

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS MINUTES
March 22, 2010**

Chairman Stephen Bodnar called the meeting to order at 7:03 p.m. and led the flag salute.

Chairman Stephen Bodnar explained the *Rules of the Board*.

Zoning Clerk Linda McCabe called the roll: Chairman Stephen Bodnar – present, Clifford Hanehan – absent, Thomas Carrangi – absent, Barbara Faraone – present, William Moreau – absent, James Burke – present, Clarence Fosdick – present, and Alternate John Deyoe – present.

Due to the absence of three Board Members, Chairman Stephen Bodnar elevated Alternate John Deyoe to full voting status.

Also present: Zoning Officer Gil Albert, Michael Booth, Andrew Sheeran, Lawrence Lavine, John Witt and other interested persons. (Sign-in sheet is on file in the Clerk's office)

Approval of Minutes: **A motion was made by James Burke and seconded by John Deyoe, to accept the minutes of the January 25, 2010 meeting as written.** Chairman Stephen Bodnar – aye, James Burke – aye, Barbara Faraone – aye, Thomas Carrangi - absent, Clifford Hanehan - absent, William Moreau - absent, Clarence Fosdick - aye, John Deyoe – aye.

Carried 5 – 0

Approved

Order of Business:

Area Variance

**Lawrence Levine #10-01
4 Victoria Lane
Saratoga Springs, NY 12866
S/B/L 206.6-2-26.1 Lake Residential
Location: 1184 Rt. 9P**

Applicant proposes to rebuild his house, with an addition of a second story and using 154 square feet of the old deck as additional living space, while staying within the old footprint. The Applicant is seeking an area variance due to the addition of the second story, and wanting to use part of the old front deck square footage for additional living space.

The Applicant appeared before the Board, handing in his neighbor notification receipts to the Clerk and briefly explaining the reason for needing this variance: His house was hit by some trees in 2005 and other tree branches coming down over the next three years caused significant damage to the house. He tried to salvage the house and, at that time, had gone to the town's Zoning Officer Robert Hathaway to see what he needed to do and was told by him to just go ahead with the project; he did not create the damage so he was exempt from needing a permit. The project then was put on hold and dragged out due to his wife becoming seriously ill. He now is in the position to sell his house in Saratoga Springs and with the help of friends he is rebuilding this house himself. He stated the highest peak is at 29½', his house is set between two neighboring houses and he also has one neighbor behind and off to the right of his home; that neighbor is uphill twenty to thirty feet. He was going to use trusses but then decided to build a small second story because it won't be that much higher and it would be stronger. John Deyoe questioned where the 29½' begins. He was told, by Town Zoning Officer Gil Albert that measurement is from lowest point (base of piers) to highest at entry point to the

home (traditional front of the home). Zoning Officer Gil Albert also added the Applicant needs to watch the pitch since he's 15' from the ground to the bottom of the second floor joists. He cautioned that the Applicant may not be able to do a 6/12 pitch and the Applicant replied he can go 4/12. Zoning Officer Gil Albert questioned if the neighbor in the back was notified and the Applicant responded yes, twice, and the receipts of neighbor notifications are with the Clerk. Barbara Faraone questioned the size of the home and Zoning Officer Gil Albert responded the Applicant is using part of the old deck for living space so he is within the original footprint. Chairman Stephen Bodnar stated it appears much larger than the original house. He then questioned the Applicant if it is necessary to have the second floor. The Applicant responded he originally went with 9' ceilings because he was going to do a single-story but then decided to do a second floor since they have children who will need a place to stay when they are home, and his wife will use the second floor as a studio for her pottery.

Chairman Stephen Bodnar stated he feels it's very unfortunate that the Applicant went so far without getting proper building permits and he wonders why they didn't go back further with the placement of the house. The Applicant responded that they couldn't go back because of power lines, some very large trees and due to the very steep slope there.

Chairman Stephen Bodnar stated the Applicant is here for a second floor variance and Zoning Officer Gil Albert stated that is correct. Chairman Stephen Bodnar asked Town Attorney William Reynolds if the Applicant is in violation legally for starting without a building permit; knowing it was some years ago with the understanding that the Applicant did consult with the previous zoning officer. Town Attorney William Reynolds responded that he has not been instructed by the Town Board to take any legal action against this gentleman based on the fact he is building without a building permit. Zoning Officer Gil Albert stated the Applicant did stop work when he gave him a stop-work order.

The Applicant added that he had been given the okay by Robert Hathaway, who was the Zoning Officer at the time, but then his wife got sick and everything was on hold.

