



TOWN OF WILLSBORO
ZONING BOARD OF APPEALS

MINUTES
ZONING BOARD OF APPEALS
DATE: September 21st, 2021 at 6:00PM
LOCATION: WILLSBORO TOWN HALL

Present: Chairman - Carol de Mello; Board Members: Peter Sowizdrzal, Anne Lincoln, Anthony Galioto

Excused: Margaret Adkins

Members of the Public: Raymond Pfund, Win Belanger, Jason Sweatt, Cathy Morin, Ghislain Gagne, Sarah FitzMaurice, Anne Marie FitzMaurice

Chairman de Mello called the meeting to order at 6:00 pm.

July 2021 Minutes: De Mello asked Morgan Denton to please list the updated zoning application numbers for the three applicants. Other than that, the August 2021 minutes were approved as presented. *A motion was made by Galioto to accept meeting minutes; seconded by Sowizdrzal. All in favor, motion carried.*

Public Hearing:

Cathy Morin – 179 Corlear Drive – 21.5-1-41.00 – RL1 – Replace structurally damaged 2-car garage and breezeway with 1-car garage with family room and second floor bedroom/bathroom

De Mello opened the public hearing for the Morin project at 6:07pm. De Mello invited members from the public to speak; however, all present were applicants and had no comment on the project. De Mello checked with Morgan Denton to see if there was any written correspondence or calls from the neighbors to which she said no. De Mello closed the public hearing at 6:09pm. De Mello clarified shoreline property setback information: there is a shoreline setback, front yard setback and side yard setback. When you have a shoreline setback you basically lose the rear yard setback as the shoreline setback supersedes. Sowizdrzal asked if the rear yard would be the portion facing the road. De Mello stated when the Zoning Law was recently updated, they tried to get rid of the confusion that the front yard on shoreline properties was next to the lake making the street side the rear yard. Now all properties are uniform: the front yard is street side and on a shoreline property the rear yard becomes regulated by the “shoreline setback.” De Mello stated that the only thing she changed on the finding of the facts was adding the shoreline setback. De Mello asked if anyone had any questions for the applicant. Sowizdrzal asked about a change regarding the single-story north wall of the garage which was extended out 4’ to the north from the existing foundation in the plans submitted last month. Gagne stated that the footprint is not going to change but that wall will now be extended up to make the height two-stories. The Board reviewed and discussed the five criteria necessary to make a decision (see attached Decision Form). De Mello called for a motion when the

board members had no other comments or questions. ***A motion was made by De Mello based on the application submitted and testimony heard that this application for relief of Sections 6.12 – Setback from the Shoreline, Lot Width and Side Yards be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed by the Board. Specifically, grant a variance to grant relief of 10’ on the north side-yard setback of 20’ to allow replacement of a structurally damaged 2-car garage and breezeway with a 1-car garage with first-floor living area and second-floor bedroom and bathroom; seconded by Sowizrzal. All in favor, motion carried.***

Richard & Sarah Sayward – 269 Coonrod Road – 40.1-2-8.200 – RL-1 – Minor subdivision with existing buildings/side yard setback

De Mello opened the public hearing for the Sayward project at 6:28pm. Win Belanger was present representing Richard & Sarah Sayward. The Board asked Mr. Belanger to confirm who the land will return back to after Richard and Sarah were to pass away. Mr. Belanger stated that it will go back to the current tenants, the Gagnier’s, who are planning to buy Lot 1.

De Mello reviewed the Finding of the Facts pointing out corrections that were made at the last meeting.

De Mello asked if there were any other questions or concerns. Lincoln asked if this address was already two lots and if they received two separate tax bills. Mr. Belanger stated that right now it is one lot with two addresses and two tax bills—one stating “leased” land.

De Mello closed the public hearing at 6:40pm.

Sowizrzal stated that he spoke with George Sayward prior to the meeting and George Sayward stated he was all for it. There was a member of the public, Raymond Pfund, present at the first part of the meeting and stated that he did not have any objections. De Mello reminded the Board that the variance goes with the property and not with the owner. Mr. Belanger stated that the variance goes with the land and the trailer. If they were to remove the trailer, the owner would have to come back to the Zoning Board of Appeals. The Board reviewed and discussed the five criteria necessary to make a decision (see attached Decision Form). ***A motion was made by De Mello based on the application submitted and testimony heard that this application for relief of Sections 4.10 – Schedules of Use and Area Regulations and 4.33 – Subdivision of a Lot with Existing Buildings be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed and considered by the Board. Specifically, grant a variance to allow the property located at 269 Coonrod Road to be subdivided into two separate lots where Lot 1 conforms to all zoning regulations and Lot 2 is granted a variance for rear yard setback relief of 38’6” as the residential structure is presently located at 11’6”;*** seconded by Sowizrzal. All in favor, motion carried.

