

Present at Meeting:

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

Also Present: Town Attorney Leah Everhart, Bob Olson, Bret Winchip, Hyde Clarke, Jason Letts, David D'Amore , Christine Hayes, and Anne Vandevander.

Pledge

Review of Minutes: Vice-Chair Jim Dewar made a motion to accept the November 16, 2021 minutes with changes as read. Second by Rich Nawrot. **ALL AYES.**

NEW BUSINESS:

File # 2021-13 AV
Tax Map #: 71.12-1-19
John Robinson
11 Chippewa Loop
Brant Lake, NY 12815

Requesting an Area Variances from **Section 6.10** for a roadway and side-yard setbacks to replace a single- story structure (on footers) with a two-story structure on a walk-out basement foundation. The roadway setback request is for a 47.10' variance for the structure to sit at 12.2' where 60' is required. The side yard setback request is for a 12.2' variance for the structure to sit at 2.10' where 15' is required.

John Robinson was participating via teleconference. He gave a verbal overview of the proposed project. The existing structure over the garage has three bedrooms and a 1½ bath. The other part of the structure on footers that has 2 bedrooms and one bath. This was originally a weekend residence and now they have moved here year round and he and his wife work from home so they need two offices. We want to take a single story structure on a walk out basement with a bedroom and bathroom. In basement will have bedroom and bathroom and some open space. The main level has open area kitchen and bathroom. The existing structure has a wrap around deck. Most of everything they are asking for is on existing footprint except for the mudroom/bathroom on backside and wraparound porch but on the one end that faces Palisades Rd. they want that covered. Adjacent will be the den/office. Bedroom on second floor will be bedroom and office for wife. In front where the deck is a little bump out structure. Most of the camps in Chippewa loop were built 52 years ago and over the years people have expanded up and out.

Chair Cheryl Erickson asked how close the neighbor is to the back of your property.

John Robinson on slide two from power point presentation you can see we own all of the trees and woods about 95% of all that area. The living space will be tucked back there in that area in order to not have an impact on the neighbor's views.

Chair Cheryl Erickson asked what is the additional height added on the side closest to the Lake.

John Robinson responded if you look on A8 of the site plan shows the height. The height of current structure is 12 feet and where the deck and roof meet is about 14'. Everything on second structure will be about 4-5' shorter from the garage and as you go across the structure it goes down from there..
CE will this affect your septic or well at all.

John Robinson we will be installing a new septic; however, there is a common well for the Association.

Chair Cheryl Erickson asked the applicant to submit a plat of the Chippewa cabins and show how close to his boundary line his home is and how close your house is to that boundary line.

John Robinson stated he thinks he can get one for all of Chippewa however might not be able to get one with all of the changes the neighbors' have made over the years.

Town Attorney Leah Everhart stated that the Chair just wants that shows which properties directly adjoin your property and any other neighbors that are close to your property line.

John Robinson stated he will see what he can do.

Vice-Chair Jim Dewar asked what the difference is between the existing site plan distance on the existing structure which is 17' 6" to the road and the new structure will be to 12.2" the road.

John Robinson stated the difference is about 5'.

Zoning Administrator Matt Magee clarified the amount for the Board members and confirmed it is 5' difference.

Rich Nawrot asked if the existing garage will remain.

John Robinson stated yes they are trying to get as close to the existing platform and keep the garage.

Ross Schoembs asked if that will have a permeable surface.

John Robinson responded it will be a grassy area at that location.

Chair Cheryl Erickson asked about the elevations on the site plans.

John Robinson stated it is on A8 on the plans. The height will be 35.6" for the new structure and the existing structure is 26.3". It will get lower from the right to the left. But from the lakeside you will see 35.6' from the lake. He also stated that he is trying to minimize the impact of the neighbors view to the Lake. It should not have any impact on the neighbors view because Chippewa Loop is in the shape of a horseshoe and everyone has views of the lake.

Vice-Chair Jim Dewar asked about the bowtie section on the plan and what that portion of the lot is.

