

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, January 14, 2014
6:30 p.m.**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPS = Warren County Planning Staff
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Dept of Environmental Conservation

Present: Jason Saris, John Famosi, Donald King, Matt Slaughter, Jeff Anthony, Tony DePace, David Ray, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent: John Michaels

The meeting was called to order at 6:31 pm.

Jason Saris asked if there were any corrections or changes to the November 19, 2013 minutes.

RESOLUTION:

Motion by Tony DePace to approve the November 19, 2013 minutes as presented. **Seconded by** Don King. **All in Favor. Motion Carried.**

1. V13-01 F.R. SMITH & SONS. Represented by, Chris Gabriels. For the construction of three additional commercial boat storage buildings, seek to amend V13-01 to include an area variance for Density: 20 acres is required. 4.92 acres exist. Section 171.00, Block 1, Lot 10, Zones RR5 and LC45. Subject to PB, LGPC, WCPS, DEC and APA review.
NOTES: This item was tabled at the October meeting. See approvals granted on May 14, 2013 for deficient setbacks and lengths as follows: For the construction of three commercial boat storage buildings, seek area variance for 1) Deficient setbacks. Front: 200' is required from Edgecomb Pond Road. Building A-1: 50' is proposed. Building A-2: 155' is proposed. Building B: 150' is proposed. Side: 60' is required. Building B: 50' is proposed. Shoreline: 200' is required. Building A-1: 165' is proposed. Building A-2: 62' is proposed. Building B: 55' is proposed. Length: 120' is allowed. 122' is proposed for Buildings A-1 & A-2 and 162' is proposed for Building B. See SPR87-08 approved by the PB on 4/30/87 for commercial boat storage.

Jason Saris stated that he had received a request to recuse himself from this variance due to involvement in the marina industry and he would not be doing so as he did not believe there was any conflict and he could vote fairly on this. He stated this would have no effect on his business.

Jason Saris asked Town Counsel, Michael Muller if due to record high amount of correspondence if it would have to be read into the record. Town Counsel, Michael Muller replied that if each member of the Board had read all of the correspondence, they could dispense with reading it into the record. Jason Saris queried the Board and they all responded

that they had read the correspondence. Pamela Kenyon stated that all the correspondence would be available in the Zoning Office for the public to look over.

Letters in favor of the F.R. Smith project were sent from the following:

Claire Schmitt
Mr. & Mrs. Edward Mundy
Dan Daniger
Cynthia & Keith Ferguson
Zandy Gabriels
Jane Gabriels
Buck Bryan
Bernie Rieter
Fenton & Arlene Sabo
Theo Rose
Kate Baker
Arlene Langdon
Rick Elkin
Nicholas & Genevieve Russo
Brian Quinn
Ken Beckley – Beckley Boats
Earl Mikoloski
Vincent & Diane Mariniano
William Gauin
Joseph Landrigan
John & Laura Werner & family
John Duryee
Nanci & Tom Hoffman
Dean Reiter
Dr. & Mrs. John O’neill
William & Diane Hall
Tom McCracken
John Waters
Rashi Fein
Maurice Ornstein
Fred & Linda McKinney
Michael & Luba Severinovsky
Edmund Lingel
Barry & Diane Dawson
Thomas & Joanne Dillon
Robert Randall
Robert Mandell
Jonas & Emily Ettlinger
Joel Sieger
John Farraday
Tim Meigher
Paul McPhillips
Gerald & Madeline Malavany

David Hyman

Letters opposed to the F.R. Smith project were sent from the following:

Henry Heller Smith
Doris Smith
Cathi Radner – Atty. Representing clients
Alex Barrett
Ben Barrett
Cecil Caldwell
Joshua Pincus
Catherine Bixby Barrett
Peter Barrett
Frances Hawkins Pengra
Rebecca Caldwell
Harold McMillan Bixby Caldwell
Sean Craine
Will Barrett
Jill Barrett Johnson
Catherine Frankel
Sidney Fay
Bud Halibej
George Hawkins
Lee Harrison
John & Elizabeth Low
Richard Hayes Phillips
Deb Roberts – Concerns with located wetlands

The Lake George Waterkeeper sent a letter with his concerns.

Chris Gabriels stated the following:

- This property received a permit in 1987 to construct a boat storage building.
- A.P.A permit said they could build another 60 x 200' building in the future.
- Present building can be doubled to 60 x 200'.
- They have found this is not a practical way to store boats.
- They are looking to split the building and create some smaller buildings.
- They are seeking to create another driveway to access a cleaning station.
- They have received all the variances that had been required at the time.
- The only concern of the ZBA at that meeting was to see if the topography of the stormwater analysis would need another variance which it did not.
- The Planning Board was initially reasonably in favor of the project with concerns for screening.
- Sometime after that they were embroiled in a conversation as to whether or not they needed a density variance, so now they are back to discuss that.

