

**Town of Sand Lake
Zoning Board of Appeals (ZBA)
December 19, 2019**

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 7:00 PM

MEMBERS PRESENT: Melissa Toni
Jeb Bond
Stuart Nippes
Craig Crist, Esq.
Geraldine Burger
Scott Bendett

MEMBERS ABSENT:

OTHERS PRESENT: Patricia Carroll, Douglas Carroll, David Lovelace, Tammy Lovelace, Kevin McGrath, Edward Berger, Andrew Bulmer, Moira Bulmer

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

Area Variance Application and Public Hearing

Betsy Owens (Executor and Applicant)
The Estate of Jackson Lawrence (Property Owner)
Eastern Union Turnpike (Lot 2)
Averill Park, NY 12018
R – Residential Zoning District

Tax Map #159.-1-13.51

Lot Size: 4.77 acres

An Area Variance Application for an insufficient 3:1 depth to width ratio created as a result of a proposed Minor Subdivision.

Melissa Toni (MT) explained the process for the Area Variance Public Hearings. Surveyor Kevin McGrath presented and stated that the family lived out of state. He added that the proposed minor subdivision would be to settle an estate for a 10-acre parcel which is to be divided equally amongst the son and daughter. He explained that proposed Lot 1 met all criteria, however Lot 2 would exceed the 3:1 depth to width ratio as it had to be calculated from the setback line which needed to be “dog-legged” in order to divide the property equally as possible. Mr. McGrath added that there were no current plans to build on the property as the son and daughter lived out of state; thus, survey maps reflect “vacant land, not for development”. He then shared that he had presented the Minor Subdivision Application to the Planning Board (PB) two times and received a conditional approval based on the Area Variance Application being approved. With no further questions from the Zoning Board of Appeals (ZBA) members, MT motioned to open the Public Hearing at 7:04pm; seconded by Stuart Nippes (SN) and all approved. As there were no public comments, MT motioned to close the Public Hearing at 7:05pm; seconded by Scott Bendett (SB) and all approved. SB motioned to declare the Town of Sand Lake ZBA as Lead Agency with no other interested agencies or involved parties. Seconded by MT and all approved. SB motioned to classify the

project as a Type 2 action under SEQRA as there was no significant or adverse impact on the environment. Seconded by MT and all approved. Craig Crist (CC) then read the NYS Town Law 267B for all present:

3. Area variances.

(a)The zoning board of appeals shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of such ordinance or local law, to grant area variances as defined herein.

(b)In making its determination, the zoning board of appeals shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (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;
- (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;
- (3)** whether the requested area variance is substantial;
- (4)** whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (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.

(c)The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

SB then motioned to approve the Area Variance Application as submitted; seconded by MT and all approved. MT stated that the decision was based on the fact that proposed Lot 2 would be within all five of the considered criteria. She then stated the following reasons for the determination:

The property would remain in the family and added that Lot 1 met the zoning criteria and the Area Variance needed for Lot 2 was not substantial.

There would not be another option for Lot 2 as it bordered Eastern Union Turnpike and Glass Lake.

The granting of the Area Variance would not result in an undesirable change nor affect the character of the neighborhood or have any impact on the environment.

MT asked ZBA members if they were all in agreement on the reasoning and all approved.

Area Variance Application and Public Hearing

Andrew Bulmer
24 Stone Camp Way
Averill Park, NY 12018

Tax Map #170.2-1-4

Lot Size: 1.84 acres

An Area Variance Application to construct a single-family dwelling with deficient yard setbacks.

Andrew and Moira Bulmer stepped forward. Mr. Bulmer stated they proposed to rebuild a structure that had previously existed. Mr. Bulmer explained that initial discussions with the Planning Office resulted in the proposed plan needing an Area Variance for the front, side and rear yard setbacks. MT asked if it was correct that the one side yard was currently 10.7' and rear yard 30'. Mr. Bulmer replied yes. SN clarified for all that the rear of the house was the lake front. Mr. Bulmer agreed and added that the prior camp had been 17' from the water; thus, proposed to now be 30' from the water for aesthetics of the

lake front community. With no further questions, MT motioned to open the Public Hearing at 7:11pm; seconded by Jeb Bond (JB) and all approved. MT then asked the public to comment.

