

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday- April 25, 2006
6:30 p.m.

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

Present: Chairman Greg Smith, Kam Hoopes, Tom McGurl Jr., Bill Pfau,
Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: Tony DePace, Meredith McComb, Michael Murray

Chairman G. Smith opened the meeting at 6:32 pm by telling all applicants that while the ZBA has four members present—which is a very unusual situation—comprising a quorum to vote on items tonight, if an applicants wish to have more ZBA members present to review and vote on their applications, they have the option of tabling their applications until the May 2006 ZBA meeting.

G. Smith asked for corrections to the February 27, 2006 ZBA minutes.

K. Hoopes said on page 16, fourth paragraph, the last sentence should read, “K. Hoopes said he doesn’t think the last example *is the way they want to go.*”

Motion by T. McGurl to approve the February 27, 2006 minutes as amended. Seconded by K. Hoopes. **All in favor. Motion carried.**

G. Smith asked for corrections to the March 20, 2006 ZBA minutes and there were none.

Motion by K. Hoopes to approve the March 20, 2006 minutes as presented. Seconded by B. Pfau. **All in favor. Motion carried.**

1) V06-07 PALAZZO, JAMES. For the construction of a proposed 40 ft. x 30 ft. (excluding overhangs) utility structure, seeks 1) use variance to allow an accessory structure without a principal, and 2) area variance for deficient front yard setbacks. 75 ft. is required from the edge of the right-of-way for Valley Woods Road, 44.4 ft. is proposed. Section 171.06, Block 1, Lot 22, Zone RL3. Property Location: Valley Woods Rd. The WCPB determined no county impact. Subject to SEQR. The Planning Board recommended approval with the condition that the stormwater pit and trench be lined with filter fabric.

James Palazzo gave an overview and said (1) they are proposing to construct a 40 ft. x 30 ft. utility structure for storage, (2) the proposed utility structure is 4 ft. shorter than the original single-family dwelling they proposed in 2003, which they were unable to build due to the location of the brook across the street and the inability to install a septic system and (3) he is looking for a place to keep his supplies inside; neat and clean.

G. Smith asked where everything is currently being stored and James Palazzo answered by saying everything is underneath the overhang and in the garage, which would all be put inside the proposed utility structure. G. Smith asked if anything would be stored outside of the proposed utility structure and James Palazzo said no.

K. Hoopes said (1) use variances are real hard to get, (2) under the circumstances for that lot which is approved and taxed, this lot can't be built on because it can't support a septic system, which encourages him to think a use variance might be the best use for this property. G. Smith said the lot is a financial burden on the applicant and K. Hoopes agreed. James Palazzo said he tried many different things to accommodate the originally approved single-family dwelling and septic system, but he couldn't make it work. K. Hoopes said the ZBA is not going to encourage people to shoehorn a septic system on a parcel and James Palazzo agreed saying that is why he didn't go any further. G. Smith said (1) he knows the applicant tried many different things and (2) between the septic and the brook, the lot is not big enough.

G. Smith asked if the proposed utility structure would have power but no water and James Palazzo said yes. B. Pfau said (1) he wishes there was another way the ZBA could handle use variances for accessory structures, because a utility building can be built in this zone, just not without a primary structure and (2) he agrees that the applicant is squeezed on this piece of property. K. Hoopes asked if the applicant owns the property across the street and James Palazzo said currently, it is owned by his two sons.

K. Hoopes asked Counsel for guidance in navigating through the use variance language and Counsel replied by saying (1) the ZBA has to look at the RL3 residential low density zoning district uses, (2) the key to being successful in terms of permitting a variance from those requirements would be that the applicant has a substantial burden that must be satisfied to the ZBA's satisfaction that the property in question cannot be used for that multitude of uses—which is a tough task, (3) the applicant has to persuasively argue his case, (4) he referenced page 20109 of the Code saying that the uses permitted as a matter of right would be your typical detached single-family residence, a hunting or fishing camp, as well as any of the permitted accessory uses, any Type 1 Use and any Type 2 Use under the Guides of Special Use Permits, (4) P, Kenyon listed it as a use variance to allow an accessory structure without a principal, so the principal is absent but the accessory use is there and (5) asked what the accessory use would be. James Palazzo said that the use would be storage. Counsel said (1) storage sheds are certainly allowed and (2) asked that when a storage shed this size is then placed on the property if it is then logically going to preclude any possible development of a permitted use. G. Smith said (1) there is just not enough space and (2) it would just be a storage facility. Counsel said that (1) P. Kenyon would be correct in showing the ZBA that you just don't have a primary use here, so to just allow accessory without a primary is a use variance, (2) it is a hard test to get a use variance. K. Hoopes said it is a very hard test, but the ZBA has navigated those choppy waters in the past and Counsel agreed.

Counsel asked what the overall size of the property is and James Palazzo said it is basically 100 ft. x 100 ft. Counsel asked what precludes the applicant from logically

putting a detached single-family residence on that half-acre and asked why it is not a good use. G. Smith responded by saying the applicant doesn't have room for a septic system and water supply on the same piece of property and Counsel said okay, so that is precluded just by the nature of what is required to get the separation from septic and wells. G. Smith said the brook across the street is also too close resulting in setback issues. Counsel asked if it is accurate that the applicant has setback issues that constrain, if not prohibit the applicant, from putting a residence there and James Palazzo said that is correct.

Counsel asked what is illogical or impractical about putting a hunting or fishing camp under 300 square feet for seasonal use only on the property and K. Hoopes and G. Smith responded by saying the residential neighborhood. James Palazzo said that you can't shoot rifles in Town, so he doesn't know how he could put up a hunting camp. G. Smith said the lot location is within 500 feet of a residence.

Counsel said (1) what the applicant has established is that a single-family residence or hunting/fishing camp under 300 ft. for seasonal use are just not, by logic and constraints on this property are not ever going to be built on that lot, (2) when you go through the Type 1 Uses, certainly timber harvesting is not a practical use there, nor would a sawmill, nor would a commercial or agricultural service, you can't even fit a multiple-family dwelling of 35 or more units and he is sure he'd pack the room here if the applicant were proposing an adult entertainment business, sand and gravel extraction—certainly inappropriate for a half-acre parcel, timber harvesting of greater than an acre—by definition an impossibility, cultivation of more than five acres—totally inappropriate, agricultural use—totally inappropriate, home occupation—certainly if you can't get a home on there then there's no sense worrying about a home occupation, wood and metal fabrication, automobile repair, contractor's office for equipment storage not visible from a public right-of-way—the whole thing is visible from a public right-of-way, commercial boat storage is inappropriate in the fact it would not fit on that parcel, indoor boat maintenance would not fit on that parcel, multi-family dwellings including condominiums—not logical on a half-acre parcel, an accessory structure containing more than 1,500 square feet of floor space—somehow by special use permit it is an available use—but the proposed structure has 1,200 square feet of available floor space, (3) he (Counsel) would say that the applicant has done an excellent job in excluding logically and specifically all of the available primary uses and secondary uses and (4) if this is still going to be considered a developable lot and the applicant gets taxed, it is a tax-paying parcel and it supports the tax base, so the applicant ought to be permitted to do something with it, but it has to be reasonable in the ZBA Members' opinion as an alternative to all of the uses the applicant can't possibly put there—if the ZBA accepts that argument then the applicant has done the job of meeting the burden that all possible and logical permitted uses are excluded by the property, it's size, the constraints in terms of its proximity to the stream, and the fact that the applicant can't get a proper septic system there or well separation—that is the platform from which the ZBA can operate.

