

Town of Lake Luzerne

Zoning Board of Appeals Minutes

October 12, 2023

After reciting the pledge of allegiance, Chairman Matthew Palitsch called the Zoning Board of Appeals meeting to order at 7:05pm with the following present: James Moeller, Burgess Ovitt, Rayl Zubal, Michael Bordeau, Kayla Jarrell, Zoning Enforcement Officer Karen Putney, Deputy Zoning Enforcement Officer Kristopher Kassay, and Town Attorney Mary Kissane. Also present: Thomas Varmette, Wayne Beale, Debra Audette, and Cornelius Falvey Jr.

Chairman Palitsch opened the Zoning Board of Appeals meeting with the following items on the agenda.

- I. Public Hearing: Area Variance 2023AV-6
Parcel number: 305.12-1-6
Location: 877 East River Drive, Hamlet Residential (HR) zone, 0.20 acres
APA Land Use Classification: Low Intensity
Owner/Applicant: Thomas Varmette
- II. Public Hearing: Area Variance 2023AV-7
Parcel number: 286.11-1-16
Location: 16 Hidden Valley Road, Residential Resort (R-RE) Zone, 1.47 Acres
APA Land Use Classification: Moderate Intensity
Owner/Applicant: Wayne Beale and Debra Audette
- III. Accept minutes: August 10, 2023
- IV. New/Old Business

I. Public Hearing: Area Variance 2023AV-6

A wrap-around deck attached to the waterfront and north side of the dwelling was constructed as an additional means of egress, but the owner had assumed hired contractor would apply for permits and variances if necessary. A Land Use and Development Application has not been submitted and a Zoning Compliance Certificate has not been issued.

The dwelling's roof was also extended over the side deck which can be permitted without variance, but the riverside deck requires a 45-foot relief of the 75-foot shoreline setback minimum requirement.

A retaining wall and the dock were lost in a flood and the owner is also in the process of obtaining permits to replace them.

Public Hearing for 2023AV-6 opened at 7:07pm.

No public comments were received by mail, email, or phone. At the Public Hearing, Cornelius Falvey Jr. of 870 East River Drive commented that as a neighbor he sees nothing wrong with the variance and feels that it should be approved.

Project is SEQR exempt.

County referral indicated No County Impact.

APA response has not yet been received.

James Moeller made a motion to table Area Variance application 2023AV-6 until a decision is received by the APA, seconded by Matthew Palitsch.

Bordeau: Yea

Ovitt: Nay

Zubal: Yea

Moeller: Yea

Palitsch: Yea

All in favor: 4, Opposed: 1, carried.

Public hearing for Area Variance 2023AV-6 was left open.

II. Public Hearing: Area Variance 2023AV-7

Applicant has applied for a variance from the Zoning Board of Appeals for relief from the Zoning Ordinance of Lake Luzerne, Article VI - General Regulations, Shoreline Requirements, Section B. Setback. A minimum of a 50-foot setback from the mean high-water mark is required in the APA Land Use Classification of Moderate Intensity.

The applicant has constructed a retaining wall with a 45-foot shoreline setback that is in excess of 100 square feet.

The applicant is also seeking relief from the Local Law #3 of 2019, Section 4, Retaining Wall, which states this accessory structure cannot exceed 6 feet in height or 25 feet in total length measured from its lowest base.

The constructed retaining wall is 45 feet in length and approximately 6.25 feet in height measured from the lowest base.

Project is SEQR exempt.

County referral indicated No County Impact.

The APA is requiring a planting plan to be implemented to resolve the 5-foot encroachment into the 50-foot Shoreline Setback minimum.

Public Hearing for 2023AV-7 opened at 7:28pm.

No public comments were received by mail, email, phone, or at the meeting.

Public Hearing for 2023AV-7 closed at 7:34pm.

The Zoning Board of Appeals addressed and commented on the answers on the Variance Application submitted by the applicant.

Alternatives that could have been achieved were discussed including building the wall in separate sections that would not have required an area variance.

Retaining wall was not designed by a professional engineer as required by Local Law #3 of 2019.

Matthew Palitsch made a motion to approve the Shoreline Setback of 45 feet for Area Variance application 2023AV-7, seconded by Michael Bordeau.

Bordeau: Yea

Ovitt: Nay

Zubal: Nay

Moeller: Yea

Palitsch: Yea

All in favor: 3, Opposed: 2, carried.

Michael Bordeau made a motion to approve retaining wall length for Area Variance application 2023AV-7, seconded by Matthew Palitsch.

Bordeau: Yea

Ovitt: Nay

Zubal: Nay

Moeller: Nay

Palitsch: Nay

All in favor: 1, Opposed: 4, denied.

Matthew Palitsch made a motion to deny retaining wall length for Area Variance application 2023AV-7, seconded by Burgess Ovitt.

Bordeau: Nay

Ovitt: Yea

Zubal: Yea

Moeller: Yea

Palitsch: Yea

All in favor: 4, Opposed: 1, carried.

Matthew Palitsch made a motion to deny retaining wall height for Area Variance application 2023AV-7, seconded by Rayl Zubal.

**Bordeau: Yea
Ovitt: Yea
Zubal: Yea
Moeller: Nay
Palitsch: Yea**

All in favor: 4, Opposed: 1, carried.

III. Accept Minutes

Matthew Palitsch made a motion to accept minutes from August 10, 2023, seconded by James Moeller. All in favor: 5, Opposed: 0, carried.

IV. New/Old Business

Kayla Jarrell is the new alternate member of the Zoning Board of Appeals.

The Zoning Board of Appeals is working with the Town Attorney to modify their Variance Application form.

The owner of a Christmas tree farm on East River Drive is facing challenges building a structure on their property because the parcel contains multiple zones. The elimination of multiple zones within a parcel is compatible with the Town's Comprehensive Plan and the Town Board will be holding a Public Hearing pertaining to this change at the next Town Board meeting as required by law.

Chairman Palitsch made a motion to adjourn the meeting at 8:06pm, seconded by James Moeller. All voted in favor of adjournment.

Respectfully submitted,
Kristopher Kassay