

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday October 19, 2010
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- Kam Hoopes, John Michaels, David Ray, Tony DePace, Jeff Anthony, Counsel Michael Muller and Zoning Administrator Pamela Kenyon

Absent- Jason Saris and William Pfau

The meeting was called to order at 6:36 pm.

Jeff Anthony stated that both Chairman and Co-Chairman would not be present for the meeting. The Board had some discussion about whether or not to postpone the entire meeting. The Board decided to proceed with the agenda. Jeff Anthony stated that all applicants would need to receive 4 of the 5 remaining members' votes to gain approval. He stated that if any applicants felt uncomfortable or would rather wait for a full Board they may do so at any time. Their application would be tabled until a full Board was present.

Jeff Anthony asked if there were any changes or corrections to the September 13, 2010 minutes.

RESOLUTION

Motion by John Michaels to approve the September 13, 2010 minutes as written.
Seconded by Tony DePace. Kam Hoopes abstained. **All Others in Favor. Motion Carried.**

1) V10-20 BENNETT, DAN & TURNER, RUTH. Represented by Atty. Brian Reichenbach. To demolish and rebuild 2 bedroom cabin, seek area variance for a deficient shoreline setback. 50' is required, 16.4' is proposed. Section 186.10, Block 1, Lot 6, Zone RCH5000. Property Location: 4750 Lake Shore Drive. Subject to WCPB and APA review.

2) V10-21 BENNETT, DAN & TURNER, RUTH. Represented by Atty. Brian Reichenbach. To alter 1 bedroom cabin, specifically to rearrange the footprint, seek area variance for a deficient shoreline setback. 50' is required, 14.8' is proposed. Section 186.10, Block 1, Lot 6, Zone RCH5000. Property Location: 4750 Lake Shore Drive. Subject to WCPB review and APA review.

Brian Reichenbach stated that on behalf of the applicants he would like to withdraw their

application. After their approval in July they had some issues with the APA over whether or not they have review authority or not. The APA exercised their authority, however it has been nearly 60 days and they have not heard any word from them nor has the Town. Therefore they would like to withdraw their application and proceed with obtaining their compliance certificate.

3) V10-37 BOLTON GARDEN CENTER (Steve Budner). Seeks area variance for deficient parking. 41 spaces are required for retail use. 8 spaces were approved on December 19, 2005 under V05-72. 34 spaces required at that time. Section 171.19, Block 1, Lot 62, Zones **GB5000** and RM1.3. Property Location: 4921 Lake Shore Drive. Subject to WCPB review. Discussion is also sought as to what constitutes a fast food restaurant. *Note: This item was tabled from the September meeting at the applicant's request.*

This item was tabled at the applicant's request.

4) V10-38 DEAN, MICHAEL & ERMIGER, TERRANCE. Represented by Michael Dean. In accordance with code Section 200-14 & 15 seeks area variance for density to provide for a lot line adjustment in the LC 45 Zone. 1) Dean parcel-45 acres required, .37 acres exist, .59 proposed 2) Ermiger parcel-45 acres required, 38.9 acres exists, 38.68 proposed. (Dean) Section 198.04, Block 1, Lot 2 & (Ermiger) Section 198.02, Block 1, Lot 1, Zone LC 45 Property Locations: (Dean) 455 & (Ermiger) 480 East Schroon River Road. Subject to WCPB and APA review.

Michael Dean stated that in June 2009 a Verizon truck drove through his septic tank. He stated that he has received a variance from the Town to put in a drainage field but it required him to obtain additional property. His neighbor has graciously allowed him to do that. His neighbor owns 39 acres and this drainage field would take up approximately 10,000 sq. ft of his property. Michael Dean stated that he does have the variance from the local BOH to install the septic system.

Kam Hoopes stated that he went out to the site and spoke to the neighbor. He stated that he does not see any negative with this at all. It increases the applicant to over half an acre and provides him with a good solid septic system. This will also straighten out the neighbor's lot line. Kam Hoopes stated that this is exactly what this Board is set up to do. This is the minimum request to achieve the overall goal.

John Michaels asked if Verizon will be paying for the new system. Michael Dean stated that Verizon is paying for the tank, but he is appealing to get the rest of the cost covered as well.

Jeff Anthony asked if there was any correspondence or WC impact. Pam Kenyon replied no. There were no comments from the public in attendance.

Jeff Anthony asked if it will be going to the APA for shoreline or density. Pam Kenyon replied that it is for density.

RESOLUTION

The Zoning Board of Appeals received an application from Michael Dean and Terrance Ermiger (V10-38) 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#4 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 on a very small lot and only requires a small variance.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be beneath the ground and invisible once it is installed.

