

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, February 14, 2017
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, Jeff Anthony, John Whitney, Joy Barcome, Tom McGurl, Holly Dansbury, Lorraine Lefevre, Alternate Carla Cumming, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent:

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

Jason Saris asked if there were any corrections or changes to the December 13, 2016 minutes.

RESOLUTION:

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

The Board discussed possible dates to meet with the APA.

1. **V16-48 BREW, ROBERT & JEAN.** Represented by Patrick Peterson. To alter single family dwelling, specifically to add a 16'x 20' addition with adjacent 10'x 14' screened porch, seek area variance for deficient setbacks. Front: 50' is required, 40' is proposed from the private right-of-way. Side: 20' is required, 19.3' is proposed. Section 156.00, Block 2, Lot 18, Zone RM1.3. Property Location: 5329 Lake Shore Drive. Subject to WCPS review.

Patrick Peterson stated that they were looking for a variance for a one room addition to the existing house.

Jason Saris asked if they were adding a room or a room and a porch. Mr. Peterson stated a room and porch off the side of that on the existing house.

Ms. Brew stated they needed this to basically add more room to the small cabin. It is very tight in this one room cabin. The addition will be their bedroom. This is just to make more room, not to increase the use of the cabin.

Mr. Peterson handed out photos of the inside of the cabin to the Board and detailed them.

John Whitney asked if the new deck encroached on the setbacks. Mr. Peterson said it was like 7". He stated the cabin is one big room with a bathroom. They would get rid of the existing bedroom and make it more living area.

Jason Saris asked if the addition would be consistent with what they have. Ms. Brew said it would. Jason Saris asked if the roof line would stay the same. Mr. Petersen stated it would line up with the peak of the existing house and would also be at the same pitch.

Atty. John Silvestri stated on behalf of the owners of the neighboring property, that the benefit the applicants were seeking could be achieved by a more feasible means. He handed out drawings/photos to the Board and stated they believe the extension could be achieved by removing the deck in the back area where there is ample room, which would not require a variance or impact his clients. He stated that his clients believe it will have a negative impact on them. He stated the stormwater runoff from the increased roof area would also impact the neighbors. Putting the addition on the back of the home would alleviate all of this. This is a rental cottage and he believes this will be to add another bedroom which will overtax the existing septic system.

Ms. Brew stated they would not be adding another bedroom. She said they had looked at putting the addition in the back and it was just not feasible. Their lot is on a lot of rock and a little bit of lawn in front of it. If they put it in that position it would make it very difficult for emergency vehicles to get up there if they ever had an emergency. She detailed another handout that she gave the Board. The property site is primarily on rock ledge. There would be no major tree removal with the addition, and it will accommodate the water lines and the existing parking. She stated they have been renting this cabin for as long as they have owned it, but it is very minimal. The septic has never had a problem and they do not intend to increase this usage. This addition is to make it nicer for themselves. She does not believe that it will increase their view of the neighbors, and she does not see the privacy issue. After giving it much thought this location for the addition is the most feasible.

Mr. Brew stated they have owned the cottage since 1980 and the property below them was initially served by a spring located on the adjacent property. He stated at one point he decided to put in a separate well on his property and detailed the well & septic system that they have placed on his property.

Jason Saris asked how much further they would be encroaching on the setbacks. Mr. Peterson stated that it was 19' 3" on one side where it was supposed to be 20' and 40' on the other side where it was supposed to be 50'. Zoning Administrator, Pamela Kenyon stated the 50' required was to the private right of way.

Holly Dansbury asked about placing the addition in the other direction and why it would not work. Ms. Brew stated they would have to change the interior all around and they would lose their yard. She stated it would be best to do it in the proposed direction due to the septic system and this being the only flat piece of property they have.