Rick Killeen stated:

- We were last here in August with some discussion between Town Counsel, Michael Muller and the Board about the interpretation of the ordinance and what the density requirement was.
- When this project was first presented before it was no different than it is tonight and the Board approved all the setbacks.
- They came back in August and the project was tabled.
- During this time one of the suggestions was to mitigate the density requirements by acquiring rights from other parcels within the same zone.
- The applicant undertook significant efforts to obtain these through private landowners and the Lake George Land Conservancy which were not successful.
- This project is a boat storage facility for FR Smith customers, it is not a quick launch facility and it will not be a repair facility or paint and varnish facility.
- It will facilitate covered storage to eliminate the environmental impacts of shrink wrap, and will provide for cleaning boats on the site.
- There have been significant stormwater and drainage plans approved.
- F.R. Smith is a 94 year old marina business that serves approximately 700 customers annually.
- F.R. Smith employees between 22 and 25 people.
- There are significant factors in this building; they would no longer be shrink wrap boats outside.
- The increase in the activity would be approximately 15% and this would be in the late spring and the late fall.
- There will not be day to day activity on this site throughout the summer.
- It is not a customer service facility.
- It is a permitted use within the zone.
- It will move boat washing from the lake to this site that has stormwater.
- The reason they seek this application is because the lakeside site is not large enough for storage.
- They are back here tonight only seeking the density variance required.

Jason Saris asked why they did not ask for the density variance at the same time they asked for the initial area variance. Mr. Killeen said they discussed with the Planning department what variances were required, and they acquired all the variances that they believed the town believed were required. Sometime outside one of these meetings a discussion ensued about density requirements that he understands may have been precipitated by the A.P.A. Mr. Killeen stated even if the ZBA approves they will still have to go to the A.P.A. and he does not understand why that did not get addressed in the beginning.

Jason Saris asked if the structures as proposed meet all the other standards, like screening from the right of way and etc... Mr. Killeen replied they are well screened and he had pictures to show the screening. Mr. Killeen also stated that pertaining to the character of the area there were other commercial businesses. He pointed out The Conservation Club that generates more traffic than the boat facility would during the peak of the season. The Boat facility has been there since 1987.

Don King stated that the vegetation on the site changes with the seasons. Mr. Killeen agreed that this could be mitigated.

Jeff Anthony asked about approaching the neighbors for the acquisition of their rights. Mr. Killeen said they had and it involved significant research. Jeff Anthony asked if they were adjacent lands. Mr. Killeen replied they were not.

Matt Slaughter asked if they were open to alternative design. Mr. Killeen stated they had designed a facility that would meet the needs that they have and they were open to design of the buildings or color. They do not intend to create an expansive modification to what the property is used for now and they intend to take cleaning away from the lake.

Tony DePace asked what the height of the buildings would be. Chris Gabriels pointed out that it would be 16” shorter than the building on the map. Tony DePace asked if it would be closed to the road side. Chris Gabriels stated they would try to use the building as a screening mechanism to the road. Mr. Killeen explained that the boats would be under coverage.

Tony DePace asked what the daily hours of operation would be. Scott Andersen stated 8am to 5pm, and weekends through Columbus Day. Mr. Killeen stated this would not be a facility that operates with people on site day in and day out during the summer peak season. Mr. Andersen stated all maintenance would be done at the lake side facility.

David Ray asked how many boats are stored up there now. Scott Andersen said there were about 35 to 40 boats stored indoors at this time. David Ray asked how many would be stored up there when the variance was approved, and Mr. Andersen replied approximately 125. Mr. Killeen stated that this was consistent with what has been stored up there for the last 30 years. David Ray asked if this included both outside and inside. Mr. Andersen replied yes.

From the Public:

Atty. Cathi Radner representing some of the adjacent property owners spoke of the Board’s consideration on this item.

- Town Code says need 5 acres for 1 principle building.
- 400% variance to density.
- Boat storage is only allowed in this area with Site Plan Review and only if non visible from the road.
- This site is not adequately screened now and is visible from the road at this time.
- They have been violating the approvals granted in 1987 allowing indoor storage only and outdoor storage temporarily.
- The letter F.R. Smith sent dated June 17, 2013 shows that it will definitely have an impact on the area.
- This area is primarily densely forested residential land.
- If they intend to have employees to this site, they are going to come back for bathrooms.
- Current approvals do not include any wastewater or water, which begs the question to how they will wash boats.

