

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, April 16, 2013
6:30 p.m.**

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

Present: Jason Saris, Jeff Anthony, John Michaels, Donald King, John Famosi, David Ray, Matt Slaughter, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent: Tony DePace

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

Jason Saris asked if there were any corrections or changes to the February 19, 2013 minutes.

RESOLUTION:

Motion by John Michaels to approve the February 19, 2013 minutes as written. **Seconded by** John Famosi. **All Others in Favor. Motion Carried.**

Jason Saris asked if there were any changes to the March 26, 2013 minutes.

RESOLUTION:

Motion by Don King to approve the March 26, 2013 meeting minutes as written. **Seconded by** Jeff Anthony. **All in Favor. Motion Carried.**

Jason Saris explained that for the first item 2 Board members will be recusing themselves from reviewing the application. Even though they have an alternate present there is one member absent. He explained that the applicant has the option to proceed or table the application at any time.

Jon Lapper stated that the applicant would like to table the application until a fuller board is present.

- 1. V13-03 BOLTON CROSS LLC.** Represented by the LA Group. For a proposed 10-unit townhouse project with each unit located on a separate parcel, seeks area variance for 1) **Density.** 7.95 acres are required- 2.54 acres exists. 2) **Lot coverage.** 40% is allowed in the GB5000 zone and 15% is allowed in the RM1.3 zone. 0' is proposed. 3) **Setbacks: Front:** 30' is required, **Rear:** 15' is required, **Sides:** A total of 20' is required in the GB5000 zone and **Front:** 50' is required, **Sides:** 20' is required, **Rear:** 20' is required in the RM1.3 zone; 0' is proposed for all. 4) **Lot Width:** 50' is required in the GB5000 zone and 125' is required in RM1.3 zone. Approximately 24' is proposed for all. 5) **Lot Depth:** 100' is required in the GB5000 zone and 150' is required in the RM1.3 zone. Approximately 55' is proposed for all. 6) **Lot Size:** 20,000 square feet is required in the GB5000 zone and 1.3 acres is required in the RM1.3 zone – approximately 1,296 square feet is proposed for lots 1 through 6 and approximately 1,128 square feet is proposed for Lots 7 through 10. 7) **Section 200-37B**

Shoreline Regulations: 215 linear feet is required, 156 linear feet exists. **8) Shoreline setback:** 75' is required, approximately 32.26' is proposed for Lot 10 – approximately 45' is proposed for Lots 9 & 8, approximately 54' is proposed for Lot 7 and approximately 61' is proposed for Lot 6. **9) Side yard setback.** 20' is required between Lot 6 and the southern property line – approximately 16' is proposed. **10) Front yard setback from Evergreen Lane.** 50' is required in the RM1.3 zone – approximately 20.63' is proposed for lot 1 & approximately 40' is proposed for Lot 2. Section 171.19, Block 1, Lot 55, Zones RM1.3 & GB5000. Property Location: 4913 Lake Shore Drive. Subject to WCPB review. *Note: See SPR13-09 & SD13-02 associated with this project. This item was tabled at the February meeting pending additional information.*
****This item was tabled at the applicants request.****

- 2. V13-05 PERRY, MARK & LINDA.** For a proposed home occupation, specifically to create an exercise studio for private clients, seeks area variance to occupy a space greater than 500 square feet. 832 square feet is proposed. Section 156.00, Block 1, Lot 13, Zones RL3 & **RM1.3.** Property Location: 121 Federal Hill Road. Subject to WCPS review. *See SPR13-03 for a home occupation.*

Mark Perry stated that they are seeking to create an exercise studio and the 332 additional square feet than what is permitted is necessary for the expansion. Jason Saris asked if they plan to expand in the future. Mark Perry replied no, they opted to go for the bigger space to accommodate for more space in the future.

Jason Saris stated that the application indicates that it is for private clients so he assumes that there will be no outdoor advertising. Mark Perry explained that there won't be any advertisements. He stated that there is parking for 10-12 cars, however only a few clients will be there at one time. He explained that clients make appointments; it is not an open gym concept. Jason Saris stated that this fits well with home occupation.

Don King stated that he supports this proposal. He stated that there are no impacts with regard to neighbors, visual or traffic. Mark Perry stated that there will be no impact on traffic, you don't even know that it is back there.

