

**Town of Sand Lake
Planning Board Minutes
May 5, 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: Kevin McGrath, Joseph & Melissa Jankovic, Shane Cahill, Valerie Balga, Frank Razzano, Andrew & Moira Bulmer, Sarah Campbell, Esq., Monica Ryan (Town Planner)

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

Minor Subdivision and Public Hearing

Thomas & Flora Fasoldt
111 Wisner Road
Averill Park, NY 12018
RR– Rural/Residential District

Tax Map # 148.-1-25
Current Lot Size: 20.15 acres
Proposed Lot 1 Size: 9.7 +/- acres
Proposed Lot 2 Size: 3.34 +/- acres
Proposed Lot 3 Size: 7.11 +/- acres

A minor subdivision to create two new residential lots from an existing residential property with acreage.

Surveyor Kevin McGrath presented and summarized the project which had initially been presented at the March 3, 2021 Planning Board (PB) meeting. Mr. McGrath explained that the project had been before the Zoning Board of Appeals (ZBA) as Lot 3 had exceeded the 3:1 lot depth to width ratio. He added that the ZBA had granted the area variance for proposed Lot 3. The survey plat was viewed while Mr. McGrath explained the layout for the proposed lots. With no questions from the Board members, RL read the public hearing notice that had been posted in the Troy Record and the Advertiser. Arthur Herman (AH) motioned to open the Public Hearing at 7:35pm; seconded by Michael Groff (MG) and all approved. With no written or online public comments received, AH motioned to close the Public Hearing at 7:37pm; seconded by Mary Ellen Trumbull (MET) and all approved.

AH motioned to classify this Minor Subdivision as an unlisted action under SEQR and declared the Town of Sand Lake Planning Board as the Lead Agency; seconded by MET and all approved. AH motioned, seconded by MG, and unanimously carried to give this a Negative Declaration under SEQR. AH motioned to grant preliminary and final approval for this Minor Subdivision and waive the final hearing with the following condition: the signed maps and new deeds for each parcel be recorded with Rensselaer County Clerk within 60 days of the maps being signed by an Authorized Representative of the Town of Sand Lake Planning Board. The motion was seconded by MG and all approved.

Special Use Permit and Site Plan Review

Joseph Jankovic
Eastern Union Turnpike
Averill Park, NY 12018
R – Residential Zoning District

Tax Map # 159.-1-2.12
Lot Size: 23.13 acres

A Special Use Permit and Site Plan Review application to utilize basketball courts for personal use and by a non-profit organization.

Melissa and Joseph Jankovic were present. AH summarized that at the April 21, 2021 PB meeting, the Board had agreed to ask the Code Enforcement Officer for clarification on the classification of use determination. He added that the Code Enforcement Officer had provided a formal determination that the classification of use continued to be deemed as Open Space Recreation. AH stated that input from another neighbor had been submitted which was similar to other letters that had been previously received.

AH motioned to classify this Special Use Permit as an unlisted action under SEQR and declared the Town of Sand Lake Planning Board as Lead Agency; seconded by Ralph LaMontagna (RL) and all approved. Ms. Ryan stated under Municipal Law 239 Review, a referral had been done to Rensselaer County Planning for the fact that the location was on a county road. She added that Renss. Co. was provided the SEQR form and the application. Ms. Ryan stated that Renns. Co. responded with a recommendation that this project is a local decision as it did not have regional impact. Based on the information from Ms. Ryan, AH motioned to declare there would not be any other interested or involved agencies for this project; seconded by RL and all approved. Craig Crist (CC) stated that the next order of business would be on how to determine significance for the project and read excerpts from the DEC SEQR Handbook regarding: What is a Determination of Significance; The two key characteristics of possible impacts to be considered to determine significant: magnitude and importance; and specific criteria for determining significance of action. CC then stated that prior acceptance of the Short Environmental Form would allow the Board to cover the Part 2 Impact Assessment form. Ms. Ryan stated that the SEQR Part 2 impacts categories were: no or small impact or moderate to large impact may occur and then individually went over each of the questions:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?
 - MET and Jonathan Bernstein (JB), Rick Giolito (RG) replied moderate to large impact.
 - AH, MG, RL, and Andrew Karl (AK) all replied no or small impact.
2. Will the proposed action result in a change in the use or intensity of use of land?
 - MET, RG and JB and AK replied moderate to large impact.
 - AH, MG, RL replied no or small impact.
3. Will the proposed action impair the character or quality of the existing community?
 - MET, RG, RL, JB and AK replied moderate to large impact.
 - AH, MG, replied no or small impact.
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?
 - Ms. Ryan stated that, for the record, the Town of Sand Lake did not have any CEAs as classified/designated by DEC. Board members then agreed on no impact for a response.
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?
 - MET, RG, JB replied moderate to large impact.
 - AH, MG, RL and AK replied no or small impact.
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?

