

**Town of Bolton  
ZONING BOARD OF APPEALS  
MINUTES  
Tuesday, August 19, 2014  
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, John Famosi, Holly Dansbury, Michael Calautti, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

**Absent:** Tony DePace, Jeff Anthony, Donald King & Matthew Slaughter

The meeting was called to order at 6:34 pm.

Jason Saris asked if there were any corrections or changes to the July 15, 2014 minutes.

**RESOLUTION:**

**Motion by** John Famosi to approve the July 15, 2014 minutes as presented. **Seconded by** Michael Calautti. **All in Favor. Motion Carried.**

1. **V14-17 DOHENY PARTNERS.** Represented by Richard Doheny. For the installation of a 500 gallon propane tank, seek area variance for a deficient shoreline setback. 75' is required, 8.7' is proposed on the west side and 37' is proposed on the east side. Section 200.14, Block 1, Lot 10, Zone RM1.3. Property Location: 169 Cotton Point Road. Subject to WCPS and APA review. This item was tabled at the July 2014 meeting pending additional information.

Richard Doheny presented the following:

- They own a year round residence on the end of Cotton Point Road.
- They are seeking an area variance to install a 500 gallon propane tank that does not meet shore line setbacks.
- There is no location on the parcel that has more than 75' from the shoreline.
- Any location to the north is inaccessible in the winter.
- Any location to the east or west is in greater violation of the setbacks or more visible from the water.
- The location is already bounded by a large stone planter, negating any additional vehicle protection.
- The location they have picked is currently occupied by an accessory structure that they will remove.
- The tank that is virtually the same size will be placed in that area.
- It will be behind a large stone planter.
- The planter and plants will hide it from the neighbors view.
- They do not have any other options.

- He cited NY State Fire Code about location of the containers and separation distances to property lines.
- If they try to bury the tank, they would need to blast and remove the stone planter that shields the neighbors, 4 to 5 mature cedar trees and there is a high risk of damaging the existing sea wall.
- The cost to do this would be prohibitive and would have a high end environmental impact.
- Mounding the tank will also require the removal of trees.
- Putting the tank in a shed would increase the existing footprint and require the structure to be constructed of fire proof materials.
- Erecting a fence would require fire proof materials.
- It is prohibited by NY State fire code to paint the tank a dark color.

Mike Calautti asked why the trees would need to be removed. Mr. Doheny replied because they would have to be removed for blasting, and they feel that what they have presented is the only feasible option. Mike Calautti stated that the trees are acting as a shelter and would shelter the propane tank.

Mike Calautti stated he thought they should approve the application.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Doheny Partners (V14-17) 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 Staff;

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

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

this Board makes the following findings of fact:

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

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: they have gone through all of the alternatives and there is no practical way to do this without a variance.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will not make a big impact on the neighborhood as it is replacing a shed structure.
- 3) The request is not substantial; There already is an existing structure there now that will be removed.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; no substantial impact with the tank.
- 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 Famosi and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

2. **V14-22 HIPPELE RAYMOND.** To alter single family dwelling, specifically to add an addition, 1) seeks area variance for a deficient shoreline setback. 75' is required, 44' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 185.19, Block 1, Lot 57.2, Zone RCL3. Property Location: 50 Acorn Drive. Subject to WCPS and APA review. This item was tabled at the July 2014 meeting pending additional information.

**\*This item was tabled at the applicant's request\***

3. **V14-23 ENGLISH, EDWARD.** Represented by Eugene Baker. For the construction of a proposed 26.8' x 34.8' garage with storage, seeks area variance for deficient setbacks. Shoreline: 75' is required, 30' is proposed. Front: 50' is required, 16' is proposed. Section 171.08, Block 1, Lot 12, Zone RCM1.3. Property Location: 18 Braley Point Road. Subject to WCPS and APA review. See V06-16b for previous approvals.

