

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, March 15, 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, John Famosi, Holly Dansbury, Zoning Administrator Pamela Kenyon, and Counsel Michael Muller

Absent: Tom McGurl, Jeff Anthony & Alternate Lorraine Lefevre

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

Jason Saris stated that there was not a full Board present this evening, so any applicant that wanted to table their application at any point during the meeting they were welcome to do so.

Jason Saris asked if there were any corrections or changes to the February 16, 2016 minutes.

RESOLUTION:

Motion by John Famosi to approve the February 16, 2016 minutes as presented. **Seconded by,** Holly Dansbury. John Whitney and Joy Barcome abstained. **All others in Favor. Motion Carried.**

1. **V16-05 KINCAID, BARRY.** To allow a 17' x 24' sand/salt shed to remain in its present location, seeks area variance for a deficient front yard setback. 50' is required, 28' is proposed. Section 186.00, Block 1, Lot 40.2, Zone RL3. Property Location: 35 Brookside Parkway.

Barry Kincaid presented the following:

- He has a 17' x 24' salt shed located right off the drive in a screened and vegetated area.
- This can only be seen at the top of the opening of the entrance.
- He threw it together to keep the snow off his sand and salt and did not realize that it did not meet setback requirements from the right of way.
- He is asking for approvals to keep it as is.

Jason Saris asked if there were any other more compliant locations available to place this shed. Mr. Kincaid stated he could relocate it in another area, if he cut down trees and cleared it out, otherwise no. This is the only feasible area.

John Whitney stated that it seems as if it is as far away from the brook as it could be. Mr. Kincaid agreed stating the brook was way down and by keeping it covered it helped stop it from running down toward the brook.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Barry Kincaid, (V16-05) for an area variance as described above.

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

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

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

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: It could be moved but it would create significant disruption or be closer to the brook.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is well screened and can't be seen from the road.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Current location reduces the adverse impact on the nearby water.
- 5) The alleged difficulty is self-created; the point is to balance the factors to be considered. 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.**

2. **V16-06 ZECCOLA, VINCENT & DIANE.** Represented by Curtis Dybas. To alter non-conforming single family dwelling, specifically to construct a 5'6"x 2' addition in two directions to a 5'6"x 5'6" utility room with proposed overall dimensions of 11'x 7'6", seek area variance for 1) a deficient side yard setback. 20' is required, 14.5' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.18, Block 1, Lot 29, Zone RM1.3. Property Location: 24 The Back Road. Subject to WCPS review. See V14-20 and V13-38 for previous approvals.

Curt Dybas presented the following:

- He has been before the Board twice for variances.

- They have done extensive work to this cottage.
- They are finishing inside work.
- They would like to consolidate the washer, dryer, hot water tank and a small work bench in the existing small utility room.
- In order to do this, they would like to increase the size of this small room.
- They have removed two exterior wood decks, resided and repainted the cottage.

Holly Dansbury asked if they were removing the deck in this area. Mr. Dybas explained that it had already been removed with no intent to put it back, and he detailed this in the photos.

Jason Saris asked why it was such a small addition. Mr. Dybas stated that they did not want to encroach on the neighbors and they have no reason to make it bigger.

John Whitney asked if they added a screened porch on the west side, and a bedroom on the north side and now a south side utility room if there would be a plan for the east side. Mr. Dybas replied no, there is no need to expand. This is it, they are done.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Vincent & Diane Zeccola, (V16-06) 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 any other means feasible to the applicant besides an area variance: this is a small expansion of the utility room.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. They are making improvements to the house.
- 3) The request is not substantial; the relief is the same that existed prior to the removal of the deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This is a minimal increase.
- 5) The alleged difficulty is self-created; they want to build on the side of the structure with non-conforming setbacks, but the non-conformance was pre-existing and not substantial. 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 variance request as presented. **All in favor. Motion Carried.**

3. **V16-07 24 ANCHORAGE ROAD HOLDINGS, LLC.** Represented by C. Raymond Davis & Sons Inc. To alter single family dwelling, specifically to add a breezeway, garage and storage, seek area variance for a deficient shoreline setback. 50' is required, 37' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B1b. Section 171.19, Block 2, Lot 24, Zone GB5000. Property Location: 24 Anchorage Road. Subject to WCPS review. See V15-49 for previous approval.

