

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Monday August 21, 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: Tony DePace, Kam Hoopes, Meredith McComb, Tom McGurl Jr., Bill Pfau,
Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: Greg Smith

Acting Chairman B. Pfau opened the meeting at 6:37 pm by asking for corrections to the July 17, 2006 ZBA minutes.

Motion by K. Hoopes to approve the July 17, 2006 minutes as presented. Seconded by T. DePace. Four in favor. One recused (M. McComb, as she wasn't present at that meeting.) Motion carried.

M. McComb said that (1) she is very saddened by Michael Murray's resignation from the ZBA and (2) if there is any way to talk him out of it she thinks the ZBA should give it a shot because he knows a lot about the history of the Town of Bolton and he has been a very useful even-handed member. P. Kenyon said the TB is working on the issue.

1) V06-16b 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, 15 ft. is proposed, and 2) Shoreline; 75 ft. is required from the mean high water mark, 30 ft. is proposed. Section 171.08, Block 1, Lot 12, Zone RCM1.3. Property Location: 18 Braley Point. Subject to WCPB & APA REVIEW. *The WCPB recommended denial without prejudice. The revised plans were resubmitted to them for review. Note: This item was tabled at the June 19, 2006 meeting pending additional information.*

Note: T. DePace recused himself from this item as he is a neighboring property owner.

P. Kenyon said the applicants re-submitted the application to the WCPB and the WCPB determined no County impact.

Eugene Baker, representing Edward English, gave an overview and said (1) they revised the drawings, (2) they have knocked down 600 square feet of the building and removed the second floor, (3) the proposal is for a one-bay garage that is 30 feet from the brook and (4) the existing Quonset huts will be removed upon project completion and items currently stored in the Quonset huts will be stored in the proposed garage.

B. Pfau asked what the 19.5-foot height on top of the proposed building would be and Eugene Baker said that it would be a simple truss system. B. Pfau asked if it is practical

to put a time limit on the removal of the Quonset huts and Counsel said yes. B. Pfau asked the applicant what a reasonable removal time frame would be and Eugene Baker said 30 days from building completion. B. Pfau said that is acceptable.

M. McComb asked if it is accurate that it is 1,089 square feet for a one-bay garage and Eugene Baker responded by saying that one side will be used for storage. K. Hoopes asked if the Town of Bolton has a limit on storage space and P. Kenyon said yes, if an applicant has an accessory structure that is greater than 1,500 square feet of floor space, site plan review is required by the PB. M. McComb asked if there is no longer a three-bay limit and P. Kenyon answered by saying that there is still a three-bay limit for vehicles.

K. Hoopes said (1) the three-bay limit is for vehicles and he thinks with the items in the Quonset huts and all the existing materials currently outside on the site, it is not likely the applicant would be putting cars in the garage, (2) his major concern is that the property has been under constant construction for many, many years, (3) he wonders if there is an end to the constant construction or if Mr. English is just a project kind of guy who will keep coming back to the ZBA, and (4) he thinks this will tidy-up the area, but it puts the ZBA in a tough position as the proposed building is 30 feet from the stream. M. McComb said (1) there would be no construction run-off with Quonset huts on this property, (2) regardless of the best intentions in saying run-off measures will be taken, there always seems to be construction run-off (silt), and (3) the trade-off previously discussed was stormwater controls that were going to be put in place on the site. Eugene Baker said that the applicant proposed to put in a pond to take care of some of the water running off from existing impervious areas.

B. Pfau asked if the applicants have spoken with Town Engineer Tom Nace on this project and P. Kenyon said that (1) the applicants did speak with Tom Nace, but Tom Nace's concern was the vertical separation—it is supposed to be a 2 foot separation between the groundwater and the infiltration device—which the applicants didn't have, (2) she is still going to have Tom Nace review this and get his input as far as stormwater management goes.

