

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, July 19, 2016
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, John Whitney, Joy Barcome, Holly Dansbury, Tom McGurl, Jeff Anthony, Lorraine Lefevre, Zoning Administrator Pamela Kenyon, and Counsel Michael Muller

Absent:

The meeting was called to order at 6:01 pm.

Jason Saris asked if there were any corrections or changes to the June 14, 2016 minutes.

RESOLUTION:

Motion by John Whitney to approve the June 14, 2016 minutes as presented. Seconded by, Holly Dansbury. All in Favor. Motion Carried.

- 1. V16-25 KLYKKEN-URTZ, SONJA.** Seeks area variance for commercial boat storage greater than 2,500 square feet. Approximately 7,320 square feet is proposed. Section 199.08, Block 1, Lot 11.2, Zone RL3. Property Location: 634 Coolidge Hill Road. Subject to WCPS review. See SPR16-14 associated with this project. This item was tabled at the June 2016 meeting.

Jason Saris recused himself.

Sonja Klykken-Urtz presented the following:

- She has addressed the Lake George Waterkeeper's question of the substantial variance request by decreasing her request to approximately 7,000sq.ft.
- The A.P.A. letter declared that the boat storage area in question was no longer declared a wetland.
- She submitted pictures showing the natural buffer of the boat storage area and stated that there will be no runoff.
- Addressed a photo submitted by Atty. Caffrey from Saratoga Associates stating the area shown is no longer in question.
- She detailed the new area requested on the plan.
- She addressed the potential traffic impact.
- Deer Creek Association concerns with impact to their property were addressed by reconfiguration of boats and reducing it to a much smaller area.

- She kept their views in mind and detailed how she changed the request.
- Coolidge Hill Road views are not applicable and she passed out pictures detailing this.
- She said the Clements firm concern with elevation is addressed in pictures she handed out.
- Boat covers will be white.
- She would have a contract with the boat owners, and detailed some of the items it would include.
- Bruce Houseworth questions a 24/7 business, this would be operating from 9am to 5pm.
- She has no problem with the shrink wrap being white.
- Fluids are left in the boat, but they cover the out drive with a bag and put a pan underneath it to catch anything that may escape.
- Fencing and Evergreen trees to reduce visibility from Deer Creek, would need to be extremely high.
- Bathroom facilities are not necessary.
- She has no objection to obtaining a Class “A” Marina permit.
- The Waterkeeper’s approval although nice, is not technically needed.
- The A.P.A. has already signed off the on the area.
- Mr. Houseworth stated that this could impact the value of her home negatively, and this is not true, it will bring value to her property.
- She submitted pictures she had from Deer Creek to the Board.
- She has made her request substantially smaller and has kept her neighbors in mind.

Holly Dansbury asked about the wetlands stating that they are shown on the Warren County GIS. Ms. Klykken-Urtz said the letter from the A.P.A. stated the area was not a wetland. Jeff Anthony asked if they had sent an agent from the A.P.A. to look at the area. Ms. Klykken-Urtz stated they had not, but they had stated in their letter that they could.

John Whitney asked if this would be an in and out facility during the summer. Ms. Klykken-Urtz replied it would not. It would be a drop off in the Fall and a pick up in the Spring. It is essentially a parking lot. They would not be doing anything to the boats on the property as in mechanical work, shrink wrapping, materials brought in or additional buildings for storage.

John Whitney inquired about the amount of boats. Ms. Klykken-Urtz replied there would be about 25 to 27 depending on the size of the boats. They would obviously not be the biggest boats. John Whitney stated that there would be zero space between them. Ms. Klykken-Urtz stated she thought the Board’s concern was the amount of area she would be using.

Tom McGurl inquired about the area seen from the turnaround from Deer Creek Road. He agreed that a fence would not hide it. Ms. Klykken-Urtz detailed this on the site plan. Tom McGurl stated he would agree that it would be very unlikely that it would be seen from Coolidge Hill Road. He did believe that it would be very likely that it would be seen from the Deer Creek turnaround and the homes would be looking down on it due to the elevation.

