

APPROVED - MINUTES

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

BOARD MEMBERS PRESENT: Tom Sullivan – Chairman, Kevin Merry, Mike Ravalli, Jeff Blau

BOARD MEMBERS ABSENT: Ron Mogren

OTHERS PRESENT: Dan Barusch (Director of Planning & Zoning), Stephanie Fregoe (Secretary), Jon Lapper (Attorney), Tim Barber, James Quirk, Devin Dickinson, Gregory Teresi, John Carr

ZONING BOARD OF APPEALS PUBLIC HEARING

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

Applicant is seeking relief from the rear yard setback of 15 feet to 6 (six) feet. Applicant is proposing to build a boat storage building of 100' x 120'.

§ 220-20-Dimensional Table – Requires all structures to meet current set back requirements for their respective zoning districts.

Tom Sullivan opened the public hearing at 5:00pm.

Tom Sullivan: This is the 2018 meeting of the Zoning Board of Appeals of Lake George Village. We have alternate Jeff Blau, regular members Kevin Merry, Mike Ravalli and Tom Sullivan in the chair for Ron Mogren, who is out of town. This is declared a public meeting which means that anyone in the audience can comment on any subject before the Board. We just ask for the record if you would stand, identify yourself and your affiliation, if any, for the record. Tonight, is sort of unusual because we are revisiting an application for a variance that was already granted in April of this year, after discussion at least two meetings. The reason we are going back and essentially declaring the previous action a nullity is that we also undertook at that meeting to discuss and seek to approve other matters that were outside our purview. The architectural details, the roof and whatnot, which are not within our range of responsibilities. Given that, we are going to, because they were joint actions, we're going to go back and treat this as if it is a new variance application. However, the Chair notes that much of this, the pros and cons of this project have been discussed before, and we just ask that speakers keep that in mind, and not to in any way inhibit the discussion or what you want to say, but we have traveled much of this ground before. Also, I note that the motion of approval at the April 4th meeting was approved by a vote of three to two and usually a Board member cannot change a vote, but that vote has now been declared a nullity so any member of the Board can vote yea or nay as they see fit. Anything else Dan that you want to mention?

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Dan Barusch: That covered it.

Tom Sullivan: Any members of the audience would like to speak, pro first perhaps? John?

Jon Lapper: Good evening everyone. For the record, I'm John Lapper on behalf of the applicant. Dennis Quirk, the applicant is with me tonight. Devin Dickinson, from D.L. Dickinson Associates and Tim Barber from Jag Construction, general contractor for the project. The Chairman said it is substantially the same as last time but we are only seeking one variance, which is the rear setback and because we were pressed by the neighbor to try and make this, John who is here, to minimize the variance as much as possible, we were able to move the building back a foot and a half back from where it was last time. So last time it was four and a half feet just in that one area where the property line isn't straight. Now it's six feet. So, the variance that we were asking for last time was ten and a half feet and now it's nine feet.

Kevin Merry: Got a quick question. Could you point to that? Am I missing something?

[John Lapper approached the Board and pointed to several areas on the plans.]

Dan Barusch: That's the side yard.

Jon Lapper: Yes, the variance is the rear set back, which is six feet. And it was four and a half last time, so that got moved back.

Kevin Merry: This has not changed?

Jon Lapper: No. That change is less of a variance request in the back. At the same time also, at the request of John Carr, who owns the property on the side and on the back, we've augmented the landscaping to make it a better buffer, and as it grows in to be an even better buffer. Devin's got planting plans, more plant materials. Give John a copy of those.

[Mr. Dickinson gave John Carr a copy of those plans.]

Jon Lapper: In terms of the standards for the variance to benefit the applicant, the burden on the neighborhood, as we know, we have a pretty unsightly existing, approved site for exterior boat storage, shrink wrapped in the winter, very busy in the summer. What this is designed to do, by enclosing this in a building that allows three stories of racks, the boats themselves will be stored indoors. The forklift will operate indoors. The garage door into this faces Dennis' existing building to the West so none of the operation, the building will shield the operation from John's brewery and from his other property to the South and from the liquor store property. The building, if you will, will act as a shield for the operations that happen here. They will either be inside or be on the other side of the building. In terms of the reason for the variance itself, Dennis needs to accommodate 30-foot boats and to safely maneuver with the forklift to grab a boat, turn around and bring it out the door, he needs 60 feet. If there was a way, if we could have saved nine feet, we wouldn't have needed a variance to make the building smaller, but this would have compromised just the possibility, with these expensive boats, not to worry about running into each other or into a wall. That's why it has to be 120 feet and its really constrained by the existing size of the lot. We were able to pull it back a foot and a half to make the variance request less than it was last time. And that's the justification for it. We think it's going to be an

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improvement to the neighborhood because you won't be looking at all the boats sitting outside. I think it will look better from the brewery as well. I know that John is not excited about having a big building, but the size of the building is permitted. It's just this one variance that we need from the rear and that area, if you will, there's a stockade fence, so it's shielded by that. We have a drainage infiltration basin to deal with what comes off the roof. That's really it from the applicant's standpoint. I'm here to answer any questions and listen to the public.