3) The request is not substantial; in any fashion, it is just enough to make the project work.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; on the contrary it is an environmental and physical solution and improvement.

5) The alleged difficulty is not self-created, the damage to the septic tank was not caused by the applicant.

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 John Michaels, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

5) V10-39 MARANVILLE, JON In accordance with Section 200-14 & 15, seeks area

variance, specifically to demolish & rebuild an enclosed rear porch, add a rear deck & patio, and add a covered front porch, 1) deficient setbacks, a) front: 30 ft. required, 29'4" ft. proposed, b) side: 8' ft. required, 1'6" ft. is proposed on the south side, c) total side: 20' required, 18' 3/4" proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 31 Zone GB 5000 Property location: 4988 Lakeshore Drive. Subject to WCPB review.

Jon Maranville stated that they are adding onto the structure to put a front porch back on the structure that existed 50 years ago and adding onto the same footprint of the back porch. Kam Hoopes asked if the front porch will take up much of the parking area. Jon Maranville stated that it will take up some of the parking but he has more in the back. Kam Hoopes stated that the proposed porch looks similar to what existed years ago. Jeff Anthony asked if the intent is to maintain the service garage but to do upgrades to the building and living portions of it. Jon Maranville replied yes.

Jeff Anthony asked if there was any correspondence. Counsel Muller stated that there was one letter from Bill Gates who indicated that he was thrilled with the work proposed and fully supports the project. Pam Kenyon indicated that there was no WC impact. There were no comments from the public in attendance.

Kam Hoopes stated that the variances are minimal and this will be a big improvement to the aesthetics of the building and for the Town. The applicant has already done improvements by re-grading and paving around the building and this is just another upgrade. Jeff Anthony agreed that this will be a phenomenal improvement and he should be thanked for it.

RESOLUTION

The Zoning Board of Appeals received an application from Jon Maranville (V10-39) 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; there are a couple of setback issues, but this is the GB5000 zone in downtown, everyone downtown has setback issues.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is the return to the aesthetics of years ago and it's an improvement.

3) The request is not substantial; this is the GB5000 zone and all things considered these are small variance requests.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; all of the drainage issues have already been taken care of.

5) The alleged difficulty is not self-created, this building was converted before the applicant owned the property.

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

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

6) V10-40 CARNESE, DAN & JENE Represented by Kevin Kershaw. In accordance with Section 200-14 & 15 seeks area variance to add a 16' x 18' bedroom addition. 1) deficient setbacks: front: 30' required, 25' proposed 2) to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 78, Zone GB 5000 Property location: 2 Congers Point North. Subject to WCPB review.

RESOLUTION

Motion by Kam Hoopes to move this application to be heard at the end of the agenda and if no one shows to have it heard at the November meeting. **Seconded by Tony DePace. All in Favor. Motion Carried.**

Note: This item was heard as the last item on the agenda.

Kevin Kershaw stated that the applicants would like to add a 16' x 18' bedroom addition to their house. He stated that they are dealing with a setback issue from the deeded right-of-way and not the road by 5 feet. They meet the setbacks on the rear and sides. The total height of the structure will be 16' and it will have siding that matches the existing house. Kevin Kershaw stated that they have received a letter of approval from the HOA dated October 5, 2010. The applicants and Jim Senese, owner of lot 2, have agreed to do rain gardens to alleviate some of the water problems that have been coming down onto the Carnese's site. The Carnese's would like to put a 7' x 16' rain garden on the

downhill side of the addition. They will also be building a 40' x 6' x 2' high rain garden at the bottom of the hill where the two properties meet which should further mitigate the water problem in this area.

Kam Hoopes stated that this seems to be one of the easier items that they have on their agenda tonight. This is a small addition to the back of the house. It is a perfect location and the only variance required is from a right-of-way whose location seems to be questionable. Having said that, this addition will not invade upon the right-of-way to limit or restrict ingress or egress. It will not affect anyone's view and it is a very modest proposal.

Kevin Kershaw stated that Kathy Bozony can further expand on the rain gardens because she met with him at the site last week. Kathy Bozony stated that she was pleased when Kevin Kershaw called about installing rain gardens for this 16' x 18' addition. She stated that the gardens are proposed in perfect locations. There is a lot of run-off in Congers Point and they have been trying to get all of the property owners to understand the importance of infiltrating and treating their stormwater. She stated that she was concerned when Jim Senese's project was approved because the Board approved the variance with the condition that they applicant try to add storm water where he could. She stated that the Senese project was a two story large shed on the top of the ledge rock hill, right on top of the Carnese's home and the trees were going to be removed with the original plan. Kathy Bozony stated that she was thrilled to see that he agreed to work with Kevin Kershaw and the Carneses for the storm water. She stated that they try to encourage people to work with their neighbors and look at the big picture when new improved impervious surfaces are put in.

