

**Town of Bolton  
ZONING BOARD OF APPEALS  
MINUTES  
June 14, 2011  
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-** Jason Saris, Kam Hoopes, Tony DePace, John Michaels, David Ray, Jeff Anthony, Counsel Michael Muller and Zoning Administrator Pamela Kenyon

**Absent-** None

The meeting was called to order at 6:30 pm.

Jason Saris asked if there were any corrections or changes to the May 17, 2011 minutes.

**RESOLUTION**

**Motion** by Kam Hoopes to approve the May 17, 2011 minutes as written. **Seconded** by John Michaels. David Ray recused himself. **All Others in Favor.**

*Note: All applicants received default approval from the WCPB due to a lack of quorum at the WCPB meeting.*

1. **V11-12 SALVAGNI, CATHY.** Represented by Atty. Michael O'Connor. To allow an expanded utility cabinet and enlarged patio to remain, seeks area variance for 1) Deficient setbacks. Shoreline: 75' is required, 4' is proposed. Side: 20' is required, 3' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.15, Block 1, Lot 42, Zone RM1.3. Property Location: 166 Homer Point Road. The WCPB determined no county impact. Subject to APA review.

*Note: The dormer portion of this application has been withdrawn.*

Mike O'Connor representing the applicants explained the proposal.

Jason Saris stated that this is subject to APA review so they will need to have some discussion regarding practical difficulty. Mike O'Connor stated that it is a pre-existing non-conforming structure. Jason Saris asked if there were any alternatives considered. Mike O'Connor replied yes, but this was the most feasible option. They could not create storage underneath the current home and the only other option would be to move the storage shed back away from the cabin which would not be practical in use. Jason Saris agreed and stated that the location chosen is the least intrusive to the setback.

Jason Saris asked why this is an after the fact application. Mike O'Connor replied that

they were not aware that it would be in violation. He stated that when they were in the process of completing the patio they were contacted by the Town about the need for a possible permit. He stated that Mitzi Nittmann came out and the only problem that she had was with the shed. Mike O'Connor stated that as they were getting their application together in the fall they were notified that the patio was also an issue.

John Michaels asked about the tree removal. He asked whether or not the patio joints would be mortared together. Mike O'Connor replied no and that is why they put sand in between and with the permeable subsurface to assist in infiltration of the water.

Jason Saris asked if there was any correspondence. Counsel Muller read a letter from the Lake George Waterkeeper who provided comments and suggestions for the applicant.

Mike O'Connor responded to the Waterkeeper's letter and comments.

There were no comments from the public in attendance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Cathy Salvagni (V11-12) 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 there was Warren County Planning Board default approval;

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; the shed is not invading the lakeshore any further, but it is attached to a pre-existing non-conforming building.

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

3) The request is not substantial; it is attached to a pre-existing non-conforming house.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this is a patio and walkway which will have a water filtration system to go along with the project.

5) The alleged difficulty is not self-created, this house is 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 Kam Hoopes and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

**2. V11-13 ROCKWELL, DAVID & JOAN.** Represented by Don Russell. To alter non-conforming single family dwelling, specifically to add a proposed 2'x 9.6' outside storage closet, seek area variance for 1) a deficient front yard setback. 30' is required, 15' proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.10, Block 1, Lot 28, Zone RCH5000. Property Location: 37 Sunrise Shores Loop. Subject to WCPB review. *See V09-50 for previous approvals.*

Don Russell stated that the applicants mistakenly did not ask for enough storage space for their shed. He stated that they need the space for storage as well as for their garbage containers. They underestimated the size of the containers and that is why they are seeking the additional 2 feet.

There were no comments from the public in attendance and no correspondence.

## **RESOLUTION**

The Zoning Board of Appeals received an application from David and Joan Rockwell (V11-13) 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 there was Warren County Planning Board default approval;

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;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, this is just a 2' extension of an existing building which will remain in character of the existing structure.
- 3) The request is not substantial; it is very minimal.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; no trees will be removed and no disturbance to the site will take place.
- 5) The alleged difficulty is not self-created, to properly store the garbage cans, it is a necessity rather than anything else.