- MET replied no or small impact and all members agreed.
- 7. Will the proposed action impact existing: a. public/private water supplies? b. public /private wastewater treatment utilities?
 - AH replied no or small impact and all members agreed for both parts of the question.
- 8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?
 - RG replied none/low impact and all members agreed.
- 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?
 - AH replied as none/low impact and all members agreed.
- 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?
 - AH replied low impact and all agreed.
 - AK asked that it be noted that the Code Enforcement Officer provided a letter which reflected that a visit had been performed during a rain event and did not note any large amounts of runoff to neighboring properties. AH agreed that AK's statement should be noted.
- 11. Will the proposed action create a hazard to environmental resources or human health?
 - AH, MG, RL and AK replied low impact.
 - MET, RG and JB replied moderate to large impact.

Ms. Ryan stated the overall conclusion was two moderate to large impact answers for questions #2 and #3 to which CC stated it would then be a positive declaration. CC then explained that the next step in the process would be the formulation of the positive declaration and thereafter the scoping process. He added that process would take time and would require applicant input. CC asked Ms. Jankovic if they agreed to provide the Board with additional time, as needed, so documents could be formulated with the applicant's assistance in assessing the impacts to formulate the Environmental Impact Statement. Ms. Jankovic agreed to the additional time. CC explained to the Board that the Lead Agency must prepare a positive declaration as associated with responses concluded as moderate to large adverse environmental impacts as being significant to form the Environmental Impact Statement. CC added that the next steps would not be done at the next meeting due to the additional work needed prior to starting those next steps in the process. He added that the next PB meeting would involve an adoption of a formal written positive declaration and starting the scoping process with the assistance of the applicants for the possibility of mitigating the areas identified as having moderate to large adverse environmental impacts. CC read over the Scoping Process from the DEC SEQR Handbook.

Minor Subdivision Application

Shane Cahill (Applicant)
Glenn Kinney (Property Owner)
144 Methodist Farm Road
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 170.2-1-16
Original Lot Size: 9.44 acres
Lot 1 Size: 2.73 acres
Lot 2 Size: 6.70 acres

A Minor Subdivision to create one new residential lot from an existing residential property with acreage.

Realtor Shane Cahill presented and stated that Mr. Kinney had the property in his family for decades. He added that the property had two older homes up by Methodist Farm Road and had approximately 110' of lake frontage on Crooked Lake. Mr. Cahill stated that he had the property on the market as a whole lot for a little over two years. He explained that the homes were older, not in great shape and shared a well up by the road, it was felt that any buyer would not have interest in the homes themselves. He stated that the proposed creation of Lot 1 with lake frontage to build on would make it more marketable however would exceed the 3:1 lot depth to width ratio as it would be 3.25:1. Ms. Ryan added that the ZBA had granted the requested area variance. AH stated the

idea would be to have two lakefront lots. Mr. Cahill replied that the starting goal would be to at least sell one lakefront lot. AH asked what the terrain was from the front of the Lot 1 to the back. Mr. Cahill replied very low sloped. AH then asked if getting to the lake from Lot 1 would be fairly easy to which Mr. Cahill replied "very". Rick Giolito (RG) asked if the plan for proposed Lot 1 was to place a house close to the water. Mr. Cahill replied that the buyers would need to stay within the zoning envelope. MET asked if the only way to exit proposed Lot 1 would be via Methodist Farm Road as Saxby Way Road ended at proposed Lot 2 to which Mr. Cahill replied yes. RG asked if the elevation for proposed Lot 1 was feasible for a driveway to which Mr. Cahill replied absolutely as it was not steep and approximated a 20' elevation change from the front of the lot to the back. Mr. Cahill added that Lilly Lane to the right of it was a very flat road. AH asked if it had public sewer. Mr. Cahill replied that he understood that there was public sewer on Methodist Farm Road as well as on Saxby. RL stated that he had no issues with the proposed minor subdivision and added that it was a nice building envelope. AH asked if a well existed to which Mr. Cahill replied that there was a shared well in between the two existing structures.

