

## **DRAFT**

Minutes of the Town of Lake George Zoning Board of Appeals meeting held on May 2, 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:** Dan Barusch, Curt Dybas, Charles Schaeffer, Rick White, Cathy Reinhart, Jerry Reinhart and others.

### **Acceptance of the Minutes**

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**A motion is introduced by Karen Hanchett; seconded by Tom Jenne to approve the minutes of April 4, 2018 as complete.**

**All in favor, motion carries.**

### **PUBLIC HEARINGS**

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Chairman Moon opens the public hearings.

**1. Application for Area Variance AV3-2018 submitted by Curtis Dybas as agent for Roger & Linda Glenn with a proposal to construct a 425 sq. ft. addition to the existing non-conforming residence for a family room and entry as well as a 15 ft. x 12 ft. exterior deck; for property located at 15 Lakeview Circle Drive. Tax Map No. is 251.07-1-28. Lot size is 0.34 acres. Zoning Classification is RCH. Code Reference is 175-63(A) & (B). SEQRA is Type II.**

Chairman Moon reads the application into the record.

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

**All in favor, motion carries.**

Curt Dybas introduces the application to the Board. The Glens have owned the house for over 40 years and have decided to upgrade the home with a 425 sq. ft. addition which will be a great room and a new entrance as ingress into the living quarters rather than through the kitchen. An existing concrete slab will be torn up to accommodate the addition and a 180 sq. ft. deck with a view of the lake will be built. The age of the house makes it non-

conforming and variances are needed for any changes however the removal of the concrete deck and part of the driveway increases the permeability of the site.

Chairman Moon opens the public hearings for this project with no response.

**A motion is introduced by Karen Hanchett; seconded by Tom Jenne to close the public hearings.**

**All in favor, motion carries.**

**A motion is introduced by Tom Jenne; seconded by Karen Hanchett to approve Area Variance AV3-2018 as submitted based on the following criteria:**

- 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, there is not going to be a change in the character of the neighborhood which is very styled and dating back to the 60s.***

- 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, there is no other method due to the fact that the home is pre-existing and non-conforming, there is no other option other than an area variance.***

- 3) Whether the requested area variance is substantial.

***No, based on the fact that it is a bump out of 425 sq. ft. and it is moderate compared setbacks and height requirements.***

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

***No, there are various types of structures with bump outs and such and this dwelling would fit right into the neighborhood.***

- 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.

***It is self-created but since it is a non-conforming, pre-existing structure, this is the only option to make it legitimate.***

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

**All in favor, motion carries.**

**2. Application for Area Variance AV4-2018 submitted by Charles Schaeffer with a proposal to replace an existing shed with a new 8 ft. x 20 ft. shed; for property located at 10 Lake Street. Tax Map No. is 251.20-1-33. Lot size is 0.12 acres. Zoning Classification is RSH. Code References are 175-63(A) & (B). SEQRA is Type II.**

Tom Jenne reads the application into the record. The application includes photos and a plot plan from the applicant, as well as comments letters and emails from neighbors.

The Board Members have a conversation on whether the application should be deemed complete due to the fact that some material is missing. Chairman Moon states that the application should be read into the record prior to the presentation by the applicant and confirms with the applicant that the proposed shed is currently encroaching on the neighbor's property; however the granting of the variance would place the shed on Mr. Schaeffer's property thus removing the encroachment.

Charles Schaeffer replies that he discussed the project with the neighbor and explained that the reason for a larger shed is to accommodate the need for storage for his large family. The new, proposed larger shed would be close to the boundary line but not encroaching on the neighbor; the neighbor replied that the proposal is not acceptable. Mr. Schaeffer talked to his attorney and doesn't want to pursue any other avenues other than replacing the current shed with a larger one close to his property line. The size of the lot and the proximity of the shed to a shared driveway don't allow him any other options.

Chairman Moon states that the application will be accepted but asks if any consideration was given for storage underneath the deck. Mr. Schaeffer replies that the deck is only 1 ft. off the ground and he plans to remove it. Bob Risman adds that if the shed was placed 25 years ago, there should be a permit in the files but no permit was found and no one knows when the shed was placed there.

Dan Barusch informs the Board that the application can be accepted into the record but it cannot be approved because the information on the application and the public hearing notices are not correct. The options are to either accept it as complete with the possibility for the applicant to modify it in the future or deem it incomplete and have the applicant amend the current application and come back. An amended survey by Devin Dickinson shows the 1 ½ ft. encroachment but was not distributed to the Board because it was not part of this application.

