

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
September 20, 2011
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- Jason Saris, Kam Hoopes, Tony DePace, John Michaels, Don King, David Ray, Jeff Anthony and Counsel Michael Muller

Absent- Zoning Administrator Pamela Kenyon

The meeting was called to order at 6:35 pm.

Jason Saris asked if there were any corrections or changes to the August 20, 2011 minutes.

RESOLUTION:

Motion by Don King to approve the August 16, 2011 minutes as written. **Seconded by** Tony DePace. **All in Favor. Motion Carried.**

1) **V11-33 BOGERT, MICHAEL.** Represented by Justin Remington. To alter pre-existing non-conforming single family dwelling, seeks area variance for 1) Deficient setbacks. **Shoreline:** 50' is required, 27' is proposed from Trout Lake Brook. **Front:** 30' is required, 26' is proposed; **Rear:** 15' required, 5' proposed and 2) To alter pre-existing non-conforming structure in accordance with Section 20-57B (1) (b). Section 186.14, Block 1, Lot 70, Zone RCH5000. Property Location: 60 Beckers Drive. Subject to WCPB review.

Justin Remington stated that the existing cabin is 34' x 18' with an enclosed porch off the front of the house that is 20' x 8'. The applicant is seeking to fill in the 2 corners off the front of the house to extend the living space in the kitchen and bedroom areas. The additions will be a 6' x 8' and 8' x 8' off the back side of the cabin which is the brook side of the house and the side that faces Lake George.

Jason Saris asked if the enclosed porch will be living space. Justin Remington replied that it basically is now. The living room opens up to the enclosed porch. The applicant would eventually like to bring the floor level up so that it will expand the living room, kitchen and bedroom areas. Jason Saris asked if they plan to have a porch at a later date. Justin Remington replied no. This deck was already enclosed when the applicant bought it. He is already close to the brook and property line so he would not be able to have a deck.

There was no correspondence or WC impact.

Lynn Golhoffer stated that they are the closest neighbor to the applicant and do not have

any issues with the project. It is completely covered by trees and bushes so it will not impact the aesthetics. They also are not encroaching any closer to the brook since they are just squaring off the corners.

Jason Saris asked if the applicant explored other alternatives to expand the living space. Justin Remington replied that the only other direction for expansion is off the right side of the house but it would be exposed visually. They cannot expand off the front or the back because of the brook. This is the most practical solution to meet the need of the applicant and it will be hidden from view.

Jeff Anthony requested that the applicant install silt fencing down gradient from the project site to protect the brook from any run-off. He stated that although this is required some applicants are not made aware of it and he wants to be sure that it is done.

RESOLUTION:

The Zoning Board of Appeals received an application from Michael Bogart (V11-33) 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 Action taken, Default approval in 30 days: Board unable to obtain a quorum regarding the project.

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

- 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, this part of the house is virtually invisible from neighbors or the right-of-way. There are several small cabins in this area and they are all very similar.
- 3) The request is not substantial; the applicant is just filling in two gaps in the exterior walls.
- 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, this is a pre-existing, non-conforming structure.

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 with the following condition: 1) to require that silt fencing is to be placed down gradient from all construction during construction. **All in Favor. Motion Carried.**

2) **V11-34 LOPICCOLO, PETER.** To alter pre-existing non-conforming structure, seek area variance for 1) Deficient setbacks. **Front:** 50' required from the edge of a right-of-way, 38' proposed, and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B (1) (b). Section 213.17, Block 1, Lot 3 Zone RCM 1.3. Property Location: 4 Canoe Lane. Subject to WCPB review.

Peter Lopiccolo stated that the original main part of the home is approximately 180 years old. He is proposing to remove the addition on the back which is approximately 70-80 years old. The house was set up as a mother-daughter house, there was a bedroom in the back and it is now a small family room. It is set on stones with dirt underneath and is not winterized. He would like to get a full basement because the existing basement in the other part of the house is just a crawl space. The new structure will provide a family room and expand the master bedroom on the second floor.

