

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Monday, August 18, 2008
6:30 p.m.

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

Present: Chairman Greg Smith, William Pfau, Kam Hoopes, Meredith McComb, Jeff Anthony, Zoning Administrator Pamela Kenyon and Counsel Michael Muller.

Absent: Tom McGurl, Jr. and Tony DePace

Meeting was called to order at 6:31 p.m.

Greg Smith asked if there were any changes or corrections to the July 14, 2008 meeting.

- 1) M. McComb, page 6, with regard to the Painter application, last paragraph, first sentence, stated that Jon Lapper stated that the applicants expected to build a garage within the setbacks.
- 2) M. McComb, page 11, with regard to Twin Bay, first full paragraph, first line, should read ... there are 28.64 acres on the west side..."
- 3) M. McComb, page 11, first full paragraph, fourth line should read, "He stated that even though the property owners subdivided the Villa, for planning purposes they included the entire property for all calculations."
- 4) M. McComb, page 11, first full paragraph, second to last sentence, should read, "She asked for clarification of the total acres on the west side because they have a map showing 28.64 acres there and density is being calculated on 35.9 acres there which makes a difference in how big a variance they are asking for."
- 5) M. McComb, page 12, fourth paragraph, with regard to Dan Ryan's comments that the capacity for the motel was currently 336 and she requested the breakdown of how that number was achieved because the applicant is showing how the proposal is a less intense use. Upon reviewing the tapes, only discussions on this subject occurred and no breakdown of numbers were mentioned. The applicant's representatives indicated that they based the total occupancy on the total approved by the Department of Health including the common dining area and number of rooms and beds on site.

Motion by Jeff Anthony to accept the minutes as corrected. Seconded by Kam Hoopes. All in Favor. Motion Carried.

1) V08-32 TEKMITCHOV, VASILIKI. To discuss a condition of approval set forth by the ZBA on July 14, 2008 when approving the following variance. For a proposed 2 lot subdivision, seeks area variance for deficient 1) parking: 34 spaces are required for lot B, 5 spaces exist; 2) side yard setback: A total of 20' is required, 0' is proposed for lot B; 3) density: a)12,000 sq. ft. is required for lots B, 5,329 sq. ft. is proposed; b) 20,000 sq. ft. is required for lot A, 2,515 sq. ft. is proposed; 4) lot coverage: 40% is allowed, a) 66% is proposed for lot A, and b) 69% is proposed for lot B; and 5) As a condition of approval set forth by the ZBA on March 13, 2000 when approving the re-establishment of a commercial space, ZBA approval is required for any change. Section 171.15, Block 3, Lot 74, Zone

GB5000. Subject to WCPB review. Property Location: 4960 Lakeshore Drive. *Note: This application is in conjunction with SD08-03. Specifically, the condition set forth on 7/14/08 reads as follows:* 1) The parking spaces shown on the plans are cleared of any and all debris and able to be parked in. Upon a site inspection by the Zoning Administrator, it appears that that the condition of approval cannot be complied with.

Dennis Dickinson presented the new detailed parking plan. In the first proposal they tried to squeeze in as many spaces as they could because they were so deficient and they got sidetracked as to what they really wanted. He described the new plan which includes 3 legitimate parking spaces for Lot A for the 2 apartments. Lot B (front building) has the 2 businesses and 1 apartment upstairs and he allocated 4 parking spaces for that lot. He stated that these 4 spaces are already available now but the 3 spaces for the apartments will require some clearing of the area in order to make those spaces available. Dennis Dickinson stated that Vasiliki Tekmitchov would prefer not to clear these parking areas because currently she does not need them. M. McComb stated that she visited the site and with regard to Lot A there is no problem pulling her car in between the tree and stump. However, parking space #3 on Lot A has a big rock in it. M. McComb asked how many spaces this lot would need if it were to turn into a single family dwelling. Pam Kenyon replied that it would require 2 spaces. M. McComb stated that this proposal seems to be more realistic and feels that they would only really need 2 parking spaces. W. Pfau stated that he agreed with Dennis Dickinson that 3 spaces are sufficient for the apartments, but he doesn't see the sense in approving the variance and not having the parking spaces usable. Kam Hoopes stated that when he visited the site he felt that the stacked wood against the building could be removed and the rock may not have to be removed.

