

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday February 15, 2011
6:30 pm**

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- Jason Saris, William Pfau, Kam Hoopes, Tony DePace, David Ray, Jeff Anthony, Counsel Michael Muller and Zoning Administrator Pamela Kenyon

Absent- John Michaels

The meeting was called to order at 6:30pm.

Jason Saris asked if there were any corrections or changes to the December 14, 2010 minutes.

RESOLUTION

Motion by Kam Hoopes to accept the December 14, 2010 minutes as written. **Seconded by** Jeff Anthony. **All in Favor. Motion Carried.**

Jason Saris announced that the Lavender item was off of the agenda for tonight.

1) **V10-51 POWIS, RODNEY.** Represented by Paul Jankovitz. To alter pre-existing non-conforming single family dwelling, specifically to allow a patio and retaining walls to remain and to construct a new patio, seeks area variance for 1) deficient side yard setbacks. 20' is required, 0.4' is proposed on the north side, 6.1' is proposed on the south side, and 2' is proposed on the west side, and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 1, Lot 47, Zone RM1.3. Property Location: 11 Brook Street. No action taken by the WCPB – default approval. See V09-30 & V09-31 for previous approvals. *This item was tabled at the December meeting as no one was present to present the application.*

RESOLUTION

Motion by Bill Pfau to table application V10-51 until next month. **Seconded by** Jeff Anthony. **All in Favor. Motion Carried.**

2) **V10-54 SHELLI, PATRICIA.** Represented by Bartlett, Pontiff, Stewart & Rhodes P.C. To alter non-conforming single family dwelling and storage building, specifically to allow a patio/retaining walls and storage building extension to remain, seeks area variance for deficient setbacks. 1) Storage Building: a) Side: 8' minimum is required, 2.3' is proposed, and b) Rear: 15' is required, 1.2' is proposed; and 2) Patio/Retaining walls: Sides: A total of 20' is required, 1.5' is proposed on the north side and 1' is proposed on the south side; 3) Lot coverage: 40% is allowed, 47.3% is proposed; and 4) To alter pre-

existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, lot 21, Zone GB5000. Property Location: 11 Parkside Drive. No action taken by the WCPB – default approval. See V09-16 for previous approvals. *This item was tabled at the December meeting pending additional information.*

Jon Lapper explained that at the last meeting the Board members requested that the applicant make some changes to the plans to address some engineering and stormwater issues. He stated that they have revised their plans and submitted them to Tom Nace for his review. They received Tom Nace's comments and decided to retain the services of Tom Hutchins of Hutchins Engineering to address the stormwater issues. He has provided a revised site plan which includes a lot of benefits that they did not have the last time. The variances that they previously requested have been reduced. Most significantly is the reduction of the lot coverage from 47.3% to 45.3%.

Jon Lapper stated that at the last meeting they discussed moving the wall back a foot from the southern property line and at the closest point it is now 2.4' and in various places it is further than that. They have created an area of grass that runs along the south property line. Jon Lapper stated that when the house was required to be raised, the builder built the large raised patio out of convenience to the applicants without looking at the regulations or seeking permission from the Town. Now with an engineer involved they were better able to find ways to cut that back to help with infiltration and variance request.

Jon Lapper stated that Tom Hutchins will go over the stormwater plan details, but essentially they were able to add substantial size infiltration trenches on both sides of the house and the driveway, add a rain garden in front of the wall, as well as other measures to address the concerns regarding infiltration and stormwater run-off.

Tom Hutchins stated that his plan uses the best information that he could find regarding the condition of the property prior to demolition and start of construction. The plans also show the field survey with the conditions that exist today.

Tom Hutchins stated that they are moving the retaining wall that currently encroaches over the south line so that at its closest point it is 2.4' away which will allow for a walkway from the steps. This will allow for a good walking surface to the backyard as well as provide a green area with some plantings. They have also added a rain garden to the north side of the patio which will collect roof run-off and an eave trench along both the north and south sides of the house.

Tom Hutchins stated that a question was raised regarding the feasibility of an underground retention area located behind the house. He stated that he was unable to verify if such structure exists. However, he has a concern with creating such area since the grade is essentially uphill. Therefore he did not show that being utilized in any of their calculations.

Tom Hutchins stated that he has provided more details about the rain garden and a planting plan for the site. He has also updated the statistics for the stormwater quantities that they have shown.

Jon Lapper stated that they have received a letter of approval from Tom Nace.

Kam Hoopes stated that their agenda does not reflect these changes that are being presented. He asked if they should be concerned since this is not what was advertised or published. Counsel Muller stated that the worst case scenario has been noticed and since these variances are less intrusive the change is included within the setbacks advertised.

Jason Saris asked if there was any correspondence. Counsel Muller read an email from Donna Wingate, co-owner of Mr. Brown's property, expressing concern over the stormwater issues.

Bill Pfau stated that he is concerned with some of their discussion at the last meeting regarding the builder. He stated that the applicants' representative had made some statements about the ground water being the reason for raising the house. At the time the applicant argued that was their only reason that they raised the house and built the addition of the patio. Bill Pfau stated that they have a letter from Ted Wagner who was the builder. Jon Lapper indicated that Mr. Wagner started to build the house but the applicants terminated his services after some disputes. Bill Pfau stated that the letter from Wagner indicated that they did not have to raise the house due to ground water and it also alleges that he was asked to build this additional structure and refused to do it. Jon Lapper stated at the time when the foundation was going in Ron Shelli was going under chemotherapy and was dealing with phone calls and the construction long distance. He stated that he is not sure why the builder is saying that it wasn't ground water that caused the need to raise the house. He stated that regardless of the need to raise the house, it was not the case of the applicants wanting the house raised because it made them have to compromise with the height in living areas.