Mr. Belanger thanked the board for their time and efforts. Mr. Belanger asked to be notified when the minutes were complete as he will need a copy to be able to move forward with the subdivision. Lastly, Mr. Belanger asked the Board to please review the law in regards to the timing of public hearings.

Jason Sweatt – 43 Mountain View Drive – 39.1-2-9.000 – Enlarge existing garage by extending it 40’ into the front yard

De Mello opened the public hearing for the Sweatt project at 7:46pm. De Mello stated that there are no members of the public present and closed the public hearing at 7:47pm. De Mello stated that Mr. Sweatt has a variance to be in the front yard with the garage and that he is here before the Board as he would like to make his garage larger than the original application stated. De Mello stated that if Mr. Sweatt wanted to stay with the same dimensions as the original application stated back in 2014, he would not need to come before the Board again. The Board reviewed and discussed the five criteria necessary to make a decision (see attached Decision Form). ***A motion is made by De Mello based on the application submitted and testimony heard that this application for relief of Section 4.10 – Schedules of Use and Area Regulations and 5.52 – Location of Detached Accessory Buildings in Required Yard Area be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed and considered by the Board. Specifically, grant a variance to allow an additional 16’ to be added to the garage length of 40’ making the garage total length 56’. This places the garage approximately 35’ from the front yard boundary line where normally 100’ is required; however, an accessory structure only requires a 10’ setback; seconded by Sowizdrzal. All in favor, motion carried.***

Old Business: No old business.

New Business:

Anne Marie FitzMaurice – 7 Weigands Way – 20.3-2-21.000 – Rebuild structure due to damaged foundation. New structure will have a partial basement, two screened porches, be two stories instead of one, and have an attic

DeMello asked Morgan Denton to clarify with Terry Pulsifer, Codes Enforcement Officer, that the application number is correct. Sowizdrzal asked the FitzMaurice’s if they are using the same footprint. FitzMaurice’s stated yes, they are staying with the same footprint but are asking for an extra 6” on three sides to be able to do the new construction with 6” walls. The FitzMaurice’s stated that the staircase on the north boundary will be replaced. De Mello questioned whether the staircase was an outside feature. Galioto stated that the staircase is attached to the primary structure and that it is the only access to the home. De Mello stated that there is a certain amount of porch that you don’t have to consider for lot coverage because you need a certain amount of egress into the house. De Mello asked the board that if the stairs are outside and down to the lake, if they were thinking they would need a variance. Galioto stated that he thinks that it is a side yard setback and that the stairs are about 4’ from the side yard boundary. De Mello asked if the structure was currently on piers. The FitzMaurice’s stated that the home is on piers and the columns support the screened porch but they weren’t sure what the foundation is for the stairs. FitzMaurice’s also stated that the back corner is not on a foundation. De Mello asked the FitzMaurice’s if they were going to be digging for a basement and if so, would it be possible to move the footprint. The FitzMaurice’s weren’t against that possibility but there was further discussion that they would need more than one variance. De Mello stated that the Board needs clarification on what the regulations are for the stairs. If they were to rotate the footprint, they would need to keep into consideration of the location of the septic system.

Lincoln asked to clarify the zoning district. The zoning district is HC-2 (Highway Commercial 2). De Mello stated that the Board feels this application is incomplete due to not having all the dimensions available on the drawings. De Mello reviewed the Finding of the Facts. Sarah FitzMaurice stated that Terry Pulsifer stated that they did not need to go through the APA application process. De Mello confirmed that is correct; however, if the Board does approve the variance, the Town is required to get approval from the APA. De Mello asked if we could get clarification from Terry Pulsifer whether the structure needs to be 30' from the street or not. Galioto asked if it is from the center of the road or the property boundary and De Mello stated that it is the property boundary after the right-of-way is deducted which depends on the highway. Sowizdrzal asked what the dimensions of the structure will be. FitzMaurice stated that it will be about 35' x 25' and that it will be the same footprint other than just going up for the second story but will not exceed 35' from the lowest point. De Mello stated that the Board would like to see the plan with the dimensions of the structure and also the dimensions from boundaries. De Mello stated she will also be out for a site visit. ***Galioto made a motion to move this project to a public hearing next month; seconded by Lincoln. All were in favor.*** De Mello stated that the public hearing will be held on Tuesday, October 19th, 2021 at 6pm. Sarah FitzMaurice clarified that this project will need to be sent to the APA after the public hearing as long as it is approved. De Mello stated that she was correct. The FitzMaurice's are trying to get ground work completed and concrete poured before winter or at least to be able to demolish the current structure as they are worried it won't last the winter.

