

**Town of Sand Lake  
Zoning Board of Appeals (ZBA)  
March 11, 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 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  
Scott Bendett  
Amy Lent  
Wayne Gendron  
Craig Crist, Esq.

MEMBERS ABSENT:

OTHERS PRESENT: Christopher & Mari Wachtel, Kevin McGrath, Shane Cahill, Peter Finn,  
Maureen Straight, Monica Ryan (Town Planner)

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

**Area Variance Application and Public Hearing**

Christopher and Mari Wachtel  
215 Methodist Farm Road  
Averill Park, NY 12018

**Tax Map #: 170.-1-7.1**  
Original Lot Size: 20.94 acres  
New Lot 2 Size: 1.64 acres

R-Residential Zoning District

Parent Lot 1 Size: 19.30 acres

An area variance application for insufficient lot width as part of a proposed minor subdivision application to create one new residential lot.

Melissa Toni (MT) explained the Area Variance review and Public Hearing process for all attendees. Christopher Wachtel summarized the proposed two-lot minor subdivision that had been initially presented at Zoning Board of Appeals (ZBA) meeting on February 11, 2021. The site layout was reviewed and Mr. Wachtel explained that proposed Lot 2 required Area Variances for insufficient lot width and exceeding the maximum lot depth to lot width ratio. He added that proposed Lot 2 would have access via an existing a right of way and driveway as it would be adjacent to his home. He explained that, per a recommendation by the Planning Board (PB) upon viewing a sketch plan, Lot 1 would also have a 50' direct access from Methodist Farm Road should it be needed in the future. Surveyor Kevin McGrath stated that, due to the set-up of the area, if Lot 2 were to have 150' of road frontage, it would create a totally separate lot versus just access to Lot 2. With no questions from the Board members, MT motioned at 7:13pm to open the Public Hearing; seconded by Geraldine Burger (GB) and all approved. With no written or online public comments received; MT motioned to close the public hearing at 7:14pm; seconded by Scott Bendett (SB) and all approved. MT motioned for an uncoordinated review and classified Area Variances as an Unlisted action under SEQR, declaring the Town of Sand Lake ZBA to be the Lead Agency; seconded by SB and all approved. MT made a motion to give this action a Negative Declaration under SEQR; seconded by SB and all approved.

MT stated that the following criteria that ZBA members considered upon making the determination for this 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.  
Regarding the requested lot width area variance of 50' versus required 150', MT noted that the property still had significant land and the remaining land would not be used or developed; thus, the variance was seen as insignificant.  
Regarding the 3:1 lot depth to lot width ratio, MT noted the lot would be like a flagpole with an 11:1 depth to width ratio. She noted that the ZBA had a history of approving the 3:1 ratio in cases where there were no alternatives however had not approved them when there was an alternative. MT stated the property would continue to have a lot of frontage and there were no additional lots than what was proposed that would impact the neighborhood. She added that the proposed home would be set way back.
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.  
Regarding the requested lot width, MT stated that another method would result in the land being unusable for a driveway due to the steep topography off Route 150. She also noted that the PB did not want to create an additional lot for the purpose of access only. Regarding the 3:1 lot depth to lot width ratio, MT noted that options to avoid the area variance had been discussed; however, was unable achieve it via another method.
3. Whether the requested area variance is substantial.  
MT stated that the requested Area Variance of 150' to 50' was 66-67%.  
MT stated that the requested Area Variance of an 11:1 versus 3:1 ratio seemed substantial.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.  
Regarding the requested lot width, MT stated she did not believe the request would have an adverse effect or impact as it was noted that the existing right of way and driveway would be utilized for the proposed Lot 2.  
Regarding the 3:1 lot depth to lot width ratio, MT stated that in addition to the response above for lot width, the surveyor Kevin McGrath stated that a driveway could be constructed, if needed, on the proposed 50' access without substantial slopes.
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.  
Regarding the requested lot width and 3:1 ratio, MT stated that this property had a National Grid right of way that went through the middle of it; thus, was not self-created.