- They are asking for a substantial change in use.
- They want unlimited trip generation.
- What they listed is not what they need at this location, it's what they want at this site.

Mark Roden stated he was a property owner within the 500 feet of this site. He did not believe the offer from Mr. Andersen for his property rights was a serious one. He believes that F.R. Smith has more options that would be favorable to the neighborhood, instead of designing what is only good for them. He believes this will be an undesirable change to the neighborhood and he cannot be in favor of this project.

Lake George Waterkeeper, Chris Navitsky stated some of his concerns. They have concerns with the stream corridor. There have been good references to alternatives to be explored. The ZBA needs to balance the needs of everyone. He believes there is room for alternatives.

Elizabeth Harris adjacent property owner stated she felt a 400% increase in the amount of structure on the site was totally inappropriate for this site and would completely change the character of the area. It is not in keeping with the current variance at this time. She is asking the Board to consider the neighborhood and deny the variance.

Sally Defty stated that in 1987 the site was supposed to be planted to screen it from the road and that was not done properly. She stated her concerns with Lake George and its future and hopes the Board will put the lake first over development.

Ruben Caldwell, President of H&B Inc., adjacent property owners, urged the Board to reject the variance. He stated that this variance would have a substantial impact on their property values. He pointed out that if the variance is granted and Smith's decide to sell their property in the future, any variance granted will follow the property and this could be a real problem. He is suspicious of the presentation of the type of activities that would be going on here, and he hopes the Board will consider all these issues.

Scott Jacobs stated that this was not the A.P.A. or the Lake George Park Commission and he hopes the Board will consider this application.

Mr. Killeen spoke again about the character of the area and stated that traffic was generated by the Conservation Club and stating that this facility would be the only reason for an increase of traffic to the area would be incorrect.

Scott Andersen addressed the issue of the 185 boats in the letter referenced by Atty. Cathi Radner, stating that the 185 boats included boats at both the main facility on the lake and this site. He addressed the road and shrink wrapping, which they only do at the main facility. He addressed explained that their stormwater plan addresses these issues. Town Engineer, Tom Nace signed off on the project. He stated that they would be using seasonal porta-pottys which would be removed in November. He said they do not winterize boats there now and did not plan to in the future. The washing they will be doing is to clean the bottoms of the boats at the end of the season and it is not a decontamination program.

There would only be a couple of trucks per year to unload boats. This will not be a quick launch site. Their use will be minimal. In the last 25 years of operation there has never been a formal complaint to the Town of Bolton, and the operation will stay pretty much the same.

Mr. Killeen again stated they would not be generating the kind of traffic generated from the Conservation Club as they would not be servicing customers there.

Jason Saris asked Pamela Kenyon if there were any variances issued in 1987. Pamela Kenyon said she was not aware of any only Site Plan Review.

Tony DePace asked if the variance passes and the property sells would they have to come back for a different use if they were to use it for excavation storage or repair. Pamela Kenyon stated they would if it was a different use.

Jason Saris stated they could close the public hearing at this time or they could keep it open if they were going to table it. Don King stated he thought it would be a good idea to keep it open.

Matt Slaughter commented on the letters in opposition talking about the change of character to the neighborhood and the letters for the project tended to speak to the economic value of the development. He thought he would feel better if Smith's addressed some of these character concerns. He stated he would love to vote to support, but it obviously is a huge concerns to the many letter writers in opposition. Mr. Killeen stated that the applicant was willing to engage in anything that would make the facility better, but he would like to know what the character concerns really are because they do not anticipate a radical change in what is already there. Site Plan Review could definitely change some of these items and they have done an adequate job with stormwater.

Matt Slaughter stated that the screening of the 5 buildings seemed to be a major concern of everyone. Mr. Killeen said this is customarily done in Site Plan Review, and they can already build a much larger building there. Jason Saris stated that screening is certainly a determination of the Zoning Board and is clearly in the scope of their authority.

John DeRossi pointed out the pictures of the Conservation Club and said you would need be logical.

Jane Caldwell stated that the Conservation Club was many things to the area and the one photograph of all the cars did not portray the true picture. Mr. Killeen reiterated by saying that he agreed that it was a wonderful facility and he just wanted to show that there was more than one facility that generated traffic in that area.

Mr Killeen addressed the statements that stated people did not trust the applicants.

Kate VanDyke asked the square footage of the existing building to which Chris Gabriels replied 60 x 100' and they have been permitted 60 x 200'. Ms. VanDyke asked what the total square footage for all the buildings would be. Chris Gabriels answered just over 20,000. Don

King replied 12,000 versus 20,000. Chris Gabriels said the allowable is 20,000 square feet in this zone.

