

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, August 16, 2016**  
**6:00 p.m.**

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

**Present:** Jason Saris, John Whitney, Joy Barcome, Holly Dansbury, Jeff Anthony, Lorraine Lefevre, Zoning Administrator Pamela Kenyon, and Counsel Michael Muller

**Absent:** Tom McGurl

The meeting was called to order at 6:00 pm.

Jason Saris asked if there were any corrections or changes to the July 19, 2016 minutes.

**RESOLUTION:**

**Motion by** John Whitney to approve the July 19, 2016 minutes as presented. **Seconded by** Joy Barcome. **All in Favor. Motion Carried.**

1. **V16-32 MARJORIE N. HARDING TRUST.** Represented by Thomas Harding. To alter single family dwelling, specifically to allow handicap ramp/stairs to remain, seeks area variance for 1) Deficient setbacks. Front: 50' is required, 28' is proposed. Side: 30' is required, 11' is proposed. Shoreline: 75' is required, 45' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B1b. Section 185.15, Block 1, Lot 27, Zone RCL3. Property Location: 65 Three Oaks Drive. Subject to WCPS and APA review.

Thomas Harding presented the following:

- His parents have owned the seasonal residence over 60 years.
- They have had a problem with the steps and access to the camp for many years due to the hillside and number of steps.
- Last year they decided to build a ramp from the existing steps to the landing at the front door eliminating 10 of the steps to make it easier and safer to use by his parents.
- They came last year to Pam Kenyon and were given permission to build it, but they were told they would need to come before the Board for a variance if they wanted to make it permanent.
- It has been inspected and approved by Warren County Building & Codes.
- They are seeking a variance to make it a permanent, safer and easier access.
- It is in the same exact area as the previous steps were.

- 60 years ago when the subdivision was created the lots were fine, but now with the new regulations, it is impossible to meet the setbacks.

Jason Saris asked if when they originally came to the Planning Office it was temporary. Zoning Administrator, Pamela Kenyon it was due to health issues that they were allowed, but were informed that they would need to come for a variance if it was there for over a year. Atty. Muller stated he agreed, and the American Disabilities Act certainly takes precedence. This is appropriate to allow this to be presented but ultimately the answer should be yes. Federal Government ultimately trumps Local Government.

Jeff Anthony asked if this could be considered as an in kind replacement in the same footprint. Atty. Muller stated yes.

John Whitney inquired if there was a need for practical difficulty. Jason Saris said as far as the shoreline goes, the practical difficulty was the pre-existing, non-conforming structure.

Zoning Administrator, Pamela Kenyon stated the set of small stairs on the side is new. Mr. Harding agreed. He said the ramp is on the back of the house. The west side of the house was too hard to use for the ramp due to the topography.

Jason Saris stated they have had the opportunity to see how the ramp functions and it is working well and had to be where it is to get to the house. Mr. Harding stated this ramp has really worked out very well and they were very pleased with it. He wished they had thought of it before, as it makes it much easier and they would like to continue with it.

Mr. Harding said.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Marjorie N. Harding Trust, (V16-32) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: It is safer and right over the same footprint.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It's over the pre-existing set of stairs.
- 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. This is on the original area, and right over what is existing. The side steps are minimal.

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

2. **V16-34 STUPP, ROBERT.** To demolish and rebuild single family dwelling, seeks area variance for lot coverage. 15% is allowed. 18.5% is proposed. Section 200.18, Block 1, Lot 50, Zone **RM1.3** & LC45. Property Location: 67 Hemlock Point Road. Subject to WCPS review.

Bob Stupp presented the following:

- They would like to demolish and rebuild the existing structure to make a year round home.
- The property is one of the 7 homes that comprise Hemlock Point Association.
- The sewer system for this Association was installed in 2000.
- They sewer system line bisects his property.
- They are looking for 18% lot coverage instead of 15%
- The exterior will be constructed the same as the garage.
- This is designed to minimize the visual mass, with the neighbors in mind.
- The house fits within all other Zoning requirements.
- It was unanimously approved by the HOA.

Jason Saris asked if they had looked at other options. Mr. Stupp replied that they had, and they were trying not to impact the site lines of the neighbors along with staying within all the setbacks. They had been asked by the Zoning Administrator to keep a 10' setback from the sewer line that goes through his property. They configured it many ways and this was about as good as they could get.

