

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, November 13, 2012
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, Jeff Anthony, Donald King, John Michaels, John Famosi, Matt Slaughter, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent: Tony DePace and David Ray

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

Jason Saris asked if there were any corrections or changes to the October 16, 2012 minutes.

Jeff Anthony stated that Jason Saris was not present at last month's meeting.

RESOLUTION:

Motion by Don King to approve the October 16, 2012 minutes as amended. **Seconded by** Jeff Anthony. Jason Saris and Matt Slaughter abstained. **All Others in Favor. Motion Carried.**

Jason Saris announced that Matt Slaughter has been nominated as an alternate Zoning Board of Appeals member who will be filling in for one of the board members not present tonight

1. **V12-38 RUSSELL, JOSEPH.** Represented by Don Russell. To alter non-conforming single family dwelling, specifically to construct a deck, stairs, grotto and addition, seeks area variance for 1) a deficient front yard setback. 50' is required, 46' is proposed; 2) length. 120' is allowed, 145' is proposed; and 3) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 156.16, Block 1, Lot 6, Zone RCM1.3. Property Location: 121 Norwood Drive. Subject to WCPS review. This item was tabled at the October meeting pending additional information.

Don Russell stated that at the last meeting the Board requested more information which he will provide tonight. He has provided a planting plan, storm water plan and an alternative plan.

With regard to the alternate plan, Don Russell stated that the farther they came forward to get within the 120' the higher the structure became because of the hillside and they would be well exceeding the 35' ridge height requirement. The applicant feels this is the best place for the deck. He provided pictures from the lake to show the area and shows the house, gardens and tree line behind the area. When the patio is constructed he feels it

will be well hidden.

Jeff Anthony asked if the planting plan called for the types of vegetation proposed, the quantity or sizes. Don Russell replied no they will basically be using hard and soft woods.

John Michaels stated that they are still 25' over the 120' maximum with a big part of that being the stairs. He asked if there was any other place to put them. Don Russell replied that the applicant was not interested in changing the location of the stairs. It would either disturb the existing gardens or not lead directly to the lake. Don King stated that essentially they don't even need stairs because you can walk off the back and then down the slope of the hill. Don Russell stated that this is a piece of architecture that the applicants want.

John Michaels stated that he still does not find a compelling reason to go over the 120' other than its what the applicant wants. They need to hear that there are no alternatives or that this is the best way of achieving the benefit. Don Russell stated that everyone says that, there is no other alternative to get easy access to the lake. John Michaels stated that the stairs could be incorporated into the deck.

Jeff Anthony agrees with John Michaels point about not granting a variance just because the applicant wants it. There are zoning laws for a reason. Don Russell stated that they are not infringing on anyone's view; the neighbors don't object to it.

Don King stated that the easiest solution and still achieve the benefit of the stairs is to incorporate them into the patio. It is another alternative for them to consider in granting a variance that some board members, including himself feel to be excessive.

Jason Saris stated that it is a nice grand sweeping staircase; however the applicant could compromise and have it hug the deck closer. Don Russell stated that given the terrain and topography this is the most architecturally pleasing design. He stated that they plan to bring in trees right up to the deck level so it will be hidden from the lake. All that will really be seen are the stairs.

John Michaels stated that the applicants are asking for a 20% variance when the stairs could be put somewhere else. Don King stated that they cannot even answer their first criteria about this being the only option when there are 2 options that the board has raised. He stated that he feels that the board might be compelled to approve this project if they can deal with the excessiveness of the stairs. The Board feels this is an attractive deck but the request could be minimized.

Don Russell stated that he could separate the stairs from the deck by an inch and then it wouldn't be considered the same structure. He stated that he is allowed to have another structure on the property. Counsel Muller replied that would not be allowed. Pam Kenyon stated that they have an agreement with the Town that there has to be a 3'

separation between structures for them not to be considered as one. Counsel Muller stated that the APA got the Town to agree to that.

