

MINUTES OF THE TOWN OF WAYNE  
 ZONING BOARD OF APPEALS  
 May 4, 2020

Due to COVID-19, the session was conducted via Zoom.  
 The meeting opened at 6:30 PM with a roll call of the members.

	PRESENT	ABSENT	LATE ARRIVAL
MEMBERS: Bill Feinstein	<u>X</u>		
Candy Dietrich	<u>X</u>		
Wayne Hand, Chair	<u>X</u>		
Gill Harrop, CEO	<u>X</u>		

ALSO PRESENT:

David Farmer	Heather Lewis
Greg Reep	Aaron Volmer
Lance Laughlin	Randy Hoad
Kathy Decamp-Miller	Patricia Reardon-Pagano
Jacob Welch	Sara Welch
Laura Widmer	Chris Robinson
Adam Donegan	

**MINUTES:**

Ms. Dietrich made a motion to approve the November 4, 2019 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				X
Candy Dietrich	<u>X</u>			
Wayne Hand, Chair	<u>X</u>			

**NEW BUSINESS:**

**AREA VARIANCE APPLICATION NO. 01v20: Public Hearing.** Greg and Brenda Reep. Appeal No. 01v20 Greg Reep. Property located at 14139 Keuka Village Road, Town of Wayne. Non-conforming structure 3.A.4.b.5 Alteration, expansion of structure.

Mr. Reep seeks to expand the house with a 10 foot expansion on the back and replace deck on the front as well as install new roofing and siding. In LR-2 right of way from road is 10 feet so road right-of-way is clear. Of issue then is an undersized lot and setbacks and expansion of pre-

existing non-conforming structure. Variance is required for north side property line as set back is only 6'9"

Public Comments opened. Laura Widmer: wanted assurances that deck will remain in current footprint and house expansion will not encroach any further north toward her property and stay in line with current northern footprint of the existing building.

Mr. Hand asked about letters. Ms. Gush pointed out written concerns about impact on common septic system. This is a private corporate easement to be worked out among the members of the corporation. Public comments closed

Board member discussion: Ms. Dietrich indicated she had visually inspected the building and deck does need replacing. Mr. Hand expressed concern about the excessive lot coverage, however he noted that is characteristic of this set of lots. Mr. Feinstein put forward a condition that building cannot encroach any further north than current structure.

It is determined that the question is relief of 3'3" on north lot line.

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.

Benefit to owners does outweighs the detriments to neighborhood: Yes

Conditions: Addition cannot encroach any further to north than the structure to which it will be attached.

Mr. Feinstein made a motion and Ms. Dietrich second. Motion passed unanimously.

**Appeal No. 02v20** Greg Reep. Property located at 14139 Keuka Village Road, Town of Wayne. Docking and Mooring Law Section 10, A. Impeding Water Rights Line

Mr. Reep wants to install a dock and boat lift. Southern neighbor infringes on Mr. Reep's water rights. Plan as presented tries to fit a large dock in Reep's water rights and accommodate the neighbors existing docks. Mr. Hand asked for a reduction of dock size to allow more open space. Reep said he did not want to decrease size of docks and the current plan is angled to try to accommodate current neighbor's docks. Mr. Feinstein asked about the boat station design.

Public comments open.

Michael Widmer north neighbor asked about water rights lines and setbacks. He expressed concern about the Reep dock pushing right to the Reep water rights lines. Neighbors expressed dissatisfaction with the size of dock. When asked again to consider reducing the size of the dock 5 feet Mr. Reep said no. He would rotate the dock to be parallel to his water lines and not have to seek a variance (which appeared to be less desirable to the neighbors). Public Comments Close

Seeking relief of 10 feet on the north water rights setback. Dock is of conforming size.

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: No.

Benefit to owners does outweighs the detriments to neighborhood: Yes

Conditions: Must build according to plans submitted with variance request of 1/30/2020 no further north than water right lines. Maintain 10 feet from southern dock and boat lift.

Mr. Feinstein Motion to approve and Ms. Dietrich second, approved unanimously.

**Appeal No. 03V20:** Adam Donegan. Property located at 9619 Crystal Beach Road., Town of Wayne. Non-conforming structure LUR 2 3.A.4.b.5 side setbacks less than 10 feet.

Adding a deck onto the lake side of the cottage. Setback variances are needed on west and east side with neighbors. It will not be any wider than the cottage structure.

Public Comments Open.

No letters were received.

No comments. Public comments closed.

Requested relief seeking 6'6" on west side and 4' on east side and addition to a pre-existing non-conforming structure.

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.

Benefit to owners does outweighs the detriments to neighborhood: Yes

Condition: Build according to plan submitted with variance of 3/12/2020

Mr. Feinstein made motion to approve and Ms. Dietrich second, approved unanimously.

**Appeal No. 04v20** Lisa Bartlett and Marc Mason. Property located at 14517 Keuka Village Road, Town of Wayne. Request to expand pre-existing non-conforming structure by the addition of a deck to the guest cottage. Relief sought based on Sec. 3.4.b.5. LUR 2.

Mr. David Farmer representing the owners Marc and Lisa. Project is to add a small deck to lakeside guest cottage.

Public comments open.

No letters were received.

No comments. Public comments closed.

#### Request to expand pre-existing non-conforming structure in LUR 1

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.

Benefit to owners does outweighs the detriments to neighborhood Yes

Condition: Build according to plan submitted with variance of 3/18/2020

Ms. Dietrich made motion to approve and Mr. Feinstein second, approved unanimously.