Mark Roden questioned if the permit with the A.P.A. was still open after 25 years. He stated he had calculated the square footage to be more than 20,000 sq. ft.

Tony DePace asked Mr. Andersen if they would consider hours of operation on the site. Mr. Andersen said yes. Tony DePace suggested washing inside, better screening and no weekend work on the site. Don King inquired when the large majority of the boats would be done. Mr. Andersen said usually early May and generally before Memorial Day and the reverse in the fall would be generally done at the end of September with the majority of it done in October and they try to be finished by the middle of November.

Jason Saris said this is not the way the Board has interpreted the ordinance in the past and he is a little uncomfortable with this. He stated that our ordinance allows for boat storage because this is a lake side community. He said there is not a limit on the number of boats in the ordinance. Tony DePace asked if there was a limit to boat maintenance. Jason Saris said this was also an allowable use with Site Plan Review. He said you could put as many boats as you like outside, on the lot as long as they fit. Tony DePace stated that if they tweaked this application a little bit it could work. Jason Saris stated the Town Board should look at this in our zoning and they should have language that reflects the past practice or change it and make it a more workable solution. He said if you are allowing boat storage they should decide if you're allowed covered or uncovered.

Jeff Anthony said he thinks they can mitigate this situation by having better screening, but he does not see where much effort has been placed on this issue. He suggests they carefully consider how to properly screen this facility to make it innocuous from the neighborhood and then he would be comfortable voting for it.

Mr. Killeen said that this is often times a function of the Planning Board. Jason Saris replied that the Board does ask for screening and sometimes it is very specific. Mr. Killeen said he did not believe this was an unreasonable request.

Jason Saris explained the Board's options.

Mark Roden expressed his concern about the noise issue to the neighborhood.

Jason Saris stated that he believes that the Board does not feel the site is adequately screened at this time and are concerned that the expansion of the project will make it even more noticeable. Mr. Killeen said he was willing to have the applicant provide this, but he does not want to come back and represent the whole application again. Jason Saris stated that he would remind the public that they were only there to address the screening issue and any new issues that have popped up.

A member of the public asked if there were approvals if they would include all of the items discussed tonight such as:

- No repair work

- No shrink wrap
- No outdoor storage
- No sales to the public
- No quick launch.

Jason Saris stated that this would be up to the Board member who made the motion to include these things or not and then the other Board members may or may not approve this motion.

Don King asked about an affidavit from the applicant. Town Counsel, Michael Muller said it could be done with a covenant, which would bind this owner and all subsequent owners. He stated that he would like the Board to leave some of these issues for the Planning Board.

Now, upon motion duly made by Matt Slaughter and seconded by Don King, it is resolved that the ZBA does hereby table the variance request as presented to address the Board's screening concerns and to leave the public hearing open. **All in Favor. Motion Carried.**

2.V13-42 MOWERY, BRUCE & STARR and MOWERY, BRUCE JR. Represented by the LA Group. For a proposed 7 Lot subdivision, seek area variance for 1) deficient density. The allowable density in the RL3 portion of the site is 6.21 principal buildings (18.64 acres divided by 3 = 6.21). Only 0.47 principal buildings are allowed in the LC25 zone portion of the site (11.92 acres divided by 25= 0.47), and 2) Section 125-10B2(d) of the stormwater regulations. 100' is required between the bio-retention devices and leach fields and/or wetlands. Bio-retention 2) 55' is proposed between the bio-retention area and leach field on Lot 1. Bio-retention area 3) 60' is proposed between the bio-retention area on Lot 2 and adjacent wetlands. Bio-retention area 9) 35' is proposed between the bio-retention area and leach field on Lot 3. Bio-retention area 4) the proposed bio-retention area on Lot 4 is 68' from the leach field on Lot 5. Bio-retention area 5) 61' is proposed between the bio-retention area and leach field on Lot 5. 45' is proposed between the bio-retention area and wetland on lot 5. Bio-retention area 6) 70' is proposed between the bio-retention area and leach field on lot 5. 30' is proposed between the retention area on Lot 5 and an adjacent wetland. Bio-retention area 7) 66' is proposed between the bio-retention area and wetland on lot 6. Section 199.04, Block 1, Lot 11, Zone RL3 & LC25. Property Location: 442 Coolidge Hill Road. Subject to WCPS and APA review. Subject to SEQR. This item was tabled at the November meeting pending additional information.