Counsel Muller read the following letter:

1) Chris Navitsky, Lake George Waterkeeper who is not in support of the project due to the excessive disturbance associated with the addition proposed and the critical environmental areas surrounding Lake George.

With regard to the Lake George Waterkeepers letter, Don Russell stated that he designed the system himself. It is twice the capacity as required by the APA.

Jeff Anthony stated that there is a missing component to this application. He asked for a planting plan and all they received was a drawing but no details. Don Russell stated that he plans to have plantings and was not sure if there is a standard guideline that they have to follow. Jeff Anthony stated that there is standard practice it locates the plantings specifically where they are going to go, the name, size and characteristics and condition of the plant.

Don Russell stated that he wanted to go forward with a vote regardless. He feels that this is the best design for the project.

RESOLUTION

Motion by Don King to deny application V12-38 for the following reasons: 1) the applicant has not met the number one condition to consider, which is whether or not the benefit can be achieved by any other means. There are some other alternatives that would reduce the overall impact of the length of the house and the applicant has not offered any of these to the Board, 2) the Board has not received any planting plan that addresses some of the stormwater issues raised by the Lake George Waterkeeper and 3) This is a 20% variance which is substantial. **Seconded by** John Michaels. Matt Slaughter abstained. **All Others in Favor. Motion Carried.**

2. **V12-39 MICHAELS, JOHN.** Represented by Jonathon Bunker. To alter non-conforming storage building, specifically to add an additional 8.6' x 17.5' plus overhangs, seeks area variance for 1) Deficient setbacks. Front: 50' is required, 12' is proposed, Side: 20' is required, 15.2' is proposed; Shoreline: 75' is required, 40.6' is proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.14, Block 1, Part of Lot 10, Zone RM1.3. Property Location: 151 Cotton Point Road. Subject to WCPS and APA review.

Note: John Michaels recused himself.

Jonathan Bunker provided a brief description of the project. He stated that the applicant is seeking to enlarge a existing non-conforming shed with deficient setbacks. They feel that no undesirable change will be produced in the character of the neighborhood because

the proposed shed enlargement will be consistent in design and scale to the existing home. Additionally it will hide the garbage enclosures. This has been approved by the HOA.

Jonathon Bunker stated that there will be no change to the existing shed other than enlarging the roof to accommodate the addition.

The benefits cannot be achieved by any other means. Jonathan Bunker stated that originally the applicant had hoped to add a garage but due to site constraints and feedback from the neighbors he reduced the request to just a storage shed with a small workshop to store snow blower and landscape equipment.

Jonathan Bunker stated that they do not feel that the requested variance is substantial. This is an addition of 160 sq. ft on an existing shed on a lot that is approximately 12,000 sq. ft. They also feel that there are no adverse impacts or effects on the physical or environmental conditions due to the fact that this will not be visible from the lake or from the adjoining neighbors and there will be no change in effect from the previous variance already granted.

Jonathan Bunker stated that the alleged difficulty was not self-created because Cotton Point community was laid out over 50 years ago and it was intended as a seasonal neighborhood which is now gradually becoming year round residences and it is difficult to accommodate these conditions.

Jason Saris asked if the relief being asked for includes the overhangs. Jonathan Bunker replied yes. Jason Saris asked if he could provide some information as to why this is the only place for this expansion. Jonathan Bunker replied that they have a roadway and parking area on one side plus they were concerned about the view from the street because it does face the road. There is an existing generator on the rear of the shed which prevented them from going behind the shed. Also there is considerable landscaping and trees on the north side. They feel that the proposed area is the least invasive to locate an addition.

There was no correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from John Michaels (V12-39) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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#2 of the agenda.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; the applicant has demonstrated that there are existing site constraints to the east and north which would prevent or complicate extending the building in those directions. The building is proposed to be extended in an area where the least of amount of site disturbance and impact on neighbors.

