

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
March 10, 2016

The meeting opened at 6:30 PM with a roll call of the members.

	PRESENT	ABSENT	LATE	ARRIVAL
MEMBERS: Bill Feinstein, via phone	<u>X</u>	—	—	
Greg Blessing	<u>X</u>	—	—	
Candy Dietrich	—	<u>X</u>	—	
Wayne Hand, Acting Chair	<u>X</u>	—	—	

ALSO PRESENT: Gill Harrop, Code Enforcement Officer

Mark Salisbury	Kevin Para
Chris Robinson	Kay Robinson
Charlie Frysinger	Sharon Frysinger
Scott Buescher	Janet Buescher

**MINUTES:**

Mr. Blessing made a motion to approve the December 10, 2015 minutes as presented, seconded by Mr. Hand.

A roll call vote was taken.

	<u>Aye(yes)</u>	<u>Nay(No)</u>	<u>Absent</u>	<u>Abstain</u>
Bill Feinstein	—	—	—	<u>X</u>
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	—	—	<u>X</u>	—
Wayne Hand, Acting Chair	<u>X</u>	—	—	—

Ayes-2. Nay-0. Absent-1. Abstain-1.

**NEW BUSINESS:**

**AREA VARIANCE APPLICATION NO. 08V15:** Mark Salisbury. Property located at 9531 Crystal Beach Rd., Town of Wayne. Request to demolish old cottage and rebuild new on existing non-conforming lot width less than 50 ft. and side lot set back less than 10 ft. (Sections 7.2.3 and 6.3)

Mr. Salisbury stated the following:

- The existing cottage has been in the family since 1908.
- The old cottage is 32 ft. wide and the proposed would be 31.8 ft. wide at the most extreme width.
- The new cottage would set 1 ½ ft. further back from the side yard set-back than the existing.

- By combining two tax parcels, they now have 10,000 sq. ft.
- He is currently awaiting new septic plans from his engineer.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 14 letters were sent out and no responses were received back at this time.

Mr. Buescher, neighbor to Mr. Salisbury was present to view the proposed plans and stated the following:

- He wanted a new certified survey of the property prior to any work being started to make sure of the property lines are correct with the proposed plans.
- He would like to work to be done in an appropriate time frame and not dragged out.

Mr. Hand stated the Zoning Board of Appeals did not dictate time frames and building permits when issued were good for one year.

Mr. Harrop stated the following:

- The lot was non-conforming; as it was lacking 6 inches in the required 50 ft. width requirement.
- The lot is located on a private road and meets the proposed setback of 14 ft. from center of the road recommended by the Fire Department.
- The applicant is seeking 3 variances.
- He had no issue with this request.

Mr. Hand closed the public hearing at 6:40PM.

After some discussion, Mr. Hand stated the proposed 3 variances would be considered all together:

- Construct new structure on pre-existing non-conforming lot where the width is 6" less than the minimum of 50'.
- Provide 1'1" of relief on the North side of the new structure (8'11" vs. minimum of 10')
- Provide 1'1" of relief on the South side of the new structure (8'11" vs. minimum of 10')

The Zoning Board then reviewed and answered the following five test questions required by NYS as follows:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Yes.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: No.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community and therefore the variance request was approved.

Upon further discussion, Mr. Blessing made a motion to approve Area Variance Application NO. 08V15 with the condition a certified survey be provided that is consistent with the March 1, 2016 sketch, showing the proposed structure prior to any building permit issuance, seconded by Mr. Hand.

A roll call vote was taken.

	<u>Aye(yes)</u>	<u>Nay(No)</u>	<u>Absent</u>	<u>Abstain</u>
Bill Feinstein	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	—	—	<u>X</u>	—
Wayne Hand, Acting Chair	<u>X</u>	—	—	—

Ayes-3. Nay-0. Absent-1. Abstain-0.

Mr. Salisbury signed the variance responsibilities and conditions sheet.

