

**TOWN OF SAND LAKE  
ZONING BOARD OF APPEALS  
Thursday, May 12, 2022 - 7:00 PM  
SAND LAKE TOWN HALL**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ATTENDANCE**

**Area Variance Application with Public Hearing**

Paul Wehnau, Jr. (Applicant/Property Owner)  
23 Johnny Cake Lane  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 159-.1-2-14

**Lot Size:** .83 acres

An Area Variance Application for insufficient lot width and reduced lot size related to a boundary line adjustment.

**Area Variance Application with Public Hearing**

Gordon & Joyce Hull (Applicants/Property Owners)  
Sheer Road  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 158.-2-66.12

**Lot Size:** 5.5 acres

An Area Variance Application for insufficient road frontage related to a minor subdivision.

**DRAFT MINUTES FOR APPROVAL**

January 13, 2022  
February 10, 2022  
March 10, 2022  
April 14, 2022

**ADJOURNMENT**

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
January 13, 2022**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Melissa Toni opened the meeting at 7:04 PM

MEMBERS PRESENT: Geraldine Burger  
Amy Lent  
Craig Crist, Esq.

MEMBERS ABSENT: Scott Bendett

OTHERS PRESENT: Dan Sanchez, James Wohlfred, Eileen Ranken, Terry Meissner, Christine Hennessy, Monica Ryan (Town Planner)

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Melissa Toni (MT) explained the process for the following Area Variance applications.

**Area Variance Application and Public Hearing**

Christine Hennessy (Applicant/Property Owner)  
Burden Lake Road  
Averill Park, NY 12018  
R-Residential Zoning District

**Tax Map #:** 169.2-1-89.2  
**Original Lot Size:** 4.096  
**Proposed Lot 2B Size:** 2.004 acres

An Area Variance application regarding a proposed subdivision to create a lot that exceeds the 3:1 lot depth to width ratio.

Contractor Dan Sanchez represented the project. Mr. Sanchez summarized the project which was initially presented at the December 9, 2021 Zoning Board of Appeals (ZBA) meeting. With no further questions from Board members, Melissa Toni (MT) motioned to open the Public Hearing at 7:03pm; seconded by Amy Lent (AL) and all approved. MT stated that the lot depth to width ratio would be 3:42 versus the required 3:1 which equated to a 14% variance; thus, not considered substantial. MT noted that discussions had taken place on alternative layouts however the proposed option seemed the most feasible. Geraldine Burger (GB) stated she did not believe the shortage of lot width had any adverse impacts and felt the proposal was an agreeable compromise. James Wohlfred stepped forward and stated that he resided across the street at 5 Gundrum Point Road. Mr. Wohlfred viewed the survey map with the contractor who stated that the driveway would come in from Burden Lake Road. Mr. Wohlfred noted it was not a large variance being requested and added that he did not see any issue with the project. Eileen Ranken stated that her property adjoined the property of the proposed project. She discussed with the contractor the layout of the proposed homes and spoke of a large amount of water that came off the nearby hill. Mr. Sanchez stated that he was aware of the water flow. Ms. Ranken asked if any work would be done that could affect the flow of water to her pond. Mr. Sanchez stated that the homes would be built closer to the road; therefore, would be below her pond

and that area not disturbed. Ms. Ranken then asked if any blasting would be done to which Mr. Sanchez replied no. She then asked how far from the property line would the homes be located. Mr. Sanchez replied that both houses would be centered on the lots; therefore, would be at least 50' away on each side. He added that he would have the surveyor Kevin McGrath layout the stakes for the property and homes should the variance be granted. Ms. Ranken indicated she was fine with the project. MT noted that the proposed homes would be downstream from Ms. Ranken's pond and asked if a culvert would be placed at the driveway to which Mr. Sanchez replied yes. With no further questions, MT motioned to close the Public Hearing at 7:11pm; seconded by GB and all approved. MT noted that as the project was related to a Minor Subdivision, the ZBA had asked the Planning Board for a Recommendation and a positive one was received. Monica Ryan stated that the Planning Board vote on the Recommendation was 3 to 2 in favor as one member was absent, and one had abstained. MT noted that the requested Area Variance fell within what had been approved in the past.