Bill Pfau asked if it was true that the County inspector told them that they had to raise the house 2 feet. Jon Lapper replied no, when it was raised 2' the County inspector said they had to back fill and provide 4' of cover on the partial foundation. Bill Pfau stated that at the last meeting they told the Board that the County inspector made them raise the house. Jon Lapper stated that after the last meeting they called the County inspector to try and discern what exactly happened and they were told that the builder had called them about needing to raise the building. The inspector came out and looked at it to make sure that it was okay for the permit.

Bill Pfau stated that they had his sympathy a few months ago, but he took for granted that their story was straight and now there are a lot of questions about it. Jon Lapper stated that the applicants are involved in litigation with the first builder which he is not involved in. He stated that he was not representing the applicants at the time and does not know what the truth is. All he knows is that his applicants did not want their house raised, but

it was and they are trying to deal with what is in front of them the best they can.

Jason Saris stated that regardless of the mechanism that got the applicants here, they need to deal with what is in front of them. Bill Pfau agreed, but he feels that they should work within their original plans or remove it. Jason Saris stated that ultimately they have to be okay with the end result whether it was by accident or on purpose.

Kam Hoopes stated that they issued variances on the original plan which were pretty substantial as they were and that whole process was ignored. Jason Saris stated that they are all factors to be thought about, but they have to deal with what is there.

Chris Navitsky, Lake George Waterkeeper, stated that they appreciate the effort of the applicant to address stormwater management. They also appreciate the Boards' discussion of the lot coverage variance because it does seem to be excessive. However, the lot coverage variance does not take into consideration the other impervious coverage on the site and a possible mitigation measure would be for allowing the lot coverage request would be to reduce the amount of other impervious surface on the lot. He also suggested additional vegetation and plantings as well.

Bill Pfau asked if the applicants have addressed removal of the pillars as requested at the last meeting. Jon Lapper stated that they did look at that, but the applicants find it more aesthetically appealing with the pillars. So instead, to address the issue, they have added a rain garden in this area.

With regard to the Waterkeeper's comments, Jon Lapper stated that they were responsive in dealing with stormwater beyond the minimum required in the code.

Jason Saris stated that he finds that this is a vast improvement over what it was. Jeff Anthony stated one of the comment letters from the neighbors was for the applicants to do a detailed stormwater study. Although it is winter and they are not going to get all of their information that they want, Tom Hutchins did a great job in terms of considering options and alternatives for managing stormwater. Jeff Anthony stated that the variance as requested with the wall being 2.4' from the property line is in an area where there is no building or real function on the neighbor's property so it is not encroaching upon anything significant. This neighborhood is very tight and dense as it is; any properties that want to change or improve their properties will require a variance.

Jeff Anthony stated that Tom Nace has reviewed this and has found it acceptable but does suggest conditioning it upon formal stormwater testing results being submitted to the Town. He asked Tom Hutchins what he plans to do with the information or if he expects major changes to the plan. Tom Hutchins stated that he really does not have a good feel for the area because he has not worked in this neighborhood prior to this. He stated that if the test pit information presents issues they will have to deal with them at the time. Jeff Anthony asked if they should just approve the lot coverage and setback, with the stormwater to be addressed and refined in the spring. Jason Saris stated that anything

done to stormwater will be an improvement to the whole development. Most of the other lots do not have any storm water on their lots. Jeff Anthony stated that there have been a few properties that have come before this board in recent years and they have all been asked to provide stormwater.

A letter was received from Kathy Bozony regarding stormwater management, lot coverage and planting vegetation to replace nutrient loading.

RESOLUTION

The Zoning Board of Appeals received an application from Patricia Shelli (V10-54) 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#2 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; the variance is required and no other method is feasible. The applicant has made extensive revisions to the plan and they seem to correspond to the review and approval of the Town Engineer and to some comments made by the public and neighbors.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is consistent with the density and conditions and character of the community that it is in.

3) The request is substantial; in some ways there is a lot of lot coverage. However, these lots are small and there is no opportunity to do any improvements on them whatsoever and it is consistent with the character of the neighborhood.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the Town Engineer has reviewed the storm water management proposed for this project, which is the major potential adverse environmental impact and has found the engineer's solutions acceptable. Visually the building is consistent with the character of the area.

5) The alleged difficulty is self-created, the builder has built the building and

made improvements without approval from this Board. However, they are here today with a building already in the ground and that is the condition they are dealing with.

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 Jeff Anthony and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition(s): 1) that test pits be performed in the Spring and that the results of same are provided to the Town prior to starting construction of the new stormwater facilities and that stormwater is reviewed and approved by the Town Engineer at that time. Tony DePace and Bill Pfau opposed. **All Others in Favor. Motion Carried.**

3) **LAVENDER, JOHN.** Represented by Atty. Jacqueline Phillips Murray. In accordance with Section 200-72 of the zoning ordinance, seeks to appeal the Zoning Administrator's interpretation of Section 200-8, definition of Dwelling, Single Family. The definition reads as follows: "A detached building (not including a mobile home) of one or more stories in height, above main grade level, which is designed or used exclusively as living quarters for one family or household." **Interpretation:** Such code provision is not reasonably construed to include nor logically contemplated to also allow the same residence to be made available by the owner on a regular and re-occurring basis as a facility available to the general public providing an accommodation or place for weddings, receptions, corporate meetings, seminars or special events. Such a use contemplates a regular and re-occurring "commercialization" of the SFD involving gatherings of people, vehicles and activities including the catering of food, consumption of alcoholic beverages, professional entertainment and salon or spa services none of which is appropriate nor reasonably construed to be a SFD permitted use in a RL3 zoning district. Section 171.10, Block 1, Lot 7, Zone RL3. Property Location: 18 Skyline Drive.

This item was tabled at the applicant's request.