2) There will be no undesirable change in the neighborhood character or to nearby properties, the shed is being constructed in character of the existing house and shed and would not change the character of the neighborhood at all.

3) The request is not substantial; it is 8.5' x 17' addition to a small structure.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there are no environmental conditions present on this site that would affect the construction of this addition. This is the least variance that could be requested to accommodate the needs of the applicant.

5) The alleged difficulty is not self-created, the applicant would prefer to construct a full size garage to accommodate the need for outdoor equipment and garden materials. However he has relinquished this request at the request of neighbors and in respect to the character of the neighborhood. The existing shed is there already and it is logical to expand that structure rather than tear it down and build a full size garage.

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. John Michaels recused himself and Matt Slaughter abstained. **All Others in Favor. Motion Carried.**

3. V12-40 CARAVELLA, GARY. Represented by Jonathan Bunker. To alter pre-existing non- conforming structure, specifically to increase height of chimney 6', minor adjustments to roof line by adding gables on the north and south, add 1'6" bump-out at west elevation, relocate residence 1'6" away from lake and incorporate outdoor kitchen into chimney, seeks area variance for **1)** deficient setbacks. **Front:** 50' is required, 19.93' is proposed; **Shoreline:** 75' is required, 11.56' is proposed; **Side:** 20' is required, 10.35' is proposed; and **2)** to alter pre-existing non-conforming structure in

accordance with Section 200-57 B (1) (b). Section 200.14, Block 1, Lot (part of 10), Zone RM1.3. Property Location: 145 Cotton Point Road. Subject to WCPB and APA review. Note: This is an amendment to V12-14 approved on 6-19-12.

Note: John Michaels recused himself.

Jonathan Bunker stated that the applicants applied for and were granted a variance to replace an existing non-conforming structure. However since then they have made several small modifications to the approved plans. On the west wall they plan to extend the area below the gable 1'6". As a result of changing, they had hoped to do a crawl space with a floor framing, however they will need to do a slab on grade. Other structural issues that arose throughout the construction drawing process really indicated that they needed additional support for that gable by extending the area. The overhangs and extension of the balcony above was already existing and will not be changed. Jonathan Bunker stated that they are proposing to move the house back an additional 18" as a result of the bump-out.

Jonathan Bunker stated that the second change involves the chimney on the north side. Initially the applicants were planning to use the chimney as more of a decorative element with direct vent gas fireplaces. However the applicants have chosen to go with a wood burning fireplace and NYS code they need to have the chimney 2' higher than the ridge line. This is the reason for the 6' extension to the chimney.

Jonathan Bunker stated that as a result of extending the gables, it could become a collection point for snow so they proposed to remove those and extend those areas outward to reduce the hip ends of the building. The actual footprint of the building does not change as far as the overhangs.

Jonathan Bunker stated that no undesirable change will be produced to the character of the neighborhood. The renderings were what was initially given and there were no construction drawings at that time. They were just following through with the construction drawing phase and several minor changes arose as a result.

Jonathan Bunker stated that the benefit cannot be achieved by any other means because there is no way to meet those code requirements for the chimney height and prevent the snow hazards.

Jonathan Bunker stated that they do not feel that the variance is not substantial because it meets with the prior approval with only 2 minor changes and they are proposing to move the structure back 18" so they will be no closer to the lake.

Jonathan Bunker stated that the proposed variance will not have an adverse effect or impact on the physically or environmental conditions of the neighborhood. There is no major change over the previously granted variance.

Jonathan Bunker stated that the alleged difficulty is only self-created because the concept drawings did not detail the specifics of construction and when getting to that phase it caused some minor changes.

Jason Saris asked if the setbacks are basically the same as previously granted. Jonathan Bunker replied yes they are moving the house back from the lake and going up a little bit. The overall height is not above the 35'; it is 31' with the chimney.

Counsel Muller read the following letter:

1) Chris Navitsky, Lake George Waterkeeper, who indicated that they still had concerns with the project due to the close proximity to the lake and recommends water quality procedures are taken. He feels that the ZBA should require storm water plan, increase permeability and site plan review.