M. McComb asked how they access parking space #2 in the garage. Dennis Dickinson stated that the parking in the garage would need to be taken care of. M. McComb asked about the size of spaces #3 and #4 for Lot A. Dennis Dickinson replied that all of the spaces are 10' x 20'. Fred Ormsby commented that as per the survey the parking lot for Lot A is less than 18' deep. D. Dickinson stated he has placed these spaces so it fits and each space is 20' deep. Jeff Anthony measured the spots and agreed with Dennis Dickinson.

Dan Carnese from Congers Point Association stated that he looked over this plan to help maximize the parking situation. He stated that he sees a viable space between the business building and the garage. The footprint of the garage is big enough for 3 cars and he suggests that they either remove the building or clean it up and fix it so 3 cars could fit. He also suggested that they take down a tree to allow for more parking for Lot A. He stated that the rock in the back of the building is only about 12-15 inches high, and suggested that they build a ramp in front and fill it in to get the parking space. He stated that with his suggestions he sees 8 potential parking spaces which would have a very modest cost and he believes that it should be required of the applicant. He stated that renters that don't have parking on Main Street, don't block Main Street they find space anywhere and use it and in the past it has been a problem because they are often parking in the Congers Point right-of-way.

Dennis Dickinson commented that they could get a space in between the business building and garage but the area is less than 10' wide so he removed that space because it did not conform with the ordinance. He stated that if the ZBA wished, he could put it back in as a space. W. Pfau asked how they can approve a substandard size space. K. Hoopes stated that they would

have to get a variance and suggested that they just go with the plan that they have presented. However he does feel that all of the spots should be cleared of debris and viable for use. W. Pfau agreed. M. McComb asked what about the garage because it is not usable. Vasiliki Tekmitchov stated that currently she has 7 tenants and there is only one car. She stated that her system is that she keeps a license plate number for any cars to be parked on her property. She stated that she has a garage that can handle 3 cars but only has 2 doors. She stated that the roof to the garage needs repairs but like most business owners she has not had time to fix it. She stated that if people park properly outside of the garage she can put 4 cars along the length of the garage extending to the north. She questioned how other businesses and apartments on Main Street who have no parking can get approvals.

Pam Kenyon stated that this application was not sent back to Warren County.

W. Pfau stated that he wanted to make the motion to amend the previous resolution to reflect the reduction in required spaces. M. McComb stated that she was concerned that the spaces need to be usable and asked if they were considered usable now. Pam Kenyon replied that she felt that the applicant could actually get 8 usable spaces.

RESOLUTION

The Zoning Board of Appeals received an application from Vasiliki Tekmitchov (V08-32) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, nothing different is going to happen, except the parking spaces will be cleared, the buildings remain the same, and it is minor subdivision. Everything will pretty much look the same and hopefully it will start looking better,
- 3) The request is somewhat substantial; but the applicant is in the GB5000 zone and substantial is the coin of the realm and parking is at premium and this proposal has merit that overrides the substantiality.
- 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, in as much as these properties have been sliced and diced prior to any zoning and this will relieve the applicant from a certain burden.

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 William Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the following amendment: The number of required parking spaces is reduced from 10 to 7 and become usable. **All in Favor. Motion Carried.**

2) V08-30 FEDELE HOLDINGS, INC. Represented by Joe Pfau. To convert an office into office and/or retail **1) seeks use variance for retail** and **2) seeks area variance for deficient parking.** Retail requires 12 spaces, 2 spaces exist, and are proposed. Section 171.19, Block 1, Lot 66, Zone RM1.3. Property Location: 2 Karl's Corner Drive. Subject to Planning Board & WCPB review. The Planning Board gave a favorable recommendation.

NOTE: William Pfau recused himself.

Joe Pfau gave a brief description of the property. He stated he is seeking a use variance to convert it from an office only to office and/or retail use and to obtain a variance that goes along with the retail use with regard to deficient parking. He stated that 12 spaces would be required and they only have 2 on site, but they are adjacent to the Town parking lot with the only frontage on Karl's Corner Drive, which is a private road and there is no public access to this property other than the public parking lot. He stated that he has the building listed as office space which is his preferred tenant but he has gotten more interest from the retail aspect.

