

**Zoning Board of Appeals- Minutes January 14, 2008**  
**State of New York**  
**Warren County**  
**Town of Bolton**

Present: Chairman Greg Smith, Tony DePace, Kam Hoopes, Meredith McComb, Jeff Anthony, Tom McGurl, Jr., Zoning Administrator Pamela Kenyon, Counsel Michael Muller.

Absent: William Pfau.

The meeting was called to order at 6:33 PM.

G. Smith asked if there were any corrections to the December 17, 2007 meeting.

1. M. McComb, page 15, halfway through the last large paragraph, it says “it puts them at .09 off the density requirement for the three lots”, and she stated that the correct figure is .29. J. Pepper stated that he was talking about .09 per lot. M. McComb stated that it is a legal issue and that if he stated .09 there than it is incorrect and it can stay in the minutes as incorrect.
2. M. McComb, page 19, the letters read state that they are in opposition, but in other places in the minutes it just states a letter was read and asked that each letter mention whether it is opposed or in support of the project.
3. M. McComb, page 21, last paragraph, line 5 should read, “M. McComb stated that she would like to see them try to incorporate the second lot to make for three nearly compliant lots.”
4. M. McComb, page 23, regarding Joseph Keating, she stated that they had a very brief discussion of the project and felt that when she made the motion, she gave reasons for steps 1, 2, 3, 4 and 5 and it is just the boiler plate and feels that it is not a good idea to have such a limited discussion and then tidy up the motion that much. However, she did say that she didn’t remember what she said at the time and maybe she didn’t say anything.

Motion by Kam Hoopes to accept the December 2007 meeting minutes as corrected. Seconded by Meredith McComb. **All in Favor. Motion Carried.** (G. Smith and T. McGurl abstained)

- 1) **V07-66 HARRY WOLKIN TRUST (Linda Queen).** Represented by Chris Gabriels. In accordance with Section 200-52, seeks area variance to place a 6 ft. stockade fence within the shoreline setback. 100 sq. ft. is allowed, 450 sq. ft. is proposed. Section 213.17, Block 1, Lot 34, Zone RCM1.3. Property Location: 3832 Lakeshore Drive. Subject to WCPB & APA Review. This item was tabled at the November meeting at the applicant’s representative’s request.

**RESOLUTION:**

This item was tabled at the applicant's request.

**2) V07-73 SHEPPARD MACHINERY INC. (LAKESIDE AT NIRVANA).**

Represented by David Mazzeo and Boswell Engineering. In accordance with Section 200-37B(4) seeks area variance for deficient shoreline frontage; 205' is required for a proposed 9 unit condominium project, 170' exists and is proposed. Section 171.15, Block 3, Lot 60, Zone GB5000. Property Location: 18 Sagamore Road known as Nirvana. Subject to WCPB review. This application is in conjunction with SPR07-37 & SD07-22.

**RESOLUTION:**

This item was tabled at the applicant's request.

**3) V07-78 KEILB, JOE.** Represented by Jesse Pepper and Walter Law. To merge those parcels designated as Section 186.18, Block 1, Lots 16 & 27, then subdivide into 3 lots, seeks area variance for deficient density. 3.9 acres is required; 3.58 acres exists. Zone RM1.3. Property Location: East of 4528 Lake Shore Drive and being part of the John R. Loomis Jr. Subdivision. Subject to WCPB and APA review. Note: This application is in conjunction with SD07-24.

Walter Law stated that the application submitted for the December 2007 meeting was no longer viable and they have submitted a new application. He thanked the Board for their suggestions in the previous application and feels that the new application will satisfy the Board's and neighbors' concerns.

W. Law gave an overview of the project. He feels that this application is not complicated and is consistent with the ordinance and standards for considering granting a variance. He stated that the applicants are seeking to place two single family dwellings on the property by merging the two parcels and subdividing into three lots. He stated that they are deficient .32 of an acre for building on these lots. He stated that a few neighbors Muzante (Lot 26), Sayles (Lot 17) and Connelly have expressed the most opposition and wanted to address that. He stated that these individuals are opposed to having the applicants place a home on at least an acre when each of the neighbors have a house on a lot that is approximately half an acre. He feels that the neighbors' other arguments are either incorrect or overblown. In response to some of the issues, he stated that 1) the applicants are interested in the environment just as much as anyone, 2) the property is not considered lakefront as one letter indicated because it sits back approximately 1,200 feet, and 3) that there are no wetlands or streams on the property as indicated by the non-jurisdictional letter from the APA.