M. McComb asked if the applicants are going to raise the grade on the little section by the stream and P. Kenyon asked Eugene Baker to explain. Eugene Baker said that the proposed garage will be approximately 6 inches greater than the road height (existing pavement) that is there to pitch the water back to the pond and to make sure that the water goes back to the pond. M. McComb said (1) it looks like the land is about 4 inches above the stream that flows around it—that it is not a deep, steep bank down to the stream and she wonders if that the water table is 38 inches below that stream. Eugene Baker replied by saying that the stream, at its lowest point to the garage, is about one foot lower than the brook as the existing grade is now. M. McComb asked if it is 30 feet from the eaves of the building to the stream. K. Hoopes said that the drawings are sacred, so if the applicant says it is 30 feet to the stream and the eaves go over that, then the applicant can't build the building. M. McComb said that (1) it seems like rather than filling, maybe a Quonset hut is the best for that location and (2) 30 feet proposed where 75 feet is

required is substantial. K. Hoopes said that if the applicant says it is 30 feet from the stream then the ZBA can't really question that or needs to, because that will be measured and if it is not 30 feet then it is not allowed. M. McComb asked if the PB is okay with the fill. K. Hoopes asked (1) how much the grade will be brought up and Eugene Baker replied by saying it would be 6 inches on the roadside, but the back of the building will be 3 foot 6 inches because of the rain going off, to meet the separation from the stormwater. K. Hoopes asked what the plan is to keep that grade and Eugene Baker said that when it is finalized it would probably be all of the mulch applied to the top, pine fills, hemlocks, etc. to match the existing landscape. K. Hoopes asked if it is a natural bank down to the stream and Eugene Baker said yes, it will just be pitched right off from the infiltrators, he then gave specifics as to tree types to be used.

B. Pfau said that (1) he agrees a lot of building has been done on this property, but it is well-done and well-maintained, (2) he assumes anything the applicant would build in the future would require permits from the Zoning Office, and (3) he is also concerned about the stormwater plan and asked if a condition of approval could be that stormwater plans be approved by the Town Engineer. P. Kenyon said that will happen anyway, because she has concerns with stormwater as well. Counsel said that there is a section in the code on page 12505 that says a minor can be treated as a major. M. McComb asked if they are getting into a situation where because of all the other construction down there, should they be taking into consideration of the impact of the run-off from the adjacent construction. B. Pfau asked who makes the determination that a minor should be reviewed as a major. Counsel said that the Zoning Administrator makes that determination. B. Pfau asked if P. Kenyon considered it and P. Kenyon said (1) yes, but she thinks the ZBA should decide if a variance should be granted for the garage first, before the applicants go to the expense of having a major stormwater done and (2) she'll take a recommendation from the ZBA. Counsel said that the expectations of a minor project are more stringent or rigid than a major. B. Pfau said that given Counsel's rendition, he doesn't know if the ZBA giving a recommendation would do anything except delay the project. Counsel said that if the ZBA leaves it alone and lets Zoning Administrator P. Kenyon make the decision, then procedurally it works. B. Pfau said that he thinks moving the building 30 feet away from the stream would be a nice compromise for this project, but he thinks a condition should be that the stormwater work for this project and that the stream is protected.

T. McGurl said (1) there are a lot of existing buildings down there—he would rather look at the proposed garage rather than the Quonset huts or a two-story structure and (2) as long as the stormwater is working, functional and approved, then it seems like it is taken care of and (3) the Quonset hut is an impervious surface which is creating water that is running one way or the other—the water is there—now at least you are dealing with the water.

M. McComb (1) said that she is concerned about the impact of adding the fill, because it looks like a very flat low-lying place with a meandering stream that keeps moving down there and it is at the bottom of the hill which also impacts the speed of the water that runs down the stream and forces it to change course and (2) asked if it is possible to expand

the existing garage to the back. Eugene Baker said that there is steep ledge back there, which would require blasting and they would still be pushing toward the boundary of the brook. M. McComb said (1) it doesn't seem like a great place for another building on that little flat point of land and (2) it is not totally unsubstantiated that there is a delta forming there. K. Hoopes said (1) one guarantee the ZBA has is that the concern of seeing the end of projects on this lot and (2) the condition is that the ZBA is serving notice that enough is enough—there are certain things that an individual piece of property can support and then there is a limit to that—just because you have a lot of toys doesn't mean the ZBA is inspired to grant variances to cover them.