4) **V10-55 DONNELLY, BONNIE.** Represented by Willie Bea McDonald. For a proposed two lot subdivision and to replace an existing 2 unit apartment building with a single family dwelling, seeks area variance for **1) Density:** 20,000 square feet is required for Lot 2, 5,127 square feet is proposed. 5,000 square feet is required for Lot 1, 4,083 square feet is proposed; **2) Lot coverage:** 40% is allowed, 32% is proposed for Lot 2, and 68.5% is proposed for lot 1; **3) Setbacks: Front:** 30' is required, 22.3' is proposed for Lot 2. **Side:** 8' minimum is required, 11' is proposed for the existing building on Lot 1 and 5' is proposed for Lot 2, and **Rear:** 15' is required, 5' is proposed for lot 2; **4) Parking:** 30 spaces required for Lot 1, 3 spaces are proposed. Section 171.15, Block 2, Lot 42, Zone GB5000. Property Location: 4963 Lake Shore Drive and 4 Stewart Avenue. Subject to WCPB review. *Note: This application is in conjunction with SPR10-24 and SD10-03.*

Willie Bea McDonald provided details of the current property. She stated that the current

property is 9,000 sq. ft which consists of a store that fronts on Main Street with a house behind it that is somewhat attached. She stated that the store was built back in 1952 but the house is a much older structure. The house has been used as a 2 family dwelling for many years with a garage in the back.

Willie Bea McDonald stated that this is a pre-existing non-conforming lot and does not conform to any of today's standards for the following reasons: 1) None of the structures meet setbacks from the property lines, 2) the lot as it exists today would require 20,000 square feet because the store would need 5,000 square feet and a 2 family structure would require 15,000 sq. ft., 3) the propane tanks and compressors for the store sit behind the house structure, 4) they are limited to just three parking spaces for a commercial business, and 5) the lot coverage is over 50%.

Willie Bea McDonald stated that the PB approved the subdivision of the lot with the condition that they receive approval of the variances needed. She stated that they are seeking to divide into 2 parcels. Parcel 1 will have the store which will not change in any way. They would then have 4,083 sq. ft. The property line would be 16' off of the building which would allow the propane tanks and compressors to be brought next to the building as well as allow for the 3 parking spaces. Lot 2 will be the lot for the house. The applicant has been renting the store and would like the ability to sell the store in the future. The applicant also does not desire to be a landlord any longer especially in a house that has seen better days and requires extensive renovation.

Willie Bea McDonald provided details to the house size, dimensions and style. She stated that with the 18" overhang of the roof, they would like to snug the structure up along the north side of the property to give her some yard as well as a parking area. The applicant is also proposing to add rain gardens to assist with stormwater run-off. The house will be 29' in height and will use natural earth tone colors.

Willie Bea McDonald stated that although they need some variances, the proposal is in keeping with the neighborhood. She stated that the store lot is in the commercial downtown area, where most, if not all, of the buildings do not meet setbacks, density or parking requirements. With regard to the house lot, it is also in keeping with the neighborhood. Most of the houses are built close to the property lines on small lots. She stated that they will not be changing the use on either of the structures.

Willie Bea McDonald stated that the applicant is not proposing anything substantial; the house is modest in size and will not change the look or feel to the neighborhood. She added that there is no other available land to buy to make this a conforming property.

With regard to self-created aspect, Willie Bea McDonald, stated in a way it was self-created because she is seeking to divide the property, but the property is a pre-existing non-conforming, and the applicant is trying to make the best use of it. This will take away an old house which can only improve the neighborhood and brings another year-round resident to the Town.

Jason Saris asked if there was any correspondence. Counsel Muller read an email from Bill Gates in support of the application. Pam Kenyon indicated that it received WC PB default approval.

Bill Pfau stated that this is no different than most properties that they have to deal with in the downtown area. He stated that it will be an improvement to the neighborhood. Although the applicant indicated that they did not plan to rent out the residence, it would not preclude them from doing so if they so wished. Jason Saris stated that he cannot think of what would be more consistent with the neighborhood then basically keeping it the same which is what is being proposed. There is no proposed change in usage of either building; they are just looking divide one lot into two. Kam Hoopes stated that it is an improvement all around. He also likes that it has been moved back away from the street to provide some nice open space. He stated that this is a nice asset for the applicant, Town and neighborhood.

RESOLUTION

The Zoning Board of Appeals received an application from Bonnie Donnelly (V10-55) 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; there are very tight constraints in this area, but the variance being requested is a serious reduction to what already exists.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be an improvement to the entire neighborhood allowing open space and reducing the size of the structure on the lot.

3) The request is not substantial; especially considering what is there and what it will be replaced by.

4) The request will not have an adverse effect or impact on the physical or

environmental conditions in the neighborhood or district; all changes proposed are improvements.

5) The alleged difficulty is not self-created, the applicant did not build the original house and cannot be blamed for its non-conformity.

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.**

5) **V10-56 VILLENEUVE, RAY & KELLY.** Represented by Stephen Jung. To alter pre-existing non-conforming single family dwelling, seek area variance for **1) Deficient setbacks. Shoreline:** 50' is required, 34' is proposed from the mean high water mark of Lake George and 11' is proposed from Edgecomb Pond Brook. **Front:** 30' is required, 1' is proposed; and **2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, Lot 25, Zone GB5000. Property Location:** 16 Parkside Drive. Subject to WCPB review.

6) **V10-57 VILLENEUVE, RAY & KELLY.** Represented by Stephen Jung. To alter pre-existing non-conforming garage, seek area variance for **1) Deficient setbacks. Shoreline:** 50' is required, 10' is proposed from Edgecomb Pond Brook. **Rear:** 15' is required, .5' is proposed; and **2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.11, Block 2, Lot 25, Zone GB5000. Property Location:** 16 Parkside Drive. Subject to WCPB review.

Jason Saris asked if the applicant would consent to having the applications heard together. Stephen Jung agreed to have the applications heard together.