MT motioned to declare the Town of Sand Lake Zoning Board of Appeals be the Lead Agency under SEQRA; seconded by AL and all approved. MT motioned to classify the project as an Unlisted Action and gave it a Negative Declaration for any environmental impacts; seconded by AL and all approved.

MT read the criteria that ZBA members considered upon making the determination for the requested area variance.

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.*

MT noted that a few public comments had been heard which indicated there was not in impact on the neighborhood. She added that the property did not appear to have an impact as two lots would be created and only one needed an area variance. MT stated that it would add housing to an area that was zoned residential; thus, fitted in with the neighborhood. Board members agreed it would not cause a detriment or undesirable change 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.*

MT noted that the project had been configured as best as possible to achieve the desired outcome. She added that discussions on the possibility of shifting the subdivision in a different manner would result in an undesirable layout of the lots. Board members agreed.

3. *Whether the requested area variance is substantial.*

MT stated that a 14% variance was being requested which was well within what had been approved. She indicated that the ZBA tended to stay conservative on the 3:1 lot depth to width ratio requests, Board members agreed.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

MT stated that a concern heard from the public was about water runoff; however, it was stated that the pond discussed would be upstream from the future construction area. She noted that the contractor indicated that a culvert would be placed at the driveway to direct the flow of water from a nearby stream. Board members agreed with the statement made by MT.

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.*

MT stated that, as with many of the requests before the ZBA, the difficulty was self-created.

MT additionally noted that blasting for a foundation had been discussed and the contractor stated that there would not be blasting for the foundation to be placed.

MT motioned to approve the Area Variance application as submitted; seconded by AL and all approved.

**Area Variance Application**

Darren Katz – Saxton Sign Corporation (Applicant)  
Ivo Garcia – Dunkin Donuts (Property Owner)  
3696 NY 43  
West Sand Lake, NY 12196  
HC – Hamlet Commercial Zoning District

**Tax Map #:** 146.2-5-36

**Lot Size:** .465 +/- acres

An Area Variance application related to proposed business signs exceeding the number of allowed signs.

Terry Meissner of Saxton Signs represented the project. Mr. Meissner stated that he understood that the signs on the building had been previously approved, and he was there for the directional signs. Monica Ryan clarified that no signs had been approved yet for the project. Ms. Ryan explained that the business would be allowed a total of three signs; however, the application proposed a total of seven signs: a freestanding pylon sign on Route 43, a wall sign on the side of building facing the laundromat on Route 43, a wall sign on front of building facing Route 43 and four smaller onsite signs by the entrance and exit (2 on Route 43 and 2 on Route 150). It was noted that the “Do not enter” sign did not count for Zoning purposes as it was interior to the property, and clearly a vehicle directional safety sign. She further explained that the Planning Board could not decide on the Sign Placement application until the plans were finalized with the outcome of the ZBA. Mr. Meissner explained the proposed signage and stated that the pylon sign by the road on Route 43 would be 12’ high x 30” inches wide, double-sided, and illuminated. A discussion ensued on the clarification for the layout of the signs on the site.

MT explained the current actions to be taken for this application was: 1) ZBA seek a Recommendation from the Planning Board; and 2) deem whether the application was complete, and if so, schedule a Public Hearing. MT indicated she was considering a site visit with a yardstick for a visual effect on the proposed signage.

MT motioned to seek a Recommendation from the Planning Board; seconded by AL and all approved. MT then stated that she anticipated changes and believed the Planning Board may also seek modifications; thus, was uncertain if the Public Hearing should be scheduled. Craig Crist (CC) stated that if the Public Hearing were scheduled at this time and then modifications needed, the finalized information would not be available for the public to view resulting in the need to reschedule the Public Hearing. Board members agreed that the PB may recommend revisions to the project; therefore, were reluctant to deem the application complete and set the Public Hearing. It was noted that if the four smaller directional signs were removed from the plans, the project could then just move onto the Planning Board for Sign Placement Review as an area variance would no longer be needed. MT asked Mr. Meissner if he wished to move forward with the scheduling of the Public Hearing or wait until the PB weighed in. Mr. Meissner agreed to wait.

