

Present at Meeting:

Cheryl Erickson, Chair
James Dewar, Vice Chair
Ross Schoembs
Rich Nawrot
Troy Scripture
Brian Logan, Alternate # 1
Neil Brandmaier, Alternate #2

Also Present: Town Attorney Mark Schachner, Zoning Administrator Jim Steen, Matt MaGee, Bob Olson, David and Mary Lee O'Connor, Jim Guyatte, Shielene Guyatte, Albert and Marie Barbera, Austin DePalma, Patrick Villaume.

Pledge

Review of Minutes: Rich Nawrot made a motion to accept the May 18, 2021 minutes as written. Second by Brian Logan. **ALL AYES.**

PUBLIC HEARING:

File # 2021-04 AV
Tax Map # 36.3-3-17
James Guyatte
201 East Shore Drive
Adirondack, NY

Requesting an Area Variance from **Section 6.10** for a Side yard setback for a Pole Barn to sit at 5' where 15' is required.

The applicant was present at the meeting to speak about the project. Jim Guyatte refreshed the Board's memory and stated that he wants to build a 24' x 24' open pole barn for storage 5' from the property line. He stated that we received a letter from a neighbor, Linda Whalen, in support of the proposed project. The pole barn is going to sit at 5' from the side yard not 10'. Whalen is the neighbor next to where the pole barn will be placed, and they have a garage about 10' off that side yard.

Mark Schachner stated that the Board received a letters of support from Elinor Muller, a letter of support and Linda Whalen, a letter of consent and there are no objections to the project.

Chair Cheryl Erickson asked James Guyatte if he submitted the additional plat information that was requested last month.

James Guyatte then presented a survey map for the Board to review to show the placement of the pole barn and distance from the neighbor.

Chair Cheryl Erickson asked James Guyatte if the pole barn will be paced on a concrete pad.

James Guayette responded no, I will use gravel, crushed stone.

Chair Cheryl Erickson stated that Mr. Guyatte mentioned no trees or shrubs need to be removed and asked why Mr. Guyatte cannot be moved further over on the property.

James Guyatte responded that it would encroach on my driveway.

Chair Cheryl Erickson asked if he has a garage on the other side as well.

James Guyatte yes, a single car, dirt floor garage built in the 1930's that is 5' from the property line of the other neighbor. If I put the pole barn there it would be in the way when I come into my driveway.

Chair Cheryl Erickson asked Mr. Guyatte to send a copy of the survey presented tonight to the Zoning Office for the record.

James Guyatte responded, yes, he will do that.

Being no further questions or comments from the Public and no negative feedback was received the Public Hearing was closed.

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety, and welfare of the community.

The ZBA further finds:

1. The proposed project could be moved to the other side and be achieved by other means feasible to the applicant; however, there would have to be too many trees taken down, it would be closer to the road and further from the house. This is the best spot for the pole barn as presented by the applicant.
2. There will be no undesirable change in neighborhood character or undesirable change to nearby properties, because it is in keeping with the rest of the area. It is a shed with no walls, with a roof that is fairly typical in the area, it is back to back from the neighbors garage and more conforming in nature which is in keeping with the neighborhood character and will not change anything.
3. The request is substantial; however, it is a narrow property with trees and a driveway, and this is a reasonable place to put the structure and the neighbor's garage is close to the line, which is not prohibitive.
4. The request will not have any adverse physical or environmental effect on the property or to neighboring properties because no trees or brush will be removed it is a small structure and a significant distance from the lake and will not have runoff to the lake. It is about 150' to 200' away from the lake. He will be placing a stone pad around the structure to mitigate any water runoff from the roof.
5. The proposed project is self-created; however, not prohibitive.
6. If approved this will be the minimum variance necessary and no conditions attached.

Being no further discussion and based on the previous discussion Vice-Chair Jim Dewar made a motion to approve the requested Area Variance from **Section 6.10** for a Side yard setback for a Pole Barn to sit at 5' where 15' is required. Second by Ross Schoembs. **ALL AYES.**

PUBLIC HEARING:

File # 2021-07 AV
Tax Map # 72.-1-57.8
David and Mary Lee O'Connor
7131 Route 8
Brant Lake, NY 12815

Requesting an Area Variance from **Section 6.10** for a Side yard setback for a 24' x 26' garage to sit at 8' where 15' is required.

