

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, July 14, 2015
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, Michael Calautti, Holly Dansbury, Tom McGurl, Jeff Anthony, John Whitney, Alternate Joy Barcome and Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent:

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

Jason Saris asked if there were any corrections or changes to the June 16, 2015 minutes.

RESOLUTION:

Motion by Tom McGurl to approve the June 16, 2015 minutes as presented. **Seconded by,** Holly Dansbury. **All in Favor. Motion Carried.**

1. **V15-20 DUARTE, DENNIS.** Represented by Carl Schoder. **1)** For the construction of a proposed dry laid retaining wall to facilitate grading for a wastewater system, seeks area variance for deficient front and side yard setbacks. Front: 75' is required, 21'6" is proposed. Side: 30' is required, 10' is proposed. **2)** To alter single family dwelling, specifically to construct a proposed 15'x 30' deck plus stairs, seeks area variance for **a)** deficient setbacks. Front: 75' is required, 66' is proposed. Side: 30' is required, 24'8" is proposed; and **b)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 185.00, Block 1, Lot 50, Zone RCL3. Property Location: 589 Trout Lake Road. Subject to WCPS review.

Carl Schoder presented the following:

- The existing system backs up every once and a while and they are not comfortable with what is in the ground.
- It is a small lot.
- The well is in the way for the back area of the house.
- The front of the house had an old seepage pit that they propose to remove.
- They need to use an alternative enhanced system.
- They will need to have fill brought in.
- This is a shallow trench system that was reviewed by the Town Engineer.
- They will need to build a stone wall for this system.
- The wall is needed for a grade to be established behind it.
- They will be using a fair amount of the yard area so they would like to construct a deck in front to gain a little of that space back.

Jason Saris asked how long they owned the home. Mr. Schoder replied that he did not know. Tom McGurl stated he believed 5 or 6 years.

Jason Saris asked if the deck was part of any other planned renovations to the home. Mr. Schoder stated he did not believe any expansion was anticipated. He stated that he had suggested that they not segment this project and roll it all together. Jason Saris asked if there were any alternative systems that could be used that would not utilize the retaining wall. Mr. Schoder replied that there was not and detailed why they could not be used. He stated no, he had looked at Elgin and conventional trench like systems but the area was way to small. He stated that the Presby system seemed to be the best fit.

Jason Saris asked if the benefit could be achieved by anything other than a variance. Mr. Schoder replied in his opinion it could not.

Holly Dansbury inquired about the size of the deck and if they could have a smaller deck. Mr. Schoder replied it was not excessive and it was a reasonable and usable size to keep people up off the septic area. He stated they are trying to make up for lost space.

John Whitney asked which side of the deck extends into the front yard setback. Mr. Schoder detailed it on the map for the Board.

No Correspondance

RESOLUTION

The Zoning Board of Appeals received an application from Dennis Duarte (V15-20) 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#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: The challenge to place the septic system any other place would be a substantial expense as well as having to move the well. The deck is relatively small.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is a desirable change. They are improving the waste water treatment which is a benefit to keeping the lake safe, so this is very desirable.
- 3) The request is substantial; but it is offset by the benefits to the neighborhood.
- 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 owner bought as is and the septic system is outdated.

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 Whitney and seconded by, Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

2. **V15-21 WINNIE, DEREK & YVONNE.** Represented by Stephen Jung. To alter single family dwelling, specifically to allow second floor balcony, patio and stairs to remain in their present location, seek area variance for **1)** Deficient setbacks. Front: 50' is required, 37' is proposed for the deck and 34' is proposed for the patio. Rear: 20' is required, 6' is proposed for the balcony and 0' is proposed for the stairs (note a portion of the patio is located on a neighboring parcel, for which there is no authorization); **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 156.20, Block 1, Lot 52, Zone RCM1.3. Property Location: 106 Rock Cove Road. Subject to WCPS review.

Stephen Jung presented the following:

- This project was approved in 2008.
- Additional work was done to the house.
- Septic and stormwater was not installed as approved.
- He has documented what had been changed to the Board.
- The stain colors of the home are appropriate to the area.
- The deck stairway was changed and the stairs were smaller than what was approved.
- The patio area is past the survey line to the neighboring property.

Jason Saris asked when the initial work was proposed, what was where the awning is now. Mr. Jung stated just the hand railing. He detailed in the pictures what was approved in the original variance. Jason Saris asked if the location of the stairs was the same. Mr. Jung replied this was correct, but they are smaller than what was approved.