John Robinson stated that they gave that section to the next door neighbor for the Right of Way.

Town Attorney Leah Everhart wanted to clarify for Mr. Robinson what the Board is requesting for the next meeting on January 25, 2022. They want the location of the structure on that property and the distance on the longest lot line (122' line) southwest of that line. You may have to contact the neighbor to get his permission to access his property to get your surveyor in there.

John Robinson stated that the neighbor is Albert Puppa.

Vice-Chair Jim Dewar made a motion to deem the application complete with the condition the plat showing the location of Mr. Puppa's house to your property line be presented at the next meeting and to set a Public Hearing for January 25, 2022. Second by Ross Schoembs. **ALL AYES.**

PUBLIC HEARING: **File # 2021-12 AV**
 Tax Map #: 106.-1-11
 Chris Williams
 728 Hayesburg Road
 Brant Lake, NY 12815

Requesting an Area Variance **from Section 6.10** for a Roadway setback to renovate an existing single - family residence and to construct an addition to the residence with the garage to remain. The roadway setback request is for 9.9' for the structure to sit at 50.1' where 60' is required.

Bret Winchip from Winchip Engineering is representing the Williams proposed project. Bret went over what we discussed at last month's meeting; Chris Williams is proposing to do a renovation and addition on the house. The existing porch is being removed and replaced. The current non conformity is 12.4' +/- setback on the existing porch and when removed and replaced with the new porch that is 6' deep it will reduce the setback and the proposed variance will be 9.9', a 2 ½ ' difference. The existing structure will be renovated and the addition will meet all setbacks and they are designing a new wastewater system and last month you wanted to know the height of the structure at completion and that will be 33' +/- finished.

Chair Cheryl Erickson stated to summarize this it will decrease the setback from the Roadway by about 3'.

Bret Winchip stated yes that is correct.

Chair Cheryl Erickson stated there was a JIF sent to the APA and we received a response back that they will not need a permit from the APA for this project as the project will be located far enough from the wetlands.

Chair Cheryl Erickson stated that no correspondence was received from any neighbors and no one was present that wanted to speak about the project.

Chair Cheryl Erickson stated that the Public Hearing is closed.

Town Attorney Leah Everhart asked Bret Winchip about question #2 on page 5 of the application under Warren County Planning Board questions that was not answered.

Brett Winchip stated the answer is no, it does not lie within any of the stated roads to trigger a County review.

Vice-Chair Jim Dewar made a motion to declare this is a Type II action of SEQRA and exempt from SEQRA review. Second by Troy Scripture. **ALL AYES.**

Being no further comments or questions Chair Cheryl Erickson stated the Public Hearing is closed. They will discuss the Balancing test

The Board reviewed the Area Variance criteria:

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 only the front porch is being affected and will effectively decrease the current set back from the roadway thus making the structure more conforming.
2. There will not be any undesirable change in the neighborhood character or undesirable change to nearby properties because the neighborhood is a rural one.
3. This is not a substantial variance request. He's getting 5' away from the road.
4. This request will have no adverse physical or environmental effects on the property or to neighboring properties because it is getting farther away from the road.
5. This proposed project is self-created; however, it resolves a non-conforming property.
6. This is the minimum variance necessary to construct the project and already reduced the setback from the structure.

Being no further comments or questions, Ross Schoembs made a motion to approve the Roadway variance request of 9.9' for the structure to sit 50.1' where 60' is required. Second by Rich Nawrot. **ALL AYES.**

PUBLIC HEARING:

File # 2021-11 AV
Tax Map #: 55.10-1-5
Jason Letts
18 North Sand Beach Rd.
Brant Lake, NY 12815

Requesting an Area Variances from **Section 6.10** to build a +/- 1,071 sq. ft. residential cottage. Requesting a Shoreline setback for the cottage to sit at 48.2' where 100' is required creating a variance request of 51.8'. Requesting a Roadway setback for the cottage to sit at 33.5' where 60' is required creating a variance request of 26.5'.

