brew stated they would rather not and asked the significance of another drive. Jason Saris stated that if they put in the new one to be more compliant they would need to remove the other one. Mrs. Brew stated that they could not remove this as it was used by the neighbor. Jason Saris stated that he does not see the significance of another drive in this case. Mrs. Brew stated that the existing right-of-way would be used at the entrance and they would remove the second portion. Jason Saris asked if they would be in compliance with this removal. Mrs. Brew replied that they would.

Andrew Brew neighboring property owner stated that he failed to see any hardship. They have plenty of property to put an addition on their place, they can cut the trees in the back and do what they need to do. If the applicants want to put in a new driveway and abandon the easement it is absolutely not a problem and they would not need to be here before the Board. The applicants have plenty of property to put their addition on and meet the required setbacks. It is just more of an expense to the applicant.

Zoning Administrator, Pamela Kenyon stated that the applicant was also before the Board for a side yard setback variance.

Andrew Brew asked how the side of the cabin was considered the front yard. John Whitney stated that it is due to the location of the road. Mr. Brew stated they were using the easement as the front. Zoning Administrator, Pamela Kenyon stated that is correct, the right-of-way is also considered a front yard setback by code. Mrs. Brew stated they were told to do this by the Zoning Administrator.

Holly Dansbury asked why they can't place it on the other side of the house. Mrs. Brew stated it was due to the way the house is constructed and the entrance to the cabin. It would involve a lot more construction changes in order to accommodate an addition on that side. The design of the cabin would become very complicated. This would also be more aesthetically pleasing and makes access to the cabin less complicated. They would be improving the look of the cabin.

Holly Dansbury stated that she was sure it would look nice, but this was not a compelling reason as to why they could not move the addition into a more compliant area. Mrs. Brew stated that they had looked at placing it in other areas and this was the most feasible area.

Holly Dansbury asked if they had tried to reconfigure this from the last meeting. Mrs. Brew stated they had tried multiple different ways to configure this project before they ever came before the Board and this was the most feasible. Holly Dansbury asked if she had a response to

the neighbor's concerns. Mrs. Brew stated that it was such a little addition that she did not see the impact that it would have and they did not understand her neighbor's concerns. Holly Dansbury asked if they considered screening between the property. Mrs. Brew said it was a great idea but they would lose their view. Holly Dansbury asked about maybe using something low to screen it from below.

Jason Saris stated that it was a modest request but it sounds like if they relocate the right-of-way they would achieve the variance. Jeff Anthony stated he was not sure DOT would allow a third driveway. Mrs. Brew stated that was also a concern of theirs. John Whitney stated he thought they would have issues trying to put in another driveway on 9N. Mrs. Brew stated she did not necessarily want to add a new driveway they have been doing fine sharing the driveway for a long, long time.

Jason Saris asked if they would consider shrinking the porch by 9" to make it compliant. Mrs. Brew stated that would not be a problem. Jason Saris stated this would decrease the amount of relief they were looking for.

Zoning Administrator, Pamela Kenyon asked if the approval would include relocating the driveway, The Board stated that it would not.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Robert & Jean Brew, (V16-48) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #1 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: When you look at the other options, this seems like a fairly reasonable option for the landowner to enjoy their property without unnecessarily encumbering the neighbor's, creating negative impact to the environment or significant incursions to the setbacks.

2) There will be no undesirable change in the neighborhood character or to nearby properties. The addition is a technical issue due to the shape of the right-of-way.

3) The request is not substantial.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They will not have to remove trees behind the house.

5) The alleged difficulty is self-created; This is pre-existing and came with the property as is but it is not significant.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and **Seconded by**, Carla Cumming it is resolved that the ZBA does hereby approve the variance request as presented with the following condition; The side porch is to be reduced to meet the 20' side yard setback. **All in favor. Motion Carried.**

*Jeff Anthony recused himself from items 2 & 3.*

2. **V16-46 CLIFT, RICHARD & HOLLY.** Represented by Studio A Landscape Architecture & Planning. For the construction of a proposed patio, outdoor kitchen and gazebo, seek area variance for 1) Deficient setbacks. Front: 50' is required, 1.80' is proposed. Shoreline: 75' is required, 37.24' is proposed. Side: 30' is required, 22.46' is proposed; and 2) to alter a nonconforming structure in accordance with Section 200-57B1b. Section 157.05, Block 1, Lot 10, Zone RCL3. Property Location: 9 Rose Lane. Subject to WCPS and APA review.