Doug Carroll stepped forward and stated he resided at 20 Stone Camp Way. Mr. Carroll pointed out that camp which previously existed has not been there for the last 11 years. He added the rule of thumb was that the owner had two years to replace it in the same footprint. SB clarified that the rule was part of the Zoning Code. Mr. Carroll then stated that the neighbors of the original stone camp house were concerned about the 10.7' setback on the one side. He added that the neighbor was not that far from that side line. SB asked how far the neighbor was from the property line. Mr. Carroll replied approximately 10-12' from it. MT and Mr. Carroll reviewed the site plan map to clarify the area of the neighbor whom he stated was Pat Simon and noted that she was in California. He explained that Ms. Simon was concerned as their screen porch was on that side of the house. Mr. Carroll then referred to the 30' from lake versus the required Zoning Code of 50'. He added that he believed when the Bulmer's purchased the property 1-2 years ago, they had been informed that the lot was not of a size to support a building. Mr. Carroll relayed his concern of the 25' setback from the roadway versus the required 50'; thus, needed a 50% Area Variance. He then mentioned the 30' from the water versus the required 50' would result in a 40% Area Variance being needed. He stated that these area variances would be seen as substantial versus minor. Mr. Carroll then stated that when he considered the five factors for an Area Variance, he viewed the proposal as an effect to the community. Mr. Carroll then explained that while he had built a few years ago, his lot had some space however the other neighbors did not. He then stated that the situation was self-created and saw the back of the property as an alternative for the house to be built and admitted that it may not be the preferred location. He added that while unsure of the environmental impact as proposed, he thought it may impact the local people and character of the neighborhood. He added that if the Area Variance is granted and the house is built, what would then be the plan for the land behind it such as subdivide it and/or another house built. Mr. Carroll concluded by stating these were the concerns brought forth to him by the neighbors and they saw this as a self-induced hardship.

Patricia Carroll stepped forward and stated she also resided at 20 Stone Camp Way. Ms. Carroll explained that they lived on a shared private single lane road and resided at the end on the south side. She then stated that they would need a safe and reasonable egress from their home; thus, unsure of the Bulmer's parking arrangements during and after construction if the Area Variance were to be granted for the 25' setback from the roadway. Ms. Carroll then stated that during construction there would not be any safe location for the construction equipment needed on the site coupled with the ability to safely ingress and egress their property during the build. She then asked, if approved to build 25' from the roadway, where would the Bulmer's expect to park numerous vehicles once the house was built. She added that request was seen as significant for the Area Variance. Ms. Carroll added that the houses in that vicinity were all very well-spaced apart which allowed them to enjoy their privacy. She then stated that at the request of Pat Simon and Anne Bower, the Carroll's measured their property for the distance to the lake and came up with 45'. She reiterated that the previous camp had been demolished 11 years ago; thus, felt the reference to the previous footprint seemed irrelevant as it was tiny and only used seasonally. She concluded that while she felt badly, she did not feel the area supported a year-round structure.

Paul Beringer stepped forward and stated he represented Pat Simon and Ann Bower who were adjacent neighbors to the applicant. Mr. Beringer referred to a letter he had received from Pat and Ann. MT asked if that information was previously submitted by Pat and Ann. Mr. Beringer replied no, it was new and handed out copies. Mr. Beringer then read the letter (copy attached) which referenced their concerns in relation to the five factors considered for an Area Variance.

Chris Bradley stepped forward and stated that he resided at 197 Methodist Farm Road. He stated that he also utilized the shared right of way going down to the lake on that road. He explained that, for the most

part, it was originally all camps on that road which had since been demolished and replaced with brand new homes. Mr. Bradley stated that while the road is narrow, the construction of a home was feasible as proven by the others who had previously built. He closed by stating he lived up across the road and had no objection to a house being built at the location.

MT then stated there had been a few emails submitted to the ZBA. She referenced one which had been sent in by Pat Simon and Ann Bower (copy attached) and stated it was a similar theme to the one read by Mr. Beringer. MT then referenced the other email as submitted by Katherine Lawrence who was concerned about the increased traffic on Stone Camp Way as well as creation of an undesirable change in the quiet character of the neighborhood.

