

MINUTES OF THE TOWN OF WAYNE
 ZONING BOARD OF APPEALS
 July 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: Kim Nason | Jim Churchill | Jerry Warner |
| Lesia M. Fadale | Jeff Martin | Jean Faclelam |
| Margaret Rogers | Ann H. Piato | Rick Moore |
| Todd Morgan | Joni Greene | MaryJo Yunis |
| Tom Dunbar | | |

MINUTES:

Mr. Feinstein made a motion to approve the June 3, 2019, minutes as presented, seconded by Mr. Hand.

A roll call vote was taken.

| | <u>AYE (yes)</u> | <u>NAY (no)</u> | <u>ABSTAIN</u> |
|--------------------------|------------------|-----------------|----------------|
| Wayne Hand, Acting Chair | <u>X</u> | — | — |
| Bill Feinstein | <u>X</u> | — | — |
| Candy Dietrich | — | — | <u>X</u> |

Ayes - 2 Nays - 0. Abstain - 1.

NEW BUSINESS:

APPEAL APPLICATION NO. 14V19: Bald Eagle Trust. Property located at 14899 Keuka Village Road, Town of Wayne. Request height relief for an accessory building.

Mr. Churchill, Architect, representing Bald Eagle Trust, stated the following:

- They originally requested two garages, but now they will have only one.
- They clarified the variance was 47%, plus 4.9% = 52% lot coverage for structure, buildings, driveways, pavers and sidewalks.
- The pavers are semi-permeable and holds the driveways in place.
- The height is driven by slope of 16 feet 3 inches and at level is 34 feet.
- Adding drainage by the driveways will eliminate driveways retaining the water.

Ms. Nason stated that this is an area variance. A Type II action was determined at the Planning Board meeting of June 10, 2019.

Mr. Churchill is asking for a variance of 4.9%. They are adding an outside stairway because of the size of house it took up so much space on the inside.

Mr. Hand opened the public hearing stating 13 letters were sent out on June 18th.

Ms. Margaret Rogers shared photos and a letter read by her (on file). (Since Ms. Kurtz was not present, no e-mails were received by the Board.) Mrs. Rogers lives 2 doors South of this property (14899 Keuka Village Road).

Ms. Lasia Fadale lives next door (14863) shared her letter (on file) saying she also e-mailed Ms. Kurtz. Ms. Fadale also shared photos showing views from her windows. Ms. Fadale also stated that she thought there was a 10-foot minimum side set-back from her property line for a non-structure (steps). Mr. Hand clarified that it was a 1-foot minimum side set-back for a non-structure (steps). Her viewshed in the front is OK, but not to the north side because the trees are blocking the view.

Joni Greene, lives five houses to the North (14755) sees trees to the South.

MaryJo Yunis' stated her view is also blocked by the structure.

Ms. Dietrich suggested Ms. Gabel get the e-mails from the neighbors (Ms. Rogers, Ms. Fadale, and Mr. Thomas) be copied for the Board and seconded by Mr. Feinstein.

[Put Public Hearing on hold while e-mails were being received and copies. Addressed APPEAL APPLICATION NO. 15V19 at this time.]

After returning to **Appeal 14V19**, Mr. Hand read the e-mail by Mr. Thomas.

Mr. Hand closed the Public Hearing.

The Board had no further questions.

Mr. Hand stated that there are two variances: Building Height and Lot Coverage. He commented that the maximum allowed building height in the previous land use regulations was calculated from the average of the surrounding grade level and that no variance would have been required for this structure per that definition because it would be less than 18 ft. However, the current regulations define the structure height be calculated from the lowest surrounding grade level, which is 33 ft. 11 inches (15 ft. 1 inch over the max. allowable of 18 ft.).

Mr. Hand also clarified that the previous land use regulations utilized a methodology for calculating maximum lot coverage where structures were defined as above ground constructed items, primarily buildings. However, the

current land use regulations definition of structures includes ground level items like driveways, patios, sidewalks, and parking areas.