Stephen Jung stated that they are dealing with a pre-existing non-conforming structure. He stated that the applicants approached him to essentially change the overall design of the house. The existing house was built in the 1970's. They are seeking to change the roof lines, add a master bedroom on the second floor above the garage and change the pitch of the roof and siding. He thought the increase in elevation and pitch of the roof line would be a concern of the neighbors so he took some on-site photos from the neighboring properties and added a rendering of where the proposed roof lines will go. With this style of home, a lot of the second floor is within the roof with gables so the height of the building did not increase greatly. They did not want to disrupt those views even though they were already limited.

Stephen Jung explained that the second building which is currently used as a garage is proposed to be a studio that the homeowners could use to work or for their children to have friends over. It would also have a second floor which would be a loft space.

Stephen Jung provided more details of the house materials to be used. The inside of the home is rustic colonial and the applicants are seeking to have the exterior reflect that as well.

Stephen Jung stated that currently they have 25.3% lot coverage. Some of those areas are being removed and placed elsewhere. However, the net overall increase is relatively minor. The applicant has not asked him to provide a landscaping plan as of yet. He stated that he can provide more detailed plans as they move along, but they will be no where near the allowed 40% lot coverage.

Bill Pfau asked if this will be a demolition project. Stephen Jung replied no it will be a complete re-design. He stated that the site will have minimal disturbance since they are using the existing structure. Additionally the applicants have asked him to design something where they could still be in the home.

Jason Saris asked what the difference in height would be. Stephen Jung replied it will be about 6' difference. Bill Pfau asked if there is an HOA that they would have to deal with. Stephen Jung replied no. Bill Pfau stated that his only concern is that they are increasing the height. Stephen Jung stated that he understands, but if they look at the picture to see what is being disrupted it is only sky. They do not have a clear view to the lake.

Laurie Gianquitto, neighbor to the rear stated that she is concerned because she was not aware that her view was going to be affected. Jason Saris asked if she was notified. Laurie Gianquitto replied yes but she was under the impression that it was just a remodel. She had no other information provided to her and asked how she was supposed to obtain that. Kam Hoopes stated that all neighbors within 500' are notified with the same notice. However, it is up to the individual to contact the planning office for more details or to review the plans.

Redman Griffin, representing Darin Fresh Water Institute and RPI, stated that he appreciates the architectural design of the building; he finds it is very attractive and complimentary to the area. However, he has other concerns. Mr. Jung has talked about a wall, but it is not mentioned anywhere in the application. He asked if the wall is considered as part of the structure, it violates the setback and violates what is in the notice saying that it is 11' from the stream. Redman Griffin stated that their main concern is the free standing garage. It is a pre-existing non-conforming structure, but the drawing is showing that the corner will be right on the property line. However, they have surveys that show it to be half foot from the property. He continued that the design for the garage has an overhang facing their property and he is not sure if it will be trespassing on their property.

Redman Griffin stated that this building is a pre-existing non-conforming structure and the Board is being asked to extend that pre-existing non-conformity by 100% by allowing

the applicant to put a second floor on the structure. He stated that zoning was not put in place for this reason; it was put in place to limit and do away with non-conforming use. He stated that his clients would rather see the building torn down and moved away the property line rather than leave it where it is and increase the use of the building. He stated that this is an incidental garage which is not necessary because the applicants already have 2 garages on the back of the house.

Redman Griffin stated that they would like to work with the applicants to work something out.

Jason Saris asked for some clarification of the stone wall. Stephen Jung stated he will be creating an 18" wall that defines the property to show grass versus natural space. He feels that overall it will be a compliment to the project. There was some discussion about whether or not this would be considered a structure or landscaping feature. Pam Kenyon stated that if the wall was less than 2' in height and less than 100 sq. ft on its façade it would not be considered a structure. Stephen Jung stated that he was not sure what the overall square footage would be since he has not done a landscaping plan. Pam Kenyon asked if this would be used as a retaining wall. Stephen Jung replied no. Pam Kenyon stated that it would not be considered a structure. Stephen Jung stated that this will just be defining the yard from the brook.

Jeff Anthony stated if this were a fence this would be considered a structure. He does not understand how they cannot consider this a structure. Counsel Muller stated that there is a not a well defined distinction between what constitutes a landscape device and a structure. He stated that the Board can make that determination but so far they have struggled with separating structures and landscaping structures. Jeff Anthony stated that he feels they need a landscaping and stormwater plan so that they do not run into any issues. Stephen Jung agreed and stated that they have every intention to provide that, but they were just not at that point.

With regards to the overhang, Stephen Jung stated that he would be willing to pull the overhang off of the building; this would not only alleviate the encroachment problem but would also add to the character of the home. He stated that if they are allowed the second story in the building they will not be adding a bathroom. Red Griffin stated even if they remove the overhang the applicant is still seeking an expansion of a non-conforming structure. He stated that zoning was not meant for increasing the non-conformity.

Bill Pfau stated that the neighbors do have a valid concern with it being on the property line plus it is on the brook. He asked if they have thought of a secondary plan of relocating the building altogether. Stephen Jung stated that the applicants wanted to renovate this structure as well, but he understands that they may have to look at this again in a different way. He stated that they would be open to suggestions.

Bill Pfau stated that he understands why Pam Kenyon asked for the applicants to provide separate applications. Jason Saris stated that the garage is a much smaller structure than

the house but they are seeking to do a major amount of work to it. He suggested that they look at the possibility of relocating the structure to an area where it is not in such violation of the setback. Stephen Jung stated that they never considered moving it, because they hoped to save a little in cost and disturbance. Kam Hoopes stated that he can appreciate that the applicants want to use the entire footprint that they presently have. He stated that he does find that moving it would cause other problems.

Redman Griffin suggested working together with the applicants on the issue with the garage. Jason Saris stated that would be up to the applicant.

Kam Hoopes asked if they should separate the projects again so that they can receive approval on the house structure. Jeff Anthony stated that he would be interested in keeping these projects together because the site plan is related to both buildings; it has stormwater management, landscaping and planting issues that they need to deal with collectively. He would like the applicant to come back with a stormwater, landscaping and planting plan and if they choose, open discussions with RPI and the Fresh Water Institute. Currently, no evaluation or review of the stormwater has been done on the site. It is an important component that is missing from this project. He stated that he likes the overall design of the project, but it just needs more tweaking.