Jeff Anthony asked if there were any comments from the public in attendance.

Frank McDonald stated that he and his wife are immediate neighbors to the west of this project and they have no objection to this addition.

Jeff Anthony asked if there was any correspondence. Pam Kenyon indicated that there was no Warren County Impact. Counsel Muller stated that they did receive a letter of approval from the Congers Point HOA.

RESOLUTION

The Zoning Board of Appeals received an application from Dan and Jene Carnese (V10-40) 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#6 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 from the right-of-way.

2) There will be no undesirable change in the neighborhood character or to nearby properties, these places have a similarity to them and this is a small variance request.

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; the applicants are going above and beyond the call of duty with one of their neighbors to take care of environmental effects that already exist without this addition.

5) The alleged difficulty is not self-created,

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. **All in Favor. Motion Carried.**

7) V10-41 LEFEBVRE, RICK & WENDY Represented by David Lajeunesse. In accordance with code Section 200-14&15 seek area variance to demolish and reconstruct lake front cabin in the South Beach Association. 1) deficient setback: a) front: 50 required, 30 proposed, b) shoreline: 75' required, 57' proposed, 2) to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.14, Block 1, Lot 12, Zone RM1.3 Property location: 15 Beach Ave. Subject to WCPB and APA review.

Dave Lajeunesse, of DA Lajeunesse Building and Remolding, stated that if this proposal is approved he would be the one responsible for the project. The proposal is to use the existing footprint and rebuild the structure. The existing building sits on pier footings that are deteriorating and is an open frame 2' x 4' structure. Most of these places started off as tent platforms that turned into camps for families. The applicants inherited the camp from her family and has been in her family for some time. They would like to

bring it up to current code status by remodeling it and putting the appropriate pier footings and insulating it today's standards.

Dave Lajeunesse stated that Beach Avenue stops short of their property and the rest of what looks like the road comes up to their camp and pulls along side of the house.

John Michaels asked what the square footage would be. Dave Lajeunesse replied that it will be the same footprint and square footage which is 843 sq. ft. He stated that they were required by the HOA to stay within the existing 850 sq. ft and the peak of the roof could be no more than 19'6" from grade.

Dave Lajeunesse stated that some of the other homes in the association have been redone and they look really nice. He stated that the applicants are not only seeking to upgrade their structure to code but to also increase their comfort level in the camp and the aesthetic value of the building as well. John Michaels stated that he gives the HOA credit for keeping these homes to the limited square footage. Dave Lajeunesse stated that they were very good to work with.

Jeff Anthony asked if there were any mature trees that needed to be removed. Dave Lajeunesse replied that there are a few that have grown up against the building itself but none between the lakeshore and the building.

Counsel Muller stated that this application will be going before the APA due to the shoreline setback and he would like to see some discussion of the APA standards. Kam Hoopes stated that according to the APA the practical difficulty is that fact that this is a pre-existing non-conforming structure. Counsel Muller asked if this was an expansion of what previously existed. Kam Hoopes stated that the applicant has not shown that they will be increasing the square footage or any setbacks. This is the best feasible alternative. John Michaels stated that the APA allows for an additional 200 sq. ft. away from the shoreline, for non-conforming structures but this applicant is not even asking for that. This is the minimum request possible to achieve the applicant's goal. Jeff Anthony asked if they could look at this as an in-kind replacement. Dave Lajeunesse stated that they will be keeping the footprint the same but the elevation will be different. Kam Hoopes stated that it would not be considered in-kind because there are improvements in materials and look but they are staying within the confines of the of the original drip lines.

Jeff Anthony asked if there was any correspondence. Counsel Muller stated that Kathy Bozony wrote a letter but invited her to speak on the matter herself.

Kathy Bozony stated that she does not look at this as an in-kind replacement based upon the APA definition but it is in the same footprint. Regarding the on-site waste water treatment system, she stated that there is currently a 500 gallon tank that exists for a 2 bedroom plus 2 storage rooms upstairs which could potentially become a bedroom in the future should be looked at as a 3 bedroom dwelling. She stated that a minimum for a 3

bedroom dwelling would be a 1,000 gallon tank. There was also a letter in the file from Trent Martin stating that there was no evidence of effluent breaching the ground where the leaching system was thought to be. However, she feels the replacement of the single family dwelling should require that the on-site waste water treatment system should be brought into compliance with all NYS DOH waste water treatment standards. She stated this is also required for variances given by the APA.