Kristen Cavalier of Studio A Landscape Architecture & Planning presented the following:

- They are proposing the construction of an outdoor patio area adjacent to the residence.
- The Cliff residence was built to replace an existing seasonal cottage in the same location allowing it to be built within the same setbacks.
- This property has extremely steep grades, rock out cropping's and is built adjacent to Rose Lane.
- There is currently a small area to the north of the house with only enough room for a BBQ grill and no views of the lake.
- There is a rock wall cliff directly behind the house.
- She detailed the plans to the Board depicting the space.
- This area was designed for a bar with 5 stools and a gazebo not exceeding 12' in height, area for 2 round chairs and some plantings.
- Access will be through the back of the house next to the rock wall.
- The total new hardscape for the area is approximately 767 sq. ft.
- Landscaping is provided to act as a buffer.
- The Clift's purchased an adjacent parcel of land to increase the lot size and reduce the needed side yard setback.
- The only usable outdoor space on this site is within the shoreline setbacks.
- She detailed all the setbacks to the Board.
- Making the patio smaller reduce the space to a size much smaller than they would like.
- They have looked and there is no room to the north, west or east for the placement of the patio.
- The patio will be constructed out of stone matching the existing character.
- It is exempt from stormwater but they have accommodated for plantings within this area.
- Outdoor lighting will be dark sky compliant.
- Down grade from the patio is a stormwater infiltration device that was installed when the house was constructed.

Lorraine Lefevé asked what the construction process would be. Ms. Cavalier stated they would need to remove the rock shown in the photo. She stated that they would not be doing any blasting. Lorraine Lefevé stated it seemed as though they would be changing the whole topography of this area. Ms. Cavalier stated it would just be moving some grades around and it would not be too significant.

Lorraine Lefevé asked how they decided on the size of this area. Ms. Cavalier stated they were designed on the use that the homeowner requested at the minimum required. Ms. Cavalier detailed plan C-1 to the Board showing where everything would be located and the size.

Jason Saris asked what an outdoor kitchen was. Ms. Cavalier stated it had been modified from the original size and made smaller.

Holly Dansbury asked why they needed that large of a shoreline setback. Ms. Cavalier stated that anything proposed on this side of the house would require a shoreline setback and they could possibly look at pulling it back a little bit. She stated they had played around with a lot of different options to make it more compliant, while giving the client what he desired.

Jason Saris asked when the new cottage was built. Mr. Mowery stated about 9 years ago. Jason Saris stated that new construction that did not originally incorporate things like decks etc, in the plans, were not looked upon fondly by the APA. They believe it should have been done in the building process. This parcel already has a structure on it that violates every setback, including the shoreline. Now they want to expand it significantly. He sees plenty of patios that do not include gazebos or outdoor kitchens. This may be the minimum to acquire all of their goals, but he is not sure it is the minimum to enjoy some quiet space outside the house. He asked if there were any way they would consider making this a more minimalistic area.

John Whitney stated it comes down to the question of is there any practical difficulty for a patio or lounge area.

Jason Saris explained that a deck is not the utilization of a property, it is more of a recreational area. He believes that a gazebo will not be looked at as a utilization of the property. Holly Dansbury said she agreed and believes that they could minimize this area. She stated the size of this is very concerning. Jason Saris stated that anything over 100 sq. ft. is a structure. Lorraine Lefevé stated the whole area they requested is over 100 sq. ft.

John Whitney stated that there was no request to use the property they purchased when they were in for the lot line adjustment.

Jerri Woodward stated she lives next to the house and said this is the only area for outdoor activity. The applicants have two little boys and this is the only area to be utilized. She hopes the Board will consider this in a positive way.

## RESOLUTION

The Zoning Board of Appeals received an application from Richard & Holly Clift, (V16-46) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #2 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Due to the topography, this could not be achieved by any other means, and although the design looks beautiful, in considering the practical difficulty, structures that are purely for recreational uses are not a practical difficulty. This is not a safety issue.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is substantial. The lake setback is the only substantial setback.
- 4) The request will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They will be taking the natural appearance and flattening it out essentially homogenizing the area will be a negative impact.
- 5) The alleged difficulty is self-created; This could have been considered at the time of the rebuild.