Barbara Faraone stated she has issue with the Applicant - he being a professional; yes trees hit the house but for him to think it's okay to build without a permit - he knows better. The house is different, it is not the same house so that in itself is a change according to building plans and he should have come in for a permit. She also stated she has issue with it being closer to the road. The Applicant stated it is on the same footprint. Mr. Esposito, who worked on the site plan in 2007, stated he didn't think twice about working on the project because Robert Hathaway, who was the Town Zoning Officer/Building Inspector at the time, said they were exempt from needing a permit; he apologized for the misunderstanding with this Board, but three years ago they were given the go-ahead by Robert Hathaway. Chairman Stephen Bodnar responded that he is aware of the extenuating circumstances, but even as a non-professional, had he been given approval to do something but hadn't done anything for 2½ - 3 years, he would definitely go to the town and ask if he was all set to go before he proceeded, especially since the house was now taken completely down and there would be a complete change from the original plan. Chairman Stephen Bodnar then asked the opinion of Zoning Officer Gil Albert. He stated that as professionals, both the Applicant and Mr. Esposito know they needed permits. Aside from that he has no problem as long as the neighbors were properly notified and are okay with this.

Chairman Stephen Bodnar then read a letter from Planning Chairman Ian Murray:

This application was referred to the Planning Board for review by Town Attorney Bill Reynolds. The Applicant explained to Bill that he was repairing and restoring the original camp that had incurred some damage. In the application it states that Mr. Lavine was using the existing footprint and only increasing the structure with a second story, therefore requiring an approval by the Planning Board.

After reviewing the case file with Zoning Officer Gil Albert, completing a site visit and speaking with neighbors, this is not the case. Gil and I have agreed that this is not a Planning Board issue and must be turned over to the Zoning Board for the following reasons:

1. Exceeding the original footprint, living space and total square feet.
2. Adding a second story therefore creating a visual barrier for the neighbors.
3. Encroaching on property line, setbacks and neighbors.

Please call me if you have any questions,

Ian Murray

Chairman Stephen Bodnar then read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact but with the following comment:

The Town should exercise scrutiny when reviewing the elevation of the proposed two story addition to make sure that the neighboring properties view of the lake is not impeded.

After providing Proof of Notice in the Saratogian on March 12, 2010, Chairman Stephen Bodnar opened the Public Hearing at 7:33 p.m. asking those wishing to speak to please stand and state their name and address.

No one came forward. Chairman Stephen Bodnar asked the Board if there were any more questions; finding none, **Chairman Stephen Bodnar closed the Public Hearing at 7:34 p.m.**

John Deyoe made a motion, seconded by Clarence Fosdick to approve the variance conditional upon height being no higher than 29 1/2' from the base of the piers to the peak of the roof at the front of the house (westside/Rt. 9P side of house) and this is to be verified by Building Inspector Gil Albert. Chairman Stephen Bodnar—aye, James Burke – aye, Barbara Faraone– nay, Thomas Carringi - absent, Clifford Hanehan -absent, William Moreau - absent, Clarence Fosdick - aye, John Deyoe – aye.

Carried 4 – 1

Approved

**ANW Holdings #10-02
563 N. Broadway
Saratoga Springs, NY 12866
S/B/L 193.-1-7.11 Rural
Location: Condon Rd.**

**Owner: Pat Dooley
30 Condon Rd.
Stillwater, NY 12170**

Applicant has proposed a three lot subdivision to the Planning Board. The Planning Board has sent this Applicant to the Zoning Board of Appeals because it would like a shared driveway for two of the parcels to ensure safe access onto Condon Rd. The Applicant is seeking a road frontage variance of 82' in order to move forward with this proposal.

John Witt of ANW Holdings appeared before the Board on behalf of the Applicant explaining that he is looking to subdivide this property into three lots. All the lots meet zoning on acreage: one lot is 3.1 acres with 261' of frontage, another lot is 4.5 acres with 220' of frontage and the last is 18+/- acres with 218' of road frontage and that is the lot he needs this variance for since 300' of frontage is required. John Witt then reviewed his plan with the Zoning Board showing two driveways; one for lot 4B and one for lot 4C. Town Attorney William Reynolds questioned Mr. Witt, to be clear, that he had been before the Planning Board and Mr. Witt responded yes, stating they advised him when he showed the first option of four lots, that he'd have to put a

road in there and he didn't want to go to that expense. He showed them this option, which the Planning Board liked, and said they had talked about cul-de-sacs, private driveways, this and that. Town Attorney William Reynolds then stated that Mr. Witt had changed the original plan and the Planning Board sent him here for a variance for this new plan and Mr. Witt answered yes.