Eugene Baker presented the following:

- This project was granted a variance in 2006.
- The variance ran out and they would like to renew this variance.
- The existing two Quonset huts will be removed.
- They are adding a lot more stormwater implementations to help with the stormwater management.

Jason Saris asked why they selected this location. Mr. Baker stated the property is so broken up with right of ways, driveways and a stream that it is very difficult to find an acceptable spot. He stated that the crush stone in the back would be removed and seeded. Jason Saris asked if there were any compliant locations. Mr. Baker replied no.

Holly Dansbury asked where the telephone pole would be moved to. Mr. Baker replied they would be running the wire underground to the neighbor's pole.

Jason Saris stated they need a practical difficulty for the A.P.A. Mr. Baker replied that the practical difficulty is that the pre-existing non-conforming prior buildings would not leave a space for this building without a variance and this was the most logical spot.

Holly Dansbury asked for more information on the stormwater management. Mr. Baker stated there were 2 stormwater retention basins and the building would have its own stormwater. Holly Dansbury asked if there was stormwater implemented at this time. Mr. Baker replied no, it was not required at the time and they are trying to stop the stormwater that is currently running into the stream at this time with all the extra stormwater implementations they have presented.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Edward English (V14-23) 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; Due to other buildings, streams and driveways, this is the only logical place to locate the building.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is similar to structures in the area.
- 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 stormwater management to be put in place will negate all the stormwater runoff that is currently occurring on the property so it will help.
- 5) The alleged difficulty is not self-created; this is the only place to put this 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 John Famosi and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

4. **V14-24 JENSEN, ROY.** Represented by Mary Dorritie. To demolish and rebuild single family dwelling, seeks area variance for deficient front yard setbacks. 30' is required. 22' is proposed on the north side and 11' is proposed on the south side. Section 171.15, Block 3, Lot 42, Zone GB5000. Property Location: 36 Norowal Road. Subject to WCPS review. See V14-12 & V14-15 for previous denials. This item was tabled at the July 2014 meeting pending additional information.

Mary Jensen presented the following:

The reason I am here tonight is to respond to the letters submitted since the last meeting by Attorney Pasquariello, Cheryl Snedeker, and Connie Snedeker-Streff in opposition to the variance request. With your permission, I would like to read each letter and respond. Otherwise, Attorney Muller could read the letter and I could respond accordingly.

Atty. Muller read letters from the following in opposition of the project:  
Atty. Pasquariello  
Cheryl Snedeker  
Connie Snedeker-Streff

Mary Jensen responded as follows:  
I would like to paraphrase a letter which I submitted on Mr. Jensen's behalf on August 4, 2014 which was in response to Mr. Pasquariello's letter

In reviewing the suggestion raised to dig the foundation down two feet, this alternative had been pursued and the recommendation was made by Doug Wholey of Doug Wholey Excavating, not to pursue this due to the likelihood of encountering a rock ledge. Also, the air ducts are below the floor joists, which would make the finished ceiling height only 6'3". I respectfully submit that Mr. Jensen has been more than thorough in his efforts to secure reasonable alternatives, and has never been out of compliance with the Norowal Cabin Association's 34' height restriction, nor the Town of Bolton's 35' height restriction. Mr. Pasquariello had the Stormwater Plan reviewed by Charles McCullough, a civil engineer for the Turner Construction Company. Mr. McCullough stated, and I quote, "The new house appears to have three times the roof area of the existing". I am not sure how he came to this conclusion as the current square footage of the roof, including overhangs and 5" gutter is 889 square feet and the proposed new roof area is 1515 square feet, not 2667 square feet as Mr. McCullough suggested. The proposed home is a 624 square feet roof area increase not 1778 square foot increase as Mr. McCullough suggested. If Mr. McCullough had reviewed the house plan carefully, he would notice that there are no gutters or downspouts, as these would have been included on the plans for the home and also included in the setback request. Therefore, his concern of runoff through gutters and downspouts is unfounded. I would think that even Mr. McCullough would support D. L Dickinson Associates plan, as he stated, "the stormwater falling on pervious surfaces is being absorbed slowly into the earth." I would respectfully submit that the plan submitted by D.L. Dickinson Associates should more than satisfy the board's concerns. For the record this detailed storm water management plan is not a requirement for a land variance request of this size, but was compiled to satisfy any and all concerns.