Jason Saris asked if this addition will further encroach on the setback. Peter Lopiccolo replied no, it is the same footprint. He is just knocking down the old addition and replacing it in the same footprint but will add a basement and second story.

John Michaels stated that the applicant is actually 54' from the property line, this deficient setback is just from the right-of-way.

There was no WC impact.

Counsel Muller read a letter from the Lake George Waterkeeper who was not opposed to the application but had the following suggestions: 1) require storm water management for the property and 2) require a certification of the on-site waste water treatment system to determine if it accurately sized.

John Michaels asked where the septic system was located. Peter Lopiccolo indicated the location of the system on the plan. He stated that he has never had a problem with the septic or stormwater run-off. He stated that he is keeping the same drip line.

Jeff Anthony stated that he would like to see stormwater incorporated wherever it can be. Peter Lopiccolo stated that the soils around his house are primarily sandy. Additionally, he has gardens all around the house that are accepting the water as well.

RESOLUTION

The Zoning Board of Appeals received an application from Peter Lopiccolo (V11-34) 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; this is an addition planned on an existing structure. They are 54' from the property line but are deficient in the setback from the right-of-way.

2) There will be no undesirable change in the neighborhood character or to nearby properties, they are fixing up an older house.

3) The request is not substantial; compared to the size of the lot.

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, it is a pre-existing, non-conforming structure.

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

3) **V11-35 LAVOY, GARY.** For proposed lot line adjustment seeks area variance for deficient density and lot sizes. 1) **Density:** 2.6 acres total required, 1.22 exists, .62 acres proposed. 2) **Lot Width:** 125' required, 120' exists, 70' proposed. 3) **Lot Depth:** 150' required, 425' exists, 50' proposed. Subject to WCPB. Section 186.06, Block 1, Lot 2, Zone RM1.3. Property Location: 4767 Lakeshore Drive. Subject to WCPB review.

Gary Lavoy stated that the driveway to the left is the subject of some serious run-off. They also have run-off on the far left of the property which is also of concern in the winter since it runs into the road and freezes. He stated that he would like to address

those problems by moving that gravel driveway and make it an arc through the other property he owns and keeping all of the relocated driveway on what will eventually become his sons property. He feels that giving a curve to the driveway will help the run-off issue and continued maintenance required for that driveway.

Don King asked if the run-off carries the gravel onto the road. Gary Lavoy replied no but it does get close and they do have to maintain the driveway constantly.

Jeff Anthony asked if this will require site plan review for stormwater. Mitzi Nittmann replied that it will depend of the amount of disturbance, but they could require it.

John Michaels stated that this seems like a lot of work just for a driveway. He stated that they could do the same with just having an easement on the property. Gary Lavoy replied that he wanted to maintain the integrity of both properties and does not want to encumber a property with an easement if he can help it. John Michaels stated that he would like to see more details to the driveway and why they need it. Jeff Anthony agreed and stated that he would like to see what they plan was for the stormwater. Gary Lavoy stated that assuming he goes through with the driveway it is not cheap and he wants to own the property. Jeff Anthony stated that they can always condition the variance that it has to go for site plan review.

Michael O'Connor, representing the applicant, stated that the disturbance is probably over 1,000 feet so they will need at least a minor stormwater permit. He stated that will go through the zoning staff and if they are not comfortable with it, they will ask for engineering. He stated that most people don't want to spend \$4,000-5,000 on engineering to be told that they can't get the variance.

Jeff Anthony stated that it is commendable that the applicant is seeking to solve a drainage problem. However, he does agree with John Michaels that there is nothing really there for them to look at and make a decision on without having some sort of site plan review.

Counsel Muller read a letter from Joel and Maxine Ackerman who are opposed to the proposed project.

Gary Lavoy addressed some of the concerns in the letter. He stated that there are no additional buildings that will be constructed and no trees will be removed. Jeff Anthony stated that in the event that there were additional structures or homes the PB would have to review it for site plan review.