**APPROVED RESOLUTIONS**

**Area Variance for Thomas & Michele Darling**

MT motioned to waive the full reading of the draft Resolution; seconded by AL and all approved.  
MT motioned to approve the Resolution in its entirety; seconded by AL and all approved.

**Area Variance for Edward Seabury**

MT motioned to waive the full reading of the draft Resolution; seconded by AL and all approved.  
MT motioned to approve the Resolution in its entirety; seconded by GB and all approved.

**ADJOURNMENT**

MT motioned to adjourn the meeting at 7:53pm; seconded by GB and all approved.

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
February 10, 2022**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

CALL TO ORDER: Melissa Toni opened the meeting at 7:00PM

MEMBERS PRESENT: Scott Bendett  
Geraldine Burger  
Amy Lent  
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: Terry Meissner, Dennis Tremont, Nicole Connelly, Monica Ryan (Town Planner)

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

**Area Variance Application**

Darren Katz – Saxton Sign Corporation (Applicant)  
Ivo Garcia – Dunkin Donuts (Property Owner)  
3696 NY 43  
West Sand Lake, NY 12196  
HC – Hamlet Commercial Zoning District

**Tax Map #:** 146.2-5-36

**Lot Size:** .465 +/- acres

An Area Variance application related to proposed business signs exceeding the number of allowed signs.

Melissa Toni (MT) noted that the project was presented at the ZBA meeting of January 13, 2022 where questions were raised by Board members and a Recommendation was sought from the Planning Board (PB). MT noted that the PB had responded with a Negative Recommendation and asked for application amendments. She added that the application would now be reviewed for completeness and scheduling of a Public Hearing.

Terry Meissner of Saxton Signs represented the project. Mr. Meissner stated that based on the discussions of both Boards, it was decided to remove the four “directional” signs that had been proposed by the entrances/exits and remove the proposed pylon monument sign. He stated that in place of the proposed pylon monument sign, it would be replaced by a 3<sup>rd</sup> “DD” sign on the Route 150 side of the building above the drive-thru window. He added that the third building wall sign would match in design and size as the one being placed on the front of the building. The site plan for the layout of the building signs was reviewed. Monica Ryan stated that an Area Variance would be needed for the placement of the 3<sup>rd</sup> building wall sign. It was noted that the one “Do Not Enter” ground sign internally located on the lot by the drive-thru would remain for safety purposes. It was mentioned that the signs would not be internally lit however would have the external gooseneck lighting. MT asked if renderings were available that reflected the latest proposal to which Mr. Meissner replied no as the company was finalizing them.

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It was agreed that if the renderings were provided prior to the Public Hearing notice being published, the ZBA could deem the application complete and schedule the Public Hearing.

MT motioned to deem the application as complete with agreed upon amended renderings, which include the rescinding of the 4 directional signs and replacement of the pylon monument sign with a 3<sup>rd</sup> building wall sign, and that these submissions must be received at Planning Office by March 1, 2022. MT also included the scheduling of the Public Hearing for March 10, 2022. The motion was seconded by Amy Lent (AL) and all approved.

**Use Variance Application**

Dennis Tremont – Ace Hardware (Applicant)  
2897 NY 43  
Averill Park, NY 12018  
HMU – Hamlet Mixed-Use Zoning District

**Tax Map #: 148.-6-2.12**

**Lot Size: 5.07 acres**

A Use Variance application for a proposed electronic message center business sign.

Dennis Tremont presented and referred to the road sign pictures submitted with the application. Mr. Tremont stated that the proposed project was to replace the hand message section of the business road sign with an electronic message board. He added that that area of the sign would remain the same size.

MT explained that the application was to be reviewed by Board members for completeness prior to scheduling a Public Hearing. MT explained that the requested project required a Use Variance as the Zoning Code prohibits the use of electronic message centers in the Town of Sand Lake. Craig Crist (CC) asked how many times a day would the electronic message sign change. Mr. Tremont replied that it would not probably change by the day and added that the thought was to also display public community events. CC stated having limited changing of the information displayed throughout the day would be better as less of a distraction for drivers. Ms. Ryan asked at what height the electronic message board be to which Mr. Tremont replied approximately 8' to the top of it.