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

3. **V11-14 STUPP, ROBERT.** Represented by Pamela Stupp. For the construction of a two car garage with workshop and storage above, seeks area variance for a deficient front yard setback. 50' is required, 25' is proposed. Section 200.18, Block 1, Lot 50, Zone RM1.3. Property Location: 67 Hemlock Point Road. Subject to WCPB review.

Pam Stupp provided some basic details of the plan. They are seeking to construct a detached 2 car garage with a workshop and storage above.

John Michaels asked if the HOA has looked at these plans. Pam Stupp replied yes and they have approved it. John Michael's stated that this will be the only structure that will be west of the sewer line. Additionally, the nice garage does not seem to tie in with the current house. Pam Stupp stated that they are planning to retire to the area full time in a few years and will be reconstructing the house at that point. However, they did try to keep the colors similar to what exists now.

Jason Saris asked if the house meets the lakefront setbacks. Pam Stupp replied yes. Jason Saris stated that they cannot put the garage in the same area of the current house because there is not enough room. John Michaels stated that is because the garage is over 2,000 sq. ft. He stated that this proposal is different then the rest of the homes in

the neighborhood. He feels the streetscape will change with having the house on the other side of the sewer line. Jason Saris stated that he understood his concern, but he does not feel that it would have been their intent to leave that much space on the other side of the sewer line unbuildable.

?? stated that when they laid out the waste water system all of the laterals from the tanks run to the road. It was determined from the northern parcel that they came up the driveway but when they got up the hill rather than follow the curve of the road, Branairds' place crosses the Stupp property to Underhill because it was a direct line which made it easier. He stated given the existing location of the house they would not be able to fit the garage on the east side of the sewer line. Additionally they moved this out because the driveway is already there. With regard to removal of the trees he stated that most are hemlocks, which are not the best quality.

John Michaels stated that if they were aware that they would be knocking down the house he would have preferred to see some sort of concept for the house. Jeff Anthony agreed with John Michaels especially since they will be coming back in 2-3 years. Kam Hoopes stated that he somewhat agrees with John Michaels but that is not what is before them. These plans are a considerable expense on the applicant. Jason Saris stated that the current house is compliant with setbacks, there is a single family dwelling on the lot and the garage will be added. They are not there to focus on what order people choose to do things on their own property. John Michaels agreed but he only raises the issue because the applicant brought it up. He stated that they are claiming a hardship of not being able to fit a garage and house any other way and he is not sure that is the case.

Counsel Muller read a letter from the Lake George Waterkeeper who was not opposed to the application but did recommend stormwater management plan, taking low impact development measures, implementing rain gardens, planting plan in replacement of removed trees, plumbing plans and restriction of fertilizer and pesticide use.

Jason Saris asked if this would be under stormwater management review. Pam Kenyon replied that it will not be a requirement because they are not removing enough vegetation. However, she is sure it will be discussed under site plan review. Jason Saris asked if the applicant intended to replant vegetation. Pam Stupp replied yes, in fact her husband has already replaced and replanted many trees and plantings on the property.

Kam Hoopes stated that when he visited the site he noticed the slope of the land which runs towards the sewer line and into the wetlands. ?? Stated that stormwater will go west into the wetlands prior to going into the lake. Kam Hoopes stated that the environmental groups involved with the Gaslight Village project would point to the fact the wetlands are in fact themselves a stormwater device.

Jeff Anthony suggested adding the condition that minor stormwater is required under Site

Plan Review.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Robert Stupp (V11-14) 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 there was Warren County Planning Board default approval;

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; it is a 25' invasion of the setback to the right-of way accessing all of the homes which runs along the backs of the houses. They are trapped between a working sewer line and right-of-way for the neighborhood.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be an imposing building where nothing has existed, but it will not block any scenic views. It will be a handsome addition and will house cars that are currently parked outdoors on the property.

3) The request is not substantial; numerically it is cutting the setback in half, but it is to the right-of-way and they are dealing with a sewer pipe which prevents them from moving further back.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the project will be discussed at the PB who will be better equipped to discuss storm water matters. Additionally, the stormwater seems to slope away from the lake and into the wetlands.

