

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
April 7, 2025

The meeting opened at 7:01 PM with a roll call of the members. The meeting was held in-person and via Zoom at the Town Hall.

	Present	Late	Absent/Excused
Jason Ferris	x		
Emily Jennifer Rouin	x		
David Westcott	x		
Karsten Konig			x
Rick Rosenberg	x		
Wayne Hand, Alt	x		
Candy Dietrich, Alt.	x		
Dave Bauer, Board Liaison	x		
Jon Serdula Code Officer	x		

ALSO PRESENT: Tom Plan, Martin Esh, Joel Smith, Shona Freeman Myron Glick, Harold Cutler, Sharon Cutler, on Zoom: Bob Bowdey Kathleen King, Jim Eichorn, Gale King,

**Agenda Review**

No change to agenda

**Minutes**

Minutes of the **December 2024 meeting were approved** with Mr. Ferris making the motion and Mr. Konig making the second.

**New Business**

- **Appeal No.001v25: Harold and Sharon Cutler.** Property Tax ID # 064.17-01-031.000, 9875 Crystal Beach Road, Town of Wayne in LS-2, Sec 3,e.iii.

The Cutler's wish to tear down the existing home and garage and replace them with new structures. The proposed build will be more conforming than the original structures, but will still need some setback relief. Mr. Cutler indicated a desire for a guest house over the garage. Mr. Hand pointed out that the LUR only allows for it to be 500 sq ft of living space and it cannot have a kitchen.

The board looked over the plans as presented. Mr. Hand asked why not center the house to allow for conforming setbacks. Mr. Culter explained that the proposed house footprint is located off center to accommodate a walking path that allows the upper lot, owned by

his brother access to the lake front. The new footprint for the house will maintain the current setback from the lake, and will extend 9' further back toward Crystal Beach Road. The plan needs 6' of setback relief on the east side.

The garage will also need 6' of relief on the east side. Ms. Rouin asked about any increase in lot coverage. That had not been calculated. The application was tabled while the Cutler's calculated the lot coverage. The board went on to hear the Bowdey appeal. After the Bowdey appeal, the Cutlers returned to the meeting and presented calculations that indicated that the new lot coverage would be at 36%.

The Public Hearing opened. A neighbor was worried initially about the location of the new home, but after hearing the discussion had no objections to the build. Mr. Cutler also explained the new orientation of the garage which the neighbors approved. No other objections were raised. No other letters or emails were received about the project. Public Comments closed.

The board granted approval to replace the pre-existing, non-conforming house and garage and provided for the 6' of setback relief from the east lot line for both the home and garage. In addition, a small increase in lot coverage, not to exceed 36% is allowed. In all other details, the house and garage are to be conforming to the LUR.

- **Appeal No.002v25: Robert Bowdey.** Property Tax ID # 064.17-01-031.000, 14961 Keuka Village Road, Town of Wayne in LS-2, Sec 3,g

The Bowdey's have a KWIC approved septic system plan that is unusual in that the proposed septic tank and drainage will be raised, but will sit almost on the mean high-water line for the property. There was a discussion about the location with some board members voicing concern. However, Mr. Hand pointed out that it is an approved design. Also, the contractor shared that he has built two other approved systems on the lake on similarly challenged lots.

In addition to the septic system, the Bowdeys need to build a retaining wall to shore up the lot in front of the home. This would need a variance due to the height requirement.

Public Comments opened and closed with no objections.

The Board granted relief of 25' from the mean high-water line for the installation of the approved septic system. They also granted 5' of relief from the south lot line. And approved the build of a 21' retaining wall.

- **STR Appeal N. 001v25: Mahlon and Sarah Esh** Permit Revoked December 2024

Mr. Plan is the attorney for Mr. Esh. He presented the board with a short brief detailing the chronology that led to the Mr. Esh receiving a Short-term Rental permit and subsequent revocation of said permit. The permit was issued to 9648 May Lane for an occupancy of 2 persons. That is occupancy is based on the capacity of the septic system, which in this case was, until recently, a holding tank. Mr. Esh has been advertising the house for 6. Mr. Plan indicated a belief that the one-year suspension of the permit to rent

was unduly harsh as his client has made an average of \$50,000 renting the property since 2022. That rental income has generated \$6233 over three years and brought several tourists to the area.

Mr. Harrop, the former Code Officer for the Town of Wayne, revoked the permit when it became known that the house was rated for 2 occupants due to septic size and Esh was allowing up to 6 persons per rental. In addition, the renovation and enlargement of the house was done without proper building permits or inspections.

In addition, another lot, 4620 May Lane, is being built out and all of these issues came to light when Mr. Esh applied for permits for that build.

Since the revocation on December 12, 2024 Mr. Esh has remediated the septic issues and obtained an after the fact building permit for the work at 9648 May Lane. Mr. Serdula, the new Code Officer said that Mr. Esh has been working closely with him as Mr. Esh works to comply with the discovered deficiencies at both properties.

When questioned by the board about why he was violating the conditions of the rental permit Mr. Esh said he was unaware of the limitations. Mr. Hand commented that the limitations were detailed on the permit. In addition, Mr. Hand asked why the original holding tank at the property was not inspected annually from 2020 to 2024. Mr. Esh said he was unaware of the need to have annual inspections.

Ms. Gush brought to the attention of the board that the 2<sup>nd</sup> property, 9620 May Lane, was bought by Mr. Esh without the required septic inspection needed for a real property transfer. Mr. Esh said it was a private sale and he did not know an inspection was required.

Mr. Westcott asked that the board seek counsel with the Wayne town attorney on these matters. Mr. Rosenberg and Mr. Hand expressed deep concern over the multiple infractions and disregard for town laws.

The Mr. Hand made a motion to table the hearing until further conversations with the town attorney and to give the board time to consider all the information presented. Mr. Westcott seconded the motion. The motion was approved and the matter tabled.

The meeting adjourned at 9:13 PM.

#### **Old Business**

#### **General Announcement**

**Adjournment** The meeting adjourned at 7:00 PM

Submitted by: Amy Gush, Board Secretary