

Minutes of the Town of Lake George Zoning Board of Appeals meeting held on August 2, 2023, at 6:00 p.m., at the Town Center, 20 Old Post Road, Lake George, New York.

Members Present: Karen Hanchett, Chairperson
Denise Paddock
Jim Anagnos
Mohammad Tariq

Absent: Ed Pontacolini, Kory Nagy

Also Present: Adele Behrmann, Mike Muller, Esq. & Peter Scotto.

Chairperson Hanchett opens the meeting at 6:00 p.m.

ACCEPTANCE OF THE MINUTES

A motion is introduced by Denise Paddock; seconded by Mohammad Tariq to accept the July 11, 2023 minutes in the record.

All in favor, motion carries.

PUBLIC HEARINGS

1. Application for Area Variance AV6-2023 submitted by Philip Viger with Mike Muller, Esq. as agent. The applicant increased impervious surfaces on the property that require stormwater mitigation. One of the practices will be located at 28.8 ft. distance from the shoreline where 35 ft. is required for separation from stormwater infiltration practices to the lake; for property located at 12 Little Bay Lane. Tax Map No. is 226.05-1-17. Lot size is 0.63 acres. Zoning Classification is RCH-LS. Code Reference(s) is 148.11. SEQRA is Type II.

Denise Paddock reads the application in the record however the permeability section on the Site development Data sheet is blank and should have been filled out by the applicant.

A motion is introduced by Mohammad Tariq; seconded by Jim Anagnos to accept the application in the record.

All in favor, motion carries.

Mike Muller, Esq., as agent for Mr. Viger begins by going over color coded plans that indicate surfaces that were not approved and those proposed to be installed. Some are partially constructed and are small structures close to the shoreline that have been previously approved. The green surfaces indicate surfaces that have been approved but not installed or have been removed. A stone masonry wall on the norther side is not there. Items in the color magenta indicate the variances requested and were designed by the engineer Steve Dean. The permeability calculations that were not indicated on the application, can be found on the drawings. The applicant is agreeable to use permeable paver but the Town's Code does not recognize them as stormwater devices. Mr. Dean designed the best places on the site to capture the stormwater as well as a catch basin by the pool that is 21.8 ft. from the shoreline where the stormwater regulations requirement is 35 ft. Stormwater control is achieved by allowing it to be in a garden area that is open but planted and can treat stormwater; (remainder of comments not clearly audible). The site is very steep and has limitations (remainder of comments not clearly audible).

Chairperson Hanchett asks how deep the swales are in the wall of the patio by the garden area; the response is that the walls are 6 ft. in height and the depth is also 6 ft. He is not a stormwater expert but over the years he has seen many variances given for the property that has been excavated and filled with (not clear), 2 ft. to 3 ft. deep and after a storm no dirt runoff was visible but rather little, tiny stones and feels that all of this should count towards the stormwater calculations. Chairperson Hanchett

comments that this site has lots of ledge and the original soils have been excavated and removed to accommodate the project. She feels that all the steps, stones, walls, etc. are located within 21 ft. of the lake and are therefore too close to the shore. One suggestion is to get a dry well on the edge under the patio with underground piping that feeds runoff back out. Mike Muller responds that there would not be enough room since there currently are huge devices that handle the stormwater from the house right down to the patio at the edge of the pool; it is all down spouted from the gutters. Chairperson Hanchett, understands but mentions the Waterkeeper's suggestion to install a device such as underground perforated piping in a trench that would allow the runoff to naturally feed towards the side yard setback along the stone wall. Mr. Muller responds that both the Town and Mr. Viger's engineers found out that any stormwater practice would be near the well; the response is that 25 ft. is the distance from the well and there is plenty of room on the side to allow this distance and still design a stormwater practice. Additional discussions ensue (some comments are not clearly audible).

Jim Anagnos adds that the stormwater by the pool is on a large impermeable area that will not retain any of the runoff; Mr. Mueller adds that he had several reviews with Dan Barusch and was informed that the pool area does not count. Denise Paddock adds that the runoff goes into a container that could potentially overflow and would not be absorbed. The existing walls do not allow runoff as witnessed during rain storms since they are approximately 14 inches of solid surface. The runoff practice seems to be pitched southerly and has a berm that slightly curves away from the pool. An infiltration basin beneath the pool can capture the runoff. An area with crushed stone can be found underneath the porch all the way to the house. Board Members add that crushed stone holds the water, slows it down but does not dissipate it; in fact, once it hits the bedrock, it goes underneath the wall downwards which explains the need for a 35 ft. setback from the shore.

