

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

**BOARD MEMBERS PRESENT:**

Ron Mogren - Chairman, Dennis Barden, Virginia Henry, Kevin Merry, Tom Sullivan

**BOARD MEMBERS ABSENT:**

**OTHERS PRESENT:**

Doug Frost (Enforcement Officer), Carol Sullivan (Secretary), Peter Clarke, Tony Hall, Jon Lapper, Bob Leombruno, Charlie Curto, Ray Padilla, Monica Proctor, Robert Proctor, Harry Saum, Alex Conway, Nairy Zohrabian, Janine Behar, Dolores Marinelli, Jon Kim, Derek Shepanzyk, Kathy Redpath, Nicole Barie, Brian Barie, Patty Moore, Dotty Moore, Melissa Vito, Jeff Holden, John Ferrone, Jeff Holden, Mike Stafford, JoAnn Stafford-Paige, Elliott Heyman, Dave Kenny

Ron Mogren opened the ZBA meeting and the Public Hearing at 7:05 PM.

Ron advised the Board and the members of the public that due to an error with the system used for identifying neighbor notification, none of the applications reviewed this evening will be voted on this evening. If appropriate, applications will be voted on at the August 1<sup>st</sup> ZBA meeting at which time proper neighbor notification will have been made.

Ron opened the Public Hearing for all applications at this time. The Public Hearing will remain open until after each application is voted on.

**OWNER/APPLICANT: JOANN STAFFORD-PAIGE**

**TAX MAP: 251.14-4-26.1**

**ADDRESS: 90 MONTCALM ST**

**ZONE: RESIDENTIAL MIXED USE**

**VARIANCE APPLICATION #V03-2012A**

Variance is being sought for a boundary line adjustment between 90 Montcalm St. and 90 Helen St. Application is to move the Helen St. south side yard boundary line which separates the two properties; this will require a variance for the rear yard setback at 90 Montcalm St. The rear yard setback in the residential mixed use zone is 20 feet. The closest point to the proposed new rear yard setback at 90 Montcalm St. is 8.3 feet. Rear yard setback request is for 8.3 feet. Relief is 11.7 feet.

Mike Stafford explained to the Board the need for the driveway at the Helen Street house and the proposal before the Board tonight is to move the Helen St. boundary to the south so that the Helen St. house will have a driveway.

No public comment.

Having reviewed the application the Board members agreed this variance appears to be in order and acceptable. The Public Hearing remains open.

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

**OWNER/APPLICANT: PETER CLARKE  
TAX MAP: 251.14-1-23  
ADDRESS: 34 WEST ST.  
ZONE: RESIDENTIAL MIXED USE  
VARIANCE APPLICATION #V05-2012**

Application is to construct a one car garage at the rear of the property. The rear yard setback requirement in the residential mixed use zone is 20 feet. Application is for a 10 foot rear yard setback. Relief sought is 10 feet.

Peter explained the need for a 10 foot setback; he will be constructing a one car garage and because of the configuration of the current driveway it will be easier to get in and out of the garage if the garage is set back from the house.

Ron asked why the garage could not be set back in a manner to meet the 20 foot setback. Peter explained the garage will be off set a little bit from the current driveway. He will have to turn a bit towards the back of the house in order to enter the garage. The further the garage is away from the house, the easier it will be to make the turn into the garage. There is an embankment on the side of the yard which would require more detailed construction if the garage were to be constructed within the embankment. The backyard is flat and the construction will be a lot easier, including the pouring of cement for the flooring/slab.

No public comment.

Having reviewed the application the Board members agreed this variance appears to be in order and acceptable. The Public Hearing remains open.

**OWNER/APPLICANT: RAY PADILLA  
TAX MAP: 264.06-1-24  
ADDRESS: 85 PHILIP ST.  
ZONE: SINGLE FAMILY RESIDENTIAL  
VARIANCE APPLICATION #V06-2012**

Application is to construct a 12 foot by 20 foot one car carport on the west side of the existing one car garage and to build a 36 foot x 8 foot deck addition onto the front (north side) of the house.

**Carport:**

The side yard setback in the single family residential zone is 10 feet. The closest point to the west side yard boundary line is 4 feet. Side yard setback request is for 4 feet. Relief is 6 feet.

**Deck:**

The side yard setback in the single family residential zone is 10 feet. The closest point to the east side yard boundary line is 7.2 feet. Side yard setback request is for 7.2 feet. Relief is 2.8 feet.