Jason Saris asked how old the existing home was. Mr. Stupp replied it was constructed in 1956. The architect designed the new construction with 3 principle elements. He would rather have something that fits in the woods nicely.

Joy Barcome stated that they put a lot of thought in the plans and asked Mr. Stupp to detail the plans and show how they would be protecting the lake during construction. Mr. Stupp detailed his stormwater plans to the Board, stating that they would be implementing retention areas. Jason Saris asked if they had any stormwater controls in place now. Mr. Stupp replied the only stormwater devices they had now, were for the existing garage. He designed the new

stormwater controls to be 14% bigger than what is required to capture all the water. He stated they found the soils to be very good there when they dug the test pits.

Holly Dansbury inquired what the maximum height would be. Mr. Stupp stated the height varies but the maximum height to the lowest ground level was 34'.8". Most of the height around the building would be in the neighborhood of 26' to 28'. He did not want to do a full 2-story house that close to his neighbors

Lorraine Lefevre asked if the house would match the existing garage. Mr. Stupp replied it would and detailed the materials to the Board.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Robert Stupp, (V16-34) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Due to the sewer line easement running through the property, this is the best location.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is being built consistent with the existing garage and will fit well with the surrounding neighborhood.
- 3) The request is not substantial; It is only needed for the overhangs.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. All the neighbors have approved this.
- 5) The alleged difficulty is not self-created; The need for a variance is due to the existing sewer line easement.

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

3. **V15-12 LOUBRIEL, RICHARD (ROGER MONROE).** Represented by Bret Winchip Engineering. For the construction of a proposed single family dwelling and associated driveway, seeks area variance for 1) In accordance with Section 125-10.B.2.(d) of the stormwater regulations, a 100' separation between an infiltration device and a wetland is required. 53' is proposed for device #2 and 4' is proposed for

device #3; 2) In accordance with Section 200-51C(2), 20' clearing limits are allowed outside the area of the foundation. 45' maximum is proposed. Section 199.00, Block 1, Lot 13.12, Zone LC25. Property Location: Wall Street across from Monroe's auto shop. This item was tabled at the October 2015 meeting pending additional information. See SPR15-05 associated with this project.

Zach Monroe of Winchip Engineering presented the following:

- They were here requesting a variance several months ago and have revised the plans to become more compliant with the code.
- They made the driveway a little steeper to reduce the amount of fill needed.
- They have moved the clearing limit in the back closer to the house and added a stone retaining wall to limit the amount of slope required for the grading of the house.
- They also need two setback variances from the infiltration devices to the wetlands, that were requested by the Town Engineer to be placed in that area.
- The Town Engineer has signed off on this project.

John Whitney inquired if the pool was still part of the plans. Mr. Monroe stated it was.

Holly Dansbury asked for more information on the fill and clearing changes done to eliminate two of the previously requested variances. Mr. Monroe detailed them on the plans. He stated they have also reduced the size of the yard substantially and added a field stone retaining wall in the back of the house to keep the slope stable. The maximum clearing limit is 45' at the lower portion of the house. Jason Saris asked why they needed 45' to gain access to the basement. Mr. Monroe detailed it on the plans and explained that it was needed so as not to create a downhill slope into the basement.

Holly Dansbury asked if the house design had changed at all. Mr. Monroe stated that it had not. The size of the house is separate from the clearing limit.

John Whitney asked if some of the cut back could be returned back to vegetation after the construction phase. Mr. Monroe stated that he assumed a lot of the vegetation would grow back, especially on the slope or bank. He did not know if they would be replanting it, but he would say it is not going to be maintained or mowed.

Jason Saris asked about the stormwater devices and if they were what the Town Engineer had requested. Planning Administrator, Pamela Kenyon stated it was. She stated that if the applicant agreed to let the vegetation grow back up and restore that area after the clearing is done, they may be able to eliminate one of the variances. She stated they may want to consider that as a condition if they choose to approve this project.

Jason Saris stated he appreciated the fact that they had reduced the number of requested variances by redesign, this is what the Board looks for. The Board Members agreed.