Kam Hoopes agreed, he stated that it seems that their best option would be to table this application and come back to address the Board's concerns. He stated that they need to evaluate what they might be willing to sacrifice in the overall project to request the minimum relief necessary.

Stephen Jung asked if they could move forward with the house drawing and plans. Jason Saris stated that he would be more than happy to move forward with just the house application. However, some of the Board member have expressed some concern over approving this application without seeing a stormwater and landscaping plan. He stated that if they go forward they may not find the project being supported. Stephen Jung requested to table the application.

A letter was received from Kathy Bozony regarding shoreline and stream buffers, lot coverage, impervious surfaces and stormwater management.

RESOLUTION

Motion by Kam Hoopes to table V10-56 and V10-57 pending stormwater plan and landscaping plans. Stormwater plans are subject to Town Engineer's review. **Seconded by** Jeff Anthony. **All in Favor. Motion Carried.**

Pam Kenyon asked if they would like Nace Engineering to review any storm water submitted. Jason Saris stated that it would be very good idea to get that input beforehand.

7) **V11-02 ALGONQUIN RESTAURANT CORP.** Represented by Keith Scott. To alter

pre-existing non-conforming structure, specifically to add a 408 sq. ft. deck, seeks area variance for **1) Deficient Setbacks. Shoreline:** 50' is required, 18' is proposed. **Side:** A total of 20' is required, 13' is proposed; **2) Parking:** 10 additional spaces required, 0 proposed; and **3) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.06, Block 1, Lot 17, Zone RCH5000. Property Location:** 4770 Lake Shore Drive. Subject to WCPB approval.

Keith Scott stated that they proposing to change the deck structure on the lower deck. Currently in between the lower deck and parking area are arborvitae that are dying and needing to be replaced. They are proposing to replace them with a deck for additional seating. This area will have high top tables with umbrellas; it will sit a little higher and patrons will be able to sit here and enjoy the views of Sweet Briar Island and the bay.

Keith Scott stated that they are proposing a deck 51' long and 8' wide. This will not be an increase in the current space. This will be an asset to the area. He stated that this will be used for people waiting for tables or those just wanting to enjoy a cocktail.

Bill Pfau asked if they will take away any of the parking area. Keith Scott replied no. Bill Pfau stated that this is a clever use of this space. Tony DePace stated that it looks like it belongs there.

Keith Scott stated that he has spoken to the Lake George Waterkeeper who has expressed concern about the stormwater run-off in this area. He stated that the Waterkeeper has provided him with some suggestions on how to handle mitigation of the stormwater and he is willing to do whatever is necessary to address the matter.

Jason Saris asked if there were any correspondence. Counsel Muller read the following:

- 1) Letter from the Lake George Waterkeeper with suggestions of storm water management and control.
- 2) Letter from John D. Wright, of Bartlett, Pontiff, Stewart & Rhodes, representing G.H.H.B.-TON, Inc. in opposition to the project.

Jason Saris asked if the applicant has any response to the allegations. Keith Scott stated that all of the allegations have been dealt with and followed up with the proper authority and were found unsubstantiated or that he was within his rights. He stated that this is a long standing battle that has been going on.

Keith Scott stated that the position of the building and proximity to the neighbor goes back two prior owners. He stated that they have not created this situation and the restaurant has been run this way for all of these years. He stated that the renovations and fans were put in place in 1979, so this is a 31 year old problem.

Jason Saris asked how often the dumpster is emptied. Keith Scott replied that it is picked up twice a week. Jason Saris asked if the staff police the area. Keith Scott stated that their dock workers also pick up the parking lots and this area. Jason Saris asked if they

have done anything to mitigate the smell from the dumpster. From experience he has dealt with these same concerns and asked if they have considered using deodorizers and bleaches to mitigate the smell. Keith Scott stated that he has never been approached directly by his neighbor in his 10 years. He stated that he is usually visited by the BOH to inspect it and this has been addressed at the time of the visit.

Kam Hoopes stated that he understands the complaint but this addition is on the other side of the building and does not affect this neighbor. Jason Saris stated that the point made was that any expansion in use could further increase the problem and should be addressed.

Jeff Beaton clarified some issues. With regard to the fans, he stated that there has been a change. When Art Baker and Keith Scott bought the Algonquin, they removed the flat top out of the kitchen and placed a char broiler. He stated that at that time the fan should have gone straight up into the air and it wasn't done. Now it hangs over the property line and drips grease onto their property. He doesn't think that anyone else would tolerate these issues every day. Last year they got some satisfaction with Supervisor Conover with regard to the noise ordinance. At the time Keith Scott was running both his fans and air conditioners 24 hours a day. He has since cut that down considerably and they appreciate it, but it is just a start. They would like to see some consideration and something analytical done with regard to the fans and garbage.

Jeff Anthony asked if this is something that the TB local BOH should be dealing with. Counsel Muller stated that they have not dealt with this issue because it seems most of the complaints are of a private nuisance. He stated that he has not found it manifested in fact that it is a health code violation. He stated that he is not arguing that these are not valid complaints, but they are in the realm of private nuisance and no code violations. Counsel Muller stated that it is up to them to consider all of the impacts. Notably the result will still result in smoke, noise and garbage being produced, more or less, and the problem still has to be resolved between the neighbors.

Kam Hoopes asked how many new seats will be added. Keith Scott replied 24 seats and the bench would allow for an additional 18 people. Kam Hoopes stated that the benches would not generate any further impact since people will not be eating there. Keith Scott stated that they currently have 320 seats, so this addition represents less than an 8% increase. Jeff Anthony asked if these will be used for eating. Keith Scott replied that he was not sure what would be allowed but for the most part it would be limited to a waiting area or an area for cocktails; it is not their intention to serve full meals at these tables.

