

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, November 16, 2021
6:00 p.m.

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPS = Warren County Planning Staff
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Dept. of Environmental Conservation

Present: Chairman Jason Saris; Jeff Anthony; Joy Barcome; Holly Dansbury; Jim Senese; Brendan Murnane; Dan Sheridan; Alternate - Lorraine Lefevre; Planning & Zoning Director - Richard Miller, PE; Town Planner - Joshua Westfall, AICP & Counsel - Michael Muller

Absent: None

The meeting was called to order at 6:00 p. m.

Minutes Approval: Jason Saris asked if there were any changes or corrections to the October 19, 2021 minutes.

RESOLUTION:

Motion by Jim Senese to approve the October 19, 2021 minutes as presented. **Seconded by** Joy Barcome. **All in Favor. Motion Carried.**

1. V21-28 Brockley, Tom; represented by Keith Buff. Applicant seeks area variance related to the construction of single-family residence for the required 75' waterbody setback. The applicant seeks 13+/- feet of relief from said setback as required by §200-15. Zoning Districts RL3 and RM 1.3. Property Location: South Farm Road, located south of #86 South Farm Road. No property address. Section 156.00 Block 2 Lot 20. Subject to APA, WCPS and LWRP Review. Last Reviewed 10/19/2021.

Keith Buff presented the following:

- They are back with exactly what they presented before.
- He detailed the setbacks and the water course on the plan.
- He explained that the water course yields a very narrow buildable footprint.
- Currently there are two corners of an exterior deck that extend into that setback.
- The outdoor deck is about 600 sq. ft. supported by concrete piers and columns.
- The actual foundation is within the buildable footprint.
- They have hugged the building close to the property for obvious reasons, but there is some latitude to push it a little bit forward, but they are locked into the 20' side setback.
- They have removed one of the kitchens.

Jason Saris inquired if the deck would be uncovered. Mr. Buff replied yes, it would be an uncovered deck.

Jason Saris asked what the width of the building including the deck would be. Mr. Buff replied 40' wide with the deck being 28' at its widest point.

Jeff Anthony asked if the wastewater absorption field had been approved at less than 100' from the stream when it was approved as a subdivision lot. Mr. Buff stated he was not sure. Jeff Anthony said that it appeared that the absorption field was at best 75' from the stream and he was not sure where they would be putting it as the requirement is 100'. He believes that solving the wastewater should be their first order of business. Jason Saris explained that the ZBA did not give variances for this, it was a variance that would be granted by the Local Board of Health. He said the septic did not need to be compliant for this Board, but if they don't receive a variance from the Town Board acting as the Local Board of Health, they would not be able to build. Atty. Muller said if this Board granted a variance, the applicant would need to design a wastewater system that may need to be approved by the Local Board of Health in order to move forward.

Correspondence:

Paul & Patricia Lee, 86 South Farm Road - Letter of Opposition.

Mr. Buff stated that this was a 2.4-acre lot with a very small and narrow buildable footprint, and this was the only area in which to put a house. He detailed the stream on the plan showing the sliver of land they had to build on. They made an effort to keep the decking and outdoor terraces to the opposite side of the neighbor.

Holly Dansbury inquired about trees on the plan. Mr. Buff stated that he got the sense that the owners planned on making an effort to screen for privacy. Jason Saris stated that the house met the setbacks from the neighbor, and they did not need any variances for that side. This house is only encroaching on one setback with a deck that did not have a roof over it or a foundation.

Jason Saris stated that if they received the variance requested tonight, the applicant would need to come back before this Board if they wanted to make any changes to the structure as it would be non-conforming.

Jeff Anthony stated he was concerned about the stormwater and wastewater because it would not be going to the Planning Board. Rich Miller stated they could make this a major stormwater project so that it would have to go to the Planning Board. Atty. Muller stated they could do this as long as it was in writing.

Mr. Buff explained that the buildable footprint is very narrow, and the challenge is the 75' stream setback. He depicted it on the plans and said they are building in the widest buildable area. A really narrow building would not be very usable. They tried to keep the foundation footprint within the setbacks, and only the concrete piers and deck would overhang into the 75' setback to minimize the impact.

The Board discussed conditions about wastewater and stormwater. Jeff Anthony wanted mention of these issues and suggested it be a condition that this be upgraded to a Major Stormwater project.

RESOLUTION

The Zoning Board of Appeals received an application from Tom Brockley (V21-28) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff.

And, whereas the Warren County Planning Staff determined that there was No County Impact.

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. The lot size and proximity to the stream limit buildable area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. They are building as far as possible from the stream, and they meet the side setbacks.
- 3) The request is not substantial.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- 5) The alleged difficulty is not self-created.

