

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
December 10, 2020**

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 7:01 PM
- MEMBERS PRESENT: Geraldine Burger
Amy Lent
Wayne Gendron
Craig Crist, Esq.
- MEMBERS ABSENT: Scott Bendett
- OTHERS PRESENT: Walter Scheeren, Shannon Scheeren, Monica Ryan (Town Planner)
- RECORDING CLERK: Laura Fedoreshenko, Clerk for Planning Board and ZBA

Area Variance Application and Public Hearing

Walter K. Scheeren (applicant)
Shannon Scheeren (property owner)
14 Helen Lane
West Sand Lake, NY 12196
R – Residential Zoning District

Tax Map # 147.1-2-47

Lot Size: .258 acres

An area variance application regarding insufficient rear yard setback for a proposed 16' x 16' deck.

Shannon Scheeren and Walter Scheeren were present. Walter Scheeren summarized the project initially presented at the Zoning Board of Appeals (ZBA) meeting on November 12, 2020. He reiterated that without the proposed deck, there was no usable backyard space. Mr. Scheeren informed the Board that an offer had been recently submitted for the home. He added that nothing had been relayed to the potential buyers regarding the proposed deck as the Area Variance process had yet to be completed; thus, did not want to mislead them. He stated that the applicant wished to proceed with the Area Variance process in order that it may be provided to the new owners in the event that they are able to close on the house. MT asked what would happen if the variance for the deck was approved and the home sold before the project was completed. Mr. Scheeren replied that if the deck were completed, the contract for the home would need to be amended. He added that if the home were to transfer prior to the deck being built, the new owners would need to pay him or another builder to construct it if they wished to move forward. He added that he had continued to work with an engineer and had stamped plans at this time; thus, if approved, the Area Variance and deck plans would be given to the new owners. Ms. Ryan clarified for all that the Area Variance would run with the land and not the owner. MT asked what would happen if the Area Variance was granted, as submitted, and the owner wanted a different configuration. Ms. Ryan explained that the variance was for the setback; thus, a new owner would be confined to them and able to build the deck up to the maximum amount approved but could not exceed the approved setback. Mr. Scheeren explained that the site picture of the slope was very accurate; thus, anything less than 2' from the property line would not be feasible. He added that the property line from the wall was 18' and from the foundation, it was 20'. MT motioned to open the public Hearing at 7:12pm; seconded by Geraldine

Burger (GB) and all approved. With no public written or online comments received, MT motioned to close the Public Hearing at 7:13pm; seconded by GB and all approved. MT stated that there was not any usable space in the back yard; thus, seen the proposed deck as warranted. She noted that if the applicant were to try and stay within the setback, the deck would be tiny and unable to fit a picnic table. She added that the ZBA tried to maintain as much of a setback as possible. Mr. Scheeren offered an option that within 30 days of closing the new owner would need to confirm that the deck would or would not be built. MT replied she was not in favor of that option. Craig Crist (CC) stated that as the variance would run with the property, the proposed project is what the ZBA had to deal with and should not be making deals with parties that were not present. CC added that a new owner could decide to pull or not pull a Building Permit. ZBA members agreed with CC. GB commented that she was very familiar with the property and noted that there were not many options for the use of the back yard; thus, found no strong reason not to approve the variance for the applicant who remained the owner at this time. Mr. Scheeren then asked if another option would be for them to retain ownership and table the meeting until after the closing; thus, if the buyers backed out, the current owner could then move forward with the project. CC stated that the request to table the Area Variance would be a decision for the applicant. He reiterated that if the variance were approved, the new owner may not pull a Building Permit as they may not elect to construct the deck. Mr. Scheeren then stated that they did not wish to table the project.

Amy Lent (A)L commented that she seen the project as logical to approve. AL then motioned to classify the project as a Type 2 action under SEQR and declared the Town of Sand Lake ZBA as Lead Agency. The motion was seconded by GB and all approved.

Wayne Gendron (WG) commented that he knew there was not any usable space in the back yard and there was state property before Route 351; however, felt that the deck could be brought back to a 12' x 16', or width of the house, which would allow for ample room for furniture/tables. WG and Mr. Scheeren discussed the footings to support the deck. Mr. Scheeren added the reason for not going the whole width of the house was to add, in the future, a hot tub in the back corner that would adjoin the deck however be supported separately. GB clarified that the hot tub area was not part of the current application to which Mr. Scheeren agreed. MT stated while a setback of 2' was small, the area abutted State property; thus, understood the need to gain as much livable space as feasible.

MT then went over the criteria that ZBA members were to consider when making a determination on an Area Variance Application.

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 stated it was unlikely that the project would produce any undesirable change or detriment to nearby properties. She added that it may actually increase values around it.
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 stated that the property was reviewed/discussed and there were no other options to achieve the desired outcome.
3. Whether the requested area variance is substantial.
MT stated that the requested Area Variance would be 80%; thus, leaving a 2' setback would be seen as substantial.
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 she did not believe the request would have an adverse effect or impact as it would be a deck.

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 a majority of the applications received had been self-created and was the nature of the applications.

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

DRAFT RESOLUTION APPROVALS

Area Variance Application for Mary Jane Tifft

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

MT motioned to approve the Resolution in its entirety; seconded by WG and all approved.

Adoption of Negative Declaration for Eric Dahl

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

MT motioned to adopt the Resolution in its entirety; seconded by WG and all approved.

Area Variance Application for Eric Dahl

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

MT motioned to approve the Resolution in its entirety; seconded by AL and all approved.

DRAFT MINUTES FOR APPROVAL – MT motioned to accept the August 13, 2020 minutes as submitted, seconded by AL and all approved.

ADJOURNMENT - MT motioned to close the meeting at 7:35pm; seconded by WG and all approved.