John Whitney inquired about use vs area variance.

Atty. Muller stated that the ZBA was free to make an interpretation. He believes they first have to make a professional determination that the applicant has made an approval for an area variance application. If they get into the use variance argument it is problematic. They would have to know in their mind that it is a clear right and obligation on their part to determine that it is a use variance, because if it was ambiguous in any way, they would have to by virtue of zoning law determine it favorable to the applicant. He believes they can reach the question as to whether the applicant has produced enough credible information to support all of the tests specified by town law. He stated the Zoning Board was the judge on this application.

Atty. Muller read correspondence with concerns of the project from the following:

Robin Smith

Bruce Houseworth

Debra & Peter Demasi

Joanne Cleary of 27 Deer Creek read her letter of opposition to the Board.

Atty. Bramer representing The Deer Creek Homeowners Association touched on the following:

- Commented about the late submission of photos by the applicant.
- This is still 3 times the allowable size of boat storage in this residential zone.
- The need of a use variance.
- Even under area variance criteria, personal circumstances do not justify the criteria of an area variance.
- There will be a negative visual impact to Deer Creek and she detailed photos from Deer Creek produced by a visual expert during the leaf off time period.
- The area around the cul-de-sac is the thinnest and clearly visible.
- They ask for a denial of this project.

Dr. Shirley Jackson of 21 Deer Creek Road stated the following:

- She tried to avoid having to come due to the controversy that ensued while she was building her house.
- Deer Creek Road before you get to the cul de sac runs through her property.
- She bought this property in order to protect her home and handle the drainage from various properties including her own.
- When you are coming into Deer Creek, you are riding on the land that she owns.
- During the months that boats are moved, you can see the property in question.
- She was the nuclear regulator chairman on the Nuclear Regulatory Commission.
- This has taught her not to be arbitrary in changing environments.
- She made a decision based on the stability of what she thought was the stability of the departments.
- In spite of the controversy, she he got every permit that was required and one of them required her project to be inspected every 3 days for the duration of the project and she paid for them.
- She lived it out to the letter.

- She has a very expensive stormwater management system that she was required to put in.
- Are they going to let her store boats on her property if she falls on hard times to recoup what she spent?
- She has spent basically a million dollars on her property for the stormwater management and the site work.
- She would ask them to think about property values.
- She is very sensitive to when people have distress and has tried to help people when they have had distress with money from her pocket.
- She believes there is a question about precedence, the same requirements for the same use and unitary decisions that don't take into effect everyone else that is around.
- She has a pretty high tax burden, but she pays it.
- You have to think about everyone.
- No matter how you cut it, it is still a use variance.

Chris Navitsky, Lake George Waterkeeper read his letter of concerns to the Board.

- Thanked Sonja for addressing their comments.
- He understands no additional trees would be removed, however significant disturbance has occurred on the site over the years.
- His comments are not to prevent the project, but are recommendations to restore important natural resources in the uplands, such as buffering along the stream, screening, determination of whether wetlands are present and stormwater management requirements.
- These are reasonable conditions for the Zoning Board to impose.

Atty. Clements stated the following:

- Not fair to them to have the Board see photographs that were presented to the Board tonight.
- It is unwise to start suspending its zoning laws for a community member.
- This is purely for the personal need of the applicant.
- This will change the character of the neighborhood.
- It is a substantial change. It is 300% more than what is allowed.
- It will adversely affect the neighborhood.
- This is a totally self-created hardship.
- This is a use variance, it is a substantial change, and she has not met her burden of proof.
- This is an unreasonable request.
- He does not understand the simulation of the photos shown, and went over them with the Board.
- His concerns with elevations, stormwater runoff and visibility.