From the public, Chris Navitsky, Lake George Water Keeper, said that it seems like with 3 ½ feet of fill you would be losing the natural buffer on the front of the scenic corridor. M. McComb asked for clarification on the location of the 3 ½ feet of fill and Eugene Baker replied by saying that the 3 ½ feet of fill is on the back side towards the brook and it would probably have to go 10 to 20 feet past the garage to keep the pitch you are allowed to put in, so that would be 10 feet from the stream.

B. Pfau said he doesn't remember what was said at the end of the last meeting when this item was tabled, but he assumed by this meeting, this part of the proposal would have been dealt with between the applicant and the engineer and there would be an exact approved proposal by the time it came in front of the ZBA and P. Kenyon said she believes the motion was that the applicant would submit a stormwater proposal at this meeting. M. McComb said that (1) the 3 ½ feet from the brook with no retaining wall is different and (2) she hates to keep sending the applicant back for more stuff, but at this point, that plan is probably not going to get her vote. K. Hoopes asked if M. McComb would be more in favor of the plan if there was a retaining wall and M. McComb replied by saying that it is probably going to be a structure 10 feet from the brook, but if it keeps it from eroding down into the brook then it may be better. Eugene Baker said the 10-foot buffer zone so there wouldn't be disturbance. M. McComb (1) asked if the 10 feet from a property line, even though the setback is 20 feet from a structure even if you put a retaining wall there, she has a different take on it then if it is 10 feet from a stream they already know is moving and (2) it is not the applicant's fault that it is at the bottom of a hill, but neither is it the ZBA's job to ignore the impact on the stream because of that limitation, for a second garage. K. Hoopes asked if M. McComb is questioning the stream's path moving and M. McComb answered by saying (1) yes, if you look at the stream you can see how it has moved and (2) part of the problem with the last plan from these applicants is that the stream bend moved. T. McGurl said that the stream would bend further away from the proposed garage—not toward it and K. Hoopes said that the major move this stream made was from the major storm event on June 13th two springs ago that also washed away the Northway.

B. Pfau said that most of the ZBA members are uncomfortable with the stormwater plan. P. Kenyon said the motion from the last meeting was that the ZBA wanted an engineered stormwater plan submitted. The ZBA consensus was that the applicants need a better stormwater plan that has been reviewed and approved by Town Engineer Tom Nace.

K. Hoopes said (1) he is inclined to decline the request at this time just because it has been unending—one variance after another and (2) this project needs to be perfect for him to consider approving it.

RESOLUTION

Now, upon motion duly made by Kam Hoopes and seconded by Meredith McComb, it is resolved that the ZBA does hereby table the variance request pending Town Engineer's review and approval of the stormwater controls. It is noted that accurate dimensions are to be shown on the site plan. **One recused (T. DePace). All others in favor. Motion carried.**

- 2) **V06-28 WARDLES, BRIAN.** Represented by Atty. Mark Rehm of Krantz & Rehm LLC. For the construction of a proposed single-family dwelling, seeks area variance for 1) Deficient shoreline setback; 75 ft. is required, 50 ft. is proposed. 2) Deficient rear yard setback; 30 ft. is required, 22 ft. is proposed. Section 199.07, Block 1, Lot 5.313, Zone RCL3. Property Location: North side of South Trout Lake Rd., approximately 1,800 ft. from Coolidge Hill Rd. intersection. Subject to APA Review. *Note: This is an amendment to V05-42 approved by the ZBA on 9/19/05. This item was tabled at the July 17, 2006 meeting pending additional information.*

Atty. Mark Rehm, representing Brian Wardles, gave an overview and said that they adjusted the height of the middle peak section to comply with the Town of Bolton's height requirement—other than that, it is the same plan as the one submitted in September 2005.

K. Hoopes said that the ZBA is only looking at the same variances as in the past, so this should be on the fast track. B. Pfau said that essentially this is the same proposal as the last time, which the ZBA spent a lot of time on and hashed around quite a bit. K. Hoopes said (1) he thinks it is an improvement over the original plan that the ZBA did have an issue with the variances on and (2) now it is a consolidation—the garage is over with the house.

T. McGurl asked how the applicant picked up the shorter roof and Atty. Rehm responded by saying that the center pitch was a little higher to differentiate it from the other two pitches, which was more of an aesthetic move, so the applicant brought it down to the level of the other pitched roofs.

