

MINUTES OF THE TOWN OF WAYNE  
 ZONING BOARD OF APPEALS  
 April 1, 2019

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

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

ALSO PRESENT: John Senka	Attorney Baker
Lesia Fadale	Lucy Tongue
John Wylie, Crooked Lake Court Rep.	
Sean Facklam	Darell Button
Charles Frysinger	Richard Morrison
James Churchill	Mahlon Esh, Keystone Decks

**MINUTES:**

The October 1, 2018 minutes were unable to be approved at this time due to Mr. Feinstein’s absence.

Ms. Dietrich made a motion to approve the March 4, 2019 minutes as amended, seconded by Mr. Walton.

A roll call vote was taken.

	<u>AYE(yes)</u>	<u>NAY(no)</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Wayne Hand, Acting Chair	—	—	—	<u>X</u>
Bill Feinstein	—	—	<u>X</u>	—
Candy Dietrich	<u>X</u>	—	—	—
John Walton	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—

Ayes-3 Nays-0. Abstain-1.

**OLD BUSINESS:**

**APPEAL APPLICATION NO. 04V19: Public Hearing.** Crooked Lake LLC/Tongue-Caterini. Property located at 9989 Sunfish. Request addendum to Variance 17V16 for deck.

Attorney Baker was present and stated the following:

- He wanted to clarify that the original permit was for 546 sq. ft. that included 2 decks that were already there, only the middle part is new.
- Concern was for safety because of the steep slope.
- He further inquired if it really created a huge issue and whether it was possible a fine may be imposed to satisfy the violation to allow the deck to remain.

Ms. Tongue stated:

- The contractor worked with Mr. Harrop in order to meet the zoning regulations.
- The original plans that showed the decks somehow were not submitted properly and were not the ones the Board approved.

Upon being questioned, Mr. Wylie, representative for Crooked Lake stated they were not happy about the deck.

Upon discussion, the Zoning Board members stated the following:

- Mr. Blessing stated he visited the site and found an existing partial deck on the North end and nothing on the South end.
- Ms. Dietrich stated the 12 ft. decks were not in the original plan and the Zoning Board didn't approve a deck across the front.
- Mr. Hand reviewed to those present minutes from February 8, 2017 and subsequent ruling from the March 9, 2017 meeting where the readjusted plans were approved.

Mr. Hand opened the public hearing.

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

Upon further discussion, Mr. Walton made a motion to table Application No. 04V19 until the applicant could provide by both pictures and documentation of what was there and what's there now, seconded by Mr. Dietrich.

A roll call vote was taken.

	<u>AYE(yes)</u>	<u>NAY(no)</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Wayne Hand, Acting Chair	<u>X</u>	—	—	—
Candy Dietrich	<u>X</u>	—	—	—
John Walton	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—

Ayes-4 Nays-0.

The application was tabled and the applicant was advised that in order to make the May 6, 2019 meeting, all documentation must be in by April 15<sup>th</sup>.

**NEW BUSINESS:**

**APPEAL NUMBER 05V19: PUBLIC HEARING.** Mary Jo Jepson. Property located at 12121 East Lake Rd. Request expansion on a pre-existing non-conforming structure less than 25 ft. from the mean high-water mark.

Contractor Esh from Keystone Custom Decks, was present to represent Ms. Jepson and stated the following:

- His client was looking to construct a new deck area with pergola and outdoor kitchen.
- They were seeking 35 ft. of relief from the mean high-water mark.

Mr. Hand opened the public hearing.

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

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

Upon discussion the following items were noted:

- The request was for an expansion on a pre-existing non-conforming structure and relief from the high-water mark.
- The stairs would require 35 ft. 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, seeking 35 ft. of relief.
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. Blessing made a motion to approve Application 05V19 allowing 35 ft. of relief from the mean high-water mark and be built as per plans dated 3/7/19, seconded by Ms. Dietrich.

A roll call vote was taken.

	<u>AYE(yes)</u>	<u>NAY(no)</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Wayne Hand, Acting Chair	<u>X</u>	—	—	—
Candy Dietrich	<u>X</u>	—	—	—
John Walton	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—

Ayes-4 Nays-0.

Mr. Esh signed the Responsibilities and Conditions sheet. (On file)

**APPEAL NUMBER 06V19: PUBLIC HEARING.** Richard Morrison. Property located at 14720 State Route 54. Request alteration, expansion on a pre-existing non-conforming structure too close to road right-of-way.

Mr. Morrison was present to state:

- He was requesting to construct a 8 ft. by 20 ft. addition onto the back of his existing building for storage.
- The addition would be placed onto an existing cement slab.