Jason Saris asked if he could provide more details regarding the stormwater. Keith Scott stated that he just received Chris Navtisky's letter this evening. He stated that he briefly spoke to him prior to the meeting and he is more than happy to work with him on some mitigation of the stormwater. He stated that Lake George is very important to him and he wants to do whatever he can to protect it.

RESOLUTION

The Zoning Board of Appeals received an application from Algonquin Restaurant Corp (V11-02) 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; it does not meet setbacks from the property line.

2) There will be no undesirable change in the neighborhood character or to nearby properties, it will create any additional affect to the nearby properties.

3) The request is not substantial; the applicant is requesting minimal relief. It makes use of unused property on this side of the building.

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 somewhat self-created, because the property does not meet setbacks.

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 Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition(s): 1) that the applicant will work to mitigate stormwater on the property. Tony DePace abstained. **All in Favor. Motion Carried.**

8) **V11-01 HAVILL, ROBERT.** To alter pre-existing non-conforming single family dwelling, specifically to raise the structure 2 ½', seeks area variance for 1) Deficient setbacks. **Shoreline:** 75' is required, 0' is proposed. **Front:** 50' is required, 10' is proposed. **Side:** 15' is required, 3' is proposed. **Rear:** 20' is required, 8' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-

57B(1)(b). Section 156.20, Block 1, Lot 48, Zone RCM1.3. Property Location: 114 Rock Cove Road. Subject to WCPB and APA review.

Mike Morelli stated that the applicants are not proposing any additional expansion to the footprint of the structure and therefore they will not be further affecting the setbacks. Additionally, they will not be increasing the lot coverage. They are proposing to raise the height of the structure by 30” to address a drainage and grading problem at the back of the building.

Mike Morelli stated that the camp was built in 1952 and the applicants have owned the property for the past 17 years. Since that time the applicants have had to clean out debris from the back of the camp due to run-off. He stated that the applicants are down slope from all of the other properties in the association. However that should not preclude them from making improvements to eliminate the situation.

Mike Morelli provided pictures of the camp, the problems that they face as well as views from neighboring lots. He stated that there is very little space between the properties that would typically allow for grade changes. By raising the camp 30” they will have a foundation that will act as a retaining wall. He stated that the roof line will remain the same because they are essentially just bringing the building up 30”.

Mike Morelli stated that he is aware that the neighbor behind the camp is concerned with the visual impact. They have put up a line of sight that shows that it really does not affect the overall view. He stated that it will block their view of some of the docks but for the most part their view will remain the same. He stated that the applicants have dealt with this issue since the start and when they bought the house had to remove over 3’ of fill and debris behind the house. He stated that when he looked at this project initially he suggested raising the foundation 5’ because they are still dealing with a 30 degree pitch behind them which will require maintenance. However, they are only asking for 30” because they know that the Board is empowered to grant the minimum relief necessary and they feel this will not adversely impact neighbors visually.

Mike Morelli stated that there has been some speculation that the Havills are doing this to increase their living space or to add an extra bedroom. That is not their intention whatsoever. In fact, when the Havills purchased this property it was a 4 bedroom and they reduced that down to 3 bedrooms. They do not intend to add windows to the foundation, but they do propose a door in the front for storage, which he feels that neighbors would like since it would take away some visual clutter.

Mike Morelli stated that raising the foundation will act as a retaining wall. He stated that it will also assist with a mold problem in the bedrooms and moisture in the building overall. Since the applicant has owned the property he has had to do some repair due to the moisture. He stated that the overall design will not change, it will not block the views from other properties and it will not change the character of the neighborhood.

Mike Morelli stated that the applicants are trying to be a good neighbor with the plan presented. He stated that they have no other alternatives given the close proximity of the camp behind them.

Bill Pfau asked if they will need to have approval from the HOA. Robert Havill replied yes but so far it has not gone well.

Kam Hoopes stated that he sympathizes with the HOA because he does not feel that the plans are adequate for making a proper decision. He stated that he can see the dotted line showing where the roof line will go, but there are no other details regarding what is under that or details regarding the foundation. He feels that he does not have enough information to be able to grant a variance. Bob Havill stated that he has a building permit to put a concrete foundation under it. Kam Hoopes stated that they would need to see that and asked how they could get a permit without having this in the first place.

Pam Kenyon stated that the applicants originally applied to replace the foundation in kind. Mike Morelli stated that the applicant received a building permit to replace the foundation in kind. However, once they got into it they found that this foundation would not address their problem in the back. Kam Hoopes stated that he understands what the applicant is trying to do, but there is no information to explain how this will solve anything but the applicant's problem. Bob Havill stated that this is an ongoing problem and he is tired of just doing band-aid cures.

Jeff Anthony asked if the applicant provided detailed construction plans or stormwater details for the original foundation project. Pam Kenyon replied that at the time they were exempt from their stormwater regulations because they were replacing in kind. Jeff Anthony stated that this is some significant construction to be occurring at the lake front and they really need to do it correctly. Pam Kenyon stated that there are no details on the construction plans regarding stormwater management or erosion control. Mike Morelli stated that if that is a requirement they would be willing to do that. Kam Hoopes stated that he is usually favorable to upgrades or improvements to old cabins that have outlived their usefulness. However, he needs more details to be able to make an informed decision.

Jeff Anthony stated that the bigger problem is the HOA. He stated that everything that Kam Hoopes is asking to see is also being asked by the HOA. Typically if the applicant does not have approval of the HOA they are a little more timid to act favorably until the HOA is okay with the plan. Kam Hoopes stated that it certainly helps to have the HOA approval but that does not mean that it would prevent an approval by the ZBA. Jason Saris agreed that the Town is concerned about their ordinance that typically HOA's don't know enough about and the HOA's are more concerned with their set of rules that the Town knows nothing about. He stated that it is nice when they all agree but it is not necessary for approval. Jeff Anthony stated that he is just concerned about the lack of support from the neighbors. Bob Havill stated that they may never have concurrence between the neighbors and the HOA.