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

RESOLUTION

The Zoning Board of Appeals received an application from Mark and Linda Perry (V13-05) for an area variance as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item#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, there is no new construction proposed, everything is happening within the existing structure. Parking is minimal on the site and access is available off road.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there is nothing proposed that would have an environmental impact or effect other than a few clients coming or going.
- 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 John Michaels, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 3. V13-07 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) for **1)** 10'x 18' entry way on the north end of the main hotel building, **2)** Installation of dormers on the service building, and **3)** installation of new windows and a gable in the Hermitage building. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQR.

Note: Jeff Anthony recused himself from this application.

Jon Lapper stated that all of the proposed changes are site changes but do not change the use or the PUD. The current code requires that all PUD applicants go through the ZBA and PB before getting final approval from the TB.

Jon Lapper stated that the changes are primarily landscaping and public safety changes. He gave further details of the changes.

Jason Saris asked if any of the proposed changes further encroach on any setbacks. Jon Lapper replied no.

John Michaels stated that he strongly suggests writing a proposal to change the PUD agreement with the Town of Bolton to prevent having to come before all 3 Boards. Jason Saris suggests that they take that up with the TB.

Jason Saris stated that everything proposed supports the main use of the resort. He does not see this affecting the overall operation.

There was no WC Impact or correspondence.

Zandy Gabriels stated that he does not take any issue with what is being proposed. However, with regard to the PUD agreement, he stated that the TB requests the recommendation of the ZBA and PB because this is where the expertise is with regard to code, setbacks, etc. He does not see any issue with the way that the PUD is handled with regard to the code and the approval process.

RESOLUTION

The Zoning Board of Appeals received an application from Sagbolt, LLC (V13-07) for an area variance as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item#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;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties,
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 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 Don King and seconded by Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 4. V13-08 SAMAD, MALEK & MONTEIRO, JOSE.** Represented by Atty. Stefanie DiLallo Bitter and Hutchins Engineering. To allow a 448 square foot dry stone patio with a 253 square foot porch roof covering a portion of the patio to remain, seek area variance for a deficient shoreline setback. 100' is required, 41' is proposed. Section 107.00, Block 2, Lot 10, Zone LC45. Subject to WCPS and APA review.

Jon Lapper stated that this is an after the fact variance. The applicant did not realize that there was a stream setback. The entire cabin is within the 100' of the stream. They hope the Board finds that under the circumstances there is no impact on the stream. This is just a small addition; and entranceway and porch on a structure in the woods.

Tom Hutchins stated that this is a seasonal cabin at the end of Trout Falls Road. The applicant has 2 parcels in Bolton and 2 parcels in Horicon with a total of 479 acres. There is only one structure on all of the properties. The cabin is 41' from the stream. There is a storage trailer that is also within the 100' setback which they intend to move out of the setback. He provided photos for the board to look at.

John Michaels stated that he can understand why this is an after the fact because you might not know what town you are in. Additionally there is enough woods and vegetation around to mitigate any stormwater run-off.

Don King asked if the original structure was built within the stream setback prior to the regulation. Malek Samad stated that the structure was built in 1950 or 1960's. He stated that they have owned the house for over 10 years and did not realize they needed a variance. Jason Saris stated just because they have a lot of acres doesn't negate the fact that this is after the fact. This is a pre-existing non-conforming structure. Jeff Anthony asked if the porch and roof were there before. Tom Hutchins stated that the original porch was smaller but it is replacing what existed.

There was no WC impact. There was no further correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Malek Samad and Jose Monteiro (V13-08) for an area variance as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

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

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 porch is already in existence.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it is the only structure on almost 500 acres of property owned by the applicant.
- 3) The request is not substantial; it is an existing porch and deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; any environmentalist can see that this stream is well protected. The run-off from the roof-line still has 41' until the stream.
- 5) The alleged difficulty is somewhat self-created, the porch is a replacement of a porch that previously existed. Even though the applicant has admitted that it is slightly larger it doesn't seem to have any impact.

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

- 5. V13-09 FOY, EDWARD JR.** Represented Jesse Foy. To allow 2 apartments and 2 offices to remain, seeks area variance for deficient density. 18,730 square feet exists. 20,000 square feet is required. Section 171.15, Block 3, Lot 22, Zone GB5000. Property Location: 5012 Lake Shore Drive. Subject to WCPS review.

Jesse Foy stated that he is seeking relief from 1,300 sq. ft deficiency of density for the property. Jason Saris asked how this came about. Pam Kenyon replied that someone applied for a sign and that created a look into the rental of the space and use of the building. Jesse Foy stated that there is less use there now that the Sagamore doesn't rent the house anymore. He explained that the Lake George Mirror and the Sembrich have decided to utilize the space. Jason Saris stated that the intensity of use of the property has gone down. John Michaels agreed that this will have a positive impact especially in the summer months.