Correspondence: Read into the record by Counsel.

- Letter from William Wickman and Donna Lewis dated 4/17/06 and addressed to Zoning Administrator Pamela Kenyon—opposed.
- Letter from Clayton R. Roberts, CEO of Board of Directors of Woodshire Estates Corporation dated 4/10/06 concerns

James Palazzo replied to the correspondence by saying (1) in 2003 when he first came to the ZBA on the original proposed single-family residence, he had a neighbor ask to park his tractor trailer on the property and he told him it was okay, then Clayton Roberts called the police about the tractor trailer that night, (2) after the flood the berm no longer existed—a 6 ft. high pile of trees remained of the original berm, (3) AP Reale asked to set up on the property in order to clean the lot and he told them to do so, (4) AP Reale cleaned up the whole lot, put gravel on his property and put topsoil on the common area between his (Palazzo's property) and Woodshire Estates—he never took the berm in question down, AP Reale cleaned up the whole lot, (5) he (Palazzo) put an 8 ft. steel rod with a flag and caution tape on it where the original survey stake was located—about 6 ft. of the original berm which is still there, (6) Clayton Roberts never attempted to get in touch with him on this matter and has been giving him problems since 2003. G. Smith asked if the two loads of sand are still on the applicant's property and James Palazzo said yes, they are on his side right in line with the old berm—he put the dirt back there.

K. Hoopes said he doesn't see where the complaints in Robert Clayton's letter are pertinent to this case as long as the applicant is trying to build something and (2) the property lines are not being violated, but they would be honored. G. Smith said (1) the complaints are pertinent in the ZBA finding out what the deal is and the applicant just told the ZBA what is going on and (2) the ZBA knows where the proposed building will be located. T. McGurl said all of the materials would be stored inside the proposed utility structure. K. Hoopes said that the proposed structure would put less impact on that piece of property as it is close to a water source and highway.

James Palazzo said regarding the Wickman/Lewis letter, the utility storage unit would be accessed in the morning at 7:30 am to pick up supplies and at the end of the day at 4:00 pm—which he doesn't think is late—to drop off supplies.

No public in attendance.

No County impact.

G. Smith addressed the SEQR Analysis and asked if any action could result in any adverse effects associated with the following:

1. existing air quality, surface or groundwater quality or quantity, noise levels, existing traffic patterns, solid waste production or disposal, potential for erosion, draining or flooding problems.

The ZBA Members all agreed the answer is no.

2. the aesthetic, agricultural, archeological, historical or other natural or cultural resources or community or neighborhood character.

The ZBA Members all agreed the answer is no.

3. vegetation or fauna, fish, shellfish, wildlife species, significant habitats or threatened or endangered species.

The ZBA Members all agreed the answer is no.

4. a community's existing claims or goals as officially adopted or a change in use or intensity of use of land for other natural resources.

The ZBA Members all agreed the answer is no.

5. gross subsequent development or related activities likely to be induced by the proposed action.

The ZBA Members all agreed the answer is no.

6. long term and short-term cumulative or other effects not identified in the first five.

The ZBA Members all agreed the answer is no.

7. other impacts including changes in use for either quantity or type of energy.

The ZBA Members all agreed the answer is no.

Motion by K. Hoopes to declare the SEQR analysis to be negative. Seconded by T. McGurl. All in favor. Motion carried.

Counsel said that now the ZBA has two issues—one is a use variance and the other is an area variance—and the ZBA has to apply both standards.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-07) James Palazzo for an area and use variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law for a use variance:

K. Hoopes said that regarding reasonable return, the applicant is paying taxes on a piece of property that the ZBA ascertained he cannot use as specified in the Zoning Ordinance;

- 1) you can't built a primary residence because of septic, setback and water supply issues,
- 2) the alleged hardship is unique; it does not apply to a substantial portion of the district or neighborhood—he thinks this property is unique and stands by itself as it is a 100 ft. x 100 ft. lot that is wedged between the road and a water source—very unique size, dimensions and location,
- 3) the requested variance will not alter the essential character of the neighborhood—right now it is an empty lot and the Town has had buildings of various sorts up and down that road, presently there are materials stored outside on the property across the road, and this would be an improvement in the character of that neighborhood and
- 4) the alleged hardship is not self-created—the applicant bought this lot as it is.

The Board makes the following conclusions of law for the area variance:

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance, it is a dimensional problem where the applicant is meeting all the setbacks except the one he is crowded on for the highway itself;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, it has not been established—it is a handsome building;
- 3) The request is not substantial, given the size and position of the lot and the substantiality of the setback from the highway at 44 ft. is not sensible—there won't be that much traffic in and out of there;

- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, he is positive that a use variance will have less approximate adverse or physical effects as it will be a covered storage area only;
- 5) The alleged difficulty is not self-created, the property came as it is and it will not support anything other than what the ZBA has been presented with.

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

Now, upon motion duly made by Kam Hoopes and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that the stormwater pit and trench be lined with filter fabric. **All in favor. Motion carried.**

2) V06-04 LINDYBERG, JAN & GENA. Represented by Chris Gabriels. To alter a pre-existing non-conforming dock, seek area variance for 1) a deficient side yard setback. 20 ft. is required, 11 ft. is proposed, and 2) to alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 141.00, Block 1, Lot 20, Zone RCL3. Property Location: 5680 Lakeshore Drive, known as Adirondack Motel. The WCPB determined no County impact. APA REVIEW required.

Chris Gabriels, representing Jan and Gena Lindyberg, gave an overview and said that (1) the LGPC has already approved this and (2) the applicant is looking to remove an 8 ft x 8 ft. section of dock on the lake side and pull it back to the shore and reconstruct it as a walkway with no increase in the square footage and is getting no closer to the setback.

G. Smith asked if the applicant is pretty much just moving a section of dock from one place around to another and Chris Gabriels said yes. G. Smith said (1) it seems simple to him and (2) neither the LGPC nor the APA have a problem with this.

No County impact.

No correspondence.

B. Pfau said he thinks it is a good plan that eliminates the need to mess with the shoreline. G. Smith asked if it is being opened up and Chris Gabriels replied by saying yes, they are opening it up to hopefully park a few more boats.

No public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-04) Jan and Gena Lindyberg for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item #2 of the agenda.