John Whitney inquired if the additional footprint they were asking for was just the drip edge and the overhang of the front. Mr. Jung replied yes.

John Whitney asked when the original approvals and construction occurred. Mr. Jung replied approvals were in 2008 but he was not sure when the construction occurred.

Tom McGurl asked if there was an original approval for a second story deck that became a two or three seasoned room. Mr. Jung replied yes.

Jason Saris asked if the original approved stormwater was completed. Mr. Jung replied that it did not get done and they have shown a new stormwater plan done by Mike Montena. Jason Saris asked if it had been implemented. Mr. Jung stated it had not but it would be done upon approval.

Holly Dansbury asked if this was an improvement to the original stormwater plan. Mr. Montena replied that it definitely was.

John Whitney asked about the patio. Mr. Jung replied that at one time a line was established that was agreed upon by the neighbor to put it where it is shown by verbal agreement.

Zoning Administrator, Pamela Kenyon stated that the applicant was not before the Board for the patio portion on the neighbors property. Jason Saris stated the Board has no authority to grant variances or relief for anyone's property but the applicants. John Whitney asked if it could be a condition of approval that they require remediation to the lot line. Atty. Muller stated that the Board should stay out of the civil issue. He stated that the Board gives variances from the Code, not from the property line.

Mark Hess property owner to the south stated that he could not see how the Town could approve anything until the homeowner corrected all the problems that have been created from this construction. He stated at one time the patio was 20' onto his property and a retaining wall and bushes are 2' to 3' that are on his property. As far as he is concerned the Town is responsible for the issues as they approved the permits, and these issues need to be corrected before any other variances are issued. Jason Saris stated the Town did not do the construction. Zoning Administrator, Pamela Kenyon stated that the Town did not approve the patio. Mr. Hess stated that he knew that but the homeowner went beyond the scope of approved work and the Town should be responsible. Atty. Muller stated that they were not and the Town would not be enforcing any civil issues. Jason Saris stated the Board is dealing with the over construction of the house right now. He stated the patio was never part of the original application. Mr. Hess stated the homeowner did it anyway. Mr. Hess asked if the Town would be enforcing the Code. Atty. Muller stated that is why they are here tonight. Atty. Muller stated that he does not believe the homeowner has asked for the patio, and it was up to Mr. Hess to deal with the civil issue.

John Whitney asked the Board why they would approve the variance before the homeowner's stormwater remediation was completed. He stated with the history of non-compliance he would think that they should do everything that they could to come into compliance before approvals were granted. Atty. Muller stated the Board could table the application with the condition that they impose a deadline to have the stormwater installed. John Whitney asked how long it would take to implement the stormwater. Mr. Montena stated that as soon as they had approvals they can implement it.

Jason Saris stated that all the stormwater work should be completed that was previously approved and has been improved upon should be done first.

Atty. Muller stated it was a minor project that could be approved by the Zoning Administrator.

Jason Saris asked if the patio require a variance if it was all on the homeowners property. Zoning Administrator, Pamela Kenyon stated that it would. Jason Saris stated that enforcement on that should not be staid because that is not what this is all about. Atty. Muller explained why the Town did not want to go to this route.

Ms. Winnie stated that they did not realize that stones in the sand were a permanent structure and they have never been approached by the neighbor. She stated she feels bad about the situation.

Mr. Franz, President of Rock Cove Association stated that they had not approved the things being talked about today as it had not been presented to them.

Sue Ellen Franz asked if there was a Building Inspector in Town. Atty. Muller stated that the County had a Building Inspector, so yes there was one in Town, but they are not employed by the Town. He stated that there is a Code Enforcement Officer. Ms. Franz asked if she enforced the code. Atty. Muller stated that she did.

RESOLUTION

Now, upon motion duly made by John Whitney and seconded by Jeff Anthony, it is resolved that the ZBA does hereby table the variance request as presented until September 15, 2015 to allow the applicant time to implement stormwater remediation which is to be approved by the Zoning Administrator and please note that this motion does not address the patio in any form. **All in Favor. Motion Carried**

3. **V15-22 DUNN, WILLIAM.** Represented by Nelson McGarr. To alter single family dwelling, specifically to allow a partially constructed front porch to remain in its present location and construct a proposed 12'x 15' back deck, seeks area variance for **1)** a deficient front yard setback. 75' is required, 3' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 213.13, Block 1, Lot 7, Zone RCM1.3. Property Location: 75 Coolidge Hill Road. Subject to WCPS review.