John Michaels stated that the storm water plan has been submitted and was approved.

RESOLUTION

The Zoning Board of Appeals received an application from Gary Caravella (V12-40) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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; it seems that they have thought this out and they are not moving the structure any closer to the setbacks as were originally approved by the Board.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there is very little change to the overall characteristics other than the chimney which is an accessory, and enhances the balance on the house and the gable being extended out slightly are completely in line with the ridge line of the house.

3) The request is not substantial; it is a minimal change to the original design

that was approved.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the Waterkeeper has addressed stormwater concerns but the Michaels organization has already submitted a detailed stormwater plan which has been approved by the Town.

5) The alleged difficulty is not self-created, this is a brand new home that needs subtle changes throughout the design process but do not affect the overall aspect of the project and are not self-created.

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

Now, upon motion duly made by Don King and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. John Michaels recused himself and Matt Slaughter abstained. **All Others in Favor. Motion Carried.**

4. V12-41 HUDD, HARRY & ANDREA. To allow a 17'x 12' deck and retaining wall to remain in their present location, seek area variance for deficient setbacks. Front: 75' is required, 0' is proposed and Shoreline: 75' is required, 7.6' is proposed. Section 185.00, Block 1, Lot 47, Zone RCL3. Property Location: 579 Trout Lake Road. Subject to WCPS and APA review.

Harry Hudd explained that he installed a small flat deck from the steps to the dock area that was unsafe. He stated that they have always had a platform to go down. However they enlarged it and covered up an old stump that the County took down. He is seeking permission to keep it there.

Jason Saris asked why this was after the fact. Harry Hudd replied that he did not think that this would require a variance since the access always existed. The wall and landing area were there, they just re-did it.

Jeff Anthony stated that in looking at the wetlands as to what exists now and what was there prior, he believes that there has been wetland disturbance which is a violation to the APA. He is floored that someone could take so much vegetation out of the lake. He feels this should go before the APA. Harry Hudd stated that is where the boat is docked. Jeff Anthony disagreed that too much vegetation has been removed to constitute an existing condition. Harry Hudd stated that they never removed anything from the water. He stated that he has old pictures of that area that could show that this is an existing condition. John Michaels stated that he would like to see old pictures of the retaining wall because that is not just covering up a stump. Harry Hudd stated that when the County came in and did the road they took down a large pine and disturbed this area. He stated that he has even fixed the water coming off the road because it was eroding everything out from the shoreline.

Jason Saris stated that people have the right to rebuild and maintain pre-existing structures but you cannot expand it and the Board is having difficulty with that. He stated that everyone is supportive of having safe access to their dock but this is more than just safe access to the dock. If this came to them prior to construction there might be some opportunity to figure that out.

Harry Hudd provided pictures of what existed prior to the current structures.

John Michaels asked if the concrete is about the same grade that they have now. Harry Hudd replied yes.

Don King stated that this is much more attractive than what existed. However the structures were built without permits or permission. This is working within an area close to Trout Lake. Harry Hudd stated that when the County did the road they dumped an 18" pipe out onto the soil which was always eroding. He addressed that so that it doesn't do that at the embankment. He is constantly fixing things up. Don King stated that the yard always looks attractive and meticulously maintained. If they were to overlook this it would give license to other people to do things without permission. Additionally the issue that Jeff Anthony brought up is an issue that needs to be followed up with the APA.

Jason Saris explained that a pre-existing non-conforming structure means that they were in existence before the ordinance was put in effect. You have the right to maintain it but not expand it. He understands that erosion seemed like a reason to do it but it required a variance for it.