No public in attendance for this item.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-28) Brian Wardles 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, 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) The benefit cannot be achieved by other means feasible to the applicant besides an area variance, these are dimensional considerations;
- 2) There will be no undesirable change in neighborhood character or to nearby properties;
- 3) The request is not substantial, especially in the consolidating of everything in one location which reduces the substantiality from the previous variance the ZBA granted;
- 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 hereby resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

- 3) V06-30 CURRI, THETA J.** In accordance with Section 200.47G2 of the zoning ordinance, seeks use variance to occupy transient mobile home for more than 10 days. Section 171.06, Block 1, Lot 18, Zone RL3. Property Location: 162 Valley Woods Rd. The WCPB recommends no county impact with consideration being given to ensuring the adequacy of sanitary waste and potable water, time limit of summer occupancy, and tying the occupancy to the current property owner. Subject to SEQR. *Note: The Planning Board gave a favorable recommendation on July 20, 2006.*

Theta Maille gave an overview and said that (1) the property is over 4.5 acres where they are currently storing a camper owned by her father-in-law who is a disabled Vietnam veteran, (2) her father-in-law visits family in the area and coordinates his medical visits

when he comes to see them, (3) the camper is situated 100 feet from the road—it is not visible, (4) the camper is self-contained and has its own holding tank, (5) the camper has its own electric and water by tapping into their home, (6) they are seeking a use variance for the occupancy of the camper for each year during the summer season—May through September and (7) she fears it is a temporary situation in that when and if her father-in-law is unable to visit them due to his health, then the camper would be removed—it wouldn't be a permanent situation.

B. Pfau asked if the trailer is placed on the property legally and P. Kenyon said yes, the PB gave the applicants site plan review approval for 10 days, which has expired—you can have store a camper there, but need approval to occupy it. Counsel said there is no problem storing the camper on the property.

M. McComb said that she was confused by the drawings and the pictures, because the camper is behind the trees—not visible as shown on the drawings. K. Hoopes said that (1) what is not being addressed is that this is a use variance—use variances are virtually impossible for the ZBA to give out without putting itself in some jeopardy, (2) area variances are just dimensional, but use variances are almost impossible to get except in extenuating circumstances, (3) the applicants must show hardship, (4) in the case of a use variance, it has been set up by law, and (5) he agrees with M. McComb in the visibility of the camper—he went to the location and did not see the camper at all from the road. M. McComb said that she agrees. K. Hoopes said (1) the one really unique thing about this is that it is a medical situation and (2) the reasonable return doesn't have to necessarily be financial—it could be physical ailment and hardship that can't be resolved in any other way but to grant the use variance.

B. Pfau said that the trailer is allowed to be used 10 days out of the season, so it is not really a matter of use, but a matter of length of use. M. McComb asked if there is any plan to winterize the camper and to use it as a year-round structure, to which Theta Maille said no. Gary Maille (applicant's husband) said that they have already winterized the trailer for this year (pipes turned off, power disconnected, awning is down, etc.), so it cannot be used during the winter.

Counsel said that (1) it really looks close to a use variance, but he thinks it is also arguable one of duration, similar to bulk or size, so the ZBA could make the argument that this is an entirely permitted use within the zone but it is by definition in the code limited to a mere 10 days by site plan review, (2) if the ZBA wanted to extend the size, duration or bulk, it can—it is called an area variance—and the ZBA would be on safer ground and (3) the ZBA also needs to tie it to the current ownership. B. Pfau said that the PB did give this proposal favorable recommendation on July 20, 2006.

No public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-29) Theta Maille for a use variance converted to an area variance.

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 #3 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit cannot be achieved by other means feasible to the applicant besides an area variance, without a great deal of additional expense which would be quite a hardship for the applicants at this point;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, due to the specific screening on this site, which is to remain in place;
- 3) The request is substantial with regards to the ordinance to increase the potential duration from 10 days to the length of the summer season, but the benefit to the applicant outweighs the difficulties created by this;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the sewage is in a holding tank and the water and electric comes from the house and has been well engineered to prevent difficulties, also the property will not be used during the winter season;
- 5) The alleged difficulty is self-created, but again because of the specifics of this lot and this particular application, the benefit to the applicant outweighs that problem.