With no further questions from the Board members, MT motioned to schedule the Public Hearing for March 10, 2022 at 7:00pm; seconded by Scott Bendett (SB) and all approved.

**Area Variance Application**

Nicole Connelly & James West (Applicants)  
Charles & Joanne Connelly (Property Owners)  
57 Connelly Way  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #: 148.-6-2.12**

**Lot Size: 5.07 acres**

An Area Variance application for an insufficient side yard setback for the replacement of an existing dwelling with a new single-family dwelling.

Nicole Connelly and surveyor William Glasser were present. Mr. Glasser represented the project and stated that the applicant was seeking a side yard variance for a new single-family dwelling. He explained that a camp currently existed which had an 8.7' side setback and the new dwelling would be 11.5' on the same side. He added that on the other side of the camp there was a side setback of 12.6' and the new setback would be 11.5' which required the variance. Mr. Glasser stated that the location of the new dwelling would be more than 100' from the lake. Ms. Connelly stated that the existing camp would be removed prior to the build of the new dwelling. The survey map was viewed, and Mr. Glasser noted that

the new dwelling would be centered at 11.5' on both sides of the lot. Ms. Connelly pointed out that her parents currently owned the lot under discussion as well as the adjacent lot. It was noted that the new dwelling would be like those in the neighborhood with a walkout basement and two floors above. Ms. Ryan confirmed that the Building Inspector had done a few sight visits to view the height fluctuations in the topography. She stated that he had noted that a small portion of the new dwelling's height would be at 40' however would taper down below 35' due to the topography; thus, no variance relief needed as the new dwelling's average height would be 35' or less. MT stated it did not appear that the new build would be at 30% impervious to which Mr. Glasser agreed. Geraldine Burger (GB) indicated she felt all the necessary information had been received to which Board members agreed.

With no further questions, MT motioned to schedule the Public Hearing for March 10, 2022 at 7:00pm; seconded by GB and all approved.

#### **APPROVED RESOLUTIONS**

##### Negative Declaration for Christina Hennessy

MT motioned to waive the full reading of the draft Negative Declaration; seconded by SB and all approved.

MT motioned to approve the Negative Declaration in its entirety; seconded by SB and all approved.

##### Area Variance for Christina Hennessy

MT motioned to waive the full reading of the draft Resolution; seconded by GB and all approved.

AH motioned to approve the Resolution in its entirety; seconded by GB and all approved.

#### **DRAFT MINUTES FOR APPROVAL**

MT motioned to accept the November 16, 2021 minutes as presented; seconded by GB and all approved.

MT motioned to accept the December 9, 2022 minutes as presented; seconded by GB and all approved.

#### **ADJOURNMENT**

MT motioned to adjourn the meeting at 7:24pm; seconded by SB and all approved.

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
March 10, 2022**

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CALL TO ORDER: Melissa Toni opened the meeting at 7:00PM

MEMBERS PRESENT: Scott Bendett  
Amy Lent  
Sherwood Palitsch  
Scott A. Blair  
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: Terry Meissner, Dennis Tremont, William Glasser, Nicole Connelly, James West, Robert Dressner, Norman McAfee, Joan Connelly, Kevin Brunick

RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Melissa Toni (MT) welcomed new Board members Sherwood Palitsch and Scott Blair. She then explained the Area Variance and Use Variance processes.

**Area Variance Application and Public Hearing**

Darren Katz – Saxton Sign Corporation (Applicant)  
Ivo Garcia – Dunkin Donuts (Property Owner)  
3696 NY 43  
West Sand Lake, NY 12196  
HC – Hamlet Commercial Zoning District

**Tax Map #:** 146.2-5-36

**Lot Size:** .465 +/- acres

An Area Variance application related to proposed business signs exceeding the number of allowed signs.

Terry Meissner of Saxton Sign Corporation represented and summarized the amended sign project which had been presented at the February 10, 2022 Zoning Board of Appeals (ZBA) meeting. It was explained that all external gooseneck lighting on the signage had been eliminated as they would not fit in the peaks of the building. The latest sign plan was viewed. MT stated that Question 20 on the SEQR short form completed by the applicant regarding remediation for hazardous waste being checked as “no” was incorrect. She explained that as the site had been a gas station and had some remediation, the answer to that question should have been checked “yes”. Mr. Meissner stated that he believed then the answer should have been checked “yes”. MT indicated that the form would be corrected.

