

**Town of Sand Lake  
Planning Board Minutes  
June 2, 2021**

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 of the actual proceedings. The transcript of this meeting has been recorded and is available at the Town Hall.

**CALL TO ORDER:** Arthur Herman, Chairman, called the meeting to order at 7:30 PM

**MEMBERS PRESENT:** Ralph LaMontagna, Michael Groff, Mary Ellen Trumbull, Jonathan Bernstein, Rick Giolito, Andrew Karl, Craig Crist, Esq.

**MEMBER ABSENT:**

**OTHERS PRESENT:** Andrew Bulmer, Sara Campbell, Esq., Lawrence D'Angelo, Jon Tingley, Kevin McGrath Christopher Langlois, Dan Peeters, Kathy Griffin, Pat Simon, Monica Ryan (Town Planner)

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

**Recommendation to the ZBA on an Area Variance Application**

Andrew & Moira Bulmer (Applicant)  
24 Stone Camp Way  
Averill Park, NY  
R-Residential Zoning District

**Tax Map #: 170.2-1-4**  
Lot Size: 1.84 acres

An area variance application regarding insufficient front and side yards setbacks.

Attorney Sarah Campbell represented and stated she had not been involved in the beginning of the project however was aware that the Planning Board (PB) had seen it previously. She added that area variances had been granted previously for the construction of the new home. She further stated that the size of the house had not change at all and referred to a site plan and stated that in the upper corner the foundation had been mis-poured a few inches over the previously granted area variance line. She explained that it had also been realized that setback measurements were taken from the foundation rather than from the roof overhang; thus, the reason for some of the requested additional relief. She stated that they now understood that anything with a roof over it, such as the proposed screened-in porch must comply with the setback. She stated that her client was ok with the setback on the lakeside however was short on the roadside as well as the other two sides.

Monica Ryan summarized the setbacks on the new site plan and the code/previous variance requirements: the Zoning Code required 30' for the side with the screened-in porch and would now be at 20' and added that no variance had been previously sought for this side; thus, would now require a 10' variance. She added that on the front it was a combination of the location of the structure along with addition of the roofed porch which moved it the considerable closer to road than the original variance of 25' and was now at 6.1' from the corner of the porch line. She further explained that one side corner had been granted a variance for 10.7'

and would now be 3' from the roofline of the bump-out to the property line; and, on the same side, upper corner, it was to be at approximately 12' and was now down to 6.9' at the roof overhang of the bump-out. Ms. Campbell noted that the structure was not proposed to be straight to the property line. Ms. Ryan agreed and added that there had also been an area variance previously granted on the lakeside and it was still in compliance as the unroofed deck did not count; thus, was still within the granted setback. Ms. Campbell then referred to the 6.1' setback being sought and stated that initial confusion was due to the Bulmer's also owning property on the other side of the road; however, since that time, the line of measurement from the road had been clarified. Arthur Herman (AH) stated that he believed things were clear at the initial review and site visit as stakes had been placed which reflected going from the right of way/road. Ms. Ryan agreed and stated that the right of way was the setback line for all private and public roads as the Zoning Code did not differentiate on it. Ms. Campbell noted that the structure would be back a little further on the lakeside which would move it behind the neighbor's home; thus, should alleviate the neighbor's concern of being right on top of each other if they were in line with each other.