The benefit to the applicant is outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby deny the variance request as presented. **All in favor. Motion Carried.**

3. **V17-05 BROOKHILL DEVELOPMENT/JERRI WOODARD.** Represented by Studio A Landscape Architecture & Planning. In accordance with Section 200-93 (other regulations applicable to Planned Unit Development), seeks area variance (PUD Amendment) to increase the size of the approved decks on townhouse building 800. The end units were originally approved for a 17'4" x 13'6" deck. 17'4" x 20' is now proposed. The middle units were originally approved for a 16'x 8'6" deck. 16'x 20' is now proposed. Section 157.05, Block1, Lot 6.1, Zone PUD. Property Location: Rudy Lane-Lagoon Manor. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQ. R.

Kristen Cavalier of Studio A Landscape Architecture & Planning presented the following:

- They are looking to increase the size of the 4 decks on building 800.
- Currently all the townhouses are under contract and all purchasers are requesting an increase in the deck size.
- She detailed the decks on the plans to the Board.

- They are proposing to extend the lengths of the decks.
- The widths will stay the same.
- They are not encroaching on any of the setbacks or property lines and are within the character of the neighborhood.

Jason Saris asked if this was the building that was recently before the Board to relocate. Ms. Cavalier stated it was. Jason Saris asked if they did not know that they would want larger decks at that time. Ms. Cavalier stated that the building was being built to the approved deck size and these newly proposed decks were in keeping with the other decks in the neighborhood. Jason Saris asked if a variance was required to modify the other decks. Ms. Cavalier stated it was.

Lorraine Lefevre stated she did not see any impact other than an improvement to the owners.

Carla Cumming stated she saw that some of these decks were built. Ms. Cavalier stated they were built to the specifications of the approved plan, but they wanted to increase them now while they were under construction. Carla Cumming asked if there were plans for future development into a larger size or was this it. Ms. Cavalier stated that this was it.

Atty. Muller read a letter in opposition to the application from Lenore and Nicholas Clesceri.

Lenore Clesceri stated she was the property owner to the north and submitted a photo to the Board. She believes it is really quite close to the cabin at the end of their property. They are a part of Bolton and has been for many years and they are very active in the community. She feels that enough is enough. They object to the increased size of the decks, and they do not see the need for more. Ultimately, she would like a fence between the two properties.

Jerri Woodward stated that all the townhouses in Lagoon Manor have the exact same footprint starting out with the same small deck and they have all had variances to increase the decks. She stated that typically the buyers come in individually to expand, because they have to be built according to the original offering plan. She thought it would be better to extend it now instead of pulling it apart later and extending it. This request will not make these decks any larger than what has already been approved for the other buildings on the property. She has also planted 12 hemlock trees along the north side to block the visual impact to the neighbors at a great expense.

Ms. Cavalier stated that they have also increased the planting plan to add a perimeter of hemlocks along the new drive. Jason Saris asked when the planting would take place. Ms. Cavalier replied within the next few months.

Atty. Muller stated this was an awkward species of a variance. He said it is really an approval that would go as a recommendation to the Planning Board where they did the hard work to make sure it fits within the PUD scheme. With the approvals from the Zoning and Planning Boards, it is then sent to the Town Board.

John Whitney asked for guidance with the following:

**Zoning § 200-93.** Other regulations applicable to planned unit developments.

A. For purpose of regulating development and the use of property after initial construction and occupancy, any changes shall be preceded by a variance request. Properties lying in Planned Unit Development Districts are unique and shall be so considered by the Zoning Board of Appeals and by the Planning Board when evaluating variance requests. The maintenance of the intent and function of the planned unit development shall be of primary concern.

Atty. Muller stated that what they are basically trying to outline here is that they are not going to depart from the principals that were the PUD. The concept of a PUD is that whatever the zoning in this designated area is in the book, they are wiping the slate clean and inventing a specific code for this parcel, which was done here for this PUD. You can see that this is not a PUD that has mixed uses of Residential/Commercial so in keeping with the intent, and maintaining the principals of the original approval, they are in the right context in keeping it residential and keeping the amenities residential. He detailed some minor amendments to the PUD that have not been put before the Boards. He explained that changes to the building or roads do have to be presented to the Boards as an amendment.