John Isaacs of C. Raymond Davis & Sons Inc. presented the following:

- They are asking relief from the 50' shoreline setback to place a one car garage.
- This is to maintain off street parking in the paved drive.
- It would be very difficult to get even 1 car in the driveway if they slide the garage back.
- The roads are very narrow, and they would not like to encumber the roads with street parking.
- A house of this magnitude should have a 3 car garage.
- The owner dropped the previous request for a 3 car garage to a single car.
- This is not substantial.
- He detailed the additional stormwater infiltrator trenches.
- This will benefit the whole neighborhood the way it sits now.
- Overall height is 12' 9" to the peak.
- There is a row of arborvitaes there right now and they are not blocking any views.

Jason Saris asked about the HOA concerns for the structure. Mr. Isaacs stated they had to connect the garage to the home as part of the HOA regulations, which they did with a small breezeway.

Holly Dansbury asked if they would be able to walk into the house there. Mr. Isaacs replied they would be walking on to the back deck.

Lake George WaterKeeper, Chris Navitsky stated the following;

- They have concerns due to the cumulative impacts from disturbance within the shoreline setback associated with this and the other recent variance.
- They believe that there are alternatives available to the applicant.
- The proposed location increases the impervious area within the critical environmental area around the lake.
- The adoption of shoreline setback was put in to protect the exceptional water quality of Lake George and its resources.
- Encroachment of the impervious surfaces within the setbacks alters the resources which protect the lake.
- They do not know if this stormwater is enough mitigation to the shoreline.

Sue Parker, Bolton Resident stated the following;

- The statement that “a house of this magnitude should have a 3 car garage” in her mind means it should be built in the hills on a 5-acre lot.
- She finds issue with anymore variances within this particular subdivision which to her knowledge has already been bestowed every variance in the whole wide world.
- This is like the Life Styles of the Rich and Famous.
- How many more variances are they going to allow everybody on the lake front.
- This is going to start adding up and this is the ZBA’s job.
- They are in a subdivision that has every variance in the world granted to them, how much more are they going to get?
- It is ludicrous to her that they are even entertaining the idea of bigger, higher, taller and more in these million-dollar homes.

Mr. Isaacs stated that with regards to Mr. Navitsky’s idea on moving the garage into the sewer easement, they did entertain that idea, and it won’t work. This is something that will do the neighborhood much good. It creates storage for everyday equipment and this is a reasonable approach. This also eliminates parking on the street.

John Whitney asked if there was an existing garage. Mr. Isaacs replied that there was, but it was part of the house and updated plan.

Holly Dansbury asked if they moved it back out of the 50’ setback would they still be able to get one car in the drive. Mr. Isaacs stated it would barely fit in the driveway and would put them in a very awkward spot to back into the road. The proposal allows them to turn around and drive out safely.

John Whitney asked if the area west of the house could be changed to make a turnaround area. Mr. Isaacs stated that there were trees in this area. Mr. Isaacs replied that right now they can get two cars in there, this would not allow this. If they slide the garage back, they could only get one in. Mr. Esler asked if they were talking about moving it over to the front side. John Whitney stated that they need to explore the question of whether they can use the property without getting a variance. The statement was made that they could put the garage someplace else so they are trying to explore other ways to arrange this. Mr. Esler stated that the one side where the sewer easement is, the garage would end up sitting on the sewer. Could it be moved forward, yes but it would be a very tight 240-degree reverse to get out which would be a tricky maneuver along with having street parking on this narrow road. They do not think that would be the best fit for the neighborhood.

John Whitney inquired about the stormwater. Mr. Isaacs detailed it on the plans to the Board. Mr. Esler stated they would be happy to install more stormwater remediation if this would help. Mr. Isaacs stated it was oversized right now

Joy Barcome asked Mr. Navitsky what he would suggest about buffers along the shoreline. Mr. Navitsky stated he put that in his letter as he had not seen their stormwater plan. Buffers

could be planted along the shoreline to mitigate. They are building and putting in plantings, but really no improvements. Mr. Esler stated they would be happy to put in buffers.

John Famosi asked if this project was subject to the A.P.A. Zoning Administrator, Pamela Kenyon replied no, it was within the hamlet.