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 Meredith McComb and seconded by Tony DePace, it is hereby resolved that based upon the recommendation of Town Counsel the ZBA does

hereby convert the use variance to an area variance and approve the request as presented with the following conditions. 1) The mobile home can be occupied from May 1 to September 30. 2) Based upon medical reasons this variance is valid only for the current owners. **All in favor. Motion carried.**

4) **V06-31 KLING, STEVEN.** Represented by Matt Steves of VanDusen & Steves. To demolish and rebuild single-family dwelling, seeks area variance for deficient setbacks. 1) Front; 30' is required from the edge of the right-of-way, 20.5' is proposed. 2) Side; A total of 20' is required, 17.19' is proposed. Section 171.15, Block 1, Lot 63, Zone GB5000. Property Location: 3 Stewart Avenue. Subject to WCPB review.

Matt Steves of VanDusen & Steves, representing Steven Kling, gave an overview and said (1) the proposal is to replace the existing structure with the proposed structure with the foundation to remain at 22.23 feet, (2) the height from the lowest grade to the highest peak is 34 feet, and (3) the colors for the proposed structure are green and brown.

B. Pfau asked if there would be a garage and Matt Steves said no. B. Pfau asked if there would be any off-street parking and Matt Steves replied by saying that they will leave some asphalt on the westerly side for the owner to park there just past the ramp.

B. Pfau asked what the existing building height is and Matt Steves said he doesn't know for sure, but he guesses that it is close to 34 feet high. K. Hoopes (1) said that the applicant is not seeking an area variance for height, so the ZBA is not so much concerned about that and (2) asked if there is a handicap situation because the plans show a handicap ramp. Matt Steves said that a handicap ramp/access is required where you have any kind of activity like an office building. K. Hoopes asked if this is going to be a business and Matt Steves said yes, it is going to rental space for an office.

M. McComb said asked for clarification of the comparison of what exists versus what is proposed and Matt Steves replied by saying that the applicant wants to occupy the one floor then be able to rent to an attorney or real estate office. B. Pfau asked if the proposed structure is a two-family dwelling and Matt Steves said yes.

M. McComb said she is concerned with the parking situation and asked what the permitted lot coverage is. P. Kenyon (1) replied by saying that in this zone she believes it is 40% and (2) asked for details on the commercial space, because the application was not for commercial space. Matt Steves said the applicant told him today he is hoping to rent it out to somebody who will occupy it and use it as their office. P. Kenyon said the applicant only had it down as a demolition and rebuild of a single-family dwelling. B. Pfau asked how that difference affects it and P. Kenyon said it would affect density, parking for the commercial space, etc.

M. McComb said it is not a single-family dwelling anymore, but a two-family dwelling with commercial space. K. Hoopes said that is not unusual in the GB5000 zone, but considering what the ZBA had for its agenda and what was advertised to the public, it

should probably be tabled. P. Kenyon said she thinks there is a need for more information on the commercial aspect of this project. B. Pfau asked how just being a two-family dwelling would affect it and P. Kenyon said that (1) if it is a two-family dwelling it would deal with parking, density, etc., and (2) she thinks more information is needed. K. Hoopes said that the key here is that the project is advertised as a single-family dwelling. Matt Steves said that (1) he submitted the plans over a week ago, but only got the answers from the applicant about two hours ago and (2) the plan always specifically called for two bedrooms, bathrooms and kitchens, knowing up-front that it was to be a two-family home. B. Pfau asked if Matt Steves would be in favor of the ZBA tabling the application at this point and Matt Steves said yes. T. McGurl said that it looks like the proposal is for three uses—two full living spaces and one commercial and Matt Steves agreed. P. Kenyon said she wants the application tabled.