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 David Ray, it is resolved that the ZBA does hereby approve the variance request as presented with the following

condition: 1) that minor stormwater management is required. John Michaels opposed.  
**All Others in Favor. Motion Carried.**

4. **V11-15 KUPETZ, SCOTT.** To alter non-conforming single family dwelling, specifically to relocate the stairs, seeks area variance for 1) a deficient rear yard setback. 15' is required, 9' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 43, Zone GB5000. Property Location: 38 Norowal Road. Subject to WCPB review. *See V08-45 for previous approvals.*

Scott Kupetz stated that the original stairs were coming straight down the center. However, they encountered a problem because they hit water. He stated that if they were to work to overcome this obstacle it would increase the length of stairs and almost extend to the road. Scott Kupetz stated that they are seeking to move the stairs to the old part of the addition, which would set them further back.

Kam Hoopes stated that the house is already within 8' of the setback. This new location will be further away from the main body of the house. He asked what was beyond the lot line. Scott Kupetz replied that there is a driveway.

Jason Saris asked if this required HOA approval. Scott Kupetz replied yes and it has already been approved.

There was no correspondence and no comments from the public in attendance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Scott Kupetz (V11-15) 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 there was Warren County Planning Board default approval;

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; it is a dimensional issue. They cannot move the building, but they can move the stairs.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, moving the stairs to this location is preferable visually.
- 3) The request is not substantial; it is trying to mitigate 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,

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.**

**5. V11-16 SISCA, FRANCIS.** To alter non-conforming single family dwelling, specifically to construct proposed decks, stairwell, stairs, fireplace box, etc. seeks area variance for 1) Deficient setbacks. Front: 50' is required, approximately 9' is proposed. Side: 30' is required, 28.4' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 157.05, Block 1, Lot 4, Zone RLC3. Property Location: 39 Horicon Lane. Subject to WCPB review. *Note: See V09-55 for previous approvals.*

Fran Sisca stated that last year he had an approval for a much larger structure but since then has scaled back the plan. He provided some basic details to the proposal. They have added a stairway to the basement which is currently dirt and it will remain that way but he would like to add a workshop area.

Kam Hoopes stated that he is present tonight because this proposal looks so different from the previous proposal. Fran Sisca agreed and provided more details for the house plans.

John Michaels asked if they were moving any closer to the lake. Fran Sisca replied no and they are keeping the existing deck so it will not be moving any closer.

Jeff Anthony asked if they will be adding a bedroom to the plan. Fran Sisca replied yes. Jeff Anthony stated that the applicant will be required to provide proof of septic review and certification since they have added a bedroom on the lakefront. Pam Kenyon replied that they did discuss this the last time and it was addressed at that time. Fran Sisca

stated that they will be re-doing the septic with this project.

Jason Saris asked if there was any correspondence.

Counsel Muller read the letter from the Lake George Waterkeeper who was not opposed to the application and provided comments and recommendations for conditioning the approval. They suggest requiring septic to be properly sized for the hot tub and additional bedroom, a shoreline buffer and the restriction pesticide and fertilizer use.

Jason Saris asked if hot tubs are an issue that they should be dealing with. Fran Sisca stated that this hot tub has been on their property since they have owned it. It does not drain into the waste water line but rather it drains onto the ground. Jeff Anthony asked if there were chemicals that went into the hot tub. He is concerned with discharging chemicals onto the ground. Fran Sisca stated that they have a system that ionizes the water and very little chemicals are used. Pam Kenyon stated that as far as she knows all hot tubs are drained in this manner. Jeff Anthony stated that he would like to be sure that this is compliant. Jason Saris stated that the applicant has indicated that he has a hot tub and if it is not compliant it will be dealt with as a separate matter.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Francis Sisca (V11-16) 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 there was Warren County Planning Board default approval;

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; it is reducing the square footage from the original project.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it is a rebuild.

- 3) The request is not substantial; there are minor changes.
- 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 be changing out the septic system.
- 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 John Michaels and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

6. **V11-17 GRAY, FERN.** Represented by David Chojnacki. In accordance with Section 200-19 (setbacks for cabin colonies), specifically to construct a proposed 4' x 3' landing and step, seeks area variance for 1) Deficient setbacks. Side: 20' is required, 7' is proposed. Rear: 20' is required, 6' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 1, Lot 67, Zone RM1.3. Property Location: 7 Dula Place, Cabin 4. Subject to WCPB review.