Jason Saris asked Zoning Administrator, Pamela Kenyon if she had reviewed the stormwater plan. She replied “not thoroughly, but she would be reviewing it though.”

Jason Saris stated he finds it to be a modest request personally and he does not see a better spot on the property. When you have a garage, you need to be able to drive in and out of it. The Anchorage is a development that was not particularly well designed. This is why so many parcels need a variance to just get the things that go with a normal home. Be that as it may, because Zoning was not that great back then, do we punish the people that live there now. A one car garage when living in the Adirondacks is not a big request.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from 24 Anchorage Road Holdings, LLC.,

(V16-07) for an area variance as described above.

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

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

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

The application of the applicant is as described in Item#3 of the agenda.

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: Placing the garage is a challenge due to the property location, size, steep slopes and the existing road.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. The applicant has done a good job reaching out to the neighbors providing views to the other neighbors and working with the HOA.
 - 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The setback request is not substantial and they have gone above and beyond to mitigate the stormwater.
 - 5) The alleged difficulty is self-created; This is a reasonable request.
- 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 John Famosi, it is resolved that the ZBA does hereby approve variance request as presented. **All in favor. Motion Carried.**

4. **V15-45 FOY, EDWARD.** Represented by Joseph Haines. For a proposed 4-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, 3,457 square feet is proposed for Lot 1, 1,880 square feet is proposed for Lot 2, 1,898 square feet is proposed for Lot 3 and 3,975 square feet is proposed for Lot 4. **Lot Width:** 50' is required. 31'11" is proposed for Lot 1, 18'8" is proposed for Lots 2 & 3 and 37'4" is proposed for Lot 4. **Lot Depth:** 100' is required: 98'5" is proposed for Lot 1 and 91'1" is proposed for Lot 4. **Front Yard Setbacks:** 30' is required. 22' is proposed from Lake Shore Drive for Lots 1, 2, and 3 and 14'2" is proposed for Lot 4. 12'5" is proposed from Norowal Road for Lot 4. **Side Setbacks:** A total of 20' is required for each lot. 8' is proposed from the exterior lot line on Lot 1, 0' is proposed for all interior lot lines. **Lot coverage:** 40% is allowed: 42.3 % is proposed for Lot 2 and 41.9% is proposed for Lot 3. **2) Retaining Wall: Side Setbacks.** A total of 20' is required, 2'4" is proposed on Lot 1. **Rear Setback:** 15' is required, 3' is proposed for Lots 1 & 2. Section 171.15, Block 3, Lot 28, Zone GB5000. Property Location: 4992 Lake Shore Drive. Subject to WCPS review. NOTE: Type II Site Plan Review approval is required for single family dwellings and Subdivision approval is required for a 4-lot subdivision but has yet been applied for. This item was tabled at the December 2015 meeting.

Joseph Haines presented the following:

- This presentation is a carryover from the previous meeting in December 2015.
- They have done more homework and have done a redesign.
- His client is very concerned for the aesthetics.
- He handed out more renderings and drawings of the project to the Board.
- He detailed the new changes to the Board.
- They are still proposing 4 town houses.
- They are going to subdivide the lots per the Board's advice.
- Each owner would own a lot with an easement for parking.
- They increased the end units to make them a little wider.
- This gives them a little diversity in the market.
- They reduced the parking for the smaller units, which still meets the requirements.
- They never increased the footprint of the building.
- They don't meet lot coverage anymore due to subdividing them.
- They are putting 4 units on this property that has an existing non-conforming single family home that is used as a rental property.
- Townhouses are a conditional use on this property.
- They are allowed to put a bigger footprint than what they have proposed on this lot if they were building a commercial building.
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- This piece of property can handle the 4 units as far as density is concerned.

- There is not enough foot traffic to utilize this lot as a business.
- He detailed setbacks on the plans to the Board.
- Side yard setbacks are met on one side, next to the garage. All the others are self-imposed only for ownership.
- If this was one building they would meet the lot coverage.
- The retaining wall will not be seen by the neighbor; they are just trying to retain the earth from the neighboring properties. It is not an imposing structure on their neighbors.
- He detailed the building appearance and floor plans to the Board.
- They have looked at different colors and scales they could use to enhance the building.
- They have increased the landscaping and added a fence for additional character.
- There were concerns at the last meeting for storm drainage. They have hired D. L. Dickinson Engineers to put together a stormwater plan for them.
- This is a minor stormwater plan per the regulation requirements.