Tom Sullivan: Any questions by the Board members?

Mike Ravalli: Any external noise, such as exhaust fans, heat fans or whatever that might be annoying to people around in the area?

Tim Barber: No, there should be no noise on the outside. Just the forklift entering from again Dennis' side, but the building will shield that noise when the truck is in there.

Kevin Merry: You said that there is a stockade fence around the building.

Jon Lapper: That's on John's property in the back, just in the back where the variance is.

Kevin Merry: The fence is about six feet high, maybe?

Jon Lapper: It looks about six feet high.

Kevin Merry: How tall is the building?

Jon Lapper: Thirty-nine.

Tim Barber: To peak, thirty-nine.

Jeffrey Blau: And the trees and shrubs are going to shield a majority of that side?

Jon Lapper: Not on the rear side. There wasn't enough room. What we have there is an infiltration basin just to deal with the storm water that comes off the roof.

Jeffrey Blau: And all the boats on the outside are going to go inside?

Jon Lapper: There will be other boats periodically on the outside, but they will all be on the far side of the building, between the two buildings. I should answer your question, where John's driveway is, which is on the East side of the building, that's where all the shrubbery and all the trees are, as well as on the street in front on Sewell. The plantings are where they matter most in terms of the neighbors and the public.

Tom Sullivan: Any other questions? Thank you, gentlemen. John Carr?

John Carr: I guess I'm the only one from the public. There is one new member.

Tom Sullivan: Would you just identify yourself?

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John Carr: My name is John Carr. I'm the neighbor basically surrounding this property, about 280 degrees around it. We own the Adirondack Brewery, we own the strip adjoining it, we own the four acres behind it, we own a house directly across the street, a residential house directly across the street from it. I've been in front of this Board before, on the same issue, I hate to say that I'm kind of disappointed that there weren't that many changes to what was being proposed here. We haven't seen a rendition of what the actual side of the building that faces my property that you're issuing a variance for. I think we should consider what that would look like. I'll remind the Board this building is about the size of the Wingate Hotel. At forty feet high, this is not a small variance. As far as why I'm here and why I'm concerned about this project, I firmly believe this project is negative to the value of my property, the character of that neighborhood and quite honestly Lake George Village on a whole, is not an industrial park. This is an industrial park looking building. I don't believe the applicant has made any attempts at looking at alternatives for this building. I don't think, for example, quickly turning the building ninety degrees, would give him twenty extra feet. More room to place trees against the side of the building, he's looking for variances, without really effecting the square footage. I don't know why that's not even a consideration. There's a lot of things that an applicant can do to make a building fit better. I think the other question I've got, there's multiple copies, and I guess we have Mr. Dickinson here. There's been different surveys that have been done and the road right of way is actually not shown on here. That was a taking done by statute, and I think you're familiar with that when we did this a while back on Sewell Street. So, I question even the survey that you're looking at and the map itself and the references for where it is and what's after. So, I think, quite honestly, it's tough for the Board to do that. Secondly, there's a lot of other questions that would require variances for this that the Planning Board has not looked at yet. The color of the building, the roof, the architectural design. I'm not quite sure why, for the record, why that got removed to become a responsibility of the Planning Board verses actual legal authority of the ZBA, but I guess we'll see where that goes. I'm here to once again plead with the applicant to try and make a good-looking building and everything falls into place. We have laws in this town. I attended all the Comprehensive Plan meetings ten, fifteen years ago in the village. We were trying to improve the quality and look of the buildings in this village. I don't think this does that. I'd ask the Board to look at those five criteria. I don't think the applicant has looked at alternatives. I think it's bad for the neighborhood. I think it's a pretty substantial variance. It might only sound like a few feet, but when you look at a building that's forty feet high, I want any of you guys to think about this in your back yard. What would that look like? And secondly, you haven't seen what the side of this building even looks like in any of the documents that we've seen so far, from my side, from my property. What does that backside look like? Quite honestly, rotating the building ninety degrees, that's not hard to do. That would help. The applicant hasn't done that. I'd ask this Board to reject the variance application and see what the Planning Board has to say about it. I guess the applicant can decide where to take his project from there. Quite honestly, it's a waste of my time, the Board's time and everyone else to look at the same application again, knowing what the end result of this is going to be if we move forward. I hope the Board will take that into consideration. Does the Board have any questions for me on this project?

