

**WATERVLIET CHARTER TOWNSHIP
ZONING BOARD OF APPEALS
MEETING AND HEARING MINUTES
MARCH 11, 2015**

Site Address: 5320 Lakeshore Dr.

Property #: 11-21-0970-0086-04-1

Variance Requested by James Fulton for his clients William and Ellen Vane

Request: The Vanes plan to demolish the current structure and build a new home. The current home has legal nonconforming setbacks of 26 feet from the lake; 8 feet, 4 inches from the road - at its closest point - and 3.2 feet from the west lot line. The east lot line far exceeds minimum setback requirements. The new construction will utilize the current home's 26 foot width, however, it will be located approximately 7 feet further to the east, thus providing a compliant west side yard setback of 10 feet. The proposed home will maintain the current 26 foot lake side setback line and the current 8 foot 4 inch road side setback line, however, the plan is to increase the length of the structure by 35 feet, 6 inches to the east by adding 300 square feet of additional livable floor space to the new house and adding a 24 foot by 24 foot attached garage. The resulting east side yard setback for the new structure exceeds minimum requirements. Article IV of Watervliet Charter Township Zoning Ordinance No. 50 - Nonconforming Lots, Structures, and Uses - provides for the expansion of a legally nonconforming structure provided that any structural expansion complies with current zoning requirements. Per Article V, Section 5.12 - Schedule of District Regulations - current setback requirements for the lake front district is 35 feet from the lake shore and, in this instance, 25 feet from the roadway. Therefore, in order for this structure to be constructed as planned, a lake side setback variance of 9 feet for 35.5 feet, and a road side setback variance of 16 feet 8 inches, for the same 35.5 feet, will have to be granted.

Present: Richard Quinn, Robert Wallace, Al Bodfish, Richard Hubona

Also Present: James Fulton, William and Ellen Vane, Dan Freiling, Jeff Phillips, Thomas Scheid.

Acting Chairman R. Wallace opened the meeting at 2:00 p.m.

Roll Call was taken.

The minutes of the February 25, 2015 hearing were read. R. Quinn made a motion to approve the minutes as read. R. Hubona seconded and the motion carried unanimously.

At this point R. Wallace entertained a motion to close out of regular session and enter into the public hearing portion of the meeting. A. Bodfish made a motion to close out of the regular meeting and enter into the public hearing. R. Quinn seconded and the motion carried unanimously.

The hearing was opened at 2:04 p.m.

The hearing opened with an overview and a briefing of the variances being requested. Fulton opened discussion with the statement; "The gist of the matter is that the Vane's need a garage. That's really what this is all about." He went on to say that the current house is 900 square feet, much of which is screened in porch. He added that the proposed structure will conform with the Township's minimum square footage requirement of livable floor space for a dwelling of 1,000 square feet plus it will be moved to the east 7 feet, thus providing a compliant side yard lot line of 10 feet from the building's current non-conforming side yard setback of about 3 feet. R. Wallace inquired as to where the road right-of-way actually exists. Fulton replied that the roadway, per survey, is considerably further away than what the paved surface would indicate. Fulton further stated that he measured the 9 nearest structures to the Vane's home and found that the Vane's current home was the furthest from the road.

At this point R. Wallace requested that written correspondence be read into the record. One letter was submitted which follows in its entirety:

Dear Sirs:

Based on the sketch and dimensions for this parcel on the Township website the lot has 78 ft. lake frontage and a depth of 58 ft., while the existing house is 35 ft. wide and approximately 26 ft. deep (910 sq.ft.). The published summary of the requested variances states that proposal would enable the addition of 576 sq. ft. of garage and 300 square feet of living space. Based on a total area of 1,786 square feet the final width of the new structure, assuming it is rectangular, would be approximately 69 feet. This appears to exceed the available lot width when considering appropriate side yard setbacks.

Given the short distance between the street and new building a garage opening directly onto the street could pose a potential safety hazard for vehicles entering this area of vacation homes. Has the developer addressed this issue in his development plan?