The Board makes the following conclusions of law:

- 1) There will be no undesirable change in neighborhood character or to nearby properties, it is not a lot of change;
- 2) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 3) The benefit could not be achieved by other means feasible to the applicant besides an area variance, the present dock does not meet setbacks;
- 4) The request is not substantial, setbacks cannot be achieved;
- 5) The alleged difficulty is not self-created.

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

Now, upon motion duly made by Bill Pfau and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

3) V06-09 BUTLER, ROSAMUND. Represented by Chris Gabriels. To alter pre-existing non-conforming camp, seeks area variance for 1) Deficient setbacks, a) shoreline. 75' is required from the mean high water mark, 54.6' is proposed, b) side. 20' is required, 18.6' is proposed on the south side; 16.3' is proposed on the north side, and 2) To alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 171.12, Block 1, Lot 4, Zone RL3. Property Location: Crown Island. Subject to WCPB & APA REVIEW.

Chris Gabriels, representing Rosamund Butler, gave an overview and said that the proposed addition would be behind the existing camp and roughly centered in the lot, so you can't see this from the lake.

G. Smith said (1) it would be on the ledge, which is very well hidden and (2) asked if it is currently a room with a deck on it that they want to add a bedroom and a bath onto. Chris Gabriels said that is correct.

G. Smith asked if the septic was redone last year and Chris Gabriels responded by saying (1) yes, the septic was created last year for two-bedrooms and (2) they will have to include an additional septic tank and a possible pump tank to access that lead. P. Kenyon said that the applicants will be going before the Town Board, acting as the Local Board of Health in May for a variance for the septic tank to be closer to the proposed addition than is allowed. Chris Gabriels said that (1) the septic variance is mandated to be 10 ft. and it is proposed to be 8 ft. because of the conflicting setback requirement from the water line being 10 ft. from the foundation, (2) the building will have no basement—it will all be above ground, (3) this is a fairly small lot and (4) unlike last time, both neighbors have given their approvals of both setbacks.

Correspondence: Read into the record by Counsel.

- Letter from Roger Summerhayes dated 4/07/06 in favor of project.
- Letter from S.C. Meigher dated 4/07/06 in favor of project.

No County impact with the condition that no further residential development be allowed as the septic system is only allowed for two bedrooms.

G. Smith said this would maximize that. P. Kenyon asked if it is only two bedrooms and Chris Gabriels said yes.

No public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-09) Rosamund Butler for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact with the condition that no further residential development be allowed as the septic system is only allowed for two bedrooms;

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 1) There will be no undesirable change in neighborhood character or to nearby properties, the property owners on each side are in agreement;
- 2) The benefit could not be achieved by other means feasible to the applicant besides an area variance, the existing building to be added onto does not meet setbacks to the lake and there is also a 0 ft. lot setback which necessitates the size of the footprint;
- 3) The request is not substantial, setbacks cannot be achieved;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the septic system will handle the additional bedroom;
- 5) The alleged difficulty was not self-created.

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

Now, upon motion duly made by Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that the amount of bedrooms does not exceed two. **All in favor. Motion carried.**

4) V06-10 BURNS, THOMAS. Represented by Chris Gabriels. To alter pre-existing non-conforming, seeks area variance to alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 200.14, Block 1, Part of Lot 10, Zone RM1.3. Property Location: Cotton Point Rd. House 11. Subject to WCPB & APA REVIEW.

Chris Gabriels, representing Thomas Burns, gave an overview and said that (1) this proposal is not increasing any square footage or setback requirements—in fact the existing structure does not meet the 20 ft. setback and the proposed structure will meet that setback and (2) it is simply reallocating square footages.

G. Smith asked if the proposal is to remove two existing 4 ft. x 30 ft. docks and to add one 8 ft. x 40 ft. dock and to remove the 16 ft. x 40' deck and rebuild a 15 ft. x 40 ft. deck

and Chris Gabriels said yes. G. Smith said it appears the applicant will be putting two docks back—not one and Chris Gabriels clarified by saying (1) they are proposing to put in one 8 ft. x 40 ft. dock and one 15 ft. x 40 ft. deck and (2) the only other change, which is non-jurisdictional to the LGPC, is the addition of a 2 ft. x 10 ft. area in front of the screened porch, as the screened porch is set back from the house plane, so it would be bringing it right back to the screened porch as well.

G. Smith asked if the new dock would be pulled away from the north property line and Chris Gabriels said yes, the proposed dock will actually comply with the 20 ft. setback requirements whereas the old one didn't.

B. Pfau asked if the original plan was to leave the docks as they currently exist and Chris Gabriels said all that currently exists is still there. B. Pfau asked if it is accurate that the original plan submitted for the house was to leave the existing docks there and Chris Gabriels said at that point they were unsure of what would happen to the docks.

No County impact with the condition the applicant receives all of the necessary permits needed. P. Kenyon said obviously they are going to do that.

No public in attendance.

No correspondence.

G. Smith said (1) this proposal is pretty much a rebuild of what is already there, (2) the applicant is moving away from the northern property line and, (3) he has no problem with this application.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-10) Thomas Burns for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact with the condition the applicant receives all of the necessary permits needed;

and, after reviewing the application and supporting documents of the same, and there being no public comment regarding the application;

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in neighborhood character or to nearby properties;
- 3) The request is not substantial, in fact they are trading two docks for one dock that will actually be coming into compliance;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, as it is a consolidation;
- 5) The alleged difficulty is not self-created.

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

Now, upon motion duly made by Kam Hoopes and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

5) V06-11 CHURCH OF THE BLESSED SACRAMENT. Represented by Al Riccardi. For a proposed 24 unit senior citizen housing complex to be attached to the existing church, seeks area variance for 1) Length; 120 ft. maximum allowed, 202 ft. is proposed. 2) Deficient setbacks. a) front: 50 ft. is required, < 1 ft. is proposed. b) side: 20 ft. is required, < 1 ft. is proposed. 3) Density; 32.5 acres required, .97 acres exists. 4) Lot coverage; 15% allowed, 38% proposed. 5) Parking; 150 total spaces required, 63 proposed. 6) To alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 171.19, Block 1, Lot 80 & 81, Zones GB5000 & RM1.3. Property Location: 7 Goodman Ave & 12 Dula Place. Site Plan Review required for multi-family dwelling. Subject to WCPB REVIEW.

Al Riccardi, representing Church of the Blessed Sacrament, gave an overview and said (1) this proposal finds them between a rock and a hard place—the rock being the establishment of all the Town and County setback rules the applicants have to comply with and the hard place is the Towns people—they need it desperately and need a place they can live in Town after selling their big homes, (2) another hardship is that Father Young has to be able to bring this building in under the numbers he has to play with, (3) in order to get this job done, they need the ZBA to dig into this and see what they can do, and (4) they were here two year's ago with this project and they were led to believe by that ZBA that they would have a zero tolerance and 0 ft. lot line setback and the biggest objection at that meeting was the parking on Dula Place.