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

Ray explained that the addition of the carport will conform to the existing roof line. He explained that his goal is to have the carport integrated with the house and the garage so that it does not look like an addition. There will not be a foundation; the portion of the yard where this car port will stand is currently covered with crushed slate. Three sides will be open; one side will be attached to the house.

Discussing the deck, Ron asked why the variance was necessary. If the deck was cut back 2.8 feet the side yard setback would be the required 10 feet. Ray explained that he wanted the deck to be the length of the house for uniformity. He does not want it to look like something that was added on; he prefers to have it flow with the lines of the house.

Carol addressed the Board advising (for the record) that she works for the Village of Lake George and her husband, Tom Sullivan, sits on this Zoning Board of Appeals. Speaking as a member of the public, she advised the Board that Ray is her neighbor. She advised the Board that the location of the deck and the proposed variance has no impact on their property or privacy. The deck will sit 7.2 feet away from a flower garden, a walkway is located to the east of the garden and the side wall of their garage is located to the east of the walkway. There is a fair amount of room from the proposed deck to the side of the garage and the variance doesn't impact their yard or privacy.

No public comment.

Having reviewed the application and hearing Carol's comments the Board members agreed this variance appears to be in order and acceptable. The Public Hearing remains open.

**OWNER/APPLICANT: ELLIOTT HEYMAN  
TAX MAP: 264.06-2-45  
ADDRESS: 51 CANADA ST. ZONE:  
COMMERCIAL MIXED USE  
VARIANCE APPLICATION #V07-2012**

Owner/applicant is applying for an area variance for the freestanding "Windsor Motel" sign. Owner/applicant is seeking 100% relief from the Village Code which requires freestanding signs to be brought into compliance whenever any of the lettering, message or graphics is changed. Applicant's proposal is to maintain the current size of the reader board, 68 square feet, to have permanent lettering on the reader board with a white background which will be back lit.

Elliott explained to the Board that he has always had a problem maintaining the lettering on the reader board. People passing by late at night would rearrange the lettering. Labor Day 2011 the reader board portion of the sign was destroyed because a rock was thrown through it and completely destroyed the reader board.

Elliot confirmed for Ron that the entire sign, including the reader board, is 68 square feet. The sign, including the reader board, is the same size as it has always been.

Elliott mentioned that Carol had informed him the background for reader boards should be dark. The color scheme of the sign is a light pink and turquoise in keeping with the motel color

Page 3 of 13

G:\planning\My Documents\BOARD MEETINGS\ZONING BOARD APPEALS\2012\MINUTES\07 11 2012 ZBA MINUTES.doc

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

scheme. Elliott explained that he had looked at a dark background however, because of the other colors used the sign appeared to be more intense than when a lighter background is used.

Ron asked Elliott to look at the sign and see if there is any way he can reduce the size of the variance and Elliott agreed. This will be addressed on August 1<sup>st</sup> and the Board will vote on this application at that time.

Speaking on behalf of the Sundowner Motel, Nicole and Brian Barie expressed concern because the Sundowner changed their sign a couple of years ago and they were made to conform to the new sign regulation. They believe everyone should conform to the new regulation. Ron explained that Elliott is only changing his reader board. Elliott had no intention of changing the overall design of his sign and if he had he would have to conform to the new regulation. Elliott could repair the reader board, putting it back exactly as it was however, Elliott is trying to avoid the same circumstances with what happened to the previous reader board.

The Public Hearing remains open.

**OWNER/APPLICANT: KENNY & DITTRICH LLC  
TAX MAP: 251.14-2-3  
ADDRESS: 365 CANADA ST  
ZONE: COMMERCIAL MIXED USE  
VARIANCE APPLICATION #V06-2012**

Owner/applicant is proposing construction of an 86 foot, 8 story major chain hotel. In the commercial mixed use zone the allowed height of commercial buildings is 40 feet. The allowed number of stories is 3. Owner/applicant is seeking relief of 46 feet for the building height and relief for 5 stories.

Attorney Jon Lapper represented Kenny & Dittrich LLC this evening. Jon mentioned the intent this evening is to explain the project, discuss it and listen to comments made by the Board and the public.