W. Law addressed the ZBA's concern over ownership of the rectangular section on the north end of the Keilb property which was in the 40 foot ROW, stating that upon further

research it was determined that the piece is owned by the Rainbow Beach Association and not owned by Joe Keilb. However it does not affect their numbers and there is still a total acreage of 3.58 acres.

W. Law stated the other concern of the ZBA was who owned the ROW. He stated that J. Keilb owns it and if they look at the latest Bolster map the boundary line includes the 40 foot ROW and they have some support for this position. He stated that Tom Magee owner of Mountain Abstract Title Company submitted a letter, completed a title search on the property and found a source deed located in Liber 469 at page 8, which determined that the 40 foot ROW is a portion of the Keilb deed and therefore should be counted in considering how much acreage they have to subdivide. K. Hoopes asked if the ROW ceases to exist as a ROW if approved. W. Law responded that it is still a ROW but it is owned by Keilb and it should be calculated and considered as part of the total acreage. K. Hoopes stated that he believes that ROW was put in place because all of these properties in the John Loomis Subdivision were all to have access to the lake but if they have documentation to prove that J. Keilb owns that ROW it should be included in the total acreage.

M. McComb stated that at December's meeting Counsel asked for the Loomis map or a Certificate of Title. Counsel stated he requested either of those or an explanation. He continued that he too relies on T. Magee and Mountain Abstract and feels that there has been an excellent search back to root title and that W. Law's proposition is correct that the ROW be counted in the calculation of total acreage. He stated that the ROW may be used by others to cross, but it does not diminish the ownership.

M. McComb asked if they are still required to meet the 50 foot setback from the ROW. Counsel stated from it should be measured from the edge of the ROW. M. McComb asked if they would have the width to build with that setback. G. Smith stated that looking at the map, they meet that setback. K. Hoopes stated that they shouldn't lose sight that they are just looking at subdivision and not the buildings.

T. McGurl asked if the property stays as it is right now, they have one house currently and they could potentially build another house on Lot B. W. Law responded that this is an application to build one house and the variance involves one house not two, because without coming for a variance they could build one house. T. McGurl stated that presumably now that it is split into Lots A, B and C they could build three houses. W. Law stated that this is an application for a total of three, one already exists and they want two other homes. M. McComb explained that this is a better application if they made three lots out of two instead of two lots out of one and still had the other one and that this would be a more minimal variance for them to grant. T. McGurl felt that W. Law should go through the criteria, because right not he cannot see how this is not self created. W. Law responded that it is self-created, they bought the lot and they want to build a house, which would also be self-created. And if an application is self created that they do not necessarily preclude the granting of an area variance. He feels that in his experience on the ZBA that 90% of the area variance requests are self-created and the only ones that aren't are the properties that have some kind of natural barrier. W. Law stated that the

real question is how to balance the benefit to the applicant versus how the community, neighborhood and Town will be affected. He stated that the neighbors are concerned over density when they all are pre-existing on half acre lots and if they were to try to get a variance now, they would not be able to. Regarding the neighbors concern of their views, he stated that the only person who will be directly affected would be Muzante who will see the house but he will also see trees and Connelly if looking directly north they will see the cottage that already exists. He feels that in balancing all of this, nobody else is really affected.

K. Hoopes stated that this area is his neighborhood and he is in support of this application. He feels that balancing test that they go by does focus on the health, safety and welfare of the community and just seeing someone else's house does not threaten that. M. McComb stated that she did not like the argument that the neighbors have overbuilt on their lots, so the applicant's should get the variance. However, she feels the application is favorable because of the changes that they have made to minimize the necessary variance. They have done due diligence on the location of septic and well and can build on the lots without further variances. She continued that she has not been concerned with what the neighbors have said and that her primary concerns were how the lots would be divided and what the acreage was and feels that the applicant has come back with a good plan.