David D'Amore from CT Male Associates was present to speak about the proposed project. He stated that he made the revisions that the Board had suggested at the November 16, 2021 meeting and hopefully these revisions make the applicant's request a little more palatable. They moved the structure up the slope as much as they could reasonably do. They were able to take the side yard setback off the table, as suggested by the Board. They reduced the request for the shoreline setback variance request to 51.8' instead of the initial 70' variance request without creating a problem for the septic design. Rather than fitting the screened-in porch in its entirety, they have tapered it. This will allow the applicants some functionality for furniture and activities on the wider end and the narrower end for sitting and observing the lake. This creates a roof edge that is parallel to the shoreline. The site itself is challenging due to its non-conforming size and any structure placed on this property will require multiple variances in order to create a developed property they have to have land set aside for the septic system. They have done that by keeping the septic on the upper left corner of the property adjacent to the road for the infiltration beds allowing them to keep the setbacks as far away from the neighbors well as possible. The neighbor to the south's well setback still touches their infiltration beds, so at the suggestion of the Department of Health they created a swale to collect any discharge that may occur, however unlikely that may be, and conduct it away from the neighbors well. They also added a rain garden adjacent to the building on the road side as a collection for the storm water, It's not a full-on retention basin, It's a rain garden where native plants can be planted to become part of the landscape after construction which is more natural. At the point of collection at the rain garden there will be a subsurface

conductance that daylight to a stabilized exit point with stone rip rap. That will be flexible pipe to go around the trees thereby not having to cut any trees and with the flexible pipe to daylight and the utilization of a grass roof, these mitigations will gain a net benefit to the stormwater discharge on the site. These mitigation techniques will be slowing down the runoff considerably. The site itself does not exceed an acre so there is no NYS requirement for stormwater collection; however, they understand the Board's concern and have tried to mitigate any stormwater runoff going forward. That is basically a summary of modifications that were made and I can answer any questions you may have.

Chair Cheryl Erickson asked if David D'Amore could clarify the location of the stormwater runoff plan on the site plan.

David D'Amore showed the Board members the updated site plan where the rain garden is located on the site plan and explained how the rain garden will be constructed along with the other mitigations spoken about tonight.

Rich Nawrot asked which well is located within the 100' from the infiltration beds.

David D'Amore responded it is on the neighbor's lot 16, the Lucas property. The infiltration beds are within the 100' setback of that well and that is why they added the swale, the rain garden and additional mitigation to protect the location of that well.

Chair Cheryl Erickson asked if it would be the groundwater rather than the runoff to contaminate a well.

David D'Amore responded saying in discussing this with their engineer yes, subsurface water conductance is always a concern. There are types of septic systems that are higher grade systems to treat the water more effectively and creates a cleaner effluent that reduces the risk of subsurface contamination. That is the intention here to rely on higher end technology to mitigate the fact that they cannot get the 100' distance from the neighbors well to the infiltration beds. There is always a risk with a mounded system that there could be a breakthrough and that is what the swale is intended to catch any breakout on the ground.

Rich Nawrot asked how far that well is to that infiltration system. It looks a lot less than 100'.

David D'Amore responded he is not sure but we are reviewing that with the DOH and the Town Board of Health. It's probably about 75' +/-.

Rich Nawrot asked if we are supposed to review that and make sure it's 100'. That's in the Zoning Law.

Town Attorney Leah Everhart responded that the Zoning Law dictates where the structure is supposed to be placed on the property, for example, the 60' from the centerline of the road, etc.

Vice- Chair Jim Dewar asked if we are we still referring to a structure that is +/- 1071 square feet.

Zoning Administrator Matt Magee stated that plot plan is very detailed and includes the setbacks to the infiltration systems and that should not be taken into consideration by the Zoning Board tonight. We are reviewing the setbacks for the structure itself.

Chair Cheryl Erickson stated yes this is before the Town Board acting as the Board of Health as well and they will be reviewing the septic system variances.

Chair Cheryl Erickson said you are going farther into the hillside is that correct? You moved the structure closer to the road and it will now sit 33' away from the roadway and you gained 17' away from the shoreline is that because you altered the roof line.

