

Minutes of the Town of Lake George Zoning Board of Appeals meeting held on April 4, 2018 at 6:00 p.m., at the Town Center, 20 Old Post Road, Lake George, New York.

**Members Present:** Gary Moon, Chairman of the Board  
Karen Hanchett, Vice Chairman  
Tom Jenne  
Denise Paddock  
Robert Risman  
Mohammad Tariq, Alternate Member

**Also Present:** Adele Behrmann, Dan Barusch, Michael Muller, Esq., Tom Hutchins, John Hathaway, Gary Hughes and others.

## Acceptance of the Minutes

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**A motion is introduced by Tom Jenne; seconded by Chairman Moon to approve the minutes of December 6, 2017 as submitted.**

**All in favor, motion carries.**

## PUBLIC HEARINGS

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- 1 Application for Area Variance AV1-2018 submitted by Philip & Judith Viger with Tom Hutchins, Michael Muller, Esq. and Gary Hughes as agents with a proposal to replace a structure damaged by fire with a new single family dwelling. Variances requested are to allow fill in the area of the previous residence and setback relief for distance from infiltration devices to a well and 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 References are 175-23, 175-37 & 175-27B(1). SEQRA is Type II.**

**Tom Jenne reads the application into the record.**

**A motion is introduced by Karen Hanchett; seconded by Denise Paddock to accept the application as read.**

**All in favor, motion carries.**

Michael Muller, Esq. begins by stating that he is accompanied by Gary Hughes, the designer for the project and Tom Hutchins, the engineer for the stormwater and other specific plans. They are here to answer any questions the Board may have especially those related to stormwater. He continues by providing answers to the criteria the Zoning Board has to give consideration to as follows:

- The applicant chose not to rebuild in the same spot but rather is moving the house back further away from the lake which created a hole that will require bringing fill in the overlay district which requires a variance. The other requested variance is for setbacks relief for distances from infiltration devices to a well and to the lake. The requested distance to the well is 11 ft. and although it sounds very close, when considering the

site's topography, the well is actually up gradient from the infiltration device and in a casing. Therefore the variances requested will not produce an undesirable change to the neighborhood.

- Whether the benefit sought can be achieved by some other method. The pre-existing residence's area would be compliant; however the need for the variances is due to the fact that the house location was moved back thus further away from the lake.
- Are the requested variances substantial? Realistically, in reviewing the overall project, it is an improvement. No physical or environmental effect will be produced in the neighborhood.
- The difficulty is not self-created because the size of the lot is pre-existing and non-conforming and the prior house has been destroyed by fire.

Mr. Muller adds that the house burned down in 2017 and not 2016 as indicated on the application.

Tom Hutchins begins by stating that he will go through the site drawings which should cover most of the issues. The first sheet is an updated boundary & topographic survey done after the house had been removed but shows its prior location; it also shows the existence of nice hardscaping and landscaping that will be maintained. The demolition drawing shows the locations of both the prior and the proposed houses. The new location is approximately located 20 ft. further back from the lake and it is compliant. In responding to a question posed by Tom Jenne, Tom Hutchins confirms that the square footage of the proposed home is 3,085 sq. ft. including the garage 300 ft. larger than the prior house which was 2,737 sq. ft. The grading plan shows an increase in impervious area as for the landscaping some of it will remain as it currently exists. The proposed landscaping shows a reduction of the driveway area by approximately 300 sq. ft. +/-.

Tom Jenne asks how deep the well is, Tom Hutchins replies that he doesn't know the depth however it is a cased drilled well into bedrock. He then directs the Board to the map showing the location of the well which is the north side of where the north eastern corner of the house will be. He continues by stating that the stormwater controls for the driveway have been improved by installing some shallow trenching for the roof area of the entire house which was non-existent in the past. In response to a question from Tom Jenne asking if any analysis has been done on the stormwater retention systems, Tom Hutchins replies a complete stormwater model has been prepared to the Town's major criteria and submitted to the Planning & Zoning office that shows a significant reduction in runoff.

Dan Barusch reminds the Board that as in relation to the stormwater, they should be looking for the horizontal separation distances of the infiltrations to the lake and the well. The SWIPP was received by the applicant and submitted to Chazen for their review. Denise Paddock asks if all these extra stormwater controls can manage more than one 100 year storm; Dan Barusch replies that this is an engineer's prevue and it exactly what he or she would be hired to do. He reminds the Board that the variance in question is for the horizontal separation distance to the water and the well and it has absolutely nothing to do with water volume retention.

A brief discussion ensues among the Board Members relating to stormwater controls that will be in place around the well area. Tom Hutchins informs Bob Risman and the Board that these are not stormwater controls but rather stormwater separations with one device collecting water from the roof and infiltrating it which was nonexistent before. Currently, the whole basin discharges to the lake and the goal of these stormwater devices is to try to stop some of the discharge; this project is a vast improvement to what is on the site now.