Zoning Officer Gil Albert questioned if Mr. Witt was proposing two driveways here and he responded yes. Zoning Officer Gil Albert then stated the impression he had from Planning Board Chairman Ian Murray is that this variance was supposed to be for a shared driveway on the boundary line, and the driveway was to be up near the bend because of blind sight, not two driveways. Mr. Witt said yes, because of line of sight you'd want that there. Zoning Officer Gil Albert stated you were to do a shared driveway according to Planning Chairman Ian Murray. Mr. Witt said he didn't propose a shared driveway, he showed this plan to that Board. He added he'd have to adjust the property line then to do that and Zoning Officer Gil Albert said correct. Zoning Officer Gil Albert also stated he had spoken with Marci at Mr. Witt's office telling her that this had to be a shared driveway and that the numbers had to be flexible on the variance until a line of sight was completed. Mr. Witt said he knew nothing about this. Zoning Officer Gil Albert stated he had spoken with Planning Board Chairman Ian Murray many times and it was clear the Planning Board stated this is to be a shared driveway. Mr. Witt stated he knows nothing about that. Zoning Officer Gil Albert reiterated that he knows Planning Chairman Ian Murray had not only spoken with himself, but also directly with Mr. Witt. He then asked Planning/Zoning Clerk Linda McCabe if it was made clear at the Planning Board meeting that this Applicant was being sent here for a variance for a shared driveway and the Planning/Zoning Clerk Linda McCabe responded yes, that is what the Planning Board told Mr. Witt at the meeting, and Mr. Witt had said he would make it look like a country lane. Chairman Stephen Bodnar then asked if anyone had any objections to this project; no one had. Chairman Stephen Bodnar stated he believes this Board will not have any objections to it, but Mr. Witt needs to come back with a clear understanding of what he is looking for and the Board will be able to proceed with the public hearing at that time.

Mr. Witt stated he believed a neighbor had written a letter. Chairman Stephen Bodnar then read a letter from neighbor Mr. Wilmot & Ms. Taylor of Stepwise Farm, in favor of the project; this is on file in the Clerk's office.

Chairman Stephen Bodnar made a motion, seconded by John Deyoe to postpone any action on this application until Mr. Witt provides clear information on what he needs from the Zoning Board of Appeals. Chairman Stephen Bodnar—aye, James Burke – aye, Barbara Faraone—aye, Thomas Carrangi - absent, Clifford Hanahan -absent, William Moreau - absent, Clarence Fosdick - aye, John Deyoe – aye. **Carried 5 – 0**
Postponed

Michelle McClure and Andrew Sheeran #10-03
178 Co. Rt. 69
Schuylerville, NY 12871
S/B/L 182.-2-16 Rural

Applicants have proposed opening a Bed & Breakfast (B & B) to the Planning Board. The town regulations require a B & B to have a frontage setback of 75', and the Applicants have 50'. The Planning Board has sent the Applicants to the Zoning Board of Appeals to request a 25' frontage setback variance because they do not meet Town Zoning Regulations. The Bed & Breakfast will be located at 178 Co. Rt. 69, Schuylerville, NY.

Andrew Sheeran appeared before the Board explaining that he and Michelle McClure are seeking a Special Use Permit through the Planning Board, for a Bed & Breakfast (B & B) and due to Town Regulations requiring 75' of frontage setback for a B & B, the Planning Board has sent them to the ZBA for a 25' frontage setback variance since they have only 50'. He also stated that the house covers 1.8% of the property and they have three greenhouses although they are allowed four, so they do not exceed the percentage of property coverage.

Chairman Stephen Bodnar questioned if they had plans to construct any more buildings and the Applicant answered no.

John Deyoe questioned how many bedrooms would be used for this and the Applicant answered three.

Zoning Officer Gil Albert stated he has no problem with this project.

Chairman Stephen Bodnar then stated that since the only way, aside from a variance, to bring this to code would be to move the location of the house, the Planning Board has sent the Applicant to the ZBA for this variance. Chairman Stephen Bodnar asked if there were any other questions from the Board; there were none.

Chairman Stephen Bodnar read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact.

After providing Proof of Notice in the Saratogian on March 12, 2010, Chairman Stephen Bodnar opened the Public Hearing at 7:56 p.m. asking those wishing to speak to please stand and state their name and address.

Walter and Lisa Taras, 182 Co. Rt. 69, voiced their concerns and disapproval to the Board.

Chairman Stephen Bodnar asked the Board if there were any more questions; finding none, **Chairman Stephen Bodnar closed the Public Hearing at 8:03 p.m.**

Clarence Fosdick made a motion, seconded by John Deyoe to approve the 25' road frontage setback variance as applied for; for this will not change the character of the area.

Chairman Stephen Bodnar—aye, James Burke— aye, Barbara Faraone— aye, Thomas Carrangi-absent, Clifford Hanehan-absent, William Moreau-absent, Clarence Fosdick-aye, John Deyoe – aye. **Carried 5 - 0**

Approved

Zoning Officer Gil Albert questioned private drives and frontages stating we need solid interpretation on this.

Old Business: None

New Business: None

Barbara Faraone made a motion, seconded by Clarence Fosdick, to adjourn the meeting at 8:15 p.m. Chairman Stephen Bodnar—aye, James Burke— aye, Barbara Faraone— aye, Thomas Carrangi-absent, Clifford Hanehan-absent, William Moreau-absent, Clarence Fosdick-aye, John Deyoe – aye. **Carried 5 – 0**

Adjourned

The next Zoning Board of Appeals meeting will be held April 26, 2010.

Respectfully submitted,

Linda McCabe
ZBA Clerk