David Chojnacki stated that they have a pre-existing cabin that they are in the process of renovating. In doing so they would like to replace the existing door with a modern full size door. However, to do so they will have to move it to a different location. They are proposing to move the door to the gable end to allow for more room. However, this will require a landing and step which creates the need for the variance.

Jason Saris asked if they looked at other locations for the door. David Chojnacki replied yes, but no the other options were not practical due to eave restrictions and property line setbacks.

Jason Saris asked if they will need a rail. David Chojnacki replied that the height will be below the 30" threshold but the applicants may opt for it.

There was no correspondence and no comments from the public in attendance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Fern Gray (V11-17) 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 there was Warren County Planning Board default approval;

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;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it is not out of character with other houses in the neighborhood and is in character with its means of access to the home.
- 3) The request is not substantial; it is extremely minor.
- 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, the height of the one side of the building is a pre-existing condition and this is an effort to improve access into the building and the only way to do this is on the side of the building as proposed.

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

**7. V11-18 MOORE, EDWARD.** Represented by Frank McDonald. For the construction of a proposed set of stairs for easier access to the dock, seeks area variance for deficient setbacks. Shoreline: 75' is required, 0' is proposed. Side: 15' is required, 5' is proposed. Section 156.20, Block 1, Lot 29, Zone RCM1.3. Property Location: 27 Bayside Lane. Subject to WCPB and APA review.

Frank McDonald stated that they are here to correct an access to a dock that was incorrectly installed. Ed Moore gave an easement to put a dock in the water and access was to be done by using a certain area. However, during the process a dock was installed right on the property line of the Pioneer Village association beach property.

Frank McDonald stated that they are proposing to move the stairway 5' off the property

line. They are using the same landing but will take the stairs down on the south side rather than the north side. He stated that they discussed several ways to do this but due to the terrain this was the best possible plan.

John Michaels stated that this seems to follow the existing grade which makes more sense.

There was no correspondence.

Chester Oliver, Pioneer Village, asked for clarification of the Association right-of-way. He stated that they were not aware that the stairs coming down from Bayside were on Association property. John Michaels stated that the stairs to the dock are actually on Ed Moore's property, but they are not in the easement that he granted these people to use. Even though this new set will be on Ed Moore's property he wants it in the easement.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Edward Moore (V11-18) 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 there was Warren County Planning Board default approval;

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 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, they are replacing one set of stairs with another.
- 3) The request is not substantial; it is very minor.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it will not block any views and there are no critical environmental resources being affected.
- 5) The alleged difficulty is not self-created, by the easement holder but the steps

have to be put in the proper place.

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 Michaels and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) that the existing stairs to the dock are removed. **All in Favor. Motion Carried.**

**8. V11-19 FOY, EDWARD.** Represented by Gary Hughes. To alter non-conforming single family dwelling and garage, specifically to add a two story addition, breezeway and porch, seeks area variance for 1) a deficient Front yard setback. 75' is required, 31.45' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 1, Lot 14, Zones RM1.3 and RL3. Property Location: 16 Mohican Road. Subject to WCPB review.

Gary Hughes stated that the applicants are proposing a two story addition in between the house and existing garage. The reason for the expansion is to accommodate the applicants expanding family. The addition will be occurring within the 75' front yard setback and parallel to the road.

Jason Saris asked if the new porch will encroach further onto the road. Gary Hughes replied yes it will further encroach by 5'8", not including the 1' overhang. Jason Saris stated that is the only part of the addition that will encroach the setback.

Jeff Anthony asked if the large tree will be removed. Gary Hughes replied yes it will need to be removed. Jesse Foy stated that the tree is half dead and is not in good condition so it would need to be removed anyway.

John Michaels asked if the roof line will remain the same. Gary Hughes replied yes the existing house will remain the same and they will create a cricket to the new addition to divert the water front and back. Jason Saris stated that he noted that the existing house will be shorter than the addition. Gary Hughes stated that there is a 4.5' knee wall before the rafters to the ridge and the new addition will have full 8' ceilings. Jason Saris asked if the pitch of the roof will match the existing house. Gary Hughes replied yes.