K. Hoopes stated that he doesn't see anything wrong with this application and feels that it is a technicality that he is out of the GB5000 zone. They are in the Town parking lot which has been set up for patrons of the shops and restaurants in that same area. This also does not affect the residential aspect either. M. McComb stated that she knows that they have a lot of problems granting use variances and when she looked at this building, one of the major things in favor of this project is that the access to Dula Place, which starts the residential area, is blocked off. She stated that this seems to be part of the general business district and the Town is continually looking for more opportunities for retail shops in the business district and she is entirely in favor of this. She asked Counsel if there was any problem with their criteria of granting a use variance that they have to establish. Counsel replied that the requirements for the use variance still apply here. K. Hoopes asked why that mattered. M. McComb replied that it mattered because it could be more difficult to get a use variance because of the requirements for granting a use variance. Counsel stated that under RM1.3 Type I permitted uses permitted by a special use permit are commercial uses involving more than 10,000 sq. ft. and the code says that any commercial use is any use that involves a sale, rental or distribution of goods, services or commodities either retail or wholesale. He stated that in a matter of speaking they just can't meet the 10,000 sq. ft. requirement. K. Hoopes stated that this would then be considered an area variance. Counsel stated that they could interpret anyway they felt comfortable. M. McComb agreed with K. Hoopes and stated that she feels that it is a better way to interpret this. She stated that since they are adjacent to the public parking lot it is a good reason to grant a variance for deficient parking spaces. G. Smith agreed and stated that

there is not access beyond this into the residential area and feels that they should give him the variance for being too small and the deficient parking. Counsel agreed and stated that this would be less of a burden to prove.

There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Fedele Holdings, Inc. (V08-30) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; this building is existing and in good shape.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the access to the adjacent, quiet residential neighborhood is blocked off and this property seems much more in character with the general business district and this use will fit in very well with that.
- 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 building is staying the same and is well within the scope of downtown business uses.
- 5) The alleged difficulty is not self-created, a business building seems to have been zoned residential.

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 Meredith McComb and seconded by Jeff Anthony, it is resolved that the ZBA does hereby amend the application whereby converting it from a use variance to an area variance, and approve the area variance for retail use and deficient parking. Bill Pfau recused himself. **All others in Favor. Motion Carried.**

3) V08-29 GATES, WALTER. To convert existing garage into a guest cottage/garage, **seeks area variance for density:** One guest cottage presently exists. 2.6 acres is required, 1.75 acres

exist. Section 200.07, Block 1, Lot 14, Zone RM1.3. Property location: 52 Fish Point Road. Subject to APA & WCPB review.

Bud Gates gave a background of his property. He stated that he bought the property back in 1989 from George Morgan when it was a small 3 bedroom cottage. He stated that they were going to renovate it, but in the process it fell down and they rebuilt on the same footprint and were able to salvage the beams and use the same floor plan with the tiny bedrooms. A few years later they tore down the existing garage with a sleeping porch and took that exact footprint and put a guest house in and moved the garage further back. He stated that worked well for 19 years but now his two young children are now grown with families of their own and enjoy spending many weeks together each season. He stated that they no longer have the space to get everyone together for meals, watching television or playing games. He stated that his solution is to expand the living space in the main house by removing the walls to the 2 tiny bedrooms and move those 2 bedrooms above an existing garage. He stated that this would give them the desired gathering space but would not increase the amount of bedrooms. He stated that it is adding another guest house, but he feels that it is more of a reconfiguring of the existing structures.

With regard to impact, Bud Gates stated that he is very concerned with the quality of the lake. He stated that there are no new structures or foundations and no excavating other than running a sewer line over. He stated that the only concern that he has is if there needs to be a change for septic needs and he has a meeting set up with Jack Hall and John Wells to discuss this issue. He stated that this cannot be seen from the lake, from the road or from the neighbors on either side.

K. Hoopes agreed and stated that this is a very low impact proposal. This property is just about as invisible as you can get on Fish Point. He stated that the neighbors cannot see it from their properties and it is well screened from the lake. He stated that he also liked that the applicant was going to be using the existing footprint.