Jason Saris stated that there were some comments about the use of the property and asked the applicant if they had a relationship with the Algonquin or Chic's Marina to use his property. Gary Lavoy replied no. He stated that he has considerably reduced the amount of traffic on 9N in this area since he does not do any public launching.

William Lamoroux stated that his major concern is the water that runs off the hillside.

He feels that it should not only be engineered but also involve a hydrologist or geologist to find out how much will be deflected towards the property or Chic's Marina. This area floods in the spring due to the tremendous amount of ice that builds up. He is not sure that this is the best solution and it makes it hard to decide especially since there are no plans to look at.

Maxine Ackerman stated that she has looked into this in the past few weeks. She is extremely concerned about the run-off coming from Chic's property. The run-off coming off of the applicant driveway currently is going straight down and into the parking area at the bottom. However the proposal is to bring this closer to her property line and the drainage that will be curving towards her property. She stated that there are trees in the area between her house and the proposed driveway. If they are to allow the water to drain into her property, there potentially could be a wash out of the hill because there is no retaining wall there now. She is afraid that she will be forced to install a retaining wall.

Tony DePace stated that the water that Mrs. Ackerman has problems with is not coming from this property. The applicant is proposing to eliminate any run-off problems that he has now. Additionally, it is illegal to direct any stormwater onto a neighboring property. John Michaels stated that they are just addressing a property line adjustment today. If they approve this the applicant will have to go before the PB with engineered drawings and she can raise these same concerns. Maxine Ackerman stated that she is concerned that he is coming too close to her property line. Jason Saris stated that if the applicant comes closer to the property line than what is allowed by the ordinance then he will have to seek further relief from the ZBA.

Maxine Ackerman stated that there is a garage for maintenance of boats on this property. She is concerned with all of the waste material to repair the boats and she would like to know if that is having any effect on the property. Jason Saris stated that he understands Mrs. Ackerman's concerns but they are not for the ZBA. He suggested that she go to the PB if it should be passed on to them. Maxine Ackerman stated that she is asking that the ZBA not approve this without further investigation with the proper authorities. Jeff Anthony stated that if she has environmental concerns with the property she can call DEC to come out for a site visit. Gary Lavoy stated that the waste system for the maintenance garage cost almost \$30,000. It is totally automatic and is the finest waste water system for a garage that gets hardly any use.

There was discussion as to what might be involved with site plan review from the PB. Mike O'Connor stated that he was concerned that they would have to provide septic review even though they are not even changing or adding any new structures to the lot. Jeff Anthony stated that he would just like to allow the PB to have free reign when they review the project. He is not sure what they will look at or review but he did not want to limit them in any way. Jason Saris stated that they are not suggesting that they have to engineer the septic system to put the driveway in, but the applicant does have to show that this new driveway and stormwater is not going to compromise the septic system. Mike O'Connor stated that they have no problem with the PB reviewing anything or any impact by the proposed activity.

RESOLUTION

The Zoning Board of Appeals received an application from Gary Lavoy (V11-35) for an area variance as described above.

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

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

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

this Board makes the following findings of fact:

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

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance;

2) There will be no undesirable change in the neighborhood character or to nearby properties, there is no construction plan, there will be an eventual change in the driveway location which will be reviewed by the Planning Board.

3) The request is not substantial; they are creating a substandard lot, but the overall benefit is met with the two lots.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; part of the project is to address storm water problems and make improvements.

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 Jeff Anthony and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions: 1) mandatory site plan review is required regardless of the amount of disturbance involved and 2) no further subdivision is allowed for this lot. **All in Favor. Motion Carried.**

4) **V11-36 SENESE, JAMES & ANN MARIE.** Represented by Kevin Kershaw. For the construction of a proposed 17.5' x 25' garage with storage above, seek area variance for deficient setbacks. 1) **Front:** 30' is required, 12' is proposed. 2) **Rear:** 15' is required, 9,25' is proposed. Section 171.15, Block 3, Lot 77, Zone GB5000. Property

Location: 3 Congers Point Way. Subject to WCPB review.