Justin Sanford stated the following:

- This application was presented in November of 2013
- This is a 30.56 acre parcel at 442 Coolidge Hill Road.
- The majority of the parcel is wooded or meadow.
- There is an existing 2 story 2200 sq. ft. residence with a carport directly off Coolidge Hill Rd.
- The parcel is classified as RL3 and LC25.
- 18.64 acres fall in the RL3 zone.
- The property rights allow for 6.68 building rights across the total property.
- 1 lot would be for the existing structure, with 6 additional lots.
- Each lot would be for a 2200 to 2400 sq. ft. home.

- There would be 2 shared gravel driveways 18' in width.
- Each driveway would access 3 lots.
- The majority of the property is to remain untouched.
- 3.5 acres of disturbance.
- Minimum vegetative buffer of 35' between any proposed development and existing wetlands.
- This subdivision is compatible with all surrounding land uses.
- This is a major stormwater project.
- A series of rain gardens and bio retention areas have been implemented throughout the property.
- Nace Engineering has signed off on this project.

Correspondence

Warren County Planning Board determination to Deny without prejudice. Town Counsel, Michael Muller stated that this means that the project would need a super majority vote from the Zoning Board to pass. Jason Saris gave the applicants the option to wait until there was a full Board. They decided to move forward.

RESOLUTION

The Zoning Board of Appeals received an application from Bruce & Starr Mowery and Bruce Mowery Jr (V13-42) for an area variance as described above.

Now, upon motion duly made by Don King and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

3. V13-47 FOY, EDWARD SR. Represented by Bruce Mowery Jr. To demolish and rebuild garage in the same footprint but with a different roofline on a portion, seeks area variance for deficient setbacks. 1) Front: 75' is required, 40' is proposed, and 2) Side: 20' is required, 3' is proposed. Section 171.19, Block 1, Lot 14, Zones RM1.3 & RL3. Property Location: 16 Mohican Road. Subject to WCPS review. See V11-19 for previous approvals.

Bruce Mowery Jr. explained that the applicant was looking to rebuild an existing garage damaged by a tree. He is requesting to widen the overhangs but to stay in the exact same footprint.

Jason Saris asked if it would look different than what existed. Mr. Mowery stated there would be slight modifications to the front.

Letter from the Lake George Waterkeeper in support of the variance

RESOLUTION

The Zoning Board of Appeals received an application from Edward Foy Jr. (V13-47) 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 Staff;

And, whereas the Warren County Planning Staff 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; No, the building was damaged.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, No, there will be no change in the size or location.
- 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; No, there will be minor stormwater implemented.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This was an act of nature.

Now, upon motion duly made by Jeff Anthony and seconded by Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: Minor stormwater is to be implemented. **All in Favor. Motion Carried.**

4. DANIGER, DANIEL. In accordance with Section 200-72 of the zoning ordinance, seeks to appeal the Zoning Administrator's interpretation whereby determining that no violation exists on the subject parcel as it pertains to the residential use of the property. As a result, Planning Board approval for "change of use" was not required. Section 213.13, Block 1, Lot 7, Zone RCM1.3. Property Location: 75 Coolidge Hill Road.

Mr. Daniger said he would like to have bed and breakfast information he handed in at the previous meeting entered into the minutes. Town Counsel, Michael Muller explained that the allegations Mr. Daniger is referring to pertains to the fact that the Dunn's appear to have an advertisement on the internet for a bed and breakfast. Town Counsel, Michael Muller stated that this does not part of the appeal before this Board. He stated that the Code Enforcement Officer and the Zoning Administrator had investigated this issue and have sent a letter to the Dunn's stating that this is not a permitted activity. He informed the Board that they need to focus on the issue of occupancy and if it is or is not a change of use. Mr. Muller stated he did submit a lease agreement that was given to him from Mr. Dunn and all he can tell them is that it is a residential lease that is clearly permitted under the current code.

Matt Slaughter asked if the Board was not to consider the advertisement. Town Counsel, Michael Muller replied they were not as it was not properly before the Board. Jason Saris stated that the determination is not about a bed and breakfast.

Town Counsel, Michael Muller stated that the Zoning Administrators determination that what is manifested in the lease does not constitute a change of use.

Dan Daniger inquired about the septic change due to the amount of people living in the residence. Jason Saris replied that this was an issue for the Town Board acting as the local Board of Health and this Board has no jurisdiction over this. Mr. Daniger asked if this would still be part of appeal. Zoning Administrator, Pamela Kenyon replied no, it would not. Town Counsel, Michael Muller stated that if the Zoning Office did find that it was a violation the Local Board of Health would act on it. Jason Saris explained that the number of bedrooms is what determines the size of the septic. Town Counsel, Michael Muller explained he understood the many nuisances that Mr. Daniger was experiencing, but they were not controlled by the zoning code as in terms of the use of the property.