Jason Saris stated that there was clearly enough property to achieve the benefit without an area variance. Ms. Brew explained where the septic, lawn and parking area were stating the addition would not work in these other areas. Jason Saris asked if she was saying that they only had one parking spot. Ms. Brew stated this was correct and stated that an emergency vehicle would not be able to get up there. Tom McGurl inquired about the advertised parking. Ms. Brew stated they had a parking area down below the cabin. Jason Saris asked if they only had one parking spot, what was the difference where the addition went in regards to the emergency vehicle. Ms. Brew said there would be no room to go around. Tom McGurl stated that area would not be a sufficient area for an emergency vehicle to turn around as it is now.

Tom McGurl asked if they could adjust the size of the addition to accommodate the setbacks. Ms. Brew stated they could adjust the size of the porch, but not the room. Mr. Peterson stated by adjusting the porch they would be making it too small to be useful. Tom McGurl stated that they have options on a piece of property this size, they just don't like them. Mr. Peterson stated that to build on the woods side of the house would double the width of the house and add considerable cost to the project.

Holly Dansbury asked if they could put the porch on the other side. Mr. Peterson stated that they would lose the view of the lake and lose the very limited lawn that they currently have.

John Whitney stated that the practicality of the issue is not really a consideration for the Board. They have a reasonable size lot with a lot of room to grow without requiring a variance. He understands that they would not have a lake view but that's not an issue. Mr. Peterson stated that the one side would take away the lawn. John Whitney explained that a lawn was not part of the criteria. They are trying to balance if there is another option and it appears that there is. Mr. Peterson stated the other option added significant cost to the project. Jason Saris stated they shrunk the porch by 7" it would be compliant and have the lake view and move the addition to the other side. Mr. Peterson stated that it would add a significant cost.

Jason Saris stated that the Board needed to balance need and want. Mr. Peterson stated it was not only the view, but the cost and detailed this to the Board.

Tom McGurl stated that there seemed to be enough property behind the house to have lawn and the addition. Ms. Brew stated it was on rock and it would mean cutting down more trees.

Mr. Brew detailed page 7 of the plans. Ms. Brew stated the intent was to make more room as they were getting older and never thought that their nephew and his wife would be concerned with the tightness of the cabins.

John Whitney asked the applicant if they would like to table the application for a month to see if they could perhaps tweak the plan to make it more compliant.

Jason Saris stated he was struggling with the answers given to the questions filled out in the application. He went through a few questions and showed how the answers were not complete. He stated that the answers that were given, were not really what the Board was here to

consider. Ms. Brew stated they had thought a lot about the plan and felt the only logical placement was as they presented. It is a very small addition of 300 sq. ft.

Lorraine Lefevre asked if the applicant would like to table the application to make it more complete. She suggested they make the packet more complete. Ms. Brew asked what they would need to do. Holly Dansbury suggested showing different ways they had considered making the variance request less. Mr. Brew stated the landscape was not going to change and he did not see how this could help. Joy Barcome stated they understand the applicant, but question number 1 needed to be addressed. Ms. Brew stated they could table and decide what to do.

No County Impact

RESOLUTION

Now, upon motion duly made by John Whitney and **Seconded by**, Tom McGurl it is resolved that the ZBA does hereby table the variance request for additional information. **All in favor. Motion Carried.**

2. **V16-49 LUCATUORTO, ANTHONY.** Represented by Gary Hughes. To alter single family dwelling, specifically to add a 13'6"x 9'9" deck to an existing deck, seeks area variance for 1) a deficient rear yard setback. 20' is required, 10.8' is proposed; 2) Lot coverage. 15% allowed, 26.4% exists and 28.2% is proposed; and 3) To alter a non-conforming structure in accordance with Section 200-57B1b. Section 171.11, Block 1, Lot 32, Zones RL3 & RM1.3. Property Location: 55 Woodland Ridge.

Gary Hughes stated he was here to answer any questions from the Board.

Jason Saris asked why they were expanding the deck. Mr. Hughes stated to get more furniture and a grill on it. He explained that the 8' is very tight. Jason Saris asked part of the reason for it coming out this far was for the stairs and landing. Mr. Hughes replied that this was correct.

Jason Saris asked if they had looked at any other possible configurations. Mr. Hughes stated in order to be able to utilize the existing deck, they needed to configure it this way.