G. Smith asked if parking for these units will take place in the existing church parking lot and Al Riccardi said yes. G. Smith asked if this plan started out as a 12-unit proposal two years ago and Al Riccardi said yes, but going back it is not feasible to build this on the income of 12-units.

G. Smith said (1) that while he does recall being at the meeting two years ago and the discussion about the 12-units, he does not recall the zero tolerance part, (2) he thinks it might be squeezing it in on the corner of Dula Place where the applicants are only 4 ft. on one side and 1 ft. on the other side, which he thinks might be too close to the road since it is already a sharp corner, suggesting that possibly be pulled back, which would mean losing two units, (3) his concern is the tight corner for fire equipment and emergency personnel equipment, etc. and (4) the houses that are pre-existing there were built many years ago and are too close to the road as it is—so one of the concerns he has with this plan is that it is an awfully tight corner. Al Riccardi said they are here this evening to get the ZBA's recommendations and will re-design the building to fit those recommendations.

K. Hoopes said the applicants have said they designed this plan for cost effectiveness and asked if any study has been done that says the 24 units would be filled or overfilled in a short time. Al Riccardi said (1) yes, it is way over this number—with vacancies you could fill 50 units here tomorrow, especially for the elderly people who have large homes and don't want to leave Bolton and (2) he wants to make the emphasis clear that this housing would strictly be for the elderly people of Bolton.

K. Hoopes said (1) the applicants already have a virtual waiting list, (2) there are big impacts all over the place with this plan and (3) the big impact on the parking, the church being what it is, draws a big crowd on Sundays, If you have 24 units that are occupied with cars going with that, it seems there would be some kind of conflict. Al Riccardi said yes, if everybody had a car, but the projection is that if they have one car per space of the 24 they think there will only be approximately 12 cars there at any one given time as not all elderly (ages 70+) who would be living there would have a car. T. McGurl said in the summertime the parking might be tight, but this time of year even on Sundays it wouldn't be that bad. G. Smith said he agrees that probably only half of the elderly residents of the housing units will have cars.

B. Pfau asked if any survey, formal or informal, has been done about how the project is viewed by residents on Dula Place and the surrounding areas and how the size of the building may affect them. Al Riccardi said (1) they spoke with residents at Stewarts and the Fire Department and the majority of those spoken to seem to be for it and (2) the Dula Place residents' biggest concern or objection with the plan seems to be the parking, as they don't have enough room to turn around now on Dula Place, but no cars should be parking at the back of Dula Place, which is the reason for the 0 ft. lot line.

G. Smith asked if the applicants choice of brick is set in stone and Al Riccardi replied by saying that right now nothing is set in stone until they get the ZBA's input on what they would like there. K. Hoopes said he sees how the applicants are trying to match the

church facade. G. Smith said (1) having it all brick would make it stick out like a sore thumb, (2) he thinks it would be better to blend it in with earth-like colors and (2) they make masonite siding now that looks nice on buildings that are pretty much fireproof which can be painted in earth tones and would blend in better with the neighborhood. Al Riccardi said (1) those were good suggestions and whatever the ZBA recommends they will do, (2) once they get into design, they will have to go along with the architects for safety—especially with elderly people and the HUD requirements that need to be met, (3) tonight they need to go ahead, if they can, to see what size building they can put up, then they can get into the architectural design.

B. Pfau asked what the applicant would think if the ZBA recommended the proposed building have 10' setbacks on all sides instead of the 1' proposed setback and Al Riccardi said they submitted a set of plans with a 10' setback.

K. Hoopes said his first recommendation is to remove the four corner units on Dula Street and Dula Place (Units #101, 103, 201 and 203) which would free up the congestion on the corner and leave the stairways and walkways intact and the units the same size and configuration, (2) probably on the east end of Dula Place doesn't bother him as much, (3) the crowding of the Bolton parking lot on the east end doesn't bother him so much, (4) the one place he thinks the plan runs afoul and is offensive is on that corner and (5) it wouldn't require a huge architectural scramble to remove the four corner units.

B. Pfau said (1) he is interested in hearing what the immediate neighbors have to say about the plan and (2) this is a huge building and a huge project in a residential area, so he would like to recommend that this plan go to the Planning Board for their comments and recommendations. K. Hoopes said that (1) as he understands it, the applicant is in front of the ZBA now because he wants to get a feeling for how the ZBA members feel, (2) the ZBA is three members short tonight, so the applicant isn't getting his money's worth tonight and (3) he understands the applicant wanted to come before the ZBA to get some idea first before submitting a full-fledged set of plans and do all the studies which cost money. Al Riccardi said if they don't leave here tonight with some sort of setback to give them a guideline, they can't design the building before they go to the PB. G. Smith said the ZBA wants the applicants to go to the PB to get their thoughts and ideas in addition to the ZBA members' thoughts and ideas. K. Hoopes said (1) that the ZBA also doesn't want to get into the pie in the sky thing—his understanding is that the applicant also has another set of plans—if the ZBA members become the designers of the plan, that is a bad thing for everybody concerned, (2) his concern is the corner of the proposed building on the corner of Dula Street and Dula Place and (3) there is a need for senior housing, as shown in the comprehensive plan and general living in Town.

G. Smith said he sees all sorts of stairs but no elevators in the plan and Al Riccardi replied by saying that is another thing—it is going to cost them about \$40,000 to design this building which includes the elevators—they are going to try to eliminate all stairs if possible with the exception of fire exits and (2) before Father Young can put in that amount of money, a footprint of the building has to be established.

G. Smith said he also thinks the applicant should bring this set of plans to the PB too before they go any further. T. McGurl said that (1) he agreed, (2) he likes the fact the applicants are trying to clear out the one corner and blend everything in, and (3) one of his concerns is the parking lot along Dula Street and where the snow is going to go in the winter as it is tough to find a spot for it now without losing parking. Al Riccardi said that (1) if they are down to a 0' setback it will basically be going where it has been going and (2) once they get into designing, they have to design the storm sewers in order to pick up the run-off of the water which will dictate where the snow will go and where the run-off will be. G. Smith said the applicants need room on the property for that as well, because all of the run-off needs to be retained on the property. Al Riccardi said they are going to get into the green area and are looking for some direction tonight. T. McGurl said (1) he agrees with the earlier suggestion of removing the four corner units and (2) also suggests that the rooms closer to the church on the other side come back away from the parking lot to open up some parking space there—split the difference and move those rooms back into that space a little bit. B. Pfau said it is also important to go to the PB because this is a huge change for community. Al Riccardi said he agrees 100%, which is why they are here.

Correspondence: Read into the record by Counsel.

- Letter from John F. Whitney of 8 Dula Place dated 4/17/06 opposed.