Kathy Bozony stated that she would also like the Board to address stormwater management for the property. The applicants will be taking down some trees and have not provided a plan for replacement or any planting plan. They are also asking for proposed stormwater management for the property including shoreline buffering. Although this property is flat there is no shoreline buffering. She swam in this area over the past 2 summers and has found that there are significant algal blooms in this bay. Kathy Bozony stated that she would also like to see the Board put a restriction of pesticide and fertilizer use on these properties.

Jeff Anthony stated that they require applicants to provide a letter from a civil engineer certifying that the system is functioning properly and can accommodate any renovations or increased use. He stated that they do have a letter from Trent Martin but he does not see anything in the letter that indicates that this will be going from a 2 to 3 bedroom dwelling. Dave Lajeunesse stated that the area thought to be used as a potential third bedroom is only for storage. He stated that the ceiling height is only 5'6" and it will not be adequate to be labeled as living space.

Kathy Bozony stated that she did not realize that the upstairs was limited height-wise. However, the dwelling still has 2 bedrooms which does require a 1,000 gallon septic tank. Kam Hoopes stated that they do not handle septic systems. He stated that if the Town decides that this is not adequate then their variance will not be worth the paper written on.

Counsel Muller read the letter from Trent Martin of KA Martin Engineers, PLLC. Jeff Anthony stated that the only thing that is not stated in this letter is that the septic system is sized and working properly for the number of bedrooms proposed. Kam Hoopes asked how big of a septic tank is needed for 2 bedrooms. Pam Kenyon replied 1,000 gallons. Kam Hoopes stated that once they approve this here Pam Kenyon will then forward this onto the BOH for septic review. Pam Kenyon replied no, because there is no increase in the amount of bedrooms they would not have to meet the standards for the septic. Counsel Muller stated that they will have to be satisfied with this letter and that it meets their policy.

Chad Viele, of Viele Contracting, stated that he built a camp in South Beach last year and the upstairs of the building has to be at least 7' to be considered a bedroom.

Jeff Anthony asked if they are satisfied with the Engineers letter. Tony DePace stated

that while they are rebuilding the home he would suggest that the applicants consider installing a 1,000 gallon tank at that time. Jeff Anthony agreed but he is not sure that they have jurisdiction. Counsel Muller stated that they cannot make the suggestion they would need to decide whether or not to make this a condition of approval. Tony DePace stated that if they are not allowed to make septic decisions then he is not comfortable making it a condition. John Michaels asked what the applicants thought about their septic system. Dave Lajeunesse stated that he could suggest this to the homeowners, but since they had the letter from the engineer they did not realize that this would have been an issue.

Kam Hoopes asked how long the applicants have had the property. Dave Lajeunesse stated that the property has been in the applicant's family for over 50 years. Kam Hoopes stated that he is not sure if it is the same system but it certainly is enough time to know what their needs are. John Michaels stated that if there was a problem they would know about it given the close proximity of the neighbors.

David Quinn asked if the Board could read the letter from Trent Martin again. Jeff Anthony read the letter again.

Kathy Bozony read the APA regulation for shoreline restrictions Section 575.5d states: "Any proposed expansion of a non-conforming on-site waste water treatment system that is designed to service an actual or potential increase in occupancy of the shoreline structure served, must meet all existing standards for such systems including the shoreline setback requirements. Otherwise a variance will be required for system expansion." John Michaels stated that this is not an expansion; this is the exact same footprint with the exact same square footage.

Pam Kenyon indicated that there was no WC impact.

Kam Hoopes stated that the practical difficulty is that these are small properties in this association. This is a pre-existing non-conforming structure that is being rebuilt on the exact same footprint. The applicants are not proposing an expansion but rather an upgrade to the structure. John Michaels stated that the APA allows for 200 sq. ft additions away from the shoreline in a non-conforming structure and the applicants are not even asking for that. This is the minimum variance necessary to achieve the applicant's goal.

Jeff Anthony stated that there are two potential conditions that have been presented that they need to discuss. First is minor storm water management and secondly is any consideration for no cutting of vegetation between the building and shoreline. Kam Hoopes stated that there is no real vegetation or trees between the building and shoreline on this property. The trees are located on the common property which they would not have access to. Kam Hoopes stated that he feels that adding storm water to an 850 sq. ft building would really be pushing it. Counsel Muller stated that it would be exempt but if

they felt strongly about it they could add it as a condition. Jeff Anthony stated that they could add infiltration around the drip line. Kam Hoopes stated that he thought it would be standard practice but he will add it to his motion to incorporate minor stormwater control measures which will be reviewed by the Zoning Administrator. Pam Kenyon stated that she is concerned with adding stormwater because they will not be able to meet the 2' separation due to the high water table. Kam Hoopes stated that anything that the applicant could do to mitigate it is a plus.