Jason Saris asked for the dimensions of the existing deck. Mr. Hughes stated 6'. Jason Saris asked if they were just under 15.9' now. Mr. Hughes replied yes.

John Whitney said he had concerns about the lot coverage stating that the existing house was given a significant variance approval and this is a significant incursion on the rear setback. Mr. Hughes agreed. Tom McGurl said he had concerns about seeing this property again. Mr. Hughes stated that he had no knowledge of them wanting more.

Jason Saris inquired if there was any type of lighting proposed. Mr. Hughes replied not at this point.

Holly Dansbury asked if the land below this property was owned by the Association. Mr. Hughes stated that he did not believe it was, but he is not sure.

Holly Dansbury asked if there was any other feasible way to add a deck on this site. Mr. Hughes stated he did not see any way. John Whitney stated that you could not add anything without further intrusion on the density. This is an aggressive approved density to start with. John Whitney stated the lot coverage was already significant and they are now asking for more.

Tom McGurl stated that his frustration is that this project does not meet the zoning for this piece of property and he has concerns with this.

Holly Dansbury inquired if there were stairs and an existing landing. Mr. Hughes stated that there were.

Chris Navitsky stated that they appreciated the Board's discussion on the lot coverage. He feels that if this is considered, some stormwater management should be implemented to mitigate any stormwater runoff.

RESOLUTION

The Zoning Board of Appeals received an application from Anthony Lucatuorto, (V16-49) 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, 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: The applicant has indicated there were no feasible options due to the non-conformance.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This fits in with existing properties in the area.
- 3) The request is not substantial. This is a minor deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It won't be any more of an impact.
- 5) The alleged difficulty is self-created; This is a non-conforming property.

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

Now, upon motion duly made by Holly Dansbury and **Seconded by**, Lorraine Lefevé it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions; 1). Stormwater mitigations are to be added to the project. 2). All

lighting is to be dark sky compliant. John Whitney and Tom McGurl opposed. **All others in favor. Motion Carried.**

Jeff Anthony recused himself from the following agenda 3 items.

- 3. V16-45 GROSSMAN, JEFFREY.** Represented by Martino & Anthony. To demolish and rebuild lakeside patio and protection walls, seeks area variance for a deficient shoreline setback. 75' is required, 0' is proposed. Section 156.12, Block 1, Lot 6, Zone RCL3. Property Location: 51 Indian Brook Drive. Subject to WCPS and APA review.

Corinna Martino of Martino & Anthony presented the following:

- They are proposing an ongoing maintenance project.
- She pointed out a rotting seawall on the plans.
- The Army Corp. of Engineers issued a permit to remove this in 2011 and replace it with a block retaining wall.
- They are seeking to complete this and she detailed on the plans.
- There was also a structurally unsound wood patio, which they will replace with an on-grade patio done with a paver surface.
- She detailed the other small additions on the plans.
- The sea wall is a requirement for this property as it is the only way to protect the shoreline from erosion and damage from the lake.
- The patio needs to be replaced for safety reasons.
- They are exempt from stormwater requirements, but they have looked into adding a stormwater feature, but due to the proximity to the lake it was not feasible.
- They are also adding a fire pit and grill feature.
- They will be replacing an existing gazebo and removing an existing shed.
- They will be enhancing the existing cobble with new.

Tom McGurl asked if the park benches would be removed. Ms. Martino stated the wall would essentially act as benches.

Carla Cumming asked what type of pavers would be used. Ms. Martino stated they would be using pavers with a similar look to what is already existing.

Holly Dansbury asked if they would be reducing the impervious area. Ms. Martino replied that it would be essentially the same as what already exists and detailed this to the Board. Holly Dansbury asked about using pervious pavers. Ms. Martino stated they would not be an option due to the proximity of the lake for the required separation to the seasonal high ground water, and sand. Tom McGurl inquired about using the pervious pavers on the walkway. Ms. Martino explained that the proximity of the lake would create the same issues. Jason Saris stated he could see where it would be an issue if they were being used as a stormwater device, but wouldn't it be better than having a completely impervious surface. Ms. Martino stated that if they are clogged it would not make a difference. Jason Saris explained that he understood it would require some maintenance. Tom McGurl stated he could see why it would be problematic by the water but not the walkway and it would be an improvement.