David O'Connor was present to speak about the proposal to the Board members. He would like to place a 1 ½ story 2 car garage (24' x 26') for storage. The previous Zoning Administrator, Scott Olson, recommended to push it to the left as to not impede on the neighbor's view. The property is like a piece of the pie going down to the lake. The hill is all ledge rock and I pushed it over so it will be off of the power line too. Not in main view of the neighbors.

Rich Nawrot asked if it will be a 1 ½ story garage and will it have living space in the ½ story or utilities.

David O'Connor responded will have just power only. I will have a little woodwork shop there. There will be no living space. We have a small cabin 24' x 26' with a 10' x 22' added porch for a total of 806 square feet on the property.

Brian Logan asked if he needed more closet space.

David O'Connor stated yes, we need more storage.

Dave O'Connor stated he spoke with neighbor Bill Black and he has no problem with the placement of the garage.

Rich Nawrot asked if that is Bernie Bolton's old place.

Dave O'Connor responded yes that is correct.

Chair Cheryl Erickson asked David O'Connor if there is a forever green space on the property.

David O'Connor told the Board members how when Bernie Bolton owned the property he had a 1/3 of an acre across the street and put leach fields forever by right and the forever green is the area for utilities for both properties that were originally subdivided.

Rich Nawrot asked if Mr. Black had any objections.

David O'Connor responded Mr. Black has no objections to the location of the garage.

Ross Schoembs asked what is on the other side of the property line.

David O'Connor stated the back of the neighbor's house there is a tree line and they are 15' off the property line on the other side of the property.

Brian Logan asked if he had to move any trees to put up the garage.

David O'Connor stated yes, he removed a couple of small ones.

Mr. Austin DePalma of 7136 State Route 8 who lives directly across the street from the O'Connor's stated we never had the opportunity to review any plans for this proposal in regard to the height and the length because our view will be impeded and our property will be devalued. We are concerned about that. If it does not interfere with setbacks or style then he has no problem with the proposed garage.

Rich Nawrot asked Mr. DePalma to show the Board on the site plan the location of his house.

Mr. DePalma showed the Board members the location of his home on the site plan.

David O'Connor showed the Board members on the site plan where his home and Mr. DePalma's home is located.

The Board members spoke with Mr. O'Connor and Mr. DePalma about the location of the proposed garage and whether it will impede his view of the lake.

David O'Connor stated that he is moving the proposed location to the left and requesting a variance so as not to impede the DePalma's view of the lake.

Zoning Administrator Jim Steen stated the applicant has a right, to build a structure that is 40' high without any variance.

Chair Cheryl Erickson asked Mr. O'Connor what the garage will look like.

David O'Connor responded it will look like a barn with a gambrel metal roof with a little 6' loft. It will be 22' in height and will have cedar siding. It will be a two-car garage.

Mr. DePalma asked if the garage is on the left side what will be the access to the garage. Right now, there is grass. Are they removing grass, are they black toping?

Chair Cheryl Erickson stated the O'Connor's already stated they will be leaving the grass and parking on the grass.

Vice-Chair Jim Dewar stated that the driveway is not part of the Zoning Law. Our only concern is the setback from the side-yard.

Chair Cheryl Erickson stated they are taking the neighbor's view into consideration given what the possibility could be if they did not need a variance.

Mr. DePalma asked if he could go on the property to see for himself the stakes set out for the garage.

David O'Connor stated the stakes have been there for two months already.

Chair Cheryl Erickson stated that they are neighbors and can talk to each other about going on the property to view the stakes and try not to make this contentious.

Jim Steen, Zoning Administrator stated that on page 6, F. on the application was not recommended by Jim Steen or Matt MaGee. It was recommended by the previous Zoning Administrator, Scott Olson.

Mr. DePalma stated so, it is not up to the neighbors to say ok to put up the garage. No matter what I say then it does not matter.

Chair Cheryl Erickson stated that the Board takes into consideration what the neighbors have to say but it is ultimately the Board's decision and it is about the land, the code and is meant to preserve the character of the neighborhood.