Kevin Kershaw explained the changes to the application. He stated that they are proposing a smaller garage 16' x 24'. The side line set back is 8' and rear is 9.3' and Front is 18.9'. It is still 2 story but dropped 2' in height.

John Michaels stated that he still does not feel that this addressed any of their concerns. He feels that this is still substantial and self-created. Based on the balancing act that they are governed this is not something that he would like to see. He was hoping that the applicant would have come in with a more substantial change.

There was no WC impact.

Jim Senese stated that he received the information as to his application last month and under the reasons for denial it was blank. This proposal was a good faith effort on their part to reduce the size of the structure. John Michaels stated that if they reviewed the minutes there was plenty of discussion on the reasons. Jim Senese stated that he still does not understand. John Michaels stated that they have 101' of house and already have 2 car garage on the site. Jim Senese stated that he and his wife will be moving up here year round, they both work and would like to be able to park both of their cars under cover.

John Michaels stated that when he came up here, he too bought a lot that was undersized and he had to stick to his existing footprint. He stated that he loves his house but he had to make a sacrifice for his location because he does not have any garage. Jim Senese stated that he has .34 acres; his total building with the garage comes in at about 21%.

John Michaels stated that he has walked this area several times and he feels that the presence on this lot is not aesthetically appealing. He against this project for several reasons; They have some buildable space for a another type of garage or accessory structure, they already have a 2 car garage, and they have been in here several times on numerous other applications for additions to the house. Jim Senese stated that they only can build what they can afford and were not trying to gain on the system in any way. John Michaels stated that they knew what they were buying when the purchased this lot. They already have received variances for this lot. Jim Senese asked if this was his opinion or the law. John Michaels replied that they have to balance everything and the applicant has to prove to the them that the benefit cannot be achieved by any other means feasible to the applicant. He stated how they interpret is an opinion but it is based on their guidelines.

Barbara Mogia, neighbor, stated that she is very concerned because she did read the minutes but the decision did not include the reason for denial. She sees that the proposed construction is within the requirement and they do have the ability to build in that space. She is not only concerned for the Senese's but for herself and husband as well. They are considering moving here year round and may decide to make changes and expand and is unsure if they will be met favorably. It seems that the decisions are being made on

subjective types of relevance where it does not seem to have something substantial to it.

Jason Saris stated that the applicants have the right to build a garage, shed, barn, etc as long as they can meet all of the setbacks. The applicants are here because their proposal does not meet all of the setbacks. They are seeking an area variance, not a use variance. The Board is required to balance certain standards to grant relief from the ordinance. Barbara Mogia stated that the applicants have approval from the HOA and from the closest neighbors who have no issues. The applicants have also defined the reasons for the need for the garage and she does not see any other negative effect that this proposal would have on the environment. She feels that the applicants are being penalized for the shape of their property.

Jim Senese stated that the house is very unique in how it sits on the ledge. They are seeking the garage for storage of a car and their lawn equipment. Additionally they would like to store professional material that would otherwise be put in a basement. Their current basement is unusable for storage due to the dampness. He stated that the second story will only be large enough to store some plastic containers and will have minimal head room.

Kevin Kershaw stated that they have lowered the building by 1', reduced the width by 2' and reduced the amount of variance requests by eliminating the need for the one of the variances.

Don King stated that the applicant indicated that the square footage of the house is approximately 2,200 sq. ft. The visual impact already overwhelms him without the garage. With this proposed garage it would encompass approximately 68% of the overall lot length of the property visually. With the increased pitch in the roof he is even less in favor of the application. Jim Senese stated that the house is approximately 2500 sq. ft which is comparable to the other houses in the association. The tightness of the association is less than what you might find in the Anchorage or even the other side of the association near the marina. He has plenty of room between himself and his neighbors.

Kam Hoopes stated that he knows that this is very tight community like the Anchorage and what he likes to keep in mind is the zone they are in. It is the GB5000 which is such to allow that sort of thing for businesses. Additionally there are people that like to be within walking distance to town and are not opposed to being closer to their neighbors. He feels that people that live in these associations usually like to live there. Jim Senese agreed and stated that is why they chose to live there. Jason Saris stated that the Anchorage is why they have zoning now.