Wayne Gendron (WG) asked if the 50' access to Lot 2 would actually be feasible for a driveway considering the steep topography. Mr. McGrath replied that the area that he had marked off was about the last spot that was accessible as it was not steep there. He reiterated that to make the access 150' wide would result in the creation of another parcel and neither the property owner nor PB wanted that to happen. WG asked Mr. McGrath for his professional opinion on the driveway being able to be put straight back into the lot without any switchbacks on that 50' access. Mr. McGrath replied yes. Mr. Wachtel added that the right of way/existing driveway from Methodist Farm Road was steeper than what was surveyed out for the proposed 50' access.

MT motioned to approve the 50' lot width area variance versus required 150' for this project; seconded by WG and all approved. MT motioned to approve the 11:1 versus required 3:1 lot depth to lot width ratio for this project; seconded by GB and all approved.

**Area Variance Application and Public Hearing**

Maureen Straight  
158 Glass Lake Road  
Averill Park, NY 12018  
R-Residential Zoning District

**Tax Map #: 159.2-1-13**

Lot Size: 0.4 acres

An area variance application for insufficient side yard setbacks for the construction of a single-family dwelling.

Maureen Straight and surveyor Kevin McGrath were present. Ms. Straight summarized the project which was initially presented at the ZBA meeting on February 11, 2021. Kevin McGrath explained the layout of the project. MT asked Mr. McGrath if he thought the view of the properties across Glass Lake Road would be affected by the proposed structure. Mr. McGrath replied that he did not believe so as they were at a higher elevation and added that some evergreen trees existed that blocked the view of the existing cottage. Ms. Straight stated that directly across Glass Lake Road were tennis courts and not a home. MT motioned to open the Public Hearing at 7:36 pm; seconded by Amy Lent (AL) and all approved. MT read the written public comment letters of support submitted by adjacent neighbors Ms. Stallmer for the Doyle property and Nancy Dunn (letters attached). MT also stated that a positive Recommendation had been received from the PB. Peter Finn stated that he lived across the street and appreciated Ms. Straight's proposal to place the new dwelling down the hill and as far over to Ms. Dunn's as feasible so as it would not block his site line down to the lake. Mr. Finn then asked about the plan for the existing cottage to which Ms. Straight replied that it would remain and added that she had applied for a Special Use Permit (SUP) from the PB. MT clarified that the requested Area Variances fell under the responsibility of the ZBA and the two dwellings on the one lot would fall under the purview of PB. Craig Crist (CC) stated that Ms. Straight had appeared in front of the PB for the Recommendation and initial presentation of the SUP; however, no final decision had been made by the PB at this point as it was contingent on the outcome for the Area Variances. Mr. Finn noted that the new structure would be down the hill and two-stories, then asked what the visual would be like and would it be higher than the roofline of the existing camp. Ms. Straight replied that the lower level would be somewhat into the ground and overall height would be 34'. She added that her understanding was that it would be the same height. Mr. McGrath added that while no topography had been done, it was felt that the site quickly dropped down. He also noted that the evergreens across the front of the property were higher to which Ms. Straight agreed and stated they were at least 30'. MT stated that based on the photo, the new dwelling would have a walkout basement; thus, would be 5' above current ground elevation and the existing cottage looked approximately 12-15' high and stated it would be a matter of the elevation dropping down 5-10' to which Ms. Straight agreed and stated easily that amount. Mr. Finn stated that over all he did not have any issues with the project however was hoping to hear more on the overall height. Mr. Finn was informed that he could attend the upcoming PB meeting on the review/discussion of SUP, if he wished to do so.

MT motioned to close the Public Hearing at 7:46 pm; seconded by AL and all approved. MT clarified that there two side yard area variances being sought were for: a side yard setback of 5' versus 20' and the second is for a side yard setback of 14.1' versus 30'. MT motioned to declare the Town of Sand Lake Zoning Board of Appeals as Lead Agency under SEQR, seconded SB and all approved. MT motioned to classify this project as a Type 2 action under SEQR; seconded by GB and all approved.