Per a request from Sarah Campbell, the original sample rendering was viewed, and AH stated that he recalled a house looking similar. Mr. Bulmer stated that the sample rendering for style is what had been proposed originally and brought to the PB initially as there were no architectural plans at that time. Mary Ellen Trumbull (MET) asked if that was what the house would look like or was it still a rendering of what it would look like. Mr. Bulmer replied that it would look similar to the rendering except it would have some architectural details with two bump-outs. MET replied that meant the rendering was not the actual house. Mr. Bulmer replied that it was pretty much the same except for the added architectural detail of the bump-outs. Ms. Campbell asked it was correct that shingles, roofing, windows, and railing were all the same as originally proposed. Mr. Bulmer replied yes but the original proposed 6' sliding glass door off the deck would be wider (10' or 12') - he then stated he did not have the architectural plans in front of him at that time. Mr. Bulmer added that AH may be able to vision the architectural details of the bump-out on left and right side facing the lake. MET asked if when the foundation was mis-poured, it was not done based on the original measurements of the site plan for the foundation. Mr. Bulmer replied yes. He explained that due to getting started at the end of the year coupled with the loss of the original contractor who was going to do all the work, the project ended up having to be subbed out to three different subcontractors – one to excavate, another to pour the footings and another to pour the walls. He further stated that along the way through winter and COVID, it got shifted; thus, additional area variance relief was being sought. MET then asked if it was correct then that the contractors who subbed in for the original contractor made the mistake. Mr. Bulmer replied yes and that it resulted from digging at the site with inclement weather and snow. Ms. Campbell asked that the difference in feet be clarified. Mr. Bulmer replied it was off by 3.7'. Ms. Ryan pointed out that the back corner of the same side was also off in addition to how much closer the structure would be towards the road. Mr. Bulmer stated that was correct and explained that the shift of the foundation in the one area affected the shifting of the whole foundation. Ms. Campbell asked if it was correct that the structure was further away from the lake than what had been originally proposed. Mr. Bulmer replied yes. Ms. Ryan added that it was a difference of 1' shy of the original variance request. Michael Groff (MG) asked if a surveyor had been hired to layout the structure prior to building. Mr. Bulmer replied that they did have a surveyor to survey the property. He added that as AH had mentioned, a site visit was done when the structure was laid out however along the way, the foundation was shifted. MET stated that she thought as the contractor had made such a significant mistake in the foundation's location, the applicant would have recourse with the contractor for the mistake versus imposing/infringing and compromising the privacy of the neighbors, particularly on the closest side. She added that with the latest setback requests for the roadside, she was not sure where the snow would go in the winter. She further added that prior to coming to the Town for additional variances, she believed the applicant needed to go back to the contractor to make it right. Ms. Campbell replied that they did recognize