Ms. Klykken-Urtz stated:

- The stream referenced by the Waterkeeper is a ditch. It is a ditch/drainage area.
- 30 boats are what she stated that she needed, not 20,000 sq. ft.

- Deer Creek subdivision added traffic when it was created and impacted everyone around it.

Holly Dansbury stated she has a hard time approving this project as an area variance. She understands that this is a financial hardship, but that it does not fit the area variance criteria. She also has concerns with the stormwater runoff. She does not believe the benefit to the applicant is not outweighed by the detriment to the environment.

John Whitney stated that one of the requirements for even a 2,500 sq. ft. commercial boat storage is that it is not visible from a public right of way, and the simulations are pretty compelling and the applicant's own photographs show the view through. Even within the allowed use it is not clear that it meets the requirements in his mind.

Tom McGurl stated he, in the balancing test, would not be able to get past how the project would not produce an undesirable change to the neighborhood. If he bought a house in a residential zone he would expect the neighborhood to remain residential and not commercial.

Lorraine Lefevre stated she has concerns with giving a variance, as it would not be to just the applicant, but would run with the land.

Joy Barcome stated she had concerns with the possibility of the contamination of the water for the neighbors.

RESOLUTION

The Zoning Board of Appeals received an application from Sonja Klykken-Urtz, (V16-25) 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, 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: The benefit sought is not a benefit recognized in the code.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. Through extensive input and testimony of the neighbors it is clear that there will be an undesirable change to the character of the neighborhood.
- 3) The request is quite substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It a realistic concern and they do not have enough information at this time to say it would not have an adverse effect on the neighborhood.
- 5) The alleged difficulty is self-created; This is a residential zone and this is a significant commercial use that it is not recognized. He believes the applicant would still need a use 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 John Whitney and seconded by Tom McGurl, it is resolved that the ZBA does hereby deny the variance request as presented. **All in favor. Motion Carried.**

- 2. V16-26 BREault, LORI.** Represented by Stephen Breault. For the construction of a proposed 101.8 square foot storage building, seeks area variance for a deficient shoreline setback. 75' is required, 21' is proposed. Section 171.07, Block 1, Lot 25, Zone RM1.3. Property Location: 9 Federal Hill Road. Subject to WCPS and APA review.

Stephen Breault presented the following:

- They are looking to build a small storage shed that is just over the allowable square footage.
- The stream in the back is an inactive stream.,
- It is not feasible to move the shed any place else due to the size of the lot and the septic system.
- There would be no excavation.

Jason Saris asked if he was building the shed himself. Mr. Breault replied yes, but it was a pre-packaged shed so he could not lose the 1.8 ft. to make it compliant.

Jason Saris asked if he would be doing anything around the perimeter of the shed for runoff. Mr. Breault stated he would be using stone.

Lorraine Lefevre inquired about a different area for placement of the shed. Mr. Breault detailed the site plan explaining why it could not be placed in any other area, without a disturbance to the property.

Holly Dansbury inquired about the designation of the stream classification. Zoning Administrator, Pamela Kenyon stated for years it has been classified as a stream. The Board discussed the A.P.A. requirements for the stream setbacks. John Whitney stated it would be within the 75 ft. setback even if it was moved.

NO County Impact RESOLUTION

The Zoning Board of Appeals received an application from Lori Breault, (V16-26) 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, 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: Based on the topography and the area of the leach field, this is the most reasonable placement for the shed. Moving it elsewhere would require tree removal and effect screening.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial; This is only 1% above the allowable size for a structure.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- 5) The alleged difficulty is not self-created; This request is due to the topography of the land, the placement of the leach field and the trees. It has a clear practical difficulty for the location within 75 ft. of the stream.

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 Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

- 3. V16-27 DeMAIO, ELEANOR.** Represented by Brian Donohue. To alter single family dwelling, specifically to add a den & storage, seeks area variance for **1)** Deficient setbacks. Front: 30' is required, 20' is proposed. Shoreline: 50' is required, 45' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 186.14, Block 1, Lot 70, Zone RCH5000. Property Location: 60 Beckers Drive. Subject to WCPS review. See V16-24 approved June 14, 2016 for previous approvals.

