

## APPROVED - MINUTES

**LAKE GEORGE VILLAGE ZONING BOARD MEETING  
NOVEMBER 7, 2018 - 5 PM  
VILLAGE ADMINISTRATION BUILDING  
26 OLD POST ROAD - LAKE GEORGE, NY**

**BOARD MEMBERS PRESENT:** Ron Mogren - Chairman, Tom Sullivan, Kevin Merry, Mike Ravalli, Jeff Blau

**BOARD MEMBERS ABSENT:** n/a

**OTHERS PRESENT:** Dan Barusch (Director of Planning & Zoning), Stephanie Fregoe (Secretary), Jon Lapper (Attorney), James Quirk, John Carr

### ZONING BOARD OF APPEALS PUBLIC HEARING

<b>TAX MAP:</b>	<b>264.06-2-5</b>
<b>OWNER/APPLICANT:</b>	<b>JAMES D. QUIRK</b>
<b>ADDRESS:</b>	<b>21 SEWELL STREET</b>
<b>ZONE:</b>	<b>COMMERCIAL MIXED USE</b>
<b>VARIANCE APPLICATION:</b>	<b>1731</b>

Applicant was previously approved for relief from the rear yard setback of 15 feet to 6 (six) feet for a new boat storage building of 100' x 120'.

Zoning board to clarify and reaffirm the prior approval.

Ron Mogren opened the meeting at 5:00pm.

**Ron Mogren:** It is my understanding to open up the public hearing and discuss it again?

**Dan Barusch:** Discussion is up to you. You all have a resolution in front of you that basically reaffirms the decision that was made in September, while restating a few things that were stated in September, but left out of the original version of the minutes. With that being said, we have our final version of the minutes. I would suggest that you approve and just get them out of the way, approve them first and then we can move onto the project. Discuss if you want, the hearing is open. Anybody can speak if they shall please. Close the hearing and then the resolution that you have here in front of you.

**Ron Mogren:** Alright, let's take a look at the minutes here.

**Dan Barusch:** These are verbatim. We're not sure if that's going to be a every month thing or not. It is extremely tedious to do that, for certain meetings, especially if there are numerous projects.

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**Tom Sullivan:** Why? Did the County require it?

**Dan Barusch:** No, the County didn't require it. As you know we are in the middle of an Article 78 on this specific project. That petition made some accusations that we'll say, left out a few things because of the lack of all the information being in the minutes. The draft minutes were not verbatim, some stuff was missing. So now we just want to make sure all the stuff is in the record.

**Tom Sullivan:** Ok

**Ron Mogren:** Did everyone get a chance to read over the minutes?

**Jeff Blau:** Yes

**Mike Ravalli:** Yes

**Ron Mogren:** I guess we are all set to approve the minutes?

**Tom Sullivan:** Yes, I move to accept the minutes from the September 5<sup>th</sup> meeting.

**Kevin Merry:** I second.

**Ron Mogren:** All in favor?

**MOTION 2<sup>ND</sup>:** Kevin Merry

Ron Mogren	Tom Sullivan	Kevin Merry	Mike Ravalli	Jeffrey Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

**Ron Mogren:** Ok, so at this point I'm going to open up the public hearing for anyone that wants to talk about the project. Jon, I imagine that you might want to say something. Well, two John's, either one.

**Jon Lapper:** I'll just start out. As Dan said, we were here in September and the minutes didn't reflect everything that was said on the record. It's not unusual that many municipalities don't do verbatim minutes, but in this case, John came and looked at the minutes and he thought that some things were missing, and that's understandable because they weren't in the minutes. It's important that the minutes reflect exactly what you did with the SEQR review. We are very comfortable asking you to look at this again. In terms of the project itself, we had started this in the spring and John, as a neighbor, had asked for some changes and when we came back in September, we were able make some changes, to move the building over to create some more landscaping, certainly to change the architecture, and to then to ask for the one variance that we needed in the back because of the property line, the shape of the property line. It was able to move a little bit to make that a smaller variance. I'm working with Dennis and we're trying to make this a better project for the neighbors but in general, this is a case of taking this site that is

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kind of unkempt, and has always been because of the nature of outside boat storage, and put it indoors so it will look better for the Village and better for the neighborhood. Thank you.

**Ron Mogren:** Ok. John?

**John Carr:** As the neighbor on basically three of these sides and across the road on Sewell Street, I want to clarify for the Board, I am not opposed to the use of boat storage or having boat storage or any of that. The type of building that is going there, I believe, will change the characteristics of this neighborhood to a detriment. I do not believe in a building of this type. In the current position in the lot that it's on and the way it is designed, will be in keeping with our Comprehensive Plan or zoning requirements for the Village of Lake George. Quite candidly, this is a village, this is not an industrial park. I have for the Board, and I'm not sure it will make much difference tonight, but I guess the Board is well aware of what this project will look like when it is finished. I have a copy for each Board member.

John Carr handed each Board member a sheet showing what the boat storage building may look like.

**John Carr:** I believe an industrial park look is not what our Village is about. We are an Adirondack community. I hold events here, my guests come here, people live here, people live across the street. I believe that is important. And again, I'm not expecting this to sway the vote, but for the record, I would like to enter that in the record for tonight.

