**SPINDLER AREA VARIANCE DETERMINATION**

Ms. Sciortino moved, seconded by Mr. Peckham, that the area variance requested by Jane Spindler, 135 Taylor Road, Honeoye Falls, NY, consisting of 17 acres, bearing Tax Account No. 216.03-1-3.111, located in an RA-1 zone, to subdivide said lot into two parcels which will result in a 27 foot setback from the existing pond, whereas Town Code requires a 50 foot setback, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Paul Spindler, the property owner appeared before the Zoning Board of Appeals at the public hearing on January 25, 2018.
2. The applicant would like to subdivide their property such that their pond is 27 feet from the proposed property line, while Section 200-8.Q of the Mendon Zoning Code says all ponds shall not be any closer than 50 feet to any property line.
3. The requested subdivision would create a lot with a thinner area at the road and a larger area in the rear. The pond is located in the rear portion, approximately 400 feet from the road.
4. The majority of the pond will be further than 50 feet from the edge of the property. Due to the shape of the pond and the proposed subdivision, a relatively small portion of the pond is under 50 feet from the proposed property line. The closest portion of this is 27 feet from the proposed property line.
5. The pond already exists, and there are no planned changes to the landscape. One alternate method to meet the setback requirement is to fill in a portion of the pond; Mr. Spindler feels this is undesirable for environmental reasons.
6. There is an existing fence along the proposed property line, separating the two lots.
7. No members of the public commented during the public hearing.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as filling the pond or relocating the fence are not feasible.
2. The request is **not** substantial, as there remains adequate buffer between the pond and the relevant property line.
3. Upon review of Short Environmental Assessment Form (617.20 Appendix B), the board finds the request will **not** have any adverse physical or environmental effects, as it makes no changes to the land itself. Allowing this variance also prevents more destructive methods the property owner could use to meet the code.
4. The request will **not** have an undesirable change in the neighborhood, as it is merely moving lines on paper. No physical changes are being done, or proposed.
5. The difficulty **was** self-created, as the property owner is subdividing their own property and could move the proposed property lines such that a variance was not needed.
6. This is a Type II action under SEQR.