Brian Donohue presented the following:

- He was here last month for this property.
- Upon the removal of the fireplace they found a lot of problems they needed to address from water in the area.
- He detailed the plan, stating they reconfigured the roofline to move water away from this area.
- They had the landscape architect come back and reconfigure and approve the minor stormwater measures they have in place.
- He detailed the retention area on the plan.
- This is a pre-existing non-conforming issue.
- His clients are approaching their 90's and want it done right.

Jeff Anthony questioned the length of the whole building. Mr. Donohue replied 34 ft.

Holly Dansbury asked if they had found the septic. Mr. Donohue stated they found the septic line and detailed it on the map, stating they had upgraded the sewer line as it came out of the house.

Lorraine Lefevre said she thought it would be problematic that they did not know where the septic was. Jason Saris stated that this Board did not have jurisdiction over the septic.

Jeff Anthony asked if this application was to only consider the additional 90 sq. ft. Atty. Muller stated they should amend what they previously approved. Jeff Anthony asked if all justifications for the previous approval stands. Atty. Muller replied it would unless there was something dramatically different, they all stand.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Eleanor DeMaio, (V16-27) 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: The area variance is the only way of handling this problem.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This is a very small addition consistent with the other homes in the neighborhood and the design and structure of the house.

3) The request is not substantial; it is only 9' x 10' space on a flat piece of property.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This was approved in a previous motion and all the conditions and justifications for the previous motion stand. This is a small addition which completes the puzzle when you look at the floor plan. Minor stormwater improvements have been implemented and the same request goes with the additional 90 sq. ft.

5) The alleged difficulty is self-created; This is a technical way to solve construction problem which is justifiable.

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 Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

4. **V16-28 TRUAX, LANCE.** To demolish and rebuild single family dwelling, seeks area variance for deficient front yard setbacks. 50' is required, 14' is proposed from Second Street and 28' is proposed from the Town of Bolton right-of-way. Section 171.15, Block 2, Lot 7, Zone RM1.3. Property Location: 16 Second Street. Subject to WCPS review.

Lance Truax presented the following:

- The variance is for the insufficient setbacks he has.
- He inherited this property.
- He was going to do interior renovations, but was advised that a complete teardown and rebuild on the existing foundation was the better option.
- The house is currently a 36' x 34' structure not including the overhangs.
- It is connected to town water and sewer.
- The proposed home will be a smaller footprint of 34' x 34' with overhangs.
- It will be a little taller.
- It will be set on the existing 32' x 32' foundation.
- This will not be an undesirable change to the neighborhood, he actually asked the neighbors to look at his plans and sign off on them.
- He detailed the increase of his setback with the porch.
- If he moved the house back further to meet some of the setbacks, he would have to cut down a bunch of the trees.
- He detailed the stone wall on the site plan.

Jason Saris asked if this new house was a stick built home. Mr. Truax replied it was and detailed it to the Board.

Mr. Truax stated that it would now be a 2-bathroom, 3-bedroom home.

Jason Saris stated he does not believe there is anything around that area that meets the setback requirements. He stated it predates all the requirements. Mr. Truax stated it was built in the late 30's to 40's.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Lance Truax, (V16-28) 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: Due to the lot size, they cannot achieve this by any other feasible means. This is a reduction in the infringement of the setbacks.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties.
 - 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. The applicant even consulted the neighbors and received a sign off.
 - 5) The alleged difficulty is not self-created;
- 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 Tom McGurl and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

5. **V16-29 TRE ROSE LLC.** Represented by Corinna Martino & Kirsten Catellier. For the construction of a proposed single family dwelling, seeks area variance for deficient setbacks. Front: 50' is required, 6' is proposed. Sides: 30' is required, 23' is proposed on the north side and 21' is proposed on the south side. Section 157.05, Block 1, Lot 19, Zone RCL3. Property Location: 3 Rose Lane. Subject to WCPS review.