There was no WC Impact. There was no further correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Edward Foy, Jr (V13-09) for an area variance as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item#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; the project is not expanding beyond the existing footprint. It is a modification of the interior of the structure.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there will be less traffic in and out of the property with renters or occupants, especially during the summer season. The existing lot can easily accommodate the traffic flow for occupants of the office space.

3) The request is not substantial; it is minimizing some of the impact on the surrounding neighborhood by converting it to more of a commercial use.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; less likely to have noise and traffic impact particularly during the evening hours.

5) The alleged difficulty is not self-created, it is a continuing use of an existing structure that has been improved significantly over a period of time. The owners show they care to continue the significant improvements within the 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 Don King and seconded by Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor.**

Motion Carried.

6. V13-10 KRETCHMER, MARCIA. To alter pre-existing non-conforming structure, specifically to relocate a set of stairs, seeks area variance for 1) a deficient front yard setback. 30' is required, 15' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.14, Block 1, Lot 2, Zone RCH5000. Property Location: 4641 Lake Shore Drive. Subject to WCPS review.

Marcia Kretchmer stated she is seeking to replace an existing deck. Currently the stairs go out into the driveway and she is seeking to move them to the east side to enter into the front yard. Jason Saris stated that this is a pre-existing, non-conforming structure so any decrease in the encroachment is always a benefit.

There was no WC impact. There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Marcia Kretchmer (V13-10) for an area variance as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item# 6 of the agenda.

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 decreasing the side yard setback.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is 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 Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

7. **V13-11 ADIRONDACK DESIGNERS & BUILDERS.** Represented by Hutchins Engineering. To expand/convert motel into a single family dwelling, seek area variance to alter a pre-existing non-conforming structure in accordance with Section

200-57B(1)(b). Section 186.07, Block 1, Lot 6.4, Zone RCH5000. Property Location: 4824 Lake Shore Drive. Subject to WCPS review.

Tom Hutchins stated that this lot is part of a 4 lot subdivision from 2005. He stated that all lots are residential subdivision lots. More recently, Lots 2 and 3 were combined and the applicant is in the process of building a home. The proposed lot contains the former hotel structures. He provided further details. The applicant is looking to remove a total of 16-18 hotel units. A portion of the hotel by 9N will be used as a guest house and another portion of the hotel closer to the lake will be added onto for a single family residence. A 3 bay garage is also proposed.

Tom Hutchins stated that there is a significant amount of asphalt on the property which will be reduced tremendously. The reason for the variance is because one of the existing buildings sits 4' off the property line. This portion will be renovated and added onto but the portion that is encroaching will remain.

John Michaels asked if there was a foundation. Kevin Maschewski replied yes there is an existing foundation and full basement under the proposed guest house and the portion that they intend to add onto. He explained that the doors to the hotel units have been closed for some time and mold is becoming a problem and the roofs are leaking. He stated that he has met with Bill Pfau from Carey's to discuss a buffer between the properties; they concluded that they would stagger trees between the properties.

Jason Saris stated that he appreciates that there is a foundation but he doesn't understand if they are going to all of this effort and expense, why the applicant wouldn't just come into compliance. He stated that not only are you adding onto a pre-existing non-conforming structure but doubling the size of it. Kevin Maschewski stated that given the dynamics of the real estate market, things have changed since 2005. He stated that he is keeping the 4 existing walls and putting a new roof structure on it. The 2000 gallon septic tank is going to stay and the infrastructure of the property is staying intact. Jason Saris stated that he can appreciate that, however economics is not part of the Board's consideration. Kevin Maschewski stated that he is trying to be creative with what exists. He figured that it is only 4' and could see moving it if it were a more significant variance request. Jason Saris stated that it is half of what is allowed which in their eyes is a significant variance.

Pam Kenyon stated that the Board also should discuss the guest cottage because it has a kitchen. Kevin Maschewski stated that the guest cottage is being used by Joe and Cecelia DeMalta under life estate. The goal is to allow them to live here for the remainder of their lifetime. He stated that he understood that being a hamlet you are allotted 20,000 sq. ft per residence and this is 1.3 acres. Part of the submission was to keep the guest cottage intact the way it is with the kitchen and let the DeMalta's continue to live there. This would require a second variance for the shoreline relief because they would be deficient approximately 17'. John Michaels stated that he doesn't understand why the applicant doesn't just subdivide the lot. Kevin Maschewski stated that he did not know that was an option.