John Whitney stated it seemed like there was opportunity to lessen the impact on the lake, and it looked like they were increasing it. He asked if they could move the whole thing back a little bit. Ms. Martino stated it would create more of a disturbance if they moved it. John Whitney stated they could make it smaller and less impacted. Holly Dansbury agreed. Mr. Grossman stated that they were not increasing the area, they are just trying to enhance it. He detailed what was already existing to the Board. They would be willing to look into pervious pavers for the pathway, but it would be impractical at the beach. Jason Saris stated that he understood the idea that it is grandfathered in, but they were now subject to the new standards for stormwater. This is right on the lake and it does not look like much effort has been put into making it better. He is trying to understand why they can't. Ms. Martino detailed the impervious area to the Board. She stated that they would be reducing the impervious area by 400 sq. ft. if they used pervious pavers. It would not necessarily be a stormwater device by the books.

Tom McGurl asked if the stone deck would be at grade or if it would be up. Ms. Martino stated it should be at grade.

John Whitney stated he would like to see the whole plan moved back a little bit. Mr. Grossman stated that this was where the wall should have been and they want to complete it. Holly Dansbury suggested using plantings instead of walls. John Whitney stated this was a real opportunity to improve what exists.

Chris Navitsky stated he had concerns with the current application lacking detail on the sea walls. He feels that there were other alternatives available. He feels this would be an increase on the impact of the lake and a shoreline buffer would be a better alternative allowing some infiltration and save the property. He would like to see some details on excavating below the shoreline.

Ms. Martino stated they had DEC and Army Corps of Engineers approvals for the construction of the pre-existing wall. They would be reducing the impervious area on the site if they used pervious pavers on the walkway. In terms of moving it back, they would create disturbance in close proximity of the lake.

John Whitney asked about the removal of a portion of the wall. Ms. Martino detailed it on the plans showing where it had partially been replaced. John Whitney inquired if a variance was required for this. Ms. Martino replied that it was not needed. Due to it all being connected they would need a variance now. John Whitney asked if they were just replacing this in kind, if they would need a variance. Zoning Administrator, Pamela Kenyon replied that they would not. Tom McGurl asked if this would be true if they were using different materials. Zoning Administrator, Pamela Kenyon stated it would as long as it was the same size.

Jason Saris asked if they were saying there was a pre-existing wall that has been replaced and now they are adding an additional protective wall. Mr. Grossman stated that they had removed a damaged crib dock and were given permission to put the wall in that area by the Army Corps of Engineers. He needs to remove the portions of the crib dock and finish the wall. They have had issues with the ice, and the erosion that takes place there is substantial. As far as moving

the deck back, it has existed there since they owned the property. He would be willing to consider adding plantings in this area if this would get this going.

Tom McGurl stated that he does not see moving the deck back further from the lake would be a much of a disturbance. Ms. Martino stated the photos were taken at a time when the lake was low and the water is typically much closer to the wall. Mr. Grossman stated that the wall only shows 1 or 2 blocks and there are really 4 of 5. Holly Dansbury asked if they were saying the water is typically much closer to the wall. Ms. Martino stated that was correct.

Tom McGurl asked what would happen if there was no stone wall there, would the lake be 3 times bigger than it is now? Ms. Martino stated there may be erosion, and the wall is essentially to prevent erosion at the lake side.

Jason Saris asked if they anticipated bringing material in to level it out. Ms. Martino stated she did not believe they would need significant amounts of fill, but it would depend on the exact layout underneath it. Jason Saris asked what you needed to put down to install pavers. Ms. Martino stated typically a number 2 crushed stone.

Ms. Martino stated they would use permeable pavers and work in some additional plantings throughout the shoreline area allowing for an overall reduction of impervious area.

John Whitney stated that he would like the application to be clearer. Holly Dansbury agreed.

