



TOWN OF WILLSBORO
ZONING BOARD OF APPEALS

MINUTES
ZONING BOARD OF APPEALS
DATE: October 19th, 2021 at 6:00PM
LOCATION: WILLSBORO TOWN HALL

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

Excused: Margaret Adkins, Peter Sowizdrzal

Members of the Public: Anne Marie FitzMaurice, Spencer Hathaway

Chairman de Mello called the meeting to order at 6:01 pm.

September 2021 Minutes: No corrections needed. The September 2021 minutes were approved as presented. A motion was made by Lincoln to accept meeting minutes; seconded by Galioto. All in favor, motion carried.

Public Hearing:

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

Chairman De Mello opened the public hearing for the FitzMaurice project at 6:04 pm. De Mello stated that there were no members of the public present. De Mello asked Morgan Denton if she had received any correspondence in regards to the project in any form of communication and Morgan Denton stated she did not receive anything from the public.

De Mello invited Anne Marie FitzMaurice and Spencer Hathaway, contractor, to provide more details on the project. Hathaway stated that the existing camp was built in the 30's or 40's and he has worked on this camp previously, and it really needs a proper foundation. Hathaway stated that the existing structure is 2x4 construction and the structure is not worth saving. Hathaway stated that the FitzMaurice family would like to add a heating system so they are able to use the camp year round if they wish. De Mello asked if the existing structure was on piers or if it was a combination. Hathaway stated that it is a combination. De Mello stated that the FitzMaurice's want to expand a little on the current footprint due to using 2x6 framing and insulation. De Mello asked if this project has been seen at the Planning Board and Hathaway confirmed it has gone in front of the Planning Board and it was approved.

De Mello closed the public hearing at 6:07 pm.

De Mello asked about the septic system and Hathaway confirmed that they put in a new septic system last year. Hathaway stated that the lots in that area are not very big so the FitzMaurice's are

trying to stay in the same footprint they currently have. De Mello asked if the stairs were going to be more or less the same configuration as they are right now. De Mello stated that as you are facing the camp the stairs are on the right side and very close to the property line. Hathaway stated that the stairs would be about the same as they are currently. Galioto asked if the stairs would be going to the second story and Hathaway stated that they would not be going to the second story--they would be just going into the main floor. De Mello read section 4.43 and referenced 6.12 and stated that there would be a 5' variance required. De Mello and the Board reviewed the five questions and had much discussion. De Mello stated that she would feel better about granting a side yard setback just in case due to the location of the stairs. Galioto stated that it would be a 6' variance on the north side due to the placement of the stairs. De Mello gave FitzMaurice the option to wait until next month's meeting as the board had only three members present. FitzMaurice stated that they would not like to wait. ***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 and 4.43 Nonconforming Structures 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 for relief of 5' on the lakefront for the structure to be at 45' as noted on the drawing and will grant a variance as needed to rebuild for section 4.43 for nonconforming structure and grant a variance of 6' on the north side for the purposes of a staircase for egress into the building; seconded by Galioto. All in favor, motion carried. Passed unanimously.***

De Mello informed FitzMaurice that the project information will be sent to the APA due to being lakefront property.

Old Business: No old business.

New Business:

Paul Keiley – 382 Bay Lane – 20.20-1-43.00 – RL-1 – 10' x 16' Backyard Shed

Galioto and De Mello paid a visit to the site. Lincoln was able to do a drive by of the site. De Mello stated that to appreciate what Keiley would like to do with the shed, you really need to visit the site to see the different elevations and stair access. Lincoln stated that at first glance it shows that he has a lot of land and asked why he would want to put the shed in the proposed location. De Mello stated that there are a set of stairs and a boat house that the existing drawing didn't show. De Mello did ask Keiley to provide a map showing the stairs and boat house (not yet received). De Mello stated that if he were to turn the shed he would be blocking the stairs. Galioto stated that where the house is situated it encompasses most of the backyard and there isn't a lot of room to put that size shed without blocking the view and access to the boathouse as well as the stairs. Lincoln asked what he would be storing in this shed. Galioto stated he would like to store the lawn mower, gardening tools, etc. De Mello stated he also wanted to store summer patio furniture as well. Another reason Keiley would like the shed in the proposed location is that the neighbors have a hot tub and it would provide a little more privacy. Lincoln asked if it is on a slope. De Mello stated that he may need to level it a little bit but that was the flattest spot. Lincoln stated that she would rather put a shed near the driveway. De Mello stated that she thinks the applicant would like to build a garage down the road. Galioto stated that there is a stone wall along the property line. De Mello highly recommended Lincoln do another site visit where she would be able to see the actual site and not just from the