Tom Jenne leans toward not accepting the application so not to set a precedent by making changes to it mid-stream. Bob Risman believes that a survey obtained after the submission that demonstrates the encroachment is pretty strong. Mr. Schaeffer reminds the Board that his intentions are to correct the encroachment by moving the shed on his property line and should there be a postponement, then he may pursue taking the encroached property by adverse possession. Bob Risman reminds Mr. Schaeffer that any changes in ownership of the property need to be brought up to the Assessor's attention. Chairman Moon states that the Board is duty bound to table the application since it is not correct; Mr. Schaeffer asks to withdraw the application. Dan Barusch reminds him that no matter what happens in the future, he will still have to appear in front of the Zoning Board; Mr. Schaeffer understands.

A discussion ensues among the Board Members and the applicant resulting in the confirmation that a Board cannot accept an application that is not accurate. Mr. Schaeffer understands but was hoping to get an approval based on the new location of the new shed. Denise Paddock asks if he would be willing to plant more trees to screen the shed from the neighbor with the response that there are many trees and bushes currently screening it.

Since no decision is made by the applicant on returning for the June meeting, the application is deemed a sketch plan.

**A motion is made by Chairman Moon; seconded by Tom Jenne to table the application.**

**All in favor, motion carries.**

Jerry Reinhart, one of Mr. Schaeffer's neighbors, informs the Board that he has comments but would rather defer them to the next time the application is reviewed by the Board.

The public hearing is left open.

**3. Application for Area Variance AV5-2018 submitted by Rick White as agent for 16 Newton, LLC, with a proposal to construct stairs and a bridge to a new sun deck and dock; for property located at 16 Newton Street. Tax Map No. 251.20-1-68.1. Lot size is 0.55 acres. Zoning Classification is RSH. Code Reference is 175.16. SEQRA is Type II.**

Bob Risman reads the application into the record.

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

**All in favor, motion carries.**

Rick White, agent for the applicant, describes the application to the Board. The need for two sets of stairs is due to the slope being so steep; the bridge will help connect the steps to the new sundeck and dock thus avoiding winders on the slope. The steps will be built following the contour of the land and should not be very visible. Chairman Moon is wondering how the bridge will be supported on the slope; Mr. White informs him that they are hoping to drill some epoxy fasteners into the existing ledge rock and pin the beams that come across into it. Denise Paddock has the same concerns due to the instability of that whole bank especially if vegetation will be removed. Dan Barusch asks about the amount of clearing that will be done; Rick White responds that they intentionally picked spots that will need minimal clearing. The other alternative, which is more invasive, is creating a switchback "zig-zag" staircase set with landings down to the bank. Bob Risman also voices his concerns; Rick White replies that the owner has plans to eventually replace the existing house with a new one at which point some stabilization for that hill will be addressed.

A discussion ensues about the stability of the bank and the best way to safely construct the stairs and the bridge recognizing that the proposal by the applicant is the least invasive. A question is asked on whether the area to be used is actual bedrock or fill and boulders; Mr. White replies that if not enough bedrock to pin to is found, they would possibly use 2 galvanized steel pylons that would be drilled into the ground between 10-20 ft. deep. Should the latter be the case, they'll contact Dan Barusch for further instructions. Bob Risman asks about the involvement of Warren County's Building Dept. with this project, Mr. White responds that they are not involved with the dock or cribs but just the sun deck, boathouse or anything built above a dock. He adds that most of the construction work will be done from the water and the dock except for the actual staircase which will be built from the top of the lot down but reassuring the Board that there will be no heavy equipment used.

Chairman Moon opens the meeting to the public with no response.

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

**All in favor, motion carries.**

A motion is introduced by Chairman Moon; seconded by Denise Paddock to approve Area Variance AV5-2018 as submitted based on the following criteria:

- 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 short spanned bridge is a commonly used method found along the lakeshore to connect the land or a walkway to a boat dock and it doesn't affect the character of the shore or surrounding properties as much as a new dock itself would with regard to the natural appearance of the shoreline and potential crowding of many dual level boathouses in a short span of shoreline. The increased crowding of the shoreline is not exacerbated by the bridge variance.***

- 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, limitation and the stairway building code that limits the number of stairs required before a break, require a break that this bridge provides, therefore this is the most feasible method with minimal disruption to meet this code.***

- 3) Whether the requested area variance is substantial.

***No, the bridge is a short span and is not a substantial request nor does the bridge have a substantial visible or environmental impact.***

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

***No, the variance will not negatively affect the environmental or physical aspects of the property or the lakeshore as it is only a small portion of the larger impact the additional two level boathouse along the shore.***

- 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.

***Beyond the desire to have a new multi-level boat launch and deck, is not a hardship but the need for a variance in doing so is due to the steep slope of the natural shoreline and the code requirements to minimize the stairway run therefore, it results in the need to obtain the variance.***

Ayes: 5 Risman, Jenne, Hanchett, Paddock, Chairman Moon

Nayes: 0

Abstain: 0

All in favor, motion carries.

A motion is introduced by Tom Jenne; seconded by Chairman Moon adjourn the meeting.

All in favor, motion carries.

Respectfully Submitted,

Adele Behrmann  
Planning & Zoning Clerk