The Board then addressed the Area Variance Request for Accessory Building Height relief of 15 feet 1 inch questions as follows:

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: 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 DOES outweigh the detriment to the Neighborhood or Community and therefore the variance request is approved.

Mr. Feinstein made a motion on the height variance of 15 feet 1 inch for garage structure be approved by the Board and seconded by Mr. Hand.

A roll call vote was taken.

| | <u>AYE (yes)</u> | <u>NAY (no)</u> | <u>ABSTAIN</u> |
|--------------------------|------------------|-----------------|----------------|
| Wayne Hand, Acting Chair | <u>X</u> | — | — |
| Bill Feinstein | <u>X</u> | — | — |
| Candy Dietrich | — | <u>X</u> | — |

Ayes - 2 Nays - 1.

Mr. Hand stated that the lot coverage is increased by 5% as a result of accessory building which exceeds the maximum coverage of 25%, with the total being 52%.

The Board addressed the Area Variance Request for Maximum Lot Coverage of 5% increase to 52% total questions as follows:

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 DOES outweigh the detriment to the Neighborhood or Community and therefore the variance request is approved.

Mr. Feinstein also stated that a Condition is that all drainage and run-off would not impact neighbors.

Ms. Dietrich made a motion to allow the incremental 5% lot coverage as presented and seconded by Mr. Feinstein.

A roll call vote was taken.

| | <u>AYE (yes)</u> | <u>NAY (no)</u> | <u>ABSTAIN</u> |
|--------------------------|------------------|-----------------|----------------|
| Wayne Hand, Acting Chair | <u>X</u> | — | — |
| Bill Feinstein | <u>X</u> | — | — |
| Candy Dietrich | <u>X</u> | — | — |

Ayes-3 Nays-0.

Mr. Churchill signed the variance responsibilities and conditions sheet for both variances (on file).

APPEAL APPLICATION NO. 15V19: Gerard Warner. Property located at 11818 East Lake Road, Hammondspont, Town of Wayne. Request for retaining wall greater than 4 feet high, lake setback less than 25 feet from High Water Mark, 8 feet from road right-of-way, fill exceeding 100 cubic yards on a slope greater than 15%.

Mr. Todd Morgan, Integrity Creative Contracting, was present with Mr. Gerard Warner stating:

- They would like to put in a retaining wall greater than 4 feet high.
- The slope is greater than 15%, fill exceeding 100 cubic yards.
- The lake setback is less than 25 feet.
- The structure is in the road right-of-way.

Mr. Hand stated that a few weeks ago, the ZBA requested detailed information defining the distance of proposed construction from the road right-of-way and mean high water mark. The applicant conveyed that the proposed structure would be about 9 ft. from the centerline of East Lake Rd. If the town road has a total right-of-way of 33 ft., this would mean that the new structure would be ~ 7.5 ft. into the road right-of-way (not including any tie backs). From the limited exploration, the current deteriorating retaining wall has tie backs well back into the road right-of-way, extending very close to the edge of the pavement.

Due to potential impact to road integrity, Mr. Hand tabled this Appeal and requested the applicant provide well engineered PE stamped drawings indicating the design details as well as how the project would be executed. Mr. Feinstein recommended that the Acting Town Highway Superintendent, Mr. Doug Howard, approve the design and plan before being reviewed by the ZBA again. He also recommended that the town solicit legal input as to whether or not any construction can take place within the town right of way, and if so, what would be required legally to allow that to happen.

Mr. Morgan stated that they are requesting a variance of 13 feet for Mean High Water mark.

Mr. Hand suggested we table this variance.

As there was no further business, Ms. Dietrich made a motion to adjourn the meeting at 7:57 PM and seconded by Mr. Feinstein.

Respectfully submitted, Nancy Gabel – Acting Secretary