John Michaels stated that at some point when you are constructing something you would think it would trigger that you might need approval. Not only are there issues with the Town but this is not in compliance with NYS building codes, with this height this needs railings. If they add railings it adds another visual impact from the road. Harry Hudd asked if this was a rip rapped wall would it be an issue. John Michaels stated that if it was at a grade it would be acceptable. Jeff Anthony replied that it is a landscaping feature. He stated that the top wall is 38" tall which is 8" taller than what the NYS building code allows. He stated that if there was some sort of barrier on the top it would be okay. Harry Hudd stated that he could plant new trees on it. John Michaels stated that they would be dealing with another issue of aesthetics affecting other people's view of the lake.

There was further discussion of the retaining walls. Jason Saris asked Pam Kenyon about the rip-rap issue. Pam Kenyon stated that it would be non-jurisdictional because they do allow people to rip-rap. She stated that she has talked with Lisa Carpenter from WC DPW who indicated that they had no issue with the retaining walls in the County right-of-way.

Counsel Muller read the following letter:

1) Chris Navitsky, Lake George Waterkeeper, who expressed concerns about the extent of disturbance and construction within the protected zone along the shoreline affecting the water quality impacts from this after-the-fact variance.

John Michaels asked about the shed. Harry Hudd replied that was there when he bought the house. John Michaels stated that aside from the potential APA issue raised tonight, he would like to see the applicant lower the wall to meet the code. Harry Hudd stated that he would like to do whatever is right with the Town. He stated that he would be happy to add additional plantings as well. He has just been trying to improve his property and do what is best for the lake.

Matt Slaughter stated that this is a substantial structure compared to what existed. He is concerned that this is not the minimum that could be requested. Harry Hudd stated that he would be more than happy to take a few ties off. However he is concerned that this will create erosion problems.

Jason Saris asked how much deck area was there previously. Harry Hudd replied that it was approximately 50-60%.

There was further discussion on what the applicant could do to lower the walls.

Jeff Anthony stated that they have to keep in mind that this will also have to be sent to the APA. He feels that they are facing another measure that they have to consider with regard to hardship or practical difficulty.

Jason Saris stated that the applicant seems willing to address their concerns. However this is not our plan to design it for them. John Michaels agreed and stated that he would like to have the applicant come back with a designed plan.

Harry Hudd stated that if they take the wall down it will further impact the lake. Jason Saris agreed, but he is uncomfortable in designing it for him.

Don King stated that the applicant has 2 options, table the application in order to provide an opportunity to submit a complete plan or go to vote and potentially get turned down. The Board is willing to work with the applicant but they cannot design it for the applicant.

Jason Saris stated that Jeff Anthony also raises a good point that the APA will be involved and they deal with a different set of standards than the Town does. Without having a minimalist plan the APA will reject it. It would end up being a lot of wasted effort.

John Michaels stated that the Board does not like what it sees. He stated that they have provided suggestions to mitigate and minimize the effects but there may be a better plan to design it. He suggested that the applicant table the application and come back next

month with a better design to address the storm water mitigation as well as handle the look of it.

Harry Hudd stated that he can remove the wall and just put rip rap in. Pam Kenyon replied that she would be willing to work with the applicant on this issue. However the Board still needs to deal with the patio structure.

There was discussion about tabling the application.

RESOLUTION

Motion by John Michaels to table V12-41 pending further information. **Seconded by** Don King. **All in Favor. Motion Carried.**

5. **V12-42 LOUGHREN, LAURIE.** For the placement of a 10' x 12' storage building, seeks area variance for deficient side yard setbacks. 20' is required, 14' is proposed on the left side and 12' is proposed on the right side. Section 171.15, Block 2, Lot 15, Zone RM1.3. Property Location: 9 1st Street. Subject to WCPS review.

Laurie Loughren stated that she is seeking to move her shed from 4879 Lakeshore Drive to behind the house she just purchased. She is also seeking to move the 8' x 8' existing shed to the back of the property. She has spoken with Barry Persons about moving it and came up with a plan to move them. The 8' x 8' shed would be used as a garden shed and the this shed would be used for storage since the house is lacking storage. The basement has just enough room for a furnace and the attic space is not advisable.