A motion is introduced by Denise Paddock; seconded by Bob Risman to approve Area Variance AV1-2018 as submitted as per the following criteria as expressed by Denise Paddock:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***Based on what is being presented, it seems that this area will not affect the neighborhood; in fact it will improve it and the house will sit back further from the lake.***

- 2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***Since this lot is already nonconforming and needing a variance no matter what the project is, putting the house further back with lots of stormwater controls seems to be a good idea. This would be a good improvement to what is there now.***

- 3) Whether the requested area variance is substantial.

***The fill is not substantial; the stormwater setback is probably substantial but necessary.***

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district,

***I agree with the answer that the applicant gave: "The proposed variance would improve the physical and environmental conditions in the neighborhood as it would place a new home in the area of the previous home that was destroyed by fire.***

- 5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

***No, the alleged difficulty was not self-created; the house was destroyed by fire and they would like to build a new one.***

Ayes: 5 Risman, Jenne, Hanchett, Paddock, Chairman Moon  
Nays: 0  
Abstain: 0

All in favor; motion carries.

2. Application for Area Variance AV2-2018 submitted by John Hathaway with a proposal to replace an existing deck with a 10 ft. x 14 ft. deck. Two variances are requested: lot coverage relief of 1% where 62.5% is requested, 70% is required and 63.5% is existing. Right side setback relief of 2 ft. where 8 ft. is requested, 15 ft. is required and 10 ft. is existing and relief for expansion of a non-conforming structure; for property located at 5 Latham Rd. Tax Map No. is 264.07-2-16. Lot size is 0.13 acres. Zoning Classification is RSH. Code Reference is 175-63. SEQRA is Type II.

Chairman Moon reads the application into the record.

Dan Barusch confirms that the applicant paid the fee even though it is not indicated on the application.

**A motion is introduced by Tom Jenne; seconded by Karen Hanchett to accept the application as complete.**

**All in favor, motion carries.**

John Hathaway introduces himself for the record.

Tom Jenne confirms that the old deck is most likely in disrepair and will be replaced by a new deck which will be 2 ft. bigger. He then asks if the applicant will be making major changes to the footers. John Hathaway explains that in this case there will be no ground disturbance since he plans to cantilever the deck approximately 2 ft. utilizing the same footings. It will be a new deck with new rails with no need for heavy equipment. He will not do the work himself but rather he has hired contractors.

Dan Barusch adds that this is a pre-existing, non-conforming structure and the expansion of one is included in the variance request. John Hathaway mentions for the record, that Dan was extremely helpful throughout the entire process especially with giving him the site information.

No one from the public was present for the public hearing.

**A motion is introduced by Tom Jenne; seconded by Denise Paddock to close the public hearing.**

**All in favor, motion carries.**

**A motion is introduced by Tom Jenne; seconded by Denise Paddock to approve Area Variance AV2-2018 as submitted as per the following criterial as expressed by Tom Jenne:**

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

***No, the small scope of the deck enhancement and enlargement will not produce an undesirable change or detriment to the character of the neighborhood.***

- 2) Whether the benefit sought by the Applicant can be achieved by some method, feasible for the Applicant to pursue, other than an area variance.

***No, if you have a bad deck that needs to be replaced other than being a little bit larger, there is no other way to achieve it without an area variance.***

- 3) Whether the requested area variance is substantial.

***Adding 2 extra feet to a deck is not considered substantial.***

- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

***It actually can enhance the physical environment due to the fact that old, rotted wood is being replaced by new wood.***

- 5) Whether the alleged difficulty was self-created which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

***The deck on this pre-existing, non-conforming structure is to the point where it is dilapidated; the applicant proposes to replace it, enhance it and secure it. It was not self-created and the applicant is taking the necessary steps to fix the problem.***

**Ayes: 5 Risman, Jenne, Hanchett, Paddock, Chairman Moon**  
**Nays: 0**  
**Abstain: 0**

**All in favor; motion carries.**

### **OTHER ITEMS DISCUSSIONS**

Dan Barusch informs the Board that the Park Commission is proposing changes to their stormwater regulations which will trickle down and impact the Town's stormwater regulations. One of the proposed changes is the reduction of the horizontal separation from the stormwater to the lake which will make it a little easier since a lot of the area variances reviewed by the Board were for this reason. Currently the required distance is 100 ft.; the new proposal is to reduce it to 35 ft.

Another change being proposed by the Park Commission is that when retrofitting a project, the applicant needs to provide stormwater controls devices.

A motion is introduced by Chairman Moon; seconded by Tom Jenne to adjourn the meeting at 7:00 p.m.

All in favor, motion carries.

Respectfully Submitted,

Adele Behrmann  
Planning & Zoning Clerk