Zoning Administrator, Pamela Kenyon stated she would be relying on Town Engineer, Tom Nace for the stormwater on this project. Mr. Haines stated they still would have to go before the Planning Board as well.

Jason Saris asked what the amount of bedrooms in each unit would be. Mr. Haines said there were 3 in the two end units, and 2 in the interior units.

Jason Saris stated he was a little concerned with the parking situation. Assuming people use the garage for their cars, they have a spot for each bedroom, but there isn't any guest parking. Unfortunately, there is no street parking in this area. Mr. Haines stated they exceed the parking required by the code. In his experience with Town Houses is that they will be using this to park their cars, they don't need room for lawnmowers etc. Jason Saris stated he did not have a lot of experience with town homes, but the unit on the Cross Street has a garage spot and a parking spot, and there are cars all over the place in the summer. Holly Dansbury stated they were really tiny garages in those. Jason Saris stated he assumed they were at least big enough for a car. Holly Dansbury asked if they would be creating a HOA so that they would not have a need for homeowner maintenance. Mr. Haines said yes, there would be someone that would be taking care of the property.

Mr. Foy stated that several years ago the State came in with eminent domain and took away his front yard and the street parking to put in a sidewalk. Jason Saris asked why they did not get a curb cut. Mr. Foy stated he never requested one. Mr. Haines stated that a person buying one of these units will be aware of the parking they have.

John Whitney asked about the HOA. Mr. Haines replied there would not be a HOA. He said that there would be something in the deeds so that there would be a property manager for the property. Mr. Haines stated that the same thing occurs at another town house in Bolton. John Whitney explained to Mr. Haines how a HOA worked. Mr. Haines stated that it was his understanding that there would be 4 separate ownerships with governing bylaws that would cover this.

Mr. Foy stated he has lived here for almost 40 years and he has coached the kids in town and has 5 grandkids in the school. He has dedicated most of his life to this town. He would not put a project on Main Street with his name on it and make it look terrible. This is a project that is right for that corner, he has owned that building for 16 years. He loves old buildings. He moved the building that now houses the Lake George Mirror and the Sembrich Museum to the end of town on a piece of property he owns. He would not take a building down if it did not need to be done. He has never made any money on the Lake George Mirror building and he probably never will, but the point is he would not take it down if he did not have to. If he could move this building down the street he would do so, but it is not cost effective to do this. When he came to Bolton he started something and he hopes he was part of a renaissance in this town. His heart belongs to this town and he would not put up a project that he and his grandchildren would not be proud of. It has his name on it. He spoke with Chris Navitsky about stormwater and he is trying to find a good compromise for them both. He would live in this project, his wife says she wants to sell their big house and live in one of these condo's. He told her he could not afford one of them, that's how good of a project this will be. He will walk through this step by step with whomever he needs to so they can do this project right. This is his town and it is his name on this project, he understands what the rules and regulations are and he will follow them. He knows they are asking for a lot of variances here, but this is because there will be 4 deeds. He hopes the Board looks at this project like he does. The corner will be all cleaned up. This will turn the whole corner into a beautiful little corner, he is just asking them to trust him and tell him what to do. He will work with the Board. He would like to move forward and go to the Planning Board. He will work with the Waterkeeper for a good compromise for the stormwater, and he thinks they have done everything right here. He detailed the pictures again to the Board. They have added a fence so that is would feel like it is more private, with a gate to every walk way, so when people walk by they can't fall into people's lawns. The bottom line is if he could take that property down and put 4 commercials in and 4 apartments, he would do that in a heartbeat, but the reality of this town is that he would never be able to rent it, 2 of them would be laying vacant. There have been vacancies on Main Street, back and forth. This is a town that exists in a 12-week period. The main money that comes in to this town is in a 9-week period. We have a little bit of a shoulder season and the Sagamore helps a great deal. If he could keep this property commercial, he would be the first on to do it. It will not work and he will not be able to rent them. Try to find a year round tenant in this town. He would love to put in something in this town that would bring in more kids for the school system. The only thing he can see for this property where it's going to help the town is town houses, like the ones at other the end of town. He did not like these town houses at first, but they did a fairly good job though and he was tired of driving by that property looking like garbage. He hopes the Board will consider this project tonight and he knows he needs all five votes. He stated it was a good project and he will work with anybody he has to, to make sure it is right. He would make it commercial if he thought he could. He has come up with all sorts of commercial ideas for property, but they won't survive. This will also bring more people into town in the winter too. He believes it is a win-win.