Chris Navitsky, Lake George Waterkeeper, stated that they had concerns with the amount of impervious cover and other potential negative impacts which some community residents raised the last time. The Waterkeeper requests that the Board apply the Town's regulations in particular the balance of the impacts with the environment and community and the possible imposition of reasonable conditions to reduce negative impacts. One

thing that has not been demonstrated is that stormwater management could be provided on the property. Chris Navitsky stated that they have previously worked on stormwater management with the applicant on an adjoining property but it was not adequately sized. It has been stated that there is shall depth to bedrock and it should be addressed. They also feel that they may need to bring in amended soils. They suggested incorporating better vegetative cover. They also encouraged discussion of alternatives which the ZBA already has done.

RESOLUTION

Motion by John Michaels to deny the application for the following reasons:

1) With regard to feasible alternatives, the applicant presented the new proposal with only a 2' reduction in the prior proposal. 2) This project will have an undesirable change in the neighborhood, this would by far be the most frontage used on any other lot. 3) The request is substantial, this is quite larger than what would fit within a footprint that is allowed for a garage. 4) The adverse physical effects have been discussed but they are not sure what effect it would have on soils or stormwater run-off. 5) This is self-created because a 2 car garage already exists on the property and there is room for a shed or additional structure. The applicants knew they were getting into when they purchased this lot. **Seconded by** Don King. David Ray, Kam Hoopes and Jason Saris opposed. **All Others in Favor. Motion Carried.**

5) **ROCKWELL, DAVID & JOAN.** Represented by Don Russell. To alter non-conforming single family dwelling, specifically to add a proposed approximately 180 sq. ft. deck, seek area variance for deficient setbacks. 1) **Front:** 30' is required, 24.9' proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 186.10, Block 1, Lot 28, Zone RCH 5000. Property Location: 37 Sunrise Shores Loop. Subject to WCPB review.

RESOLUTION

Motion by Kam Hoopes to table application V11-37. **Seconded by** Tony DePace. **All in Favor. Motion Carried.**

6) **V11-38 GOLUB, COLLEEN.** Represented by Chris Gabriels. To alter pre-existing non-conforming single family dwelling, specifically to construct an 8'6" x 22' utility room, and 5'6" x 8' landing with stairs addition in accordance with Section 200-57B (1) (b). Section 200.06, Block 1, Lot 17, Zone RM1.3. Property Location: 20 Loomis Lane. Subject to WCPB and APA review. See V04-56 & V10-53 for previous approvals.

Chris Gabriels stated that the 2 story portion already successfully went through the variance process last year. One of the conditions of approval was review of the septic system. Although there was no problem with the system, there was concern with the longevity and a new system was installed this past spring. This is a modification to the pre-existing variance approval for a laundry room and exterior entry into the laundry room.

Counsel Muller read the letter from Chris Navitsky, Lake George Waterkeeper who are

not opposed to the project but suggest the following: 1) requiring stormwater management for the proposed addition and existing structure, 2) require a shoreline buffer is installed, 3) require removal of any contaminated soil from the old septic system that may be disturbed with the proposed addition and 4) require Site Plan Review.

There was no WC impact.

John Michaels stated that this seems like a minor change to the variance. This is a large property and the addition is far enough away from the lake. Additionally the applicant has added a new septic system.

RESOLUTION

The Zoning Board of Appeals received an application from Colleen Golub (V11-38) 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#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 not getting any closer to the lake. The addition is farther from the lake and it does not impact the visual impact from the south.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there is no visual impact in the overall structure from the horizontal view, from the lake or from the south. From the north and west it is all covered by trees.

3) The request is not substantial; it is a minor addition to the already approved variance.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; they are only adding an entrance and small utility room.