From the public, John LeFevre, corner house owner, said (1) he does not oppose the concept of use of the building for senior housing, but opposes the proposed building size and proposed number of units, (3) the variances are way beyond what is acceptable for the size of this lot, (4) the proposed building won't enhance the existing homes in the area; property values will go down, (5) he has concerns with parking and traffic flow, (6) older people do drive, so the senior residents having a total of only 12 cars is not realistic and the residents will also have daily visitors which will add to the amount of vehicles there, (7) there will be a loss of green space and trees and (8) there is going to be a lot of change and impact on the entire neighborhood and he is not sure that the impact is going to be a favorable one.

G. Smith said another reason the applicants are here tonight is to get the thoughts of the neighbors. Al Riccardi said (1) regarding parking concerns, there won't be double dipping because extra parking will be available next to the rectory and across the street, (2) the environmental impact study they have to go through will dictate exactly what they can do and (3) he does agree with Mr. LeFevre and the applicants will work along with the neighbors regarding how many units they would like right now.

B. Pfau asked if the applicants had any thoughts of changing the location of the proposed building to the other side of Goodman Avenue and Al Riccardi said yes, that was the first idea he had, but that concept was kind of turned down between the diocese, Father Young and the committee.

Father Peter Young said (1) for the past 30 years he has seen the need for senior housing and has been trying to find a way to meet that need, (2) he heard from many seniors time and time again that they are being forced to leave Bolton due to lack of senior housing, (2) B. Pfau is right in saying that this is a major change, (3) there is a sociological change that the elderly go through when they are put out of town and they can't find a decent place to live, (4) the price of housing in Bolton has become prohibitive—the Town has given its block rents away to commercial establishments, which could have been used for the senior citizens, (5) since that wasn't done, the Town is now in a dilemma where there is a need and the Town is not doing it, so they (the church) are volunteering with an idea, (6) they are eager for the Town to do senior housing and hopes the ZBA will look at the need for senior housing and to try to make it happen. G. Smith asked what the plan for the church is and the existing house in regards to supporting and guiding this project when Father Young retires in the end of June 2006 and Father Young replied by saying that (1) the diocese would be responsible to bring the project to fruition and (2) the diocese has done projects like this in several other locations and would take on the obligation.

From the public, Tom Whitney of 13 Dula Place said (1) he has heard nobody say that they oppose a project for senior housing—there is a need for senior housing, (3) the question is in trying to fit the project into the lot size and with the surrounding neighborhood and (4) the number of units needs to be decided upon before any setbacks are set.

Al Riccardi asked if the next step is for the applicant to go to the PB with plans showing the four corner units removed and G. Smith replied by saying that the applicant should go to the PB with the current set of plans, get the PB members' thoughts then come back with a revised plan.

Now, upon motion duly made by Kam Hoopes and seconded by Bill Pfau, it is resolved that the ZBA does hereby table the variance request and leave the public hearing open pending additional information and recommendation by the Planning Board. **All in favor. Motion carried.**

6) V06-12 JULIANNA MOTEL. To alter pre-existing non-conforming motel building, specifically to add a 10 ft. x 16 ft. deck, seeks area variance to alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 213.17, Block 1, Lot 33, Zone RCM1.3. Property Location: 3842 Lake Shore Drive. Subject to WCPB REVIEW.

Eric Fahlborg, co-owner of The Juliana, gave an overview and said he is proposing a 10 ft. x 16 ft. deck that he would like to bolt (attach one side to what is already there) for safety and security.

G. Smith said (1) it would all be facing the applicant's own property and not overlooking on the neighbors' property and (2) it is not as intruding as the other application that was

before the ZBA last year. T. McGurl asked if it is correct that it is not taking away from the parking as it is up on a grassy slope and Eric Fahlborg said yes.

B. Pfau asked how things have worked out between the applicant and his neighbors to the south and Eric Fahlborg replied by saying that (1) they are friends, (2) the southern neighbors are selling their property and agreed to this proposal.

No correspondence.

No County impact.

No public in attendance.

G. Smith said (1) this proposal is pretty straightforward, (2) it is protruding on the applicant's own property and (3) he has no problem with this application. T. McGurl agreed.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-12) Julianna Motel for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment regarding the application;

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 1) There will be no undesirable change in neighborhood character or to nearby properties, it is a deck on an existing building with no problems for the neighbors;
- 2) The benefit could not be achieved by other means feasible to the applicant besides an area variance, due to the fact that the pre-existing motel does not meet setbacks;

- 3) The request is not substantial, as the deck itself does meet setbacks;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is not self-created, due to the fact that the building does not meet setbacks.

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

Now, upon motion duly made by Bill Pfau and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor.**
Motion carried.

Eric Fahlborg said that for the record, he is grateful the ZBA members volunteer their time to be on the ZBA and to do the work they do with no monetary compensation.

7) V06-13 RENDERT, RICHARD & MARGARET. To demolish and rebuild single-family dwelling, seek area variance for deficient front yard setbacks. 30 ft. is required, a) 13.5 ft. is proposed on the north side; and b) 8 ft. is proposed on the south side. Section 171.15, Block 3, Lot 9, Zone GB5000. Property Location: 9 Hondah Loop. Subject to WCPB REVIEW.

Richard Rendert gave an overview and said that they are looking to replace their existing cottage with a new Lincoln Log style cottage.

G. Smith said it is the center lot and the proposed cottage would be in the center of that lot. Richard Rendert said he doesn't anticipate hurting any trees. G. Smith said the applicants are looking to go a bit bigger and Richard Rendert replied by saying yes, the proposed cottage would be two feet narrower and four feet longer with an 8 ft. deck on the side toward the lake.

G. Smith said the applicant is looking to go up another half story and Richard Rendert said that is correct. G. Smith asked if the applicants need association approval for this and Counsel replied by saying that there is a letter in the file in favor of the project.

Correspondence: Read into the record by Counsel.

- Letter from Hondah Cottages Homeowners Association dated 4/17/06 in favor of the project.

T. McGurl asked what the square footage of the existing cottage is and Richard Rendert said he is unsure. T. McGurl said (1) there are other two story cottages in that association and (2) he was a little concerned with the existing cottage increasing in size rather than remaining the same size.

B. Pfau asked how the height of the proposed structure compares to the neighbors' house behind the existing structure and Richard Rendert said the house behind them was raised up as was the house in front and the one to the north. B. Pfau asked if the height of the proposed cottage will be similar to the height of the house in back of the proposed cottage location and Richard Rendert said yes. G. Smith said the existing house height is 19-20 ft. tall and the proposed structure is just over 28 ft. P. Kenyon said that the plan shows the existing home height is 15 ft. G. Smith said that the proposed cottage would be 28 ft. x 32 ft. with the overhangs.

B. Pfau said (1) it seems that everyone in Hondah Cottages is building up because that is the only way you can go and (2) his only concern is the effect the increased height might have in blocking the views of the neighbor on Lot #8. Richard Rendert said they sent letters to all of the neighbors in Hondah Cottages and nobody in the association has voiced any concerns with the project.