RESOLUTION

The Zoning Board of Appeals received an application from Rick and Wendy Lefebvre (V10-41) 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#7 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; these are dimensional issues that are not changing they are staying the same. This is just a rebuild of an old and feeble building in the same footprint.

2) There will be no undesirable change in the neighborhood character or to nearby properties, these are all the same type of structures and this is one of the last cabins to be upgraded.

3) The request is not substantial; everything is staying the same in the same footprint and the only significant changes are the upgrades aesthetically.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; nothing has been established nor is there any evidence of problems in the past.

5) The alleged difficulty is not self-created, the building has been in the family for 50 years and with age comes deterioration and it is time to rebuild.

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 John Michaels, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition(s): 1) that minor stormwater management is incorporated into the project and will be reviewed by the Zoning Administrator. **All in Favor. Motion Carried.**

8) V10-42 MAGLIOCCA, PATRICE Represented by Chad Viele. In accordance with code Section 200-14&15 seek area variance to demolish and reconstruct a cabin in the South Beach Association. 1) deficient setback: front 50' required, 39 proposed, 2) to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.14, Block 1, Lot 12, Zone RM1.3 Property location: 7 Beach Avenue Subject to WCPB review.

Chad Viele stated that the setback from the road is 45' and with the front porch they will be 39' from the right-of-way. John Michaels stated that there is no shoreline setback that they are dealing with in this application.

Jeff Anthony asked if the proposed camp will be replacing in-kind. Chad Viele stated that the existing camp is approximately 700 sq. ft. and they will be expanding to 839 sq. ft essentially in the same location.

Jeff Anthony stated that he noticed on their plan that they have several pine trees that are labeled to be removed. He stated that they do not seem to be in the way of construction and asked why it was necessary. Chad Viele stated that the 3 in the front will be staying and the only one coming down will be in the back by the shed. He stated that the HOA would not allow the applicants to remove the trees but the plans do not reflect that change.

Kam Hoopes stated that the expansion seems to be filling in a jog on the existing building with a minor expansion to the interior space and the addition of a front porch. John Michaels stated that this is still within the 200 sq. ft. addition allowed. Kam Hoopes stated that this will even out the structure overall and will be less invasive to the neighboring camp.

John Michaels asked what the plan was for the septic. Chad Viele stated that they intend to install a 2000 gallon holding tank. Pam Kenyon stated that she believes that this will require a variance from the local BOH. Counsel Muller agreed.

Jeff Anthony stated that in the previous application there was discussion of looking at conditioning some minor storm water for the plan. Chad Viele agreed that they would add minor stormwater controls to the project. He also indicated that they intend to raise the camp up a couple of feet which will extend out approximately 15' around the

building. He stated that they are hoping that this fill and adding some drainage around the camp will be able to mitigate some of the water issues on this property. Jeff Anthony stated that like the other camp previously discussed they are close to the water table which will make it difficult to do storm water but he would like to see anything that could be done.

Jeff Anthony asked if there was any correspondence.

Kathy Bozony, Lake George Waterkeeper, stated that this is a single story camp that will be doubling in size because it is going up for a full second story. She stated that this structure does have a den and should be looked at as three bedroom home. She stated that they also recognized that this would require a variance from the local BOH regarding the 2,000 gallon holding tank.

Kathy Bozony emphasized that stormwater management is the number one threat to Lake George and biggest factor to the lake water quality decline. She stated that they would be willing to work with the applicant to help design rain gardens or whatever would be appropriate for the site. She is concerned that they are going to raise their property up so that they become dry but then the neighboring property is affected by all of the water. She hopes that with some sort of plan they would accommodate all of their neighbors.

Kathy Bozony stated that since this property is within close proximity to the lake she feels that they should be requiring a planting plan. There is not a lot of vegetation along the shoreline and there are massive algal blooms in this bay. She stated that she is not sure where it is coming from but both the septic systems and stormwater should be addressed.

Kathy Bozony requested that the Board further condition this approval with the restriction of fertilizer and pesticide use.

John Michaels stated that this is actually a lot larger expansion that what is being presented. He stated that is 1242 sq. ft for both floors. Chad Viele stated that the HOA allows use of 75% of their loft without including in the square feet. John Michaels stated that he does not care what the HOA requires; it is an increase from 700 sq. ft to 1242 sq. ft. as far as they are concerned. Kam Hoopes stated that was a good point but he does not feel that they are dealing with a significant expansion in terms of drip line and overall area of space used on the lot.

Chad Viele stated that both neighboring camps are brand new and have been built up higher, so with brining in the fill they will be matching the foundations of the neighbors to the left and right so there should be no run-off to the neighboring properties. Kam Hoopes stated that with the flat property he feels the added material would act more like a sponge rather than a diversion. John Michaels stated that since this is an expansion he would like to see some sort of detail for the storm water plan that Pam can review. Kam

Hoopes agreed.