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 Don King and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

7) **V11-39 MORGANTE, RICH.** Represented by Wallace Toscano. Seeks to alter pre-existing non-conforming single family dwelling, specifically to demolish and rebuild with deficient setbacks. **1) Front:** 30' required, 11.75' proposed, **2) Rear:** 15' required, 1.5' proposed, and **3)** To alter non-conforming structure in accordance with Section 200-57 B (1) (b). Section 171.15, Block 3, Lot 5, Zone GB5000. Property Location 24 Hondah Loop. Subject to WCPB review.

*Note: This application was modified to reflect slight changes to the variance requests as follows: 1) **Front:** 30' required, 10.25' is proposed and 2) **Rear:** 15' required, 3' proposed.*

Wallace Toscano stated that the existing building does not have a foundation and is not code compliant. They are seeking to tear down the existing building and to rebuild on the same square footage but in a slightly different configuration with a foundation. He provided some details to the project.

Wallace Toscano stated he read the letter from the Lake George Waterkeeper who is suggesting everything that they already plan to do including stormwater management. However the Waterkeeper does raise the issue with not having enough room on one of the property lines to complete construction. Wallace Toscano stated that they could move the building forward slightly to allow more room for construction.

John Michaels asked if this project will block the view from the neighbors deck. Wallace Toscano replied no they will still be able to have a view of the lake.

Jason Saris asked if the footprint encompasses the roof overhang. Wallace Toscano replied yes.

Counsel Muller read the letter from the Lake George Waterkeeper who indicated that they are not opposed to the overall project, but recommend the following: 1) requiring stormwater management for replacement structure, 2) increase the rear yard setback to reduce the encroachment on the public park and 3) require site plan review.

Jason Saris stated that it is up to the applicant to ask for the relief necessary. So they need to know the exact relief that they are requesting. Wallace Toscano stated that they are seeking to increase the rear yard set back to 3' by taking 1.5' from the front which will provide more room to build the building. Jeff Anthony asked if that is okay with how they advertised. Counsel Muller replied yes this is reasonable.

Mary Owens, neighboring property owner stated that she is in support of the project. It will be an improvement to their association.

Rod Owens, neighboring property owner stated that he has always had concerns that the side yard setbacks are enforced and this applicant is doing just that. He is in support of this project.

John Buscheli, neighbor, stated that he has reviewed the plans carefully and considering the structure that exists now, the design would be an asset to their association. It will not obstruct anyone's vision. The architect and owner took the time to plan out something that will fit there aesthetically.

WCPB denied without prejudice, they did request stormwater management. Wallace Toscano stated that they have retained the services of Bob Holmes to work on the stormwater management.

RESOLUTION

The Zoning Board of Appeals received an application from Rich Morgante (V11-39) for an area variance as described above and presented.

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; the tight constraints of the neighborhood demand their own solutions which are all dimensional.

2) There will be no undesirable change in the neighborhood character or to nearby properties, as time goes on, quite a few of these houses have been upgraded and modernized.

3) The request has some substantial features; given the size of the lots in this area but that has been kept to a minimum.

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.

5) The alleged difficulty is not self-created, this cabin was in existence before the

applicant purchased.

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 condition: 1) that this application goes before the PB for Site Plan Review. **All in Favor. Motion Carried.**

8) **V11-40 DOBERT-MARVIN & JOAN, HOYT-DOUGLAS.** Represented by Marvin Dobert. Seeks to alter pre-existing non-conforming single family dwelling with deficient setbacks. Specifically to install solar panels. **1) Front:** 30' required, 18'6" exists, **2) Rear:** 15' required, 14' exists, and **3) To alter non-conforming structure in accordance with Section 200-57 B(1) (b). Section 200.18, Block 1, Lot 33, Zone RCH5000. Property Location: 15 Island View Loop. Subject to WCPB review.**

Kam Hoopes asked if the panels will be self contained on the roof or will there be something coming off the building. Marvin Dobert replied that there will be piping down by the carport but it will not be visible from the front. He stated that it will be similar to piping used for air conditioning units. It will be 2 ¾ inch piping and will be plastic material. Kam Hoopes asked if there will be color. Marvin Dobert replied that it will be either red or blue but it will be covered.