If granted, this request would roughly double the square footage of the existing structure which is 70% single story porch around a 16X17 foot 2 story cottage. Assuming the new construction follows the recent lakefront trend to build to the allowable 38 foot elevation above grade, a structure nearly 70 feet long standing only 26 feet from the lake front would be enabled. This would reflect far more lake noise than the current building.

If the motive for this substantial lakefront setback variance is the desire to add a 2 car garage to this vacation property I question whether that need is sufficient to grant the variance.

Steve Myers

J. Fulton, in response to the letter, stated that the author was not entirely correct with the facts and figures presented - namely the fact that the proposed structure would not provide compliant side yard setbacks. Fulton stated that the overall width of the lot, at its narrowest point, is by survey, 83.5 feet. The proposed home has a design width of 62.5 feet. Fulton pointed out that subtracting the two figures, that would leave 10.45 feet on each end for side yard setbacks. Wallace asked Fulton if there was a survey of the property. Fulton stated that everything has been based on and designed from an actual survey of the property. He then produced a copy of that survey and showed it to the Board.

R. Wallace then asked if any of the other audience members wished to voice their opinion. D. Frieling stated that, given the overall structure layout of the "Landing" he said this plan makes the most sense and stated that he would like to see it constructed as illustrated.

E. Vane stated that she is, "Passionate about retiring to and living in the area." She added that they would simply like to have a garage, a privilege that everyone else in the district enjoys.

J. Phillips stated that he was, "I'm happy about the idea and I think it would be great for the appearance of the Landing. I think it should be built."

T. Scheid, addressing the Board, stated: "If I had my way, everyone would be required to have a garage," continuing the statement by noting that garages provide for storage and, as such, greatly improve the appearance of an area.

With there being no further comment from the audience, R. Quinn made a motion to close the public hearing and re-enter into the meeting. R. Hubona seconded and the motion carried.

The public hearing was closed at 2:12 p.m.

Back into the regular meeting, R. Quinn stated that he does not see any health, safety or welfare issues that would be involved in granting the variances and, in his opinion, it meets all four points of the ordinance review criteria for granting a variance.

A. Bodfish stated that he had spent time at the site taking photographs of the home and surrounding area at many different angles. He stated that he could find no potential obstruction issues that he could observe if the variances were granted and the home was built. Bodfish too stated that it met all the ordinance review standards. R. Hubona also voiced that sentiment and, with that said, he made a motion to grant all variance as requested. R. Quinn seconded and a roll call vote was as follows:

A. Bodfish, yea with the reasons cited earlier; R. Quinn, yea also citing his previously mentioned statement; R. Hubona, yea; R. Wallace, yea with the statement that the extant structure possesses 3 non-conformances where the new structure will eliminate one and only have two non-conformances remaining. Wallace also stated that, "Everyone is entitled to a garage," and that this variance would not bestow a right or privilege that is not enjoyed by everyone else in the district. With that, the motion carried and all variances were granted.

Zoning Board of Appeals By-Laws

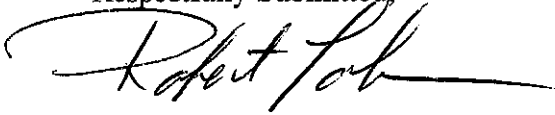
The proposed Zoning Board of Appeals By-Laws, that were presented at the November 6, 2014 meeting, were discussed. Wallace asked how the By-Laws, if adopted, would affect the Board. R. Lohr stated that the adoption of the By-Laws was a suggestion by Township legal counsel. Lohr further stated that the By-Laws, as presented, are in common form and have been adopted many Zoning Board of Appeals and would not significantly affect the current operation of the ZBA. He added that they would act as a template to follow where the Board may be challenged by an individual or the Board was confronted with a membership problem such as, for example, how to handle a conflict of interest. Wallace then entertained a motion for or against the adoption.

A. Bodfish made a motion to adopt the proposed By-Laws as presented. R. Quinn seconded and the motion carried unanimously.

With there being no further business before the Board, R. Quinn made a motion to adjourn. R. Hubona seconded and the motion carried unanimously.

The meeting was adjourned at 2:22 p.m.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Robert Lohr", written in a cursive style.

Robert Lohr
Zoning Administrator