G. Smith asked how many bedrooms exist currently. Bud Gates replied 5, 3 in the main house and 2 in the guest cottage. W. Pfau asked if there was a zoning inquiry with regard to the number of guest houses allowed. P. Kenyon apologized because she could not find the minutes in which they have discussed this at one time. She stated that she remembers it was with Chris Gabriels and they asked if more than one guest cottage is allowed on a piece of property and this Board told her no, unless they have the density for 2 houses. K. Hoopes stated that this still leaves it open for an application for a variance. He stated that it is always going to have a density issue and now if the re-zoning committee could state that without a variance, they are limited to 1 guest house. M. McComb stated that she felt that was an appropriate approach to have the applicant come before the Board. However, looking at the property on the map they were given is only part of the lot and there is much more land than what is shown so density should not be an issue. She continued that the location of the leach field and the amount of vegetation along the shoreline is admirable as well.

Jeff Anthony stated that the APA only allows one guest cottage per any lot in the Adirondack Park and they will review this with respect to the intensity of use. K. Hoopes stated that nothing has really changed because the amount of bedrooms remains the same and the applicant is working with the available buildings and footprints on the property. G. Smith

agreed and stated that this property will only be used strictly for immediate family use. M. McComb stated that one concern that she could see is that the 2 bedrooms being moved out of the main house could turn into a future applicant putting them back because there are more bathrooms in the proposed new construction. She appreciates the fact that the applicant has upgraded the septic and feels that this protects the lake. She stated that it is favorable that the applicant is using the existing buildings, no trees will be lost in the construction and there will be no change in the vegetative screening.

Kathy Bozony, Lake George Waterkeeper, stated that she supports this application as far as utilizing the existing structures but she asked the ZBA to condition the variance with the site inspection and certification of the on-site waste water treatment. She stated that there is a proposed kitchen and garbage disposal and they are increasing the density with the expanding families and wants to be sure that the septic is sized properly. She also recommended that now that the deck is becoming an enclosed porch that they possibly look at some stormwater infiltration from the roof. Bud Gates commented that there will not be a kitchen in the new area and only a sink and a small refrigerator since these bedrooms will be located further from the main house. He also commented that he would have no problem with implementing minor stormwater controls.

P. Kenyon stated that there is no WC impact with the stipulation that stormwater measures be included for the garage. J. Anthony asked if that would be minor stormwater. P. Kenyon replied yes.

RESOLUTION

The Zoning Board of Appeals received an application from Walter Gates (V08-29) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; there is a density deficit, but the compelling part in doing it with this method is that the new construction is limited to one of the three existing buildings already on the site instead of a massive demolition and build-up of a single new structure.

2) There will be no undesirable change in the neighborhood character or to nearby properties, not only is this consistent with several of the properties out on Fish Point but it is

virtually invisible from both neighbors, the shoreline and from the road going out to the point. It is heavily vegetated from all four points of the compass.

3) The request is not substantial; because they are dealing with one of the three existing buildings on the property. This garage is already in place and they are only going up in the same footprint. There is the same amount of impervious surface.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it has been noted that the applicant has agreed to take stormwater measures on the new construction.

5) The alleged difficulty is not self-created, these three structures have been there in one form or another since before the applicant owned the property.

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 Kam Hoopes and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition(s): That minor stormwater measures used for the new construction.

All in Favor. Motion Carried.

4) V08-35 MILDRED G. WARNER 2006 TRUST. Represented by John P. Warner, Trustee. To alter pre-existing non-conforming single family dwelling, specifically to construct a 24'x 28' addition and a 16'x 16' deck, seeks area variance for deficient setbacks. 1) Front: 50' is required, 35' is proposed; 2) Side: 20' is required, 11' is proposed; and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.18, Block 1, Lot 29, Zone RM1.3. Property Location: 40 Rainbow Beach Road. Subject to WCPB review.