Marvin Dobert stated that his son is in the solar business and this is the first time in New York State that a variance has been required for a job like this. They were caught off guard for the need for the review and he would like to work with the Town of Bolton on these issues. The solar collectors themselves are a little over 100lbs each. The water charge is approximately 5 gallons. The only water that is present is what is in the pipe which adds a very small amount of weight. They feel the requirement for structural evaluation is a little heavy for Bolton, other than the aesthetics. Kam Hoopes stated that the only reason they are here is because this is a non-conforming structure and they are adding to the structure. Marvin Dobert stated that solar energy can often be a hot button topic and he would like to raise the level of awareness if possible.

No correspondence or Warren County impact.

Ron Washburn, neighbor and Rush Island President, stated that he nor any of the other association members have any issue.

Mark Betteroff, thanked the Board for their review and stated that he has no objection to the project.

RESOLUTION

The Zoning Board of Appeals received an application from Marvin Dobert and Joan

Hoyt-Douglas (V11-40) 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#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; this is a modification to a pre-existing non-conforming home. There is no other relief requested.

2) There will be no undesirable change in the neighborhood character or to nearby properties, There are visual elements on the building but they are not objectionable.

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, it is a pre-existing non-conforming structure that requires a variance.

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

9) V11-41 FAHLBORG, ERIC. For construction of a proposed 12' x 16' pavilion and stone patio, seeks area variance for deficient setback. **Front:** 75' required, 61' proposed. Section 213.17, Block 1, Lot 33, Zone RCM 1.3. Property Location: 3842 Lakeshore Drive. Subject to WCPB.

Eric Fahlborg stated that this proposal is for a pavilion and seating area for his guests at the Juliana. It is not visible from the road. He has already spoken to his neighbors who did not provide any objections.

Don King stated that he picked a perfect picture to show what the structure will look like.

Eric Fahlborg stated that the pavilion will be post and beam. John Michaels stated that the applicant picked a good spot for the pavilion because it will not be visible. He asked if the structure will look like the drawing as proposed. Eric Fahlborg replied yes he is trying to copy that. They sell that model for \$9,000 and he can build it for \$3,000 and he will do the work himself.

Kam Hoopes stated that the area already exists and this will be a great improvement. Eric Fahlborg stated that he was not aware that he would need a variance until he talked to Mitzi Nittmann. He does not feel that this will have any negative impact on the neighbors or environment.

There was no correspondence or WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Eric Fahlborg (V11-41) 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#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,
- 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 Tony DePace, it is

resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

10) V11-42 RAY, DAVID. Seeks to alter pre-existing non-conforming structure, specifically to construct at 21' x 41' guest cottage/deck addition with deficient setbacks. **1) Front:** 75' required, 72'8" proposed, **2) Side:** 30' required, 25' 6" proposed, **3) To** alter non-conforming structure in accordance with Section 200-57B (1) (b). Section 156.00, Block 2, Lot 82, Zone RCL3. Property Location: 16 Fox Hollow Drive. Subject to WCPB.

Note: David Ray recused himself.

David Ray stated that he would like to put an addition on one of the structures on his property. He explained that they have 2 structures on their property; the main house which he and his wife reside in and a second 20' x 40' building with a one car attached garage. There are 6 other homes in this association, but it does not have an HOA. He indicated on the plan the right-of-way that accesses the lots in the subdivision which takes up a lot of his property.

David Ray stated that they are seeking to add 20' x 25' addition with an attached deck. The reason for the addition is to accommodate his aunt who recently suffered a stroke. They have been trying to move her up here but needed to make this a more livable space for her. The unit will be a 1 bedroom, 1 bathroom, with living space and a kitchenette.

David Ray stated that they will have to remove some trees, but a lot of them came down with Hurricane Irene.

Jason Saris stated that obviously this is the best location since it is adding to something that already exists. He asked the applicant to describe the reasons for not having feasible alternatives. David Ray explained that putting the addition on the north side would have created a very long building and it would have interfered with the pump up system to the septic system. They could not put it on the east side because of the single car garage.