John Michaels asked about the lot coverage. Jeff Anthony stated that they will be a little over 10% density.

Counsel Muller read a letter from the Lake George Waterkeeper who indicated that they were not opposed to the application with comments and recommendations for conditions

of approval. They recommend that the on-site waste water treatment system should be certified and storm water management plan required.

Jason Saris asked if the septic is compliant with the 4 bedrooms. Gary Hughes stated that it has not yet been investigated but it will be.

David Ray asked if the oil tank will be removed. Gary Hughes replied yes.

There were no comments from the public in attendance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Edward Foy (V11-19) 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 there was Warren County Planning Board default approval;

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; it is pre-existing non-conforming structure, they can move the building and in order to attach the addition they will be invading the right-of-way.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be an embellishment to an existing property and an expansion for an expanding family.

3) The request is not substantial; it follows the pre-existing non-conforming aspect of the house and garage that already exists.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this is flat ground and not near a moving or steady body of water.

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 with the following condition: 1) that minor stormwater is required. **All in Favor. Motion Carried.**

**9. V11-20 JOHNSON, DOUGLAS.** Represented by Gary Hughes. To alter non-conforming single family dwelling, specifically to add an 894 square foot two story addition (447 sq. ft. per floor), seeks area variance for 1) a deficient Front yard setback. 50' is required from First Street, 20' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 2, Lot 26, Zone RM1.3. Property Location: 42 Horicon Avenue. Subject to WCPB review.

Gary Hughes stated that this is for an addition to the existing home and they are seeking relief from the front yard setback on First Street.

Jason Saris stated that the view of the house will virtually remain the same. Gary Hughes stated that the renovation will be hidden fairly well from the view when driving past in both directions. He stated that driving down Horicon you may notice it but it would not be a tremendous impact. Kam Hoopes stated that they usually look favorably on filling in little jogs. Additionally this will not block anyone's view or add visual impact.

Jason Saris stated that all of those houses along there are awkward because the front doors face Horicon but rarely are they used for access due to the close proximity of the road.

Counsel Muller read a letter from the Lake George Waterkeeper who indicated that they are not opposed to the application with the condition that a storm water management plan is required.

There were no comments from the public in attendance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Douglas Johnson (V11-20) 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 there was Warren County Planning Board default approval;

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; there is not much room to work with on this property.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be an improvement to the neighborhood.
- 3) The request is not substantial; this is going to look nice when it is complete. They are filling in some jogs to the house and will not affect on the overall visual impact of the house in terms of size.
- 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 not be taking down any trees or creating disturbance to the site.
- 5) The alleged difficulty is self-created, the applicant has a large family that he needs to accommodate but this project will work here.

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 Tony DePace 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 management is required. **All in Favor. Motion Carried.**

**10. V11-21 SHELLI, PATRICIA.** Represented by Bartlett, Pontiff, Stewart & Rhodes P.C. To alter non-conforming single family dwelling, specifically to expand the patio by 30 sq. ft., seeks area variance for 1) a deficient side yard setback. A total of 20' is required, 1.5' was previously approved on the north side and 2.40' is proposed on the south side 2) Lot coverage: 40% is allowed, 46.3% is proposed; and 4) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, lot 21, Zone GB5000. Property Location: 11 Parkside Drive. Subject to WCPB review. *See V09-16 and V10-54 for previous approvals.*

Jon Lapper apologized for the need to be back before the ZBA. They did not anticipate

this when they were here in March. He stated that if they have been to the site they would see that this is a practical problem. The 30 sq. ft relief is on top of the relief that they have already sought. He stated that this proposal will allow anyone entering the house to have a straight shot rather than having to take a right jog around the post which is inconvenient. Tom Hutchins proposed the minimum to come around the pole. This proposal will not bring them any closer to the property line. In terms of stormwater the retention volume provided is 514 cubic feet compared to the 286 required, so the stormwater is more than adequate to handle the additional 30 sq. ft.