CC read the criteria that is to be considered by the ZBA upon the review of an area variance request. MT motioned to open the Public Hearing at 7:12pm; seconded by Amy Lent (AL) and approved by all.

Robert Dressner also referred to Question 20 on the SEQR short form completed by the applicant regarding remediation of the site to which “no” was checked. Mr. Dressner then stated that as he had



previously worked at the Town, he was aware that some remediation had taken place at the site; thus, glad to see that the SEQR form will be corrected. He added that it was good to hear that the overall project aligned with the Comprehensive Plan for the center of Town. Mr. Dressner closed by asking if the large vertical pylon/monument sign was removed to which MT replied yes.

With no further questions, MT motioned to close the Public Hearing at 7:15; seconded by Scott Bendett (SB) and all approved. MT motioned to classify the project as a Type 2 action and declared the Town of Sand Lake ZBA as Lead Agency; seconded by AL and all approved.

MT then individually covered the criteria that ZBA members considered upon making the determination for the requested area variance.

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.*

MT noted that the number of signs originally proposed had been reduced significantly; thus, the variance requested was just for a third unlit "DD" building wall sign facing Route 150. Board members agreed that the requested 3<sup>rd</sup> building wall sign was small and be unlit; thus, would not cause a detriment or undesirable change 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.*

MT noted that many discussions had taken place and resulted in a much smaller sign. Board members agreed.

3. *Whether the requested area variance is substantial.*

MT stated that the request for a third building wall sign was not viewed as substantial taking into consideration that it is a corner lot. Board members agreed.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

MT stated that the request for a third building wall sign was not seen to have an adverse impact on the neighborhood or district. Board members agreed with the statement made by MT.

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.*

MT stated that, as with many of the requests before the ZBA, the difficulty was self-created.

MT made a motion to approve the Saxton Sign Corporation Area Variance application on behalf of Ivo Garcia for Dunkin Donuts as submitted and subject to any other approvals that may be needed. The motion was seconded by AL and all approved.

#### **Use Variance Application and Public Hearing**

Dennis Tremont – Ace Hardware (Applicant)  
2897 NY 43  
Averill Park, NY 12018  
HMU – Hamlet Mixed-Use Zoning District

**Tax Map #:** 148.-6-2.12

**Lot Size:** 5.07 acres

A Use Variance application for a proposed electronic message center business sign.

MT reiterated that the request for a Use Variance was different than a request for an Area Variance; thus, had different criteria to be considered by the Board. Craig Crist (CC) then read the criteria that is to be considered by the ZBA upon review of a Use Variance request. MT added that the Use Variance was requested as the applicant proposed an electronic digital lit message board which was prohibited in the Zoning Code.

Dennis Tremont presented and summarized the project initially presented at the February 10, 2022 ZBA meeting. AL asked the size of the proposed electronic message board to which Mr. Tremont replied 85" by 28.5" to replace the existing area of the manual hand message sign. SB asked if the message board would be static or scrolling. Mr. Tremont replied that he believed it could do both; however, was looking to place information up but not have to do it manually.

MT motioned to open the Public Hearing at 7:26pm; seconded by SB and all approved.

Kevin Brunick asked the date of the zoning code that prohibited the requested electronic message boards. MT replied that the Zoning Code for prohibiting the electronic message boards dated back to the 1970s and some other Towns have changed it in areas of a populated business street. Mr. Brunick stated that it may have been that way to prevent neon signs however the Town's Zoning Code on this issue may be an old law and in need of revision. MT stated that may be a possibility however would need to be revised by the Town Board. She added that in her experience, none of the nearby Towns had updated their code to allow it as found to be too bright at night for residents and did not complement the hamlet environment. Mr. Brunick added that he viewed the request as the applicant trying to simply update and modernize his business process. MT explained that any approval of a Use Variance is difficult as it involves a large amount of documentation, and the criteria must be followed as outlined. She added that it would be precedent setting as to how a Use Variance is approved for future requests. MT explained that one of the criteria in the regulations for the Use Variance is the demonstration of competent financial evidence to prove that a financial return would not happen without it. Mr. Brunick replied that he understood the following of the regulations and closed by saying a new hardware store would be opening not far away which would have an electronic message board.