John Whitney asked if they were required to be presented a need for this change they wanted. Atty. Muller stated that the Board could require a need, but it should not be determinant as the reason to deny it. It is a factor. John Whitney stated that the public comments are important, and they need to know what the end game is here. There shouldn't be all these little steps and he is concerned that there will be more plans. Atty. Muller explained that he had advised that they come all at once for all of these changes instead of one at a time. This is the nature of the PUD, a change that rises to the level of something that the Planning Office considers substantial, they will always be back for changes. The new zoning code will address this issue so that they do not need to keep coming back for variances. This is really a variance from what was previously approved, not a restriction. John Whitney stated that there was really no need for a bigger deck, it was a preference and that is where he is getting stuck. Jason Saris stated that the PUD makes them treat everything like it is a pre-existing, non-conforming structure even though it meets all the setbacks so they have to come back for everything. If this wasn't a PUD they would not be here requesting a variance because it meets all the setbacks. John Whitney stated you can't have the benefits of the PUD without downsides too. Jason Saris stated that they still go by the variance criteria and treat this as a pre-existing, non-conforming structure.

Lorraine Lefevre asked how many other buildings were left to be built. Ms. Cavalier stated that this was it. Holly Dansbury asked if they expected to ask for any other variances. Ms. Cavalier replied not that she is aware of.

Jason Saris stated that the original deck design size seemed very small. Holly Dansbury agreed.

Carla Cumming asked for clarification on the original plan and if this was what they had to submit to build. Jerri Woodward stated that this was what they had to do with all of the town houses. She was not around for the original approvals, but 16' x 8' won't even fit a table. This increase will make these decks consistent with all the other ones on the property. Carla Cumming asked if all these other deck owners came before the Board individually. Ms. Woodward replied that they had and she is just trying to handle it all now, instead of 4 separate times.

Mrs. Clescari asked if the other units had walk out basements. Ms. Woodward stated that 600 and 900 did. Mrs. Clescari stated this was also an area for outdoor usage.

No County Impact

### **RESOLUTION**

The Zoning Board of Appeals received an application from Brookhill Development/Jerri Woodard, (V17-05) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #3 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: There is no other way for the homeowner to enjoy the deck from the second story without extending it.

2) There will be no undesirable change in the neighborhood character or to nearby properties. They are similar to the other decks in the neighborhood.

3) The request is not substantial. This is basically just extending the length of the decks.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. These are nicely built decks.

5) The alleged difficulty is self-created; They want to add larger decks she does not see a problem with it.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Holly Dansbury and **Seconded by**, Lorraine Lefevre it is resolved that the ZBA does hereby approve the variance request as presented. John Whitney opposed. **All others in favor. Motion Carried.**

- 4. V16-37 SALAMONE, CAROL.** Represented by the Dock Doctors. For the construction of a hillside trolley, seeks area variance for deficient setbacks. 1)

Shoreline: 75' is required, 4' is proposed from Lake George and 5' is proposed from the stream on the north side of the property; and 2) Side yard. 30' is required, 15' is proposed. Section 141.00, Block 1, Lot 22, Zone RCL3. Property Location: 5666 Lake Shore Drive. Subject to WCPS and APA review. This item was tabled at the September 2016 meeting pending additional information. Tabled at the February 2017 meeting pending additional information. **This variance was approved on December 13, 2016 and reversed by the APA.**

Carol Salamone presented the following:

- She is looking for a hillside trolley for her property in Bolton.
- The property is extremely steep and the proposed trolley location is the shortest and most direct route to the dock.
- This trolley will not produce an undesirable change to the neighborhood as it will blend into the landscape and it is close to the ground.
- It will only require drilling into the ledge rock down the hill to the dock.
- She is trying to provide regular and handicap access for her family from the house to the lake.
- The APA has been to the site.
- There will be no adverse effect to the environment because they are drilling it to the ledge rock and they are not using any machinery to install it.
- They are hand carrying everything up and down
- This will also alleviate them from walking up and down to the dock through all the vegetation as they will be riding in a cart above it.
- The difficulty is not self-created as the property is extremely steep and all ledge rock.
- There is one set of old stairs that are in disrepair and are so steep that it is very hard to traverse back and forth, especially for her parents who are handicapped.