John Michaels stated that the post is structural but the block around it is purely visual. Jon Lapper agreed, but if it were to come out it would not be balanced with the other block that already exists. John Michaels stated that he is just trying to understand the hardship. If they took those blocks out the distance between the post and doorway to the house is the same. Jon Lapper stated that he does not disagree that it would provide some relief. However, they would still have to make a right turn to get around the post instead of a direct entry. John Michaels stated that this is self-created because this is not a structural element. Jon Lapper agreed, but this proposal is about getting to the top of the stairs and going straight especially if you are carrying packages. Additionally the applicants do not feel that it would look as good without the block.

John Michaels stated that he does like the excuse that they couldn't see this problem because it was winter. Jon Lapper stated that they were trying to seek the minimal relief last time with all of the snow but when the snow melted and the applicants looked at it they realized it needed to be addressed. He stated that they didn't realize that they would not be able to go straight into the home.

Ron Shelli stated that they are not further encroaching on the side setback. They are just asking for an additional area to allow them to make the entryway into the house a lot easier. He stated that the stormwater system designed for the project can more than accommodate the additional square feet. Jason Saris stated that the post was always going to be there but in the original plan it wasn't going to be in the way. Tony DePace stated that they discussed these columns originally and if there were no columns they wouldn't be here right now. Jon Lapper agreed but they would like this for the aesthetics and it is not any closer to the property line.

There was no correspondence.

Pat Ferguson, daughter of Harold Brown who owns property across from the Shelli property stated that the deck is over her father's property. She stated that it is supposed to be taken down and moved. She does not have a problem with this proposal as long as that happens. Additionally she is concerned with the stormwater and she wants to be sure that it will function properly. Jason Saris asked if there is a presently a problem with the run-off. Pat Ferguson replied no.

Jon Lapper stated that the Town has approved the stormwater plan but it has yet to be implemented. With regard to the stormwater, Ron Shelli stated that they have had 2 engineers and 2 stormwater plans. The first plan was to be installed but there was question over whether or not it was done or done properly. So they hired another Tom Hutchins who re-designed a completely new system. It has been an expensive process but he is hoping after all is said and done that it works. Ron Shelli stated that they recently have had a lot of rain and they have not seen any run-off and the new system has not even been installed. Jason Saris asked when it would be installed. Ron Shelli replied that they were supposed to start but Tom Hutchins encouraged them to get this taken care of first.

John Michaels stated that they have worked with the applicants on this project for some time. The current plan looks so much different than what was originally presented. He has a problem with adding anymore to the plan just for aesthetic purposes.

Jason Saris asked the applicants to address the deck encroaching on the Brown property. Jon Lapper replied that they still intend to remove that and they intend on doing so as soon as they are able to start construction.

Jon Lapper stated that he understands John Michaels point, but they would argue that it is just 30 sq. ft and it will look better even from the neighbors property. Jason Saris stated understands John Michaels point that they have had to look at these revised plans 3 times now, but he also understands the burden for the applicants and that it was not done on purpose. Ron Shelli stated that he will not be back again.

## **RESOLUTION**

**Motion by** John Michaels to deny the application as the hardship was certainly self created, they have worked with this applicant on many different issues trying to resolve this, they have an alternative methods available, they are already 2.4' from the property line and although 34 sq. ft. may sound small it is a fairly substantial application and the whole project affects the neighborhood. **Seconded by** Kam Hoopes. Jason Saris, David Ray and Jeff Anthony opposed. No Board Action.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Patricia Shelli (V11-21) 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 there was Warren County Planning Board default approval;

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#10 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, although it is a crowded area it fits in the neighborhood character.
- 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 storm water issue has been solved, this is a visual and aesthetic problem and nothing more than that. It is certainly not a negative to the visual character.
- 5) The alleged difficulty is self-created, but there is no way to get around that fact.

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 David Ray, it is resolved that the ZBA does hereby approve the variance request as presented John Michaels and Kam Hoopes opposed. **All Others in Favor. Motion Carried.**

**11. V11-22 SAGBOLT, LLC.** Represented by Atty. Benjamin Pratt. In accordance with Section 125-10B(2)(d) of the stormwater regulations, seeks area variance for deficient setbacks. 100' is required between infiltration devices and Lake George. 40' is proposed at Shelving Rock and 60' is proposed at the pool location. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPB & APA review. *See V11-23 and SPR11-10 associated with this project.*

**12. V11-23 SAGBOLT, LLC.** Represented by Atty. Benjamin Pratt. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) to 1) Convert the existing indoor pool to an outdoor pool with amenities. 2) Create 16 new guest rooms. 3) Increase the size of Shelving Rock Terrace by approximately 2000 square feet and enclose it pursuant to previous approvals.