This proposed hotel will be a national chain hotel. The proposal is for 114 rooms. National chain hotels generally require at least 100 rooms. As required by Village Code the first floor will be retail shops. There will also be a reception area, a breakfast area and a cocktail lounge located on the first floor. There will be an indoor swimming pool. The second floor will be banquet space. The banquet space is an important component of the project in terms of attracting business meetings, weddings and the like. Attracting larger events will also be beneficial to the other hotels in the Village because the overflow requests for rooms can be placed with other hotels and motels. Parking spaces meet the current Village requirements because of the new lot Dave has installed behind the site and connecting to Amherst St. Because of the first floor amenities and the second floor banquet facilities 8 stories and 86 feet high are needed to meet the requirement of 114 rooms.

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

To put the height in perspective, Jon had a local surveyor determine that the Village courthouse to the top of the cupola is 83 feet. The first floor of the courthouse is 3 feet higher because of the slope; it's actually 3 feet higher than where this hotel will start so it's essentially 86 feet high.

Addressing the need, Jon mentioned he reviewed the Warren County Tourism "white paper" that was commissioned by Warren Economic Development. The paper was written in 2010. Jon read a short description from that paper pertaining to Lake George as a tourist destination. Lake George is a mature tourist destination. A recent note in the New York Times (April 2010) Travel section captures the sentiment of many observers. Avoid Lake George Village a tacky lakeside strip mall. There's a sense that Lake George Village is past its prime, losing market share that property owners and others have not kept their property current and that the community may be living on its storied past. There's a need for every tourist attraction and destination to be continually responding to changing market and consumer demand in order to maintain and grow market share.

Jon, speaking for Dave Kenny, mentioned that Dave feels this is not competing with the family owned motels; this is a different product. The price point in season is approximately \$300 per room. This would bring a different clientele into Lake George Village than is here now. This will not eat into the market of the smaller hotels; it will bring more people to Lake George Village and increase the patronage for the restaurants and shops.

The plan is for year 'round operation and jobs. Everyone knows the Village is quiet during the winter months but the banquet space should add to a more year 'round atmosphere. Saratoga has functions year 'round the goal here would be to have business meetings, corporate functions and weddings all year long to fill up the rooms and bring people into the village.

Jon mentioned that Dave feels there need to be development at the northern end of the Village. The fort William Henry, the Holiday Inn and the Wingate are all located at the southern end of the Village and two of those are located in the Town. This is an investment in the northern end of the Village.

This project addresses a customer demand for newer and more modern rooms in the downtown area. It is expected to help Lake George grow as a tourist destination.

Jon mentioned that the total tax assessment for the Village has declined in the last two year. While there isn't more land to provide for growth this is a way of promoting growth in the area and helping to support the tax base.

Dave has already acquired the land that is available in the immediate area. So there isn't a question of more land being available and the project spreading out rather than up. There is nothing available in the immediate area.

Another issue for the variance is the impact on the character of the neighborhood. The hope is that this investment will reinvigorate the Village; investment is needed and tourist destinations

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

need to keep investing and reinventing themselves. The hope is that this project will draw more people to Lake George.

This project should have a positive impact on the property values of neighboring properties. Hopefully, this will result in neighboring properties reinvesting, as well.

This is not a lake property. Marine Village is across the street with lots of trees on the property. Behind this proposed location is the Village Water Treatment plant. The new Firehouse is on the next corner. However, there is no one who has a view of the lake who would be blocked from seeing the lake and from the lake the height is minimized because it set back from the lake.

The variance is not self-imposed because a national chain requires at least 100 rooms in order to justify the cost of the banquet space. Additional land is not available; there are no vacant lots in the commercial zone.

Jon mentioned that if the ZBA board approves the height and story variance a variance will be needed from the Adirondack Park Agency, as well and Site Plan approval from the Village Planning Board is required.

At this point Ron asked for public comment.

Dolores Marinelli – owner of the Admiral Motel on northern Canada St.

Dolores is in favor of this project and applauds Dave Kenny for taking on this project. In her opinion the village has been standing still. Dolores mentioned she is not thrilled about the height but certainly can live with it. She would like to see the actual plans but conceptually she believes this project is what the Village needs.

Bob Leombruno – motel owner at 435 Canada St.

Bob feels this project will change the character of the business district immensely. He feels the variance should be limited to 5 stories/64 feet; 5 stories/64 feet is the largest variance granted in the Village to date. He feels the ZBA should hold to the variance which was previously granted for another establishment.