Ross Schoembs stated that we are obligated to consistently apply the Zoning Law to the variances given and consider the variances given in the past. This is consistent with variances given in the past.

Rich Nawrot stated that to move this 15' from the sideline and not need a variance it would impede your view more.

Brian Logan stated that there is a lot going on in this community now and the least amount of obstruction possible was done by the O'Connor's to take into consideration the neighbor's view.

Mr. DePalma asked if there is a height restriction on the lake?

Chair Cheryl Erickson stated yes, the restriction is a maximum of 40' in height of any building in the town.

Mr. DePalma stated he would like to physically see what they plan to do.

Rich Nawrot stated that is between you and your neighbor.

Rich Nawrot asked about the shed on the property and if Mr. O'Connor will be removing the shed and asked Mr. O'Connor to indicate on the map where the shed is located.

Mr. O'Connor showed Rich Nawrot the location of the shed that will be removed.

Being no further questions or comments from the Public the Public Hearing was closed.

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety, and welfare of the community.

The ZBA further finds:

1. The proposed project could be moved to the other side (without requiring a variance) and be achieved by other means feasible to the applicant; however, the applicant is taking into consideration the neighbor's view not be impeded. It was recommended by the previous Zoning Administrator, Scott Olson.
2. There will be no undesirable change in neighborhood character or undesirable change to nearby properties, because it is in keeping with the rest of the area. It is being placed behind the house and the Board has approved other variances for the same type of request. There are many pre-existing, non-conforming homes in the area and will be hidden from the roadway.
3. The request is substantial; however, which is not prohibitive.
4. The request will not have any adverse physical or environmental effect on the property or to neighboring properties because it is simply a garage with no septic or water. Only electricity. It sits 72' from the shoreline. It is the same size as the cabin and will not have a drainage or runoff problem. If he changed the location of the garage, he would have to take out additional trees.
5. The proposed project is self-created; however, not prohibitive. The existing cabin was built in the 1930's that is small without any storage. The garage is for additional storage.
6. This will be the minimum variance necessary and no conditions attached.

Brian Logan asked the Board members if the applicant were to move the request to a 5' placement, giving a 3' variance request would that make a difference in making a significant change to the view of the neighbor.

The applicant, Mr. O'Connor stated he is concerned about the other neighbor that it may be too close to his side yard which he may have an objection to.

Zoning Administrator Jim Steen asked if the change was made would it have to be re-noticed.

Town Attorney Mark Schachner responded that the Board would have to determine if that was a material change and if it was a material change it would have to be re-noticed with a modified proposal. If the Board considered it not a material change it would not have to be re-noticed.

Ross Schoembs and Chair Cheryl Erickson stated they don't think it would make a substantial change to the neighbor's view.

The applicant, Mr. O'Connor was concerned that if a change was made the other neighbor might have an objection to placing the garage closer to his side yard.

Chair Cheryl Erickson stated that they will not make any change to the requested variance and will not impose any conditions on the applicant.

Chair Cheryl Erickson stated that we received a Warren County impact statement that said there will be no county impact with this proposal.

Being no further discussion and based on the previous discussion Vice-Chair Jim Dewar made a motion to approve the requested Area Variance for **Tax Map # 72.-1-57.8**, David and Mary Lee O'Connor from **Section 6.10** for a Side yard setback for a Garage to sit at 8' where 15' is required and in balancing the five criteria the benefit to the applicant outweighed any detriment to the near-by properties and surrounding area. Second by Ross Schoembs.
ALL AYES.

Chair Cheryl Erickson stated for the record that for the James Guyatte variance application **Tax Map # 36.3-3-17**, a Warren County Impact statement was received, and it indicated no county impact.

PUBLIC HEARING:

File # 2021-08 AV
Tax Map # 20.10-1-57
Albert Barbera
873 East Shore Drive
Adirondack, NY

Requesting an Area Variance from **Section 6.10** for a Shoreline setback of 0' where 50' is required and a Roadway setback of 23' where 50' is required to build 16' x 20' deck with a staircase to the shoreline.

Albert Barbera refreshed the Board's memory regarding his proposal. Albert stated that he would like to build a deck overlooking the beach with a staircase to the shoreline. The deck will be 20' x 16' like the other neighbors have. He would like to be able to sit down by the water with the family to enjoy the view.

