

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, May 18, 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:** Jason Saris, Brendan Murnane Joy Barcome, Jeff Anthony, Holly Dansbury, Jim Senese, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller, PE and Counsel; Michael Muller

**Absent:** Dan Sheridan

The meeting was called to order at 6:00pm.

**RESOLUTION:**

**Motion by** Brendan Murnane to approve the April 20, 2021 minutes **Seconded by** Jim Senese. **All in Favor. Motion Carried.**

- 1. V21-10 4934 Lake Shore Drive LLC;** Represented by the Environmental Design Partnership. Seeks variances for 1) building front setback 30 feet required, 13.5 feet is proposed; 2) north building side yard 12 feet is required, 7 foot is proposed, 3) south building side yard 8 feet is required, 3 foot is proposed, 4) maximum lot occupied 40% is required, 45% is proposed and 5) parking spaces 53 spaces are required, 8 are proposed. Section 171.19, Block 2, Lot 9, Zone GB5000; Property Location: 4934 Lake Shore Drive. Subject to WCPS and LWRP review.

Jason Saris stepped down from the Board for this item.

- Gavin Vuillaume RLA, of Environmental Design Partnership presented the following:
- There is an existing 4 unit apartment.
- He went through the new changes they made to the originally presented project on the new site plan.
- Previously they were using the existing marina driveway and have realized they did not have any rights to go over that driveway.
- They have decided to flip flop the entrance to the north.
- They have enough room to provide a 14' access drive and parking spaces behind the building.
- Due to the new configuration they now only have 8 parking spaces.

- They have reduced the size of the building by about 1,000 sq. ft. in order to balance the drive and provide more green area on the south side of the building.
- This unfortunately reduced the rental units from 9 to 7 and reduced some of the square footage of the restaurant.
- This also reduced the size of the variance requests.
- He detailed the requested variances on the plans.
- Parking does not meet the code and they need a hefty variance for this.

Jeff Anthony stated that traditionally the commercial uses in downtown Bolton do not meet the parking requirements prescribed by the zoning law and is a commonly granted variance. There are 7 occupiable units in this structure and parking is being provided for them.

Brandon Murnane stated he did not believe they had 8 spaces before, so now they have an increase of spaces to what previously existed.

Holly Dansbury asked if the front of the building would be like it was before. Mr. Vuillaume stated it would be very similar to what existed before the fire.

Holly Dansbury asked inquired about the road facing patios and that there would be no grilling or storage on them. Mr. Vuillaume stated they can put this as a note on the plan.

Lorraine Lefevre asked about construction plans. Mr. Vuillaume stated they are hoping to start this year.

Correspondence:

Brent Tardif & Sandy DeSantis in favor of the project.

Heidi Figueroa in favor of the project.

Pat Cianci in favor of the project.

Jason Saris stated that the Town of Bolton has a Comprehensive Plan to help guide the town into the future and keep the town the way they wanted it to be. When the plan was developed, they had asked people what things and direction they wanted the town to go in. The resounding answer was they wanted to maintain Bolton the way it is. They liked the mix of goods and services. This is a very small downtown which needs tourism and the businesses to draw people in. We are losing tourist accommodations at an alarming rate, so any time we have an opportunity to support more tourists coming into town, we really need to, because that's the part of our town that is the hardest hit in maintaining the mix that we have in the town's economy.

Frank Parillo, owner of Bolton Landing Marina said he was 100% in support of the new project. He stated that they are very happy with the changes.

## **RESOLUTION**

The Zoning Board of Appeals received an application from 4934 Lake Shore Drive LLC (V21-10) 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 original restaurant burned, and they have maintained or increased the setbacks and parking in the new project.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be much better than the existing pit.

3) The request is not substantial. They have increased or maintained all the setbacks.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The project will increase green space on both the front and south side of the building.

5) The alleged difficulty is not self-created. The existing building burnt to the ground. 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 Jim Senese, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition. 1) There is to be no storage or grilling on the front facing decks/patios. 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. **V21-13 Patrick Cahill.** Seeks variances for 1) building side setback 8 feet is required; 1 foot is proposed. Section 186.14, Block 1, Lot 73, Zone RCH5000; Property Location: 15 Beckers Drive. Subject to WCPS and LWRP review.

Patrick Cahill presented the following:

- He purchased the property approximately 23 years ago and made it his permanent home 5 years ago.
- He is looking to widen the area on the south side of his garage approximately 3' to 4' and replace a decorative wall.
- He stated that it would only be 2 tiers high.