A motion was made by De Mello and seconded by Lincoln to adjourn the meeting at 8:05pm.

Respectfully Submitted,

Morgan Denton
Secretary for Planning and Zoning Board

ZBA Area Variance Questions DRAFT
Submitted by Carol de Mello

Name Cathy Morin & Ghislain Gagne Tax Map # 21.5-1-41.000

Area Variance Application Number: 2021-85Z Date of Vote: 09-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

The desire to make the house more functional and livable year-round would be hard to achieve in a different configuration. It most likely would be more expensive and possibly require a variance for a front yard setback. Therefore, I don't see another feasible method other than an area variance.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

There will be no undesirable change in the neighborhood. In fact, this addition will be a positive enhancement. There are enough trees left with just a 10' side yard setback to maintain privacy for the homeowners and the adjoining vacant lot.

3. As to whether the requested area variance is substantial, I find that:

The official request for relief is for 10' of a 20' side yard setback which at 50% is substantial. However, the actual change is only 4' as the structure now sits at 14'-2" and they wish to move it to 10'-4". When you consider the overall placement on the lot and consider the design of the new living space to blend seamlessly with the original camp, I find that it is not substantial.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

There will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. There may even be substantial improvements with new drainage and a new septic system to accommodate 3 bedrooms instead of 2.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

The alleged difficulty is partly self-created as it may have been possible to reconfigure the plans to accommodate the setbacks. However, the original structure was built prior to the creation of the zoning law well before the applicants acquired the property.

ZBA Area Variance Questions DRAFT
Submitted by Pete Sowizdrzal

Name: Cathy Morin – Ghislan Gagne

Tax Map # 21.5-1-41.000

Area Variance Application Number: 2021-85Z

Date of Vote: 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
They it could not. Part of the existing structure is not sound and needs to be replaced. The existing garage is now 14' from the property line and they are looking to expand the storage area by 4'. The property located to the north is wooded and would not interfere with their view.
2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
I would be an improvement to the character of the area. It will make the structure safe and secure especially if they will be living here year-round. They are only looking to expand the structure 4' to the north. People wouldn't notice the increased footprint.
3. As to whether the requested area variance is substantial, I find that:
Yes, if we didn't look at the existing structure. If existing structure wasn't here before zoning regulations, they would be requesting at 10' variance instead of a 4' variance. I don't think 4' is substantial.
4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
It will not. The physical footprint is only increasing by 4' to the north. They are putting in a new septic system and the drainage will not increase.
5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
No. Existing structure was built before zoning was in place. Need to replace foundation anyways. With new building codes the inside space of structure is reduced to justify bigger dimensions.

ZBA Area Variance Questions DRAFT
Submitted by Anthony Galioto

Name: Cathy Morin – Ghislan Gagne **Tax Map #** 21.5-1-41.000

Area Variance Application Number: 2021-85Z **Date of Vote:** 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
Due to original lot size and home footprint a variance is required to accommodate proposed home improvements.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
As per proposed changes there will not be an undesirable change to neighborhood.

3. As to whether the requested area variance is substantial, I find that:
The request is not substantial.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
Improvements to existing property will not have an adverse effect on physical or environmental conditions. With replacement of damaged portions of existing structure and new septic system conditions in area will improve.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
Requirement for variance is not self-created with proposed improvements following existing structure footprint.

ZBA Area Variance Questions DRAFT
Submitted by Anne Lincoln

Name Cathy Morin and Ghislain Gagne Tax Map # 21.5-1-41.00

Area Variance Application Number: 85Z Date of Vote: 9/21/21

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
If the new garage was unattached, it could be 10 feet from the side property line and would be considered an accessory structure. However, this is not really feasible as the owner wants to use more of the structure as living space.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
The proposed structure will improve the appearance of the home and will not produce an undesirable change in the character of the neighborhood.