After further discussions on the runoff, Mr. Muller states that the current system works well with no indication of any problems. The shortcoming of the existing plan is finding a retention area that can address harder surfaces (comments are not clearly audible). Other questions are asked of Mr. Mueller but the answers are not audible.

Denise Paddock adds that the property is steep with too many hard surfaces. Mr. Muller adds that there are some areas with porous pavement, but it is not recognized by Lake George. Chairperson Hanchett feels that perforated piping could be put outside of the existing drywell, with extra boxes with perforated piping that would go into the soil in the north. Jim Anagnos questions the retention area underneath the pool and the weeping area and feels that this area will be saturated since the water will be able to weep out. Mr. Mueller stands by the engineer's designs and options they are presenting. He then reads the comments from the Town's engineer suggesting to have yearly inspection that can be re-reviewed should it fail.

The Board Members read the comments sent by LaBella (Town Engineer); their opinion is that the variance should be granted. A discussion ensues; Mr. Muller directs the Board to a map showing existing and proposed porous pavement and states that the shaded area is the porous pavement which more than adequately addresses the problem with treating the stormwater. The pavement is not deep, it is like a paved driveway but with a crushed stone base underneath. In response to a question from Mohammad Tariq, Mr. Muller states that the driveway will handle the stormwater; Denise Paddock adds "provided that it is not heavy rain."

A letter from Chris Navitsky is reviewed by the Board and Mr. Muller disagrees with several comments from the letter namely "changes the character of the neighborhood" and that it has "an adverse impact to the neighborhood." (The letter is attached). Denise Paddock is concerned with run off from the porous pavement during heavy rains and believes that the 35 ft. distance from the lake is imposed in order to give the run off a chance to dissipate and be cleaned out. She feels that the site is over developed and in need of a lot of variances but also understands that it is a steep site. Mr. Muller replies that given the situation; the Zoning Board should be granting an approval with the condition that the applicant conducts yearly inspections of the practices to ensure functionality as suggested by the Town Engineer. Denise Paddock continues by stating that the Town's engineer only suggested the yearly inspections that she does not see a need for since the practices have already failed a few times.

Several of the Board Members ask if there is a backup plan should the practice not work; Mr. Muller replies that in the event of a failure, the practice be changed and reconfigured and/or possibly dig deeper. The request is not for the stormwater to be pumped up; the system needs to work by gravity.

Mohammad Tariq states that he is not happy with the digging and suggests a porous pavement with gravel again. Mike Muller replies that it is up to the engineers to suggest the best course of action. Test pits were done in this area as requested by the Town's engineer and it was discovered that there is a lot of underground stone. Jim Anagnos feels that the engineer should have attended the meeting since the Board has a lot of questions.

Chairperson Hanchett adds that the Board is primarily looking at the variance at the front part of the property where the stormwater infiltration devices are 28.8 ft. from the shoreline where they should be located at a minimum of 35 ft. and although the Town Engineer made a recommendation, she does not feel comfortable. Mike Muller agrees that the engineer (Steve Dean) should be present but disagrees with the comments from the Waterkeeper in reference to "influencing the environmental conditions and the neighborhood.) He will ask the engineer to attend the next meeting. Chairman Hanchett would like to see the applicant pursue other options.

Chairperson Hanchett opens the public hearings.

Peter Scott, Mr. Viger's neighbor, agrees that there are rules and everyone should stick to the regulations. He is not an engineer nor is he familiar with the project, however it seems as though both the Town's engineer and the applicant's engineer seem to say the same thing. He and Mr. Viger own these homes and live in them year-around; they are also business owners that contribute to the community. Phil Viger does a lot for the community year after year; a fact that maybe should be taken into consideration. He does a lot for his neighbors and it would be nice for them to enjoy the lake. He suggests that when the regulations are looked at, it would be nice for the Board to consider this component. After listening, he believes that an approval should be granted since both the Town's engineer and Mr. Viger's engineer agree on the solution and the Board should defer to the professionals.

Chairperson Hanchett responds that the Board's responsibility is to look after the lake to make sure that it is around for the next 200 to 300 years.

A motion is introduced by Jim Anagnos; seconded by Mohammad Tariq to table the application as per the following condition:

- * The Board Members recommended that the applicant's engineer, Steve Dean review the stormwater retention plan with LaBella in order to adhere to the Town's Code.

Ayes: 4 Tariq, Paddock, Anagnos, Chairperson Hanchett
Nays: 0
Absent: 2 Nagy, Pontacolony

All in favor, motion carries.

A motion is introduced by Chairperson Hanchett; seconded by Mohammad Tariq to adjourn the meeting at 7:15 p.m.

All in favor, motion carries.

Respectfully Submitted,


Adele Behrmann
Planning & Zoning Clerk