The practical difficulty is that the building footprint on this lot is so small, and it can't be moved to another area to meet the setbacks due to the stream.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Dan Sheridan and seconded by Brendan Murnane, it is resolved that the ZBA does hereby approve the variance request with the following condition: 1) This project is to be considered a Major Stormwater Project. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

- 2. V21-29 Lo Bue, Shannon;** the applicant seeks an area variance related to construction of a storage structure for building front yard setback; 50' required, 10' proposed. For side yard, 20' required, 10' proposed. And for lot coverage 15%, approximately 21% +/- proposed. Zoning District RM 1.3. Four Evergreen Lane, Bolton Landing. Section 171.19 Block 1 Lot 61.

Joe Lo Bue presented the following:

- They are proposing a temporary storage box structure.
- It will only be there temporary.
- They need it for storage until they find property to build.
- It is on a skid and will not have a foundation or footings.

- It is behind a stockade fence and has minor visibility from the street.

Jeff Anthony said there are no temporary variances. If you issue a variance it goes with the land. He asked why not just rent a storage unit. Mr. Lo Bue stated that he had called everyone in the area and the closest available unit was in Saratoga Springs, which was not feasible.

The Board discussed a Sunset Clause, and Atty. Muller suggested that this was not a good idea.

Holly Dansbury stated that it did not look like there was anywhere to place this that would not require a variance.

Jason Saris asked about the screening. Mr. Lo Bue said that there was a stockade fence around the whole property and the only way to see it was looking up the driveway.

Jason Saris stated it looked as if the only one that would be looking at it was Mr. Lo Bue. Mr. Lo Bue stated that this would not be a problem.

RESOLUTION

The Zoning Board of Appeals received an application from Shannon Lo Bue

(V21-29) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was No County Impact.

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #2 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. There is no other location to place this temporary shed on the property that would be compliant. This is hidden behind a fence.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is not visible to the neighbors.
- 3) The request is not substantial.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The shed will be hidden from the neighbor's site.
- 5) The alleged difficulty is self-created. They need more space and are accomplishing this with the shed.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Brendan Murnane and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions: 1) This temporary structure can never be turned into a permanent, occupiable structure with a foundation heat, water, or any other utilities. 2) The structure is to remain screened from the neighbors. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

- 3. V21-30 Coon, Matthew P.;** the applicant seeks an area variance to resolve non-conforming hunting camp for the required 75' waterbody setback pursuant to §200-15. Existing structure is located within 11' of waterbody. Location: 734 Coolidge Hill Road. Subject to WCPS and LWRP Review. Has undergone APA review

Matthew P. Coon presented the following:

- This is a 28 x 28 cabin which was built 11' in the APA wetland setback.
- The APA was on the property last month and stated they had no issues with it.
- He is here tonight to get a variance from the town for the 75' setback.

Holly Dansbury asked if the cabin had any services. Mr. Coon replied that it did not have sewer or water.

Holly Dansbury asked if hunting camps were allowed in this zone. Mr. Miller stated yes, if they were under 500 sq. ft. This is not, which is why it will be going for Site Plan approval. They are here tonight for a variance.

Jason Saris inquired about the APA setbacks being the same as the town. Mr. Miller stated they went to the site, took measurements, and stated that it was fine.

Jason Saris asked what the practical difficulty was. Mr. Coon said that the reason why they built it here was because it was the only buildable area on this site. This site has steep terrain and rocks along with streams and additional wetlands that made this the most likely area to build.

Albert Jones, neighbor to the north, contended that the property lines incorrectly depicted. He asked Mr. Coon if he had a survey map with the camp on it. Mr. Coon stated that the property was surveyed by Van Dusen & Steves. Mr. Jones said he believed that he owned more property and that the camp was too close to his property line. Mr. Coon said that was not correct. Mr. Jones looked at the site plan that the Board had and stated he did not believe it was correct according to a tax map. Holly Dansbury explained that tax maps are not accurate, they had to go by the licensed surveyor's map. Atty. Muller stated he would rely on the surveyor. He said he would never rely on a tax map.

Mr. Jones stated he would like to see where the camp is located on the property relative to all of the setbacks. Mr. Coon said he would have the surveyor come back out and place the camp on the survey showing the exact setbacks to alleviate any questions.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by Jim Senese, it is resolved that the ZBA does hereby table the variance request for additional information. **All in favor. Motion Carried.**

4. **V21-31 Ayers, David & Linda.** Represented by Studio A (M. Huntington). The applicant seeks an area variance related to the reconstruction of a single-family residential home and deck related to shoreline setback as required by §200-15. Existing setback is 0' feet, proposed setback 0'. Applicant seeks development within footprint of current built single-family residential structure, deck, and patio footprints. Zoning Districts: RM 1.3. Location: 144 Cotton Point Road. Subject to APA, WCPS and LWRP Review

Jeff Anthony recused himself from this item.