*** This Item Was Tabled at The Applicant's Request ***

6. **V16-30 MASHUTA, ANTHONY.** Represented by Spectra Engineering. For the construction of a proposed seawall/stairs, seeks area variance for a deficient shoreline setback. 75' is required, 2' is proposed. Section 200.10, Block 1, Lot 9, Zone RM1.3. Property Location: 21 Cotton Point Road. Subject to WCPS and APA review. See V15-47 for previous denial.

Jason Sableski of Spectra Engineering presented the following:

- They have resubmitted and made changes to the previous design to accommodate some regulatory agencies.
- They now have a DEC permit for the project.
- Warren County Soil & Water has signed off.
- They have A.P.A and Army Corps non-jurisdictional approval.
- He detailed the wall and rain garden on the plans to the Board.
- The plants they will be using are native to the area and on the LGA list.
- The rain garden is approximately 7' x 20'.
- They will have a band of loose stone around it.
- During high storms the rain garden will naturally spill over the wall if it fills up.
- This will provide almost infinite capacity.
- They are providing a clay layer directly behind the wall.

- The construction of the wall will be excavated down to the water table elevation.
- Sand bags would be brought in to dewater out in front of the wall.
- This is typical procedure for construction near rivers.

Holly Dansbury inquired if they were implementing native species that would be better suited for the lake. Mr. Sableski stated yes, they were chosen for water treatment purposes and can survive a small ponding area.

Holly Dansbury asked if they had considered any alternatives as the Board had requested. Mr. Sableski stated that he had discussed different alternatives with the Board the last time and the client has chosen this style. He detailed the 4 alternatives they had reviewed. 1. Armor the existing slope with geo fabric. 2. Install additional vegetation along the wall. They feel vegetation alone will not give healthy erosion at the toe of the slope. 3. Installing a pre-cast block system. 4. A reinforced poured concrete wall structure. He did not believe these would give a natural look they were looking for.

Jason Saris stated he would not describe a seawall as natural. Mr. Sableski. stated the wall they have chosen is a stepped back wall and is common to the area. They feel this will compensate the shore line as well.

Lorraine Lefevre asked if they would be moving the wall back from the previous request. Mr. Sableski stated they were not; it is in the same location as in the previous application.

Lorraine asked if the rip rap would be gravel in front of the wall like the neighbors. Mr. Sableski stated it would be native cobbles. They would like to use the cobbles on site, no bigger than 12” in diameter.

Tom McGurl asked the purpose of the wall. Mr. Sableski stated it was for erosion control due to the wave action, ice and water coming over the wall from the property itself. He stated that some of the trees were cut there in the past and the soils are starting to spill out around the old root systems.

Tom McGurl stated he understood the neighbor to the north has a much more defined landscape, but looking at their photos this is not a heavy erosion area. This is a natural shoreline and this is clearly an aesthetic request. He understands the homeowner wants it, but he rejects the idea that the need for this is strictly for erosion control. Mr. Sableski stated that this was not strictly for erosion, there is a little bit of erosion underneath the toe, which the photos do not do justice. DEC told him that seeing it in person was easier than in the photos depict. Tom McGurl stated the worst erosion was where the waves were hitting against the existing stairs. He did not see any on the shore line.