Mr. Jensen reviewed photograph 4 and agrees that the roofline is not accurate as Ms. Snedeker pointed out. I have attached a revised copy for your review. As you can see, Ms. Snedeker will lose slightly more of her sky view. Photograph 6 is the direct rear of the current home. With the homes staggered, this does not as Mr. Pasquariello stated, "force Ms. Snedeker to just see a huge wall and virtually nothing else". The "huge wall" which is Mr. Jensen's current home, is really not changed all that much, you just see a little less sky. The only solution to that "wall" would be to remove the home completely. Photographs 3 and 4 accurately reflect the location of Ms. Snedeker's home from the lake and from her front porch. For the record; given the roadway is 8' wide, the current front North side setback of the Snedeker's is 5'10" and the

Pachucki's is 5'6". Mr. Jensen is requesting a 22' North side setback which is a modest request given the nature of these non-conforming lots.

In response to letter from Cheryl Snedeker:

I would request that this letter not be taken into consideration when making the decision to approve or deny Mr. Jensen's variance request. At the Zoning Board Meeting in July, Holly Dansbury asked attorney Pasquariello if there was any view easement in their deeds guaranteeing the view. Attorney Pasquariello said no. Ms. Snedeker points out that her mom "expects" a view.

The point of whether the home is a vacation home or permanent residence is irrelevant and has no bearing on a variance request approval or denial. Ms. Snedeker states that Mr. Jensen will have a "zero-lot-line", this is inaccurate. Not one side of Mr. Jensen's proposed home is on the property line. In order to satisfy the statement that Mr. Jensen is building a "mansion", I researched the classification of a Mansion. US realtors define a Mansion as a dwelling of over 7,000 square feet. Mr. Jensen's proposed home is 1,367 square feet, which is hardly a mansion.

In response to letter from Connie Snedeker-Streff:

Again the view is the main contention raised to oppose the variance request. It is very difficult to put into words the reaction Mr. Jensen had when reading this letter. One year ago when Ms. Snedeker left for the winter she embraced Roy's plans for a 2 story home and was looking forward to the progress when she returned in the spring. These were not just neighbors they were friends. It is impossible to not build ties when living next to someone for so many years. It is unkind and unnecessary to be called "greedy and selfish". The home, will not, as Connie quoted, "destroy the view". Connie states, "Part of the Association Bylaws states that even plants, trees and weeds should not be allowed to grow and obstruct the neighbors view", this is not written in the by-laws. This is also a civil matter and in no way should have any bearing on the decision that that board has to make regarding the variance request.

Again, the letter states as did the Attorney's letter and Cheryl's letter, that the Snedeker's home is directly behind the proposed home, this is simply not true.

In conclusion, I would like to thank you for your time and painstaking effort you have put into this variance request, and I hope that you will see fit to grant Mr. Jensen his variance request based on the 5 criteria necessary to meet the requirements set forth by the Zoning Code.

Mr. Pachucki stated this argument could be resolved by lowering the basement from 8' to 6' or 7.' He stated this would have a monetary impact on him and Ms. Snedeker.

Joyce Snedeker stated Mr. Jensen never told her he was improving his house last fall. There are a lot of bad feelings because Mr. Jensen is not considering the people behind him. She has been left out of the loop and they don't even talk to her. He should have talked to them before he submitted his plans. They are willing to compromise if he lowers the basement. The house is basically going to be 65' long. She stated that she feels Mr. Jensen needs to compromise.