John Whitney asked if they would be attaching a dock in the future and if they were it should be noted. Mr. Grossman stated they would be very close to where the preexisting dock was located. He said he does not know why they could not put the wall in as it was preexisting and has the ok from the Army Corp. of Engineers. He removed the rotting crib dock due to the fact that it was rotting. Tom McGurl stated that if they came back in March, they would still have time to start this project in April if it is improved.

Ms. Martino detailed the changes, they were looking for. Jason Saris stated the Board was not here to design the project. Ms. Martino should have some idea from what the Board has discussed with them as to what they would like to see.

No County Impact

RESOLUTION

Now, upon motion duly made by John Whitney and **Seconded by**, Tom McGurl it is resolved that the ZBA does hereby table the variance request as presented for additional information.

All in favor. Motion Carried.

4. **V16-46 CLIFT, RICHARD & HOLLY.** Represented by Martino & Anthony. For the construction of a proposed patio, outdoor kitchen and gazebo, seek area variance for 1) Deficient setbacks. Front: 50' is required, 1.80' is proposed. Shoreline: 75' is

required, 37.24' is proposed. Side: 30' is required, 22.46' is proposed; and 2) to alter a nonconforming structure in accordance with Section 200-57B1b. Section 157.05, Block 1, Lot 10, Zone RCL3. Property Location: 9 Rose Lane. Subject to WCPS and APA review.

Kristen Catellier of Martino & Anthony presented the following:

- The applicant requests to table the application until the March ZBA meeting.

Now, upon motion duly made by John Whitney and **Seconded by**, Tom McGurl it is resolved that the ZBA does hereby table the variance request as presented at the applicant's request. **All in favor. Motion Carried.**

5. **V16-47 FRANK, JEFFREY.** Represented by Martino & Anthony. For the construction of a proposed 20' x 24' garage (excluding overhangs), seeks area variance for a deficient front yard setback. 50' is required, 33' is proposed. Section 200.14, Block 1, Lot 24, Zone RM1.3. Property Location: 14 Cotton Court. Subject to WCPS review.

Kristen Catellier of Martino & Anthony presented the following:

- They are requesting an area variance for a front yard setback
- There was a previously approved variance granted for a garage structure 22' x 22' for the previous land owner.
- They are requesting a 20' x 24' garage structure in the same general area as the previously approved variance.
- It will be no higher than 18'.
- The use for the garage is mainly for storage.
- There will be no driveway.
- She detailed the setbacks.
- There is an existing septic system in the rear, so they pushed the garage forward toward the road to avoid conflict.
- They are proposing stormwater implements on the east and west sides of the garage.

Holly Dansbury asked if a driveway would be required. Ms. Catellier stated it was primarily for storage in the winter for a vehicle, so they were not looking for a driveway.

Jason Saris asked about the measurements for the overhangs and if they were being taken into the consideration for the setbacks. Zoning Administrator, Pamela Kenyon stated they had taken this into consideration.

Holly Dansbury asked if they added a driveway would a variance be required. Zoning Administrator, Pamela Kenyon stated if may have needed stormwater, but not an additional variance.

Jason Saris asked if the utility pole would stay. Ms. Catellier replied it would.

Holly Dansbury asked if the reason they could not move it back was due to the septic system. Ms. Catellier replied this was correct.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Jeffrey Frank, (V16-47) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Based on the layout of the plot and the placement of the septic system, this is the only feasible location on the property to place the garage.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. This is a minor and reasonable structure.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Stormwater is being addressed.
- 5) The alleged difficulty is not self-created; Weighing all the factors, the requested variance is reasonable.

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**, Tom McGurl it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

6. **V17-01 BEALE, WAYNE.** To alter single family dwelling, specifically to replace an existing 10'x 30' deck with a 12'x 30' four season sun room and an additional 12'x 20' uncovered deck, seeks area variance to alter a non-conforming structure in accordance with Section 200-57B1b. Section 213.13, Block 1, Lot 29, Zone RCM1.3. Property Location: 8 Thunderbird Road. Subject to WCPS review.