Derek Shepanzyk – owner of the Lake Crest Inn and OOO'Sullivan's Motel.

Derek thinks is a good project and some of the feedback he has received is that Lake George is not considered as an attraction or the attraction that it once was. People are traveling to other places. Something substantial needs to be done that will put Lake George village back on the map.

Kathy Redpath – Lake George

Kathy asked how many acres this project will be located on and the response was approximately 2 acres. She also asked for the total square footage of the hotel. Dave responded that the hotel is approximately 110,000 square feet.

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

Patty Moore – family operator of the Econolodge, 439 Canada St.

Patty asked what existing buildings will be demolished. Jon responded stating that Dave owns two Giuseppe's buildings and these are the buildings slated for demolition. The surrounding buildings will remain intact. Patty mentioned that in her opinion new stores will be needed to accommodate the new clientele. Jon speaking for Dave, mentioned he believes this project will encourage development and hopefully bring in some upscale stores in the immediate area.

Jon Kim – Lyn Aire Motel Resort, 1872 State Route 9, Lake George.

Jon mentioned that a couple of years ago Saratoga went through the same process; they added a few major chain hotels and as a result business diminished in Lake George during the month of August. Jon thinks the project is what the Village needs and in his opinion Lake George has fallen behind.

Kathy Redpath – Lake George

Kathy thinks the building is large compared to the acreage and is out of proportion. Other local large hotels have much more acreage. Kathy asked about the quality of the hotel, she is wondering if it will be the top of the line. Jon responded that it will be a very high quality hotel and probably second level down from the top of the line for any of the major chains. Jon addressed Kathy's comment regarding the acreage by pointing out there is no vacant land in the commercial district of the Village. The design is intended to be more of an urban downtown design with businesses right next to each other right on the street with parking in the back.

Dave Kenny addressing the public mentioned that he has developed in the surrounding areas. In the last 5 years there has been a lot of development directly to the south of Lake George Village. Dave mentioned he would like to see development in the northern end of Lake George.

Bob Leombruno – motel owner at 435 Canada St.

Bob asked Dave why he can't choose a franchise that conforms to 5 stories and 64 feet in height which has been approved by the ZBA thus far. Jon Lapper responded pointing out in order to get to 100 rooms and a banquet floor the height and stories are needed. The land doesn't exist in order to have a facility which is spread out and therefore, could be lower in height with less stories.

Patty Moore – family operator of the Econolodge, 439 Canada St.

Patty asked if there are plans to have a chain restaurant, a family restaurant, on the first floor. Jon responded that the hotel chain would not allow this. Jon mentioned the hope is for some of the restaurants in the Village that aren't typically open in the fall and winter will stay open because there will be more people in the village if the off-season. Dave added that it is much cheaper to build a hotel that consists of just rooms but that only attracts tourists and his hope is a facility with a banquet floor will attract businesses from the south to come to Lake George for a few days for conferences, etc. Dave added the shops located on this piece of property will be required to stay open in the winter-time and perhaps other shops will stay open if there is activity in the Village.

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

Tom Sullivan suggested to Jon and Dave that it would be very helpful for the Board and the public to see a scale demonstration of the relationship of the height of the building to the remaining buildings – of how it will look in comparison to the other buildings.

Ron Mogren expressed concern about what a building of this size will do to the skyline of Lake George. Ron mentioned in his opinion the current skyline is attractive, there are 2 and 3 story buildings and a couple steeples which are nice attributes of the character of the Village. There are mountains which are a beautiful back drop to the Village however, from the simple rendition provided tonight it appears the view of Prospect Mountain will be blocked.

Jon suggested providing a photo rendering of what the building will look like from the lake. Ron asked that the rendition show the colors that will be used for the building. This will aid the Board in picturing the visibility of the project.

Dave mentioned he believes the building will have the greatest impact at the exit 22 overlook.

Dennis Barden mentioned there are houses directly behind the proposed site. These houses will lose their skyline. There are a couple of houses that sit lower than the proposed building. These houses will lose their skyline and simply see a big building. Dennis feels people who live here year 'round need to be considered, as well.

Melissa Vito – Diamond Point

Melissa referred to a letter to the Editor of the Lake George Mirror. The Board has been provided with a copy of this letter and it is attached to these minutes as a point of reference. Melissa pointed out some points of the letter – don't make Lake George a city, it doesn't need to be a year 'round place, it needs to be a place with seasons and the author mentions he likes going out during the more quiet times.