that as a potential option however it would be a \$75,000 cost, at a minimum, just to correct the portion that was depicted as in the greyed area on the site plan. She added that she understood it was a mistake and there was no excuse for it; however, the overall project was not that much further over. She added that she believed what was being viewed was the granted relief for the original foundation versus the relief that was now required for the roof overhang. She further added that it would not have been different regardless as the roof was necessary and thought it was not addressed in the earlier process. Ralph LaMontagna (RL) stated that the request was a hard one for him and found it to be a difficult one for the PB. He added that he did not believe the PB ever approved a foundation or bump-out windows that were 3 ½' from the neighbor's property. He also stated that the hard part was the 6' being requested from the road as snow removal would need to occur which would be a major problem. He concluded that although time had been spent on the initial review, the end project turned out totally different. MET added that going forward, the height of the foundation without any house on top of it seemed ominous as it was proposed to have two floors above it; thus, would block neighbor's views of the lake. She added that: 1) she did not feel that neighbors should be penalized for a mistake someone's contractor had made; 2) the plan was not what was originally viewed by the Board and current location was not where the stakes were when a site visit had been done; and 3) being granted variances and then asking to almost double them, for whatever reason, placed the PB in a difficult spot for future applicants with similar requests which would end up rewriting the Zoning Code which she was not in favor of doing. AH stated that he was surprised that Mr. Bulmer did not realize that the PB's approval was not for a foundation but rather an entire house. He further stated that the removal of the bump-outs would be one way to mitigate it and possibly bring it down to 6' along with 3' cut off the foundation. Ms. Campbell stated she had spoken with her clients who indicated that would be comfortable just having the roof overhang on the shortest setback side and remove the bump-outs, if the PB felt that would mitigate the overall problem. AH stated he felt it would help to have 6' versus 3' however added that he was only one Board member. He further added that he had built a lot of houses and had not run into quite this situation. MET restated she was concerned over the height to which AH replied that the height was not determined at the original approval; thus, did not believe the PB had a say at this point on it. MET recalled that a neighbor had submitted a Scenic Preservation application for the installation of a fence and the Bulmer's had a concern that it would block their view of the lake – she added that the project as now proposed would totally obliterate the view for the neighbors on the far side. Ms. Campbell replied that she believed the Bulmer's home would be behind that neighbor. Mr. Bulmer stated that the foundation was a few feet back then originally planned; thus, would not block the lake view on either side. In regard to the height, Mr. Bulmer stated that he believed that both houses on either side would be higher than the proposed home. Mr. Bulmer then addressed RL's snow removal concern on the requested 6.1' to the road and stated that he would be take care of all the snow on the site and place it appropriately so as not to be a problem. RL replied that the Town would plow right to the corner of the proposed home. Mr. Bulmer replied that his property went all the way through, and a right of way was provided for the neighbors to enter their home; thus, the Town did not maintain it. Ms. Ryan confirmed it was a private road. AH then asked if there was a contract with someone to plow the road. Mr. Bulmer replied no as the residents on the private road maintained their own area. MG stated that, as a land surveyor, he had seen similar issues before; however, felt that if the stakes had been lost during the process they should have been replaced before work began and as such the additional variance requests did not sit well with him. AH stated that the latest proposed request is 10' closer to the road and 6' closer to the property line. Ms. Campbell stated that it would be the Board's decision on the variance in respect to the bump outs not being granted. She stated that she had discussed it with the Bulmers along with the fact that they may not end up with exactly the house they wanted. AK stated that he had not been a Board member at the initial review; however, the relief granted for the front yard setback of 25' meant a 50% variance and the request for relief was now at 6' which would make it an 88% variance which he had not seen granted in his experience with site development projects.

He then said the side yard was 20' and down to 10.7' meant a 46.5% variance and now requested for 20' down to 3' making it an 85% variance which he found to be very significant. AK further stated the other side yard for the proposed screened-in porch was not found to be as significant. He added that he had an issue in general with the granting of variances and then having to redo them to the point where the requested variance is at 80% or above is significant and would set a bad precedent for rewriting the Zoning code. Jonathan Bernstein (JB) asked what the contractor had said about fixing the situation or if options were provided. Mr. Bulmer replied that the side relief could be corrected however could be quite costly. MET asked if it would be costly to the contractor. Mr. Bulmer replied no, it would be costly to him as a review of the contract stated that the homeowner would be liable for the cost. AH stated that he was sure that Mr. Bulmer was there at the time the foundation was poured and believed it was within the limits. Mr. Bulmer stated that he also had the Building Inspector visit. AH replied that the Building Inspector does not check dimensions but rather ensure that the footings are set up proper for the pour of the concrete. AH then asked about the roofs over the proposed decks. He added that without those roofs, the setbacks would be more like 12'-13'. Mr. Bulmer stated that without those roofs, it would be approximately 13.9' to the corner of structure. AH stated that 6' was close. MET stated that the task at hand was for the PB was to make Recommendations to the ZBA for the requested area variances to which AH agreed. Mr. Bulmer stated that the design for the front of the home on the roadside could be modified so as not to impact the right of way. RL asked if that meant it would be removed to which Mr. Bulmer replied he would rather not and pointed out that a neighbor had a shed that actually 2.5' onto the right of way. He added that if the PB thought it could be done then modifications could be made in the 6.1' setback area as no structure existed at this time. Rick Giolito (RG) asked if there was a reason why the 4' wraparound deck was not a part of the original application. Mr. Bulmer referred to the area with the 6.1' and stated that when originally approved by the ZBA, the rendering was then brought to an architect and modifications were made and not thought to be an issue. RG asked if the decks were part of the original application to which Mr. Bulmer replied that the front decks and screened-in porch were part of the application. Ms. Ryan clarified and stated that they were not a part of the footprint and displayed the original submission. AH noted the original submission showed a parking area in front of the house and stated there would be no way to incorporate that with the latest proposal. Mr. Bulmer replied that when former Board member Mr. Glasser wanted the foundation laid out to the survey, the parking area had been shifted to the right. RG asked where folks were parking to which Mr. Bulmer replied that they pulled off to the side of the road. He further stated that they planned to do a parking area directly across the street and eventually a garage. RG stated that he commiserated with the applicants and wished they had recourse however did not see it right to place the problem onto the neighbors.