Based on the input received, MT stated she had some questions for the applicants. MT asked if screening was to be proposed for between them and the Bower/Simon property. Mr. Bulmer replied that they planned on leaving the natural hedge growth that existed between the properties. MT asked if, during the summer, the natural hedge growth could be seen through. Ms. Bulmer replied she was unsure, thus unable to answer. MT then asked about parking. Ms. Bulmer replied that they planned to build a detached garage across the road from the house and that it would meet the setbacks. Mr. Bulmer explained that it would be approximately 49' across from the house and 25' from the stone's edge to the front of the house. He added that that the property was fairly large and they had purchased it to build a lakefront family home. Ms. Bulmer explained that she disagreed with the Carroll's comment in that the deeded right of way for their access to the lake was considered a border as she viewed Methodist Farm Road as the border. She pointed out that it was less than two years ago when the Carroll's had come before the ZBA seeking similar variances to build their dream home on the lake. She added that they were not building a big house, planned on placing a detached garage across the street and did not wish to change the integrity or character of the area as those amenities is what had drawn them to the location. MT then asked about the construction equipment while work was underway. Ms. Bulmer replied that it would be located across the road and added that the Carroll's did not have that option at the time they had built their home. She then stated that it may be feasible for them to access the location via Methodist Farm Road using a culvert and driveway; thus, not impact the gravel road. MT asked if there was room to pull the house back further than the proposed 30' from the water. Mr. Bulmer explained that while it would be nice to have additional greenspace towards the lake, the 25' from the road was proposed to allow a small front yard with a pathway from the road and allow room to park a vehicle. He added that with the ability to also park across the road, he did not envision parking to be an issue. MT agreed that it was a confined space on both sides. MT asked if there were other questions from the ZBA. Geraldine Burger (GB) referenced the letter submitted by Simon/Bower and asked what was meant by "it could be achieved by building on the center of the lot". MT and GB reviewed the site plan map. SN asked if other Area Variances could be viewed for which CC replied yes. Ms. Carroll stepped forward and stated that no Area Variances had been needed when they built as it had been within the footprint of the previous camp and done within the required two-year timeframe of the camp being removed. She added that they had submitted a Scenic Preservation Application for removal of trees. Mr. Bulmer replied to GB and stated that when the original camps had been built, it was done in a manner to allow the neighbors to have some greenspace and seemed to work well. Ms. Bulmer added that the proposed plan to set the house back a little further from the lake would help to alleviate the visual block of the lake view. GB then asked the applicants if they had spoken with Simon/Bower. Mr. Bulmer replied yes and that he had a lengthy conversation with them for which they had stated they did not see a problem. He stated that the recent letter submitted by Simon/Bower was different than their conversation however he understood their concerns. Mr. Bulmer added that he had also spoken with the other neighbors, Mr. Collopy and Ms. Lawrence/Howard who seemed to be fine with the project as well. Ms. Bulmer added that at one point the previous owner thought he would rebuild the camp however did not; thus, was the reasoning for the rebuild being outside of the required two-year timeframe. MT referred to the site plan map and asked

about a ditch. Mr. Bulmer explained that it was a culvert pipe and looked to be a runoff ditch that used to be there at one time. MT asked if the house could be shifted to the right side. Mr. Bulmer replied that the original and proposed layout plan allowed for greenspace on both sides. SN commented that the site had a lot of space and that there was vegetation and trees between the houses. He then asked if just a 5' move to the side to allow for 15' would be feasible. Ms. Bulmer replied that she did not think much would be achieved with that move. MT stated that there would be less visibility if shifted. GB wondered if it wouldn't be more neighborly to provide more space on the 10.7' side as that may be all the neighbor was asking for. MT then stated if the Bulmer's would consider the shift and if so, what would it be. Mr. Bulmer stated that he had spoken to surveyor Kevin McGrath and asked him to step forward to assist on the response. Mr. Bulmer then stated that a review of a survey revealed that the Bulmers owned an additional 4.4' on the 10.7' side; however, it had not been recorded when the Trotter's had owned the property. He added that when he had spoken with Pat Simon, she stated that additional area went through the middle of a shed that they owned. Mr. Bulmer then stated that end result is that the one side actually had between 15 and 16' versus the 10.7'. All reviewed the site plan maps. MT motioned to declare the Town of Sand Lake Zoning Board of Appeals as Lead Agency; seconded by SN and all approved. MT then made a motion to classify this Area Variance Application as a Type 2 under SEQR as there was no significant or adverse impact on the environment. Seconded by SN and all approved. SN clarified that the direction of the additional land/shed was on the (west) left side. MT then asked if the Bulmer's planned to file a new survey for the property lines to be fixed/amended by the County. Mr. Bulmer replied eventually but not now as they wanted to move forward on the construction. SB asked the size of the proposed home. Mr. Bulmer replied it would be between 1500-1600 square feet; thus modest in size. MT made a motion to approve the Area Variance Application as submitted. Seconded by SN and GB abstained as she had not felt that all questions had been answered. MT stated the vote had passed and she explained that the owning of the additional 4.4' on the short side provided enough of a buffer from the concerned neighbor. CC asked if GB wished to comment. GB then asked what happened to the criteria of self-created hardship. CC asked that the vote be clarified by a raise of hands: 1) those in favor of the vote: SN, JB, MT, SB; 2) those not in favor of the vote: none, and; 3) those who abstained: GB.