With no further questions, AH motioned to schedule the Public Hearing on May 19, 2021; seconded by RL and all approved.

Area Variance Recommendation to the ZBA (Scenic Preservation)

Valerie Balga
1202 Burden Lake Road
Averill Park, NY 12018
R-Residential Zoning District

Tax Map #: 158.4-5-24

Lot Size: 0.17 acres

An Area Variance application regarding insufficient front and side yard setbacks for a proposed accessory structure within 100' of Burden Lake (Scenic Preservation).

Valerie Balga presented and stated that she wished to add a traditional 10' x 10' manufactured gazebo to the lake side of the yard which would be installed by a licensed contractor. Site plan and pictures were viewed, and Ms. Balga added that the existing deck would be expanded to meet up with the gazebo. She stated that these items would make that side of the lake more usable. Monica Ryan explained that the area variances sought were for a front and side yard setback as it would be placed right to the water's edge. RG stated that he understood the gazebo would be over the water. Ms. Balga replied that it would be slightly over the water. Ms. Balga added the gazebo would be partially in the water by a couple of feet which is why she had worked with received a permit from DEC. RG asked if the extension of the existing deck to meet up with the gazebo would also be over the water to which Ms. Balga replied yes. RL asked Ms. Balga if she had spoken to any of her neighbors regarding the proposed project. Ms. Balga replied she had, and they seemed to love the idea. RL asked if the gazebo would block anyone's view to which Ms. Balga replied "no". RL asked if the proposed gazebo needed to be over the water. Ms. Balga replied that it would only be 2' over the water and explained the area to the water was rocks. RL added that the concern for the location of the proposed gazebo, which is considered an accessory structure, is that it would have '0' setback. RL asked if the gazebo could be moved 5' away from the water. Ms. Balga explained that with size and layout of the parcel, there were not a lot of options. AH noted that the existing deck just covered the rocks into the water and if the proposed gazebo did the same, it also would just cover the rocks. Ms. Balga agreed and added it would be just over the rock line of water. MET asked if there would be piers in the water to support the gazebo Ms. Balga replied yes and added that it would be done by the same engineers who had done the piers for the existing deck. MET asked if the Burden Lake Association had any clauses that may prohibit the proposed project. Ms. Balga replied that she had inquired with them and there was not. AH stated that a public hearing could be held to gain input. Ms. Ryan informed the Board members that the ZBA had scheduled a public hearing. AH stated that the Board could make a recommendation at this time to include that the ZBA public hearing comments be considered. It was noted that the neighbor letters for the ZBA had been sent out and no comment had been received via phone or in writing. Ms. Balga confirmed that the neighbors had received their letters. A discussion ensued amongst Board members regarding direction to be taken for the Recommendation

to the ZBA. AH noted that the Board had previously granted approval for a boathouse to be completely on the water on Crooked Lake as long as DEC permitted the project. RG stated he felt the difference was that Burden Lake permitted boats with motors to which Ms. Balga stated was correct. AK stated that he did not have an issue with the proposed project and added that the existing deck was already over the water. RL stated that he felt it was enough of a unique situation and added that it would not be impeding on anyone's property with a '0' setback. AK asked the height of the proposed gazebo to which Ms. Balga replied she did not know. AH replied that the height would probably be around 12'. AH noted that there were trees to the left of the property that would block the gazebo from the neighbors. AH motioned to provide a positive recommendation to the ZBA; seconded by AK and approved by MET, RL, JB and AK. The motion was opposed by RG as he did not want to set a precedence. Ms. Ryan informed Ms. Balga that she would be placed on the ZBA agenda for the May 13, 2021 meeting.