Jason Saris asked if the wall would be exactly where it presently is. Mr. Cahill replied yes, but wider. Right now, it is 4' to 5' and he would be increasing it 3'+/- with a 1' setback from the property line.

Holly Dansbury asked if this was the only place for this space. Mr. Cahill stated it was access for his propane and his garage. If he put it on the other side of the garage, it would block his entrance door to the garage.

Nathan Hall of Stafford, Carr & McNally presented the following:

- He presented photos to the Board.
- The driveway used to be a u-shaped allowing for more parking.
- The garage was built right up to the property line.
- The wall was never approved.
- The wall is 20” from the property line.
- This is a non-conforming property that seems to be expanding further into his clients setbacks.

Mr. Cahill stated that there is some confusion, this garage did not require a variance. The garage is identical to the Gallo’s garage and was. His property sits 5’ to 6’ higher than the Gallo’s property. He submitted photos to the Board of both of their views.

Jason Saris asked where the wall was located. Planning & Zoning Director Richard Miller said that the base of the rock wall was about 20’ from the property line at one spot and gets a bit wider as you come back. He said there were no variances granted to put the rock wall there and it should be 8’ back from the property line. Jason Saris asked if there were survey markers noting where the property line was. Mr. Miller replied yes.

Atty. Hall explained the photos he submitted to the Board. He said the grade had been built up significantly.

Jason Saris asked what building Mr. Miller was referring to in the agenda where it states, “setback 8 feet is required; 1 foot is proposed”. Mr. Miller said he was referring to the wall. Jason Saris asked if this application should be referencing the wall and not a building. Mr. Cahill said he was told that the because the wall was over 2’ high it became a structure. Jason Saris replied that yes it was considered a structure, but it was still a wall. Atty. Muller stated it was a 56 sq. ft. non-jurisdictional landscaping. It was not a structure or building and did not need to meet setbacks. Atty. Hall asked what the threshold was that made it become jurisdictional. Atty. Muller replied anything 100 sq. ft. and greater than 6” in height from the surface of the ground. He said the determination of a prior Zoning Administrator stated that a structure must be 100 sq. ft. in overall dimension. Mr. Miller stated it was over the 6” in height which made it a structure. Atty. Muller said a structure less than 100 sq. ft. does not need a permit or meet setbacks. Atty. Hall said he would like to see the structure measured so they know what they are dealing with. Jason Saris said it is not about what is there, it is about what is proposed. Mr. Miller needs to make a determination if it is jurisdictional or not. Atty. Muller asked what the setback variance request was actually for. Atty. Hall stated the expansion of the rock wall. Atty. Muller asked if Mr. Cahill was proposing to move it. Mr. Cahill replied yes. Atty. Muller said they would need to know the size before acting on it. Mr. Miller said it would require a variance if it was more than 6” high. Atty. Muller read the code and said there could be an ambiguity in the code. Jason Saris said that they have always gone

with a shed being 9' x 9' did not need a permit or variance. Atty. Muller and the Board discussed this at great length. Jason Saris said that this would mean a lamp post or mailbox would need a variance and does not believe this was the way the code was intended. He seems to recall it as "and" and not "or". Atty. Hall stated they believed it was jurisdictional on length alone.

Atty. Muller asked the applicant if he was ok with tabling this application for more information. Jason Saris said the applicant was asking to move the wall and it would be new construction. The relief to be asked for was, what was being proposed. Jeff Anthony said if a cross section of the wall was part of the application and information as to what it really was would be helpful for them to make a decision. The Board discussed this and decided they would need some more information to make a decision on this project. Mr. Cahill stated he would not have a problem tabling the application for more information.

Correspondence:

Stafford Car and McNally for Beckers in opposition of the project

## **RESOLUTION**

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

- 3. V21-14 Andrew and Maureen Keefe.** Seeks variances for 1) building rear setback 20 feet required, 15 feet is proposed. Section 171.19, Block 1, Lot 38, Zone RL3; Property Location: 19 Heritage Lane. Subject to WCPS and LWRP review.

Andrew Keefe presented the following:

- The existing structure is 24' wide.
- They will be encroaching the 20' setback by 5'.
- The proposed addition will put them 15' off the property line.
- They are looking to put on a first floor master bedroom suite as this will be a retirement home for them.

Lorraine Lefevre asked how close they were to the pond. Mr. Keefe stated that they were nowhere near the pond. They were the last house on Heritage Lane.