John Michaels asked how this addition will affect the structure for the long term. David Ray replied that they intend to leave it as an accessory structure or guest house. He stated that 12 years ago they got a variance to change the use because it was residential even though it was in RCL3. His wife had an art studio and mail order business there and they operated out of that building up until 6 years ago.

Kam Hoopes stated that although this is considered the scenic corridor and they need to meet the 75' setback this property cannot be seen from the road. Jeff Anthony agreed.

There was no WC impact.

Chris Navitsky, Lake George Waterkeeper, asked about the existing septic system and what this would be tied into. Jeff Anthony asked if they were adding a bedroom. David

Ray stated that they have a 1500 gallon septic tank and they are adding a bedroom to this structure. However, they have 3 bedrooms in the main house, one of which is not used as a bedroom. Essentially they will have a total of 3 bedrooms using the septic system. He also has a letter from D.L. Dickinson discussing the septic system and its current function.

RESOLUTION

The Zoning Board of Appeals received an application from David Ray (V11-42) 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#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; as the applicant discussed they have looked at all other options and this is the only location.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this property is virtually invisible now and will continue to be that way.

3) The request is not substantial; it is increasing the livability of the building already there.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it is an addition to an existing building on flat ground.

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 Don King, it is resolved that the ZBA does hereby approve the variance request as presented. David Ray recused himself. **All Others in Favor. Motion Carried.**

11) V09-40 DRIESSEN, TERRY & CHRISTINE. Seeks to alter pre-existing non-conforming structure with deficient setback. 1) **Side:** 15' required, 4' exists. Specifically to amend approvals dated October 20, 2009 for an after-the-fact 19'8" x 30' deck. 2) Seeks area variance to alter pre-existing non-conforming structure in accordance with Section 200-57B (1) (b). Section 171.08, Block 1, Lot 10.1, Zone RCM1.3. Property Location: 33 Braley Point Road. Subject to WCPB review.

Terry Driessen stated that they are seeking an amendment to a variance application that he made 2 years ago. It is after the fact but it is so due to a misunderstanding on his part. He put a floating pressure treated deck inside of a retaining wall. He has since been educated by Mitzi Nittmann and per her advice they have covered all of the structural elements with the County Inspector with the as-built drawings in the file.

Mitzi Nittmann explained that the retaining wall was for a stormwater retention area inside the retaining wall and the applicant covered it up with the deck. She stated that it still functions but it is covered. John Michaels asked if the retaining wall was part of the original plans. Mitzi Nittmann replied yes. John Michaels stated that he finds it frustrating when applicants present a plan and there is plenty of discussion about it and then 2 years later they find that the applicant didn't follow the plan.

There was no correspondence or WC Impact.

John Michaels asked if the County Inspector will be back out. Terry Driessen replied yes but after the approval of the ZBA. John Michaels asked if they would need a railing because there is a big drop off. Terry Driessen replied that they will need to fill up to the top of the retaining wall before he can come back. Don King asked if the fill will affect the collection system. Terry Driessen replied that it is all earth there, so it is not being covered up. John Michaels agreed with Don King and stated that he would like to have Carl Schoeder sign off on the plan indicating that the system will function properly.

Jason Saris stated that he understands that they do not want to approve something that will affect the function of a stormwater device but they are not there to discuss the storm water, just to approve the deck. John Michaels stated that he would still like to have Carl Schoder review the system.

RESOLUTION

The Zoning Board of Appeals received an application from Terry & Christine Driessen (V09-40) 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#11 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; other than destruction of the project.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it fits in well.
- 3) The request is not substantial; compared to the total coverage of the lot
- 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 self-created, but will not have any detrimental effect.

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 John Michaels and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) that if fill is to be added to the lot as required by County that the Project Engineer certifies that the stormwater devices will still function properly with the changes as proposed. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:05 pm.

Minutes respectfully submitted by Kristen MacEwan.