John Whitney stated he would like to approve the requested variance for the setbacks for the stormwater infiltration devices relative to the wetlands based on the recommendation of the

Town Engineer, and approve the requested clearing limits variance setback because it is a temporary measure for the construction phase. They will be letting it grow back in and/or planting it so as not to allow it to be cleared space.

## RESOLUTION

The Zoning Board of Appeals received an application from Richard Loubriel (Roger Monroe), (V15-12) 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#1 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The applicant did an exceptional job in improving this application from what was previously presented and it is a clear balance.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This is in a remote location and certainly not an undesirable change.

3) The stormwater request is substantial; but is a balance between what can be done with the land as it exists and the guidance of the engineers.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5) The alleged difficulty is self-created; This is a very reasonable self-created difficulty with reasonable balance.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and seconded by Lorraine Lefevre, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

4. **V15-45 FOY, EDWARD.** Represented by Joseph Haines. For a proposed 3-unit townhouse project on individual lots, seeks area variances for the following. **1) Townhouse units. Density:** 20,000 square feet is required for each parcel. 4,139 square feet is proposed for Lot 1, 2,734 square feet is proposed for Lot 2. 4,337 square feet is proposed for Lot 3. **Lot Width:** 50' is required. 41'7" is proposed for Lot 1, 27' is proposed for Lots 2 and 41'10" is proposed for Lot 3. **Lot Depth:** 100' is required: 98'10" is proposed for Lot 1 and 91'2" is proposed for Lot 3. **Front Yard Setbacks:** 30' is required. 22' is proposed from Lake Shore Drive for Lot 1, 20 is proposed from Lake Shore Drive for Lot 2 and 22' is proposed from Lake Shore Drive and 14'3" is proposed from Norowal Road for Lot 3. **Side Setbacks:** A total of 20' is required for each lot. 13' is proposed from the exterior lot line on Lot 1, 0' is proposed for all

interior lot lines. **Lot coverage:** 40% is allowed: 42.2% is proposed for Lot 2 and 45.1% is proposed for Lot 3. **2) Retaining Wall: Side Setbacks.** A total of 20' is required, 7'1" is proposed on Lot 1. **Rear Setback:** 15' is required, 1'6" is proposed for Lot 1. Section 171.15, Block 3, Lot 28, Zone GB5000. Property Location: 4992 Lake Shore Drive. Subject to WCPS review. NOTE: See SPR16-16 and SD16-05 associated with this project. This item was tabled at the June 2016 meeting pending an advisory opinion from the Planning Board.

Joseph Haines presented the following:

- He detailed the changes that the Planning Board asked for.
- They shifted the whole building to the north 5' closer to the road and eliminated the wrap around porch from the north side.
- This gave them a little more separation from the neighbor.
- He detailed the stormwater adjustment that they had made within the subdivision.
- They mitigated the flow of the stormwater and added rain gardens along with pervious pavement for the driveway.
- They are burying the 200-gallon propane tanks in the front yard 10' away from the front property lines for each unit.
- He detailed on the plans where the condensers would be located and stated that one of them would require an easement.
- He presented the new landscape plan and detailed it to the Board.
- They will prepare an HOA for these 3 units if they receive approvals.
- He discussed the water table with the Lake George Waterkeeper and they have made adjustments to satisfy his concerns, by raising the grade in the back an additional foot.
- They amended the application for the Planning Board.
- They will be putting together easements upon approvals for the subdivision.
- He detailed the new renderings of the buildings to the Board.

Lorraine Lefevre asked if the porch would be open from one end to the other. Mr. Haines stated they would be putting railing in between the units to separate them from each other.

Holly Dansbury asked if there were any safety concerns with the placement of the propane tanks so close to the road. Mr. Haines stated he had contacted the propane company and was advised to place them 10' away from the property line. Holly Dansbury asked if there would be a fence in that area. Mr. Haines stated there would.

Holly Dansbury asked about adding restrictions in the HOA from storing items on the front porch. Mr. Haines stated it was a good recommendation and they had no objection to putting this in the HOA agreement.