John Warner stated that this property is a seasonal dwelling built in the 1930's. His family rented it for years and purchased the property in the 1960's. He stated that his parents spent summers here for about 25 years and his mother spent the last 10 years by herself and the cottage was sufficient for her use and their occasional visits. He stated that his mother passed away last year and they are proposing an expansion of the house to better accommodate their use of the common area, bedrooms and bathrooms. He stated that currently there are 2 small bedrooms and a small bathroom and they are looking to convert one of the bedrooms to a living area and build 3 bedrooms and 2 bathrooms in the addition. He stated that they tried to make every effort to make sure that this structure conforms with building codes and to not become a modern looking structure. He stated that the footprint is a little large but it prevents them from having to build a 2 story structure and helps keep in the neighborhood design standards. He stated that their cottage sits by itself with Rainbow Beach common areas on both sides of the houses. He stated that they met with the excavator and has stormwater drains proposed and will submit that plan to the Town.

G. Smith stated that they have a good size lot for what they are proposing and he is happy that they are staying in character with the area. K. Hoopes stated that he is not sure of the origin of the right-of-way but he does not feel that it is of a huge concern because on one side it is a right-of-way that separates them from their own septic area that is owned by Rainbow Beach and on the other side that 11 feet was thought to be developed but the idea was shot down quickly by the Association and he feels that it will remain that way for the foreseeable future.

He stated that all of this development is moving away from Rainbow Beach Road, it is well screened and will not be seen. M. McComb stated that this flat land that will not require much in the way of site preparation. She asked if the applicant had any clearing plans. John Warner stated that they will have to remove about 4 trees for excavation including one large pine tree off the back corner that has a large branch that hangs over the structure. He stated that he is not sure that it has to be removed for excavation purposes but he is concerned with investing in a house that has a 200 ft tree over it. G. Smith and K. Hoopes agreed.

Pam Kenyon stated that the Rainbow Beach Association submitted a letter in favor of this application and that there was no WC Impact. M. McComb stated that the Association letter makes the point that the Association is at 50% capacity for the septic during July which is their heaviest use period. She stated that although this is a substantial addition in terms of bedrooms and bathrooms they are lucky to have that capacity available to them. John Warner agreed and added that the house was and will remain seasonally used.

RESOLUTION

The Zoning Board of Appeals received an application from Mildred G. Warner 2006 Trust (V08-35) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; this is one option available to the family expansion to the rear of the existing building. Adding a second floor to the building is possible however it would change the character of the structure and character of the area so the better option is to do the addition as proposed and deck as proposed to the rear of the building as a single family structure.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there is sufficient space to the rear and sides of the property to significantly buffer it from existing adjacent properties.

3) The request is not substantial; appears to be little bit substantial to the 11' on the one side yard, however the existing building is only 8' away and the remainder of the existing building is 11' and they are not encroaching any further. The 35' setback to the right-of-way is not significant. The right-of-way is unused and is a side yard for all practical purposes because it is not in front but is counted by a front yard by our code.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the applicant will include stormwater management practices in the development of the project and the site is relatively flat and probably not subject to erosion or stormwater problems from steepness.

5) The alleged difficulty is not self-created, these buildings existed for years and this addition seems to be a logical expansion with acceptable character for the neighborhood and other benefits as well.

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 Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

5) V08-37 BARRETT, NEAL & PAUL & SCUGSON, LOIS. Represented by Neal Barrett. To alter pre-existing non-conforming single family dwelling, specifically to construct a 5.5' x 16' covered entry, seek area variance for 1) a deficient front yard setback: 50' is required, 31' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.06, Block 1, Lot 8, Zone RM1.3. Property Location: 19 Loomis Lane. Subject to WCPB review.

Paul Barrett stated that they would like to extend an existing roof to create an entryway. He stated that it is the most minimal project that they could do. W. Pfau asked what the current distance to the property as it exists now. Paul Barrett stated that they are not close to the setback. W. Pfau asked how much closer are they getting than what exists now. Paul Barrett replied 2 more feet. W. Pfau stated that was minimal. Pam Kenyon stated that it is 31' from the edge of the right-of-way. Paul Barrett stated if they can call it a right-of-way because the actual road exists and he is not sure if the entire parkland can be considered a right-of-way. K. Hoopes stated that their definitions only go as far as right-of-ways. He stated that when John Loomis designed this area he envisioned some park land and wandering land to service the lots but it never came to fruition.

M. McComb commended the applicant for voluntarily adding stormwater control measures such as trenches with crushed stone even though this would be exempt from any requirements.