3. As to whether the requested area variance is substantial, I find that:
The current structure is 14 feet from the side property line and is already not in the compliance with the side yard requirements of 20 feet. The requested setback is actually 50% of the allowed setback which is numerically substantial.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
The plans include updating the current septic system which should be an improvement to the environment. The home will not impact the physical conditions.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
This is a lot that limits the ability of the homeowner to make improvements to the home, so the only part that is self-created is the choice of plans to build towards the side rather than towards the road.

ZBA Area Variance Questions DRAFT
Submitted by Carol de Mello

Name Richard & Sarah Sayward Tax Map # 40.1-2-8.200 & 40.1-2-8.200/1

Area Variance Application Number: 2021-86Z Date of Vote: 09-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

There is no other means to subdivide the land into two lots because of the existing two residential structures on the property. While the lot sizes were made conforming to the current zoning law, the boundary dividing the property into two lots causes the setback to be violated. It is too expensive to move a house and septic system.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

The division of the property into two lots will only be seen on paper—there will be no visual change on the property.

3. As to whether the requested area variance is substantial, I find that:

The requested variance relief of 38'-6" on a 50' rear yard setback is substantial; however when viewing the overall property and the position of the two residences, it does not look substantial.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

Since the buildings are not going to be moved, there will be no effect or impact.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

The difficulty is self-created as the applicant wishes to retain a portion of his property after selling the majority of it.

ZBA Area Variance Questions **DRAFT**
Submitted by Pete Sowizdrzal

Name: Richard and Sarah Sayward **Tax Map #** 40.1-2-8.200

Area Variance Application Number: 2021- 86Z **Date of Vote:** 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
It cannot. They were granted a variance for an in-law structure back in 1986. This property has contained two principal structures since 1986. The only other way to achieve this is to move the structure and all the utilities which wouldn't be feasible.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
It will not. These two principal structures have been in this location since 1986. It is not changing the neighborhood or detriment to nearby properties,

3. As to whether the requested area variance is substantial, I find that:
Yes, it is. They are requesting a substantial reduction in rear yard setback but with the trailer and land upon death going back to the owners of the house it will be a moot point.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
No. It's been there since 1986.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
No. This was granted back in 1986 when it was allowed.

ZBA Area Variance Questions **DRAFT**
Submitted by Anthony Galioto

Name: Richard and Sarah Sayward **Tax Map #** 40.1-2-8.200

Area Variance Application Number: 2021- 86Z **Date of Vote:** 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
Variance is required with subdivision of property due to current structure being in existence since 1987.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
There will be no undesirable change to character of the neighborhood because the only change being made is the subdivision of property.

3. As to whether the requested area variance is substantial, I find that:
The variance request is not substantial and needed due to subdivision boundary lines.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
There will be no changes other than property boundary lines thus there will not be any adverse effect to the physical or environmental conditions of the district.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
The variance request is not self-created and required due to the subdivision and new property line.

ZBA Area Variance Questions **DRAFT**
Submitted by Anne Lincoln

Name: Richard and Sarah Sayward

Tax Map #_11.17-1-45.10

Area Variance Application Number: 86Z **Date of Vote:** 9/21/21

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
There will be no change to the existing structures, but a subdivision line between the two homes will create a property line too close to the manufactured home on the proposed lot 2. The only way to relieve this would be to move the home which is not feasible.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
There will be no changes to the neighborhood and no effect on nearby properties.

3. As to whether the requested area variance is substantial, I find that:
The rear yard setback requested is 38.5 feet which is substantial, compared to the setback required.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that: *there will be no change in the physical or environmental conditions in the neighborhood as nothing new is being built.*

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
The difficulty is self-created as the owner desires to create the new lots in order to keep part and sell part.

ZBA Area Variance Questions DRAFT
Submitted by Carol de Mello

Name Jason Sweatt Tax Map # 39.1-2-9.000

Area Variance Application Number: 2021-87Z Date of Vote: 09-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:

As an area variance was previously granted in April 2014 and the project was then only partially completed, there is no other way for the applicant to have the benefit of a larger garage other than a new area variance.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:

There will be no change to the character of the neighborhood by granting a variance to make the garage slightly larger than the proposed original structure. There are other larger garages nearby.

3. As to whether the requested area variance is substantial, I find that:

Originally, the proposed structure was going to be 1280 sq. ft. Mr. Sweatt would like to add an additional 400 sq. ft. to the building by making it 56' long instead of 40'. Another change to take into consideration is that the original width was supposed to be 32'; it is now 30'. I find the request is NOT substantial. While making it longer will make it protrude 16' more into the required front yard, it is an accessory structure which only requires a 10' setback from any boundary line. The new length of 56' will place it approximately 35' from the front boundary line.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:

There will be no adverse effects to the environmental conditions of the neighborhood provided that proper code and building practices are followed.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)

While I found the original requested variance was not self-created, I find because an expansion is being made to the original proposed garage, that this change makes the difficulty self-created.

