

MINUTES OF THE TOWN OF WAYNE  
 ZONING BOARD OF APPEALS  
 June 4, 2018

The meeting opened at 6:30 PM with a roll call of the members.

	PRESENT	ABSENT	LATE	ARRIVAL
MEMBERS: Bill Feinstein, Acting Chair	<u>X</u>	—	—	—
Greg Blessing, alt.	—	<u>X</u>	—	—
Candy Dietrich	<u>X</u>	—	—	—
Wayne Hand	—	<u>X</u>	—	—
Gill Harrop, CEO	<u>X</u>	—	—	—

ALSO PRESENT: Lin Hough  
 Montana Yastremski

Jerry Kernahan  
 Robert Douenias

**MINUTES:**

The May 7, 2018 minutes were unable to be approved at this time due to Mr. Hand's absence.

**NEW BUSINESS:**

**AREA VARIANCE APPLICATION 10V18: Public Hearing.** Montana Yastremski. Property located at 11830 East Lake Rd., Town of Wayne. Request to construct a garage and add deck onto home on existing non-conforming lot less than 40,000 sq. ft. (Section 7.2.3)

Mr. Yastremski stated the following:

- He wanted to construct a 36 ft. by 40 ft. garage on his pre-existing non-conforming lot.
- He would also like to add a 12 ft. by 16 ft. deck onto his existing home.
- Both the proposed garage and deck would meet the setback requirements.

Mr. Feinstein opened the public hearing.

Ms. Kurtz stated 5 letters were sent out the neighboring property owners and no responses were received back.

As no one was present to express any concern, Mr. Feinstein closed the public hearing.

Mr. Harrop stated the lot was created prior to Land Use Regulations and he had no issue with this request.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 10V18 as per submitted plans in the variance and building permit application dated 5/15/18, seconded by Mr. Feinstein.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Yastremski signed the responsibilities and conditions agreement. (On file)

**AREA VARIANCE APPLICATION NO. 11V18: Public Hearing**, Robert Hood.  
Property located at 10115 Grand View Lane, Town of Wayne. Request to replace existing home too close to high water mark and setback relief for proposed garage.  
6.3

Both Engineer, Mr. Kernahan and Contractor, Mr. Hough were present to state the following:

- The applicant is seeking 5 ft. of relief for the front porch from the high water mark and 1.25 ft. of relief on the side yard setback for the fireplace chimney on the new home.
- They were also seeking 7 ft. of relief on the side yard setback for the proposed garage.
- Mr. Kernahan provided an email from the applicant stating his neighbors had no concerns about the proposed construction. (On file).

Ms. Kurtz stated 16 letters were sent out and no responses were received back.

As no one was present to express any concern Mr. Feinstein closed the public hearing.

Mr. Harrop stated he had no issue with this application.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Mr. Feinstein made a motion to approve the 3 area variances as requested per plans prepared by Kernahan dated 5/15/2018, granting relief of 5 ft. from the high water mark and 1.25 ft. relief on the west side side-yard setback for the home and 7 ft. relief for the garage on the east side side-yard setback to accommodate for the roof overhang, seconded by Ms. Dietrich.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Kernahan signed the responsibilities and conditions agreement on the applicants' behalf. (On file)

**AREA VARIANCE APPLICATION NO.12V18: Public Hearing.** Robert Douenias. Property located at 11830 East Lake Rd., Town of Wayne. Seeking setback relief from the road right-of-way for the proposed porch on the new home and setback relief from State Route 54 road right-of-way for the proposed garage. 6.3

Both Engineer Kernahan and Contractor Hough were present to state the following:

- The applicant wanted to tear down the existing cottage and construct a year round home along with a garage.
- Due to a new septic system they are seeking 4 ft. of relief for the porch from East Lake Rd.
- They were seeking 15 ft. of relief from State Route 54 for the proposed garage.

Ms. Kurtz stated from the 19 letters sent out, 3 responses were received back stating they had no objection. (One File).

Steuben County Planning was sent the plans for the proposed garage a per the 239-General Municipal Law requirement.

