

MINUTES OF THE TOWN OF WAYNE  
ZONING BOARD OF APPEALS  
March 6, 2023

The meeting opened at 7:01 PM with a roll call of the members. The meeting was held in-person and via Zoom at the Town Hall.

|                            | PRESENT   | ABSENT | LATE  |
|----------------------------|-----------|--------|-------|
| MEMBERS: Wayne Hand, Chair | _ X _Zoom | _____  | _____ |
| Jon Serdula                | _____     | _ X _  | _____ |
| Candy Dietrich, alt        | _____     | _ X _  | _____ |
| David Westcott             | _____     | _ X _  | _____ |
| Gill Harrop, CEO           | _____     | _ X _  | _____ |
| Emily Jennifer Rouin, Alt  | _ X _     | _____  | _____ |
| Karsten Konig              | _ X _     | _____  | _____ |
| Jason Ferris, Alt.         | _ X _     | _____  | _____ |
| Dave Bauer, Board Liaison  | _ X _     | _____  | _____ |

ALSO PRESENT: Andy Mattle, Nate Esh, Joe Bablo, Shona and Tom Freeman

**Agenda Review**

No changes to agenda as presented.

**Minutes**

Approval of the December 2022 minutes is tabled until the April meeting. February minutes also tabled until April meeting.

**NEW BUSINESS**

**Appeal No. 03V23: Tom & Shona Freeman** Property Tax ID #064.14-02-016.100, 0 State Route 230, Town of Wayne in the commercial corridor. Minor Subdivision C.B.2

Mr. Freeman presented the request for a lot line adjustment which would transfer the property on the north side of the access ramp for 230 to the Bills, the land owner on that side of the road. Both lots are undersized according to the LUR. The Freeman lot would go from 3.5 Acre to 2.69 Acres and the Bills lot would change from 1.0 Acre to 1.58 Acre.

There were no questions from the board.

Public comments opened and closed with no questions, letters or emails received about the project. Public comments closed.

The motion to subdivide was unanimously approved with the condition that the adjustment be as proposed in the plans submitted.

**Appeal No. 05V23: Andy Mattle** Property Tax ID #064.11-01-048.00, 14173 Keuka Village Road, Town of Wayne in LR-1. Sec 3,4.b.c expansion of pre-existing non-conforming structure, non-conforming setbacks, lot coverage greater than 25%.

Mr. Mattle presented the plan to expand the deck on the lakeside of the house. Nate Esh was present as the contractor for the project. The survey presented was unclear as to **where** the mean high water mark transverses the property. Mr. Hand said that DEC has jurisdiction between the mean high water and low water, and the zoning board could not grant permission to build beyond the mean high water mark toward the lake.

Public Hearing Opened and no public comments, letters or emails were offered. Public Comments Closed.

Ms. Rouin raised the issue of lot coverage and Mr. Esh's calculations were found to be in error. Mr. Hand shared that the LUR calls for the calculation to be based on the total structures divided by the buildable portion of the lot, not the entire size of the lot. Buildable area would be the remaining land area after required structure setbacks are subtracted.

Mr. Mattle asked if he could build a new deck without a variance if he stayed within the footprint of the existing deck. Mr. Hand seemed to think that would be the case.

The group revisited the survey map as presented and Mr. Hand said that the definition of the mean high-water mark is the natural elevation of 715.3 feet above sea level (using NGVD29 datum). It is unclear on the map as to where that line lies. The sea wall does not push the high-water line out as is indicated on the map. Mr. Mattle said that he did get a waiver for flood insurance, so the house elevation may be above 722 ft. However, the actual natural mean high-water mark needs to be determined.

The issue was tabled until Mr. Mattle can provide a map that clearly indicated where the mean high-water line is located, and the maximum lot coverage is correctly calculated. The applicant was encouraged to consider alternatives which did not require structures beyond the mean high water which would keep the beach area more natural, and reminded that the NYSDEC would need to approve any plans between the mean high water and low water.

**Appeal No. 06V23: Joe Bablo** Property Tax ID #078.16-01-027.200, 9655 Lakeshore Drive, Town of Wayne in LR-3. Sec 3,4. b.5 non-conforming structure, Sec. 1.3.d, build without permits

Mr. Bablo built a 12x24x12 shed on his property without a building permit. Mr. Hand asked if it was a movable shed. Mr. Bablo said no, it is built on a concrete foundation. Mr. Hand reviewed the LUR regulations on the number of structures permitted in that zone.

*Accessory Uses and Structures. No accessory building or structure shall be erected, altered or extended, and no land or building thereof in the Lakeshore Residential 1 District, Lakeshore Residential 2 District, and Lakeshore Residential 3 District shall be used for any purpose or purposes other than the following: i. One (1) Private Garage,*

*attached or detached, per parcel ii. One (1) swimming pool per parcel iii. One (1) Guest House per parcel iv. No more than two (2) Small Structures per parcel*

Mr. Bablo has two garages (One is 26.5 x 32.4 the other is 14.3x21.2') and the new shed is 12x20, too large to be a "small structure", plus is not moveable. Mr. Bablo has three large structures on the lot.

Public Hearing Opened and no public comments, letters or emails were offered. Public Comments Closed.

Mr. Hand asked about the placement of the shed as it is located in the same location as some trees that Mr. Bablo planted years ago. Minutes from past meetings show complaints from the neighbors about viewshed impairment. Mr. Bablo indicated that the trees are higher than the shed.

Since there were no issues raised by any neighbors, and after considering the five required questions, the board members present approved relief for the excess size and height of the shed, erecting it without a permit, and not being portable. Mr. Hand said that as this structure was built without a permit, does not meet Land Use Requirements, the zoning board may not look favorably on any additional building projects that violate the LUR.

#### **Unfinished Business**

#### **General Announcement**

This year's Regional Leadership Conference will be held on April 6th, 2023 and held at Corning Community College. Registration is now live! <https://www.stcplanning.org/training/regional-leadership-conference/>.

Each Board member is to register themselves and the town will reimburse them for training fees.

**Adjournment** The meeting adjourned at 7:40 PM.

Submitted by: Amy Gush, Board Secretary