**DONK AREA VARIANCE DETERMINATION**

Mr. Cook moved, seconded by Mr. Maxon, that the area variance requested by Timothy Donk, 1152 Mile Square Road, Mendon, consisting of 1.5 acres, bearing Tax Account No. 216.08-1-9, located in an RS-30 zone, to build a concrete pad for a hot tub at said property, with a side setback of approximately 8 feet, whereas code requires a 15-foot side setback and therefore requires an area variance, be approved based on the following findings of fact and conclusions of law:

**FINDINGS OF FACT**

1. Timothy Donk, the property owner appeared before the Zoning Board of Appeals at the public hearing on March 12, 2020.
2. Section 260-106 of the Mendon Zoning Code states the RS-30 has a side setback of 15 feet. The applicant is requesting a side setback of approximately 8 feet.
3. The applicant intends to place a concrete pad, approximately 9 feet square, next to an existing deck. Onto this pad he intends to place a hot tub. A portion of this pad would encroach into the side setback.
4. The applicant states it would not fit if built on the other side of the deck, due to the existing terrain.
5. No members of the public commented during the public hearing.
6. This application is exempt from County Planning Board review under General Municipal Law 239-m pursuant to an agreement dated January 24, 1994 between the County and the Town which exempts matters set forth therein from further County review.

**CONCLUSIONS OF LAW**

1. The requested benefit can**not** be achieved by other feasible means, as the terrain prohibits it.
2. The request **is** substantial, as it is approximately 53% of the required setback.
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 the proposed construction is minor.
4. The request will **not** have an undesirable change in the neighborhood, as it is of small enough scale.
5. The difficulty **was** self-created, as the applicants desire for a hot tub is driving this variance.
6. This is a Type II action under SEQR