Upon its review of the proposed plans for the garage, Steuben County Planning sent a response stating they had not revealed any significant inter-community or county-wide impacts and should base the decision based solely on the Zoning Boards findings in the facts of the case.

As no one was present to express any concern, Mr. Feinstein closed the public hearing.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 12V18 granting 15 ft. relief from the State Route 54 highway road right-of-way for the garage and 4 ft. of relief from East Lake Rd. road right-of-way for the porch, as per submitted plans on page #3 dated 4/23/2018 from Kernahan Engineers, seconded by Feinstein.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Douenias signed the responsibilities and conditions agreement. (On file)

As there was no further discussion to be discussed, Ms. Dietrich made a motion to adjourn the meeting, seconded by Mr. Feinstein. The meeting was adjourned at 7:10PM.

Respectfully submitted, Maureen Kurtz

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
May 7, 2018

The meeting opened at 6:43 PM with a roll call of the members.

MEMBERS:	PRESENT	ABSENT	LATE ARRIVAL
Bill Feinstein	—	<u>X</u>	—
Greg Blessing, alt.	—	<u>X</u>	—
Candy Dietrich	<u>X</u>	—	—
Wayne Hand, Acting Chair	<u>X</u>	—	—
Gill Harrop, CEO	<u>X</u>	—	—

ALSO PRESENT: Jeff Martin  
Brian Nowlan

Thomas Cerwonka  
Jay Palermo

**MINUTES:**

Ms. Dietrich made a motion to approve the April 2, 2016 minutes as amended, seconded by Mr. Hand.

A roll call vote was taken.

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>	<u>Abstain</u>
Bill Feinstein	—	—	<u>X</u>	—
Greg Blessing	—	—	<u>X</u>	—
Candy Dietrich	<u>X</u>	—	—	—
Wayne Hand, Acting Chair	<u>X</u>	—	—	—

Ayes-2. Nays-0. Absent-2. Abstain-0.

**NEW BUSINESS:**

**AREA VARIANCE APPLICATION 08V18: Public Hearing.** Thomas Cerwonka.  
Property located at 9248 Cedar Spring Rd., Town of Wayne. Request to construct a garage greater than 18 ft. in height and less than 10 ft. from side yard setback. (Section 7.8.11)

Mr. Thomas stated the following:

- He wanted to construct a 20 ft. by 30 ft. two story garage on a concrete slab.
- Placement of the proposed garage was due to the slope of the surrounding area and would require a lot of excess fill.
- The extra height would allow him extra storage and a workshop area.
- Due to water supply issues, the lower part would allow for a water storage area.

- Location of the proposed barn didn't impede anyone's view.
- He would move the existing shed to another area.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 11 letters were sent out the neighboring property owners, with one response from immediate neighboring property owner Cindy Otis.

Mr. Hand read the email from Cindy Otis stating she had no issue with the proposed garage being less than 10 ft. from her property line. (On file)

As no one was present to express any concern, Mr. Hand closed the public hearing.

Mr. Harrop stated he had no issue with this request.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 08V18 as per submitted plans in the variance and building permit application dated 3/13/18 granting a 2 ft. 4 inches of height relief and 18 ft. of relief on the east side yard setback, seconded by Mr. Hand.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Cerwonka signed the responsibilities and conditions agreement. (On file)

**AREA VARIANCE APPLICATION NO. 07V18: Public Hearing.** Domenic Divirgilio. Property located at 4188 Shorewood Dr., Town of Wayne. Request alteration, expansion on non-conforming structure with side setback less than 10 ft. 7.2.3

Mr. Jay Palermo (the contractor) represented Domenic Divirgilio, and presented the following:

- He was adding the small addition to allow for a larger bedroom and bath.
- There would be no additional bedrooms.
- It would square up the existing non-conforming structure and make it more pleasing.

Ms. Kurtz stated 12 letters were sent out and no responses were received back at this time.

Mr. Nowlan stated he had no issues with the request and it would improve the current structure.

Mr. Hand closed the public hearing.

Mr. Harrop stated he had no issue with this application.