Laurie Loughren stated that she has already spoken to the Markems who share the driveway and they were ok with it. There was discussion as to how they would be moving the structures. No trees will need to be taken down.

Jason Saris stated that given the width of the lot it is difficult to find a compliant spot for the shed.

There was no correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Laurie Loughren (V12-42) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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; she already owns the shed and it doesn't make sense to combine the 2 sheds.

2) There will be no undesirable change in the neighborhood character or to nearby properties, there has been a lot of construction in this area and this will not be seen from the street.

3) The request is not substantial; it is a difficult site to locate the shed.

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 applicant just bought the property and needs a place to put her shed.

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

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

6. V12-43 ALGONQUIN RESTAURANT. Represented by Keith Scott. To alter non-conforming structure, specifically to replace hood/exhaust system, seeks area variance

for 1) a deficient side yard setback. 8' minimum is required, 5' is proposed on the south side; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 186.06, Block 1, Lot 17, Zone RCH5000. Property Location: 4770 Lake Shore Drive. Subject to WCPS review.

Keith Scott stated that they seeking to change the hood system that currently blows out the back of the restaurant to go through the roof.

Pam Kenyon sated that this work has been required by WC Building Codes.

Jason Saris asked if this will decrease the setback violation. Keith Scott replied yes. He

provided further details about the new system.

There was no correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Algonquin Restaurant (V12-43) for an area variance as described above.

And, due to notice of the public hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning 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 applicant has an existing restaurant and exhaust system. Currently the exhaust system vents out horizontally onto the neighboring property. The new system would change that for purposes of exhausting vertically up through the roof.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be less visible than what currently exists.

3) The request is not substantial; it is very minimal, it is reorienting the existing ventilation system.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the system going vertically will allow this exhaust to happen at a more tenable elevation.

5) The alleged difficulty is not self-created, the applicant has been given a directive to change the ventilation system by the local DEC.

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

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

Motion Carried.

7. **V12-44 SAGBOLT, LLC.** Represented by Atty. Benjamin Pratt. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) for **1)** redesign the docks at the boat museum/warehouse to enable the Morgan to be docked there perpendicular to the shore; and **2)** to relocate and redesign the dock where the Morgan currently docks in the summer. Boat rentals are proposed in this area. Existing dock to be removed. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQ. Note: This application replaces V12-01 as it pertains to the berthing of the Morgan.

Note: Item V12-44 was tabled at the applicant's request.

8. **V12-45 SHMUCKLER, ALEKSANDER.** Represented by Bruce Mowery. To alter pre-existing non-conforming single family dwelling/garage, specifically to construct a second story guest cottage above garage, seeks area variance for a deficient side setback. 20' is required, 17.3' is proposed; and **2)** to alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 200.18, Block 1, Lot 2, Zone RM1.3. Property Location: 4218 Lake Shore Drive. Subject to WCPS and APA review.

Bruce Mowery provided a brief overview of the project. He stated that they are proposing a 2 bedroom guest cottage above an existing garage. They have cathedral ceilings in there now with a floor system inside it would be a little too short. They are not increasing the footprint at all, it is the eave end that is 17.3' from the property line, the building itself is 19.3'. They are looking to raise the roof 6'.

John Michaels asked if the roof will match the existing house. Bruce Mowery replied yes it will not be any higher at 31'. John Michaels asked about the septic system. Bruce Mowery replied that they are adding a 1,000 gallons of storage and increasing the leach field. Don King asked if was in compliance with setbacks to the well. Bruce Mowery replied yes.

Pam Kenyon stated that the agenda indicates that this is subject to APA review but she does not believe that it is.

Chris Navitsky, Lake George Waterkeeper stated that they are not opposed to the application but did suggest conditions of storm water management to improve the water quality. This can be accomplished through low impact development measures such as rain gardens and recommended consideration of a buffer. Chris Navitsky stated that he would like to note that Boon Bay is the second largest infestation of Asian Clams on Lake George which extends in front of the subject property.