There were no comments from the public in attendance. Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Neal and Paul Barrett and Lois Scugson (V08-37) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, very little is changing on this particular existing structure anyway.
- 3) The request is not substantial; there is some question as to what the nature of the right-of-way that we are setting back from is.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it has been noted that some stormwater considerations being taken.
- 5) The alleged difficulty is not self-created, in as much that park land was developed somewhere in the dim past.

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 Kam Hoopes and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

6) V08-38 ORMSBY, FREDERICK & MARLENE. To alter pre-existing non-conforming single family dwelling, specifically to replace an existing deck/stairs with an approximate 10'8" x 20'6" addition, seek area variance for 1) a deficient front yard setback: 30' is required, 28' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 82, Zone GB5000. Property Location: 6 Congers Point North. Subject to WCPB review.

Fred Ormsby stated that his home was built in 1979 and at the time did not require any zoning. He stated that they are proposing is to replace the deck and stairway in the front of the house within the existing footprint. He stated that it will be enclosed two stories with the main entrance to the house. He stated that this will 1) improve the appearance of the house from that end and 2) he and his wife spend more time in the area over the winter and this access is not accessible because of the snow and ice. He stated that the footprint is within the current setbacks on the property itself. G. Smith stated that this is almost in the exact same footprint of the existing structure and it would provide a safer access in the winter months. K. Hoopes asked what purpose the stairs served. Fred Ormsby replied that it is the main entrance to the house. M. McComb asked if it was a two family home because there is another entrance on the

ground level. Fred Ormsby stated that there is another entrance on the front of the house and these stairs will be used to access the main living area. M. McComb asked if they will be removing the inside stairs. Fred Ormsby replied yes and this will be the only access to the upstairs. M. McComb stated that this home has already been expanded a couple of times before this and she doesn't see the need for this. She stated that there is a door with access to the house adjacent to these stairs. Fred Ormsby stated that access goes into his mudroom and shop. M. McComb replied that most two story houses only have one entrance. K. Hoopes disagreed and stated that a lot of houses have more than one entrance. W. Pfau stated that this is a very minor request of only 2 feet and it is clear that the applicant will not be affecting anyone's view towards the lake. K. Hoopes stated that for safety reasons alone they should get those stairs under cover. G. Smith agreed and stated that it will also make the appearance of the house more appealing.

Pam Kenyon stated that the Congers Point Association has submitted a letter in favor of this proposal. She stated that there is no WC impact. Counsel read the letter from Kathy Bozony, Lake George Waterkeeper, with regard to their concerns regarding stormwater. They suggested stormwater controls be used and a planting plan to absorb the precipitation that falls off the property. She also encouraged planting vegetative buffers between the property and the shoreline instead of just lawns. M. McComb stated that she does see a stormwater basin which she thinks is a good addition to this plan.

J. Anthony asked if the applicant would be subject to a minor stormwater permit if they request it. Pam Kenyon and Counsel replied only if they request it. W. Pfau asked the applicant if they would have a problem incorporating minor stormwater controls into the project. Fred Ormsby replied that they would have to tell him what they want. G. Smith stated that basically it would be putting in crushed stone along the eaves and some plantings. Kathy Bozony, Lake George Waterkeeper stated that in Congers Point there are a lot of lawns and she encourages the applicant to look at vegetative buffers. She stated that these buffers take the water coming off of the lawns and driveways and filters them before it gets to the lake better than just lawns.

RESOLUTION

The Zoning Board of Appeals received an application from Fred and Marlene Ormsby (V08-38) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; because the structure is legal non-conforming.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, there are no objections from neighbors. It is not affecting any views.
- 3) The request is not substantial; in fact it is mostly within the legal living area, it missed by 2 feet.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; minor stormwater measures will be used.
- 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 William Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) that minor stormwater measures be used for the new construction. Meredith McComb and Jeff Anthony opposed. No Board action.