Jeff Anthony stated that he went to the property after the rain over the weekend and found standing water in the neighboring property across the street. He stated that every time you fill an area the water has to go someplace other than where it was filled so it will go in the remaining flood area.

Counsel Muller read the following letters:

- 1) Robert and Donna Frank in support of the project.
- 2) Margaret Carroll in support of the project.
- 3) Steve McLaughlin, Building Committee Chairman, in support of the project.
- 4) Vincent Reilly, President of the South Beach HOA, in support of the project.

Pam Kenyon indicated that there was no WC impact.

There was further discussion of conditions of approval. Kam Hoopes stated that he feels that stormwater and the removal of the wording to remove the trees on the plan should be added. However, he feels that they do not deal in septic and it will be taken care of on its own. He stated that as long as the Zoning Office is aware of it; it will be reviewed by the appropriate Board. Pam Kenyon stated that they will not get a certificate of compliance until they receive approval from the local BOH for the holding tank. Counsel Muller further explained that process to the applicant.

RESOLUTION

The Zoning Board of Appeals received an application from Patrice Magliocca (V10-42) 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#8 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; in some ways this is a more streamlined version of what currently exists. There is a second story going up, but they are more concerned with the sprawl on the property. These area considerations which have been discussed and resolved.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there are a variety of these cabins and they have been upgraded in many different ways but all of them still maintain their appeal to each other and as a whole.

3) The request is not substantial; except in aesthetics.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; stormwater measures will be taken to ensure that it continues that way.

5) The alleged difficulty is not self-created, this cabin has been in existence for a long time and is in need of upgrading.

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 with the following condition(s): 1) the trees listed on the plan indicating “to be removed”, will not be removed and the note will be taken off of the final plans submitted, and 2) that minor stormwater be incorporated into the project and will be reviewed by the Zoning Administrator. **All in Favor. Motion Carried.**

9) V10-43 STEINER, JAY Represented by Bruce Mowery. In accordance with code Section 200-14&15 seek area variance to construct an attached garage with second story office, two story covered front entry way, and two front dormers. 1) deficient setback: a) front: 50 required, 40 proposed from north edge of HOA common ROW, b) side 15’ required, 9’ proposed and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57 B(1)(b). Section 156.16, Block 1, Lot 2 Zone RCM 1.3 Property location: 117 Norwood Drive Subject to WCPB review.

Bruce Mowery stated that the applicants are proposing to add a one car garage to the existing house. This is the only practical place to put it on the property and they are looking for side yard relief on the north end of the property which is adjacent to Jim Pepper’s property. They are looking for approximately 6’ so that the garage itself is usable. The garage will be 15’ wide and 21’ deep. Above the garage they are proposing a second floor to reconfigure the current floor plan of the existing home. They will be moving the den/office space from the first floor to above the garage and altering the first floor to create a nicer more usable master suite and laundry room. He stated that they are not increasing the amount of bedrooms; there are two bedrooms upstairs and the master downstairs.

Bruce Mowery stated that they will also be adding on an entryway since one does not exist now and some dormers for aesthetics only. All of these improvements will be facing the road opposite of the lake.

John Michaels asked if there was any consideration given to a detached garage to avoid having issues with the setbacks. Bruce Mowery stated that this is a deep lot but narrow and it very steep. There was further discussion of a detached garage. Bruce Mowery stated that if they were to put it anywhere else on the lot they would need to re-grade areas plus it would not be a very practical situation. He stated that this plan has dual purpose; to create a garage and to create some space above the garage for the existing den to create a nicer master suite. John Michaels stated that he just thinks there are other options on the lot. Bruce Mowery stated that there are always alternatives but this is the only one that is practical for the applicants to enhance the house and utilize the space. Kam Hoopes stated that the garage is going to go where the parking area exists now. He stated that this is the end of the flat areas on this property. Bruce Mowery stated that this proposal would not create any more ground disturbance or impervious surface. Kam Hoopes stated that he likes to see attached garages due to weather concerns in the winter especially on a parcel like this where they might be housebound.

There was discussion of the setback deficiencies.

Counsel Muller read a letter from Jim and Sally Pepper in support of the project.

Pam Kenyon indicated that there was no WC impact. There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Jay Steiner (V10-43) 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#9 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; they have some setback issues but no density problems.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is a very handsome plan. There really aren't any properties that will be affected by this project visually, but it is visible from the lake.

3) The request is not substantial; this is just a one car garage with an office on the second floor.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there is already impervious surface in this area which serves as a parking area, so this addition will just cover it, which is a wintertime safety improvement.