John Whitney asked about Zoning Regulations 200-16 and minimum lot size added in 2005 and 200-20 scenic travel corridor and how the Board should consider these balancing factors in granting variances that are directly in conflict with the code. Atty. Muller stated they can vary any provision within the zoning code variances if the applicant has demonstrated that they are entitled to it. If they find that there are difficulties inherent in what they propose the Board

may grant a variance. If the applicant needs relief from the code he comes to this Board. If the Board thinks it is appropriate to grant the relief, it starts to be specially tailored ordinance for this applicant because they have found that this project manifests a need to change it. John Whitney stated this sort of gets to the substantiality question they have been struggling with on this project since its inception. The Town Board chose to use absolute words for these specific instances, they are not general. He is struggling with the role of giving relief, when the Town Board has used such absolute language. Atty. Muller stated the Zoning Board has the discretion to change this, in other words the legislation may be changed by them.

John Whitney stated that they had a huge incursion on the density, and they are cutting it up in little pieces to add extra buildings in. They have absolute language in the code, and although they have the ability to grant variances, they should use reasonable discretion and not throw everything to the wind. He believes this is still a substantial request and he is struggling with it. They are jamming this into a small piece of land and requesting substantial relief. Mr. Haines stated that this is no different than a lot of other developments that have been done up and down Lakeshore Drive. He detailed a few of these. Jason Saris stated there are differences. He does not have to look at this as 3 units and he understands that they can do one bigger unit if they went commercial. Quite frankly they have done a nice job and it addresses many of his initial concerns that he may have had. The problem for him is that there has to be a reason why the ordinance allows for residential development way less than what is allowed for commercial in this zone. This is a very substantial variance for what is allowed in this zone. They need to use the ordinance as a guide and they have to decide if the request is within the spirit of the ordinance. Mr. Haines stated that it was important to take into account when you look at the perimeters of a GB5000 Zone, the further you go down it gets more and more residential and less and less commercial. It is hard to have a business down there be economically successful. This is starting to get to the residential part of the zone and was not as commercially based as the down town area. John Whitney stated that there were all commercial buildings going past this parcel and that was not a true statement.

Lorraine Lefevre stated she like the improvements they made, and she stated they would be improving the area. The Board had discussed the concerns and if they were not going to approve this project they should not have kept asking for more from the applicant. John Whitney stated that the Board did lock themselves into a decision by having the applicant come back with updated proposals. Jason Saris stated that he did not believe that the process locks anybody into a decision. Lorraine Lefevre stated that the applicant had completed the requirements of the Board. Jeff Anthony stated the APA specifically created hamlet classifications to promote greater density within the urban areas in the park to have the density there rather than on the hillsides. From the visual character this building is in character size wise with what is happening around it. The decision the Board needs to make is do they promote concentrated development within the hamlet. He thinks the project is in character with the downtown and its meets the Agency's intent on why they created the hamlet. Jason Saris asked why the GB5000 Zoning does not recognize this. Jeff Anthony replied that it had shortcomings. It has not been crafted for 0 lot line development and town house development in the urban area. 20,000 sq. ft. per single family home in the downtown hamlet area is unheard of. Jason Saris stated that's what he means it seems like they didn't want residence in the GB5000. Holly Dansbury stated she agreed with Jeff Anthony, but she understood that the

code, they are looking at, does not allow this. John Whitney stated that there were other GB5000 lots that could be converted into several town houses and you begin the process of extinguishing your business district. Holly Dansbury stated you need to look at each application on its own merits. John Whitney agreed, but stated there was nothing unique about this, and that is his problem with it. This is an average size lot that apparently can fit 3 condo's on to it, so he is very concerned because there are not a whole lot of lots in the hamlet that you can fit 3 condo's into. Holly Dansbury stated she would argue that in balancing this application on its merits seems in reason. It won't set a precedence as each application is judged on its own merits. Jason Saris agreed that each application is on its own merit, but at what point does the ordinance not make any difference. Holly Dansbury stated it would need to be changed. Jason Saris stated last month someone wanted to do a commercial project in a residential zone and they were told no.

Joy Barcome stated that what is existing is already residential on the property. John Whitney stated it was a single building on the lot. Edward Foy Sr. stated it was still residential. Jason Saris stated it was, but it was a single unit, not 3. Mr. Haines stated residential is allowed in that zone. Mr. Foy stated residential is allowed in the zone. Mr. Haines stated it was a different density. Jeff Anthony stated it was allowed as a Type II permit. Jason Saris stated it was clearly allowed because he was not asking for a Use Variance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Edward Foy, (V15-45) for an area variance as described above.