**RESOLUTION** Now, upon motion duly made by Holly Dansbury and seconded by John Famosi, to close the Public Hearing. **All in Favor. Motion Carried.**

Jason Saris stated that the Board was here to consider how this application applies to Bolton's Zoning and criteria for a variance and that the Association rules do not apply here. He suggested that the Board had a proposal in front of them from Town Attorney, to either deny or approve the proposed project. He stated that these were drafted so that whichever direction the Board chose to take, their decision would be defensible in court. He wanted everyone to be clear that there was no influence either way from Atty. Muller and it would be the Board's decision as to which way they wanted to go. Atty. Muller agreed.

Jason Saris stated that the applicant had made some very large changes to the application and it had greatly improved since they had first started with it. He stated that this Board was concerned with the property owner's rights, the character of the neighborhood, and environmental protection. He stated his interpretation of what's there, is not about the view in what the ordinance says and the standards they have. When he looks at the character of the neighborhood, he sees a lot of homes that have been improved and very few that are still the original little cottages that they were. He said in his eyes it comes down to if it is reasonable. By his standards it is a modest home and to not violate the subject's setbacks, the only other way to go would be up which make the situation worse for the neighbors.

John Famosi stated that this is a modest home and he believes the applicant made a real effort reduce his application and to address the stormwater. He thinks it is as good as it's going to get.

Holly Dansbury stated she agreed that Mr. Jensen has done his balance and tried to meet in the middle, it is not what he asked for originally and he certainly made adjustments.

The Zoning Board of Appeals received an application from Roy Jensen (V14-24) 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:

## **FINDINGS OF FACT**

1. The premises are currently improved by a single family residential structure located at 36 Norowal Road, Tax Map Parcel Number 171.15-3-42, situated in the GB 5000 zone.

2. The applicant's lot is part of a ten cabin colony subdivision which pre-dates the Town of Bolton Zoning Ordinance.
3. The applicant's parcel is a "prior non-conforming lot of record" in existence prior to May 22, 1979 (the effective date of the Town of Bolton Land Use Ordinance) and subject to a recorded Declaration of Easements and Restrictive Covenants of the Norowal Cabin Association providing that "no buildings shall be erected, altered, place or permitted ...other than one single family dwelling not to exceed one story in height, 34 feet high at a maximum."
4. In an initial area variance proposal to the ZBA on May 20, 2014, the applicant sought setback variance requests:
  - Fronts: 30' is required, 18' was proposed on the north side and 11' was proposed on the south side. The house was 2' to the south side from the existing footprint.
  - Sides: A total of 20' is required. 14' was proposed.
  - Height: 32 feet at peak.

This application for requested area variance was denied for the reasons specified in the minutes of that meeting.

5. In a second area variance proposal to the ZBA on June 17, 2014, the applicant had four setback requests:
  - Fronts: 30' is required, 18' was proposed on the north side and 11' was proposed on the south side. The house was 2' to the south side from the existing footprint.
  - Sides: A total of 20' is required. 17 ft. 2 in. was proposed.
  - Height: 28 *Yi* feet at peak.

This second application for area variance was denied for the reasons stated in the minutes of that meeting.

6. In the current proposal presented to the ZBA on July 15, 2014, the applicant has now reduced the setback requests to two area variances:
  - Fronts: 30' is required, 22' was proposed on the north side and 11' on the south side. The proposed dwelling is moved 2' to its original footprint on the south side.
  - Side: variance requests are eliminated.
  - Height: 26 feet at peak.

7. The Norowal Cabin Owners' Association, Inc. has provided written correspondence to the ZBA in favor of the current variance application and it supports the applicant's proposed dwelling construction with proposed setbacks, general location and overall height.