5) The alleged difficulty is not self-created, the house came without a garage, the applicants are not taking something off to put it back on, it is adding something that most people would find as an improvement.

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. **All in Favor. Motion Carried.**

10) V10-44 HOFFMAN-SMITH Represented by Carl Schoder of Schoder River Associates. To demolish and rebuild single family dwelling (existing stone patio and guest cottage to remain, wooden car port to be demolished), seeks area variance for 1) a) deficient shoreline setback. 75' is required, 31' is proposed, b) side setback: 15' required, 7.5 proposed and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57 B(1)(b). Section 156.12, Block 1, Lots 22 & 29, Zone RCM1.3. Property Location: 11 Cherry Avenue. Subject to WCPB and APA review.

Carl Schoder stated that a year ago this applicant was before the Board in a different format than currently proposed. The previously approved project was approximately 16% larger in footprint area. As that was moving towards the commencement of construction the owner determined it to be too expensive to build. The owner has requested that they reduce the size of the project and retained the services of Bret Balzer for architectural design. The intent was to build a smaller residence and utilize more of the existing structure that is present on the site at this point.

Carl Schoder stated that premise for the expansion has not changed. The existing structure is too small for the family. The structure is also dated with old finishes, windows and doors and they would like a more energy efficient residence. Currently, the existing site has three non-conforming conditions: 1) shoreline setback of 31' measured

to the deck of the existing structure, 2) 7.5' setback to an existing guest house to property line and 3) 9.4' from the carport to the sideline setback. Carl Schoder stated that they are proposing to eliminate one of the two sideline setbacks by removing the carport. They will keep the existing shoreline setback to 31' that it is currently and leave the guest house in place to keep that non-conforming condition as well. He stated that keeping the guest house will allow for more living space for their guests which will take the place of increasing the footprint of the primary structure.

Carl Schoder stated that in their opinion this new plan results in less site disturbance. The majority of the existing foundation will be reused. They anticipate the grade floor and first floor framing will also be able to be reused. There would be an expansion of the foundation to increase the footprint but that expansion would not be occurring on the lakeside of the property. The new residence would comply with all of the sideline setbacks that are in place they only issue is the 31' from the shoreline. The proposed house cannot be moved back to the west because there are very steep slopes on this property and would require in a lot of excavation and site disturbance as well as a very steep driveway.

Carl Schoder stated that the current house is located in the best location. He stated that prior variance sought to have a wider house, with a 50' setback from the lake. However it was significantly wider because they eliminated the guest house and essentially put that space in the house. He stated that plan also disturbed more of the site and created a much more expensive building. Kam Hoopes stated that the previous structure would have created more of a visual impact from the lake. John Michaels stated that it seems that the applicants made an effort to move the house back from the lake but found it was cost prohibitive. He stated that they have gone back to what currently exists which is reasonable. They have spent a lot of money on design and probably put more effort than most people.

Kam Hoopes stated that they are utilizing the existing foundation and some of the structure up to the ground floor. They are not moving any closer to the lakeshore for the deck or the structure itself. Kam Hoopes asked if the width of the building will change. Bret Balzer indicated that there would be a 4'2" addition to the north of the house but would maintain the side setback. Kam Hoopes stated that he does not feel that would create much visual impact from the lake. There was further discussion of the expansion of the footprint.

Kam Hoopes stated that based upon the terrain, ledge and site disturbance this proposal is a favorable solution to their aging and dated structure and their need for a little more space. The practical difficulty they had the first time around still applies they are a non-conforming pre-existing structure. He stated that the last variance was for a much larger home and the extent necessary to achieve that plan has created the need for this plan. This is basically the same arrangement with the same setback from the lake that has existed since 1974.

John Michaels stated that he feels that the applicant has tried hard to make improvements on this lot and they have reduced the primary structure by 25%.

Jeff Anthony asked if there was any correspondence.

Kathy Bozony stated that this is a 16% decrease in what was approved last year but last year's expansion was quite large. This zone requires a 75' setback and they are talking about 31' from the lake. She was under the impression that the existing deck was going to become a porch with another deck. Carl Schoder indicated that it would just be a deck.

Kathy Bozony stated that currently no stormwater management exists on this property and they have proposed infiltrating roof run-off and the construction a dry well for other impervious surfaces. However, she would also suggest the use of vegetative rain gardens and planting vegetation along the shoreline to appropriately infiltrate run-off. She also feels that given the slopes on this site she wonders if this should be discussed as a major stormwater project. And if that were to be the case a variance would be necessary for the infiltration within close proximity to the lake.