Kevin Merry asked if this is what the Village wants. Is it in keeping with what the Village wants? Is the proposal an attempt to make Lake George Village like Lake Placid which is a year 'round community with convention centers? Jon commented that this project alone is not big enough to change the character and Kevin added that it is setting a direction. Dave added that in the winter-time there can be different events that take place on different weekends. The off seasons can be promoted. Dave added he can't answer Kevin's questions but he does feel a study should be done; the Comprehensive Plan was put together quite a few years ago.

John Perrone – Tamarack Inn, Lake George.

He feels the rendering provided this evening is not in keeping with the character of the Village. The rendering looks like something you might see in downtown Saratoga. The building presented this evening has no Adirondack characteristic.

The public hearing remains open.

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

Prior to reviewing Bob and Monica Proctor's appeal of the Zoning Officer's determination the Zoning Board had an Attorney Client Privilege meeting with the Zoning Board's Attorney Mark Schachner.

**TAX MAP: 251.11-2-1.3**  
**OWNER/APPLICANT: BOB & MONICA PROCTOR**  
**ADDRESS: LOT 2 - LOCHLEA**  
**ZONE: SINGLE FAMILY RESIDENTIAL**

Appeal of Zoning Officer determination regarding stream buffer/setback. Lochlea subdivision plans show a 50 foot buffer/setback from the high water mark of English Brook. Based on Village Planning Board minutes the Zoning Officer has determined there is a 50 foot building setback in place. The property owners believe this to be a 50 foot buffer. The Zoning Board of Appeals is being asked to determine, based on information that has been provided and Village minutes, if the 50 foot buffer/setback line is a building line setback or a stream buffer.

Bob and Monica introduced themselves, they are the owners of lot # 2 in the Lochlea subdivision. They purchased this lot about 18 months ago.

- Bob explained they have spent a great deal of time planning to build on this lot taking the environment into consideration. They reviewed the subdivision plans and the Offering Plan. There is a homeowner's association currently owned by a partnership.
- Bob mentioned that one of the first things they did was to create a concept plan which looks at all aspects of developing the property. The concept plan contains a section on the stream buffer. This section discusses the various environmental and zoning organizations within Lake George and their influence and jurisdiction is on the stream buffer.
- The Proctor's found the interested groups to be the Village Planning Board and Zoning Office because they define the zones for the Proctor's construction. The Adirondack Park Agency (APA); the APA at the time of subdivision provided a nonjurisdictional letter indicating the APA had no interest in it. The New York State Department of Environmental Conservation (NYS DEC) which governs the stream water bodies; on the subdivision map the 50 foot stream off set line does have a NYS DEC note on the map. Bob mentioned the note states that a permit might be required if they wanted to disturb or do any development within the 50 foot offset.
- The Proctor's contacted Marc Migliore at the NYS DEC. Bob commented that during his conversation with Marc, Marc indicated to him that when the Lochlea property was being subdivided the NYS DEC did look at the stream. Marc commented to the Proctors that the stream is channelized with ledge rock as it goes past the Proctor's property and therefore, Marc indicated the NYS DEC has no interest in requiring permits or having any regulatory authority. Marc mentioned they had covered this with The Chazen Companies in 2009.
- At the time of the subdivision the Park Commission was drafting new regulations for protecting stream buffers however, that still is in draft form and nothing has been implemented.