Jason Saris asked if other alternatives were considered. Ms. Salamone stated they considered a path to use a golf cart, but this would require blasting the ledge rock which is not feasible. They also looked at new stairs, which would change the topography of the land and stormwater runoff.

Jason Saris asked if they had considered all locations on the property. Ms. Salamone stated that they had, and this is the only place that the ledge rock is low lying and has tree cover to block it from view from the lake.

Jason Saris asked about the environmental impact if it was placed elsewhere. Zach Monroe of Winchip Engineering stated they had looked at several different alternative ways to access the lake and they would need to destroy a very large area of the hillside with blasting and significant removal of vegetation. This placement of the trolley would be the least impactful. It is situated to go between the existing trees and vegetation. It is built up off of the ground and there will be no disturbance to the ground other than the feet that will be pinned to the ledge rock. Mike Savelie of the Dock Drs. stated that there were approximately 22 locations where there would be 2.5" round diameter legs supporting the track, which would essentially be floating above grade. The car will travel on the open track. The rails are only 2" thick. Jason

Saris asked if this would have the smallest footprint of all the alternatives and the least amount of impervious area. Mr. Monroe stated this was correct. If built any other place on the property they would still need a variance and it would create significantly more disturbance and require an additional landing. It would also create more disturbance with foot traffic traversing the lake shore to the dock. The trolley will be landed at the dock and significantly reduce the amount of potential disturbance in other areas. The top of the proposed trolley will be easily accessed by a golf cart on an existing path.

Mr. Savelie stated the trolley was the only safe way to provide adequate access to traverse the hillside to the dock.

Holly Dansbury asked how long the existing step path was. Mr. Monroe stated that the existing staircase is 120' from the dock and the same length down the hillside. This is double what the trolley would be. This is the most environmentally friendly way to traverse the hillside with the least amount of impact. No runoff, tree cutting, blasting or removal of vegetation.

Jason Saris asked what would be seen from the lake. Mr. Monroe stated essentially nothing. The existing trees will screen it and it will blend into the foliage. This placement of the trolley would have the least visual impact, blending into the landscape.

Atty. Muller cited the following correspondence:

- email from Robyn Burgess of the APA
- Letter from Carol Salamone to Terry Martino, Executive Director of the APA.
- Original application proposal correspondence from February 16, 2017 to APA from Town of Bolton, including minutes.
- The file contains the original APA reversal determination dated January 20, 2017 from Terry Martino, Executive Director of the APA.

Lorraine Lefevre asked if there would be any stormwater runoff impacting the stream. Jason Saris stated that they had addressed this and there would be virtually no runoff from the trolley. Mr. Monroe stated that there will be essentially no runoff from the trolley and this location is the best possible area for it. There is virtually no impervious surface created. Jason Saris stated he believes that the entire Board has been to the site and they also have extensive photo documentation showing the location of the trolley along with the other unsuitable areas of the property demonstrating why this is the best location. Mr. Monroe stated that the setback requested from the stream is 21.6 feet, he believes the original application was only 5'.

Atty. Muller cited the following from the November 18, 2016 correspondence from Winchip Engineering:

- Several options were considered to locate the proposed trolley. Of the various options considered, locations at the northern end of the property are preferred. The northerly locations provide the shortest direct path to the lake and the slopes in this area are the most uniform. Centrally located and southerly located trolley paths are

longer, must traverse steeper initial grades, contain more non-uniform grades, and result in additional disturbance. The more uniform the slope the closer the trolley rail system can be constructed to the ground, thus reducing visual impact from the lake. Further, these locations do not have existing access to the points of departure and would also require traversing the shoreline from their termination point to access the existing dock. Concentrated traffic along the shoreline to access the dock could result in further unintended disturbance and could have potential detrimental effects along the shoreline.

Atty. Muller stated this is showing that the engineer is giving the applicant the best choice after having run through all feasible choices.

