

**APPROVED**

A public hearing before the Zoning Board of Appeals of the Town of Williamson was held on November 20, 2014, in the Town Complex meeting room at 7:00 PM.

The following members were present:

Present: Ernie Norton, Chairman  
Chuck Monsees  
Tim Gulick  
Bruce Akins

Absent: Noah Knataitis

Also present were: Phil LaRuez of Home Power Systems, Christine & Kurt Catalano, Josh & Ashligh VanEenwyk, Glen & Cynthia Waldron, Gene & Joyce Clifford, Lauren Marshall, Jean Jones, John B Dobson, and Joseph Maliga, Code Enforcement Officer.

The minutes of the September 25, 2014, meeting were reviewed for approval. A motion to approve the minutes was made by Chuck Monsees, and seconded by Tim Gulick. All voted in favor of the motion.

**Agenda items:**

Appeal No. 828: Christine Catalano of 2847 White Birch Cove, Williamson, NY. Applicant is requesting front setback relief in order to construct a post-frame building. Property is owned by applicant and is located at 2847 White Birch Cove, Williamson. Zoned L-R (Lakefront-Residential).

Though owners of waterfront property commonly consider their front yard to be the waterfront side, Town Code states, "For properties with waterfront access, the front yard shall be considered the side that faces the road that provides direct access to the property."

The Catalanos wish to erect a post-frame garage in the front yard of their property, which is a double lot on White Birch Cove. All their personal vehicles do not fit in the existing garage, which is in the lower level of a portion of the house. Due to difficulties accessing other areas of the property and the location of the septic system, there is nowhere else on the property to place this structure.

The proposed building is 30' x 48' (1,440 sq ft) post-frame garage with a 12' ceiling height and a 17' maximum height at the peak. It would be located at the end of the White Birch Cove right of way, 30' from the center line of the creek (which the recent survey indicates is the property line). The right of way is used by all the White Birch Cove landowners to access their properties; the Catalano's property is at the very west end.

Robert & Janet Nelson of 2865 White Birch Cove sent an email to the Zoning Officer expressing their position against the variance because the proposed structure violates the shared deed for the lots on White Birch Cove. The Catalanos stated that the prior owner told them there were no deed restrictions on the property.

Gene Clifford of 2889 White Birch Cove submitted a copy of the shared deed to the Zoning Board of Appeals. He also shared an email from Chiemeka Nwokonko of 2899 White Birch Cove, stating that he was unable to come to this meeting and expressing his position that this variance should not be approved. Mr. Clifford stated his own opposition to the variance for a number of reasons. White Birch Cove is a small subdivision insulated from Lake Rd by hedgerows and orchards. The right of way is largely unpaved, and the “small, rickety” bridge over the creek is maintained by the property owners. Mr. Clifford doesn’t believe that this commercial-sized structure, itself even larger than the house next door, is intended to be a residential garage whose presence will substantially change the character of the neighborhood. He feels it is a “Trojan horse” to store their commercial vehicles. By situating the garage at the very end of the existing right of way, it will be visible to everyone who enters. In addition, it has previously been discussed among the homeowners to seek right of way access from the west end (as the ROW itself does extend through to the west line of the western most lot), which this proposed building would block. And though the shared deed does allow one garage per lot, the deed requires the garage to be placed between the north line of the private roadway and the house. Mr. Clifford requests that the Zoning Board deny this variance because the price and detriment to the neighbors are greater than the hardship of the applicant.

Other neighbors also expressed the same sentiments: Lauren Marshall of 2857 White Birch Cove. She recently purchased the house right next door to the property in question, having been especially interested in the small, quiet, quaint location. She would have to look daily at this potential structure, which is larger than her home including its 2½-car garage. Ms. Marshall feels the proposed post-frame building is essentially a barn, considering its size in relation to a standard 2-car garage.

Glenn & Cynthia Waldron have lived at 2877 White Birch Cove for 2½ years. Their biggest concern is that more frequent traffic will contribute to the deterioration of the bridge, which is not the responsibility of the Town.