The overhead photo was reviewed and WG asked what the 5' side yard setback was measured from – foundation, bow window or corner of home. Mr. McGrath stated it was proposed to be 5' from the foundation. MT stated it should be measured from the covered structure and CC agreed that it would be any roofline/overhang of the structure. Ms. Straight stated it was the width of the porch in the front that made it at an odd angle for placement as it would be 4' wider than the house. MT read the Zoning Code definition for setback which stated: the minimum distance required for compliance was measured from the shortest horizontal line between any portion of any structure. WG replied that would then include the roof for which MT agreed. CC stated, if needed, it would be the Building Inspector's determination; thus, the Board could refer to the Building Inspector or accept the definition. MT stated she had no issue with the use of the definition as it could not be any clearer to which WG agreed and reiterated that no portion of that area of the structure could be any closer than 5'. Ms. Straight was informed that she could work with the Building Inspector regarding how that would be measured.

MT stated that the following criteria that ZBA members considered upon making the determination for this 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 noted that the two-dwellings proposed on the lot would fall under the PB review of the SUP. Regarding the area variances for the requested side yard setbacks, MT noted that the two adjacent neighbors had submitted letters of support and did not foresee any visual effects. MT stated she felt the same for the neighbors across the road and noted that Mr. Finn was neither supportive or negative and did not have any comments that opposed the project.
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.  
Regarding both area variances, MT noted that the proposed location seemed to be the widest part of the property while setting the house close on one side to have the least visual impact as possible.
3. Whether the requested area variance is substantial.  
MT stated that 5' on the west side from 20' would be classified as substantial.  
MT noted that the 14.1' on the east side from 30' was somewhat less substantial at 50%.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental condition in the neighborhood or district.  
Regarding both area variances, MT noted that the project would increase the amount of impervious as the proposal was not to remove the cottage. It was noted that while it would be a net increase of impervious; it would however be within what the Zoning Code requirements. She also noted that the project would be over 100' from the lake.
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.  
Regarding both area variances, MT stated that as with many of the requests, the difficulty was self-created.

MT motioned to approve the side setback of 5', applied to any portion for that area of the structure; seconded by GB and all approved. MT motioned to approve the side setback of 14.1' on the northeast, applied to any portion of the structure; seconded by AL and all approved. MT informed Ms. Straight that was approved and would not work back with the PB on the SUP application.

**Area Variance Application**

Thomas & Flora Fasoldt (applicant)  
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

An area variance application regarding a proposed subdivision to create a lot that exceeds the 3:1 ratio of lot depth to lot width.

Surveyor Kevin McGrath represented and explained that the owners wished to create a total of 2 additional lots for their sons to build a home on. He added that proposed Lot 1 would consist of the Fasoldt's existing home and retain the parcel across the road via a "z" hook; Lot 2 would meet the Zoning Code requirements and proposed Lot 3 would need Area Variance for the 3:1 lot depth to lot width ratio. Mr. McGrath explained that proposed Lot 3 would consist of just over 7 acres and meet the Zoning Code for road frontage of over 260'; however, without cutting off the back wooded area of the property it would need an area variance for the 3:1 lot depth to lot width ratio. He explained that shortening the depth for proposed Lot 3 did not make sense nor would it be considered a spaghetti lot as proposed. MT stated the request would be a ratio of approximately 4:1 and asked for clarification on why the 3:1 could not be achieved. Mr. McGrath stated that if the property owners were to cut back the depth to create a 5-acre lot would mean that Lot 1 would then retain the back part of property. He added that their son planned to build a home on that parcel and the owners preferred that he also own the back part of it. WG asked why the part of land across the road on proposed Lot 1 would not just be deeded to the son who planned to build on Lot 3. Mr. McGrath replied in addition to the total of those lots being more land than the son wanted, the owners also had a daughter who may wish to do something with that part of proposed Lot 1 in the future. MT then stated that the owners did not want to preclude the fact that they may separate Lot 1 in the future to which Mr. McGrath agreed. He added that should such a subdivision be done in the future the owners were aware that the parcel of land across the road for proposed lot 1 would require an area variance for the 3:1 lot depth to lot width ratio. WG motioned to declare the application as complete and scheduled a Public Hearing for April 15, 2021 at 7:00pm; GB seconded the motion and all approved.