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

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

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Anything you put on this lot will not meet the code because of the size of the lot.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The applicant has gone above and beyond to make sure this project fits within the neighborhood.
- 3) The request is substantial; due to the density but the benefit to the applicant will not be outweighed by the detriment to the environment
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The applicant has gone above and beyond to protect the area with proper stormwater measures.
- 5) The alleged difficulty is self-created; This is an existing undersized lot. 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 Holly Dansbury and seconded by Lorraine Lefevé, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) The HOA will state that there is to be no storage on the porch, such as bicycles, Kayaks etc. Jason Saris and John Whitney opposed. **All others in favor. Motion Carried.**

5. **V16-29 TRE ROSE LLC.** Represented by Corinna Martino & Kirsten Catellier. For the construction of a proposed single family dwelling, seeks area variance for deficient setbacks. Front: 50' is required, 6.1' is proposed. Sides: 30' is required, 17.3' is proposed on the south side. Section 157.05, Block 1, Lot 19, Zone RCL3. Property Location: 3 Rose Lane. Subject to WCPS review.

Jeff Anthony recused himself.

Corinna Martino & Kirsten Catellier presented the following:

- They have now realized they do need a side yard setback variance.
- They strategically chose this building location to minimize rock removal and disturbance.
- She detailed the building and its envelope on the plans.
- The existing structure is non-compliant and sitting on the zoning boundaries.
- The proposed structure sits essentially on the same footprint of the existing cottage.
- They are 17' off the south side yard setbacks which is 2' further away from what the existing cottage was.
- The rear yard and north side are in compliance with the setbacks.
- The front yard is 6' off the right of way of Rose Lane.
- The building is actually positioned about 16' off the edge of Rose Lane.
- This is essentially in the same footprint of the existing cottage which was done to minimize disturbance.
- This will allow the vehicles to park on the lot and not on Rose Lane.
- This is the most practical and least intrusive location for this project due to the setbacks and constraints of the lot.
- They have added stormwater control devices to the site which were not on the previous cottage.

Lorraine Lefevé inquired about the stormwater control and if this was a vacant lot. Ms. Martino stated there was an existing cottage on the lot that was removed last year due to safety concerns.

Lorraine Lefevé inquired about the difficulty for access of emergency vehicles due to the congestion of vehicles parked on the street. Ms. Martino stated that this would actually allow parking in the driveway and garage which will be off of the street which is occurring at this time.

Holly Dansbury asked about the driveway. Ms. Martino detailed this and the turnaround area on the plans. Jason Saris asked what the capacity of vehicles on the property would be. Ms. Martino stated at least two vehicles. One in the garage and at least one in the lot. Jason Saris asked what the parking policy was for the community. Ms. Martino stated that there was parking throughout but it was not designated just for homeowners.

Joy Barcome asked about the parking lot across the street. Ms. Martino stated that would be used for visitors and overflow parking.

Holly Dansbury inquired about the 30' setback. Ms. Martino detailed the changes they had made and stated there was no way to meet this setback without a variance.

Holly Dansbury inquired about blasting. Ms. Martino stated they strategically placed the home to lower the amount of blasting and disturbance.

Lorraine Lefevre asked about the considerations of the placement and size of the home. Ms. Martino stated that size is typical for a single family dwelling and the placement in the existing footprint was for the least amount of disturbance. They are trying to minimize the impact.

Jason Saris asked about the proposed small stormwater device. Ms. Martino detailed this on the plans, stating it was a small bio retention area that would be lined and the would filter out any impurities before draining into the roadside swale.

Atty. Muller read correspondence of concerns from Ann Swope.

Robert Gebo stated that Jeff Anthony has a long standing relationship with Brook Hill Development and the associated LLCs. He wants to know if there has been any private or ex parte discussions between Mr. Anthony and his company employees with respect to this proposal and the following proposal with any of the Board Members. The Board stated there had not.

Mr. Gebo stated he is here as a concerned owner and presented the following:

- They believe the cottage should be of the same size and shape as the one demolished.
- They are concerned with safety on the roads for pedestrian and vehicular traffic.
- No concept of pedestrian traffic and traffic flow has been addressed by this project.
- There are blind corners on these roads that are driven at imprudent speeds.
- He believes increasing the density for that type of a home exacerbates this problem.
- He discussed at great length the volume of traffic and problems with the roads in this area.
- There is potential for damage to the surrounding infrastructure.
- He has concerns with the impact to the leach fields.
- There will be potential for damage to the hill sides.
- The size of the road needs to be addressed first.