Motion by Don King and Seconded by Tony DePace to uphold the Zoning Administrator's determination. All in Favor. Motion Carried.

5. V13-45 BWM REALTY ASSOCIATES, LLC. Represented by Joseph Haines. To alter non-conforming restaurant, specifically to lower and reduce the size of the upper deck, seeks area variance for 1) a deficient shoreline setback. 75' is required, 13' is proposed, and 2) To alter non- conforming structure in accordance with Section 200-57B(1)(b). Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lake Shore Drive known as Blue Water Manor. Subject to WCPS and APA review.

6. V13-51 BWM REALTY ASSOCIATES, LLC. Represented by Joseph Haines. To alter non-conforming banquet hall, specifically to demolish and rebuilt the front portion in a maller footprint with a higher roof pitch, seeks area variance to alter non- conforming structure in accordance with Section 200-57B(1)(b). Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lake Shore Drive known as Blue Water Manor. Subject to WCPS review.

Joseph Haines stated:

- They purchased property in October of last year with the concept of keeping the resort intact.
- It is approximately 5.7 acres that the resort sits on.
- It looks over Basin Bay on Lake George with 84 units and a restaurant and bar.
- There is an indoor pool facility and a banquet hall with a full kitchen.
- They would like to start the renovation process as the property has started to deteriorate.
- They have currently started restoring 8 of the cabins.
- They are here to reduce and improve the square footage of 2 different amenities

- The first project would be to reduce the amount of deck space on the lake side at the restaurant.
- This would reduce the level of the deck and increase the visibility of the lake.
- They will be reducing the encroachment of a non-conforming structure to the setbacks.
- He commented on the Lake George Waterkeeper's letter stating they planned on addressing the septic systems at a later date.
- The second proposal is to reconstruct the front of the banquet hall in a smaller footprint than the one that exists.
- He passed out renderings of the new building to the Board.

Jason Saris stated he finds it refreshing to have an applicant from a resort property on Lake George that is trying to do things to maintain and improve the property as opposed to trying to put town homes on it as this is a resort community.

Matt Slaughter inquired about the use of lower level of the deck. Mr. Haines replied they would be using the southern end of the deck.

RESOLUTION

The Zoning Board of Appeals received an application from BWM Realty Associates LLC. (V13-45) 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 Staff;

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

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

this Board makes the following findings of fact:

The application of the applicant is as described in Item#5 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; It is an improvement with a smaller footprint.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial; It is a substantial decrease in size.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; None
- 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. It is an improvement

Now, upon motion duly made by Matt Slaughter and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request V13-45 as presented. **All in Favor. Motion Carried.**

RESOLUTION

The Zoning Board of Appeals received an application from BWM Realty Associates LLC. (V13-51) 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 Staff;

And, whereas the Warren County Planning Staff 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; The footprint is smaller.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, No, it is not substantial.
- 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; None
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. They are making improvements.

Now, upon motion duly made by Matt Slaughter and seconded by David Ray, it is resolved that the ZBA does hereby approve the variance request V13-51 as presented. **All in Favor. Motion Carried.**

- 7. V13-46 KEATING, JOE.** Represented by Howard Raymond. To alter non-conforming single family dwelling, specifically to allow an approximate 10' x 12' deck to remain, seeks area variance for 1) a deficient front yard setback. 75' is required, 65' is proposed, and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 140.00, Block 1, Lot 38, Zone RL3. Property Location: 151 Padanarum Road.

This Item was tabled.

- 8. V13-48 HEDLEY, THOMAS.** Represented by the Michaels Group. To demolish and rebuild single family dwelling, seeks area variance for deficient setbacks. 1) Shoreline: 75' is required, 21.5' is proposed; and 2) Side: 20' is required, 2.5' is proposed. Section 200.14, Block 1, Lot 3, Zone RM1.3. Property Location: 91 Cotton Point Road. Subject to WCPS and APA review.

Johnathan Bunker of the Michaels Group presented this project as follows:

Seeking to demolish a 3 bedroom seasonal camp to rebuild a 3 bedroom year round camp.

They are proposing to rebuild in the existing building envelope.

They are requesting to increase the footprint to the south and the west.

They would like to add a small uncovered wooden entry porch.

They would like to increase side yard setback by 1.8'

They are proposing to reduce the building overhangs to 1.6”
They do not want to disturb existing trees or structures.
They are not proposing to increase the bedrooms.
This will not create an undesirable change to the neighborhood.