Nelsen McGarr presented the following:

- He detailed the pictures that they had presented to the Board.
- He stated he was bringing the deck over to bring the house up to code.
- Mr. Dunn detailed the changes on the drawings with Mr. McGarr.
- The existing roof will be continued to help from clobbering people from ice and snow.
- The concrete stairs were crumbling.
- The deck in the back would be for his enjoyment.

Holly Dansbury asked about the front yard setback. Mr. Dunn stated that the original home was an old print shop that sticks right out to the street and detailed it to the drawings for her. Mr. McGarr stated that technically the right of way was about 11' into the house. John Whitney asked if the construction was all within that line. Mr. Dunn replied absolutely. John Whitney asked if the deck in the back required a variance. Zoning Administrator, Pamela Kenyon replied yes.

Holly Dansbury asked if the variance was due to the steps. Mr. Dunn replied no.

Jason Saris stated that anything they do to the house would require a variance due to its non-compliant nature.

Mr. McGarr stated that he was unaware that he needed a permit for the deck and he certainly was not trying to hide it as he put it on the front of the house.

Chris Navitsky read a letter of his concerns for negative impacts of stormwater runoff that come from the existing non-compliant structure. He stated this is an opportunity bring the structure into more compliance with Town Code. He stated he believes the Board should consider stormwater management.

Jeff Anthony inquired about Mr. Navitsky's concerns about leach aids from waste water. Mr. Navitsky stated that his concern is about the sanitation trucks that are parked there. Mr. Dunn stated that this had nothing to do with the application at hand. Jeff Anthony asked that if his concerns were from leaking from the truck. Mr. Navitsky stated that the increased rainfalls would add pollutants from the sanitation truck. Jeff Anthony asked if he was looking for stormwater controls. Mr. Navitsky stated stormwater management would address it. Atty. Muller stated that if there was a concern of leach aids from a sanitary truck it was not a Zoning Board concern, it was a DOH and DEC concern. Mr. McGarr stated DEC had been there twice and they have not found any pollutants or contaminants. He stated his truck was for construction debris.

Dan Daniger passed out information to the Board and stated he was concerned about leach aids and additional stormwater created by the addition. Jason Saris stated that they were here to address the addition and deck not the leach aids. Mr. Daniger stated the runoff from the roof was going by the truck. Jason Saris asked what roof the stormwater was coming from. Mr. Daniger stated all of them. He stated that the addition would create a lot more runoff. Jason Saris stated stormwater was already a problem. Mr. Daniger agreed and stated he is seeking the addition of stormwater controls

Mr. McGarr stated he was only adding 7 ft. to his roof and he was going to put up rain gutters and crushed stone under the deck. He stated he could not change the structure of his house. He stated that the stormwater is a new complaint added to the list of complaints from Mr. Daniger. He showed the existing rain garden on the property and Edmunds Brook was 300' from the addition. Mr. Dunn stated that Mr. Daniger had an ongoing complaint with them and it will never stop. He detailed the property layout to the Board and he has never had a problem with his septic which he had to dig up a few years ago to appease Mr. Daniger's complaints and he is tired of the harassment.

Tom McGurl asked the applicant if he was willing to do some stormwater remediation. Mr. McGarr stated absolutely and asked for suggestions.

John Whitney stated that now is a good opportunity to remediate any stormwater runoff problems that are pre-existing. Mr. McGarr agreed and said he would do whatever it takes.

Holly Dansbury stated she thought now was a good time to implement a minor stormwater plan. Atty. Muller stated that the applicant could present a minor stormwater plan to the Planning Administrator. Planning Administrator, Pamela Kenyon stated that Mr. McGarr could not be responsible for stormwater running down Coolidge Hill Road. Jason Saris stated he understands this and minor stormwater is an easy remediation. He explained to the applicant that they could meet with Pamela Kenyon and she could give them some options so they could draw up a plan that she can approve.