Chris Navitsky expressed his concerns with the disturbance and stormwater management. He believes it requires a variance for stormwater. He suggested moving the driveway and pushing the home back. He would like more stormwater controls provided for this site. He believes that there are potential environmental impacts. They should consider the potential issues to the waste water also.

Denise Randall of 5 Stires Drive, expressed her concerns with safety, but stated she believes the focus should be on what you look at in an area variance. She does not believe that property will be out of character with the other properties in the neighborhood.

Steven Jung architect for the project, addressed the design and stated that house was located so as not to not disrupt the lot. The house is pretty close to where the original cottage was. He detailed different scenarios they had tried and why they would not work. The cottage has a beautiful view where it is and they would like to maintain it. The driveway was intentionally placed to come off the current topography of the road. He feels the final design is in context with what was already there. He feels the look is very appropriate and they had looked at the different suggestions.

Jason Saris asked about the driveway needing a 10' to 12' cut. Mr. Jung stated that he was not sure the exact cut and he detailed it to the Board. Jason Saris asked if anything over 6' required a variance. Zoning Administrator, Pamela Kenyon stated this was correct unless it was associated with a single family dwelling. Mr. Jung stated the driveway comes in relatively flat right into the garage. He detailed the plans, stating the need for the back out radius for a car, so as not to back out on to Rose Lane.

Joy Barcome asked about town rules for emergency vehicles. Jason Saris stated that he did not see how a structure would change the road. They are not asking for a variance for more bedrooms.

Joy Barcome asked how the blasting would affect the lake and the other homeowners. Mr. Jung detailed it on the plans and stated this would require the least amount. Jason Saris asked if any blasting damage to neighboring properties would be a civil manner. Atty. Muller replied that this was correct. Holly Dansbury stated the blasting company would have to the neighbors sign off. Atty. Muller stated the blasting companies had a tremendous amount of insurance to cover any issues.

John Whitney asked Mr. Navitsky about his thoughts for stormwater controls for better remediation. Mr. Navitsky stated one thing they could do would be to reduce their impervious cover. He suggested that they may be able to use permeable pavement and redirect runoff to better areas.

Ms. Martino stated they investigated this and they do not have an area where they could place a stormwater device down gradient that will maintain the separation to bedrock. That is why they proposed the liner.

Holly Dansbury asked for clarification on where the cars would back out. Ms. Martino detailed the egress plan on the construction plans. Jason Saris asked what happens to the runoff created from the blacktop area. Ms. Martino replied that the intention was to grade it so the majority of it went into the stormwater treatment device so that the majority of it was treated before it left the site.

Holly Dansbury asked if the new residence would have docking with it. Jerry Woodard said it would have a slip in front of the house. She detailed the changes they had made to the properties. She stated there are 12 houses within this cottage colony and the marina was there before the cottages were constructed. There are 2 more that have not been remodeled. She stated that the blaster has done much of the blasting in this area and has always done a very professional and thorough job. The red cottage and her house used to be duplexes and have been rented forever. This will now be a single family home and a year-round residence. It is in character with the surrounding homes. She detailed where the stormwater would be directed.

Ms. Martino stated the square footage of the impervious area was essentially the same. The net increase is 98 sq. ft. of impervious and that was the intention of putting in the small bio retention area. Jason Saris stated that it is nice to see the situation improve with new construction and not stay the same with no stormwater controls. He appreciates that it is a challenging site, and it is nice to see the improvement to the general overall situation. Ms. Martino stated that was part of their goal to treat 3 times what the additional net increase would be. John Whitney asked if there was room for further improvement of the stormwater from what was existing. Ms. Martino stated they had made a good faith effort and they are so close to bedrock. A bigger device could not be placed in the lower flat area. Ms. Martino stated due to the constraints of the site, this is all they could do.

Jason Saris asked if there would be gutters on the house. Mr. Jung stated they would prefer not to. Jason Saris asked what would protect erosion occurring from water running off the roof. Ms. Martino stated they were proposing a swale to catch this. Jason Saris asked where this would go from the swale. Ms. Martino stated it would be discharged to the side swale and on to an existing infiltration system under Rose Lane. Joy Barcome asked for the swale to be explained. Ms. Martino detailed it on the plans.