Lake George Waterkeeper, Chris Navitsky stated the following;

- He spoke with Buddy, and they support the redevelopment of hamlet areas and concentrating development on previously disturbed sites. They understand the decisions Mr. Foy has to make on this. However, the redevelopment should be

balanced with the community and must not exceed the capacity of the site to accommodate the level of development proposed and should mitigate all potential negative impacts. The requested density variance is substantial and the application fails to provide substantial mitigation measures to balance the negative impacts and intensity of development proposed on this ¼ -acre lot. The Waterkeeper recommends the Zoning Board of Appeals apply the Town's regulations, in particular 200-65A review of the criteria necessary for issuing an area variance, for this project during your deliberations regarding the above referenced variance request.

- The proposed density and coverage variances will result in an undesirable change in the character of the neighborhood. The proposed project will be a change in the use of the property from single family dwelling to multifamily as well as increase the intensity and impervious coverage on the site. The proposed density variance will place four units on a property that does not meet the required area for a single unit. The proposal will increase the volume of the development by placing a 3-story structure in the required setbacks. Additionally, the proposed project will remove all mature vegetation on the site requiring a variance for lot coverage, which will be further change in the neighborhood character and the application does not provide any vegetation to provide screening for the development. The Zoning Board must balance the benefits to the applicant for the four-fold increase in density with the rural character and intended use of the Hamlet.
- The requested variance is extremely substantial. The proposed density variance requires over 7 times the existing property area, which could be considered exponentially excessive.
- The proposed project will have an adverse impact on environmental conditions in the neighborhood regarding stormwater runoff and decrease in pervious cover. The proposed density variance will result in a significant increase in impervious cover and loss of permeable surfaces. The plan provides stormwater management, claiming to handle for the runoff from the increased impervious surfaces. There is question whether this can be accomplished with the lack of stormwater controls in the rear and the limited room to the south with the grading proposed. Additionally, the project will not provide management for any existing runoff and therefore will not improve the existing conditions, which should be a goal for any redevelopment project in the Town. In addition, the proposed density variance will result in the removal of all mature vegetation from the site, which will further increase stormwater runoff and decrease the site's ability to treat stormwater.
- He recommends that the Zoning Board of Appeals table the application and request that the applicant resubmit an alternative design that will reduce the density variance request and request additional information that will mitigate the environmental impacts from the proposed development.

John Gaddy stated;

- He would like to see this project to go to a Public Hearing. Jason Saris explained that this was a Public Hearing.
- As much as the Boards have tried, they do not have the town house plans right yet.

- They have heard they could have a bigger building if it was commercial, but this is a 700% density variance.
- The job of the Board is to balance the needs of town vs. the needs of the applicant.
- The way the Town uses Norowal and the type of access there, and increase of business they should be aware of the ingress and egress.
- The parking spots may not adequately address the needs of the owners
- He asked how for the elevation went below the surface of the road now.
- All the water from downtown runs t behind Tops to a culvert and goes into a swamp behind Buzzy's and he thinks any project town or private needs to consider the impact of this.
- This is too much of a project on a small lot.

Sue Parker stated;

- She is torn on this, originally she was opposed to the Lamb property townhouses.
- She is tremendously aesthetically pleased with how it turned out though.
- She was happy when they finally wrapped the columns and faced some with stone, and she would still like to see a fence put up.
- She believes they should have had garages.
- Cross Street town homes were totally wrong, if there is ever an emergency an ambulance would not make it through.
- As a town they have set a precedent.
- The Lamb property town homes are beautiful. It is far more pleasing as you drive into town than what was there.
- This same thing can be achieved on the other end of Town.
- She agrees with Mr. Navitsky about the stormwater and preserving the lake.
- She believes the Town created their own problem with the whole Norowal parking.
- The Fred Ross property should be a parking structure not a parking lot.
- They have complied with the parking and this is a much better aesthetic entrance from that end of town.
- The Board is here to supervise this project to have it done it right, and parking should not be the biggest issue they are addressing on this.
- The density is an issue, it is an issue all around town, but she finds it humorous that they have set precedence in other developments and created this cluster of density, and now when they have the ability to do it right and plan it successfully and correctly. We should be embracing it, in lieu of the other Associations that now every time come to you creates more and more variances.
- This is great that this process gets it out of the way first.