**Area Variance 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

An area variance application regarding a proposed subdivision to create a lot that exceeds the 3:1 ratio of lot depth to lot width.

Realtor Shane Cahill represented and stated that Mr. Kinney had owned the property for a long time and was looking to subdivide off one lot on the left-hand side of the property to try and maximize value and give the parcel some 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 as the homes were not in great shape and shared a well, 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 it marketable. MT asked if Lot 2 met all Zoning Code requirements to which Mr. Cahill replied yes, to the best of his understanding. Mr. Cahill stated for Lot 1, it met road frontage criteria; however, the distance from the road to the lake

exceeded the 3:1 ratio. MT stated that it would be a 3.25:1 ratio and noted it would be a minor deviation from the 3:1 ratio. MT then asked if the need for the area variance could be avoided and if not, to explain why. Mr. Cahill replied that there was an existing house up by the road; thus, without getting closer to that existing home the proposed width could not be exceeded. He added that while the depth could be lessened, it would make proposed Lot 2 useless and not provide access to Crooked Lake; thus, would defeat the purpose. MT asked the setback of the existing house to which Mr. Cahill was replied 20'. WG asked if the property line was pushed back and angled to the left would it then meet the 3:1 ratio. MT replied she did not believe so as the ratio was measured by the total lot length - from Methodist Farm Road to Crooked Lake - and width was measured 50' back from the road. Mr. Cahill agreed and added that changing the angle of the line to the lake would not make a difference. MT noted that moving the lot line over and having a setback of less than to 20' on the right side also would not meet the 3:1 ratio. WG motioned to declare the application as complete and scheduled a Public Hearing for April 15, 2021 at 7:00pm; SB seconded the motion and all approved. MT motioned to refer the matter to the Planning Board for a Recommendation as it involved a Minor Subdivision; seconded by SB and all approved.

**DRAFT MINUTES FOR APPROVAL**

MT motioned to accept the February 4, 2021 minutes as submitted, seconded by SB and all approved.

MT motioned to accept the February 11, 2021 minutes as submitted, seconded by SB and all approved.

**ADJOURMENT** - MT motioned to adjourn the meeting at 8:24pm; seconded by SB and all approved.

## Karol O'Sullivan

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**From:** Monica Ryan  
**Sent:** Thursday, March 4, 2021 5:09 PM  
**To:** Karol O'Sullivan  
**Subject:** Neighbor Public Hearing Email for Straight

Laura,

We will include this for the public hearing record.

Monica

**From:** Mj Stallmer <madstallt@gmail.com>  
**Sent:** Thursday, March 4, 2021 4:35 PM  
**To:** Monica Ryan <MRyan@sand-lake.us>  
**Subject:**

Dear Ms. Ryan-

I am Marcia Stallmer, maiden name, Doyle, Maureen straight's neighbor. I do not oppose Maureen's application to build. Nor do I oppose allowing her to keep the existing structure.

If you need anything further you can call me at 518-903-3820

Very truly yours,

Marcia Stallmer

## Karol O'Sullivan

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**From:** jimandnancyd@aol.com  
**Sent:** Monday, March 8, 2021 12:48 PM  
**To:** Karol O'Sullivan  
**Subject:** Fwd: Public Hearing re: Maureen Straight Area Variance Request

Subject: Public Hearing re: Maureen Straight Area Variance Request

KO'Sullivan/Zoning Board of Appeals

I am the owner of a Life Estate of the adjoining property, tax map # 159.02-1-14. located on the south side of property owned by Maureen Straight. She is requesting an area variance for insufficient yard setbacks for the construction of a single family dwelling. I approve of the variance she is requesting with no construction to occur within 5.5 feet of my property line, as per survey.

Thank you.

Nancy Dunn