T. McGurl stated that he does not like that they are taking two small lots and making them smaller. M. McComb responded that Lot A is compliant, Lot B is within .02 of an acre of being compliant and Lot C is granting them nearly .3 of an acre variance, but they have excess acreage.

G. Smith asked if there was any public in attendance that wished to speak on this matter.

David Sayles, Jr., owner of Lot 17, stated that he submitted a letter after the posting of the last meeting and upon listening to what has been said his biggest concern is not lot size but using a small congested beach and adding one more lot would increase the amount of people using that beach. He stated that his second argument or issue is that there is a litigation ongoing regarding the beachfront at Basin Bay. He stated that the decision in the litigation will be based on the deeds over the history and fears that if they approve this it may imply some sort of precedent on the third piece of property of granting lake rights like the other two lots.

M. McComb asked if there is an issue that a lot of parcels are less than 1.3 acres, is there any issue of how the total parcel has been divided so far the impact on whether or not they can further subdivide as happened in Mohican Heights. Counsel responded that there is an issue, but does not feel it is a relevant issue for this evening, and whatever the Judge decides will come out as a matter of law and part of the respective rights of the lesser subdivided lots over the course of history from the foundation deed from Loomis. He stated that tonight they are there to determine whether it is appropriate to vary the code and not construe the rights within the title and what is manifested by fee ownership and lake access. M. McComb stated that her question is that when they subdivide does it

come up to the total density on the parcel and is that an issue in this thing over this period of time. Counsel stated that it is a very complicated question and that there isn't a simple answer because the funneling of the contractual rights that allows lake access and here there is a mixed bag of factual history that substantially predates the ordinance. Counsel asked W. Law how far back the deeds go historically conveying lake access. W. Law stated that the subdivision started in 1926. M. McComb stated that the Loomis map shows more lots on this before and feels that they would not come against the problem she wondered existed. She also stated that in looking at the Loomis map she is satisfied with the boundaries, including the ROW, as land owned by J. Keilb.

W. Law responded to D. Sayles comments regarding the litigation. He stated that the Association has 300 feet of lake front and two people have private docks there, one was Henley (Keilb) and the other one was Gordon Garlick (Millington) and this litigation is deciding if those two docks can remain. He stated that this has nothing to do with beach usage and feels that this is not a question that is before the Board. He agreed with Counsel in regard to funneling rights, this is an old subdivision and if someone says they do have to consider it, they have six deeded right to the lake.

Counsel read letters into the record:

1. Steven Connelly- in opposition of the project.
2. Clifford Muzante- in opposition of the project.
3. Marion M. Vaughn Revocable Living, Trust, John A. Vaughn, Jr. Co- Trustee- in opposition.
4. Robert L. Bebee, representing the Rainbow Beach Association- in support of the application.
5. WCPB- No County Impact.

W. Law stated that there were letters, some of which were favorable, that were submitted with the previous application and requested if they could be moved to the current folder because they address the same situation. P. Kenyon stated that she only included the correspondence that came in for the new application and did not include any previous correspondence.

**Resolution:**

The Zoning Board of Appeals received an application from Joe Keilb (V07-78) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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# 3 of the agenda.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; this is a dimensional issue.

2) There will be no undesirable change in the neighborhood character or to nearby properties, they are combining six lots from the original subdivision and asking for three,

3) The request is not substantial; they are only a few tenths off of having a compliant site;

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, they are going to be single family dwellings and there is nothing to say that they will be problematic;

5) The alleged difficulty is self-created, as W. Law has stated, as most of these are to a certain degree, but not in anyway that he finds negative to the application,

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

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

**4) V07-82 LAGOON MANOR HOMEOWNERS ASSOCIATION.** Represented by the Dock Doctors. In accordance with Section 200-93A (Other regulations applicable to planned unit developments), seeks area variance to demolish and reconfigure the docks. Section 157.05, Block 1, Lot 88.1, Zone PUD. Property Location: Brookhill Drive. Subject to WCPB, PB and APA review.

(Note: J. Anthony abstained because he is a resident of Lagoon Manor and he works with the developer.)