P. Kenyon said that the applicants' application says that they will be expanding the cottage by 460 square feet. B. Pfau asked if the 28 ft. height is typical in that location and P. Kenyon answered by saying that she is not sure, but she knows there are a lot of two-story cottages down there. G. Smith said yes, it is typical, because the one across the street from the applicants to the north is at least 28 ft. in height.

From the public, Rod Owens, a neighbor in Hondah Cottages, said he has no objection to the project as there are several two-story places now and what is proposed should add very nicely to the mix.

No County impact.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-13) Richard & Margaret Rendert for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

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

this Board makes the following findings of fact:

The application of the applicant is as described in Item #7 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, it is fitting in with the neighborhood and will be similar in scope and approach;
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is not self-created, as the applicants bought the house as it was.

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

Now, upon motion duly made by Kam Hoopes and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

8) V06-14 GARDNER, EDWARD. Represented by Timothy Hendricks. To alter pre-existing non-conforming structure, seeks area variance for a deficient shoreline setback. 100 ft. is required from the mean high water mark, 25 ft. exists and is proposed. Section 123.00, Block 2, Lot 2, Zones RR10 & LC25. Property Location: 275 Hendricks Rd. Subject to APA REVIEW.

G. Smith asked if the mean high water mark is from the pond and Timothy Hendricks said (1) yes, presently they have a pre-existing building there that was built in the 1960s or early 1970s which had a flat roof for over 30 years, (2) the flat roof has had a history of leaking problems over the years and continues to leak quite a bit and (3) the applicant would like to replace the roof before there is anymore structural damage to the building and (4) the applicant is planning on a metal roof and (5) currently all of the stormwater comes off the roof on the north side and goes directly into the brook—with the ZBA's concerns with stormwater, the new roof design would re-direct stormwater off both sides of the roof.

G. Smith asked if the applicant is willing to put in stone along the eave line with filter fabric paper if the ZBA would like to try to retain some of the water and Timothy Hendricks said yes.

B. Pfau asked how much higher the proposed building height will be and Timothy Hendricks replied by saying that it would be between four ft. and six ft. G. Smith said that the applicant would still be within the limits. B. Pfau said he thinks the applicant needs the variance to save the building and G. Smith agreed.

No correspondence.

No public in attendance.

G. Smith said (1) he has no other questions on this application and (2) it is obvious that the applicant needs a roof on the structure in order to protect it from structural damage.

P. Kenyon said the application is going to the APA.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-14) Edward Gardner for an area variance as described above.

And, due 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 there being no public comment regarding the application;

this Board makes the following findings of fact:

The application of the applicant is as described in Item #8 of the agenda.

The Board makes the following conclusions of law:

- 1) There will be no undesirable change in neighborhood character or to nearby properties, it will remain a lodge with a new roof which will add 6' in height to the building;
- 2) The benefit could not be achieved by other means feasible to the applicant besides an area variance, as the house does not meet setbacks from the lake;
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is not self-created, as the building again does not meet setbacks.

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

Now, upon motion duly made by Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that stormwater controls be implemented. Specifically stone trenches lined with filter fabric be placed along the eave line of the house. **All in favor. Motion carried.**

9) V06-15 GEORGE, JIM. Represented by Greg Bonath. To alter pre-existing non-conforming structure, specifically to construct a proposed deck/stairs, seeks area variance for deficient setbacks. 1) Front; 50 ft. is required, 22 ft. is proposed from edge of right-of-way(not road). 2) Rear; 20 ft. is required, 4 ft. is proposed. 3) To alter a pre-existing non-conforming structure in accordance with Section 200-56. Section 171.15, Block 2, Lot 8, Zone RM1.3. Property Location: 14 Second St. Subject to WCPB REVIEW.

Greg Bonath, representing Jim George, gave an overview and said (1) it is a good-sized wooded, secluded lot and (2) he is proposing to put a set of stairs parallel to the house so the applicants can access their laundry room, which would make it easily accessible by walking right along the house and into the cellar door.

G. Smith agreed that the lot is good-sized and is also secluded. Greg Bonath said that he proposes to put in a sliding glass door with a picture window in it so the applicants can access the deck. G. Smith said it is pretty simple. T. McGurl said it seems like a better use of space for the topography in that location.

No correspondence.

No County impact.

No public in attendance.

G. Smith said the proposal is cut and dry and simple as far as he is concerned—he has no problem with it. B. Pfau said it should be noted that the deck itself meets the rear-yard setback, it is just the little catwalk on the corner that doesn't.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-15) Jim George for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 1) There will be no undesirable change in neighborhood character or to nearby properties;
- 2) The request is not substantial;
- 3) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 4) The alleged difficulty is not self-created.

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

Now, upon motion duly made by Tom McGurl and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

10) V06-16 ENGLISH, EDWARD. Represented by Eugene Baker. For the construction of a proposed 26.8 ft. x 32.8 ft. garage with storage, seeks area variance for deficient setbacks. 1) Front; 50 ft. is required, 27 ft. is proposed, and 2) Shoreline; 75 ft. is required from the mean high water mark, 20 ft. is proposed. Section 171.08, Block 1, Lot 12, Zone RCM1.3. Property Location: 18 Braley Point. Subject to WCPB & APA REVIEW.

Eugene Baker, representing Edward English, gave an overview and said that (1) the a garage would eliminate a temporary structure within 5 ft. of the brook, (2) there would be stormwater used for the proposed building and the applicant would also gather 2,400 square feet of impervious soils (parking blacktop) that aren't currently being captured, (3) the proposed building will match the aesthetics of what currently exists and (4) there will be no living space in the garage—it would be strictly for storage and a home gym.

G. Smith asked if it is correct that should the variance be granted then the green structure would be taken down and there would be nothing stored outside of the proposed garage

and Eugene Baker replied yes to both. G. Smith said he had a few complaints from a few of the neighbors that they don't like the looks of things currently being stored outside.

T. McGurl asked if the proposed garage would be located where the temporary structure currently exists and Eugene Baker said no, the proposed garage would be located closer to the telephone pole. G. Smith said that the proposed garage would be about 20' from the brook. B. Pfau said he is worried about the cumulative effect of structures being by that particular stream and asked if the proposed garage could be moved further back from the stream and still make it work. Eugene Baker said they would be encroaching on the other setback, but they could probably move the proposed garage location back an additional 5 ft. to 6 ft. from the stream. B. Pfau said he thinks it would be better to get the proposed garage as far away as possible from the stream and not worry about the setback from the right-of-way, since there isn't a whole lot of traffic down there. G. Smith asked if the proposed garage would be approximately 27 ft. from the right-of way and Eugene Baker said yes.