Site pictures of the poured foundation were viewed, and AH stated that on the one side, the neighbor's garage would be closest thing effected. He stated that the looking out the window the only thing blocked would be the view of the Carroll's house. He further stated that where there was only 3.5' proposed, he recommended no bump-outs on that side of the house which would allow for an additional 3' to bring it up to 6'. AH stated that the roadside corner on the left side did not affect the view or property however would be encroaching which would block the neighbor from building anything due to insufficient setback. He added that the lakeside corner would be up to 10' with the bump-out removed. RL stated that the roofed deck on the roadside is an issue and would like to see it taken off but even with that, it would still be close. Mr. Bulmer referred to the 14.8' area stating that is where the home would be entered and asked if that would be better just to have a 6' wide overhang to keep weather away from the door. AH stated it would be a 4' deep by 6' wide covered porch and the rest of the porch left open however felt it was not something that should be approved when it was supposed to be so many feet away. Mr. Bulmer replied that the front corner did not need to be done at this time if viewed as an issue however would like to be able to have the overhang

over the front door. RL asked what the front setback would then be to which Mr. Bulmer replied approximately 13.9'. MET stated that the PB had previously decided not to approve conversations without hard documentation yet viewed the discussion as headed in that direction to which Board members agreed. Craig Crist (CC) read the area variance criteria that the ZBA would be considering during their determination. The Board then viewed the survey with the structure layout and made the following recommendations for each variance, as applied for, below.

- AK made a motion for a negative recommendation on the variance for a 3.0' and 6.9' side yard setback on the north side of the lot as presented on the site plan entitled Foundation Location Survey, Revision 5 dated April 30, 2021 herein attached. The motioned was seconded by MET and all approved.
- MET made a motion for a negative recommendation for the variance for a 6.1' front yard setback as presented on the site plan entitled Foundation Location Survey, Revision 5 dated April 30, 2021 herein attached received. The motion was seconded by Andrew Karl (AK) and approved by RG, RL and MG. AH and JB opposed.
- AH made a motion for a positive recommendation on the variance for a 20.0' side yard setback on the south side of the lot for a screened-in porch as presented on the Site Plan entitled Foundation Location Survey, Revision 5 dated April 30, 2021 herein attached. This received a "positive" recommendation with the condition that the variance for a 20' setback is only for the dimensions of the building footprint labeled "screened in-porch" on the Site Plan. The motion was seconded by JB and approved by AK, RG and RL. The motion was opposed by MET and MG.

**Scenic Preservation Review**

Lawrence D'Angelo (Applicant)  
Bev MacMillen, Lawrence & Janet D'Angelo (Property Owners)  
157 1<sup>st</sup> Dyke Road  
Averill Park, NY 12018  
R – Residential Zoning District

**Tax Map # 158.4-3-1**  
Lot Size: .27 acres

A Scenic Preservation Review application to construct an attached garage to an existing residential dwelling within 100' of Burden Lake.