road. De Mello asked the Board if they needed any further information from the applicant. Lincoln asked if the board needed to talk about setbacks on the house. De Mello and Galioto stated that they were just looking at the shed for the side yard setback. Lincoln asked that if you were to adjust the angle of the sheds location that Keiley wouldn't need as much of a variance. De Mello stated that they wouldn't be able to do that as they would lose access to the stairs. Galioto stated that if he were to move the whole shed over it would be difficult to access the stairs. Lincoln asked what he needed for a variance. De Mello stated that it would be an 8' variance. The Board reviewed their finding of facts. De Mello stated that the Board will need a copy of the deed from the applicant as well as an updated drawing showing the stairs with the distance from the stairs to the shed in its proposed location. De Mello asked if this will need to go in front of the Planning Board. Morgan Denton stated she would check with Terry Pulsifer, Code Enforcement Officer, and report back. De Mello stated that some small projects don't go in front of the Planning Board. Galioto asked De Mello if she had the square footage of the existing house plus the shed. De Mello stated that the square footage of the house plus the concrete patio as well as the porches would be a total of 2,920 square feet. Lincoln asked where the concrete patio was. De Mello stated that it is outside the walkout basement. De Mello stated that the square footage will not be an issue. ***Galioto made a motion to move this project to a public hearing next month; seconded by Lincoln. All in favor.***

A motion was made by Galioto and seconded by Lincoln to adjourn the meeting at 6:59pm. All in favor.

Respectfully Submitted,

Morgan Denton
Secretary for Planning and Zoning Board

ZBA Area Variance Questions DRAFT
Submitted by Anne Lincoln

Name: Anne Marie Fitzmaurice **Tax Map #**20.3-2-21.00

Area Variance Application Number: 93Z **Date of Vote:** 10/ 19/2021

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:
Centering the structure on the lot will reduce the variance needed, but will change from the original footprint. The interior footprint will be maintained in the new structure, but due to current building code an additional amount of space is needed. Building the home taller and wider than the original footprint requires a 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: *the existing home is structurally unsound and may not survive a snowy winter. The new home will improve the neighborhood and increase the value of nearby properties. The home next door is also a two story building.*

3. As to whether the requested area variance is substantial, I find that: *the current structure is 45' from the shoreline so needs a 5' variance, which is not substantial. The requested side yard variance is needed for the stairs, so is not substantial as it is not the whole building.*

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 new structure will be taller and more visible so could have some visual impact from the lake.*

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 so it not self-created. The owners are attempting to stay as close as possible to the current footprint.*

ZBA Area Variance Questions DRAFT
Submitted by Tony Galioto

Name: Anne Marie Fitzmaurice **Tax Map #**20.3-2-21.00

Area Variance Application Number: 93Z **Date of Vote:** 10/ 19/2021

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 the condition of the existing building, demolition is sought and reconstruction of a 2 story structure with a partial basement is being proposed. In order to utilize the existing footprint of the building being removed all variants are required to proceed with the project.*
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: *Based on the blueprints of the proposed structure the character of the neighborhood will not be changed. However, the structure being proposed will be larger and will stand out much more than what is currently standing in that location.*
3. As to whether the requested area variance is substantial, I find that: *Shoreline and side yard setback variances are needed to proceed with the proposed project. None of the variances sought are substantial in order to utilize the existing footprint. A 5' variance is required to meet shoreline setback requirements and a 6' variance is required to meet side yard setback requirements – stairs northside.*
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 impact to the environment or conditions of the neighborhood.*
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.) In order to construct the proposed structure as designed and utilize the existing footprint, the relief being sought is not self-created.*

ZBA Area Variance Questions DRAFT
Submitted by Carol de Mello

Name Anne Fitzmaurice Tax Map # 20.3-2-21.000

Area Variance Application Number: 2021-93Z Date of Vote: 10-19-2021

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:

Attempts to repair the damaged foundation did not succeed and so there is no other feasible method to achieve the safety and comfort desired. It is reasonable to expand by adding a second story to make the small living space more accommodating.

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 changes in the neighborhood and this new structure will be an improvement. There should be no impact to the neighbors; one is a two-story structure and no sight lines will be affected; the other is set closer to the lake and there are trees, so the new house will not interfere with their views.

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

The requested deviation of 5' on a 50' lakefront setback is NOT substantial. If not for the addition of the second story, a variance would not have been needed. A variance for the 6' of relief on the side yard for the stairs is not substantial in my opinion because they are only stairs and a small landing for egress into the building which sits at the required 10'.

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 should be no adverse effect or impact on the physical or environmental conditions provided the new building follows all required building codes. There should even be an improvement to the drainage.

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.)

I don't find that it is self-created as this structure was built in 1940 long before the Zoning Law went into effect.

FINDINGS OF FACT--Revised
Submitted by Carol de Mello

Variance Application 2021-93Z—Anne FitzMaurice
October 19, 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. It will also be 6” wider and longer to account for 2x6 construction.—IMPACTS Section 6.12, p. 57, Setback from the Shoreline, Lot Width and Side Yards, Section 4.43.1 Nonconforming Structures. Specifically, need variance for 50’ shoreline setback regulation—existing footprint is 45’. 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’). Section 4.43.1 states that a variance is needed if the owner desires to increase the size of the existing three dimensional footprint.

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 5’ as structure is already located at 45’)
- Front Yard setback: 30’ (not applicable)
- Rear* yard setback: 20’ (not applicable—see Shoreline setback)
- 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. New build will be approximately 35’ x 25’ equaling 875 sq. ft.