John Whitney asked about the 10' to 15' cut for the driveway and the ability to add stormwater retention there. Ms. Martino stated they would not be building it back up enough to add retention there.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Tre Rose LLC, (V16-29) 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, 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is a challenging scape and the team has thought through the issues and tried to optimize the solution for the space that exists and minimize the impacts. It is not a substantial home.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The house is in character with recent developments in the neighborhood.
- 3) The request is not substantial; The placement is due to the topography.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This is not a change to the existing concerns with the physical conditions. There is no net adverse effect. The stormwater has been addressed by the design team.
- 5) The alleged difficulty is not self-created. It is a lot that they would like to put a home on. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

6. **V16-35 BROOKHILL DEVELOPMENT/JERRI WOODARD.** Represented by Kirsten Catellier and Corrina Martino. In accordance with Section 200-93 (other regulations applicable to Planned Unit Development), seeks area variance (PUD Amendment) for an alternative location for proposed townhouse building 800. Section 157.05, Block1, Lot 6.1, Zone PUD. Property Location: Rudy Lane-Lagoon Manor. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQR.

Jeff Anthony recused himself.

Kirsten Catellier and Corrina Martino presented the following:

- They are looking to modify the PUD permit for the currently approved building and driveway.
- The PUD was approved in October of 1985.
- She detailed the driveway on the site plan.
- The approved driveway was approximately 310' long which would require much land disturbance and tree removal.
- They are looking to move the driveway off of Rudy Lane and move the building a little bit north.
- This will reduce the driveway almost by half in length.
- This will require less tree and rock removal.

- Moving the building will incorporate a walk out basement, therefor taking advantage of a low profile roof line.
- They have proposed updated stormwater controls.
- stormwater controls include onsite stormwater infiltration basins, stormwater planters and bio retention areas.
- They will be connecting to the existing sewer and water systems at Lagoon Manor which has enough capacity as it was previously approved and taken into consideration.

Jason Saris asked what the Board was supposed to consider for the PUD amendment. Atty. Muller stated procedurally the Code says that when you want to amend a previously approved PUD it requires a stop at the Zoning Board level and their task is to vary the PUD. It stops there in terms of the criteria and then the applicant moves on to the Planning Board where they take a harder look in terms with whether the project comports with what was previously approved. It then moves to the Town Board level which is the legislative body that will reenact and amend the existing PUD. They are persuaded by Town Counsel often that the Planning Board has done the hard work. If you consider this an acceptable proposition, in a manner of speaking, rubber stamp it. The hard work is done at the Planning Board level. Jason Saris asked if in considering this, should they apply the criteria of an area variance. Atty. Muller replied no, it comes down to a yes or no. Jason Saris asked if it had a Public Hearing aspect to it. Atty. Muller replied absolutely.

Holly Dansbury stated she liked that they were reducing the driveway and asked if they were adding basements. Ms. Catellier stated they already had basements they would now be walk out basements.

John Whitney asked if the size of the building was the same. Ms. Catellier stated everything was the same, it was just a slight shift and rotation of the building itself.

Jason Saris asked if it would impact any of the already developed buildings. Ms. Catellier stated it did not.

Joy Barcome asked if the septic was shared and could handle the new building. Ms. Catellier replied yes.

Lorraine Lefevre asked why the original driveway was curving and if it was to avoid the steep drive in. Ms. Catellier stated that this new driveway would require less blasting and be much shorter and more cost effective.

Atty. Muller read an email against the amendment from Ann Swope.

Denise Randall of 5 Stires Drive stated the following:

- Her property was the closest to this proposed site.
- She liked the proposed shorter driveway which is better for the area.
- She has no objections to the modifications.

Lenore Clesceri of Horicon Heights expressed the following:

- They have lived here since 1973 and are very integrated into the community.
- Her understanding is the original approved site was 150' from 9N and the current site is 80' further to the East from the original site.
- She would like clarification as to where they are moving the building.
- They are opposed in general for the alternative location of the building as it is adjacent to their property.
- They own a small family owned resort and a year-round home.
- Concerns with light and sound disruption.
- Long term disruption of their view.
- Stormwater control issues and concerns with water going north toward her ponds.
- Adequate waste water leach area and nitrates.
- They strongly object to the variance.
- They are not anti-development.
- They remain committed to honor the original PUD.