The Zoning Board of Appeals received an application from William Dunn

(V15-22) 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: This is a pre-existing, non-conforming structure.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will improve the look of the front of the house.
- 3) The request is not substantial;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The implementation of minor stormwater will improve the conditions.
- 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 Holly Dansbury and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that a minor stormwater plan be implemented. **All in Favor. Motion Carried.**

4. **V15-23 DeMAIO, ELEANOR.** Represented by Brian Donohue. To alter single family dwelling, specifically to add a proposed entry porch addition and patio, seeks area variance for **1)** deficient setbacks. Front: 30' is required, 21' is proposed. Shoreline: 50' is required, 10' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 186.14, Block 1, Lot 70, Zone RCH5000. Property Location: 60 Beckers Drive. Subject to WCPS and APA review.

Brian Donohue stated the following:

- This project was before the Board 3 years ago.
- There is no vegetation on the north and east side.
- The new owners would like relief from the weather.
- They would like a porch on the western side which encroaches the setback.
- They have mobility issues.
- They love the beautiful stream and would like to be able to view it better.
- He is helping them make this accessible.
- He detailed the view zone on the plans.
- There is no high water mark on the property.

- He is using a permeable patio block that will absorb the water and disperse it into the rain garden.

Jason Saris asked if the previous project had a stormwater plan. Planning Administrator, Pamela Kenyon stated she does not believe there is. Mr. Donohue stated that there is not a lot of stabilized soil on the site right now.

John Whitney asked if the addition faced the stream. Mr. Donohue replied no and detailed it on the map. John Whitney asked if there was an exit where the patio is now. Mr. Donohue replied yes. John Whitney asked when the house was purchased. Mr. Donohue replied 6 weeks ago.

Mr. Navitsky stated his concerns with the shoreline setback and the continuing and cumulative loss to the area within buffers to the stream.

Jason Saris asked if there was existing vegetation there. Mr. Donohue replied that it was non vegetated soils and there were some things growing at the stream. Jason Saris if they were changing anything with the existing buffer. Mr. Donohue replied no, there was no buffer there.

John Whitney asked what the difference was between previous approvals and what they were looking for now. Mr. Donohue replied the addition to the existing structure was enclosing a porch and added 70 sq. ft. on each side was previously approved. They are looking for some area for some patio chairs and to do some planting.

John Whitney stated it looked like a large patio. Mr. Donohue stated they had downsized it. Jason Saris asked what the new size was. Mr. Donohue stated 15' x 15'.

Atty. Muller asked if this is a pre-existing non-conforming structure that does not conform to the Town Code. Mr. Donohue replied it was. Jason Saris stated this was a reason for practical difficulty.

The Zoning Board of Appeals received an application from Eleanor DeMaio (V15-23) 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#4 of the agenda.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: the modifications to this pre-existing non-conforming structure needs variances for any modification.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The use of permeable block is very good.

3) The request is not substantial; there are no additional setback violations and the variances are not substantial.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; This will be an improvement and some of the potential stormwater is being taken care of by the permeable block.

5) The alleged difficulty is not self-created; This is a pre-existing non-conforming structure. the modifications are not encroaching any further on the existing setbacks.

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

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

5. **V15-24 BWM REALTY ASSOCIATES (JOHN KELLY).** Represented by Joseph Haines. To demolish several buildings and relocate 58 lodging units into a hotel style building, seek area variance for 1) Height: 35' is allowed, 45' 1" is proposed. 2) Length: 120' is allowed, 125' is proposed. 3) Parking: 128 spaces total required, 103 spaces proposed. 4) Lot Coverage: 15% allowed. 21.4% exists. 20.9% is proposed. Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lake Shore Drive. Blue Water Manor. Subject to WCPS review. See SPR15-15 associated with this project.

Joseph Haines presented the following:

- This property was purchased in October 2013.
- This is the second season and they have been in front of the Board for a few different repairs and renovations.
- They have currently renovated 26 lodging units at this time.
- Many of the structures on the property are in disrepair.
- They have come up with a conceptual plan.
- They would like to take the 58 units that they have throughout the site and put them under one roof.
- They have some structures that need to be removed immediately for safety reasons.
- He detailed the drawings that were presented to the Board.
- There are 15 buildings he wants to take down and put under one building.
- They will be putting a pool back on the property.
- He detailed the variances they were requesting and showed the Board on his drawings what they were looking for.
- The front elevation of the 2 story structure will be 33.3' and on the lake side it will be a 3 story structure with a 45.1 elevation.
- They will not be facing the neighbors and it is self-contained.
- The existing gate house is a 3 story structure and is about the same height.