Atty. Muller read the following findings of fact from the December 2016 approval:

The application of the applicant is as described in Item#1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Based upon photos, maps and engineering reports there are no alternatives.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The existing stone path is not in good repair, and the repairs would be more disruptive.
- 3) The request is not substantial. The trolley itself is only 3' above ground level.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They have a need for access to the lake front and the request is not substantial. They are only removing 2 trees.
- 5) The alleged difficulty is not self-created; Given the topography of the land it is not possible to access the lake front in a usable fashion. This is the best available balance. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Carol Salamone, (V16-37) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Photos, maps and descriptions from the engineer indicate there are no feasible

alternatives due to the topography. The proposed location is the shortest path with the least disturbance.

2) There will be no undesirable change in the neighborhood character or to nearby properties. The trolley is low to the ground and it is the only place that it will be screened by existing vegetation and not visible from the lake.

3) The request is not substantial.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will be essentially no stormwater runoff and there will be natural vegetation.

5) The alleged difficulty is not self-created; The topography of the property does not allow the access to the lake in a usable fashion.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Giving due consideration to the APA requirement that a shoreline variance will require a further finding that what the applicant has proposed and what the applicant's presentation has demonstrated supports the granting of this shoreline setback variance upon proof of demonstrated hardship or practical difficulty, the demonstrated circumstances of shoreline access difficulty and reasonable safety considerations that can be easily achieved by the granting of this variance satisfactorily proves that strict compliance with shoreline setbacks would impose an unnecessary hardship on the property in diminishing its value by impeding reasonable shoreline access. The granting of this variance alleviates a demonstrated practical difficulty that the terrain and topography require such a variance and by such variance approval the reasonable usefulness of the property is maintained and it results in a solution that achieves a measured and reasonable shoreline access in avoidance of the demonstrated practical difficulty that is unique to this property.

Jeff Anthony added that there would be essentially no stormwater runoff from this system. This is a lacey type fabric of structure above grade of the surface of the ground and is permeable. Any small amount of runoff from this structure will immediately infiltrate into the ground. There will be natural vegetation growing under it and it will not be paved. Essentially it will not create any added stormwater runoff.

Jason Saris stated that if the existing stairs were even in better repair, they would still be inadequate to reach the lake front and the dock which are on the other side of the property. They would need to build more stairs and extend the existing structure longer, making it much more of a disturbance.

Now, upon motion duly made by Holly Dansbury and **Seconded by**, Jeff Anthony it is resolved that the ZBA does hereby approve the variance request as presented. Carla Cumming recused herself. **All others in favor. Motion Carried.**

- 5. V17-04 FELLEMA, ROBERT.** To alter non-conforming single family dwelling, specifically to add solar panels, seeks area variance for 1) deficient front yard setbacks.

50' is required, 19' is proposed on the west side and 35' is proposed on the east side; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 1, Lot 38, Zone RM1.3. Property Location: 72 Woodland Ridge Road. Subject to WCPS review.

Robert Fellema presented the following:

- He would like to place solar panels on the south side of his newly built garage.
- This is a 5.120 watt system consisting of 16 panels and an inverter.
- The submitted plans have been stamped and certified and all the design conditions are noted.
- The garage is a non-conforming structure which is why he needs a variance for the solar panels.

Jason Saris asked if the panels were non-reflective. Mr. Fellema replied that they were and detailed why he decided to use the less intrusive smaller system on the south side instead of elsewhere. This would be more efficient and less obtrusive and meets his needs.

Holly Dansbury asked if there would be any trees that would be removed. Mr. Fellema stated he would be removing 5 or 6 trees to take advantage of the solar array.

Jason Saris asked the color of the panels. Mr. Fellema stated they were black and would be running parallel to the roof so they would not be seen from the road.

Lorraine Lefevre asked if there was emergency shutoff in case of the fire. Mr. Fellema stated that there was an automatic shutoff disconnect at the inverter located outside on the southside wall. By pulling the meter and killing the power to the house, it will also kill the solar system.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Robert Fellema, (V17-04) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #5 of the agenda.

- 1) The benefit could be achieved by other means feasible to the applicant besides an area variance: This could be done by placing the panels in a more intrusive and visible area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. They are well shielded

3) The request is not substantial. There will be no further incursion on any of the setbacks, it is an array on top of an existing structure.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There is no change in runoff or any other physical features.