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

Move to public hearing?—Yes, need fully completed and signed application. Update: done and more detailed drawings submitted.

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

FINDINGS OF FACT--Revised
Submitted by Carol de Mello

Variance Application 2021-95Z—Paul Keiley
October 19, 2021

Property location: 382 Bay Lane, Willsboro (20.20-1-43.000)
Zoning District: RL-1

PROJECT DESCRIPTION:

Install 10' x 16' (160 sq. ft.) backyard shed.—**IMPACTS Section 5.52.1, p 45, Location of Detached Accessory Buildings in Required Yard Area.** Shed is set at an angle to the property line—one corner is 2' from line and other corner is 12' from line. This is more aesthetically pleasing and allows use of the stairs to the boathouse, and affords the neighbors more privacy for their hot tub.

ZONING REQUIREMENTS:

- Minimum lot size: 40,000 sq. ft. (original lot size 0.70 acres = 30,492 sq. ft.)
- Front yard setback: 50' (in compliance)
- Rear* yard setback: 50' (in compliance)
- Shoreline* setback: 50' (in compliance)
- Side Yard setback: 10' (for accessory structure; requesting 8' relief—one corner)
- Maximum Lot Coverage: 15% (4,574 sq. ft., not an issue)
- Maximum bldg. height: 35' (N/A)

According to the property record, the buildings and improvements total **2,920 sq. ft.**, under the **4,574 sq. ft.** allowance, and adding 160 sq. ft. still is well below allowance.

*Rear yard setback of 50' is superseded by Shoreline regulations, but in this case they are both the same.

Move to public hearing? Yes, for November 16, 2021

Need: Deed, measurement to stairs; does it need planning board approval?

FINDINGS OF FACT
Submitted by Tony Galioto

Variance Application 2021-95Z—Paul Keiley
October 19, 2021

Property location: 382 Bay Lane, Willsboro (20.20-1-43.000)
Zoning District: RL-1

PROJECT DESCRIPTION:

Install already built 10x16 shed being delivered to property. IMPACTS Section 5.52 page 45 #1, Schedules of Use Area Regulations setback from shoreline accessory building 10'. Additional info variance of 8' required.

ZONING REQUIREMENTS:

Minimum lot size:	40,000 sq. ft.
Front yard setback:	50' (in compliance)
Rear* yard setback:	Not applicable
Shoreline* setback:	50' (in compliance)
Side Yard setback:	10' (for accessory structure; requesting 8' relief—one corner)
Maximum Lot Coverage:	15% (4,574 sq. ft., not an issue)
Maximum bldg. height:	35' (N/A)

According to the property record, the buildings and improvements total 2,920 sq. ft., under the 4,574 sq. ft. allowance.

*Rear yard setback of 50' is superseded by Shoreline regulations, but in this case they are both the same.

Move to public hearing? Yes, for November 16, 2021

Need: Deed.

DECISION FORM:

BOARD:	Zoning Board of Appeals
DATE OF APPEAL:	October 19, 2021
APPLICATION NUMBER:	2021-93Z
NAME:	Anne Marie FitzMaurice
PROJECT ADDRESS:	382 Bay Lane
TAX MAP NUMBER:	20.20-1-43.00
REQUEST FOR VARIANCE FROM:	Section 6.12, p. 57, Setback from the Shoreline, Lot Width and Side Yards, Section 4.43.1 Nonconforming Structures.

PROJECT DESCRIPTION:

Rebuild of structure due to damaged foundation. New structure will have a partial basement, two screen porches, two stories and an attic.

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 footprint. The applicant is doing their best to use the existing footprint as the lot is very small and they are limited to changing the footprint due to the location of their 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, 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. Galimoto does feel that the proposed structure will be larger and stand out much more than what is currently standing in that location but doesn't feel it's objectionable.

3. *Is the requested area variance substantial?*

Galioto stated that he does not feel that the variances needed are substantial in order to utilize the existing footprint. De Mello and Lincoln agree that the variances needed are not substantial. The 6' side yard variance is for the stairs going to the main floor not for the whole building.

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:*

De Mello and Galioto believe that there will be no adverse impact to the environment. Lincoln does believe due to the second story that the structure will be more visible from the water. De Mello also believes that this may help with drainage.

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.)*

The Board agrees that this is not self-created as the existing structure was built prior to the Zoning Law and the applicant is doing their best to utilize the existing footprint on this small lot.

PROPOSED MOTION:	<i>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 and 4.43 Nonconforming Structures 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 for relief of 5’ on the lakefront for the structure to be at 45’ as noted on the drawing and will grant a variance as needed to rebuild for section 4.43 for nonconforming structure and grant a variance of 6’ on the north side for the purposes of a staircase for egress into the building.</i>		
MOTION MADE BY:	Carol de Mello		
MOTION SECONDED BY:	Tony Galioto		
MEMBER VOTE:	MEMBER NAME:	YES	NO
	Chairman, Carol de Mello	X	
	Vice Chair, Peter Sowizdrzal	Excused	
	Anthony Galioto	X	
	Margaret Adkins	Excused	
	Anne Lincoln	X	
SIGNATURE OF ZBA CHAIRMAN:			