Lawrence D'Angelo presented and explained that the existing house was owned by them along with his mother-in-law and she resided their full-time. He added that his mother-in-law would like an attached garage for getting in and out in the winter. He referred to the site plan with the layout of the approximate 22'x24' two car garage. He stated that the parcel was triangular shaped; thus, the proposed location was set in a bigger area to maximize the setbacks. Mr. D'Angelo added that once the size was approved by the PB, they would have an architect finalize the drawings. AH asked what was to the left of the proposed garage. Mr. D'Angelo replied it was a shed on their property and added that the Town Building Inspector had visited and scaled it out. He then referred to a site picture and stated that the other small shed would be removed to allow for an angle to drive in and out safely as a telephone pole existed and the road could get busy. AH stated that the project made sense and noted that the proposed garage would not be any closer to the lake. Mr. D'Angelo noted that the one dimension to the neighbor measured 56'. RL asked if the proposed attached garage would be the same materials as the house to which Mr. D'Angelo replied yes and added that the chimney would be removed. RL asked if additional lighting would be installed on the garage. Mr. D'Angelo replied that lights would be installed by the main doors and the small entrance door. It was agreed that all lighting would meet the Zoning Code and be down shedding so as not to broadcast. Mr. D'Angelo stated that the proposed garage roof would be over the existing roof to provide for a more architectural look. RG asked

how the proposed attached garage would be tied into house. AH added that normally the Board would have a drawing to reflect the proposed project however it had not been submitted with the application. Mr. D'Angelo held up a rough sketch and stated he did not want to go to the architect until it was known that size and proximity was acceptable. RL stated that it did not appear that the garage roof would be higher than the existing roof to which Mr. D'Angelo stated was correct. AH stated that while he did not see an issue with the proposed garage, he did want to see the architect's actual drawing for the proposed project before final approval was granted. He added that he would approve the move forward to gain the architect's drawings. RG agreed with AH for the applicant to move forward with the architect and submit the drawings for the final approval. CC & Board members agreed for the applicant to return to the PB when ready with the architect's final renderings. Mr. D'Angelo agreed to do so.

**Minor Subdivision Application**

Tracey Winnicki-Pezzolla (Applicant)  
Tracey Winnicki-Pezzolla & John Winnicki (Property Owners)  
Chamberlin Hill Road  
West Sand Lake, NY 12196  
AR-Agricultural/Residential Zoning District

**Tax Map #: 168.-4-53**  
Original Lot Size: 16.32 acres  
Lot 1 Size: 8.159 acres  
Lot 2 Size: 8.159 acres

A Minor Subdivision application to create one new lot from vacant acreage.

Surveyor Dan Peeters represented and stated that the 16.32-acre parcel was proposed to be subdivided into two equal parcels amongst the current property owners. He added that minus a couple of sheds, there were no other structures or utilities on the property nor were there any plans for development at this time. Board members agreed that the proposed minor subdivision of the property was straightforward. AH motioned to schedule the Public Hearing for June 16, 2021 at 7:30pm; seconded by MG and all approved.

**Boundary Line Adjustment**

Susan J. Ellnor (Property Owner/Donor Parcel)  
110 Roaser Road  
Sand Lake, NY 12153  
RR – Rural Residential Zoning District  
AND  
Susan J. Ellnor (Property Owner/Receiving Parcel)  
Roaser Road  
Sand Lake, NY 12153  
RR-Rural Residential Zoning District

**Tax Map #: 149.-1-29.12**  
Original Lot Size: 9.62 acres  
Proposed Lot Size: 8.94 acres

**Tax Map #: 149.-1-29.111**  
Original Lot Size: 21.08 acres  
Proposed Lot Size: 21.76 acres

A Boundary Line Adjustment application for the donor parcel of 9.62 acres to donate 0.68 acres to the receiving parcel of 21.08 acres which will result in a donor parcel of 8.94 acres and a receiving parcel of 21.76 acres.