Jason Saris asked if they could improve the structure at all. Mr. Bunker stated they could not move to the south due to the existing structure and septic system, but it was possible to shift to the west several feet to improve the side yard setback.

Jason Saris explained that with a complete rebuild they should be able to improve the setbacks. Mr. Bunker said they would be interested in shifting it some.

Tony DePace inquired about the location of the septic system. Mr. Bunker replied that it was between the two buildings.

Don King said if they moved a few feet back and a few feet to the west it would be an improvement to the lines.

Tony DePace asked about the existing deck. Mr. Bunker replied that it was literally planks lying on the ground and their intention was to not disturb the deck.

Don King stated that it was a reasonable mitigation to an improvement to a property to have them increase the setbacks wherever possible. Jason Saris stated that the Board was looking for an effort in improving the setbacks from the Lake.

Joe Zuro asked if giving up the deck would help in approving the variance. Jason Saris stated that if he removed the deck it would certainly help.

Lake George Waterkeeper letter asking for stormwater controls and septic verification was read. Mr. Bunker stated that they intended to retain a licensed engineer to access the existing septic and to do a stormwater evaluation.

Tony DePace asked if they shifted the house, what would become of the existing deck. Mr. Bunker stated they would move it back from the lake that same distance.

Don King asked about eliminating the deck and leaving the house where it is so they would have room for rain gardens. Tony DePace was in agreement with this. Mr. Bunker said they could think about it. Jason Saris said moving the house 4’ back from the lake would be a better solution to the A.P.A. Mr. Bunker said they could build a pervious patio and totally remove the deck.

RESOLUTION

The Zoning Board of Appeals received an application from Thomas Hedley (V13-48) 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 Staff;

And, whereas the Warren County Planning Staff 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; Not much room to move around.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, This is a positive change.
- 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; They will be building on basically the same footprint.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is a pre-existing non-conforming structure making it a practical difficulty.

Mike Muller asked if the new shoreline setback would be 25.5' including the overhang and the new side setback would be 6.5' including the overhang. Tony DePace agreed.

Mr. Bunker asked if a 150 sq. ft. patio would be acceptable. Pamela Kenyon stated this would be considered a structure. Town Counsel, Michael Muller explained that anything 100 sq. ft. or less and not attached would be non-jurisdictional. Tony DePace stated he would suggest they do that.

Now, upon motion duly made by Tony DePace and seconded by Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions: 1) Move the house back 4' to the South and 4' to the West. 2) Completely remove existing wooden deck with a new patio to be no more than 100 sq. ft. and not attached to the home. All in Favor. Motion Carried.

9. V13-49 COON, TIMOTHY. Represented by Eugene Baker. To alter non-conforming single family dwelling, specifically to add a 6' x 12' addition, seeks area variance for 1) a deficient front yard setback. 75' is required, 60' is proposed, and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 185.00, Block 2, Lot 20, Zone RL3. Property Location: 836 Coolidge Hill Road. Subject to WCPS review.

Eugene Baker stated that the Mr. Coon was looking to enlarge a small bedroom on the first floor for health reasons. He stated that this was a non-conforming structure. Jason Saris asked if this would encroach on the setbacks and Mr. Baker said no.

RESOLUTION

The Zoning Board of Appeals received an application from Timothy Coon (V13-49) 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 Staff;

And, whereas the Warren County Planning Staff 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; Area variance the only way to achieve and will not increase setbacks.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, this addition will not be visible from the road.
- 3) The request is not substantial; this is a very small addition.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this is a small addition.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This house has been there forever and this is a pre-existing non-conforming structure.

Now, upon motion duly made by Jeff Anthony and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: Minor stormwater is to be implemented. **All in Favor. Motion Carried.**

10.V13-50 MENZIES, PETER & GRETCHEN. Represented by the LA Group. To alter non-conforming winter cabin, specifically to add a second story, seek area variance for 1) a deficient front yard setback. 50' is required, 38' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.08, Block 1, Lot 6, Zone RCM1.3. Property Location: 32 Jacobi Point. Subject to WCPS review. *This is an amendment to V13-16 approved June 18, 2013.*

Justin Sanford explained that this application was before the Board in May of 2013, but since the variance was granted, they have decided that they do not need to expand the winter cabin. A 250 sq. ft. expansion had been proposed, but they have decided they would only like a storage area on the second floor and to delete the second story bedrooms and deck.

Don King asked why they needed a variance for a substantial reduction to what had been approved. Pamela Kenyon stated it was due to the significant change in the design.

Letter from Nancy Hyman in favor.

RESOLUTION

The Zoning Board of Appeals received an application from Peter & Gretchen Menzies (V13-50) for an area variance as described above.