Amy Clesceri spoke on the following:

- Lagoon Manor is a lovely place.
- There is always building and they are used to it.
- Concerns with light pollution.
- The proposed development is going up the hill for lake views.
- She feels this is the only reason they are moving it up.
- They will be staring at a town house as opposed to trees.
- She is against moving the location.

Ms. Martino stated they are not increasing the rate or the volume from this site according to Hydro CAD and the stormwater devices they are proposing will be mitigating all the stormwater. They have done 3 test pits on the site. Jason Saris asked if the Planning Board would be addressing the stormwater plan and if they would be bound by the old stormwater plan that went with the building. Zoning Administrator, Pamela Kenyon stated that they would be addressing the stormwater and they would not be bound by the previous plan.

Ms. Martino stated that the A.P.A. will be reviewing the stormwater on this application too. Jason Saris stated that the Planning Board also had jurisdiction of the stormwater, the Zoning Board did not.

Mrs. Clesceri talked about an existing retention pond off 9N.

Lorraine Lefevre asked if they were moving the building along with the road. Jason Saris asked where the original building was proposed in relation to Horicon Heights and where the new building was being placed. Ms. Catellier detailed it on the plans stating it was being moved minimally. Lorraine Lefevre asked what she meant by minimally. Ms. Catellier stated approximately 10'. She stated it has no impact, the building is not going closer to the property

lines. It is pushed more to the East. Jason Saris asked if there was an overlay to show where the other building was. Ms. Martino stated they should have the drawing with the original placement of the building in their packet. The Board said they did not have it. Jason Saris asked if the building was being moved back away from Route 9N in basically the same area. Ms. Catellier stated yes. Jason Saris asked if the north and south setbacks would remain the same. Ms. Catellier replied yes. Jason Saris asked how far back from Route 9N the building would be moved at its greatest point. Ms. Catellier replied approximately 30’.

Joy Barcome asked for clarification as to how much higher it was going up elevation wise. Ms. Catellier said it was going down and they were using a low profile roof line. The intention to moving this forward was to accommodate a walk out basement.

Ms. Clesceri asked if the new building was only moving 30’ and the building is going up, not down. She just does not understand the urgency to move the building closer to them. Jason Saris stated he was not seeing this. It is moving 30’ back from Route 9N and not closer to them.

Jerry Woodard stated the townhouse where it is right now will be built whether they are allowed to move it or not, they would like the shorter driveway though. The HOA would prefer not to maintain such a long road. They do not have to have walkout basements; it was something they would like to offer.

John Whitney inquired about the distance from the currently approved plan to the property line. Ms. Catellier stated it was essentially the same, at the most it was 30’ to 31’. John Whitney stated the only problem he has is the plan is not clear, as to how much it is being moved from the original plan. Clarification would be very helpful and they would like to see this. The Board agreed. Holly Dansbury stated she would like to see more specific elevations too.

Jason Saris stated there was concern that the applicant could not answer all the questions they had. He asked if the Zoning Board could table this application for more information. Atty. Muller replied yes, but they could not do site plan review until they received approval here.

John Whitney asked if they could give it contingent approval. Jason Saris said that being asked to approve the relocation of the building that they can’t be accurate on is very hard. Lorraine Lefevre asked if they could send it to another board first. Jason Saris stated it would need to be approved here first.

The Board went over the plans at great length among themselves and with the applicant.

Holly Dansbury stated she would like dark sky compliant lighting and the colors to be consistent with the other buildings. Lorraine Lefevre stated she would like the stormwater addressed by the Planning Board.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Brookhill Development/Jerri Woodard,

(V16-35) for an area variance as described above.

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

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

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

Now, upon motion duly made by John Whitney and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the PUD Amendment request as presented with the following conditions: 1) The Planning Board is requested to address a stormwater management plan for this building using current stormwater standards. 2) Lighting is to be dark sky compliant. 3) The building exterior color is to be consistent with the development. **All in favor. Motion Carried.**

The meeting was adjourned at 9:18.

Minutes respectfully submitted by Kate Persons