**Appeal No. 05v20:** Joseph and Patricia Reardon-Pagano. Property located at 8963W Waneta Lake Road., Town of Wayne. Non-conforming lot, Sec 3.A 4b.5. Side setback of less than 50 feet. Hillside Conservation 2.

Seeking to build garage 26x26. Tim Putney project manager gave project overview. Retaining wall will only be 5' from neighbor. All drainage will be contained in Reardon-Pagano property.

Public comments open Aaron Volmer on north side said construction digging has come over on his land by about 6' and he would like all damage repaired and to have all drainage addressed and contained within the property. Decamp-Miller neighbors support the project as it is. Public comments closed

Variance: seeking 45' allowance on side setback and this is pre-existing nonconforming lot.

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: 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.

Benefit to owners does outweighs the detriments to neighborhood Yes

Condition: Build according to plan submitted with variance request. Ensure all drainage will be self-contained within Reardon-Pagano lot. Volmer's land is repaired to original state.

Mr. Feinstein made motion to approve and Ms. Dietrich second, approved unanimously.

**Appeal No. 06V20:** Lance Laughlin. Property located at 9597 Treasure House Road., Town of Wayne. Non-conforming lot. Sec. 3, A. 4.b.5 side setbacks less than 8 feet LR-3.

Mr. Laughlin explained he bought the property recently and removed the dilapidated cottage. He is proposing to build a new two story cottage on the original footprint of the old cottage. With a 9x20 addition off the back which is allowed within the setbacks.

Public comments open

One letters was received with a concern about size of new cottage and parking. Another letter of support for the project. No oral comments. Mr. Feinstein pointed out that the concerns expressed in the letter would be handled by planning board review. A review of lot coverage showed that it is less than max allowed coverage. Don Robbins spoke in support of the project. Public comments closed.

Variance: This will be a new structure on a pre-existing non-conforming lot. Allowances needed on west side 7' and 4' allowance on the east side.

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.

Benefit to owners does outweighs the detriments to neighborhood Yes

Condition: Build according to plan submitted with variance 3/7/2020.

Mr. Feinstein made motion to approve and Ms. Dietrich second, approved unanimously.

**Appeal No. 07V20:** Finger Lakes Sunsets, LLC. Property located at 14643 Keuka Village Road., Town of Wayne. Non-conforming structure LUR- 1 3.A.4.b.5 side setbacks less than minimum and less than 25 feet from mean high water mark.

Mr. and Mrs. Welch shared details of projects. There are two issues: 1. Replacing the roof in new configuration, and 2. Creating a new deck & stairs.

On the first matter: Existing roof is 2x4 construction and they desire to build new roof to code with part of the new roof to have an east-west configuration. There will be no view shed issues created. Issue is alteration of pre-existing non-conforming structure.

Creation of new deck. The land seems to undercut by the lake and is not solid. People have fallen into sink holes. It is desired to cover this area with a deck for better use and safety issues also additional steps are needed to provide access to lake without entering the cottage.

The Zoning board is unable to determine the location of the mean high water level on the property. There is concern that the new construction of the deck would partially be in DEC controlled space. Jurisdiction lies beyond the town. DEC has to review and approve the project. Mr. Harrop suggested fencing off the area if Mr. Welch lays any temporary covering over the area in question.

Public comments open

As to the building of a deck and stairs the committee was very concerned that the mean high water mark could not be determined.

One letter of support received. Public comments closed.

On the matter of the roof construction the board felt that the town had jurisdiction to approve repair/replacement. On the matter of the deck, the board tabled that item until the mean high water mark is clearly identified on the survey and future possible variance approval would be limited to areas in the town's jurisdiction. As the mean high water mark is unknown at this time the matter of jurisdiction (DEC vs Town) cannot be clearly defined the board is reluctant to designate relief. Further, the board disavows approval of any part of the building of deck and stairs upon subsequent demonstration of DEC jurisdiction and lack of approval for the deck project over that part of the property.

Variance (s): Expand a pre-existing non-conforming structure with roof replacement.  
Separated issue: Set back relief from mean High water line for deck and stair construction.

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.

Benefit to owners does outweighs the detriments to neighborhood Yes

Condition: Build new roof according to plan submitted with variance 3/7/2020.

Deck and stairs project tabled pending determination of jurisdiction.

Ms. Dietrich made motion to approve and Mr. Feinstein, second, approved unanimously.

**Appeal No. 08v20:** Randy and Kimberly Hoad. Property located at 8610 Coryell Road, Town of Wayne. Side setbacks less than 50' HC-1, Sec. 1 page. 1-7.

Mr. and Mrs. Hoad desire to build a 12'x24' garage addition. The addition will require setback relief on the south lot line of 26' allowance.

Public comments open. No letters or correspondence.

Public comments closed.

Variance: Side setback relief on the south lot line of 26' allowance.

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: 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: No.

Benefit to owners does outweighs the detriments to neighborhood Yes  
Condition: Build to plan submitted with variance 4/4/2020.

Ms. Dietrich made motion to approve and Mr. Feinstein, second, approved unanimously.

**Appeal No. 09v20** Chris and Martha Robinson. Property located at 9386 Wixson Road, Town of Wayne. Expansion of pre-existing non-conforming structure. Sec 3.A 4b.5 LUR-3.

The Robinsons wish to build 12'x10' addition to existing trailer. This is expansion of pre-existing non-conforming structure.

Public comments open.  
Public comments closed.

Variance: Expansion of a pre-existing non-conforming structure.

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.

Benefit to owners does outweighs the detriments to neighborhood: Yes

Conditions: Build according to plan/sketch submitted with variance request 4/21/20.

Mr. Feinstein made motion to approve and Ms. Dietrich, second, approved unanimously.

Meeting adjourned 9:00 PM