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

- The Lake George Waterkeeper has a lot of information on protecting stream buffers with regard to plantings etc.
- Bob mentioned they had met with the Zoning Office on January 21, 2012. Their engineer, builder and Kitty Rooney were present as well as Carol and Doug. This meeting was held prior to meeting with the Planning Board.
- In March 2012 the Proctor's presented their plan to the Planning Board and met again with the Planning Board in April. At the April meeting the question was raised of whether or not the 50 foot line was a setback and the Planning Board, based on previous minutes, determined that it was. The February 2009 meeting minutes indicate Margy Mannix confirmed a 50 foot setback. Bob mentioned the line is not on the subdivision maps, it's not mentioned in the Offering Plan and there is no recording of the February 2009 meeting; there are only the written minutes.
- Bob mentioned that on March 18<sup>th</sup> there was a Village Planning Board meeting. Chris Navinsky, Lake George Waterkeeper, wrote a letter to the Planning Board Chairman in which he requested a public hearing on the removal of stream buffers. Bob indicated it appears that even after the Margy Mannix comment Chris still felt there needed to be a public hearing about the stream buffer being removed. Bob commented that this indicates that the stream buffer was not confirmed as a setback at this point because Chris was concerned that there was going to be development within it. Chris sent two additional letters in April expressing concern that there would be development within the buffer. Bob pointed out that at this point Chris was still expressing concern that there would be development within the stream buffer and Chris' comments were made after the Margy Mannix comment.
- Bob introduced a letter from Sean Doty (Chazen) dated March 2012 indicating that Chazen never represented the 50 foot line as a setback or restrictive zone.
- Bob commented that the Village Code defines a setback from a property line and further defines a shoreline setback for a shoreline lot. The lot in question is not a shoreline lot. The 50 foot line is from the mean high water mark of English Brook.

Ron mentioned he did review the subdivision map there is a 50 foot line on the map and the Proctor's proposal is to build behind that line. Ron asked why the house couldn't be developed in accordance with the original plan where the line is shown.

- Bob explained the house is 50 feet wide and is basically square in shape. The lot is a small lot; it's 80 feet on one side. The stream buffer basically occupies approximately ½ of the lot on the 80 foot side.
- Monica pointed out that the map the board is looking at, depicting house placement, indicates the placement is preliminary in nature; the location and size were done to provide an idea of what the subdivision would like.
- Bob commented that they are meeting the Village required setbacks. The map indicates the Village setback and they are building within the Village required setback. If the 50 foot buffer was intended to be a setback then why is the 20 foot setback shown on the map as well as the 50 foot line?

Doug commented that he did speak with the DEC and the DEC indicated they had no involvement with the 50 foot line. Doug added, after speaking with the DEC he then determined the setback would fall back to the Village required setback of 20 feet. It was after this determination that the information in the meeting minutes, where Margy had confirmed a

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

setback of 50 feet, came to light. There is a representation of the 50 foot line on the maps; it was always in the maps that were presented to the Planning Board. When the information in the meeting minutes came to light that is when Doug made the decision that the 50 foot line is a setback.

Bob mentioned that after speaking with Chazen and Lochlea neither had ever represented that 50 foot line to be a setback.

- Ron pointed out the line is on the map. Ron feels the Planning Board looked at the drawings, even with the footnote that the drawings are preliminary, it appears that the buildings would be 50 feet away from the stream.

Tom pointed out that Doug had just recounted why he made the determination that there is a 50 foot setback. At the April 18, 2012 Planning Board meeting the Board adopted a clarifying motion that essentially said they believed the plan was approved subject to a 50 foot setback. Tom added further comment by stating the Planning Board considered that whatever was said at the 2009 meeting as a material representation. Coupled with the map the Planning Board considered it as a material representation and had a clarifying motion saying yes, what we meant to say in 2009 was its approved subject to a 50 foot setback. The Planning Board has the authority to impose a 50 foot setback as opposed to a 20 foot setback. Tom mentioned that the Zoning Board does not have the authority to change their determination.

- Doug mentioned that the Zoning Board has the authority to change his determination but not the Planning Board's determination. He added if the Zoning Board changed his determination it might change the Planning Board's mind to look at this again.
- Tom commented that there is nothing in the record that indicates the Planning Board exceeded their authority or were arbitrary. The Planning Board has already made their determination.
- Bob believes there wasn't a material representation because he spoke to both the subdivider and their representative and they say they never represented a 50 foot setback. The Planning Board did not have this information at the April meeting - that neither the subdivider nor their representatives ever represented there to be a 50 foot setback.

At this point the Board asked Mark Schachner for his help. Mark identified himself as the special counsel to Zoning Board of Appeals. For public record he confirmed the Board asked him to meet with them in an Attorney Client Privileged meeting outside of the public meeting at which time he provided some legal guidance and there were no other questions asked or comments made other than legal guidance.

- Mark clarified one of Bob's comments – earlier Bob had mentioned the April 2012 meeting was not a public meeting. Mark clarified that all meetings are public meetings however, the April meeting was not a public hearing but it was a public meeting.
- Mark confirmed Tom's earlier comment; the Zoning Board does have the authority to overturn any determination made by the Zoning Officer however, the Zoning Board does not have the authority to overturn any determination of the Planning Board.