Wayne Beale presented the following:

- He purchased the property this past fall.
- The existing deck is in average condition and they would like to replace it with a 4-

season room with an additional deck.

- He detailed this on the plans.

Holly Dansbury asked if the lower deck would stay. Mr. Beale stated that it would not, he would remove it for new footings.

Holly Dansbury asked about the pitch of the roof. Mr. Beale stated they would follow the roof pitch it would be identical. He said they would also be duplicating the windows.

Holly Dansbury asked if the exterior would stay the same. Mr. Beale stated they would paint the exterior of the structure.

John Whitney asked if the addition would encroach on the existing setback. Mr. Beale stated he did not believe that it would.

Tom McGurl asked about balancing out the left hand side of the structure. Mr. Beale stated that they would be placing the stairs there for egress.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Wayne Beale, (V17-01) for an area variance as described above.

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

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

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

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Basically, this is replacing an open deck for a more useable sunroom.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. They will be enhancing the neighborhood and the value of the property with the addition.
 - 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. They will be improving the stormwater.
 - 5) The alleged difficulty is self-created; they are modifying a 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 Holly Dansbury and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor.**
Motion Carried.

7. **V17-02 TRUAX, LANCE.** To demolish and rebuild single family dwelling, seeks area variance for deficient front yard setbacks for the proposed deck. 50' is required, 42' is proposed from Second Street and 29.6' is proposed from the Town of Bolton right-of-way. Section 171.15, Block 2, Lot 7, Zone RM1.3. Property Location: 16 Second Street. Subject to WCPS review. This is an amendment to V16-28 approved July 2016 to demolish and rebuild the single-family dwelling. The deck was approved with a 45' setback from the Bolton right-of-way.

Lance Truax presented the following:

- He has updated the location of the deck from the previously approved variance.
- The original location was on the northeast corner of the house.
- The new location gives the deck a 29.6' setback from the right of way, which is further back than the house.
- The deck will be 1' back from the approved variance.
- The new location places it closer to Second Street.

Jason Saris asked why he was relocating it. Mr. Truax stated it was due to interior changes in the home, and detailed these on the plans. He explained that it will not be encroaching any closer to the setbacks than the originally granted variance. The stairs will not be extended on any of the sides.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Lance Truax, (V17-02) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is a small lot and this change is needed due to the reconfiguration of the interior.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is simply relocating a previously approved deck.
- 3) The request is not substantial. Due to the size of the lot.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This is just moving the same structure to a new location on the lot.

5) The alleged difficulty is not self-created; this is due to the size of the 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 Tom McGurl and **Seconded by**, Jeff Anthony it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

8. **V17-03 HAMEROFF, RICHARD.** For the construction of a proposed 27'x 42' garage, seeks area variance for a deficient front yard setback. 75' is required, 60.1' is proposed. Section 171.14, Block 1, Lot 2, Zone RL3. Property Location: 398 Potter Hill Road.

Richard Hameroff presented the following:

- He purchased the property this past November.
- It appears that an existing garage near the road was removed.
- They tried to find different areas to place the garage without the need for a variance, but the topography does not work.
- The garage has 1' overhangs.
- The area they found would encroach 15' into the setback.
- They do not want to replace the previous garage right on the road again.
- They will be using earth tones to allow it to blend into the area.
- They are trying to update the property to make it look aesthetically better.

Lorraine Lefevre stated it seemed to be away from the road because it is setting down lower.

Mr. Hameroff agreed detailing the rocky landscape and the placement of the garage. He really tried to fit it in without the need for a variance.

Jason Saris asked about the stormwater device on one side of the garage. Mr. Hameroff stated that he did calculations and has added some stormwater mitigations on the project. He stated that the overhangs make it only a hair over the 1000sq.ft. that requires stormwater mitigations.

Tom McGurl asked what the color would be. Mr. Hameroff stated he believed a beige or clay color. Initially the building will be a colored steel, and he would possibly changing this to wood in the future.

