

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

The meeting opened at 6: 30 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:	Jim Coots	Jim Hillman
	Deb Kogut	Joel Bablo
	David Farmer	Joel Smith
	Joel Bablo	

MINUTES:

Ms. Dietrich made a motion to approve the July 2, 2018 minutes, 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-1.

NEW BUSINESS:

AREA VARIANCE APPLICATION NO. 20V18: Public Hearing. Lisa Bartlett. Property located at 11437 East Lake Rd., Town of Wayne. Request alteration, expansion on non-conforming structure.

Mr. Farmer, contractor for Ms. Bartlett was present to state the following:

- The client was removing and replacing the existing non-conforming addition that currently is failing.
- The replaced addition would be less non-conforming on the Southeast corner.
- He would be replacing the existing stairs to the Lake on the same footprint.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 18 letters were sent out and no responses were received back at this time.

Upon discussion, there wasn't any issue, since the proposed construction change would make the pre-existing structure more conforming.

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.

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. 20V18 as per submitted plans submitted to the Zoning Board Appeals dated 8/19/18, seconded by Mr. Feinstein.

A roll call vote was taken. Ayes-3. Nays-0.

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

AREA VARIANCE APPLICATION NO. 21V18: Public Hearing: Robert Blackburn. Property located at 10127 Wine Country Lane. Town of Wayne. Request to replace a non-conforming garage.

Mr. Coots, contractor for Mr. Blackburn was present to state:

- Mr. Blackburn wanted to tear down the existing non-conforming garage and replace it.
- The new garage would be less non-conforming just slightly higher.
- The applicant has a KWIC approved septic system dated 7/3/18.

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

Mr. Hand opened the public hearing.

Ms. Kurtz stated 17 letters were sent and 1 email from Mr. Bellohusen addressed to both the Zoning and Planning Boards' was received back.

Mr. Hand read the email to those present.

Upon discussion the following items were noted:

- The request for formal architectural drainage plans was a Planning Board issue and couldn't be addressed by the Zoning Board.
- Placement of the new garage would be less in non-conformity.
- It would be less rather than closer to the road.

As no one had any concerns, Mr. Hand closed the public hearing.

Upon discussion, Mr. Hand stated the 2 variances would be combined for the test questions.

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 Area Variance Application No. 21V18 as per building plans prepared by Chris Todd dated 6/11/18, seconded by Ms. Dietrich.

A roll call vote was taken. Ayes-3. Nays-0.

Mr. Coots signed the responsibilities and conditions agreement on behalf of the Parks. (On file)

AREA VARIANCE APPLICATION NO. 22V18: Public Hearing. Kogut/Hillman. Property located at 11945 East Lake Rd., Town of Wayne. Request to replace pre-existing non-conforming garage.

Both Mr. Hillman and Ms. Kogut were present to state the following:

- The current garage is in poor condition and would like to replace it.
- They wanted to modify the proposed plan to make the garage more conforming to the road right of way.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 16 letters were sent out and 1 person came in the office to state they had no objection.

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

Mr. Harrop stated the Board was basing their decision on a pre-existing non-conforming structure.

Mr. Feinstein stated the applicants' need to supply a new drawing showing the modified dimensions prior to the Planning Board meeting on September 10, 2018 for site plan review.

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. Hand made a motion to approve Area Variance Application No. 22V18 with the stipulation the applicant provide new drawings showing the modified setback dimensions being no less than 0 ft. from the road right of way (25' of relief) and no less than 2'9" from the South property boundary (7'3" of relief), seconded by Mr. Feinstein.

A roll call vote was taken. Ayes-3. Nays-0.

Both Ms. Kogut and Mr. Hillman signed the responsibilities and conditions agreement. (On file)

AREA VARIANCE APPLICATION NO. 23V18: Public Hearing. Cindy Flint. Property located at 4174 Shorewood Dr., Town of Wayne. Request to construct accessory building greater than 18' in height.

Mr. Smith, contractor for Ms. Flint, was present to state the following:

- The homeowner owned a lot across from their home and wanted to construct an accessory building with a living space.
- They were seeking 3' of height relief.

Upon discussion, the Zoning Board found no variance was needed since the application request is now modified to a dwelling.

Mr. Harrop stressed the need to follow NYS fire code regulations regarding requirements construction between the living space and storage area.

Mr. Hand stated the applicant needed to change the plans to reflect the modified request for a dwelling.

UNFINISHED BUSINESS:

APPEAL FOR INTERPRETATION NO. 01INT18: Joel Bablo. Property located at 9655 Lakeshore Dr. Request interpretation of 7.8.12 of the current LUR.

This request was first heard on August 6, 2018 at which time Mr. Hand stated the Zoning Board had 60 days in which to render their decision while they had time to evaluate the information.

Mr. Feinstein stated he wasn't present at the August 6th meeting but after looking at the trees in question and applying the facts as stated in the provisions of 7.8.12, he felt the trees didn't fit with a continuous obstruction and didn't fall within the intent of those facts.

Mr. Hand stated the Zoning Board strives to compromise when neighbors have different views and to encourage neighbors to work with each other.

Ms. Dietrich stressed that Lake view is important to home owners and suggested the smaller trees could be placed somewhere else within the property so as not to obstruct the view of the Lake.

Mr. Feinstein stated anything a property owner does, can affect their neighbor but the trees in question didn't constitute a continuous obstruction at this time. The Zoning Board could only enforce what is in front of them not the future.

Mr. Harrop stated he was acting on a written complaint from Mr. Bablo's immediate neighbor and was seeking the Zoning Boards interpretation.

Upon further discussion, Mr. Feinstein made a motion that the trees did not constitute a fence, wall, hedge or similar landscape feature per Section 7.8.12 of the LUR, seconded by Mr. Hand.

A roll call vote was taken. Ayes-3. Nays-0.

Mr. Bablo was strongly encouraged to maintain and trim the trees so that they never resemble a fence or hedge.

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 8:20PM.

Respectfully submitted, Maureen Kurtz