Scenic Preservation

Frank Razzano (Applicant - Contractor)
Jess Brannen and Susan Knowles (Property Owner)
63 Gundrum Point Road
Averill Park, NY
R- Residential Zoning District

Tax Map #:169.2-1-23
Lot Size: 0.17 acres

A Scenic Preservation application to replace a segment of retaining wall, construct an ADA compliant ramp, deck and electric lift within 100' of Burden Lake.

Jess Brannen and contractor Frank Razzano were present. Mr. Razzano stated that the project involved an approximate 40' walkway from the back of the house to within 18' of the waterfront. He added that there would be a 5' x 10' elevated walkway to a 3' x 4' platform lift to bring individuals down to the water level. He added that it would make the waterfront far more accessible for the homeowner. Site plan pictures were viewed and AH asked how far the lift would go down. Mr. Razzano referred to another site plan picture of a conceptual drawing done by an architecture and stated it would be 11 to 12'. Images of the exact elevated lift was also viewed. Mr. Razzano stated that the platform would be fully integrated and consisted of a locking mechanism to prevent it from falling if a cable were to break. He added that the lift also had interlocking gates so the top gate could not be opened unless the lift platform was there. He added that the work would be done according to NYS building code by qualified craftsman and electrician. Mr. Razzano then referred to pictures of the existing retaining wall and explained that 10-12' parallel to the lake as well as 10' perpendicular to the lake would be replaced with the gabion style retaining wall for structural and aesthetic purposes. He explained that the upgrade of the retaining wall would basically stay in the same footprint of what existed yet be more secure and a long-term stable option. Mr. Razzano then referred to the degraded and fallen retaining wall area that was 10-12' away from the project and stated that it would not be touched as it had been that way for a long time and the earth had settled; thus, other than adding some fill, grading, and seeding to stabilize naturally, it would not be disturbed.

Mr. Razzano clarified that the proposed platform would come off the existing ground level deck located outside of the walkout basement. He added that approximately half of the walkway would be very close to ground level and beyond that it began to slope off rapidly. He stated that while other options were reviewed, none of them were feasible as they were very unsightly and imposing structures. RG asked if the deck would be cantilevered to which Mr. Razzano replied no as there would be structural support piers in the appropriate spacing of 10' intervals. He explained that it would be an elevated walkway to an elevated platform with a lift down to lake level. He added that it would slope at a 1/12 pitch which was ADA compliant and added that the lift could safely hold a wheelchair, if needed. RL asked if there would be any path lighting. Mr. Razzano replied that there would be path lighting for safety and it would not be intrusive. He added that the homeowner had stated there was no interest in using the walkway/platform for entertaining purposes. AH asked if the gabions would be bars or mesh baskets to which Mr. Razzano replied mesh baskets done in an aesthetically pleasing manner. RG asked if there would then be landscape to which Mr. Razzano replied absolutely and referred to the conceptual drawings to reflect the

plan. Board members agreed that sufficient pictures were supplied; thus, a site visit was not necessary. AH then motioned to classify the project as a Type 2 action under SEQR and declared the Town of Sand Lake Planning Board as the Lead Agency; seconded by RL and all approved. AH motioned to approve the Scenic Preservation Application as submitted with the following conditions: before, during and after construction, proper precautions will be taken to prevent any discharge of sediment into the Lake and proper erosion controls will be put in place to prevent future erosion into the Lake. The motion was seconded by MET and unanimously carried forward.

Scenic Preservation

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

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

A Scenic Preservation application for a single-family dwelling within 100' of Crooked Lake.