Kathy Bozony stated that the application indicates that no existing trees will be removed, but it does not address the fact that in the future there will be a boathouse. She wonders that when the boathouse is constructed will the trees remain. She stated that with regard to the trees and vegetation being removed for the expansion of the house she would suggest the replacement of native trees and shrubs. She would also suggest requiring a planting plan and as well as shoreline buffering.

Kathy Bozony stated that new construction should be serviced by an on-site waste water treatment system that meets NYS DOH treatment standards. The existing 1,000 gallon tank is undersized for the 4 bedroom dwelling. At the 2009 meeting they discussed upgrading the system and hoped that was still the intent. Carl Schoder replied that it was. Kathy Bozony also suggested that the Board request that the as-builts for the absorption fields that were built across the road 1994 are on file and the absorption bed is appropriately sized.

Kathy Bozony requested that the Board restrict pesticide and fertilizer use on the property. She stated that the applicant recently stopped into her office and indicated that she was very interested in doing what she could to be a good steward of the lake. She stated that she does not see a lot of that in this plan but hopes that the applicant is still willing to do so.

Counsel Muller read a letter from Barbara Yake in support of the project.

Counsel Muller stated that although Kathy Bozony suggested upgrading this to a major storm water project it cannot be done through this Board. He stated that determination can only be made by the Zoning Administrator. Pam Kenyon stated that she will not be

making that determination and it will remain a minor stormwater project.

With regard to waste water Carl Schoder stated that there is an upgrade proposed to accommodate the current design and will be increasing to a 1250 gallon septic tank. It will also have an effluent filter on it to protect the leach field. The leach field was designed by his office in 1994, but at the time it was designed conservatively and the flow rates per bedroom were very high. They did perc. tests to evaluate the system within the last year and found very favorable results. They have 275 linear feet of leaching device, where 240 linear feet is required for the size of the project.

Currently the property is served by a well on the Yake property. Carl Schoder stated that this project will drill a new well so that they will stand on their own.

With regard to stormwater, Carl Schoder stated that currently nothing exists now. The project is proposing minor storm water with infiltration. One discrepancy is that the infiltration device is within 100' of the lake but that is the only place to put it. This is a small site; the only area to infiltrate the water is shown on the plan. He would prefer to put in more rain gardens on the site but he does not have the space to do that. Kam Hoopes stated that this property is a very rocky with a lot of ledge, which makes it difficult to provide for a lot of ground cover. Carl Schoder stated that they will not be disturbing anything on the hillside heading down to the lake from the retaining wall and they will also retain the existing patio as well.

With regard to tree removal, Carl Schoder stated that the trees to be removed are indicated on the plan between the house and lakeshore and the only trees being removed are associated with the construction of the house away from the lakeshore.

There were no further comments from the public in attendance.

Kam Hoopes stated that he is very satisfied with the change. He stated that based upon everything that has been said he feels that they have answered all of the questions and concerns. They had previously approved a variance on this property once before after another lengthy discussion. This proposal is a reduced version of it and it will be disturbing as little ground as possible, except for what is being done for stormwater management. He feels that this plan has been carefully thought out and it addresses all of the issues including the applicant's needs.

RESOLUTION

The Zoning Board of Appeals received an application from Hoffman-Smith (V10-44) 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#10 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; they have a setback issue with the guest house and setback with the main house. However, the setback from the main house to the lake is not changing in anyway. There is a minor change in the width of the house, however, it is only 4' which will not be very noticeable from the lake.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be an upgrading to the aesthetics and architectural look of the house, not to mention the materials used, their age and the utility, which is internal.

3) The request is not substantial; they are maintaining the same setback from the shoreline that they had and maintaining the same setback that they had with the guest house.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it should be the opposite, there will be very little ground disturbance and what little ground disturbance there is seems to come from stormwater management efforts.

5) The alleged difficulty is not self-created,

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 John Michaels, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition(s):

All in Favor. Motion Carried.

11) V09-33 SIMONSON, RICHARD & VIVIAN. Represented by McPhillips, Fitzgerald & Cullum, LLP. For the construction of a proposed single family dwelling, seek area variance for 1) a deficient front yard setback. 30' is required, 25' is proposed, and 2) In accordance with Section 125-10B(2)(d), 100' is required between infiltration devices and a wetland, 82.10' is proposed. Section 186.18, Block 1, Lot 31, Zones

RCH5000 & LC45. Property Location: Shallow Beach Road. Subject to WCPB review.

Dennis McPhillips requested that their application be tabled until the next meeting.

RESOLUTION

Motion by Kam Hoopes to table application V09-33 at the applicant's request.

Seconded by Tony DePace. **All in Favor. Motion Carried.**

The meeting was adjourned at 8:50pm.

Minutes respectfully submitted by Kristen MacEwan