8. Adjacent and nearby owners of cabins also located in the Norowal Cabin Owners' Association, Inc. raise concern and objection to the variances sought as follows:

- Joyce Snedecker: She does not like the house the applicant is building due to her claim that there will be restrictions on her view. She stated she is going to lose a portion of her mountain view and lose a partial view of Lake George.
- Michael and Sally Pachuki: They complain that the variances sought are substantial and that if granted will negatively affect their view of Lake George and the mountains. Also, they submitted information that the town assessor acknowledges that there are factors which influence assessed property value, and they include amenities of lake view and associated scenery.
- Attorney Pasquariello for Pachuki and Snedecker submitted a letter opinion by Sally Pepper of Coldwell Banker King George Realty to support the proposition that if the applicant's project is constructed as proposed and as proposed if it limits the lake view and mountain view available to the cabins to the rear, this will negatively affect the fair market value of such properties.

## CONCLUSIONS OF LAW

1. This is the third application for area variances requested by the applicant and in comparison to the first and second applications which were denied, the requests for setback relief as well as the actual maximum height which would not require any height variance are reasonable and appropriate in keeping with the sizes of similar and adjacent dwellings with the immediate subdivision.
2. Those who complain that the applicant's new dwelling when completed will diminish, impair or narrow their scenic field of view of Lake George and surrounding mountains have not adequately demonstrated on this record that their affected properties enjoy a deeded scenic easement or own title to a view shed easement for the amenities claimed.
3. Although neighboring property owners represent that their diminished view shed or scenic access from their property represents a valuable property interest often recognized as a factor influencing the fair market value of neighboring properties, these claimed property views are not, under current New York State law, a property right incidental to their land unless acquired by express grant or by deeded covenant. In these proceedings, the neighboring properties claiming such right have not satisfactorily established that their scenic view is protected at the expense of the applicant's independent property rights.

In applying the standards and criteria for the issuance of an area variance, consideration has been given to the following:

1. How can the benefit derived not be achieved by other reasonable means?

This applicant has amply demonstrated in two earlier area variance applications, both of which were previously denied, that substantial planning and dwelling reconfiguration has been considered in achieving on this third review the most feasible way of situating the new dwelling on the pre-existing, small non-conforming lot. Due consideration has been given in attempting not to block the entire view of cottages to the rear. This record demonstrates a concerted effort on the part of the applicant to

reduce the proposed dwelling in overall height to a mere 26 feet when in fact 34 feet in overall height is permitted by the association's deed covenants. This plan as proposed gives consideration to the most feasible plan for a properly situated dwelling in both size and scale in keeping with the size of the surrounding cottages on adjacent parcels.

2. How will your project not produce an undesirable change in the neighborhood?

This "neighborhood" is essentially a small grouping of independently owned cottages surrounded by a municipal marina which includes public parking, boating amenities, lake shore access and boat launch privileges to Lake George. The applicant's proposal as presented on the record amply demonstrates that the proposed dwelling is within proper scale and location when compared to the surrounding properties and the proposed structure will create no undesirable change in the neighborhood. Once built, the applicant's dwelling will properly fit within the scale of surrounding dwellings.

3. Is the requested variance substantial?

No. In the context of a plan to replace an existing, non-conforming dwelling with a new dwelling, the non-compliance being an overall inability to meet the requirements of current setbacks, all similarly situated dwellings in this association would be confronted with essentially the same requirements for zoning relief. In this context, the area variances sought are not substantial.

4. Will there be an adverse effect or impact on the physical or environmental conditions in the neighborhood?

No. The size of the proposed replacement dwelling is in keeping with the immediate cabin colony neighborhood and this is supported by the favorable letter that this project has received after independent review and approval by the Norowal Cabin Owners' Association, which is a body duly appointed by the neighborhood owners to consider the desirability of this project. The applicant's current project has met with the association's approval.

5. How is the alleged difficulty not self-created?

This parcel and the entire grouping of similar small dwellings that comprise the Norowal Cabin Association were created and constructed well before the enactment of the local land use ordinance. None of the cabins in the colony are able to meet the current zoning ordinance criteria for area dimensions imposed by the current code. This applicant did not self-create the regulatory circumstances from which he seeks zoning variance relief

Upon the foregoing, this resolution is to APPROVE area variance application V14-24 upon the reasons stated.