Tom McGurl asked if this would be on a slab or footings. Mr. Hameroff stated it was on footings and his intention was to add a floating slab on the inside of the building.

Jason Saris asked for the location of entrance of the garage. Mr. Hameroff detailed it on the plans and stated this was the only feasible location. Jason Saris asked if he would need to

expand on any of the roadways. Mr. Hameroff replied he would not. Jason Saris asked if he would be adding gravel in front of the garage. Mr. Hameroff stated it already had gravel in this area.

RESOLUTION

The Zoning Board of Appeals received an application from Richard Hameroff, (V17-03) 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, 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is the only feasible area to place the garage.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement.
- 3) The request is not substantial. This fits the property and is not substantial.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- 5) The alleged difficulty is self-created; In terms of design it is exactly where it should go and it's closer to the house to make access easier.

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 Lorraine Lefevre and **Seconded by**, Tom McGurl it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

- 9) **V16-37 SALAMONE, CAROL.** Represented by the Dock Doctors. **To discuss and clarify approvals set forth by the ZBA on December 13, 2016 and reversed by the APA.** For the construction of a hillside trolley, seeks area variance for deficient setbacks. 1) Shoreline: 75' is required, 4' is proposed from Lake George and 5' is proposed from the stream on the north side of the property; and 2) Side yard. 30' is required, 15' is proposed. Section 141.00, Block 1, Lot 22, Zone RCL3. Property Location: 5666 Lake Shore Drive. Subject to WCPS and APA review. This item was tabled at the September 2016 meeting pending additional information.

Jason Saris stated that V16-37 was approved and the APA has overturned it. He explained that there is a possibility that the minutes did not have all the information they were looking for and the APA may have not received both sets of them. He takes issue with some of the responses from the APA. He thinks the applicant is back here tonight so that maybe the Board can clarify some of the questions the APA has.

John Whitney stated he believes the Board had discussed all of the points that the APA made and many of them had been discussed in the September meeting. He explained that the APA did not indicate that they had seen the September minutes. Zoning Administrator, Pamela Kenyon stated that the APA automatically receives the minutes from every meeting, so they should have them. John Whitney stated that they were confused then, because they only referenced the December minutes.

Jason Saris asked Atty. Muller what they could do to let the APA see that there was an error. Atty. Muller stated the way to guarantee that it will be meaningful is to reopen the hearing and create the record more robustly. The September meeting was ample but the December meeting may have been deficient, and that appears to be what they looked at. To give it the force of law, the Board should open a meeting as opposed to just discussing it now. He detailed how they would do this, stating it would presumably be on the March calendar and go over the criteria all over again.

Jason Saris stated he needed clarification on the need for demonstrating the need for handicap issues in the criteria. He explained in September, Ms. Salamone actually tried to speak on this topic and she had a letter from her father's doctor explaining the need for a trolley. The Board told her this was not part of their criteria for granting a variance. He said the APA stated that one of the reasons they overturned this variance was the lack of discussion of this. Atty. Muller stated he agreed with the Board and he thinks that the APA would be wrong and the Board was correct and stayed right on the mark in respect to considering this application. John Whitney stated that the APA makes an argument in their reversal letter about the handicap issue and he believes they were a little confused about the paths which had been discussed in the September minutes.

Carol Salamone stated she drove an entire packet with the September meeting minutes, because most of their questions were unequivocally answered in the September minutes. She does not believe they ever read the September minutes. John Whitney stated the APA should update the template they are using because it even has the wrong applicant's name.

Jeff Anthony stated that the only thing he can see that the APA can stand on is the lack of visual impacts from the lake. Jason Saris stated that there was a fair amount of discussion on this. Jeff Anthony stated that they would like photos or renditions. Ms. Salamone stated she sent photos up in the packet that she had taken up. Jeff Anthony stated that they may want renditions with the trolley on it.

Jason Saris asked if Ms. Salamone would like to be on the March agenda. Ms. Salamone stated she would if it was needed.

The meeting was adjourned at 8:45pm

Minutes respectfully submitted by Kate Persons