Zandy Gabriels stated;

- He believes John Gaddy's request for a Public Hearing at the Planning Board is understandable due to the magnitude of this project.
- Norowal is a private road, and he would like to know if proper legal documents have been secured for access along the road from 9N into the parking area turnout.

Jason Saris asked if they were suggesting that they refer this to the Planning Board before they take action on it and have a Public Hearing. John Gaddy stated he would like that. Mr. Foy asked them to clarify what they are trying to say. Jason Saris stated that every zoning application has a Public Hearing as part of the application. The Planning Board only has a Public Hearing if they decide to schedule one due to all the public interest. He explained that this Board on occasion refers an application to the Planning Board before taking action on it due to the complexities of stormwater or other planning type issues that the ZBA does not handle here. This is mainly because the Planning Board may substantially change part of the project, which would subject them to come back to the ZBA. Mr. Haines asked if this was something the applicant would typically ask for. Jason Saris replied that it was typically done by the Board. Atty. Muller stated the applicant could ask for it, but it is usually done by the ZBA as a referral to the Planning Board. Jason Saris stated at times the applicant has wanted to run it by both Boards at the same time. Atty. Muller agreed.

Mr. Foy stated he has had the property up for sale for 2.5 years and it has not sold. He believes this is a good plan that they have proposed. He stated that they have taken months to get this far. Mr. Haines stated his feeling is that this is a Public Hearing right now and the public knew about it. The plan they are proposing is pretty much what it is going to be. Jason Saris stated that is correct, what the people are alluding to, is the fact that there are many other aspects of this plan that this Board does not oversee. Mr. Haines stated that he understands this but as far the variance goes that they are presenting tonight is, it stays the same. Jason Saris stated he understands that and they are trying to address what this Board needs to consider, he is just trying to relay what some of these other people have as concerns and why they would like a Public Hearing.

John Whitney stated it was a short Board this evening and if they go before the Planning Board and come back with an amended plan that they find favorable, they would avoid any risk of an unfavorable vote from any one of the Board members this evening, which he can assure him is a very real risk.

Mr. Haines stated that they took a lot of time and effort on the design of the project along with a lot of expense and he believes it will be a positive impact on the neighborhood compared to what exists there now. The property can handle the density issue. They have more than the required parking, the side yard setbacks are met. This is good planning. Although they are saying it is 700x the density, density is desirable in the downtown area. This is not a bad density. This will have a real community feel to the neighborhood. The people that live in the apartments will be walking to the restaurants, beaches and stores.

Jason Saris asked how they apply the balancing act of the question “is the variance request substantial” and if the Board members find this substantial is it a no. Atty. Muller stated it could be yes, that could be one element of the balancing test that fails. He explained that they have to address the issue of is this substantial not only in terms of measure but in quantity and also impacts. If he understands Mr. Haines presentation, he said yes indeed there are many requests for variances, but if you take them into consideration of the nature of the development

proposed which is zero line setbacks, in order to bring these into attached structures. So there he thinks the proposition is that merely counting them by number is not applying the proper emphasis given its proper weight, which means that there is merit to that argument. So the Board needs to exercise their discretion to make that determination, is it mere mathematical function or are they also going to evaluate and weigh it in terms of impacts.

Jason Saris stated that the previous town home development down the street only had allowable density for 3 units and he thinks there are 10 units. He does not necessarily disagree with the fact that it not a bad thing there, but the zoning did not allow for it. It almost seems to some degree when they grant a variance for that, they are legislating through variance. He asked at what point is it up to the Town Board's job to change the ordinance to allow what is appropriate in an area. If you go through the process to do this, it is major. He has issues with this, and carrying it through, what are the grounds for this. How can the benefit to the applicant be achieved by some means; it seems that the benefit to the applicant is a monetary one and he understands this, but on the other hand this is not really a consideration for an area variance. He stated he was very conflicted with this. Holly Dansbury stated the benefit was to bring people to our town, and this kind of development helps to bring people to town. This is a lot of variances but her primary concern is the stormwater in the rear of the development. If they agree to handle this as well as giving them assurance they will have an HOA addressing all the parking and property issues, she believes this is a beautiful design and an improvement to the neighborhood.