K. Hoopes said that he has concerns with this proposal in that (1) he doesn't like where the storage exists now, (2) he doesn't know how the portable garage came to be, (3) the other garage is right on the right-of-way, (4) from 1997-2006, there are a whole litany and series of projects and variances, (5) the proposed layout is not optimal, (6) while having the proposed structure located 20 ft. from the stream is better than 5 ft. from the stream, the 20 ft. measurement is still a concern and (7) he is unsure if the benefit to the applicant doesn't outweigh the detriment to the neighborhood.

Eugene Baker said that he doesn't know how to turn or pivot the location of the building to move it farther from the stream other than to pull it closer to the road by about 5 ft. T. McGurl said he can see the need for the applicant to store recreational items, but in looking at the balancing act, he questions how self-created it is to put a second floor on the proposed garage for a weight room (home gym). Eugene Baker said the second-story is also for storage as the current storage space is quite congested.

B. Pfau said that if the applicant moves the proposed garage an additional 15 ft. away from the brook it would bring it 15 ft. from the right-of-way and Eugene Baker said they were also trying to keep the proposed garage away from the neighbors and the existing garage to make it look less like a tunnel and to make it easier to navigate.

Counsel said it may be a good idea and a minor change might be acceptable, but if B. Pfau has a major change in mind it probably requires some notice to the people who got notice of where they thought it was going to be and then when B. Pfau moved it dramatically the neighbors are still entitled to notice—a little tweaking is okay, but if it is a big tweak the ZBA may have to table it.

T. McGurl asked if there is a limit to the number of accessory structures allowed in the RCM1.3 Zone, as this would be the third additional building besides the main residence if the proposal is approved. Counsel asked how many accessory structures are allowed and P. Kenyon said that it was determined by the ZBA that only one guest cottage is

allowed—so one is allowed. Eugene Baker said they were under the assumption that ruling dealt with an accessory structure building under 1,500 square feet. B. Pfau asked if that can be appealed and P. Kenyon said it was a determination the ZBA made in 1998 and Counsel said the ZBA can change that determination.

K. Hoopes asked P. Kenyon to read the determination and P. Kenyon said the 1998 determination reads “Pam Kenyon is requesting an interpretation of permitted accessory structures as a question has been raised as to whether two guest cottages are allowed on one parcel. It was determined that only one guest cottage is allowed as is a barn, storage building, etc.” B. Pfau asked if it would make more sense for the applicant to appeal the 1998 determination and to change the 1998 determination and Counsel said yes. G. Smith said the applicant would need a variance from the 1998 determination as well and Counsel agreed.

Counsel asked if this is an acceptable interpretation or not and G. Smith said it must be if the ZBA came up with it in 1998. Counsel said in speaking for people who are not present, it may not be acceptable to them. K. Hoopes said that is true—they are up against a very short board tonight and that is the kind of thing the ZBA would want a fuller board for and Counsel agreed. K. Hoopes said the 1998 ruling is fine and asked if the applicant would need a variance from that ruling and Counsel said yes, it would still be area—it would be bulk—that is that they want to create one. G. Smith said it would more than just add a variance to the application that they would have to get.

Counsel said (1) there are so many directions you go when the question is raised of “How many?” and the answer comes back that in 1998 the ZBA decided one of each and that is it and (2) if the ZBA is uncomfortable with that interpretation, this ZBA can change it and he would certainly Council this ZBA to the fullest extent that it can get its membership not for it or to change it and (3) the applicant can, if the ZBA is going to go with that interpretation today, which may change tomorrow, the applicant can also petition for a variance from that saying he needs an additional storage building.

B. Pfau asked if the proper thing to do would be for someone would have to appeal that determination for it to change and Counsel said yes, but the time to take the appeal has expired. T. McGurl asked if it is also determined by what the applicant calls the proposed structure and Counsel said yes.

K. Hoopes said his question on the ruling is that even if you meet the setbacks and everything else and you wanted to put a second garage or a second guest cottage, you would need a variance for that and Counsel said that is correct.

P. Kenyon said that (1) there was a brief discussion regarding garages and it says three bays are allowed, (2) in the past, if a person has a two-bay garage they could have an additional one-bay garage making a total of three bays and (3) she has always applied it that if you have a two-bay garage and you want to build a one-bay garage it is okay. G. Smith said that is probably what this would fall under. Counsel asked how many bays are proposed for this garage and Eugene Baker said one.

K. Hoopes said he is inclined to suggest this be tabled because the ZBA is short three members and G. Smith said that has nothing to do with it. Counsel said that notwithstanding what the ZBA said in 1998 about storage buildings and guest cottages, the ZBA accepted out a special category for garages and this one fits. T. McGurl asked if the Town uses anything right now that says what the size of a garage is and P. Kenyon said no. G. Smith said it is the amount of bays that a garage has.

Counsel said that (1) the application stands as presented and (2) he would suggest that the ZBA tweak it a little bit and not take offense to the notice aspect, but you can't move it greatly and expect the neighbors to sit well with the fact that the ZBA reinvented the application without notice to the neighbors.

Eugene Baker said (1) the 27 ft. is actually the deck overhang—there is a 4 ft. deck that comes out in front of it and (2) the building itself would be 31 ft. G. Smith said (1) throwing in another 5 ft. toward the 27 ft. wouldn't hurt a thing, so moving it 25 ft. from the brook instead of 20 ft. wouldn't be a big issue and (2) it wouldn't be a big issue to the applicant as stated by Eugene Baker and he (Smith) doesn't think it would be a big issue to the neighbors either.

K. Hoopes said he has problems with this in that (1) 20 ft. from the stream is excessive considering the benefit that the applicant is going to get from this, (2) he has a problem with the adverse physical and environmental effects and (3) he has a problem with the number of variances this property is starting to labor. Eugene Baker said all of the variances the applicant has come for were mainly for aesthetic purposes and gave details on each of the variances this applicant has been before the ZBA for approval. K. Hoopes said that (1) they all required variances, (2) they all come before the ZBA, (3) after a while the projects start piling up and there is a case where enough is enough—it is an eternal project here.

No County impact with the condition that the clarification of the use of the existing building and if any buildings are to be removed due to the proposal.

Correspondence: Read into the record by Counsel.

- Letter from Nancy and David Hyman dated 4/13/06—requesting adjournment due to late notification--concerns.
- Letter from Kathy Bozony of the Lake George Association dated 4/25/06-opposed.
- Letter and pictures from Chris Navitsky, the Lake George Waterkeeper, dated 4/17/2006—opposed

B. Pfau said that he is not against putting the garage in the proposed area, but he feels the applicant should change the setbacks from the stream to be 30 ft. and Eugene Baker said he would.

Now, upon motion duly made by Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby table the variance request until June 19, 2006 and leave the public hearing open pending additional information. **All in favor. Motion carried.**

11) V06-17 LUDLOW, PETER & CHANDLER MARYBETH. To alter pre-existing non-conforming single-family dwelling, specifically to construct a proposed 10 ft. x 20 ft. deck with stairs, seek area variance for 1) a deficient shoreline setback; 75 ft. is required from the mean high water mark, 32 ft. is proposed, and 2) To alter a pre-existing non-conforming structure in accordance with Section 200-56A. Section 185.19, Block 1, Lot 60, Zone RCL3. Property Location: 7 Lake Side Drive. Subject to WCPB and APA REVIEW.