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

5. **V14-25 DONOHUE, BRIAN.** To alter single family dwelling, specifically to add a three season screen porch to south side with deck over shed roof area for second floor egress, 1) seeks area variance for a deficient front yard setback. 75' is required, 45' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 156.00, Block 1, Lot 59, Zone RL3. Property Location: 459 Valley Woods Road. Subject to WCPS review. See V07-46 for previous approvals.

Brian Donohue presented the following:

- This was a variance approved in 2007.
- He did not realize that he only had one year to act upon it.
- He handed out elevation photos to the Board.
- He stated that there are no changes from the approved 2007 variance application.
- The south side is the final side of his house to finish.
- The building is pre-existing, non-conforming.
- There are no significant changes to stormwater or the footprint.
- He is just putting a roof over his deck.

Holly Dansbury asked if he had started working on this project. Mr. Donohue replied that he is always working on his home; it is a work in progress.

Mike Calautti asked if the shed was attached to the house. Mr. Donohue replied yes.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Brian Donohue (V14-25) for an area variance as described above.

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

And, 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; there really is no other way to close the deck.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.

- 3) The request is not substantial; they are just enclosing the deck area.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; they are not expanding the footprint at all.
- 5) The alleged difficulty is not self-created; this 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 John Famosi and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

6. **V14-26 F.R. SMITH & SONS.** Represented by Atty. Frederick Killeen and Tom Jarrett, P.E. For the construction of *a total of three additional commercial boat storage buildings on a 4.92 acre parcel*, presently improved by an existing commercial boat storage building. *The proposed project will be completed in two phases.* In order for this parcel to be code compliant, *and have a total of four “principal buildings”, the site would require a total area of 20 acres (one “principal building” per each five acres).* Compliant density on *this 4.92 acre parcel* may be achieved by a combination of density area variances and/or *a transfer of density right(s) from a qualified parcel(s).* Applicant’s proposal is to develop the site by constructing *a total of three new “principal (storage) buildings”* on the site (which presently has one existing “principal building”). *The Applicant seeks one density variance for the construction of an additional 5,134 sq. ft. “principal (storage) building” in Phase I of the project. Applicant seeks a second density area variance for Phase II of the project that it proposes to combine with an additional principal building right to be obtained by the Applicant’s subsequent acquisition of a principal building right transferred from a qualified parcel, to allow the construction of two additional “principal (storage) buildings” on the 4.92 acre parcel. Phase II of the project is contingent upon the Applicant’s subsequent acquisition by transfer of an additional density right from a qualified parcel. If both Phase I and Phase II of the project are completed, a total of four “principal (storage) buildings” [three(3) new and one(1) existing] could be located on the 4.92 acre parcel.* An area variance is also required for a deficient side yard setback for building A1. 60’ is required, 43’ is proposed. Section 171.00, Block 1, Lot 10, zone RR5 & LC25. Property Location: 18 Edgecomb Pond Road. Subject to PB, LGPC, WCPS, DEC and APA. See V13-01 for previous approvals. See SPR14-15 associated with this project.

**\*This item was tabled at the applicant’s request\***

7. **V14-27 STERN, SALLY.** Represented by Allan Stern. To alter single family dwelling, specifically to include small expansion of living room, expansion of rear bedroom to entry area on level 1. Existing roof above the Level 1 expanded footprint shall be raised to allow for relocation of bedroom, stairs, new bath and closet space into attic level storage area. Seeks 1) area variance

for deficient setbacks. Shoreline: 75' is required, 54' is proposed; 2) Front: 50' is required, approximately 36' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, Lot 15, Zone RCM1.3. Property Location: 16 Countess Loop Road. Subject to WCPS and APA review.