CC stated that the business before the ZBA was to focus on the current application and could not speak to other business signs as they had not come before the ZBA. MT stated that either the Public Hearing could be closed, and a decision made or left open so that the applicant may provide further documentation in support of his application. Mr. Tremont asked what additional documentation should be provided. CC replied that it was not the role of the ZBA to suggest the type of documentation to be provided by the applicant. He added that the applicant would need to figure out what information would best support the request based on the Use Variance criteria. MT reiterated the statutory Use Variance criteria for the applicant.

Sherwood Palitsch (SP) asked if the electronic message board would be turned off at night to which Mr. Tremont stated yes. SB motioned to continue the Public Hearing until the next meeting; seconded by AL and all approved.

**Area Variance Application and Public Hearing**

Nicole Connelly & James West (Applicants)  
Charles & Joanne Connelly (Property Owners)  
57 Connelly Way  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 148.-6-2.12

**Lot Size:** 5.07 acres

An Area Variance application for an insufficient side yard setback for the replacement of an existing dwelling with a new single-family dwelling.

Nicole Connelly, James West, and surveyor William Glasser were present. Nicole Connelly summarized the project which had been initially presented at the February 10, 2022 ZBA meeting. The survey layout was viewed. MT noted that the original camp, which was to be removed, had been close to the lake to

which Mr. Glasser agreed and added that the new building would be approximately 120' from the lake, 50' from the roadway and centered, side-to-side, on the lot. Scott A. Blair (SAB) asked about the elevation of the new dwelling as it related to water run-off towards a neighbor. Mr. Glasser replied that the height would be the same as the parent's home which was adjacent to this parcel. It was discussed that the water run-off would continue to run downhill towards the lake and not affect a neighbor. MT asked Board members if they felt that the roof drainage should be diverted into a dry well. SP stated that maybe some swales could be added to divert water run-off onto the neighbors.

At 7:43pm MT motioned to open the Public Hearing seconded by AL and all approved. MT noted that a written public comment, along with photos, had been submitted by a neighbor Mr. Northrup regarding current water run-off issues in the area. She read the public comment and shared the photo with the applicants. MT explained that Mr. Northrup had visited the Planning Office and the Planning Office Clerk had discussed the project with him and answered his questions. The Planning Office Clerk explained that during the meeting with Mr. Northrup, Mr. Wager stepped in and stated that should the project be fully approved, he would be at the site early in the construction phase to advise on recommendations for diverting the water runoff so as not to affect the neighbors. Mr. Glasser stated that the existing driveway to the camp by the water would also be removed and replaced with grass as a new driveway would lead to the garage. Thus, the planting of grass in that area should also help with water run-off. Board members agreed that the water run-off concern could be resolved with Mr. Wager visiting the site upon the start of construction.

MT then read the Public Hearing from Joan Connelly in support of the project. The Planning Office Clerk added that a phone call had been received from another nearby neighbor who stated the same water runoff concerns as Mr. Northrup.

The Planning Office Clerk also stated that a phone call had been received from a representative of the Methodist Farm Road Association. The caller had explained that it was noted in the deed that the Association had first refusal to any available lake property; thus, wanted to ensure the property had not exchanged hands yet. The Clerk had replied that the property did not change hands yet as the parties involved wanted to ensure approval could be gained from the ZBA and Planning Board for the project prior to doing so. Both Nicole Connelly and Joan Connelly agreed that the statement was correct.

With no further written or public comments, MT motioned to close the Public Hearing at 7:50pm; seconded by SB and all approved. MT motioned to classify the project as a Type 2 action and declared the Town of Sand Lake ZBA as Lead Agency; seconded by AL and all approved.

MT then individually covered the criteria that ZBA members considered upon making the determination for the requested area variance.