Jeff Anthony asked if this is in addition to the current construction project. Pam Kenyon stated that it is a separate parcel in the subdivision and they will deal with stormwater individually on each lot. Jeff Anthony stated that he has concerns with stormwater for the project as a whole.

Tom Hutchins stated that the subdivision was approved with the condition that each lot would return for site plan review and stormwater.

Jeff Anthony stated that if they are looking to grant variances to change the original approved subdivision plan he feels that the PB should review it first. John Michaels agreed. When this was originally presented for subdivision it was for 4 compliant lots that wouldn't need variances. He would like to have PB advice.

There was further discussion about the setbacks.

There was no WC impact. There was correspondence from the LG Waterkeeper. However the Waterkeeper choose to speak with additional comments.

Chris Navitsky, Lake George Waterkeeper stated they felt that the benefit sought by the applicant could be achieved by another method other than an area variance. Back in 2005 the applicant stated "the proposal would create 4 lots on 4.13 acres, removing the existing buildings and all of the lots meet the zoning requirements of this zone." They feel it will create an undesirable change to the neighborhood and nearby properties. Originally the subdivision had 4 homes 150' from the lake and now they are down to 3 lots, one home is 110' in width and 52' from the lake and this proposal is for a house 82' in width, 84' from the lake. Chris Navitsky stated that the 2005 applicant also stated the existing asphalt in front of the hotel units would be removed and the proposed site plan would have a reduction of 25,000 sq ft of pavement and roof. The actual variance plan submitted increases the amount from the approved plan from 4,900 to over 8,000. They also plan to increase the building footprint 2900 to a total of 9600. They are proposing more building square footage than exists. Chris Navitsky stated that he supports the recommendation of getting PB review.

With regard to stormwater, Chris Navitsky stated that they have concerns with how it will be treated. He feels that it should be a major stormwater project. The applicant segments the project into 2 phases which when combined total more than 15,000 sq. ft. This was originally approved with major stormwater and it cannot be segmented to become a minor stormwater project.

Jason Saris stated that they have an option to have the PB review this before moving forward. Counsel Muller agreed that is an option. Jeff Anthony stated that there are questions about the stormwater which should be handled by the PB. Additionally, this was their subdivision and he would feel more comfortable with them reviewing the proposed changes.

RESOLUTION

Motion by Jeff Anthony to table application V13-11 pending more information and review from the Bolton Planning Board regarding stormwater and the original subdivision.

Seconded by Don King. **All in Favor. Motion Carried.**

- 8. V13-12 FIGUEROA, HEIDI.** For a proposed two lots subdivision, seeks area variance for 1) Deficient side yard setbacks. 20' is required, 0' is proposed; 2) Density. 1.3 acres is required, 8,659 square feet is proposed for Lot 1 and 8,214 is proposed for Lot 2; 3) Lot Coverage. 15% is allowed. Approximately 17% is proposed for Lot 2 and

approximately 25% is proposed for Lot 1; 4) Lot width. 125' is required, 82.24' is proposed for Lot 1 and 77.66' is proposed for Lot 2; and 5) Lot depth. 150' is required, 92.48' is proposed for Lot 1 and 105.78' is proposed for Lot 2. Section 171.19, Block 1, Lot 60. Zone RM1.3. Property Location: 14A & 14B Evergreen Lane. Subject to WCPS review. See SD13-01 associated with this project.

Heidi Figueroa stated that she would like to separate the townhouses into separate lots. Jason Saris stated that the applicant previously requested and was granted approval for something similar in the past. Heidi Figueroa stated that the ZBA previously granted permission to break this into a co-op. However at this time the bank needs to have separate lots to create 2 single family attached lots.

John Michaels asked if there was a firewall. Heidi Figueroa replied yes, it is a large wall that separates the units.

Jason Saris stated that this has already been approved once just in a different format. The property is secluded and does not affect any neighboring properties. The size of the house will not change.

There was no WC impact or any correspondence. There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Heidi Figueroa (V13-12) 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 Staff;

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item# 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; the code allows multi-family townhouse type structures it also requires side yard and other setbacks. This is a zero lot line subdivision and it is mandatory to receive a variance.

2) There will be no undesirable change in the neighborhood character or to nearby properties, the building will not be modified physically in any way. This will simply create a lot line in between the fire wall of the structure.

3) The request is not substantial;

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there are no changes proposed to the environmental or physical condition of the property.