Jeff Anthony asked Mr. Haines if he realized that the height of the building exceeds the 40' allowed by the A.P.A. which automatically classifies it as a "Class A" regional project which makes it subject to review of everything. Mr. Haines replied they were.

Jason Saris asked if any of the structure would be visible from the lake. Mr. Haines stated maybe if you were on the opposite side of the lake with binoculars. He stated that the building was setback 422' from the water's edge. The Tavern is above the docks. He detailed the view on the map.

John Whitney asked what motel style meant. Mr. Haines stated it would be like a smaller hotel. John Whitney asked if they would be sold as a condo or timeshare. Mr. Haines stated it was just rooms off interior corridor and most would have a balcony. Jason Saris asked if they planned to operate it as a hotel/motel. Mr. Haines stated it would be operated as a hotel, they are just reconfiguring the existing lodging on the lot.

John Whitney complemented them on the work that has been done so far. He asked how close to the neighboring property owner's houses the new structure would be. Mr. Haines detailed on the map where a subdivision had occurred and where the structure was located in comparison to the neighboring homes. He stated the structure was a u-shape with a courtyard to contain noise.

Tom McGurl asked if the fire department had approved the project. Planning Administrator, Pamela Kenyon stated she has heard nothing from the fire department at this time. Mr. Haines stated that the existing structures are not up to code and are all close together and lack modern fire aids. He stated the new building would contain sprinklers. Tom McGurl stated that he was sure it would be done correctly; his concern was whether or not the fire department had the proper access it would need. Mr. Haines stated they could do some modifications to allow the fire trucks access. Jason Saris stated that the concerns were also due to the rescue aspect as the fire department does not have a ladder truck and they can only deal with a certain height with the equipment they have. Jason Saris asked if they would consider lowering the height and maybe extending the building to accommodate the rooms they may lose. Mr. Haines stated that they would like to keep the units under the smallest roof line possible. He stated this has to do with stormwater and impact on the tree removal. He believes this is the right size and spot on the lot and they tried different options but feel that this will have the least impact on the infrastructure. Tom McGurl asked about the length of the building. Mr. Haines agreed that this was a large building but they were trying to use one building on the site as opposed to 15 different ones.

Jeff Anthony that he liked the idea of the project and he is not criticizing it in any way, but he would like to make the permitting so much easier for the applicant if they just lost 5' in height and length. He stated the A.P.A. would not look at the project. Zoning Administrator, Pamela Kenyon stated that they would be looking at it comprehensively because it was a Type I Site Plan Review due to the fact that it had over 75 units.

John Famosi asked if a density variance would be required. Atty. Muller stated 58 existing units would be removed and 58 units would be put under one roof. Zoning Administrator, Pamela Kenyon stated it would be almost a wash. Mr. Haines stated that the existing density was 346 sq. ft. per unit and they are proposing 337 sq. ft. per unit. Tom McGurl asked about the shoreline. Atty. Muller stated the shoreline would be the same intrusion. Atty. Muller stated that they seem to fit in the niche. John Famosi inquired about the 75' set back from the shore. Atty. Muller stated that they were much further from the shore. Zoning Administrator, Pamela Kenyon stated they were not before the Board for that tonight. Atty. Muller explained to the applicant that it would be in their best interest to lower the roof height to appease the A.P.A. Mr. Haines asked what the

A.P.A.'s definition of height was. Jeff Anthony stated it was from the highest point of anything on the structure to the lowest part of the existing grade.

Mr. Haines stated they could put on a flat roof but that is not what they want. He stated they would have to look at it. Jeff Anthony stated they really like the project, and they are just trying to save them some hassle.

Mr. Haines stated that the length of the building was for walls, views and privacy. He stated that the parking is 128 required and 103 proposed and 20 boat slips. He stated many of their customers come by boats. Jason Saris asked if they were losing any of the existing parking. Mr. Haines stated that they were actually gaining some parking spaces. Zoning Administrator, Pamela Kenyon stated that she did not believe they were going to require a parking variance because it would be a wash.

Mr. Haines explained that the lot coverage that exists is 21.4% and they are proposing a minor reduction to 20.9%. He stated they have a pre-existing, non-conforming situation that they are making slightly better.