**Dan Barusch:** We're going to need to steal one of those copies from somebody. You can look at it now.

Jeff Blau handed a copy of John Carr's handout to Stephanie Fregoe for the file.

**Jon Lapper:** I'll just pass this around, a rendering.

Jon Lapper handed Ron Mogren a color copy of the proposed boat storage building for the Board to view

**Ron Mogren:** This looks a lot different than what you're showing us John.

**John Carr:** That building is recessed into the ground four feet. The trees are 25 feet high.

**Ron Mogren:** I guess you're just kind of showing us to scale.

**John Carr:** That is to scale by using the plot plans for the surrounding properties, all the surveyor plot plans were loaded in.

**Ron Mogren:** Ok, does anyone else care to speak to the issue? Board members? (No response). At this time, I will make a motion to close the public hearing. Anyone want to second that?

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

Ron Mogren	Tom Sullivan	Kevin Merry	Mike Ravalli	Jeffrey Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

**Ron Mogren:** So, the public hearing is closed. Tom do you want to read in the motion?

**Tom Sullivan:** Yes.

Whereas, on September 5, 2018, the Village of Lake George Zoning Board of Appeals (ZBA) met to hold a public hearing on the above referenced application; and

Whereas, at the time of the holding of the public hearing and the ZBA's determination on said application, the ZBA had not yet received in writing the Warren County Planning Department's decision on the application, and 30 days had not yet run from the referral of the application to the Warren County Planning Department pursuant to General Municipal Law §239-m and Village of Lake George Zoning Law §220-82; and

Whereas, such lack of written notice or expiration of the 30 days has been found to render any determination made not in compliance with General Municipal Law §239-m to be a 'nullity', see *Smith v. Town of Plattekill*, 13 A.D.3d 695 (3<sup>rd</sup> Dept. 2004); and

Whereas, a nullity being that the decision never occurred; and

Whereas, the ZBA ultimately received written determination on the application from Warren County Planning Department on September 13, 2018 which indicated that the project as set forth in the application would have "no county impact"; and

Whereas, the applicant has requested and agreed to extend the time for the ZBA to render its determination pursuant to Village Law §7-712-a(8); and

Whereas, the ZBA therefore wishes to review the application and render determination thereon.

Now therefore, the ZBA makes the following findings on the above application after having held a public hearing on September 5, 2018:

**SEQRA-** The ZBA had already determined and is formally restating that this individual setback variance request is a Type 2 SEQRA action pursuant to NYCRR 617.5(c)(16); and

### **CRITERIA-**

1. The variance requested is necessary because the boat storage facility as currently configured cannot accommodate the number of owners wishing to use the facility without construction of a building able to store boats averaging 30' in length in the absence of available adjacent properties that could serve the purpose.
2. The variance requested will not adversely affect or change the character of the neighborhood or create detriment to nearby properties because the project is located in a

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Commercial Mixed-Use Zone and is surrounded by commercial uses. The project is an area expansion of the current boat sales and storage business and will improve the general appearance of the neighborhood by housing at least some of the boats now stored in the open.

3. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood because it will visually and physically mitigate the congested appearance of the boats stored on the property and will allow for their occasional repositioning without impinging on the flow of traffic on Sewell Street. The project will make provision for, and comply with, all applicable environmental requirements.
4. The project's objectives cannot be achieved by some other method available to the applicant because he has already acquired all adjacent properties suitable for boat storage purposes.
5. The alleged hardship is not self-created because the demand for local boat storage facilities has been continuous and requires the applicant to either expand his boat storage capabilities to accommodate the demand or forego the business opportunity.

I make a motion that we adopt the resolution.

**Ron Mogren:** I'll second.

**Tom Sullivan:** All in favor?

**Dan Barusch:** We're going to start doing for decisions, not just this but, for anything here on out, formal decisions, if your approving something, we're going to start doing roll calls, so it's easier for Steph when she's doing the minutes. So, you can do roll call Ron, or Steph, if you want to say their names out. You basically just go down the line and say their names out loud and you guys out loud say your vote.

**Stephanie Fregoe:** Jeff?

**Jeff Blau:** Aye

**Stephanie Fregoe:** Kevin?

**Kevin Merry:** Nay

**Stephanie Fregoe:** Ron?

**Ron Mogren:** Aye

**Stephanie Fregoe:** Tom?

**Tom Sullivan:** Aye

**Stephanie Fregoe:** Mike?

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**Mike Ravalli:** Aye

**Ron Mogren:** Motion carries four to one.

**Jon Lapper:** Thanks everyone.

**MOTION 2<sup>ND</sup>:** Ron Mogren

Ron Mogren	Tom Sullivan	Kevin Merry	Mike Ravalli	Jeffrey Blau
Aye	Aye	Nay	Aye	Aye

Ayes = 4 Nays = 1 Motion carried.

**Ron Mogren:** I make a motion to close the meeting.

**Tom Sullivan:** I second.

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

Ron Mogren	Tom Sullivan	Kevin Merry	Mike Ravalli	Jeffrey Blau
Aye	Aye	Aye	Aye	Aye

Ayes = 5 Nays = 0 Motion carried.

Respectfully submitted,  
*Stephanie Fregoe*  
November 9, 2018