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.*

MT noted that the request was for a 1' variance; thus, not viewed to cause an issue. AL stated that the request seemed modest and Board members agreed. SP added that the new dwelling would have gutters that ran into drainage; thus preventing a lot of runoff.

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.*

MT noted that the proposed new dwelling would be narrow and centered on the lot. Thus, the proposed plan made sense for the layout of the lot and no other alternative seemed feasible. Board members agreed.

3. *Whether the requested area variance is substantial.*

MT stated the request for 1' variance was not viewed as substantial based on the ZBA's history for similar approvals. Board members agreed.

4. *Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.*

MT stated that she believed the project was not seen to have an adverse impact on the neighborhood or district considering the conditions that will be placed upon approval. Board members agreed with the statement made by MT.

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.*

MT stated that, as with many of the requests before the ZBA, the difficulty was self-created.

MT made a motion; seconded by SP and unanimously approved to grant approval of the Area Variance for a side yard setback of 11.5' on the east side of the property with the following conditions: 1) The existing dwelling noted as "Wood Frame Camp" shall be removed; and 2) The Sand Lake Building Inspector shall be contacted for advice on managing stormwater run-off and swale options.

**Area Variance Application**

Janice Brunick (Applicant/Property Owner)  
1366 Burden Lake Road  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 158.-3-3

**Lot Size:** 1.88 acres

An Area Variance application for insufficient lot size related to a minor subdivision.

Kevin Brunick presented and stated that his wife, Janice and her sister had inherited the property back in 2004 and at various times had lived in the main house and four camps. Mr. Brunick explained that he had retired and moved to South Carolina and his wife wished to join him. He further explained that the property had been on the market to sell as a whole; however, encountered issues as the five dwellings on the property required a commercial mortgage which was more difficult for buyers to obtain. Mr. Brunick added that was one of the reasons for wanting to separate the main house from the property. He added the main house and property would then be placed on the market and the sister would then own and reside in one camp and rent the other camps.

MT clarified that if the proposed subdivision were approved, the property consisting of the main house would be a conforming lot; thus, the area variances needed would be for the lot consisting of the four cottages. Mr. Brunick concurred with MT and added that no building or additional changes were being made beyond the minor subdivision. He further explained that the boundary lines were drawn up in such a way as to not impact the existing driveway. MT stated she understood and added that even if the boundary lines were drawn up differently, the one lot would still be nonconforming to which Mr. Brunick agreed. SAB asked if the Town still owned the easement through the proposed Lot 1 to which Mr. Brunick stated yes, he believed the easement existed for the sewer.

MT explained for all that the ZBA would be seeking a Recommendation from the Planning Board per state regulations as the project related to a Minor Subdivision. SAB asked if the property with the four cottages would be staying together to which Mr. Brunick replied yes as no changes were planned. MT referred to the survey map and asked if any of the four cottages used a portion of the main driveway to which Mr. Brunick stated no. MT noted that there would be plenty of parking to which Mr. Brunick agreed. SAB asked the size of the cottages to which Mr. Brunick replied approximately 900 sq. ft. with the one closest to the main house being a bit larger with a basement. SAB stated his concern would be if someone wanted

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to expand one or more of the cottages considering the size of the lot if subdivided. Mr. Brunick stated that he did not foresee his sister-in-law doing so while she was there.

MT stated that there were two variances needed for: 1) size of the proposed lot however not much that the ZBA could do with that considering the size of the primary lot; and 2) south side yard setback which would be at 9.3' versus the required 20'. Mr. Brunick explained that in a conversation with the Planning Office, it was indicated that closest cottage did not need to be considered the "main house" as the other camp "referred to as camp 2" could be considered the primary dwelling and the other camp an accessory building which only required a 5' setback. MT understood and stated then only one variance would be required. SP asked if the four cottages would then be deeded together to which Mr. Brunick replied yes.

SB motioned that the application be deemed complete; seconded by SEB and all approved. MT motioned to schedule the Public Hearing for April 14, 2022 at 7:00pm; seconded by MT and all approved.

### **ADJOURNMENT**

MT motioned to adjourn the meeting at 8:07pm; seconded by SB and all approved.