Allan Stern presented the following:

- They are applying to put a small addition on the front and back that traverses their rectangular structure.
- He detailed the plans to the Board.
- The ground level bump out is for an entranceway, which will replace an existing bedroom.
- That bedroom will be moved up to the second level.
- It is presently a 4 bedroom structure that used to be a motel.
- They are trying to get away from the look.
- They are pushing out on to the existing deck on the lake side.
- They are expanding 160' on the front and back
- There is no new impervious area on the lake side.
- They are removing a set of stairs that are right on the side yard property line.

Jason Saris asked if the lake front setback would remain the same. Mr. Stern replied yes, the deck is about 51' from the lake.

Jason Saris asked how much the front setback was changing. Mr. Stern replied they were well within the setbacks of the lot line of the property.

Holly Dansbury asked if they would be doing more stormwater mitigation due to the new roof lines. Mr. Stern replied that they were only adding only 90+ sq. ft. of new impervious area but he was certainly open to gutters and possible bio retention ponds.

Atty. Muller read a letter from the Lake George Waterkeeper regarding the onsite waste water treatment system and stormwater management.

Holly Dansbury asked that they would implement the stormwater mitigation. Al Stern replied that they could definitely put up gutters on the front and they have an 18" wide trench with crushed stone on the back side.

Mr. Stern stated that he had a licensed engineer look at the existing septic tank, and they believe it is a 1,250 gallon tank. They can verify the size of the tank although it seems to be working fine. Holly Dansbury asked if they were adding any bedrooms. Mr. Stern replied that they were not; they were just moving one of the bedrooms to the upper level.

Jason Saris said he did not feel comfortable putting conditions on a variance that were not part of the application. He stated that sanitation systems were the jurisdiction of the Local Board of Health. He explained that he did not see any substantial changes to the intensity of it and that

he did not find it appropriate for this Board to put a condition of changing a septic system on the approval.

## RESOLUTION

The Zoning Board of Appeals received an application from Sally Stern (V14-27) for an area variance as described above.

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

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

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

this Board makes the following findings of fact:

The application of the applicant is as described in Item#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; The applicant looked at an efficient way to add space by reconfiguring the floor plan.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will improve the look of the building.
- 3) The request is not substantial; there is no additional impact on the lake side setback and they are improving the side setback.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; stormwater should be a condition of the approval.
- 5) The alleged difficulty is not self-created; it is a pre-existing and non-conforming structure. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. There is no way to improve without a variance due to the structure being pre-existing and non-conforming.

Now, upon motion duly made by John Famosi and seconded by Holly Dansbury, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) stormwater measurements are provided on the lake side of the house where there presently are not any in place. **All in Favor. Motion Carried.**

8. **V14-28 THE ELIZABETH ANN RAJESKI TRUST.** Represented by Winchip Engineering and Guy Williams. To alter existing deck/retaining walls, specifically to construct a pool, seeks area variance to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 213.05, Block 1, Lot 13, Zone RM1.3. Property Location: 4086 Lake Shore Drive. Subject to WCPS and APA review.

Guy Williams of C Raymond Davis & Sons presented the following:

- They are proposing to demolish the non-conforming house and garage.
- The existing home was non-conforming of the side setback.

- The patio that they request to keep the retaining walls is non-conforming with the side, and the lake side setback.
- The existing is 70.6' from the mean high water mark and is non-conforming.
- The new residence will be set back farther from the lake.
- They would like to take advantage of having that retaining wall that is currently there.
- They would like to use it as a responsible design technique and that taking it down would create more damage to the area.
- They would be taking off a part of it that is encroaching on the side yard setback and bringing it into conformity.
- The new wall will be outside of the 75' setback.
- They are hear asking for a variance to alter a non-conforming structure.

Jason asked if the reason they were not moving the house further back was because they were trying to utilize a pre-existing retaining wall. Mr. Williams replied yes they thought it would be better if they did not disturb any of the lake front yard and they wanted to utilize the retaining walls that are already in place.