Jeff Provost gave an overview of the project. He stated that the HOA has approximately 700 feet of lake frontage, with a neighbor to the north and to the south there is a beach and Conservation Land. In the original APA permit, there was a motel site and the docks had to be immediately easterly of that motel unit and so there is the envelope of where the docks have to go. He stated the HOA is attempting to take the three dock structures which contain 35 slips and reconfigure them into two docks. He stated that the existing docks can only accommodate approximately 20 boats due to the design and lack of maneuverability in and out of the slips. They are proposing to spread the two docks out

so that the width would be large enough for boat access for all available slips. He stated that they have received the LGPC variance to do what they are proposing and with their regulations the amount of shapes and square footage is within the same of the existing docks.

K. Hoopes asked P. Kenyon what they were supposed to be doing with this application tonight. P. Kenyon stated that they cannot make any decisions tonight because it is deferred to the PB agenda this month for their recommendation and the application will come back to the ZBA in February. She stated they still need to get approval from the APA and according to Town ordinance they do not have to go back to the TB. Counsel stated that P. Kenyon's statement was correct. However, this application is a combination of a variance and PUD amendment. He stated the variance would be done with the ZBA, but the amendment to the PUD has some PB and APA aspects to it and if it is determined that the magnitude of amendment is large enough, since the PUD was approved by the TB in the first place, it may need to go back there. He stated that it does not indicate that it has to go back to the TB, especially if it has PB, APA and ZBA approval. J. Provost stated that in the original offering plan, the APA ruled that there can be 35 slips with no more than 3 dock structures and the rest was left up to the LGPC. He continued that they have been in contact with the APA regarding their jurisdiction and how they want to amend the application. Counsel stated that the APA may require that the applicant get TB approval.

K. Hoopes stated that the APA has given them a notice of incomplete application and have given them a huge list of approvals necessary. J. Provost stated that the APA gave them an answer before they met with the LGPC and the LGPC approved it at their first meeting.

M. McComb stated on page 6 of the APA packet, regarding item #7 APA Determination, it says provide copies of minutes of all local meetings of which the project is and was discussed, and she does not feel that they are doing the applicant a favor generating a large discussion if they are not going to act on it tonight. K. Hoopes stated that P. Kenyon just put this on the agenda so that we could get a feel for the application and let us know that it is coming up. Counsel agreed with M. McComb and stated that they should say as little as possible.

J. Anthony representing the developer, stated that the developer has no position on this. He stated that in considering the developer's needs and rights, procedure is important to discuss. He stated the normal process they follow, is that the APA has written the amendment and then it has come to the Town for ratification or verification, and at this moment, he has had APA PUD 292-B amendment for Lagoon Manor being written for 5-6 years and it has yet to be issued. He stated that this permit has been completely rewritten by the APA and requires much more than the first permit (292-A). He stated that he felt that this permit for the docks (he believes 292-C) would not be issued by the APA until they comply with the notice of incomplete project application. He stated that the ZBA, PB or TB cannot amend this permit if there is not a 292-B permit in place. He stated that if the developer gets permit 292-B, it will immediately come before this Board

for ratification, which would allow for this permit to follow behind it. He stated that he is concerned that the APA will do the same thing to the applicant, they are just going for a simple dock change and the APA will find ten other things to throw into it. Counsel stated that if it gets to be too big, then it may be appropriate to go to the TB.

P. Kenyon asked J. Anthony if he is asking that they reject the application. J. Anthony stated no, they just can't act on it. He stated that 292-B has to come through first and then they can look at 292-C. P. Kenyon stated that she did not agree with J. Anthony's analogy and thinks that this application will still be before this Board. Counsel stated that it can be, but he cannot foresee what will be imposed by the APA.

K. Hoopes stated that he could see 292-C coming before 292-B since these docks are not part of 292-B. J. Anthony stated that if he could see the enormity of 292-B, that he would see why it has to be in place first.

**Resolution:**

Motion by Kam Hoopes to table this item pending a recommendation by the Planning Board. Seconded by Meredith McComb. **All in favor. Motion Carried.**

- 5) **V07-80 KOLVEK, MARY.** Represented by Daniel Ryan, PE. To demolish and rebuild single family dwelling, seeks area variance for deficient setbacks. 1) Front: 75' is required from the edge of the right-of-way, 45.2' is proposed; 2) Side: 30' is required, 7.6' is proposed; and 3) Rear 30' is required, 8.6' is proposed. Section 156.00, Block 2, Lot 91, Zone RCL3. Property Location: 5508 Lake Shore Drive. Subject to WCPB review.