Jason Saris said it is hard to understand the plans as there was no site plan included with the application. Jeff Anthony agreed and said application was incomplete.

Jason Saris said by seeing the footprint and setback, they could make a determination as to whether or not it could be expanded in another way not requiring an area variance. Holly Dansbury said the site plan is missing from the package. Jeff Anthony stated they are missing a vital part of the application and he needs this to make any decisions. Mr. Miller said he was

under the impression that the site plan was required for the permit, not the variance. The Board decided they would like more information so that they could make a decision.

**RESOLUTION**

Now, upon motion duly made by Joy Barcome and seconded by Jeff Anthony, it is resolved that the ZBA does hereby table the variance request for additional information. 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.**

- 4. **V21-15 Twin Bolton LLC.** Represented by Studio A. Seeking area variances for two townhouse buildings. No density variance is required, however, since the townhouses are a “zero lot line” development, they do not meet the required front, side and rear lot setbacks in that the property lines are the building (unit) perimeter walls. As such, zero setback from all lot lines exist. Additionally, the minimum lot width and depth requirements as well as maximum percentage of lot occupied requirements cannot be achieved. The following variances are requested: 1) Minimum lot width 125 feet required, 32 feet proposed, 2) Minimum lot depth 150 feet required, 64 feet proposed, 3) Front setback 50 feet required, 0 feet proposed, 4) Rear setback 20 feet required, 0 feet proposed, 5) One side setback 20 feet, 0 feet proposed, 6) Total side 40 feet required, 0 feet proposed and 7) Maximum percentage of lot occupied 15% required, 100% proposed. Section 186.6, Block 1, Lot 14 and Section 186.7, Block 1, Lot 13, Zone RM1.3 and RL3. Property Location: 4770 Lake Shore Drive. Subject to WCPS, APA and LWRP review.

**\*This item was heard first at the meeting\***

Jeff Anthony stepped down from the Board for this item.

Atty. Lapper presented the following:

- The applicants have decided to take the path of least resistance and no longer are seeking a PUD.
- They no longer seek a density variance.
- These are mostly single family.
- This is really what he considers a technical variance because town houses are permitted but the Bolton code does not address this.
- The building is well behind the setbacks that are required.
- He detailed the site plan to the Board.
- They feel this is a minimal variance request for how this lot could be developed.

Kristen Catallier of Studio A presented the following:

- Currently there are 2 motel buildings, 5 seasonal cottages, a pool and the Sembrich residence.
- They are proposing to raise all but the existing Sembrich residence.
- She detailed the proposed plan to the Board.
- The property falls within two zones.

- They are proposing to maintain the existing curb cut.
- They are also proposing 5 single family residences in the RL3 zone.
- In the RM1.3 zone they are proposing a centralized onsite disposal system.
- In the RL3 zone they are proposing individual onsite disposal systems.
- Currently there are no stormwater mitigations on the property.
- They will be implementing many stormwater management practices and bringing stormwater up to current code.
- They are proposing to connect to the municipal system for water.

Jason Saris explained that differences between town homes and condominiums are that a town home has individual ownership in a building with multiple units which requires setbacks. If this was a condominium, they would not need these 0' setback variances.

The building itself meets all the required setbacks. This is a form of ownership that is preferred by people today because banks are more likely to loan them money because they have actual real estate rather than shares in a corporation that may or may not exist someday. The Town of Bolton ordinance has not been updated to reflect this as of yet. It sounds like they are asking for a lot, but they are not.

Holly Dansbury stated that the variance request is strictly due to it being a town home, it meets all the required setbacks.

Atty. Muller agreed and stated that the code as it exists in this matter is totally deficient. The short coming is within the Zoning Ordinance where they are not prepared to address what is a legitimate use in the zone. It becomes apparent these variances are required and appropriate for the allowable use in this zone.

Correspondence:

Anthony Manney of 3 Evergreen Lane, in support of the project.

Greg Swick of 5 Congers Point North, in support of the project.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Twin Bolton LLC (V21-15) 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. They are looking to do a mixed residential development which includes townhomes that our code does allow for the required setbacks.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This will improve that neighborhood.

3) The request is substantial. It seems substantial to our existing code, but this is due to it being a town house which the code does not properly address.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They will be greatly improving what exists including stormwater mitigations.

5) The alleged difficulty is not self-created. This is due to the lack of direction in the zoning code.

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 Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. 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 7:25PM.

Minutes respectfully submitted by Kate Persons