Jeff Anthony suggested requiring a planting plan which will reduce some of the impervious land. Meredith McComb agreed and stated that they requested this on a previous project last month for Painter. William Pfau stated that was fine, but he doesn't know what to be looking for in the way of a planting plan and feels that the minor stormwater proposed is adequate. Kam Hoopes commented that this is a completely different project and the reason they requested a planting plan for the other project was because there was no stormwater system in place and the applicant was only 20 feet from the lake. K. Hoopes stated that this project is not removing any plantings and not really affecting anything. G. Smith agreed and stated that it is not expanding the size of the house. M. McComb stated that she feels that it is a minor inconvenience to the applicant that could benefit the environment. Counsel encouraged the Board to make the motion that included the planting plan.

RESOLUTION

The Zoning Board of Appeals received an application from Fred and Marlene Ormsby (V08-38) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; because the structure is legal non-conforming.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, there are no objections from any neighbors and it is not affecting any views.
- 3) The request is not substantial; in fact it is mostly within the legal living area and only missed by 2 feet.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and minor stormwater measures will be used.
- 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 Jeff Anthony and seconded by Meredith McComb, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) That the applicant is required to submit a simple planting plan to demonstrate what is being done to re-landscape this portion of the property. **All in Favor. Motion Carried.**

7) V08-39 BUDNER, STEVEN & JUDY. To allow a 10' x 18' storage building to remain in its present location, seek area variance for a deficient shoreline setback. 75' is required from the stream, 63' is proposed. Section 139.00, Block 1, Lot 47, Zone RL3. Property Location: 29 High Meadow Farm Road. Subject to APA review.

Steve Budner stated that he is requesting to leave the shed in the present location. He stated that he had them put the shed there when the house and old shed burned down so that he had a place to put the hay for the horses. At the time zoning did not know that there was stream on the property and they do not meet the setback from the stream.

M. McComb stated that her first reaction was with a property this large they could certainly relocate the shed to meet the setbacks. However, upon looking at the picture and seeing where it is located, if the applicant moves the shed they will have to remove a lot trees which would not be an improvement. W. Pfau stated that this a very small open shed. M. McComb stated that there was no plumbing to the shed and asked if there was any power. Steve Budner replied that there is temporary power when they were living in the trailer and they left it there and it is helpful for hay deliveries at night.

There were no comments from the public in attendance. Pam Kenyon stated that there was no WC impact. J. Anthony asked if this would be reviewed by the APA. Pam Kenyon replied yes because of the shoreline setback.

RESOLUTION

The Zoning Board of Appeals received an application from Steven and Judy Budner (V08-39) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

1) The benefit could be achieved by any other means feasible to the applicant besides an area variance; but it seems that this is a logical location for the benefit of the applicant.

2) There will be no undesirable change in the neighborhood character or to nearby properties,

3) The request is not substantial; it is a very minor shed.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; a 10' x 18' shed is not going to cause run-off into the stream even though it is 63 feet away.

5) The alleged difficulty is self-created, but the benefit to the applicant outweighs any difficulty.

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 Meredith McComb and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

8) V08-40 SILIPIGNO, JOSEPH. Represented by Dean Howland. To alter pre-existing non-conforming garage/tourist accommodations, specifically to convert the garage into an apartment, seeks area variance for 1) a deficient shoreline setback: 50' is required, 42' is proposed, 2) density: 27,000 sq. ft. is required, 14,814 sq. ft. exists; 3) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 55, Zone GB5000. Property Location: 44 Sagamore Road known as the Boathouse Bed & Breakfast. Subject to WCPB review.

Dean Howland stated that they are proposing to change the existing garage that now has a full bath, laundry room and family room into a residence for the owners. They are looking to have some privacy from the business. He stated that he came before the ZBA for a variance in 2002 when they put the 2 rooms above the garage. The only outside structure would be a deck, but

the setbacks would be the same as approved in 2002 for the upstairs deck and they would be removing the garage door and planter to add a entryway. The applicants have 8 parking spots for guests and most park outside anyway so this should not become a problem.

K. Hoopes stated that this seems to be a minor change in the use pattern. He feels that this is a pleasing solution and nothing but the aesthetics are going to change and that will be for the better.

W. Pfau asked if the garage was being used to park any of the cars now. Dean Howland replied only a few times in the winter when no one else was there. He stated that the applicants are looking to downsize in the wintertime, they could stay in this new area and that way they would not have to heat the main building.