John Whitney stated he believes it is a beautiful building and design, but this is a substantial request. The "why" of this project is not driven by the typical reasons and the benefit to the community in terms of the visual impact could be done with one unit as opposed to this massive 4-unit structure. This is a big request, and you could ask for a whole lot less building with a bigger benefit to the Town. This is financial which is not a consideration for an area request.

John Famosi stated he believes the plan is a good one and makes sense for our town. He does have problems with the scale. He believes that minor modifications could reduce the number of variances that would make it a lot easier to accept the balance of the project. It is well thought out but minor changes could go a long way to address a some of the questions. If it goes to the Planning Board and they want changes, it is going to have to come back to this Board anyway.

Jason Saris stated that a lot of the variances like the 0' setback between the buildings is minor and addressed by the fact that it's the size building that is allowed on that lot under certain circumstances. The really substantial part of the request is density.

John Whitney stated that the way the code is written it is sort of for 1 home or business. John Famosi stated that the point of a variance is in an individual situation you can say that the overall benefit outweighs the original intent if you feel it is justified. Jason Saris agreed and said this is what he is wrestling with.

Frank McDonald stated that they say they are wrestling with the fact that they are opening the door to many town houses coming in by approving one and he thought that every application stood on its own merits. Jason Saris stated he was not here to do the Town Board's job, if the Town Board thinks that this is appropriate for the hamlet, then the zoning should reflect that, but the zoning does not reflect this. He is not sure it is up to this Board to grant these variances because he thinks it is good, it up to the Town Board decide it is good for the town and have a Public Hearing to change the ordinance so these folks don't need to ask for so much relief.

John Famosi stated it was an accepted use. It was somewhat contradictory, how can you have town houses and stay within the density requirements. Jason Saris stated you would need a bigger lot, but again is it up to this Board to change this.

Joy Barcome stated that if they make this decision will they be starting a precedent. Mr. Foy stated that they already started a precedent with Cross Street. Atty. Muller replied that each application stands on its own merits in zoning.

John Whitney stated he liked the idea of going to the Planning Board before they make any decisions. John Famosi stated that some of the issues are handled more appropriately at the Planning Board level. Jason Saris agreed stating stormwater certainly is. Mr. Haines stated that they meet stormwater regulations. Jason Saris stated at this point they have no idea what the Planning Board would come up with. Stormwater is not a subject they review, he understands that and he knows they have a plan, but it has not been approved yet. Mr. Foy stated he spent approximately \$2,000.00 with D.L. Dickinson for stormwater, because Mr. Anthony wanted to see a stormwater plan. It was his belief that the Zoning Board dealt with zoning issues and the Planning Board dealt with the stormwater. He was requested to bring the stormwater plan to this Board back at the December 2015 meeting. According to Mr. Anthony it did not cost much money to do this, but \$2,000 is a lot of money to him, he flips pizzas for a living. The bottom line is they did this because Mr. Anthony said he wanted to see this and the Planning Board would want it. This did not need to be done, he did it because this Board requested it of him. Jason Saris stated it was requested because they do not want to review projects that have to be all changed around because they can't make it work. Mr. Haines stated that this is a minor stormwater application and they are doing more than that.

Mr. Foy asked if he tabled the application tonight and go to the Planning Board would he need to come back to the ZBA, or could it be done as a joint session. Atty. Muller stated that they would have to come back to this Board. He explained in detail how this process works stating that it may be kicked up to a major stormwater. Mr. Foy asked if there was a way to have a special meeting after the Planning Board to address this in a timely manner. Atty. Muller stated that if there were an advisory opinion sought by the ZBA from the Planning Board based on a resolution this evening it would not be considered by them this Thursday. Mr. Foy said he understands. Atty. Muller detailed how long the process could take. Mr. Foy stated it would be a wonderful idea if the Town bought this property for the Norowal property.

Mr. Haines proposed tabling the meeting tonight and seek an advisory opinion to the Planning Board and if they do make changes they can come back before this Board first. Atty. Muller stated the applicant controls their application, so if that is what they wish to do, they can.