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
April 14, 2022**

The minutes, as follows, are intended to provide a general summary of the Agenda items and Public Hearings. Quotes presented are not verbatim, nor is all discussion which occurred presented herein. This document should not be relied upon as a transcript or the actual proceedings. The transcript of this meeting is on a digital voice recorder and available at the Town Hall.

- CALL TO ORDER: Scott Bendett opened the meeting at 7:00PM
- MEMBERS PRESENT: Amy Lent  
Sherwood Palitsch  
Scott A. Blair  
Craig Crist, Esq.
- MEMBERS ABSENT: Melissa Toni
- OTHERS PRESENT: George Breen, Gordon & Joyce Hull, Monica Ryan (Town Planner)
- RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Scott Bendett (SB) explained that with the absence of the Chairperson, Melissa Toni, he would be leading the meeting as Vice-Chairperson.

**Area Variance Application**

Paul Wehnau, Jr. (Applicant/Property Owner)  
23 Johnny Cake Lane  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 159-1-2-14

**Lot Size:** .83 acres

An Area Variance Application for insufficient lot width and reduced lot size related to a boundary line adjustment.

George Breen stated that he would be representing the project as he was the owner of the receiving parcel for the related Boundary Line Adjustment. Mr. Breen stated that he resided at 21 Johnny Cake Lane which was adjacent to the subject property. The survey was viewed, and he explained that his property line was currently only 1' off his house. He explained that Mr. Wehnau intended to sell his property; and had agreed to the proposed boundary line adjustment of 25' prior to selling. Mr. Breen added that this additional 25' would provide a buffer and allow access to the back of his property.

SB explained the Area Variance process. With no questions from Board members, Sherwood Palitsch (SP) made a motion to deem the application complete and scheduled the Public Hearing for May 12, 2022; seconded by Scott A. Blair (SAB) and all approved.

**Area Variance Application**

Gordon & Joyce Hull (Applicants/Property Owners)  
Sheer Road  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map #:** 158.-2-66.12

**Lot Size:** 5.5 acres

An Area Variance Application for insufficient road frontage related to a minor subdivision.

SB explained the Area Variance process. Joyce and Gordon Hull were present. Mr. Hull explained that they currently lived in Schodack and wished to move back to Sand Lake. He added that the proposed plan was to subdivide the property in order that their daughter and they could each build a home on the lots. Mr. Hull stated that they had an engineer working on the septic systems however had yet to be cleared with Rensselaer County.

Ms. Hull explained that the proposed subdivision would result in their property consisting of over three acres and the daughter’s property at two acres. She added that the shortage of road frontage was the reason for the needed area variance in relation to the proposed minor subdivision as that area consisted of the long driveway which then “mushroomed” out. SAB asked if it was correct that there would be two separate driveways consisting of approximately 34’ each to which Ms. Hull agreed. SAB noted that a well existed to which the Hull’s replied that it would be not utilized as two new ones would be done closer to the homes. The layout of the current well was reviewed and the Hull’s explained that the prior owners had it done along with a perk test and they would have it capped off.

With no questions from Board members, Sherwood Palitsch (SP) made a motion to deem the application complete and scheduled the Public Hearing for May 12, 2022; seconded by Amy Lent (AL) and all approved. SB made a motion to request a Recommendation from the Planning Board on the Area Variance as related to the proposed minor subdivision; seconded by SP and all approved. The process and date for the Recommendation from the Planning Board was explained to the applicants.

**Area Variance for Nicole Connolly & James West**

SB motioned to waive the full reading of the draft Resolution; seconded by SAB and all approved. SB motioned to approve the Resolution in its entirety; seconded by SAB and all approved.

**Area Variance for Ivo Garcia – Dunkin Donuts**

SB motioned to waive the full reading of the draft Resolution; seconded by AL and all approved. SB motioned to approve the Resolution in its entirety; seconded by SAB and all approved.

**DRAFT MINUTES FOR APPROVAL**

The draft minutes for January 13, 2022 and February 10, 2022 were tabled due to an insufficient quorum as SAB and SP had not been appointed as Board members of the ZBA until March 2022.

**ADJOURNMENT**

SB motioned to adjourn the meeting at 7:10pm; seconded by SP and all approved.