Mr. Hand stated according to the new regulations, the property was located within the Corridor District and on a corner lot along State Route 54 and Hyatt Hill Rd. thus requiring 50 ft. from both roads rights-of-way.

Upon review, Page 1-14 of the new regulations was found to be incorrect and needed to be addressed (the illustration example for the Hamlet/Mixed Use District is actually the Morrison property which is located the Corridor District.

Mr. Hand opened the public hearing.

Ms. Kurtz stated out of the 25 letters sent, one response from Mr. Welch stating he had no objection as long as the applicant built as per submitted plans.

As no one was present to express any concern, Mr. Hand 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: Yes
3. Whether the requested variance is substantial: Yes, seeking 40 ft. 9 in. of relief from Hyatt Hill Rd.
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 Application 06V19 granting 40 ft. 9 in. of relief from Hyatt Hill Rd. and be built according to plans signed and dated 4/1/2019, seconded by Mr. Walton.

A roll call vote was taken.

	<u>AYE(yes)</u>	<u>NAY(no)</u>	<u>ABSENT</u>	<u>ABSTAIN</u>
Wayne Hand, Acting Chair	<u>X</u>	—	—	—
Candy Dietrich	<u>X</u>	—	—	—
John Walton	<u>X</u>	—	—	—
Greg Blessing	—	—	<u>X</u>	—

Ayes-3 Nays-0.

Mr. Morrison signed the Responsibilities and Conditions sheet. (On file)

**APPEAL APPLICATION NO. 07V19: PUBLIC HEARING.** Charles Frysinger. Property located at 9500 Crystal Beach Rd. Request expansion on pre-existing non-conforming structure.

Mr. Frysinger stated the following:

- They own 3 separate lots, one lot has the primary residence, one lot is an empty lot where the septic system is located, and other lot has 2 structures, a garage that was converted into a guesthouse and an older guesthouse.
- The northside of the roof on the converted garage is in need of repair as it is bowing outward.
- The property is located on a private road.
- They wanted to build a deck with covered stairs and repair and change the roof structure on the converted garage and update the older guesthouse.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 9 letters were sent and no responses were received back.

As no one was present to express any concern, Mr. Hand 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.

Upon discussion, Mr. Walton made a motion to approve Appeal Application No. 07V19 to expand on a pre-existing non-conforming structure and build according to plans dated 3/18/19, seconded by Ms. Dietrich. The expansion plans have no impact on the existing non-conformity on the North side.

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

Mr. Frysinger signed the Responsibilities and Conditions sheet. (On file)

**APPEAL APPLICATION NO. 08V19: WAS TABLED UNTIL MAY 6, 2019 per applicants request.**

**APPEAL APPLICATION NO. 09V19; PUBLIC HEARING.** Bald Eagle Trust. Property located at 14899 Keuka Village Rd. Request to construct guest house greater than 500 sq. ft.

Mr. Churchill, Architect for Bald Eagle Trust was present to state:

- The proposed guesthouse was for 520 sq. ft. instead of the allowed 500 sq. ft. in order to have the same roof lines, slope, and appearance as the existing home.
- They would get engineered plans to redesign the current septic system if the variance is granted.
- The downstairs wall portion of the structure would act as a retaining wall and be have space for 2 cars.

Mr. Hand stated the reason for the area variance was for the additional 20 sq. ft. as the structure meets setback and height requirements.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 13 letters were sent out and 2 emails were received back, one from M. Rogers and one from L. Fadale. (On file)

Mr. Hand read both emails to those present.

Ms. Fadale was present to state the following:

- She was concerned how close the proposed guesthouse was to her property.
- Parking could be an issue later on.
- Concern about water run-off and the existing septic system.
- That it was adding too many structures on the lot.
- Potential blocking of her view of the Lake from the Northside.

Mr. Hand stated the Zoning Boards primary focus was on dimensions with regards to setbacks and heights and the reason for this application was for the extra 20 sq. ft. since met all other LUR requirements.

He further explained the Planning Board reviewed site plan applications where drainage, view shed, lighting and other issues were addressed.

Mr. Facklam, representative for the owners, stated the owners of the property would follow all the correct procedures.

Mr. Hand 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: Yes
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. Walton made a motion to approve Appeal Application No. 09V19 as per submitted plans dated 3/4/19, seconded by Ms. Dietrich.

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

Mr. Churchill signed the Responsibilities and Conditions sheet. (On file)

As there was no further business, Ms. Dietrich made a motion to adjourn the meeting at 8:40PM, seconded by Mr. Walton.

Respectfully submitted, Maureen Kurtz