MT then proceeded to clarify her reason as to why she motioned in favor of the Area Variance Application, based on the five criteria to be considered:

- (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 she did not believe the proposed home would produce an undesirable change as a camp had previously existed in that location. She added that had the previous owner rebuilt within the 24 month timeframe, he would have been allowed to do so. She also stated the proposed plan was to build in manner similar to the original layout of the previous camp with a shift further away from the water.
- (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 applicant was asked this question and responded there was not.
- (3)** whether the requested area variance is substantial;
MT stated she believed the variances being sought were below 40%; thus, were not typically considered to be substantial.
- (4)** whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
MT stated that the applicant's responses were environmentally friendly. She talked of their willingness to shift the home 30' away from the water, to allow for more green space, versus the 15' for the previous camp.

(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, like a majority of other Area Variance Applications brought before the ZBA, the difficulty was self-created however did not see any other alternative to consider which would meet their purposes for the property.

MT asked GB if she had anything to add, she replied no. MT informed the applicants that their Area Variance Application had been approved. CC stated that a Resolution would be drafted on ZBA's decision on this Area Variance Application for approval at the next meeting.

MINUTES – SN motioned to approve the September 19, 2019 minutes; seconded by SB and all approved.

ADJOURNMENT – MT motioned to close the meeting at 7:54PM, seconded by JB and all approved to close the meeting.

To the Town of Sand Lake Zoning Board

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.

The applicant has requested several variances that would greatly impact our property and property value. 1. They have requested to build within 10 feet of our property line instead of the 20' of the building code. They could easily achieve their desired width by building in the center of their lot, rather than encroaching on our property. This affects our privacy, and eventual resale value. 2. In addition they have requested to build up to 30" of the lake rather than the coded 100'. The building code was designed to protect the lake, the beauty of the natural environment and the view that the property owners could depend upon when they purchased their properties. Allowing this extreme variance would influence the experience of us as their neighbors but also all lake residents.

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.

It seems more reasonable to me that since they purchased 1.8 acres, they utilize the land across the road for their planned residence rather than crowding our camp and encroaching on the lake to the degree that they have requested.

3. Whether the requested area variance is substantial.

I believe allowing a house to be built within 10 feet of a property line is very substantial. In addition -- reducing the distance between a camp and the lake by this degree greatly reduces the intention of the building guidelines to be for the good of all, and makes it for the good of one.

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

see above

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.

see above

Sincerely,

Pat Simon
Ann Bower

Bulmer - AV

Karol O'Sullivan

From: Pat Simon <peraltapat@gmail.com>
Sent: Wednesday, December 18, 2019 3:42 PM
To: Karol O'Sullivan
Subject: Area Variance for 24 Stone Camp

Hello,
We own the property at 26 Stone Camp, adjacent to the proposed variances. We bought the property three years ago. At that time we understood the rules governing building on the lake. With that understanding we knew that the property is too small for a house to be built.

With respect to the variances, are they not the rules that people are expected to follow?

Why would someone be allowed to build 25 feet from the lake, if the rule is 100 feet?

We have considerable privacy now that we consider invaluable. We do not want a house built with only 10 feet of distance from our property line.

I do understand that Andy Bulmer works for the town, and I hope our wishes, and rights as property owners will be respected.

Thank you,
Ann Bower and Pat Simon

Sent from my iPad

Karol O'Sullivan

From: Carla Engwer
Sent: Thursday, December 19, 2019 8:11 AM
To: Karol O'Sullivan; Laura Fedoreshenko; Monica Ryan; Mike Wager; Tim Lawrence
Subject: FW: Email a Question or Comment (form) has been filled out on your site.

Carla J.Engwer

-----Original Message-----

From: Please Do Not Click Reply <support@govoffice.com>
Sent: Wednesday, December 18, 2019 8:46 PM
To: Carla Engwer <CEngwer@sand-lake.us>
Subject: Email a Question or Comment (form) has been filled out on your site.

Your Site has received new information through a form.

Form: Email a Question or Comment
Site URL: www.townofsandlake.us

My question concerns:

Planning Board or Zoning Board of Appeals Comment or Question: Am unable to attend the Dec. 19 Board of Appeals meeting regarding the hearing for the variance application for 24 Stone Camp Way, Averill Park, but am concerned that the addition of a large one family home would cause an increase in the traffic on Stone Camp Way (a gravel one lane road) and have a negative effect on the conditions in the neighborhood, as well as to produce an undesirable change in the quiet character of the neighborhood.

Thank you for your consideration.

First and Last Name: Katherine Lawrence

Email: kathyalawrence@gmail.com

Phone: (914)466-4531

Address: 29 Stone Camp Way Averill Park NY 12018 How would you like to be contacted? (Check one box only, please):
Email me

Do Not Click Reply - This e-mail has been generated from a super form.