John Whitney stated that it appears that a lot of the benefit could be achieved by just installing a rain garden. Mr. Sableski stated the problem with only installing a rain garden would be that they were disturbing the top of the slope taking away years of root systems underneath. You really need to build the wall for the front of the rain garden. Tom McGurl said building the wall would disturb the roots. Mr. Sableski stated a lot of the roots were dead because the trees

had been cut down over the past few years, but they were still there retaining some of the slope. Tom McGurl said the question is the same, if the roots are there but dead and you tear them out to put in a rain garden is that not the same, whether the wall is there or not the rain garden catches the water and the roots are dead with or without the wall. Mr. Sableski stated that the rain garden did not extend across the entire length of the wall. Tom McGurl replied the design has some areas of the wall that it would go right over. Mr. Sableski stated it would be graded out with a slight swale to capture all the water from the property.

Jeff Anthony asked how they would be excavating a 2' deep trench, 2' back from the mean high water mark without having any materials spill into the lake or go over the mean high water mark. How is a machine going to go parallel to the lake shore without getting into or over the mean high water mark? Mr. Sableski stated that the intention was to use a small machine on the top of the embankment at a 90-degree angle with the bucket coming down, so they could dig it down to the mean high water mark. They could come back and hand dig the last 18' or use the teeth of the bucket to dig it back. They would also be using a coffer dam in front of the excavation area and dewater it which is not a negative impact in DEC's eyes, they have looked at the project and most of the lake bed is sandy and native species in that area tend to spawn in the rock so they are not concerned with dewatering it in that area.

Chris Navitsky, Lake George Waterkeeper:

- They oppose this application.
- He appreciates the points the Board has raised.
- Looking at alternatives, the hardening of shores can have negative impacts.
- There is no evidence of erosion, and he questions the need of the sea wall.
- This is not a natural aesthetic with that wall.
- There are handbooks to show natural stabilization.
- They can recreate the shore line without hardening it.
- The wall is vulnerable; it is the roots that protect the shore line.
- He encourages the Board to deny.
- He would love to hear DEC say they were not concerned with sacrificing the natural species.

Holly Dansbury inquired if the approval letters Mr. Sableski referenced were saying that this project was ok. Jason Saris stated he could only go by this Board's criteria and what their obligation to consider is. He stated the other agencies do not look out for the Town Ordinance. That is the Zoning Board's task.

Mr. Sableski stated that he would like to address Mr. Navitsky's comment that typically vertical walls along the shore line have negative energy effects on the waves. He stated putting a vertical wall there would essentially just be restoring what is there now. They would be putting in native stone and the wall is stepped back, not vertical in nature.

John Whitney stated the code says 35' is required from the mean high watermark, and this is a significant incursion into that line. The scouring that is going on with dock that is there, maybe in 50 years there would be enough erosion for this to actually be a solution. This is clearly

about the aesthetics and the owner's very reasonable desire to have something aesthetic. To him it is completely inconsistent with the code and he believes this is a substantial request.

Jeff Anthony stated that there are natural solutions to approach this problem. That would be his approach to handling this project. He still does not know how they will ever build this wall without getting something in the lake.

Jason Saris stated his problem is that the only alternatives discussed were more walls. Mr. Sableski stated that they discussed other alternatives such as stone rip rap. Jason Saris asked why this would not work. He said this Board is trying to look for the least intrusive project that fits the Town Ordinance and he does not think this is what they are coming up with. Mr. Sableski stated he feels they need something rigid out there. He said they would be losing property if they did it with rip rap and it was not aesthetically or naturally pleasing. Tom McGurl stated a stone wall is not natural either. There are more natural ways to accomplish this. To say the wall is the most natural way to do this way is not true. Mr. Sableski stated that these type of walls are going up all over the lake in other towns and they should keep this in their consideration. Jason Saris stated that they could not speak about the code for other towns. Mr. Sableski stated they are going to be improving water quality and they need some type of structure along the shore line to put the rain garden in.

John Whitney stated the rain garden did not need to be within 6' of the mean high water mark. Mr. Sableski stated that it needed to be at the low point of the property which is basically the top of the slope, to be most effective. He stated that there is minimum vegetation there now and they would want large trees, which would hold back the earth better.