Now, upon motion duly made by Don King and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

11.V13-52 TUCKER, KENNETH & EMILY. Represented by Atty. Stefanie DiLallo Bitter. To allow a 254 square foot deck attached to a non-conforming single family dwelling to remain in its present location, seek area variance for 1) deficient shoreline setback. 100' is required, 16' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 122.16, Block 2, Lot 9, Zone RR10. Property Location: 163 Sherman Lake Road. Subject to WCPS and APA review.

Stephanie DiLallo Bitter presented the project as follows:

- This is an after the fact variance for a deck constructed approximately 5 years ago.
- The applicants have owned this property since the 1940s.
- It is modest in size and a seasonal cabin.
- They constructed the deck over a brick walk way and stairs to access the southern entrance.
- The reason for the deck is for easier access due to the steep slope.
- The lot is 100' in depth, so there are no compliant areas to construct the deck.
- There are no undesirable changes to the neighborhood and you can barely see the deck from the lake due to existing mature trees.
- Adjacent properties have similar decks.

Jason Saris asked if the deck was any closer to the lake then the existing structure was. Ms. Bitter replied that it was not.

Matt Slaughter asked how long the brick walkway had been there. Don King said it was probably since the 40's.

Ms. Bitter said the site is very steep.

Jason Saris asked if there was a more compliant location to put the deck. Ms. Bitter explained that the northern side would not be screened from the lake.

Don King stated that it certainly makes it more accessible.

Matt Slaughter inquired about some tree removal. Ms. Bitter was not aware of when this was done.

RESOLUTION

The Zoning Board of Appeals received an application from Kenneth & Emily Tucker (V13-52) 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 Staff;

And, whereas the Warren County Planning Staff 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; they could have been brought prior to construction for review.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, No, not visible to the lake.
- 3) The request is not substantial; The deck size is minimal.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; No
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is a pre-existing non-conforming structure with no other suitable or more compliant area for placement due to the configuration of the land.

Now, upon motion duly made by Don King and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

12. MARKI, BERNARD & PATRICIA. Represented by the Atty. Thomas Ulasewicz. In accordance with Section 200-72 of the zoning ordinance, seek to appeal the Zoning Administrator's interpretation whereby determining that wildlife rehabilitation undertaken on those parcels designated as Section 171.07, Block 2, Lots 37 & 38 is not considered an artisan activity. If the Board determines that an artisan activity exists 1) are the cages in excess of 100 square feet considered an accessory use structures? And 2) Is wildlife rehabilitation and its facilities (cages in excess of 100 square feet) customarily incidental and subordinate to a residential use where the residents are bona fide trained, skilled and licensed wildlife rehabilitators? Zone RCM1.3. Property Location: 2 Braley Point Road.

This item was tabled

13. V13-53 SALAMONE, KEN. Represented by Phinney Design Group. For the construction of a proposed single family dwelling, seeks area variance for 1) A Deficient shoreline setback. 75' is required, 35.7' is proposed; and 2) Height: 35' maximum allowed. 37' 10 1/2" is proposed. Section 213.05, Block 1, Lot 6.1, Zone RM1.3. Property Location 4124 Lake Shore Drive. Subject to WCPS and APA review. *Note: This is an amendment to V11-58 approved 2012.*

- Mike Phinney of Phinney Design stated the following:
- Previous large existing structure that was in disrepair which was torn down.

- This is a reduction to previously approved variances.
- One point of clarification is that one variance asks for a shoreline setback for 18.8' a raised patio area at the spa that makes it 19.1' which is still a reduction.
- They removed a guest suite and a spare bedroom.
- The rain garden and stormwater controls have been moved back.
- They would be saving 21 trees that were previously to be cut.
- Lake side elevation to change substantially.

Jason Saris stated this was a substantial reduction that was better than the previously approved variance. Don King asked if it would go back to the A.P.A. Pamela Kenyon replied that it would.

No County Impact.

RESOLUTION

Tony DePace stated he would like to approve the amendment to this project as it was reducing the project quite a bit, saving 21 trees, making more room for stormwater and the foot print alone is quite a bit better than the previously approved variance.

Now, upon motion duly made by Tony DePace and seconded by Matt Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

Motion by Don King to reappoint Jason Saris as the Zoning Board of Appeals chairman. Seconded by Tony DePace. Jason Saris abstained. **All others in Favor. Motion Carried.**

Motion by Tony DePace to reappoint Jeff Anthony as the Zoning Board of Appeals co-chairman. Seconded by Don King. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

The meeting was adjourned at 10:25 pm.

Minutes respectfully submitted by Kate Persons.