Chair Cheryl Erickson stated we have not received any objections from the neighbors.

Chair Cheryl Erickson stated that as she recalls, they do not currently have a deck and everyone else in the neighborhood has a deck and it would be the same size as the neighbors' decks.

Albert Barbera responded yes.

Rich Nawrot asked if the applicants will be living there year-round.

Albert Barbera stated o, we only come up on the weekends.

Chair Cheryl Erickson asked the Barbera's questions about the pictures that were included in the application.

Mrs. Barbera showed the Board which pictures are of the neighbors' decks.

Chair Cheryl Erickson asked if they will be doing anything different from their neighbor's deck.

Albert Barbera responded no; they will not be doing anything different when they build their deck.

Rich Nawrot asked if they will be putting your posts in the water it will be above the high-water right.

Albert Barbera responded no not at all. It will be above the water.

Ross Schoembs asked if Mr. Barbera had received any feedback from one neighbor who is okay with the proposal.

Mrs. Barbera responded her two neighbors on each side of her are okay with the proposal.

Vice-Chair Jim Dewar asked about the high-water mark and if this proposal is at the high-water mark.

Zoning Administrator Jim Steen responded yes; it is right on the shoreline the high-level mark.

Chair Cheryl Erickson asked if there were any more questions or comments from the Public.

Being no further questions or comments the Public Hearing was closed.

Being no further questions or comments from the Public and no negative feedback was received the Public Hearing was closed.

Chairperson Cheryl Erickson stated that the Board would now go ahead and discuss the Balancing Test to balance the benefit to the applicant with detriment to the health, safety, and welfare of the community.

The ZBA further finds:

1. The proposed project cannot be achieved by other means feasible to the applicant because their house is across the road with no access to the lake without a deck and staircase.
2. There will be no undesirable change in neighborhood character or undesirable change to nearby properties. It is in keeping with the rest of the area and will not change anything. The other homes in the neighborhood all have the same decks the same size so it is very consistent with the neighborhood.
3. The request is substantial; however, this is not prohibitive. It will be placed at the shoreline; however, there is no way around that issue for this type of project.
4. The request will not have any adverse physical or environmental effect on the property or to neighboring properties. They will not be moving any material and are keeping the rocks that shore up the shoreline and will not contribute to any erosion.
5. The proposed project is self-created; however, it is not prohibitive. They have no access to the lake other than to build a deck and staircase. All other neighbors have the same type of decks, so this outweighs any issues.
6. If approved this will be the minimum variance necessary. It is not an overly large deck and is keeping with the neighbors and no conditions need be placed on this proposed application.

Being no further discussion and based on the previous discussion Vice-Chair Jim Dewar made a motion to approve the requested area Variance **for Tax Map # 20.10-1-57**, Albert Barbera, from **Section 6.10** for a Shoreline setback of 0' where 50' is required and a Roadway setback of 23' where 50' is required to build 16' x 20' deck with a staircase to the shoreline.

Reminders: None

Correspondence: None

Public Comments: Town Councilman, Bob Olson addressed the Board members about Jason Letts septic variance request that is currently before the Town Board of Health that has not yet been approved. Jason Letts had a variance request before the ZBA and I know it was tabled, so I just wanted to let you know the Town Board still has a lot of questions about the septic before he comes to the ZBA.

Reminders: None

Correspondence: None

Public Comments: None

Board Comments: Chair Cheryl Erickson asked the Zoning Administrator to contact Jason Letts and have him submit something in writing about his appearance before the ZBA. Will he be waiting for the septic variance to be approved first before coming before the ZBA for the variance.

Chair Cheryl Erickson asked Mark Schachner to clarify the role of the alternates on the Zoning and Planning Boards.

Town Attorney Mark Schachner explained to the ZBA members the role of the alternates on the Board and answered questions from the members of the ZBA on other issues, for example, recusal.

Being no further comments Brian Logan made a motion to adjourn the meeting. Second by Ross Schoembs. **ALL AYES.**

Adjourn: 8:48 PM

Next meeting date: July 27, 2021

Respectfully Submitted,
Terri Katsch, Secretary