Surveyor Keven McGrath represented and stated that he had surveyed the estate many years ago. He explained that Ms. Ellnor had a home on the parcel for Tax Map #: 149.-1-29.29.12 and then the parcel for Tax Map # 149.-1-29.111 had been deeded to her. He further explained the proposed Boundary Line Adjustment (BLA) was more so to increase the road frontage and access versus adding acreage as the receiving parcel had only 126' of road frontage. With the proposed BLA it would increase to 251' and donor parcel had 980' of road frontage and would be reduce down to 859'. RL noted that the proposed BLA would

improve the road frontage for the receiving parcel. Mr. McGrath agreed and explained that the receiving parcel should have been merged with the donor parcel when deeded to Ms. Ellnor. It was not, and instead was given a separate tax map number. He added that an interested buyer for the 21-acre parcel would like the additional road frontage as it would incorporate an existing dirt logging road that could be easily turned into a driveway to access the property. RG asked if it was a flat lot to which Mr. McGrath replied yes. With no further questions, AH motioned to classify the project as a Type 2 action under SEQR and declared the Town of Sand Lake Planning Board as Lead Agency; seconded by MG and all approved. AH approved the BLA as submitted; seconded by MG and all approved.

**DRAFT RESOLUTIONS** – Applications had been approved at the May 19, 2021 Planning Board Meeting

- Positive Declaration and Determination of Significance for Joseph Jankovic  
AH motioned to waive the full reading of the draft Positive Declaration and Determination of Significance; seconded by RL and all approved.  
AH motioned to approve the Positive Declaration and Determination of Significance in its entirety; seconded by MET and all approved.
- Negative Declaration for Thomas & Glenn Kinney  
AH motioned to waive the full reading of the draft Negative Declaration Resolution; seconded by MET and all approved.  
AH motioned to approve the Negative Declaration Resolution in its entirety; seconded by RL and all approved.
- Minor Subdivision for Glenn Kinney  
AH motioned to waive the full reading of the draft Resolution; seconded by AK and all approved.  
AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.
- Sign Placement for Casey Bates  
AH motioned to waive the full reading of the draft Resolution; seconded by RG and all approved.  
AH motioned to approve the Resolution in its entirety; seconded by MET and all approved.
- Boundary Line Adjustments for Sharon Hogle Guthier & Susan Hogle Rowlands-Clemens  
AH motioned to waive the full reading of the draft Resolution; seconded by AK and all approved.  
AH motioned to approve the Resolution in its entirety; seconded by RL and all approved.
- Boundary Line Adjustments for Mary Jane Tiffit (1 of 2 related)  
RL motioned to waive the full reading of the draft Resolution; seconded by AK and all approved.  
RL motioned to approve the Resolution in its entirety; seconded by RG and all approved.
- Boundary Line Adjustments for Mary Jane Tiffit to Danielle Robertson (2 of 2 related)  
RL motioned to waive the full reading of the draft Resolution; seconded by MET and all approved.  
RL motioned to approve the Resolution in its entirety; seconded by MET and all approved.

**ADDITIONAL BUSINESS:**

Special Counsel Christopher Langlois, Esq. clarified for Board members the process that would follow for the positive declaration on the Special Use Permit for the Jankovics. He explained that since the last PB meeting where it was decided that there were significant potential impacts, there had been a challenge and appeal filed with the ZBA on the Code Enforcement Officer's April 2021 determination on the classification of use. He further explained that according to the Zoning Code, an appeal placed a stay on all further proceedings on the action by the PB until such time as the ZBA resolved the appeal. He added that if the ZBA were to affirm the Code Enforcement's interpretation and found it to be an appropriate Special Use Permit for Recreational Open Space, then the project would come back before the PB to begin the SEQR scoping process to address and evaluate the areas of environmental concerns with assistance from the Jankovics. The draft

results of that process would then be put out for public comment and ultimately turn it into a final environmental impact statement. As a question was raised on the Jankovics ability to use the basketball courts, Ms. Ryan stated that it was her understanding from the Code Enforcement Officer that the order of remedy had read that the Jankovics had to file a Special Use Permit, which they had done; thus, he had determined that they had met their obligation and, if wanted, could utilize the courts.

**DRAFT MINUTES FOR APPROVAL**

MET motioned to accept the March 17, 2021 minutes as presented; seconded by AH and all approved.

**ADJOURNMENT** – AH motioned to adjourn the meeting at 9:11pm; seconded by MET and all approved.