RESOLUTION

Now, upon motion duly made by Kam Hoopes and seconded by Meredith McComb, it is resolved that the ZBA does hereby table the variance request allowing Pamela Kenyon time to review the file in its entirety. **All in favor. Motion carried.**

- 5) **V06-33 VEGA, PAUL.** To replace existing mobile home with a single-family dwelling, seeks area variance for deficient setbacks. 1) Front: 75' is required from the edge of the right-of-way on Route 9N, 9.5' is proposed. 2) Front: 50' required from the shared driveway, 8' is proposed. 3) Side: A total of 20' is required, 2' is proposed. Section 186.14, Block 1, Lot 47, Zone RCH5000. Property Location: 4645 Lake Shore Drive. Subject to WCPB REVIEW.

Paul Vega gave an overview and said (1) Warren County has a replacement mobile home program which he applied for and was approved for, (2) the proposal is to replace the existing 12' X 47' railroad car with a 14' X 40' cottage, (3) the proposal is to change the existing 2 bedroom 1 ½ bath to 1 bedroom 1 bath, (4) Don Roessler, neighbor to the north, had three concerns, one of which is the tree dying, which have been addressed, and (5) he doesn't know of anyone who does not support the project.

B. Pfau asked if approval for the septic is pending and Paul Vega said yes. B. Pfau said he asked the question to establish why the applicant couldn't move the proposed cottage further away from the northerly neighbor, which he thinks is because the applicant would need room on that side of the house for whatever type of system he is putting in there. M. McComb asked where the location for the septic would be and Paul Vega said the existing septic is in the area of lawn between the driveway and the structure. M. McComb said the one negative thing the ZBA has about this is a letter from Town Engineer Tom Nace saying not to use the current septic, but the applicant is not using the current septic and the ZBA needs the applicant to tell them that he is upgrading the septic and the proposed septic location. K. Hoopes said that he thinks B. Pfau is pointing out that the applicant is confined to the north lot line because whatever system goes in is going to go into that spot. Counsel said (1) he (Counsel) was part of the discourse between Town Engineer Tom Nace, the NYSDOH, Supervisor Gabriels, and himself, (2)

Paul Vega's first proposal was that he would like to use the existing cesspool because it has not failed—the NYSDOH said that was a great idea then Tom Nace reviewed it and said it is not a good idea, then eventually somebody got a brainstorm at NYSDOH in thinking that it really shouldn't be allowed to be rebuilt and attached to a system where if it hasn't failed, it is designed to fail—a cesspool, (3) Paul Vega was before the TB and this discussion ensued with the outcome being that Paul Vega would have to come back to the TB with a proposal that is acceptable to the Town Engineer and the requirements that the TB sitting as the Local BOH has to impose, and (4) Paul Vega's first plan of attack is to see if there are any alternatives available—it is arguably something that is also possible under the present NYSDOH guidelines, so what comes of this is a system that must be acceptable by the TB as the Local BOH—we're beyond that, and (5) Paul Vega is before the ZBA with a logical place where the system will go.

M. McComb said that (1) as long as the septic system is going to be addressed, which it is, then the applicant and (2) she just wanted to make sure the negative letter was addressed. P. Kenyon said it will be addressed.

Counsel said that (1) the negative letter was based on past facts, (2) another piece of correspondence received was a favorable letter from Bill Gates, (3) another piece of correspondence received was the letter signed by Paul Vega and agreed to by Don Roessler that there are three elements of agreement and read that into the record, (4) a letter from Dennis Dickinson was also received and was signed by Paul Vega and Donald Roessler in agreement of the accuracy of the corner markers, and (5) there was also a letter signed by Michael and Marilyn Masseone in favor of the project.

B. Pfau asked if the ZBA needs to make the agreement between Paul Vega and Don Roessler a condition of approval and Counsel said that agreement letter is satisfactory—it is a contract. From the public, Don Roessler said that (1) he does agree with the letter he received from Paul Vega today and if Counsel says it's a binding contract then he's satisfied with that and (2) if the ZBA would like to make the four conditions part of the motion it would be fine with him and he'd appreciate it very much. K. Hoopes said that it has been read into the record at this point. M. McComb said they have three conditions. Don Roessler said that (1) one condition was that if the tree on the northern property line dies then Paul Vega will be fully responsible to remove the tree, (2) the second condition he had was that the proposed structure not be closer to the property line than the existing structure, (3) the third condition is that if his driveway is damaged then Paul Vega will pay to repave it, and (4) his fourth condition was addressed in the Dickinson letter—the actual location of the property corners are accurate and agreed upon.