ZBA Area Variance Questions **DRAFT**
Submitted by Pete Sowizdrzal

Name: Jason Sweatt

Tax Map # 39.1-2-9.000

Area Variance Application Number: 2021- 87Z

Date of Vote: 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
It will not. All the utilities would have to be moved and the land behind the existing structure slopes upward that would require major excavation.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
It will not. He is just adding on to the existing structure that will be secluded by the trees along the road.

3. As to whether the requested area variance is substantial, I find that:
Yes and No. Yes, the they are looking for approximately 31 feet of relief for a structure that is supposed to be 100' from the road, but No because they were already given relief and being where they are located in a rural area.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
It will not. Drainage will not be an issue and the garage are not seen from the road.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
No. This lot was created before zoning took effect.

ZBA Area Variance Questions **DRAFT**
Submitted by Anthony Galioto

Name: Jason Sweatt

Tax Map # 39.1-2-9.000

Area Variance Application Number: 2021- 87Z **Date of Vote:** 9-21-2021

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
Addition to existing garage can only be made by extending the building into front yard, then a variance is required for project to proceed. Variance of 10' required.
2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
The change to the garage will not impact the character of the neighborhood.
3. As to whether the requested area variance is substantial, I find that:
This request is not substantial as the location of the existing garage forces the addition into the front yard and relief was granted earlier.
4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
If new driveway is installed with proper drainage there should be no impact to environment or physical conditions to the area.
5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
New extension can only be done by building into front yard so difficult is not self-created.

ZBA Area Variance Questions **DRAFT**
Submitted by Anne Lincoln

Name Jason Sweatt Tax Map # 39.1-2-9.000

Area Variance Application Number: 87Z Date of Vote: 9/21/21

Findings:

1. As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, I find that:
The property, size and shape and soil types make any other plan not feasible.

2. As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, I find that:
This will not affect the character of the neighborhood as there is already a garage present. It will not create a detriment to nearby properties as this is a rural area surrounded by agricultural land.

3. As to whether the requested area variance is substantial, I find that:
This is not substantial as it is just an increase from the last variance granted. If the accessory structure follows the side and rear yard rules when allowed in the front yard, then the distance to the property line has to be only ten feet.

4. As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, I find that:
It will not change any current impact on the physical or environmental conditions.

5. As to whether an alleged difficulty is self-created, I find that: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)
This is a preexisting undersized lot, the soil are clay and the garage already exists, so this is not self-created.

FINDINGS OF FACT--Draft
Submitted by Carol de Mello

Variance Application 2021-93Z—Anne FitzMaurice
September 21, 2021

Property location: 7 Weigands Way, Willsboro (20.3-2-21.000)
Zoning District: HC-2

PROJECT DESCRIPTION:

Replace structurally damaged seasonal home on the existing footprint but it will be taller with two stories and have a partial basement.—**IMPACTS Section 6.12, p. 57, Setback from the Shoreline, Lot Width and Side Yards.** Specifically, need variance for 50’ shoreline setback regulation—existing footprint is 46’. While zoning usually allows rebuilding on the same footprint, the APA requires a variance when new construction has “any increase in height” (the exception being less than 2’).

ZONING REQUIREMENTS:

- Minimum lot size: 40,000 sq. ft. (original lot size 0.18 acres = 7,841 sq. ft.)
- Shoreline setback: 50’ (Request relief of 4’ as structure is already located at 46’)
- Front Yard setback: 30’ (not applicable—see Shoreline setback)
- Rear* yard setback: 20’ (not applicable)
- Side Yard setback: 10’ (40’ lake frontage)
- Maximum Lot Coverage: 30% (2,352 sq. ft.--not an issue)
- Maximum bldg. height: 35’ (not an issue)

According to the property record, the buildings and improvements total 864 sq. ft., under the 2,352 sq. ft. allowance.

*Rear yard setback of 20’ is superseded by Shoreline regulations.

Move to public hearing?—Yes, need fully completed and signed application

Motion ?:--Move to public hearing 10-19-2021

FINDINGS OF FACT--Draft
Submitted by: Pete Sowizdrzal

Variance Application 2021-93Z Anne FritzMaurice
Date: September 21, 2021

Property location: 7 Weigands Way (20.3-2-21.000)
Zoning District: HC-2 (Highway Commercial 1)

PROJECT DESCRIPTION: Rebuild of Entire structure due to damaged foundation. The new seasonal home will have a partial basement, 2 stories and 2 screen porches.