5) The alleged difficulty is self-created; in balancing all the conditions it is recommended to grant the variance.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Jeff Anthony and **Seconded by**, Lorraine Lefevé it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor.**  
**Motion Carried.**

6. **V17-06 KOLODZINSKI, TOM.** To alter non-conforming single family dwelling, specifically to allow a walk, deck, and landing to remain in their present location, seeks area variance for 1) a deficient rear yard setback. 20' is required, 18' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 156.20, Block 1, Lot 7, Zone RCM1.3. Property Location: 109 Pioneer Road. Subject to WCPS review.

*\*This application was withdrawn at the applicants request\**

7. **V17-07 ALBARELLI, JOSEPH.** Represented by Bruce Mowery. To alter non-conforming single family dwelling, specifically to remove a 14'x 26' section of existing deck and replace with a 16'x 26' screened porch, seeks area variance to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 1, Lot 47, Zone RL3. Property Location: 63 Woodland Ridge Road. Subject to WCPS review.

Bruce Mowery presented the following:

- The reason they are here is because the existing house is a non-conforming structure due to its height.
- There is no visual impact to any of the neighbors.
- They are extending the deck 2' further out and will be moving up to the second floor line with a shed roof.
- It will strictly be a screened porch.

Zoning Administrator, Pamela Kenyon stated that the height of the structure was a Zoning Office mistake made 17 years ago.

- He detailed the original set of plans to the Board stating that when the house was built originally there was a small section for a partial basement that had been dug out, which put the house over the height requirements.

No County Impact.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Joseph Albarelli, (V17-07) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #7 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: An area variance is the only possible solution due to the height of the home.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. There is no visibility of this addition from the adjacent neighbors.
- 3) The request is not substantial. The applicant is not going to exceed the existing height of the structure or violate any of the required setbacks.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will be none.
- 5) The alleged difficulty is not self-created; There was a mistake made during the original construction, making the house 4'6" over the required 35' footprint, and was not done by the applicant.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Jeff Anthony and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

8. **V17-08 DEGELMANN, KEITH & JOHANNA.** To alter single family dwelling, specifically to add a 10'x 12' bathroom addition and an 8'x 24' deck, seeks area variance for a deficient side yard setback. 15' is required. 12'11" is proposed for the bathroom addition. Section 156.16, Block 1, Lot 24, RCM1.3. Property Location: 55 Pioneer Village Road.

Keith & Johanna Degelmann presented the following:

- They need permission from the Pioneer Village HOA to construct this addition, and although they originally thought they had it, but their original request was incomplete and they need to go back to them. They are not sure if they should table the request.

Jason Saris stated that they could certainly table it, but they should know that it is always nice to have the approval from their HOA Board, but this Board does not require it. They could receive the approval, but then may have to come back with changes from the HOA.

- They need another bathroom, 1 is not enough anymore.
- They are essentially squaring off their house.
- There are 2' eaves on the house, which makes the requirement for a variance.
- There is privacy between the neighbors.

Jason Saris asked if the bathroom could be placed elsewhere without requiring a variance. Mr. Degelmann replied no, there is no other place to do this.

Jason Saris inquired about the deck. Mrs. Degelmann stated the deck was on the opposite side of the house and not part of the variance. They had it included on the plans so the architect only had to draw up 1 set. The deck will go around to meet the existing steps by the side door.

John Whitney asked about putting the bathroom in the back of the house. Mr. Degelmann replied that is where the existing bathroom is.

Correspondence from Sherry Panzardi.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Keith & Johanna Degelmann, (V17-08) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #8 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The applicant has explained that this is the most feasible place to put this addition.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will not be seen from the neighbors and should not impact the neighborhood.
- 3) The request is not substantial. This is only 120 sq. ft. This is a modest request.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The addition will not disrupt the existing environment and fits in well.
- 5) The alleged difficulty is not self-created; This is a pre-existing non-conforming home. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Lorraine Lefevre and **Seconded by**, John Whitney it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

9. **V17-09 STERN, SALLY.** To alter non-conforming single family dwelling, specifically to include small expansion of living room, expansion and conversion of rear bedroom to entry area on level 1. Existing roof above the Level 1 expanded footprint shall be raised to allow for relocation of bedroom, stairs, new bath and closet space into attic level storage area. Seeks area variance for 1) deficient setbacks. Shoreline: 75' is required, 46' is proposed; Front: 50' is required, approximately 35' is proposed; Sides: 15' is required, 7' is proposed on the north side and 5' is proposed on the south side; and 2) To alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, Lot 15, Zone RCM1.3. Property Location: 16 Countess Loop Road. Subject to WCPS and APA review. See V14-27 for previous approval that expired August 2016.