Jason Saris stated that it was a pleasure to look at plans that are not changing an existing resort property into a 3 lot subdivision for single family dwellings. He stated that Bolton's comprehensive plan speaks to the importance of these types of resort properties to our town and our town's properties. He stated that the Board appreciates their efforts, and they are trying to give them ideas on how to be more compliant. Tom McGurl stated it was a very nice project but he would really like to have the fire departments input on the height and he would like to see the 5' go away for the variance.

Atty. Muller read a letter from Mr. & Mrs. Marwill asking for postponement of the approvals and their concerns for the project.

Mr. Breslaw a neighbor asked what the total count of existing units and proposed units. Mr. Haines stated they currently have 84 units and they will have 84 when they finish the project. He said that 26 have already been renovated and the rest would go into the proposed building.

Judith Resnik a neighbor stated her concerns with stormwater runoff, sewage, parking, restaurant use, density, docks and building height. Jason Saris explained that many of her concerns were addressed at the Planning Board level. She asked how she could participate usefully in the Zoning Board's review. Jason Saris explained it was a public hearing and that is why she was speaking now. He said at the Planning Board level it is not automatically a public hearing, but they had the ability to schedule a public hearing. She inquired about density of use. Jason Saris stated that he is not sure they lost their density. He explained that the density is grandfathered in.

John Warner a neighbor stated he had only good things to say about the changes to the property. He stated it was great for the community.

Chris Navitsky stated that he had met with the applicants and he believes they have taken into account some of his recommendations. He stated they support some of the variances due to the reduction of the footprint in regards to stormwater. He is glad to see the reduction in parking. He

gave his input on grass areas for stormwater controls. He stated overall they support the direction of the project.

Denny Curtis a neighbor asked about the boats and dock slips. Mr. Kelly stated they were not adding any boat slips.

Mr. Haines stated that they have been working on the tree survey, septic and stormwater management. He stated they are looking for conceptual approvals before they move forward.

Dennis Murphy stated it is nice to see the Board looking favorably on the conceptual plan. He stated it seems as though the Town has been losing at least one cabin colony every year. He stated the improvements were incredible. He stated the existing 58 non-compliant septic systems would be replaced with an engineered septic system which would be great for the lake. He explained the bed tax and sales tax that would be generated by this property.

Bernice Breslaw of Basin Bay stated her concern for the parking.

Jason Saris asked the applicant if they wanted to move forward as requested or propose any changes. Mr. Haines stated they would like to go with what they have. He stated if they made the changes to lower the roof, it would still be good.

John Kelly stated that the building that already exists has always had occupants on the top floor. He stated the 45' was to the ridgeline. He stated in this design there will never be people walking around as high as what is existing. He stated the new building would be built to code with sprinkler systems. He stated if he the Fire Chief has not communicated anything to the Board, he must like the project too. Jason Saris explained that the Fire Company reviewed another project with a height issue and the Fire Company eventually sent them a letter expressing their disapproval of the project. Tom McGurl stated that it was a multi-phase project and he would prefer to have their input before any approvals were given. Holly Dansbury asked if the Board could make it a condition of approval. Atty. Muller said they could but they probably should not and explained why they should not. Mr. Haines stated they have a height variance in the back due to the roof. If they put a flat roof on it they would not and detailed all the dimensions. Tom McGurl stated he had no doubt but he would like clarification from the Fire Company before they moved forward. John Whitney stated that although they have expressed a positive outlook toward the project, it would make the Board feel more comfortable if the Fire Company gave their input on the application. Jason Saris stated that the Board would feel more comfortable hearing from the Fire Company. Mr. Haines asked if the Fire Company responds in a timely fashion. Zoning Administrator, Pamela Kenyon stated that she could not answer for them. Jason Saris stated he was sure they would respond if the applicant reached out to them.

Jason Saris informed the Board that they could segment the project if they would like. Jeff Anthony stated the Board had given them some feedback on some minor adjustments.

Mr. Haines asked if they could go before the Planning Board if the project was tabled tonight. Atty. Muller stated they could not.

The Board went back and forth about a conditional approval. Atty. Muller expressed his concern.