—IMPACTS Section 6.12 #2 Setback from the Shoreline, Lot Width and Side Yards.

ZONING REQUIREMENTS:

- Minimum Lot Size: 40,000 sq ft. (7,840 sq ft. – Existing lot)
- Front Setback 30'
- Shoreline Setback: 50'- (46' Existing structure)
- Rear Yard Setback: 20' -
- *Side Yard Setback: 10' (Shoreline Property)
- Maximum Lot Coverage: 15% = 1,176 sq ft (New structure = 875 sq ft. In Compliance)
- Maximum Bldg. Height: 35' (Not an issue)

40' Shoreline property. Side yard setbacks at 10'.

Move to public hearing? — Yes

Motion?

DECISION FORM:

BOARD:	Zoning Board of Appeals
DATE OF APPEAL:	September 21, 2021
APPLICATION NUMBER:	2021-85Z
NAME:	Cathy Morin & Ghislain Gagne
PROJECT ADDRESS:	179 Corlear Drive
TAX MAP NUMBER:	21.5-1-41.000
REQUEST FOR VARIANCE FROM:	Section 6.12, p. 57, Setback from the Shoreline, Lot Width and Side Yards. Specifically, need variance for side-yard setback regulation of 20’—wish to move attached garage to 10’ from North property line requiring relief of 10’.

PROJECT DESCRIPTION:

Replace structurally damaged 2-car garage and breezeway with 1-car garage with first-floor family room and second floor bedroom/bathroom.

REVIEW OF AREA VARIANCE CRITERIA:

Area Variance Criteria:

1. *As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, the board finds:*

The desire to make the house more functional and livable year-round would be hard to achieve in a different configuration. It most likely would be more expensive and possibly require a variance for a front yard setback. Lincoln says if the new garage was unattached, it could be 10 feet from the side property line and would be considered an accessory structure. Sowizdrzal finds that part of the existing structure is not sound and needs to be replaced. The existing garage is now 14’ from the property line and they are looking to expand the storage area by 4’. The board agrees this is the most feasible method for the benefit of the applicant.

2. *As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, the board finds:*

The Board agrees that there will be no undesirable change in the neighborhood. In fact, this addition will be a positive enhancement and an improvement to the character of the area. It will make the structure safe and secure especially if they will be living here year-round.

They are only looking to expand the structure 4' to the north. People wouldn't notice the increased footprint. There are enough trees left with just a 10' side yard setback to maintain privacy for the homeowners and the adjoining vacant lot.

3. *Is the requested area variance substantial?*

De Mello stated that the official request for relief is for 10' of a 20' side yard setback which at 50% is substantial. However, the actual change is only 4' as the structure now sits at 14'-2" and they wish to move it to 10'-4". When you consider the overall placement on the lot and consider the design of the new living space to blend seamlessly with the original camp, it is not substantial.

After hearing de Mello's response, Sowizdrzal agrees with her numbers and realizes the distance is 10' instead of 4'. However, he still thinks that it is not substantial because it's only a 4' change from what currently exists and people won't notice that difference.

Galioto stated that he did not think it is substantial.

Lincoln stated the current structure is 14 feet from the side property line and is already not in the compliance with the side yard requirements of 20 feet. The requested setback is actually 50% of the allowed setback which is numerically substantial.

4. *As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the board finds:*

The Board agrees that there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. There may even be substantial improvements with new drainage and a new septic system to accommodate 3 bedrooms instead of 2.

5. *As to whether an alleged difficulty is self-created, the board finds: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)*

De Mello stated the alleged difficulty is partly self-created as it may have been possible to reconfigure the plans to accommodate the setbacks. However, the original structure was built prior to the creation of the zoning law well before the applicants acquired the property. Sowizdrzal stated no, the existing structure was built before zoning was in place. Need to replace foundation anyways. With new building codes the inside space of structure is reduced to justify bigger dimensions.

Galioto agrees that this is not self-created.

Lincolns states that this is a lot that limits the ability of the homeowner to make improvements to the home, so the only part that is self-created is the choice of plans to build towards the side rather than towards the road.