Tom Sullivan: I don't think so, but I point out that pondering the appearance of the building, except as it relates to the change in the neighborhood, is outside our purview. That's where we went astray in the first place. So, as far as the appearance, the siding, the painting, whatever, that is not what we are about tonight. Just talking about the variance.

John Carr: Yep, but again to take into consideration its impact, you know.

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Tom Sullivan: That's for the Planning Board

John Carr: It does have a significant impact.

Tom Sullivan: Understood.

John Carr: You know, something the size of the Wingate Hotel, you know, right off the edge of my property, with a survey that I'm not sure actually shows where these setbacks are. Can these small areas that he's proposing actually handle the storm water from what equates to about an acre of land? You know, there isn't data to support that and there's a lot of questions that still need to be answered here, whether it's by this Board or the Planning Board, before this variance, I think, should be granted.

Jon Lapper: John, if I could just politely rebut that. The side of the building that faces John's property in the back, his parking lot, is the same as the side right there. Just the same architecture. And Dennis is doing this to clean up the neighborhood, to improve. Obviously, what he has there is permitted, but it's all exterior, it's not attractive and putting it indoors, he really thinks that this is going to make the neighborhood quieter and prettier and make it inside. He chose colors that are compatible, and the wood compatible with what he has now, nicer than what he has now, but thematically to match. I think this is going to be a benefit to John's property, obviously he doesn't agree.

Jeff Blau: Can I see this please?

Jon Lapper: Yes, of course. Beefing up the landscaping on the side of John's entrance, roadway and on the front are positives from where we were last time, and that's why we submitted this because he specifically asked for that. If the building were to be turned, the garage door would have to be, the entrance would then all be facing Sewell Street, so then you'd have visual issues and noise issues that you don't have by facing his existing showroom and garage. So, we think this is the right way to use that whole side and use the building as a buffer so you don't see the operation. I respectfully disagree, I totally respect what John has done with his properties in the village. I know that he needed some area variances on his property too, because they are all small properties. He's fixed up the neighborhood and Dennis is trying to do the same thing. Thank you.

Tom Sullivan: Anyone else? Any further questions by the Board?

[no reply]

Tom Sullivan: Then I will close the public hearing. In due of the fact that the decision at the April 4th meeting was in the affirming, I have here the elements of the motion that was made then, which I think.

Dan Barusch: Tom could you motion to close the hearing?

Tom Sullivan: Yes. I'm sorry. May I have a motion to close the public meeting please.

Kevin Merry: Aye

Jeff Blau: I'll second it.

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MOTION 2ND: Jeff Blau

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

Ayes = 4 Nays = 1 Motion carried.

Tom Sullivan: This is the exact language that was used and I think the best, I'm going to make a motion to approve the variance application.

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 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.

In this vein, I've been asked to point out there is a SEQR exception for this kind of project. The granting of individual set back and for line variances, so it is not subject to SEQR.

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.

All in favor of the motion to approve the variance?

MOTION 2ND: Mike Ravalli

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

Ayes = 3 Nays = 1 Motion carried.

Tom Sullivan: Motion is passed three to one.

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Jon Lapper: Thanks everyone.

Tom Sullivan: Moving on. We have the minutes of the meeting from August 1st. Have you had a chance to read the minutes from the August 1st meeting?

Kevin Merry: Yes, I was not in attendance.

Tom Sullivan: We noticed that. That's why it is so long, had you been here...**[laughing]**
Does anyone have any problems with it? Ok, then we will motion to approve the minutes from August 1st.

Tom Sullivan: Unanimous? Ok that is done and done.

Stephanie Fregoe: Who seconded?

Tom Sullivan: Mike.

MOTION 2ND: Mike Ravalli

Tom Sullivan	Kevin Merry	Mike Ravalli	Jeffrey Blau
Aye	Abstained	Aye	Aye

Ayes = 3 Nays = 0 Motion carried.

Respectfully submitted,

Stephanie Fregoe

October 15, 2018