Holly Dansbury asked if they would need to do blasting to move the home. Mr. Williams replied yes they would be blasting to put in the foundation for the new home and the garage. She asked if it would be to the same grade that currently exists where the driveway comes in now. Zach Monroe replied the existing garage is where the proposed house is shown and the whole area to the right would be the new parking area. He stated it was about 4' to 6' lower than what is existing, and there would be blasting to bring it down. He stated they were not raising the elevations.

Holly Dansbury commented on the extensive planting plan and asked if this would incorporate stormwater and rain gardens. Mr. Williams this was correct and they are very sensitive to the lake. Zach Monroe stated it had essentially been approved by the Town Engineer.

Jason Saris asked if they would need to blast for the new pool. Mr. Williams said they would not due to the current grade. Zach Monroe stated the pool would sit in the basement of the existing house.

Atty. Muller read a letter from the Lake George Waterkeeper recommending the consideration of the environmental impacts.

Jason Saris asked the Zoning Administrator if the applicant plan complies with the Town's stormwater regulations. Pamela Kenyon stated that to the best of her knowledge it does, and the Town Engineer had signed off on the project, but she would double check before the upcoming Planning Board meeting.

In response to one of the Waterkeeper's concerns, Zach Monroe, stated it does not make a lot of sense to tear down an existing retaining wall to move it back 4'. He explained that the code says when you are dealing with a pre-existing structure, if you can, and if it's feasible and practical, you can collect and treat the run-off from the existing impervious area. He stated

based on the fact that you need to have all your stormwater retention 100' away from the lake and the existing structures are 70' from the lake it is impractical to collect and treat the runoff.

Jason Saris stated that the ZBA does not grant stormwater.

## **RESOLUTION**

The Zoning Board of Appeals received an application from The Elizabeth Ann Rajeski Trust (V14-28) for an area variance as described above.

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

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

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

this Board makes the following findings of fact:

The application of the applicant is as described in Item#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; There is no real alternative other than demolishing the wall which would cause more harm.

2) There will be no undesirable change in the neighborhood character or to nearby properties. The new construction will allow for stormwater management to be implemented.

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 a stormwater management plan in place to mitigate any new construction.

5) The alleged difficulty is not self-created; they are trying to use a structure to reduce the disturbance on the lake front.

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

9. **V14-29 TAITEL, ANDREW.** Represented by Al Pettit. To alter single family dwelling, specifically to add 2 bedroom dormers and 2 cantilevered decks, seeks area variance for To alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.07, Block 1, Lot 9, Zone RM1.3. Property Location: 12 Lapham Road. Subject to WCPS review.

Al Pettit stated:

- They only have 18.4" for side yard setbacks.
- They are planning to use existing attic space and convert it to two bedrooms and 1 bathroom.

- Basically the building footprint will stay the same.
- It was built in 1988.
- Above the master bedroom they will be raising the roof.
- The neighbors are fine with the application.
- They are trying to keep it simple.
- It is only one side setback that they are here for.

Holly Dansbury asked if the septic system is being upgraded. Mr. Pettit replied yes they are going to surpass the required code. The septic design will be for 6 bedrooms.

John Famosi asked if they planned on expanding the house in the future. Mr. Petite replied not at this time.

## RESOLUTION

The Zoning Board of Appeals received an application from Andrew Taitel (V14-29) for an area variance as described above.

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

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

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; this expansion will have the least impact on the structure and no impact on the setback.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. this is a very negligible change.
- 3) The request is not substantial; they are not increasing the amount of the variance.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; they will be upgrading the septic system to handle the increased bedrooms.
- 5) The alleged difficulty is not self-created; this is a pre-existing, non-conforming building and they are not increasing the setback.

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 Famosi and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

The meeting was adjourned at 8:24pm.

Minutes respectfully submitted by Kate Persons.