PROPOSED MOTION:	<p>Motion made by de Mello is made based on the application submitted and testimony heard that this application for relief of Sections 6.12—Setback from the Shoreline, Lot Width and Side Yards be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed and considered by the Board. Specifically, grant a variance to grant relief of 10’ on the north side-yard setback of 20’ to allow replacement of a structurally damaged 2-car garage and breezeway with a 1-car garage with first-floor living area and second-floor bedroom and bathroom.</p>		
MOTION MADE BY:	Carol de Mello		
MOTION SECONDED BY:	Pete Sowizdrzal		
MEMBER VOTE:	MEMBER NAME:	YES	NO
	Chairman, Carol de Mello	X	
	Vice Chair, Peter Sowizdrzal	X	
	Anthony Galioto	X	
	Margaret Adkins	Excused	
	Anne Lincoln	X	
SIGNATURE OF ZBA CHAIRMAN:			

DECISION FORM:

BOARD:	Zoning Board of Appeals
DATE OF APPEAL:	September 21, 2021
APPLICATION NUMBER:	2021-86Z
NAME:	Richard & Sarah Sayward
PROJECT ADDRESS:	269 and 273 Coonrod Road
TAX MAP NUMBER:	40.1-2-8.200 and 40.1-2-8.200/1, respectively
REQUEST FOR VARIANCE FROM:	Section 4.10, p. 29, Schedules of Use and Area Regulations and Section 4.33, p. 36, Subdivision of a Lot With Existing Buildings; specifically, Lot 2, 273 Coonrod Road, cannot meet the setback requirements of the code, so a variance is necessary.

PROJECT DESCRIPTION:

Subdivide parcel at 269 into two lots--each would meet the minimum area requirements for area. The smaller, newly created Lot 2—273 Coonrod Road will need a variance for rear-yard setback relief of 38’6”, as the existing structure is 11’6” from the boundary line. Currently, 273 Coonrod Road has a manufactured home on leased land of 269 Coonrod Road. It was approved by the ZBA in 1986.

REVIEW OF AREA VARIANCE CRITERIA:

Area Variance Criteria:

1. *As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, the board finds:*

The Board agrees that there is no other means to subdivide the land into two lots because of the existing two residential structures on the property. While the lot sizes were made conforming to the current zoning law, the proposed boundary dividing the property into two lots causes the setback to be violated. It is too expensive to move a house and septic system, and utilities.

2. *As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, the board finds:*

The board agrees that the division of the property into two lots will only be seen on paper—there will be no visual change on the property and no effect on nearby properties.

3. *Is the requested area variance substantial?*

De Mello stated that the requested variance relief of 38'-6" on a 50' rear yard setback is substantial; however, when viewing the overall property and the position of the two residences, it does not look substantial.

Sowizdrzal stated that it is substantial. They are requesting a substantial reduction in rear yard setback but with the trailer and land upon death going back to the owners of the house it will be a moot point.

Galioto stated that the variance request is not substantial and needed due to subdivision boundary lines.

Lincoln stated the rear yard setback requested is 38.5 feet which is substantial, compared to the setback required.

4. *As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the board finds:*

Since the buildings are not going to be moved, there will be no effect or impact.

5. *As to whether an alleged difficulty is self-created, the board finds: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)*

Lincoln and de Mello believe the difficulty is self-created as the applicant wishes to retain a portion of his property after selling the majority of it. Sowizdrzal and Galioto believe it is not self-created; a variance was granted for the manufactured home in 1986.

PROPOSED MOTION:	<p>Motion by de Mello is made based on the application submitted and testimony heard that this application for relief of Sections 4.10—Schedules of Use and Area Regulations and 4.33—Subdivision of a Lot with Existing Buildings be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed and considered by the Board. Specifically, grant a variance to allow the property located at 269 Coonrod Road to be subdivided into two separate lots where Lot 1 conforms to all zoning regulations and Lot 2 is granted a variance for rear yard setback relief of 38’6” as the residential structure is presently located at 11’6”.</p>		
MOTION MADE BY:	Carol de Mello		
MOTION SECONDED BY:	Pete Sowizdrzal		
MEMBER VOTE:	MEMBER NAME:	YES	NO
	Chairman, Carol de Mello	X	
	Vice Chair, Peter Sowizdrzal	X	
	Anthony Galioto	X	
	Margaret Adkins	Excused	
	Anne Lincoln	X	
SIGNATURE OF ZBA CHAIRMAN:			

DECISION FORM:

BOARD:	Zoning Board of Appeals
DATE OF APPEAL:	September 21, 2021
APPLICATION NUMBER:	2021-87Z
NAME:	Jason Sweatt
PROJECT ADDRESS:	43 Mountain View Drive
TAX MAP NUMBER:	39.1-2-9.000
REQUEST FOR VARIANCE FROM:	Section 4.10, p. 33, Schedules of Use and Area Regulations and Section 5.52, p. 45, Location of Detached Accessory Buildings in Required Yard Area. Specifically, Sweatt wishes to enlarge a garage which was built smaller than allowed under a variance granted in 2012 and 2014.