Now, upon motion duly made by Jeff Anthony and seconded by Tom McGurl, it is resolved that the ZBA does hereby table this variance request as presented until the Board receives a documented letter from the Fire Department pertaining to the project and any modifications the applicant may want to make are submitted. Holly Dansbury opposed. **All others in Favor. Motion Carried.**

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 owned by Dunn as it pertains to the parking of a commercial garbage truck. The interpretation reads as follows: The well-reasoned law applied to such instances is that merely parking a commercial vehicle at a residence as a convenience to the residential occupant/vehicle operator is not a commercial activity. This circumstance does not specifically constitute commercial activity in a residential zone. Section 213.13, Block 1, Lot 7, Zone RCM1.3. Property Location: 75 Coolidge Hill Road. This item was tabled at the November meeting pending additional information.

Daniel Daniger handed out a letter to the Board pertaining to his comments stating the following;

I'm going to start tonight with an analogy, if I say liquid a certain connotation comes to mind. When that liquid is water, one appears, if it is maple syrup a different one, and if it is liquid oxygen, or Bakken Crude oil another or waste leachate yet another. This same process of analogy is also applicable to commercial use. Just as not all liquids are the same, neither is all commercial use. Maybe a demonstration at 5 a.m. on a rainy morning fully loaded with a 30 yd. construction and demolition dumpster is more appropriate than connotations. I will present the ill effects of this activity on human and environmental health that are directly related to our belief that this Decision be over turned.

In our Zoning Codes Commercial Use is defined as "any use involving the ...rental or distribution of services..." This is in our view exactly what is occurring.

The activity described tonight should be qualified as a commercial use by Ace Container /County Waste at 75 Coolidge Hill Rd. The very nature of this activity requires a NYS DEC Permit #5-5328-00 13/00001 for a facility in Fort Ann where this activity originates and operates from. This activity produces diesel emissions and construction and demolition leachates, which the NYS DEC does regulate and enforce.

The leachates from this activity are described in EPA documents. To be read at the Appeal. The emissions are described in documents by NYS Dept. of Health Fact Sheet on carbon monoxide from running vehicles, and The American Cancer Institute. To be read at the Appeal.

He read various different agency codes and descriptions to the Board.

He asked if he could read the minutes from Fort Ann. Jason Saris stated he was not quite sure where that would have anything to do with deciding whether or not this was a commercial use. John Whitney asked Mr. Daniger if he saw anything in the Code that helped him to come to a conclusion that the Zoning Administrator's determination was incorrect. He asked if the issues was the size of the truck, was it coming home full, was he doing commercial operation on the site? Mr.

Daniger stated it was coming back full. John Whitney asked if the truck coming back full was creating a commercial use of the property. Atty. Muller replied no. Jason Saris stated that past practice has not been to consider a parked construction vehicle that is not being used on the property as commercial. He stated a home office was not considered as commercial. Tom McGurl asked if they were sorting the contents of the truck on the property. Mr. Daniger stated not to his knowledge. Tom McGurl asked how this was hurting him. Mr. Daniger stated it was odorous and rain could leach out the contents. Tom McGurl asked Mr. McGarr if he could tarp his truck. Mr. McGarr replied that it was tarped and the back was sealed. Jason Saris stated they were here with the Ordinance and he does not see where the truck is parked or not makes a difference. He stated they are here specifically for Mr. Daniger's challenge to Zoning Administrator, Pamela Kenyon's determination. John Whitney asked if there were any limits to this and if it was an 18 wheeler would it also be acceptable as long as it fits in the driveway. Atty. Muller stated it would be as there are no specific regulations or prohibitions of parking any construction vehicle in the code at your home. He detailed the code on this subject and stated that this was not prohibited in our code. Jason Saris asked if the Town Health Officer would be the person to contact if there were some sort dangerous chemicals. Atty. Muller stated this was correct and this is a permitted operation by DEC. He stated this is the DEC's exclusive domain and any of the issues Mr. Daniger is complaining about are under their jurisdiction only.

Mr. Daniger stated he would be back before the Board because he would not be gassed out of his home. Jason Saris stated they are not trying to be insensitive and they trying to find something in the code to address this issue. He asked if this application was a public hearing. Atty. Muller replied that it was not. He stated for Bolton's purpose it ended here.

Mr. Daniger stated to date he has made the NYS DEC and the Lake George Waterkeeper aware of this on-going activity. In colloquial language, this is not a bread truck, nor is it delivering milk!

Now, upon motion duly made by John Whitney and seconded by Mike Calautti, it is resolved that the ZBA does hereby uphold the Zoning Administrator's interpretation. **All in Favor. Motion Carried.**

The meeting was adjourned at 9:37 pm.

Minutes respectfully submitted by Kate Persons.