Bruce Akins explained that it is the responsibility of the closing attorney to provide the deed information to a buyer, and that the ZBA may need the input of the town attorney on this matter. It is his understanding that any deed restrictions trump Town Code. [Per Art Williams, town attorney, zoning code trumps homeowner’s deed restrictions. 12/02/2014.]

The Catalanos described further their need for a large garage, and expressed their willingness to compromise with a building smaller than what has been proposed.

Jack Dobson lives on Lake Rd directly in front of the property in question. The house has greatly increased in size over the years, leaving him a tiny view of the lake. Also, the zoning district does not allow for industrial equipment storage. He is agreeable to a smaller structure.

Ernie Norton explained that the issue of the deed restrictions must be resolved, along with the location of the easement for the right of way. The board would want to see a certified map of the easement, the leach field on this property, and the location of the proposed building if the variance process continues.

A motion was made by Bruce Akins to table any decision on Appeal No. 828 until review of the easement, right of way, and possible deed restrictions on this property by the town attorney. The motion was seconded by Tim Gulick. All voted in favor of the motion.

Bruce Akins stated that most lakefront properties have an accessory building between the house and Lake Rd. Gene Clifford commented that this is true along Lake Rd, but not on White Birch Cove or other similar locations. Bruce asked if there are any accessory structures on any other White Birch Cove property; Mr. Clifford answered that there are not.

Appeal No. 829: Home Powers Systems of 1127 Corporate Drive East, Farmington, NY. Applicant is requesting side setback relief in order to install a standby generator. Property is owned by Douglas E and Mary Ann Robinson and is located at 4337 Lake Rd, Williamson. Zoned L-R (Lakefront-Residential).

Phil LaReuz of Home Power Systems represented the Robinsons for this appeal. He explained that the east side of the house is the side on which the gas and electric are located, and it has a basement (the west side has no basement). Putting the generator on the west side of the house would require digging a trench, which greatly increases the cost to the homeowner. No one will see the generator; it will be situated along a tree line. In addition, the east side neighbors have their own generator along the same lot line. Mr. LaReuz gave the specifications and installation requirements of the proposed unit. He will make sure the unit is located at least five feet from the neighbor's garage.

The board has not received any communication from the neighbors. There is no impact to the area.

A motion was made by Chuck Monsees to approve Appeal No. 829 as submitted, granting thirteen feet setback relief on the east lot line. The motion was seconded by Bruce Akins. All voted in favor of the motion.

Appeal No. 830: Joshua VanEenwyk of 140 Rotterdam Rd, Sodus, NY. Applicant is requesting a use variance in order to erect a single-family dwelling. Property is owned by applicant and is located on East Townline Rd, Williamson. Zoned I-1 (Industrial).

Josh would like to build a house on property he own in the I-1 zone. Other than Baldwin Richardson Foods behind him and the archery range across the road, the property is surrounded by either single family homes or vacant land. The character of the neighborhood is residential and agricultural; there is no public sewer or natural gas service.

Josh also requests that he be granted 48 months to obtain a building permit in order to do needed and beneficial site improvements, such as drainage work. He doesn't want to invest in such improvements without receiving a variance; he is doing all the work himself.

The Board discussed possible mortgage lending requirements, and concluded that the Zoning Board is not responsible for the approval or denial of any mortgage. The applicant, however, must realize that any neighboring parcels can be developed for Industrial use; Mr. VanEenwyk expressed his understanding.

A motion was made by Tim Gulick to approve Appeal No. 830 as submitted, allowing a residential use in the I-1 zone and requiring the applicant to obtain a building permit by November 20, 2016. The motion was seconded by Bruce Akins. All voted in favor of the motion.

There being no further business, a motion to adjourn was made by Chuck Monsees, and seconded by Ernie Norton. All voted in favor.

Respectfully submitted,

Christine Nagel  
Secretary