Mike Morelli stated that they are not trying to alienate any adjoining property owners. He stated that is also why they are seeking the minimum relief necessary. He appreciates their concern about the neighbors, but he also understands that ultimately the decision is up to the ZBA. They think that they have made a legitimate argument for the reasons that it needs to be done.

Jason Saris asked if there were any comments from the public in attendance.

Alfred Franz, President of the HOA, stated that their by-laws and indentures read that any construction that is done on their properties should go before the Executive Board of 7 members. Bob Havill is one of the members, of the 6 other members, 1 is interested in finding alternatives to get the project done quickly and all of them are concerned with the inadequacy of the plans. There are some entry ways that were not shown on plans and a major concern with raising the structure. They were told that the southwest corner sits on ledge rock, but it has been that way and adding this foundation will not change that. At the time of the original permit, they found that the raising of the structure would be minimal and only until the foundation was installed.

Alfred Franz stated that the HOA has rejected the request based upon lack of information. They have requested drawings that show the plans for elevations, grades, access doors and windows from all directions. They are also concerned about the common area and how they are going to address the stormwater run-off or repairs to members' and common association properties. Alfred Franz stated that they have asked for a formal engineering plan to show how they will handle the stormwater run-off.

Robert Havill stated that there will not be any additional stormwater run-off, it will be the same as it is now. He stated that if they wanted he could add gutters and run them into dry wells to assist with stormwater. Alfred Franz stated that they would need to see drawings and details to support that. Kam Hoopes agreed that that is exactly what they would consider necessary to look at the plan.

Mary Schwalbe, representing herself and her sister Gloria Gray, neighboring property owner, stated that their family has owned the property directly behind the applicants since 1969. She stated that the applicant currently only has a building permit to construct an 8" foundation. Mary Schwalbe stated that they are opposing the project for many reasons. One of the issues is the view, to say that their views would not be changed would be an understatement. She stated that the roof line will now be 5" higher than their floor which she feels is substantial. She suggests that the Board further review the visual impact because they are not the only homeowners concerned about the view.

Mary Schwalbe stated that they are also concerned with the stormwater run-off. This property sits directly on the lake front and adjacent to the common association property. Whatever stormwater is not managed will affect the entire lake front area. They would like to see a formal stormwater management plan for the project.

Mary Schwalbe stated that Mr. Havill has just suggested that if they put on gutters and a dry well it would alleviate some of the problem. Mary Schwalbe stated that the benefit sought could have been achieved by proper maintenance of the property all of these years. Gutters were never installed and no dry well dug which could have diverted some of this run-off.

Mary Schwalbe stated that they are extremely concerned with the substantial degree of the variance especially the 0' setback right on the lake. They are required to have 75' and they are requesting 0' which really begs the Board's consideration. There is great potential for adverse effects on the lake and association property and there have been no plans to address that.

With regard to whether or not the applicant contributed to the situation, Mary Schwalbe replied that the gutters were never installed and could have been. The applicant's main concern was moisture to the rear of the property and gutters and a dry well could have assisted with this.

Mary Schwalbe stated that she does not feel that this is the minimum relief necessary. She stated that when the applicant met with the Executive HOA Board in October he indicated at that time that he knew the house sat on ledge rock and also indicated that he had no intention to raise the house. He also agreed that he would not raise the house without the consent of them as the homeowner directly behind them. At that time he also mentioned the windows and door that he planned to install which were not on the plan. Mr. Havill indicated that he would be submitting amended plans to the Town, which was never done.

Mary Schwalbe stated that Mr. Havill contacted her directly to speak without the Board's knowledge to see if they would be willing to compromise with raising his home. She stated that at the time that he indicated that he would need 16" to correct this issue. She had requested that he put on a false roof so that she could make a decision about the elevation. She went up to look but he only had a two buckets and a few boards so she told him that she was unable to determine what it was going to look like and could not make a decision. Mr. Havill indicated that he really needed the 16". She asked if they could compromise and make that just 8" which would assist in getting the structure off the ground level. Mr. Havill indicated that he would talk to his contractor and let her know. He also stated that he would come back and finish the creation of the false roof for her to see. However, that call never came and the next thing she knew she was being noticed for the 30". She stated that the Board needs to seriously question why the applicant is requesting 30" to solve the problem when initially 16" was required and 8" was considered. She understands that there is a situation that needs to be dealt with but she does not feel that 30" is the only way to achieve that.

Bill Pfau asked if the HOA agreements are binding. Counsel Muller stated that this is a sticky issue because it more of a civil nature. Bill Pfau asked if he were to gain approval

could he go forth with his project. Counsel Muller replied yes, but it would be ill-advised.

Heidi Hess, owner Candlelight Cottages, southerly neighbor, stated that her concern is with the Town's process and not just the approval of the variance, but the follow-up to the project. She stated that in a prior variance request in Rock Cove, the applicant sought to rebuild and replace an existing deck. They got their approval, however when they were done with the project they had gone beyond the scope of the approved project. They put in flag stone, stone steps, a retaining wall and a patio. Most of the wall and patio were built on their property. When they talked to the neighbor, they admitted it was built on their property but didn't care. She stated that they went to the Town Code Enforcement office who visited the site and indicated that it was a civil matter and the Town would not get involved.

Heidi Hess stated when someone from Rock Cove seeks a variance she is genuinely concerned. She feels that the Town should be providing follow-up to be sure that plans are followed through with. She asked if there is any follow-up inspection to be sure that the plan was followed as presented. She thinks the Town has the responsibility to make sure that the scope of the work completed is in compliance and consistent with the plan variance approved. She does not feel that the neighbors should have to enforce the Town permits.

Heidi Hess stated that she is not concerned about what this applicant is asking for but rather not knowing what the end result will be.