Atty. Lapper presented the following:

- This is a unique lot where the house is built right to the water line.
- They are proposing to replace it in kind because there are no other alternatives.
- They are not looking to make it any larger and just rebuild it on the same existing foundation.
- The practical difficulty and justification for the variance is that there is no ability to move it away from the lake because there is no room for a garage, and it is only big enough for 1 car length between the house and the road leaving no parking area.
- Anything else would need the removal of large trees that have been there many years.
- They need to fix the compromised foundation.
- They will be adding stormwater that is non existing at this time and upgrading the septic.

Jason Saris asked if they had received a variance for a holding tank yet. Atty. Lapper replied not as of yet, they were waiting to go through this process first.

Andy Allison of A.J. Architecture present the following:

- They house sits quite low on the site and the stone under the house is failing
- The large part of what is damaging the house is its elevation on the site because all the water all drains right toward it.
- They have come up with a design that for the most part stays within the existing footprint of the existing house.
- They are increasing the square footage to about 220 sq. ft. on the Cotton Point Road side.
- They are raising the floor elevation by about 2.5'.
- The new structure will have a slightly different roof line which will be about 6' taller than what exists.
- The upstairs is bedrooms.
- He detailed the plans and elevations to the Board.
- They are rebuilding the screen porch in kind on the same footprint.
- The number of bedrooms will stay the same.
- They will be using natural color tones
- The deck out front will be improved.

- They will be doing some low-level plantings to stabilize part of the lake shore.
- They will be adding a stone retaining wall to stop the water from coming in from the lake.
- They will be adding stormwater implementations and a holding tank system for the wastewater.
- They have received a letter of approval from the HOA.

Matt Huntington of Studio A presented the following:

- Currently the house has no stormwater management practices.
- They will be disturbing approximately a little under 7,000 sq. ft. of the site making this a minor stormwater project.
- They have designed the stormwater accordingly.
- Currently they have a septic tank and small pump station that feeds an existing leech field along Cotton Point Rd.
- This is significantly substandard to today's requirements which is why they will be abandoning it and replacing it with holding tanks with alarm systems and shutoffs.
- There is an existing wall on the lakeshore which is damaged, and they are proposing to replace and extend it.
- There is no other opportunity to place this house elsewhere than where it is and if they relocated the driveway, they would need to remove many large, mature trees.

Holly Dansbury inquired about the proposed plantings. Mr. Huntington detailed where it would be placed on the plans.

Lorraine Lefevre commented on the house colors and was glad they would be using earth tone colors.

Jason Saris asked if they considered turning the house a little or setting the screened porch back. Mr. Allison said that due to the ledge in the back and the need to preserve the space that may be needed for the septic. Their goal is to maintain the house as it is. No matter what they do, it will require relief. Atty. Muller said that the applicant did not need a shoreline variance, the relief they needed was for expanding a non-conforming structure which is §200-57 B (1) (b). They are modifying a non-conforming structure, and this is the variance they need. Jason Saris said they were building a new structure. Atty. Muller said he believed they were modifying their right. They were on their footprint. Jason Saris said this was not what they were asking for her. Atty. Muller said that they can change this request by asking the audience if anyone has appeared in response to this application and if there are none, they are on safe ground. Jason Saris asked if there was anyone in the audience who would like to respond on this application. There was no one.

Jason Saris asked if the applicant would like the Board to consider this a variance request for §200-57 B (1) (b) as opposed to §200-15. Mr. Allison replied yes. Jason Saris stated they would amend this application to show this. He explained that they would be changing and raising the roof line and filling in the areas in the back of the house which would not further any encroachment on the lake setbacks.

RESOLUTION

The Zoning Board of Appeals received an application from David & Linda Ayers (V21-31) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was No County Impact.

And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

The application of the applicant is as described in Item #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. The applicant discussed this was the only area in which to do the modifications to the non-conforming structure.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be in sync with the other homes and approved by the HOA.
- 3) The request is not substantial. They are only increasing it by approximately 220 sq. ft.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are improving the septic and stormwater.
- 5) The alleged difficulty is not self-created. They are modifying a pre-existing, non-conforming structure.

The benefit to the applicant is not outweighed by the potential detriment to health, safety, and welfare of the community.

Now, upon motion duly made by Holly Dansbury and seconded by Brendan Murnane, it is resolved that the ZBA does hereby approve the variance request as amended. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

The meeting was adjourned at 7:22 p.m.

Minutes respectfully submitted by Kate Persons