Ron suggested that at this point it seemed appropriate to make a motion on Doug's determination. Bob and Monica agreed that this course of action seemed appropriate at this point.

**APPROVED - MINUTES**  
**LAKE GEORGE VILLAGE ZONING BOARD MEETING**  
**JULY 11, 2012- 7:00 PM**  
**VILLAGE ADMINISTRATION BUILDING**  
**26 OLD POST ROAD - LAKE GEORGE, NY**

- Ron speaking for himself feels the 50 foot line is shown, there are no other building structures shown inside of the line and although it is not precisely labeled as to what the line is, he was (when Chazen Cos. Approached this Board for a stormwater variance) pleased to see there were no buildings within 50 feet of the stream.
- Ginny agreed with Ron.
- Dennis feels with all that has been presented tonight, Doug's decision should stand.

At this point Bob and Monica opened the discussion again regarding the difference between a setback, buffer, etc. They mentioned setback is defined in the Village Code. Tom pointed out the Planning Board does have the authority to change the that and did so in the April 2012 meeting.

Doug interjected that Board is here tonight to make a decision on his determination. They are not here to discuss what the Proctor's can do with regard to house design or location.

Mark agreed the Board should focus on the issue at hand which is Doug's determination. He counseled the Board on focusing too narrowly on terms such as setback, offset, boundary, no build zone or anything else. It is correct that the Village Code has a definition of a setback coming from a property line. However, the issue before the Board is whether or not the Zoning Officer's determination is or is not correct. Whether or not, based on his review of the 2009 records, meeting minutes, maps and the like, there was a material representation made by the applicant at that time in map format and by appearance at the Planning Board meeting that this was a setback in a nontechnical sense of the term - meaning a buffer, a boundary line, a no build line, etc. That's the determination that the Zoning Officer made. The issue before the Board is whether or not the Zoning Officer's determination based on his review of the 2009 meeting minutes and maps was the appropriate determination or not.

At this point Ron asked if there is any public comment.

Melissa Vito – Diamond Point

Melissa mentioned that in 2009 she was at the Town's meeting regarding the Lochlea subdivision. She commented that Chris Round (Chazen Cos.) represented the houses would have a footprint of 1,100 square feet or houses could be 2,200 square feet if they are two stories. There were representations made that they (Lochlea) did not want 3,000 or 3,500 square foot homes. There were representations that the homes would be modest in size and fairly consistent with the size of existing homes so the impact isn't significant either visually or on the lake. Melissa indicated she listened to the recording of the Town meetings. This information is in the recordings but not the written records. On March 10<sup>th</sup>, one of the partners, Mrs. Breslin, said the houses would be in keeping with whatever is there now. Later in the same meeting Chris Round said the houses would be 2,200 square feet not mc-mansions and one of the board members proposed deed restrictions to make the size limitation of the houses clear. The Offering Plan does not reflect these facts; it allows for much larger houses. Melissa mentioned she attended Village meetings when the Proctors showed how hard they worked to make the house they had designed fit in to the space of their lot. Ultimately they couldn't make it fit. If the size of the house is reduced they wouldn't have any trouble making it fit. Melissa doesn't believe any one has ever said that the people who bought the property should sue the

**APPROVED - MINUTES  
LAKE GEORGE VILLAGE ZONING BOARD MEETING  
JULY 11, 2012- 7:00 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

partners for the misrepresentation. Holding the line means a lot to the lake - numerous trees have been downed, an oversize house has been built and in her opinion this is a problem.

Ron asked if there were any other public comments. Hearing none, Ron closed the Proctor Public Hearing.

**MOTION:** Ron Mogren made a motion to uphold the decision made by the Zoning Officer.

**MOTION 2<sup>ND</sup>:** Tom Sullivan

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0. Motion carried

**MOTION:** Tom Sullivan made a motion to approve the June 6, 2012 minutes.

**MOTION 2<sup>ND</sup>:** Dennis Barden

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0. Motion carried

**MOTION:** Ginny Henry made a motion to adjourn the meeting at 10:15 PM

**MOTION 2<sup>ND</sup>:** Tom Sullivan

Ron Mogren	Dennis Barden	Ginny Henry	Kevin Merry	Tom Sullivan
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0. Motion carried

Respectfully submitted,

*Carol Sullivan*

July 25, 2012