**AREA VARIANCE APPLICATION 01V16:** Chris Robinson. Property located at 9386 Wixson Rd., Town of Wayne. Request to place an 8 ft. by 12 ft. shed on pre-existing non-conforming lot and to enclose the existing porch. (Section 7.2.3)

Mr. Robinson stated the following:

- He wanted to place an 8 ft. by 12 ft. shed on his property for storage and make room by removing the existing outhouse, dead tree and old telephone pole.
- The proposed shed would be placed 5 ft. from the side lot line.
- He wanted to enclose his existing porch that was damaged during the winter storms.

Mr. Feinstein stated the shed met the requirements for an accessory use, but due to the non-conforming lot size, needed a variance.

Mr. Hand opened the public hearing.



Ms. Kurtz stated 12 letters were sent; no written responses were received back, one telephone call from Ms. Clarkson, stating they had no objection but were inquiring about viewshed.

No one was present to express any concern.

Mr. Harrop stated the following:

- The applicant was seeking 2 variances, due to the alteration and expansion of a new structure on a non-conforming lot and to allow the shed placed such that there will be 5' of relief for the side setback. (5' vs. the minimum 10').

Mr. Hand closed the public hearing at 7:09PM.

Upon discussion, Mr. Hand stated the Board would combine both variances when reviewing and answering the following five test questions required by NYS:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: No.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community and therefore the variance request was approved.

Mr. Blessing moved to approve Area Variance Application 01V16 consistent with the modified sketches submitted, signed and dated January 12, 2016 by the applicant and that the new porch didn't exceed that of the old footprint, seconded by Mr. Feinstein.

A roll call vote was taken.

	<u>Aye(yes)</u>	<u>Nay(No)</u>	<u>Absent</u>	<u>Abstain</u>
Bill Feinstein	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	—	—	<u>X</u>	—
Wayne Hand, Acting Chair	<u>X</u>	—	—	—

Ayes-3. Nay-0. Absent-1. Abstain-0.

Mr. Robinson signed the variance responsibilities and condition sheet.

**AREA VARIANCE APPLICATION 02V16:** Charles Frysinger. Property located at 4166 Shorewood Dr., Town of Wayne. Request to repair and replace portion of foundation on existing cottage on non-conforming lot and to add a front porch, and make significant renovations to much of the existing structure. (Sections 6.2 and 7.2.3)

Mr. Frysinger stated the following:

- He has revised the original plans submitted in February in order to make the proposed porch conforming.
- The cottage was built in 1910 and they wanted to continue to maintain the cottage by repairing the existing foundation that is non-conforming in one corner.
- The existing cottage is located on a non-conforming lot that is 7214 sq. ft., vs. the minimum of 10,000.

Mr. Hand opened the public hearing.

Ms. Kurtz stated 12 letters were sent; one response from Ms. Kahl (Bennet) received back stating they had no concern after reviewing the revised plans.

No one was present to express any concern.

Mr. Harrop stated the following:

- The request was for 2 variances: a repair and addition on pre-existing non-conforming structure on a non-conforming lot.
- Except for the proposed new porch that meets all setback requirements, most of the foot print stays the same.

Mr. Hand closed the public hearing at 7:32PM.

Upon discussion, Mr. Hand stated the Board would combine both variances when reviewing and answering the following five test questions required by NYS:

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: No.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No.
3. Whether the requested variance is substantial: No.
4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: No.
5. Whether the alleged difficulty was self-created: No.

It was then determined that the Benefit to the Applicant did outweigh the Detriment to the Neighborhood or Community and therefore the variance request was approved.

Mr. Blessing made a motion to approve Area Variance Application1 02V16 as per the revised plans and certified survey dated January 25, 2016, seconded by Mr. Feinstein.

A roll call vote was taken.

	<u>Aye(yes)</u>	<u>Nay(No)</u>	<u>Absent</u>	<u>Abstain</u>
Bill Feinstein	<u>X</u>	—	—	—
Greg Blessing	<u>X</u>	—	—	—
Candy Dietrich	—	—	<u>X</u>	—
Wayne Hand, Acting Chair	<u>X</u>	—	—	—

Ayes-3. Nay-0. Absent-1. Abstain-0.

Mr. Frysinger signed the variance responsibilities and condition sheet.

As there was no further business to be discussed, Mr. Blessing made a motion to adjourn the meeting, seconded by Mr. Feinstein. The meeting was adjourned at 7:35PM.

Respectfully submitted,

Maureen Kurtz