

TOWN OF LUMBERLAND  
**ZONING BOARD OF APPEALS**

1054 Proctor Road  
Glen Spey, NY 12737  
(845) 856-8600 x215

Terri Fountain – Chairman  
Caroline Akt – Vice Chairman  
Christine Smetaniuk – Secretary  
David Riley – Member

Carl Molony - Alternate  
Jacqueline Ricciani – Counsel  
Laurie Terry - Clerk

Meeting Minutes

309th Meeting

July 19, 2016

**OPENING:** Terri Fountain, Chairman, call the meeting to order at 7:01 with the Pledge of Allegiance following a workshop meeting that commenced at 6:30pm

**ROLL CALL:** Present: Terri Fountain, Christine Smetaniuk, Caroline Akt, David Riley,

**OTHERS PRESENT:** Carl Molony, Laurie Terry, David Sparling, Maureen Fountain, George Fountain, Lisa Drapak, Andrew Drapak, George Speer, Karen Smyth  
Carl Molony was seated in place of a member by Terri Fountain

**REVIEW/ ACCEPTANCE OF MINUTES:** of the June 21, 2016 meeting

A **Motion** was made by David, seconded by Chris, to accept the minutes as presented. All in favor.

**CORRESPONDENCE:**

The proposed Lumberland Comprehensive Plan was distributed to the Board for review. The date of the public hearing was not available. The clerk will advise the ZBA by email of the details.

A **Motion** was made by Caroline, seconded by David to close the regular meeting and open the public hearing for an Area Variance, 38 foot front yard set back for a 12 foot by 8 foot deck. All in favor.

**PUBLIC HEARING:**

Fountain Area Variance SBL 7.-8-12, Front Yard Set back for deck ZBA 01-16

Proof of mailing was provided. The affidavit of publication was not available. The Fountain's did provide a copy of the River Reporter showing that the public hearing notice was published. The Board decided that if they wished to grant the variance, a condition would be attached stating that the affidavit would have to be collected on Wed, July 20<sup>th</sup>.

\*\*\*The affidavit was presented before the end of the meeting.

All fees were paid. Escrow funds in the amount of \$300 were in account.

Mr. Fountain presented the project as a 12 foot wide by 8 foot deep deck on the front of his house. A drawing of the proposed deck was included with the application along with an aerial view which is on file. No member made a site visit. No written comments were received.

The Chairman asked if any member of the public had a comment. No one wished to speak. The Board had no additional questions.

A Motion was made by Caroline, seconded by David to close the public hearing and re-open the regular meeting. All in favor.

### **CONTINUING BUSINESS:**

Fountain Area Variance SBL 7.-8-12, Front Yard Setback for deck ZBA 01-16

The Board spoke about the small lots in the area and then considered the criteria for granting an area variance as follows;

(a) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the variance;

The deck would not have an undesirable effect on the neighborhood. The majority of lots in the neighborhood are small and many are closer to the road.

(b) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

The benefit of construction a front deck cannot be achieved by another means because there is no other location for the deck and the size of the deck is reasonable.

(c) whether the requested are variance is substantial;

The requested variance is not substantial because the applicant is only requesting a 38 foot variance to accommodate a front deck that will be only 8 feet in depth.

(d) whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

There would not be any adverse impact on the environment or conditions in the neighborhood because no significant change is being made.

(e) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.

The difficulty is self- created but the request to construct a deck measuring 8 feet by 12 feet on a house is reasonable.

A **Motion** was made by Caroline, seconded by David to grant a 38 foot front yard setback variance for the construction of a front deck measuring 8 feet by 12 feet on an existing single family residence located at 47 Mohican Trail, known as Town of Lumberland tax map Section 7, Block 8, lot 12. Roll call vote of the Zoning Board of Appeals

Terri Fountain	Aye	Christine Smetaniuk	Aye	David Riley	Aye
Caroline Akt	Aye	David “Carl” Molony	Aye		

Agreed and carried.

**NEW BUSINESS:**

Drapak Area Variance SBL 8.-1-85.1 Seeking (2) two side yard setbacks ZBA003-16 Escrow deposit \$300. Lisa and Andrew Drapak presented the project as a request for (2) two side yard set backs (19 feet and 20 feet). There is an existing manufactured home on the 2.2 acre waterfront property which will be demolished. A new construction of a single family residence will be placed at the widest point of the property in the same position. The existing well will be used. A new eljen system will be installed. Parcel is in the Mohican Lake District. The applicant has deposited \$300 in escrow.

A Motion was made by Caroline, seconded by Chris to schedule a public hearing on August 16<sup>th</sup> at 7:05 pm for the Drapak Area Variance. All in favor.

A Motion was made by David, seconded by Christine to close the regular meeting and open executive session to interview two people who have sent letters expressing interest in becoming a ZBA member. All in favor.

**EXECUTIVE SESSION:**

Interview for the open Member position, term expiring 12/31/2016

The regular meeting was resumed after a Motion by David, seconded by Carl. A Motion was made by David, seconded by Carl, to direct the clerk to send a letter to the Town Board recommending that David Carl Molony be appointed to the Member seat left vacant by John Burrow with a term expiring on 12/31/2016. Terri, Caroline, Christine and David in favor, Carl abstained. The members wanted to also appoint George Speer as the Alternate Board Member as he has indicated that he would like to serve in either capacity but were unsure if advertising need to be done again.

A **Motion** to adjourn the meeting at 7:55 was made by Dave, seconded by Christine . All in favor.

Respectfully Submitted,

Christine Smetaniuk