M. McComb stated that there have been a lot of variances on this property but they have been to consistently improve a tourist accommodation that brings a lot of people to Bolton Landing. She stated that she has read about this accommodation in other periodicals including some from the west coast. She stated that with the applicants moving into this area it frees up another room in the main house and asked if it will affect their density. Pam Kenyon stated that she took that into consideration and it is part of the variance that they are seeking. W. Pfau stated that this is a more minor request than the original 2nd story addition to the garage. K. Hoopes stated that often this happens in business, the business changes and then you have to shift directions. He stated that he doesn't see how this impacts anybody other than the applicants for the better. G. Smith stated that it is a beautiful piece of property and the owners maintain it well. M. McComb stated that the 18' x 13' deck is a very modest proposal and the applicants are going to increase the pervious surface by adding a new planter by the new entry.

Kathy Bozony, Lake George Waterkeeper stated that she was confused by the 2002 minutes where the W. Pfau talked about the trees not being cut down and she asked if the parking would be located somewhere else. Dean Howland replied that the parking would remain the same and no trees would need to be taken down.

Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Joseph Silipigno (V08-40) 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 Board;

And, whereas the Warren County Planning Board 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#8 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the aesthetics of this building are going to improve and other than that everything else stays the same.
- 3) The request is not substantial; nothing is changing except the aesthetics of the building and the various utilities available.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; again the building is not changing.
- 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 Kam Hoopes and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

9) V08-13 BUTLER, TIMOTHY & CLAIRE. Represented by Bartlett, Pontiff, Stewart & Rhodes, P.C. For the construction of a proposed single family dwelling, seek area variance for a deficient front yard setback. 50' is required, 32.3' is proposed. Section 156.00, Block 1, Lot 10, Zone RM1.3. Property Location: Lake View Hill Estates. Subject to WCPB review.

John Wright of Bartlett, Pontiff, Stewart & Rhodes, P.C. explained that his clients obtained a building permit in 1989. They installed the foundation communicating with the then Zoning Administrator who was inspecting the project in its progress. The project was stopped and the applicants are now seeking to commence the construction once again and finish the house but they need a setback variance in order to do so. He stated that behind the house there is a steep drop-off and several mature trees surround the foundation so moving this back to meet the setback would require more time, money and disturbance to the land. He stated that they have letters from most of the neighbors who are all in favor of this application. With regard to the aesthetics the right-of-way is much wider than the road that lies within it and the structure will be further from the actual road.

Pam Kenyon explained that a building permit was issued in 1989 but they found that there was an error in giving the permit and construction was stopped. W. Pfau asked if the variance was required at that time. P. Kenyon replied that it was but it somehow got overlooked. W. Pfau asked if they have dealt with this lot before. G. Smith replied that there was a house up there. P. Kenyon stated that it was actually a storage building but that issue has been resolved. W. Pfau stated that the foundation doesn't look any closer to the road than a new house down the road just past the applicants. G. Smith stated that he would not like to see the applicants be asked to move this foundation back a few feet to meet the code. M. McComb agreed and stated completion of the home on the existing foundation would be the best solution. She

continued that this is an odd shaped lot and it will be aesthetically pleasing for the house to be completed.

Pam Kenyon stated that they have 17 letters from the surrounding neighbors who are all in favor of this application. She stated that there was no WC impact. There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Timothy and Claire Butler (V08-13) 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 Board;

And, whereas the Warren County Planning Board 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.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; the only other alternative would be to remove the foundation and to move in so that it was in compliance with the zoning law which would probably cause more damage to the site and environment than leaving it the way it is.

2) There will be no undesirable change in the neighborhood character or to nearby properties, the site is well buffered and separated from adjacent neighbors. The building will be in character with the existing structures in the neighborhood. There is also enough additional room in the front of the property because of the widen right-of-way to mitigate any closeness of the building to the road.

3) The request is not substantial; it is just a few feet.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; by leaving it and letting the applicant build on the existing foundation would be a benefit rather than causing demolition of the whole foundation and basement.

5) The alleged difficulty is not self-created, there was something that happened in 1989 that the ZBA was unaware of that caused this foundation to be put in place where it is, who is to blame and who is to know.

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 Meredith McComb, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor.**
Motion Carried.

Meeting was adjourned at 8:13 p.m.

Minutes submitted by K. MacEwan