The 5 test questions were then reviewed and answered as required by NYS, for providing 6 inches of side relief on the North side.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 07V18 as per submitted plans submitted to the Zoning Board Appeals dated 5/7/18, seconded by Mr. Hand.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Palermo signed the responsibilities and conditions agreement. (On file)

**AREA VARIANCE APPLICATION NO.09V18: Public Hearing.** Brian Nowlan.  
Property located at 4188 Shorewood Dr., Town of Wayne. Request to add mudroom on pre-existing non-conforming structure, construct garage greater than 18 ft. in height, construct 2 retaining walls less than 25 ft. from road right of way and mean high water mark.

Mr. Nowlan stated the following:

- He needed to replace the existing seawall that was constructed out of railroad ties and steel that is in need of repair. This is on the lake side of the mean high water level, a DEC permit has been requested, was verbally approved, but documentation has not yet been received. If approved, a new concrete wall will be installed on the property side of the existing retaining wall.
- He wanted to construct a new L shaped concrete retaining wall along the lakeshore across a large portion of his property, on the inland side of the mean high water level, toward the bottom of a steep slope. Along with a variance request submitted by his neighbor, Dave Michaels, this would result in a continuous retaining wall across a portion of both properties.
- The existing garage would be replaced with a new two story basically on the same footprint.
- The requested retaining wall next to the garage would allow for better drainage and stability.

Ms. Kurtz stated 14 letters were sent out and no responses were received back at this time.

As no one was present to express any concern, Mr. Hand closed the public hearing.

Upon review of the proposed variance, it was noted the applicant was seeking the following 8 variances:

FOR THE PROPOSED GARAGE:

1. 16 ft. of relief from the road right of way.
2. 4 ft. of relief from the south side yard setback.
3. 3 ½ ft. height relief.

FOR THE PROPOSED RETAINING WALL NEXT TO THE GARAGE:

4. 16 ft. of relief from the road right of way.
5. 9 ft. of relief on side yard setback.

FOR THE PROPOSED LAKESIDE RETAINING WALL:

6. 10 ft. of relief on the North side yard setback.
7. 10 ft. of relief on the Southeast corner from the mean high water mark.

FOR THE PROPOSED ADDITION ON EXISTING HOUSE:

8. Alteration of existing non-conforming structure.

Mr. Harrop stated the need to use the current survey map when applying the dimensions of the proposed projects.

The 5 test questions were then reviewed and answered as required by NYS, applying to all 8 variances.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.



2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes.
3. Whether the requested variance is substantial: Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 09V18 as per submitted revised building plans dated 5/18/18, provided that it is consistent with the yet to be submitted property survey, showing property boundaries and mean high water mark. The motion seconded by Mr. Hand.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Nowlan signed the responsibilities and conditions agreement. (On file)

**AREA VARIANCE APPLICATION NO. 09V18: Public Hearing:** Dave Michaels. Property located at 4190 Shorewood Dr. Town of Wayne. Request to extend lakeside retaining wall.

Mr. Nowlan was present to represent the Michaels.

Upon discussion, this was an extension of proposed lakeside retaining wall that connects to the Nowlan's and the Applicant was seeking the following 2 variances:

1. 10 ft. of relief on the South side yard setback.
2. 10 ft. of relief from the mean high water mark.

The 5 test questions were then reviewed and answered as required by NYS.

1. Whether an undesirable change to the character of the neighborhood will take place or if it would be a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes.
3. Whether the requested variance is substantial: Yes.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: Yes.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community.

Ms. Dietrich made a motion to approve Area Variance Application No. 09V18 as per submitted revised building plans dated 5/18/18, provided that it is consistent with the yet to be submitted property survey, showing property boundaries and mean high water mark. The motion was seconded by Mr. Hand.

An Aye vote was taken. Ayes-2. Nays-0.

Mr. Nowlan signed the responsibilities and conditions agreement for the Michaels.  
(On file)

As there was no further discussion to be discussed, Ms. Dietrich made a motion to adjourn the meeting, seconded by Mr. Hand. The meeting was adjourned at 7:35PM.

Respectfully submitted, Maureen Kurtz