This item was tabled at the applicant's request.

12) V06-18 LAKE GEORGE LAND CONSERVANCY INC. Represented by Jeff Anthony of the LA Group. To alter existing structure, specifically to construct a proposed deck and stairs, seeks area variance for a deficient front yard setback; 30 ft. is required from the edge of right-of-way, 22 ft. is proposed. Section 171.19, Block 1, Lot 54, Zones GB5000 & RM1.3. Property Location: 4905 Lake Shore Drive. Subject to WCPB REVIEW. *Note: This is an amendment to V05-58 approved by the ZBA on 9/19/05.*

Dave Barnes of the LA Group, representing the Lake George Land Conservancy, gave an overview and said (1) they are proposing to construct a wood deck with a wood railing with a lattice skirt and plantings to screen it from the street at the front of the building and (2) in the back they are proposing a reduction in that deck and reconfiguring the walkway in order to access the stairway and handicap ramp and (3) there is no net gain in impervious surface in the back and a reduction in the amount of decking from the original proposal.

G. Smith said this proposal will jazz up the front a little more. K. Hoopes said that there will be no net change in—just a re-jiggering of what the ZBA granted last time, so he doesn't see a problem with it. G. Smith agreed by saying that (1) he has no problems with this and (2) he thinks it will be a more attractive building with this on it as well and it will connect the two pieces together better.

No County impact.

No correspondence.

No public in attendance.

B. Pfau said he was not present at the September 2005 presentation and asked what will take place in the building. Dave Barnes said it is basically business offices and for the work of the Lake George Land Conservancy.

From the public, Hugh Roberts said it is also a conference facility. G. Smith said the Lake George Land Conservancy had indicated that if the Town had some type of meeting and needed the conference center it would be available for the Town to use and Dave Barnes said that was correct.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-18) Lake George land Conservancy for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment regarding the application;

this Board makes the following findings of fact:

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance, it is just a dimensional shifting seen here with no net change;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, as shown before;
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is not self-created.

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

Now, upon motion duly made by Kam Hoopes and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented to amend V05-58. **All in favor. Motion carried.**

Other Business:

P. Kenyon said that the July 1998 minutes the matter of portable type garages was discussed with the ZBA and the decision was made and (2) asked that in a similar case, if the similar type structure that is being proposed which has poles that go into the ground and the top is metal with no sides on it would fall under the same scenario.

Counsel read the following from the July 1998 minutes: “Pam Kenyon asked the ZBA what their feelings were on all of the portable tents and garages that were being put up and if they were considered structures. Greg Smith felt that people had to have some rights and didn’t feel that it was a structure. Jason Saris stated that if you put up an above-ground pool it is considered a structure and Greg Smith responded that it would be permanent and Jason Saris stated that a lot of people take them down in the winter the same way the tents and portable garages go up in the winter. Ines Sanders felt that anything that can be picked up and moved, folded up and put away is not considered a permanent structure. Jason Saris asked if you can put up your car in it do you consider it a garage? Michael Murray felt that the way they are constructed, it is not a permanent construction. Ines Sanders felt that the only thing she felt that could be done is to limit where they can be put. Jason Saris stated that a perfect example was where Joyce Rogers had a screened house that didn’t need a permit until she built a hard roof over it which then made it a structure. It was decided by the board that tents and portable garages are not considered structures.”

Counsel said the structure definition says “Any object constructed, installed, or placed on the land to facilitate land use—buildings, sheds, single-family dwellings, mobile homes, signs, tanks, fences, poles, any fixtures, additions or alterations. Construction must be more than 6 inches above grade or in excess of 100 square feet to be considered a structure and landscaping features are not constituting a structure.”

Counsel (1) asked what this thing is and (2) said a couple came before the ZBA with a fence that wasn’t attached to the ground, but moved around when they decided this is where their dogs ought to be and the ZBA decided this was a structure and it was not attached to the ground and (3) now there are these things that P. Kenyon says is staked in the ground and she needs to know what the ZBA’s decision is on it so she can deal with it.

K. Hoopes said that before he came on the ZBA, he raised the question before and was told that portability had nothing to do with whether it is a structure or not. Counsel said that would remain correct based on the structure definition—“any object placed on the land”. K. Hoopes said he thinks the ZBA has a problem. Counsel asked if the ZBA wants to have a full ZBA decide it and G. Smith said he thinks they should. Counsel said Pam Kenyon tell that applicant the matter is stalled because a full ZBA consent is needed.

G. Smith said that many of these portable garages become permanent and Counsel agreed and said that other municipalities have specifically dealt with them in their ordinance and some require setback or quantity, while others that don't regulate it you will find that there are multiples and they are right on the property line.

T. McGurl asked if it could be regulated by the time it is up and Counsel said yes, but it gets awkward as he had one municipality where you could have it up for six months in a calendar year and a guy wound up figuring out a way to have it up six months in one year and six months in the next, so it was actually up for a full year.

P. Kenyon said she certainly doesn't want anyone to have to come in to get a permit to put a tent up. B. Pfau asked if P. Kenyon gave a determination and the person is appealing it and Counsel said no, they just asked for it. T. McGurl said it seems if you are calling a fenced-in pen a structure then a quanzahut with a roof and walls is certainly a structure. Counsel said if you were just going to shop for one it is called a "portable garage."

Counsel said that (1) what the ZBA has is a 1998 interpretation, (2) the ZBA is kind of confronted with the possibility that there will be a lot of ugly things—portable garages, (3) the ZBA has a definition of structure which has matured along the way—1997, 2000, and 2004, so the ZBA now has a definition that says, "any object placed on the land." K. Hoopes said that in 1998 the ZBA had high hopes that this would work, but in 2006 there are other examples where people have been taking advantage of it and it needs to be reviewed. P. Kenyon said the ZBA can review it next month.

G. Smith said he finds this thing this person wants to put up is no different than this quanzahut they have at Braley Point or anywhere else in Town—actually this thing looks better than that does, but he still thinks they should fall under the same category. Counsel agreed and said the ZBA might not like them aesthetically, but if the ZBA calls them structures at least there's some teeth in the ordinance that regulates where they go, how big they are, setbacks, that type of stuff, but right now it is a wild card and certainly by the virtue of this interpretation you can have as many as you want and you can put them right on your property line—you can put them on your front lawn. T. McGurl said it seems a little loose. P. Kenyon said that her decisions are based on past interpretations that she has to rely on. All ZBA members agreed to put this item on the agenda for next month's ZBA meeting.

Meeting adjourned at 9:30 pm.

Respectfully submitted by,
Jennifer Torebka
Recording Secretary

04/30/06