5) The alleged difficulty is not self-created, this is solving a banking law problem, symptomatic of today's economy. This property cannot be sold as a condominium which is a problem that 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 Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

9. V13-13 BROOK HILL DEVELOPMENT. Represented by the LA group. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) for the conversion of a five unit townhouse to a three unit townhouse (Building 900). Section 157.05, Block 1, Lot 88.4, Zone PUD. Property Location: Lagoon Manor PUD. Subject to WCPS review. Subject to SEQ. See SPR13-08 & V13-14 associated with this project.

10. V13-14 BROOK HILL DEVELOPMENT. Represented by the LA group. In accordance with Section 125-10B(2)(d) of the stormwater regulations, seeks area variance for deficient setbacks. 100' is required between an infiltration device and Lake George. 75' is proposed. Section 157.05, Block 1, Lot 88.4, Zone PUD. Property Location: Lagoon Manor PUD. Subject to WCPS review. Subject to SEQ. See SPR13-08 & V13-13. *Note: Town Engineer Tom Nace has not signed off on this project.*

Note: Items V13-13 and V13-14 were heard together. Jeff Anthony recused himself from applications V13-13 and V13-14.

Mark Tabor stated that this is for a PUD amendment to the Lagoon Manor. The site they are talking about is the 900 building. The PUD was approved in 1987 and at the time there was an existing hotel structure which was to be converted to 6 townhouses. After 1987 they did some additional research of the building and looked at architectural plans and determined that it was not structurally sound to support 6 units. The applicant came back and amended the PUD in 2004 to construct a 5 unit building with new architecture to match the PUD instead of converting the hotel structure. That approval included a planting, stormwater, utilities and grading plan. Mark Tabor stated that since that time the applicant has examined the site further and given the economic climate, decided to revise the plan again. The architecture will be more Adirondack in style and it will fit more consistently with the site. Additionally, they are looking to reduce the amount of units to three. He provided further details.

Mark Tabor reviewed the existing conditions for the site. They are proposing to build in essentially the same footprint. This new design fits better on the site. As part of the previous approval there was stormwater and waste water treatment approval and there was a planting plan. That will remain the same and will be serviced by the Lagoon Manor PUD utility system.

Mark Tabor reviewed the stormwater plan. The original plan called for a drywell 50' from the lake. After additional exploration and looking at new regulations they are looking to treat stormwater as bio-retention approximately 75' from the lake. Mark Tabor stated that on one side there is an existing stream, which used to run straight. However due to a flood part of the stream was destroyed and DEC came in and re-routed the stream to the way it exists today, which creates their shoreline setback issue.

Mark Tabor reviewed the architecture of the building. Natural stone and materials will be used.

John Michaels state that he appreciates the reduction in the amount of homes because it will lessen the impact on the site and the lake. Jason Saris agreed that it is helpful to the lake as well as the community that it is in; there will be less cars going in and out. Additionally, it is a more attractive design. He stated that even though it is visible from the lake, because of the hill behind it the building will tend to blend in.

Chris Navitsky stated that he appreciates that the Town recognizes that bio-retention is infiltration and that variances are actually needed. He understands that this is a tight location but asked if any alternatives were looked at. He had additional questions about the stormwater.

With regard to the building size, Chris Navitsky stated that it will sit about 20' above the lake. He is not sure if they can screen that more and buffer it. This isn't really a shoreline parcel but he would like to see some buffering if possible.

Zandy Gabriels stated that this is a good PUD plan. However this is a clear example of why the PUD process is the way it is. If they were to change the PUD requirements, he does not feel the TB would be able to review this solely on their own. They do not have the expertise in the code.

Zandy Gabriels stated that this was approved in 2004 and he wonders if we should be limiting the amount of time after variances are granted. Jason Saris asked if the sunset provision applied to PUD amendments. Counsel Muller stated that it is not well defined in law. He agreed that the TB does look to the PB and ZBA for their recommendations when approving these PUD amendments.

Mark Tabor provided additional information regarding stormwater and alternatives that were looked at. With regard to the visual buffer, Mark Tabor stated that there are some large trees that will need to be removed in order to build the structure. However there is a large stand of existing pines that will do a nice job of filtering the building.

There was no WC impact. There was no further correspondence.

RESOLUTION

The Zoning Board of Appeals received an application from Brook Hill Development (V13-13 and V13-14) for area variances as described above.

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

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Items #9 & 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,
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district,.
- 5) The alleged difficulty is 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 David Ray, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions:

1) that the Planning Board approves site plan review for the stormwater plan and 2) the Town Engineer reviews and approves of the stormwater plan. **All in Favor. Motion Carried.**

The meeting was adjourned at 8:11pm.

Minutes respectfully submitted by Kristen MacEwan.