Holly Dansbury asked why putting in more vegetation on the slope would not work on the slope. Mr. Sableski. stated the client would have a loss of usable area. They would like to maximize the useable area. Holly Dansbury asked about vegetation on the embankment itself. Mr. Sableski. stated they feel that they would have to plant it on the slope itself and it would disturb too much and take years for the root system to take hold.

Tom McGurl stated something was better than nothing. There were lots of little stumps along the water. They have the entire area for useable space. Mr. Sableski stated that they did not want to lose useable space by, for example putting sea green junipers so they could no longer utilize the land underneath. He stated the wave action along the shore could get very violent. He showed a photo of a stair on the staircase that had become loose and the blue stone that had been dislodged, stating this was another reason they needed something rigid there.

Lorraine Lefevre asked if this was a new stair case made when the house had been built or if it was original to the property. Mr. Sableski stated he was unaware of when the staircase was constructed. The house was built in 2011. Tom McGurl stated the natural shore line was still there. The man made thing gave away, but the natural surface was still there.

Mr. Sableski submitted a photo and stated they are making a case for erosion through the wave action along with aesthetics. He stated it was not strictly erosion. They were trying to accomplish both at the same time.

Jeff Anthony stated that they had requested alternatives and natural solutions to restore the shoreline. Chris Navitsky pointed out a manual that is available. If shore lines can be restored naturally on Lake Champlain they certainly can be done this way on Lake George. This wall will be visually unnatural and out of character with the surrounding area and environment

RESOLUTION

The Zoning Board of Appeals received an application from Anthony Mashuta, (V16-30) 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#6 of the agenda.

Now, upon motion duly made by Jeff Anthony and seconded by Tom McGurl, it is resolved that the ZBA does hereby deny the variance request as presented. **All in favor. Motion Carried.**

7. **V16-31 BEAUGEZ, KEVIN.** To alter single family dwelling, specifically to a 10' x 16' deck, seeks 1) area variance for a deficient side yard setback. 20' is required, 12' is proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B1b. Section 171.15, Block 1, lot 41, Zone RM1.3. Property Location: 25 Horicon Avenue. Subject to WCPS review.

Kevin Beaugez presented the following:

- They are proposing to have a deck built on the rear entrance of the house.
- He detailed the proposed 10' x 16' deck on photos to the Board.

Lorraine Lefevre asked why he chose the back of the house as opposed to the sides. Mr. Baugez stated that there was not enough room on the sides to place a deck, and he detailed this on the photos.

Tom McGurl asked if it was going near the door. Mr. Beaugez replied yes.

John Whitney asked if it intruded on the current side yard setbacks. Mr. Beaugez replied no it was just going to go straight back.

Lorraine Lefevre asked if there had been a deck there before. Mr. Beaugez replied there had been a set of steps. He stated that throughout the years they have been doing improvements,

when they bought it 10 years ago it was an eye sore. He stated the back would be much more enjoyable due to the noise and the speeders on the front side.

John Whitney asked if it included stairs into the back yard. Mr. Beaugez stated he would like this. Mr. Beaugez stated he would like them to come off straight in the back. The Board inquired if the steps would maintain the required rear yard setback. Zoning Administrator, Pamela Kenyon said it would still require a variance because he is altering a non-conforming structure. She suggested that they add the stairs tonight. Mr. Beaugez stated he would like the stairs come down the back straight out. Jason Saris asked if he knew what size they would be. Mr. Beaugez stated he was not sure how far they would come out but he thinks about 3'. Zoning Administrator, Pamela Kenyon stated he would need to have the steps maintain the 20' setback that is required.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Kevin Beaugez, (V16-31) 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: This is due to the size of the yard and the age of the home.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will actually be an improvement.
- 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.
- 5) The alleged difficulty is self-created; this is the result of a pre-existing non-conforming structure.

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 Lefevé and seconded by Holly Dansbury, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

The meeting was adjourned at 8:15.

Minutes respectfully submitted by Kate Persons