4) Remove impervious areas and install landscaping around all newly renovated locations to improve stormwater management. And 5) modify existing docks to move the cruise ship Morgan's primary berthing from the south to the west side of the island and rental boats from the front of the hotel to the former Morgan dock area. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPB, ZBA, PB, TB, & APA review. Subject to SEQR. *See V11-22 and SPR11-10 associated with this project.*

*Note: Jeff Anthony recused himself from V11-22 and V11-23.*

Jason Saris reminded the applicant that they are short one Board member and one member has recused themselves. He stated that the applicant could choose to postpone the application at any point.

Ben Pratt introduced Barry Kimble of Ocean Properties, Mark Tabor of the LA Group, Tom Guay, Hotel Manager and Brad ? From the Sagamore. He stated that they have 3 ongoing projects at the hotel. They have 2 areas of the hotel they would like to focus on, the Shelving Rock area of the hotel and the indoor swimming pool. They are before the ZBA for :1) the PUD amendment procedure, which is primarily to decide whether this fits under their commercial use and 2) for a stormwater variance for part of the project.

With regard to the Shelving Rock area, Ben Pratt explained that currently this is a patio with a tent on it. In 2004 they received permission to enclose that space for indoor banquet space. That permit was renewed by the APA in 2008 and remains in effect. What they are proposing is to do that same enclosure that was approved previously but to expand it by approximately 2,000 sq. ft in its footprint. The expansion is along both sides to incorporate kitchen functions that have been performed all over the hotel, which are very inefficient, as well as provide additional restrooms and better ADA accessibility including an elevator.

The second part of the project will address the indoor swimming pool area. Ben Pratt stated there has been so much use with respect to the outdoor pool. The hotel is very family oriented and there has been a lot of activity at the pool. The proposal is to take the roof off the indoor pool and would be for adults only. While they are doing this project they also plan to add 16 guest rooms with all the usual environmentally conscious plans.

Ben Pratt stated that in front of the pool area they are proposing to add 7 cabanas that will be another profit center for the hotel. They will be rented to guests for day use.

Ben Pratt stated that they are also planning to move the Morgan's main docking area to Sawmill Bay. This will provide a better way to service the Morgan since it will be near the warehouse where the food and supplies are kept. At the present time the supplies need

to be trucked around the island to the boat as well as the trash removal from the Morgan. They do not want this to be a front of the house operation.

The dock for the Morgan will change slightly. Ben Pratt stated that they plan to run a dock parallel to the shore which will be at the end of certain fingers. They will reduce the number of docks by 9 slips and they are not going to increase the square footage of the dock. This area will be used for rental boats from Chic's Marina, whose operation is currently by the swimming area.

Ben Pratt stated they have applications with APA, LGPC, OPRHP and WCPB. The WC PB did not have a quorum, but everyone else they have talked to regarding this application seem to be online with it.

With regard to stormwater, Ben Pratt stated that they have been able to pick up a significant amount of stormwater that presently is not picked up. Currently the run-off from the Shelving Rock and pool roofs runs onto the ground and often times into the lake. In terms of the project areas, Ben Pratt stated that will be reducing the impervious space by over 7,000 sq. ft. They will remove pavement and install a rooftop garden over the Shelving Rock area. This space will be used as a cocktail space or wedding space, it will be ADA accessible and user friendly as well as environmentally conscious. Additionally they will be putting rain tanks in both areas by the swimming pool and Shelving Rock. This is the only location that they have been able to find for the rain tanks to be effective and it is within 100' from the lake which is the reason for the variance.

Ben Pratt stated that the combination of efforts that they are taking significantly reduces the stormwater. Alternative areas for infiltration have been explored and these are the best locations. Ben Pratt stated that one of the Waterkeeper's suggestions was to install the rain tanks in the area of the pavement they are reducing so that it would be more than 100' from the lake. However, they have dug test pits in that area and the water table is not conducive for putting rain tanks in that area.