John Michaels asked if any storm water measures would be taken. Bruce Mowery replied that they will be adding a stone line trench along the front drip line. He stated

that they don't even have 800 sq. ft of disturbance even with the added roof line. This is a pre-existing structure that is only 50' from the lake.

RESOLUTION

The Zoning Board of Appeals received an application from Aleksander Shmuckler (V12-45) 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#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; the applicant is doing this without increasing the footprint.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the roof line won't be any higher than what exists.
- 3) The request is not substantial; the roofline is only going up 6' so they can have a full second story.
- 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, there is no other alternative.

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

Now, upon motion duly made by John Michaels and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) the applicant will install a stone lined trench on the lakeside. **All in Favor. Motion Carried.**

9. V12-46 JUMBO REALTY LLC. (Camp Walden) Represented by Peter Loyola of

CLA Site. For the construction of a proposed 2,230 square foot staff housing building, seeks area variance from maximum 6' cut restriction (Section 200-46B.10). A 9.4' cut is proposed. Section 185.00, Block 1, Lot 32, Zones **RCL3**, LC25 and LC45. Property Location: 429 Trout Lake Road known as Camp Walden. Subject to WCPS review.

Peter Loyola stated that they are proposing to house the staff in one area. Currently the staff is sporadically located throughout the camp which is inconvenient to the staff. They chose the location because it is centrally located between the girls and boys side.

Peter Loyola stated that there will be 8 bedrooms in the basement floor, 8 bedrooms on the second floor and 6 bedrooms in the loft space. This will be a significant improvement to the entire camp. There is access to the rear of the building on the second floor and stairways going down to the basement floor and loft space.

Peter Loyola stated that the only reason they need the variance is for the basement level windows. He provided further details. He stated that they looked at other alternatives to raise the windows up but this seemed to be the best fit. Jason Saris asked how high the building will be from the lowest to highest point. Peter Loyola replied 34.75'.

Jason Saris asked if they have done test pits to be sure they can accommodate this height. Peter Loyola replied yes they have done it all over and they may have some difficult spots but it is mostly sand, gravel and boulders. No blasting will be required.

With regard to storm water, Peter Loyola stated that they included it in the overall stormwater management plan from a previous project. This project was added to the plan so it has been addressed and is in place. He stated that there is a slope here so it is difficult for rain gardens. They do have some bio-filtration systems in the basketball courts. He stated that they will add green infrastructure practices wherever they can. He stated that the practices that they have already put in place have made a significant improvement.

Peter Loyola stated that this is the second project to tie into the large on-site septic system above this site. They have been before the DOH and Mike Shaw has been out to inspect. It has been built but it has not been brought on line yet. This building and several cabins will be hooked up once they receive approval from DOH.

Counsel Muller stated that there was a letter from the Lake George Waterkeeper. Chris Navitsky stated that it wouldn't be necessary to read the letter since the applicant has answered his questions and concerns.

RESOLUTION

The Zoning Board of Appeals received an application from Jumbo Realty, LLC (V12-46) 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; the applicant demonstrated that alternatives were considered to get light and egress to the rear windows in the building and the grading was the most beneficial solution to that problem.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is one building in a complex of a lot of buildings in a children's camp and won't be visible from the adjacent properties or roadway.

3) The request is not substantial; it is a moderate variance however it is acceptable given the justification provided tonight.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; storm water management plan has been submitted for the overall property and this single project has been incorporated into that plan. Visually the building will fit in the complex rather than sitting by itself.

5) The alleged difficulty is not self-created, the building is being designed carefully to meet the environment. The slopes and grades that are there naturally exist and the architecture and landscape architecture engineering are being designed to accommodate those grade changes.

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 Don King, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor.**

Motion Carried.

The meeting was adjourned at 8:35pm.

Minutes respectfully submitted by Kristen MacEwan.