Daniel Ryan, PE, representing Mary Kolvek gave an overview of the existing conditions. He described the property as .28 acres located on Route 9N, sloping from west to east. He stated there is an existing mobile home with a few additions, on the eastern side of the parcel, and a small shed on the site. The mobile home is serviced by seepage pits for a sewage system which is very old and was probably installed with the original building. Currently there is a gravel driveway off of Route 9N and they are proposing to leave that driveway in place to service the new home. The soils on site are sand and gravel with some shallow bedrock closer to Route 9N.

D. Ryan gave an overview of the proposed plan. He stated that they want to remove the existing mobile home and shed and replace that with a modular three bedroom ranch home. The existing home is approximately 900 sq. ft. and proposed modular is 1,300 sq. ft., and with decks and covered porches it would be a total of 1,800 sq. ft.

D. Ryan stated that the applicant was there for a couple of variances. The permeability of the site is required to be 85% and they will have approximately 70%. And they are looking to adjust the placement of the house which would lessen the setbacks on the



eastern side of the parcel. Currently the structure is 10-12 ft from the property line and they are proposing approximately 8 ft with the modular.

He stated that they feel this is an improvement to this site because the existing mobile home pre-dates early 1970's and is in need of some major repair which is becoming an economic strain. He stated that it would better to replace this structure with something more desirable from a living standpoint as well as aesthetics for the community.

D. Ryan stated that they tried to show as much as they could on the Site Plan to show how much disturbance would be taking place and they have tried to limit it as much as possible in order to reduce the amount of erosion.

D. Ryan stated that they plan to use an Elgin geo-type style sand filter which will provide much better treatment than the seepage pit. He stated the current sewage treatment is at least 20 years old and seems to be functioning properly but is not sure how well it is treating the up effluent currently. The system proposed is compliant with the Town code.

K. Hoopes stated that the proposed plan is definitely an improvement to the old. He stated that it seems that they will be placing the new home in the basic foot print of the existing building and the view on that property has been the same with a structure that close to the property line, but now the activity will be more to the front of the property closer to Route 9N and he supports that.

D. Ryan stated that he feels they have submitted the best possible plan in protection of the lake, they have stormwater mitigation as well the new septic system. And he feels the size building is not unreasonable for this site.

P. Kenyon stated that she was confused about the property having 70 % permeability. She stated that she does not have him down for a variance for that. D. Ryan stated that the maximum lot coverage is 15% and they exceed that. P. Kenyon stated that is based on the buildings themselves and not the driveway and that the actual amount of lot that was going to be occupied with just the buildings was 14%. M. McComb asked why the applicant didn't need a variance for deficient lot size because the parcel is .28 acres in an RCL3 zone. Counsel stated that it is a pre-existing non-compliant. T. McGurl asked how it could be pre-existing if this subdivision went through just a few years ago. P. Kenyon stated that this lot was not a part of that subdivision.

M. McComb stated that she is concerned for several reasons, 1) there are no elevations of the proposed house, 2) the request for a provision to be included in the variance, after excavation to allow for an additional 2 feet of relief. D. Ryan provided elevations of the proposed home. He also addressed the request for the provision stating that on site there is shallow bedrock and they are trying to create a crawl space/basement that will accommodate utilities under the building. He stated that if they are not comfortable with the variability that they would accept whatever they have specified on the Site Plan, but the reason they wanted some variability is because they are not 100% sure of the contour of the bedrock below.

M. McComb stated that the current house is 930 sq. ft. including the shed and the proposed house is to be 1,875 sq. ft with covered porches and decks and feels that this is not a slight increase. D. Ryan stated that he is not saying that it is a slight increase but they are trying to stay within the same footprint. M. McComb stated that she is uncomfortable with the size of the new structure on such a small lot. T. McGurl asked if the porches were going to be screened in. D. Ryan stated that the covered deck may be screened in, but they do not have final drawings because without the approval it would be a waste of time and money to get the blueprints drawn up. G. Smith stated that this is not their concern at this time as long as it is not enclosed. P. Kenyon stated that under the current code, the applicant would have to come back if he wants to enclose the porch or deck.