David D'Amore responded yes because I shaved some of the hard corner off the structure to be parallel with the shoreline and that allowed me to grow that distance a little bit further distinct from the actual location of the foot print of the building without significant redesign of the building. That is what we were trying to accomplish.

Chair Cheryl Erickson stated about six feet more.

David D'Amore responded, yes.

Troy Scripture asked if he will raise the structure a little bit.

David D'Amore stated yes we will have to because of the grade lines but the end result will be the same and a little more excavation involved but we are talking with the contractor how that can be of use to us instead of a detriment.

Chair Cheryl Erickson asked if David D'Amore has any concern for the erosion in the top area where the cars will pull in because you did shrink that down a bit and then you built the natural buffer.

David D'Amore responded right now that space is stabilized with grasses and grasses under the gravel. We don't anticipate changing that a lot, it will be stabilized with gravel during construction and will stay after the construction. Over time they might choose to let grass grow so the slope remains stable.

Chair Cheryl Erickson stated that one of the concerns of your neighbors is that you will be parking in the public ROW. Will that be an issue now that you've eliminated some of the parking?

David D'Amore replied, no because there is still space for two cars at the top of the driveway and they will use some of the spoil from the excavation to adjust some of the topography so it will not be so steep and make the parking a little more comfortable.

Chair Cheryl Erickson stated for the record the Warren County Planning Review was received and there is no county impact for this proposal.

Chair Cheryl Erickson asked if there were any more questions or if anyone from the public would like to speak.

Ann Vandevander of 3 Sand Point Beach Way stated she appreciates that they went back further from the lake; however, she has concerns about the ROW being blocked. She has concerns about the neighbor's well. She was in the same position about 10 years ago when she had to knock her home down. She would have loved to be able to put in a 12' porch. She was very limited with what she was allowed to build at the time. Her total square footage is about 1200 square feet. Her point is sometimes you can't always get what you want and have to compromise. She still thinks it's too close to the water and too close to the ROW and has concerns about the neighbor's well.

Chair Cheryl Erickson stated that the Board had received a letter of objection from Andrew Tarvin the brother of Ann Vandevander. His objections were regarding the Shoreline variance request (too large), the neighbor's well (too close to the septic), and the size of the footprint of the structure which were all previously expressed by his sister Ann when she addressed the Board. Additionally, he is concerned about a precedent being set.

Next, the applicant Jason Letts got up to speak. He stated that he is involved with a commercial property in downtown Saratoga Springs, so he has familiarity dealing with Planning and Zoning Boards. He feels that they have done the most we can do to move back from the lake. He thinks that the ZBA's suggestions made their plans much better. After the project is completed this will be a net improvement to groundwater and will be planting vegetation and trees. The construction time will be less than two months. It's a small modest project that won't necessitate the construction crew blocking of the ROW and they will be told not to block the ROW.

Chair Cheryl Erickson asked if this is a seasonal home.

Jason Letts responded yes it will be a seasonal home for their family.

Ross Schoembs asked if this construction is year-round construction with insulation and heating, etc.

Jason Letts responded yes, I guess it could be used as a year-round home as well.

Troy Scripture asked where the utilities go on the site.

David D'Amore responded by showing the Board members the utility room on the map. He stated he wanted to address the construction on the site. In many ways, this is like an urban site when figuring out how to stage the site during the construction. There will be no long-term or short-term blockage of the ROW. If any concern about this issue it is Jason's responsibility to notify the neighbors of any blockage. The construction people have a clear idea of how to stage the site.

Ross Schoembs asked Zoning Administrator Matt Magee if he has any idea of the other neighbors' dwellings proximity to the lake.

Zoning Administrator Matt Magee stated that his best information is that Jason Letts' project is not the closest to the lake.

Town Attorney Leah Everhart stated that the applicant's consultant might have an idea.

David D'Amore responded that he does not have that information about other neighbor's further to the south or west of the lake but he stated his guesstimate of the neighbors on either side of this property are about 25' to 30' away from the lake.