PROJECT DESCRIPTION:

Enlarge existing garage by extending it 40’ into the front yard. A variance was granted originally for a garage sized 32’ x 40’ in the required front yard in February, 2012, and again in April, 2014, after an extension was granted because of unforeseen difficulties in starting the project on time. Mr. Sweatt could not complete the entire structure as planned and built a garage measuring 30’ x 16’. This requested addition would make the finished size 30’ x 56’.

REVIEW OF AREA VARIANCE CRITERIA:

Area Variance Criteria:

1. *As to whether the benefit sought by the applicant can be achieved by some method feasible for the applicant other than an area variance, the board finds:*

The Board agrees as an area variance was previously granted in April 2014 and the project was then only partially completed, there is no other way for the applicant to have the benefit of a larger garage other than a new area variance. The slope of the back lot, soils and expense of moving utilities is not feasible.

2. *As to whether an undesirable change will be produced in the character of the neighborhood, or a detriment to nearby properties will be created, the board finds:*

The Board is in agreement that there will be no change to the character of the neighborhood by granting a variance to make the garage slightly larger than the proposed original structure.

There are other larger garages nearby. Lincoln pointed out it will not create a detriment to nearby properties as this is a rural area surrounded by agricultural land.

3. *Is the requested area variance substantial?*

De Mello stated that originally, the proposed structure was going to be 1280 sq. ft. Mr. Sweatt would like to add an additional 400 sq. ft. to the building by making it 56' long instead of 40'. Another change to take into consideration is that the original width was supposed to be 32'; it is now 30'. DeMello finds the request is NOT substantial. While making it longer will make it protrude 16' more into the required front yard, it is an accessory structure which only requires a 10' setback from any boundary line. The new length of 56' will place it approximately 35' from the front boundary line.

Sowizdrzal stated that this is substantial and it is not substantial. Yes, they are looking for approximately 31 feet of relief for a structure that is supposed to be 100' from the road, but No because they were already given relief and being where they are located in a rural area.

Galioto feels the request is not substantial as the location of the existing garage forces the addition into the front yard and relief was granted earlier..

Lincoln stated that this is not substantial as it is just an increase from the last variance granted. If the accessory structure follows the side and rear yard rules when allowed in the front yard, then the distance to the property line has to be only ten feet.

4. *As to whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, the board finds:*

The Board agrees that there will be no adverse effects to the environmental conditions of the neighborhood provided that proper code and building practices are followed.

5. *As to whether an alleged difficulty is self-created, the board finds: (This consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance.)*

DeMello feels that while the original requested variance was not self-created, because an expansion is being made to the original proposed garage, this change makes the difficulty self-created.

Sowizdrzal, Galioto and Lincoln all feel that this is not self-created as the lot was created before zoning took effect and Mr. Sweatt went in front of the Board years ago when he wanted to do this and obtained a variance then.

PROPOSED MOTION:	<p>Motion by de Mello is made based on the application submitted and testimony heard that this application for relief of Sections 4.10—Schedules of Use and Area Regulations and 5.52—Location of Detached Accessory Buildings in Required Yard Area be granted because the benefit to the applicant outweighs any detriment to the health, safety, and welfare of the district, neighborhood, or community by approval of the variance, to reach this conclusion I have considered the five factors discussed and considered by the Board. Specifically, grant a variance to allow an additional 16’ be added to the garage length of 40’ making the garage total length 56’. This places the garage approximately 35’ from the front yard boundary line where normally 100’ is required; however, an accessory structure only requires a 10’ setback.</p>		
MOTION MADE BY:	Carol de Mello		
MOTION SECONDED BY:	Pete Sowizdrzal		
MEMBER VOTE:	MEMBER NAME:	YES	NO
	Chairman, Carol de Mello	X	
	Vice Chair, Peter Sowizdrzal	X	
	Anthony Galioto	X	
	Margaret Adkins	Excused	
	Anne Lincoln	X	
SIGNATURE OF ZBA CHAIRMAN:			