Sally Stern presented the following:

- She is here because she would like to alter the home so she may live there permanently.
- Her husband came before the Board a couple of years ago to expand the house and he was granted a variance.
- Unfortunately, he passed away and she did not know the variance was due to expire.
- The new house she is proposing will be within the existing footprint that had been previously approved.
- This change will make the new house more environmentally sound, structurally sound and less maintenance.
- The existing house needs a lot of updating.
- The only issue in the 2014 variance application was the stormwater drainage, which she has addressed with her engineer.

Jason Saris asked where the house would become less compliant than the present home. Jim Casaccio replied that it would be in the exact same footprint that was approved in 2014. The lakeside addition is being placed on an existing deck. Holly Dansbury asked if it was the same footprint that exists now. Mr. Casaccio replied that it was not, this was the approved footprint from 2014. He detailed the plans to the Board showing where they were located. The one facing the lake would be coming out on an existing deck. Jason Saris asked if it would be increasing the encroachment of what presently exists and if they had looked at more compliant options to achieve the benefit. Mr. Casaccio stated that due to the topography of the site, there really is no way to go back further without having a stepped foundation. They are trying to keep the height of the house as low as possible.

Sally Stern stated that the APA had approved this request previously. Zoning Administrator, Pamela Kenyon stated that changes had been made to the application and this is a complete demolition and rebuild. Jason Saris stated they would be looking at this project all over again. Mr. Casaccio detailed on the plans what they would have to disturb, including blasting and relocating the septic system if they changed the location. He stated this would be a major disturbance to the property. Jason Saris stated he thought the biggest thing was that they could not physically do this elsewhere without significantly altering the hillside. Mr. Casaccio stated

they are trying to create the least amount of disturbance and correct some stormwater issues with rain gardens.

John Whitney inquired if they would be any further into the lake front setback. Mr. Casaccio replied that they would not. They will be using a 6' portion of the current deck area. John Whitney stated that the practical difficulty would be that this is an older structure in need of replacement, which they would be replacing within the current setbacks on the lakeside, but the back would intrude into the existing setbacks.

Mr. Casaccio stated that originally Mr. Stern was planning on doing much of the work, and now that the contractors have looked at it, they have advised her to change this design to make it more ecofriendly, less costly and much easier for Ms. Stern to handle. He detailed these changes on the plans.

Jason Saris stated that the expansion was very modest.

John Whitney stated that in terms of the shore line setbacks he did not believe they would need to worry about the further incursion to the rear setbacks as they were not within the 75' of the shoreline. Jason Saris stated that because the house is non-compliant they need to deal with this, but they are clearly not marching toward the lake in any way.

Jeff Anthony stated they were not expanding laterally so there would be no further visual impact from the lake.

No County Impact.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Sally Stern, (V17-09) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact;

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #9 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: this is to replace an existing dated structure and the requested variance is largely within the existing footprint of the current structure with the exception of the addition to the side away from the lake. It is a fairly modest addition to the total footprint of the property.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will actually be an enhancement.
- 3) The request is not substantial from the current footprint.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will be an improvement to the stormwater controls. It will not have any visual impact from the lake, and will look nicer. It would be difficult to repair this structure to meet the needs of the owner.

5) The alleged difficulty is not self-created; this is a pre-existing non-conforming structure that has become in disrepair. The request will not get the applicant any closer to the lake. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

**10. Appoint a Chairperson and Co-Chairperson.**

Now, upon motion duly made by Jeff Anthony and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby appoint Jason Saris as Chairman of the Bolton Zoning Board of Appeals. **All in favor. Motion Carried.**

Now, upon motion duly made by Jason Saris and **Seconded by**, Lorraine Lefevé it is resolved that the ZBA does hereby appoint Jeff Anthony as Co-Chairman of the Bolton Zoning Board of Appeals. **All in favor. Motion Carried.**

The meeting was adjourned at 8:27pm

Minutes respectfully submitted by Kate Persons