Mr. Foy asked what else, besides the stormwater, they should they be thinking about. Jason Saris stated one of his concerns was the parking and that the questions of the impact to the neighborhood and to the town needs to be more adequately addressed. Atty. Muller stated he has concerns with the nature of their access on Norowal Marina Road, and the applicants need for a solid access.

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

5. **V16-09 PFAU, ROBERT & SUSAN.** Represented by Apex Solar Power. To alter single family dwelling, specifically to add a roof mounted solar array, seek area variance for 1) a deficient shoreline setback. 75' is required, 25' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B1b. Section 200.14, Block 1, Lot 40, Zone RM1.3. Property Location: 26 Birch Drive. Subject to WCPS and APA review.

Robert Rounds of Apex Solar Power presented the following;

- The proposed installation will be mounted on the existing home.
- This will not be visible from the road or neighboring properties.
- This variance is for a 25' shoreline setback.
- They are not modifying the structure in any way the solar array will be mounted flush to the existing roof.

Jason Saris asked if the panels were reflective. Mr. stated there was granulation within the modules to prevent reflection. Typically, the only issues they have with reflection are only with very large arrays near airports or structures where planes will be flying overhead. He

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Robert & Susan Pfau, (V16-09) for an area variance as described above.

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

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

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

The application of the applicant is as described in Item#5 of the agenda.

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: Roof array seems like a better option for this particular property.

- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is not visible from the roads or neighbors.
- 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. It could be argued that this will be a positive effect on the environment.
- 5) The alleged difficulty is self-created; they have opted for solar, but this is not sufficient to deny a request.

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 variance request as presented. **All in favor. Motion Carried.**

6. **V16-03 PAUL GOLLHOFER IRREVOCABLE & GOLLHOFER, JOHN & LORIE.** Represented by Hutchins Engineering. To alter single family dwelling, specifically to add an addition to the north side, seek area variance to alter a non-conforming structure in accordance with Section 200-57B1b. Section 186.14, Block 1, Lot 69, Zone RCH5000. Property Location: 56 Beckers Drive. Subject to WCPS review. This item was tabled at the February 2016 meeting pending additional information.

Tom Hutchins of Hutchins Engineering presented the following:

- They have made a significant revision to the design of the project after the concerns that were expressed at the last Board meeting.
- He detailed all the changes to the Board on the plans.
- They have relocated the project to the north side of the house.
- They have given up on the garage they had previously asked for.
- It is completely compliant; the variance is due to the existing house being non-compliant.
- They have included stormwater controls in the form of a chamber infiltration bed that will not be seen.
- They have also included vegetated planting areas to provide some relief for drainage, which emulates from the west to the east. They are not specifically stormwater controls, they are just shallow grass planting areas that meet setbacks for stormwater controls.

Jason Saris asked if any physical investigation such as test pits had been done yet. Mr. Hutchins replied that they have done test pits and he detailed them to the Board. Jason Saris asked if the area they are relocating the building to was a dryer part of the property than where they had previously planned the construction. Mr. Hutchins stated it was much dryer and he detailed the test pits. Mr. Hutchins stated this had been approved by the Town Engineer.

Lake George Waterkeeper, Chris Navitsky presented the following;

- They support the redesign and feel it is a much better design and layout.
- They support the added stormwater controls.
- They suggest they extend the berms and provide vegetation on the east side of the house.
- They feel this is an improvement of design.

RESOLUTION

The Zoning Board of Appeals received an application from Paul Gollhofer Irrevocable & Gollhofer, John & Lorie, (V16-03) 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 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 any other means feasible to the applicant besides an area variance: This applicant has pursued a new option which is a better option and the best feasible means.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The addition is conforming with the other structures on the property.
- 3) The request is not substantial; this is a modification of a pre-existing, non-conforming structure.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The proposed storm water will mitigate any adverse effects.
- 5) The alleged difficulty is self-created; in the fact that they want an addition but it is necessary because it is attached to 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 Holly Dansbury, it is resolved that the ZBA does hereby approve variance request as presented with the condition that additional plantings be added to the east side of the property. **All in favor. Motion Carried.**

The meeting was adjourned at 8:07.

Minutes respectfully submitted by Kate Persons