K. Hoopes asked Counsel what they should do about the variability, because he is not comfortable with it. Counsel stated that they should be uncomfortable with that request and instead the applicant should ask for the maximum that they seek so they have it if necessary. D. Ryan stated that they would accept the relief that is being shown on the Site Plan. K. Hoopes explained that if they begin the project and need additional relief they would need to come back.

J. Anthony stated he was concerned that the elevations had no scale on them, there are no dimensions on building height, there is an exposed foundation on the lower side of the building and the note says actual house may vary from elevation. He asked what the height of the structure would be and is the grading on the lower side accurate. D. Ryan stated that it is accurately depicted and the height is approximately 25-30 feet including the basement.

T. McGurl asked if the applicant is wishing to be further away from Route 9N why are all of the porches are facing Route 9N? D. Ryan stated that he did not have an answer and is only presenting what has been requested.

M. McComb stated that she is concerned because the floor plan and the site plan differ in the square footage of the home. D. Ryan stated that all the areas were calculated electronically and it includes the structure, all overhangs, decks and any other items within the footprint of the entire structure.

G. Smith asked if anyone in attendance had any comments.

P. Kenyon stated there was no County Impact.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Mary Kolvek (V07-80) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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 could not be achieved by any other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, and that this is an enhancement of the property,
- 3) The request is not substantial, considering what they are facing down there and in light of the improvements proposed;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the engineer has shown to his satisfaction that they will be addressing any and all of those issues;
- 5) The alleged difficulty is not self-created, since this was a pre-existing non-conforming lot,

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

Now upon motion duly made by Kam Hoopes and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. Meredith McComb opposed. **All others in favor. Motion Carried.**

K. Hoopes stated that he wanted to discuss the APA in preparation for next month. There has been an overturn on one of the ZBA variances and feels they need to discuss this because the APA continues to do this no matter how carefully they craft their work. He stated that they keep leaning on necessary hardship and practical difficulty without any accountability on the subject. He feels a proper way to handle this would be, if the applicant wanted to fight, than the ZBA supports them by filing an Article 78. Counsel stated that he agreed that should be the course and they would not be wasting their time because these two tests, necessary hardship and practical difficulty, no longer apply. K.

Hoopes stated that he believes there is another course of action which would involve making a motion to have the TB take action.

J. Anthony stated that in his 35 years of experience in dealing with the APA that they often over analyze the projects and abuse their discretion. He stated that he has seen the pendulum swing from pro-development to no development over the last 35 years and right now they are in a no development mode. K. Hoopes asked if this would be a futile effort to fight the APA. J. Anthony stated that he has won against them once. Counsel stated that the APA has a very good record because the Courts are reluctant to intrude where discretion is applicable or where there is the absence of a final determination. However, he does suggest that they fight the overturned variance. K. Hoopes stated that the APA has said that they have their own laws. Counsel stated that they use their own law to supercede that which has been imposed upon the ZBA. He stated that this is their best argument against the APA because it is narrowly framed and right on the point and the APA is wrong.

J. Anthony stated that in the preamble to the Adirondack Park Act it says to protect the resources of the Park and the APA interprets those words as broadly as they see fit. K. Hoopes stated that he feels another approach they could take is to go through State Legislators, but in the meantime thinks they should appeal to the TB to take action. Counsel stated that it needs to be done within 60 days of when the decision was rendered. M. McComb stated that in the letter from the APA regarding this overturn the APA says there were things that were not discussed that she recalls discussing and wonders if this information just didn't make it into the minutes. J. Anthony stated that if there is a violation of a setback by the shoreline the APA will never reverse their decision. K. Hoopes stated that the ZBA already granted the variance and if the APA finds a violation then they better have someone here to enforce it. Counsel stated that the ZA could not give a Certificate of Compliance without APA approval.

Meeting was adjourned at 8:33 pm.  
Minutes submitted by K. MacEwan