Ben Pratt stated that where they have taken up pavement they are installing a combination of gardens and in other areas they are putting in structured re-enforced turf. This will not only make it permeable but provide a surface for a fire lane and emergency access. Mark Tabor explained that the current surface is 20' wide; they are proposing to reduce that width for the entire length. Half of the width will be reduced to a 8' wide sidewalk to access the docks and the remaining portion will be turf.

Ben Pratt stated that the approvals that they are seeking is the best bang for their buck under these circumstances and they request a favorable recommendation to the TB for the PUD amendment and a stormwater variance for the installation of the rain tanks.

John Michaels asked what other improvements will be involved with the additional guest rooms. Ben Pratt explained that they are reconfiguring some of the workout space to make it more ADA accessible.

Counsel Muller read a letter from the Lake George Waterkeeper with comments and recommendations. They recommends 1) further reduction of stormwater run-off by looking at other feasible alternatives, 2) require additional information about outdoor pool and the collection of chlorinated water in the surface drains, 3) require deep test pits as required by the storm water ordinance, 4) better water infiltration, and 5) require before and after site plan review.

Ben Pratt stated that they have discussed this project at length with Tom Nace and on several occasions with the Waterkeeper to address the primary issues that were raised. Tom Nace is satisfied with the project and has signed off. They are handling much more than run-off than is required.

John Michaels asked about the pool. Ben Pratt stated that the splash area around the pool drains back into the pool and is recycled with the pool water. The impervious area beyond the pool is sloped away from the pool and is handled by the stormwater. Therefore the chlorine will remain in the pool and the run-off into the sewer will just be rain water.

John Michaels asked for more details about the cabanas. Ben Pratt stated that the cabanas will be on wooden platforms and made of a canvas or vinyl fabric. He stated that they would only be uses seasonally.

Zandy Gabriels asked how this will work procedurally with regard to approval of the variance versus a PUD amendment approval. Counsel Muller explained that the variance on stormwater will be a final ZBA ruling. The PUD amendment will only be a recommendation to the TB who has final approval.

Marney Abbott, representing Ray Blesser an adjacent neighbor, stated that her client has concerns with the project. Mainly with the shifting of the Morgan dock and the changes to the pool area. The docks are already extremely close to their property and any change will have an impact on them. He and his partners have invested over a million dollars into their property to restore, refurbish and renovate their property. They are concerned that the changes to the dock and pool could affect the safety, aesthetics, enjoyment/use of their property as well as the property value. Additionally, they are concerned that these changes will increase nuisances to them and their property.

Ben Pratt stated that they will not be moving the docks. They will have less square footage than what exists now. With regard to the swimming pool, he stated that it will be for adult swimming only. He stated that this is the first time that they have heard any

of these concerns so they have not had an opportunity to discuss this with the neighbor. They hope that the issues that are raised are insignificant for the property owner once they see what happens as the project evolves.

John Michaels stated they will not be renting boats at night and they will no longer have any traffic the that Morgan used to bring, so this would be a reduction in the amount of nuisance in a way. Ben Pratt agreed and added that it will have a significant improvement visually.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Sagbolt, LLC (V11-22) 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 there was Warren County Planning Board default approval;

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#11 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 stormwater measures that will be taken will be an improvement to no stormwater measures at all. Any alternatives discussed do not seem to be practical.

2) There will be no undesirable change in the neighborhood character or to nearby properties, these new measures come with a host of additions and subtractions to the overall operation of the hotel. This should be a huge improvement financially as well as aesthetically.

3) The request is not substantial; it may look substantial numerically but stormwater measures are being taken where none exists now.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this is a matter of few feet and as long as it is doing its job it will have a positive effect on the environment because no stormwater management exists in these areas currently.

5) The alleged difficulty is not self-created, Sagbolt did not create the terrain or

placement of the hotel as it exists today.

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 Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

**RESOLUTION:**

**Motion by** John Michaels to make a favorable recommendation to the Town Board for the PUD amendments for V11-23, giving consideration to the condition that the cabanas are only to be used seasonally. **Seconded by** Tony DePace. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

The meeting was adjourned at 9:14 pm

Minutes respectfully submitted by Kristen MacEwan.