From the public, Marilyn Masseone (neighbor), said that she is in favor of the project, but has two concerns: (1) she doesn't want the project to block her driveway use and (2) she doesn't want any damage to her driveway.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-33) Paul Vega 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 #5 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit cannot 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 demonstrated to be a positive change;
- 3) The request is not substantial, in fact it pulls back one of the non-compliant phases by about 7 feet;
- 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 hereby resolved that the ZBA does hereby approve the variance request as presented with the following condition. The terms of the agreement entered into between Paul Vega and Donald Roessler dated August 21, 2006 are met. **All in favor. Motion carried.**

- 6) **V06-34 LAMB, WALTER & CHERYL.** To alter pre-existing non-conforming structure, seek area variance for 1) A deficient front yard setback: 30' is required, 4' is proposed. 2) To alter a pre-existing non-conforming structure in accordance with

Section 200-56A. Section 171.15, Block 3, Lot 49, Zone GB5000. Property Location: 46 Norowal Road. Subject to WCPB review.

Walter Lamb gave an overview and said (1) he is requesting the variance to increase the size of one of the cottages of the Norowal Association and (2) the proposal doubles the size of the cottage, but they have also doubled the size of the lot.

M. McComb asked why the cottage couldn't be moved back at all and Walter Lamb answered by saying that (1) there is a lot of ledge behind the cottage and (2) when the property was subdivided in 1980 there was a lot of blasting to get the waterline in to comply with what the Town of Bolton wanted at that time.

K. Hoopes said (1) there would be so little gain for the amount of movement you could possibly get—the benefit to the applicant grossly outweighs the benefit to the public, (2) there is serious ledge back there, (3) there are three other cabins are lined up in some plane on the right-of-way, so this proposal fits in with the neighborhood character, and (4) the applicants are proposing to double the lot size.

B. Pfau said it would tend to put the structure further up in the air the further back you go. K. Hoopes said that even if it was easy to move you would put this place at a handicap since the others would be farther in front of it. M. McComb said (1) the ZBA should discuss moving the cottage back and (2) she thinks that if there is ledge rock back there and the ZBA firmly feels this is the way to go, that's good, but she thinks the ZBA should cover that base. K. Hoopes said the ZBA has covered it. B. Pfau asked if four homes use this driveway and Walter Lamb said (1) there are two homes directly against the ledge, this one and the fourth one does have nice sloping land behind it. B. Pfau said that (1) he agrees that the proposed cottage is consistent with the neighborhood and (2) the lot is increased to allow for this expansion. T. DePace said that the applicant is just remodeling the existing house—not knocking it down. M. McComb said (1) this project strikes her as bending over backwards to remodel an existing structure where an alternative would be rebuild the whole thing and (2) because of zoning things she would just as soon let the applicant take down what he wants to take down and replace it. K. Hoopes said he thinks it is just part of that whole neighborhood. Walter Lamb said that they plan on using the same siding as the other cottages, so the proposed cottage will look the same, but bigger.

No public in attendance.

The WCPB determined no County impact with the condition that the appropriate stormwater control measures are implemented and to provide documentation on the status of the two lots in reference to the addition.

P. Kenyon said the two lots are merged. M. McComb asked if this project needs stormwater and P. Kenyon said no, because of the size, but stormwater will be encouraged.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-34) Walter and Cheryl Lamb 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 the appropriate stormwater control measures are implemented and to provide documentation of the status of the two lots in reference to the addition;

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) The benefit could be achieved by other means feasible to the applicant besides an area variance, but because of the ledge rock so nearly behind the cabin, it seems this is the best site for it;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, stormwater control is encouraged on it and it is very much in keeping with the character of what is there;
- 3) The request is not substantial, it is maintaining a pre-existing line of cottages;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, because of care that will be taken during the construction;
- 5) The alleged difficulty is self-created, but the benefit to the applicant outweighs any damage to the ordinance.

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 Meredith McComb and seconded by Tony DePace, it is hereby resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

Meeting adjourned at 8:22 pm.

Respectfully submitted by,
Jennifer Torebka
Recording Secretary
08/29/06