Chris Navitsky, Lake George Waterkeeper, requested that the Board take a look at the balancing test regarding a project within the critical environmental area of Lake George. They agree with some of the discussion that the application seems to be incomplete. There should be more information regarding the materials used as well as the extent of excavation. He stated that he is surprised that a permit was issued for the foundation when no stormwater protection measures were mentioned. He feels that this may also need a DEC permit due to the vertical wall on the shoreline. Chris Navitsky stated that he appreciates the discussion on stormwater but also suggests discussion with the HOA to better deal with it overall to deal with what is coming down the hill.

A Rock Cove resident (did not provide name) stated that she agrees with Heidi Hess' statements because 2 other people in Rock Cove have built on property that was not theirs and Mr. Havill has previously built on HOA property that was not his.

Gloria Gray, co-owner of the property behind the Havill's, stated that she would like to have some reasoning for the need of the 30" increase in height. She stated that 8" would be sufficient and does not understand why they need so much more. Mike Morelli stated that behind the house there is 4' of dirt and that dirt wants to fall at a 30 degree slope which requires the 30" increase in elevation. He stated that the 8" would not even begin to assist in the dirt that piles up.

Counsel Muller read the following correspondence:

- 1) Letter from Edward Zamorski in opposition to the project.
- 2) Email from Dr. Bob Wishnoff in opposition to the project.
- 3) Letter from Al Franz dated January 28, 2011
- 4) Second letter from Al Franz dated February 11, 2011
- 5) Letter from Mary Schwalbe and Gloria Gray in opposition to the project.
- 6) Chris Navitsky, Lake George Waterkeeper with suggestions and comments for the project.
- 7) Letter from Anne and Thomas Crescitelli in opposition to the project.

Mike Morelli addressed some of the comments. He stated that the addition of 30" is still under what is allowed for this zoning district. This is a single story building and will remain that way. The setbacks will not be changing, they are what already exist and there will be no further encroachment. The suggested 8" foundation discussed, was the 8" wide wall not 8" height. The applicant has indicated that 30" is needed. Only one property will be impacted visually. He stated that the roof will only be 5" higher than their floor. Therefore unless you were lying on the floor the elevation would not impact your view. He stated that under current zoning this association would not exist. However, with non-conforming structures they have some limitations and that is why they have Town zoning. With regard to the drawings submitted, he stated that they felt that it was adequate for the ZBA's review especially since they already had a building permit for the foundation. He stated that this approval was granted 3 years ago, but the applicant was unable to complete the project because his father was sick and he had to redirect his efforts.

Mike Morelli stated that he feels when all is said and done this will not present a significant change. Jason Saris stated that he feels this is more about the quality of material submitted rather than the change. He stated that although they got a building permit it does not address all of the other concerns that this Board is charged with protecting. He stated that the plans submitted do not allow them to properly apply the balancing test to make an informed decision. Jason Saris stated that the applicant has been able to address and answer a lot issues and questions raised but they don't have plans that back that information.

Mike Morelli stated that they would be willing to submit more detailed plans. Mr. Havill stated that even if they do provide these details, he does not see all of the neighbors being in agreement. He is not sure that he would go forward without having at least a majority of HOA supporting his project. He stated that he needs the variance because he cannot leave the house the way it is. Jeff Anthony stated that the HOA is asking for information that just does not exist and does not seem to indicate any preconceived notion of which way they would vote. Jeff Anthony stated that he has not yet formed an opinion either way, but he does know that he does not have enough information to provide a decision today.

Mike Morelli stated that they would like to have the opportunity to provide the detailed information that the Board is seeking at the next available meeting. Bill Paul indicated that the applicant should also address the visual impact because that is something that he will be looking at. Jeff Anthony agreed. He stated that some photographs with some rendering showing the different views of the property from the lake looking in and looking out. This would provide a better visual impact study for the property.

RESOLUTION

Motion by Kam Hoopes to table V11-01 pending further information. Seconded by Jeff Anthony. All in Favor. Motion Carried.

9) **V11-03 DOBERT, MARVIN & JUSTINE.** To alter pre-existing non-conforming single family dwelling, specifically to add a second story and deck, seek area variance for **1) Deficient Setbacks. Front:** 100' is required, 65' is proposed. **Rear:** 50' is required, 20' is proposed; and **2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 139.00, Block 1, Lot 69, Zone RR10. Property Location:** 426 County Route 11. Subject to WCPB review.

Marvin Dobert, stated that they moved to this area from Colorado 2 years ago. They have 2 children and their house only has 2 bedrooms. They would like to add a second floor and put 2 extra bedrooms in the upstairs to make it a 3 bedroom house. Prior to buying this house they talked to Pam Kenyon to see what encumbrances were on it. They also made sure that the septic system was sized appropriately for a 3 bedroom house. If granted approval they would like to begin this construction in the spring.

Marvin Dobert stated that the lot is only 100' deep by 400' wide so they are in violation of all of the setbacks due to the requirements in this area. He provided more details to the interior use of the house.

Jason Saris asked if there was any correspondence. Pam Kenyon replied that there was no WC impact. There were no comments from the public in attendance.

Bill Pfau asked if they will be further encroaching on the right-of-way with the porch. Marvin Dobert replied yes by 8 feet. Currently there is a large deck and pool which will have an 8' covered porch as well. Kam Hoopes stated that they are dealing with a scenic corridor as well as this being County Route 11 which has an additional setback requirement. Jeff Anthony asked if the old County Route 11 is still in effect and is that what they are measuring from. Pam Kenyon replied it is the right-of-way in general including the old right-of-way. Marvin Dobert stated that the house is quite a distance from that and sits back at least 175' from the new County Route 11.

RESOLUTION

The Zoning Board of Appeals received an application from Marvin and Justine Dobert (V11-03) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the expansion is straight up.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
- 5) The alleged difficulty is not self-created,

The benefit to the applicant is not outweighed by the potential detriment to 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. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:41pm.

Minutes respectfully submitted by Kristen MacEwan