Andrew Bulmer and attorney Sarah Campbell were present. Ms. Campbell stated that she represented the Bulmer's. She added that she had watch the recorded PB meetings of June 3 and June 17, 2020 where the Board had initially seen this application. She explained that she had reviewed the documents previously presented to the PB and noted that there had not been a formal survey done at that point. Ms. Campbell stated a formal survey had been done since that time and unfortunately the foundation had been poured with an error. She explained that they had begun the process back in front of the ZBA to try and correct the problem via additional area variance relief. Ms. Campbell stated that in terms of the Scenic Preservation, the project had changed slightly from the initial review as the structure was now a little further back from the water yet closer to the road according to the formal survey that had been completed. She added that no other exterior modifications were proposed. She stated that additional area variance relief was needed due to the error in the foundation pour coupled with not having the exact measurements when the original area variance relief was sought. Ms. Campbell referred to site plan pictures and the sketch plan that had been viewed at the June 3, 2020 meeting and stated the project remained the same. She explained that the structure was now closer at the west side set back as relief had been granted for 10.7' and the foundation had been poured at 6.3' and that side of the house included a bump out window which had not been addressed. She stated that initially the structure was to be 30' from the water; however, with the foundation poured a little further back than initially planned, it would now be 35' away. Mr. Bulmer stated that Ms. Campbell's portrayal of the issues was correct. He added that they had initially gone into the project during the winter and then lost their original contractor which resulted in the need for different contractors: one to excavate the site, another one to do the footings and the third to pour the walls. He added that along the way, the foundation had been misplaced and resulted in being over the variance relief granted. As it was noted that the ZBA had yet to finish their process, AH, RL and RG agreed that no action that could be taken by the PB until such time as a Recommendation could be requested by the ZBA. AH asked if the additional area variance relief had been requested yet. Ms. Campbell replied yes, and they were on the agenda for the next ZBA meeting. She added as there had been a lot of delay, they just wished to run the situation by the PB to be prepared for the next PB in case additional questions needed to be answered. A discussion ensued amongst Board members and Ms. Campbell regarding the differences in the original versus actual plans for the home. Ms. Campbell stated that with the formal survey and exact measurements, the additional relief being sought would be final. AH and RG agreed that the PB had no jurisdiction at this point. CC explained that as the project required area variances, the PB had always waited until the ZBA has made the decisions on the variances requested before ruling on Scenic Preservation requests. He added that he thought Ms. Campbell's point was to lay the groundwork for any issues that the PB may notice versus processing it until a decision was made by the ZBA. Ms. Campbell agreed with that statement.

AK stated that he had not been a PB member at the time of the initial application and asked if the proposed deck and covered porch were all a part of the original application. Ms. Ryan replied no and showed what had been

before the PB initially for Scenic Preservation. AK asked whether the applicant had added the proposed screen-in porch, covered deck, and open deck along with bump outs since the original application. Ms. Campbell stated that she noted that a photo rendering had been shown at the June 3, 2020 meeting which reflected a deck. RG noted that the original deck had not been to scale and the current differences off the structure were additional decking over the well and in the front of the house along with two additional bump outs – all of which were not on the original plan. Ms. Campbell replied that she believed that statement to be correct. RL recalls discussing the original proposed deck in relation to not blocking the neighbor's lake view. Monica Ryan noted that the initial sketch submission was of the not to scale deck. She then noted that PB member Mr. Glasser had been aware of a survey being performed and asked the applicant to return to the PB with the drawing placed onto that survey. Ms. Ryan then pulled up that second submission from the applicant which was a partial of the survey with the structure placed on it.

MET noted the measurements as the front yard setback required to be 50'; ZBA granted 25' and 6.1' was currently being sought. She added that a side yard setback required to be 30' on one side and no relief had been needed originally; however, 20' was currently being sought; and the other side that required 20'; ZBA granted 10.7' and currently 3' was being sought. Ms. Campbell stated that the side that was now down to 21.3' was the distance to a screened porch. She added that either the applicants, at that time, did not know they would have a screened porch and/or understood that the roofline needed to be included the measure for the setback relief granted. She added that on the lakeside, a 30' variance relief was granted however the foundation was actually now 35' from the water with no variance relief needed. She explained that on the side where the concrete had been improperly poured, was just a flat-out mistake – variance granted 10.7'; actual pour was at 6.3' and with the bump out windows it is now 3.4'. RG and RL agreed that the last variance being sought was not a good scenario. MET reiterated that the PB currently had no role, and the discussion was for informational purposes. AH stated that the PB would wait to hear back from the ZBA on whether a Recommendation is requested. CC stated next steps would be based on the determinations made by the ZBA. It was clarified for Ms. Campbell that the ZBA could not ask for a Recommendation from the PB until such time as they deemed the application complete which had not been done yet.

DRAFT RESOLUTIONS – Applications had been approved at the April 21,2021 Planning Board Meeting

Scenic Preservation for Anja Carr

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 RG and all approved.

Site Plan Review Ryan Hodge

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

ADJOURNMENT – AH motioned to adjourn the meeting at 9:26pm; seconded by MET and all approved.