Being no further comments or questions Chair Cheryl Erickson stated the Public Hearing is closed. They will discuss the Balancing test tonight but will not make a final decision on the project.

Town Attorney Leah Everhart stated that the recommendation to the Board is that the Board can discuss the Balancing test; however, we will need the meeting minutes to draw up a resolution for the project for the next meeting on January 25, 2022.

Hyde Clarke, attorney for Jason Letts wanted to speak and he asked that they declare this a Type II SEQRA action. He would like the Board to discuss the Balancing test points this evening.

Town Attorney Leah Everhart stated that she will include with the resolution that this is a Type II SEQRA action pursuant to the State Environmental Quality Review Act (SEQRA) and is therefore exempt from SEQRA review. She wanted the Board members to know that they are not coming to an agreement tonight and it's perfectly fine if the

Board members cannot agree on the summary points tonight as I will be writing them down and Terri will also be including them in the minutes.

The Board reviewed the Area Variance criteria:

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 there is no feasible way to construct on this site without variances. It is a substandard size lot that was created in the 1960's, that is not deep enough to build upon with our current Zoning Code setbacks. The applicant pushed the structure as far back as reasonable possible away from the lake and it's not obtrusive by any means. The more compliant a structure may become with one, the less compliant it will necessarily become with the other. They have also eliminated the side yard setback request that was in their initial proposal. It is a one story home and is conforming to the environment.
2. There will not be any undesirable change in the neighborhood character or undesirable change to nearby properties because the neighborhood consists of pre-existing non-conforming lots, with structures that are as close, or closer to the lake. The placement of the proposed structure is similar to the neighborhood character. The only potential undesirable impact on the neighbors may be from the somewhat problematic placement of the septic and the distances from the neighbors' wells, but this is not a factor in approving the variance application.
3. These are substantial variance requests. The roadway request is slightly less than 50% and the shoreline variance request is slightly more than 50%. The shoreline variance request carries more weight but the applicant moved the structure as far back as possible away from the shoreline. It is considerably better than it was in the initial proposal. The change in the placement of the structure achieves a better balance between the importance of maintaining as much of the shoreline setback as possible while still keeping a functional distance from the roadway.
4. This request will have no adverse physical or environmental effects on the property or to neighboring properties because as discussed tonight and in previous meetings, design of the stormwater mitigation systems, the increased distance from the lake, limited tree cutting and the design of the septic system have been designed to mitigate any concerns. It is expected that there will not be a greater runoff as a result of construction as compared to currently in its natural state. The grass roof system should last about 30 years.
5. This proposed project is self-created; however, it's a pre-existing substandard lot size and it's been identified as a buildable lot though related variances are required.
6. These are the minimum variances necessary to build the 1000 +/- square foot home. No additional conditions are required as the stormwater mitigation has already been addressed and the structure has been moved back from the shoreline as requested. For every inch the proposed structure is moved further from the lake, it will necessarily be located one inch closer to the road and vice versa. Therefore, the fact that the structure could be moved to better conform to one of the setback requirements at the expense of the other is not the proper criteria to determine whether the variances are the minimum necessary and adequate to meet the Applicant's need. The structure's footprint size is reasonable as is its location on the site.

Attorney for the applicant Hyde Clarke wanted to comment the size of the lot will always require variances and I appreciate that the board has stated that this is the minimum variance necessary. This lot has been approved since the Subdivision in the 1960's. I appreciate the overall factors being taken into consideration.

Chair Cheryl Erickson stated no decision will be made tonight as the Town Attorney Leah Everhart will draw up the proposed resolution and we will be able to make any changes at the next meeting on January 25, 2022.

Reminders: The training session will be held on January 12, 2022 and we will look into setting up Zoom training.

Correspondence: None

Public Comments: Town Councilman Bob Olson extended on behalf of the Town Board their appreciation to the ZBA members for the way they conduct their meetings.

Board Comments: None

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

Adjourn: 9:30 PM

Next meeting date: January 25, 2022

Respectfully Submitted,
Terri Katsch, Secretary