

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, February 8, 2022
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: Zoning Board of Appeals Chairman Jason Saris, Zoning Board of Appeals Members - Joy Barcome, Dan Sheridan, Holly Dansbury, Jim Senese; Planning & Zoning Director - Richard Miller, PE; Town Planner - Joshua Westfall, AICP & Town Counsel – Brian Reichenbach & Mary Kissane

Absent: Robert Kennedy, Jeff Anthony & Alternate - Lorraine Lefevre

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 January 25, 2022 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the January 25, 2022 minutes as presented. Seconded by Jim Senese. All in Favor. Motion Carried.

- 1. V21-30 Coon, Matthew P.** The applicant seeks an area variance to resolve non-conforming hunting camp for the required 75' wetland setback pursuant to §200-15. Existing structure is located within 11' of the wetlands. Requested wetland setback relief is 64'. The applicant also seeks a variance for a side yard setback. 33' side yard setback existing; 50' side yard setback required. Requested side yard setback relief is 17'. Zoning Districts RL 3 and LC 25, camp located in LC 25. Location: 734 Coolidge Hill Road. Section 185.00 Block 2 Lot 31. Subject to WCPS and LWRP Review. Has undergone APA review and has been determined to not be in violation. Continued from November 16, 2021.

Matthew P. Coon presented the following:

- They were here in November and have since had VanDusen & Steves in to survey the property and place the cabin location on a plot plan.
- They did not realize the property was also in the LC25 zone which requires an additional variance request.
- They built the cabin 2 years ago in this area because of the topography.
- In the back is a steep hill that would need excavation and a brook near the side.
- This is the only flat area that did not need any land disturbance, which is why they chose it.

Jason Saris stated that the APA would want to know the practical difficulty for this project. Mr. Coon stated that the APA was already out on the property and found no issues on site. Planner Westfall explained that the APA determined that there was no wetland violation back in October 2021. Atty. Reichenbach said he suspected this would have been a reaction to an enforcement case and he advised the Board to still go through its analysis with those addition factors. It would still be subject to normal variance review. Mr. Coon stated that the practical difficulty would be that behind the cabin is all rocks and a huge hillside which would require excavation. On the top of this hill, it is wet and there is a brook. To the south side is very wet and not feasible. This area is a flat piece of ground with little or no disturbance required, which is why the built it in this location.

Albert Jones, neighbor to the north does not like the location of the cabin. The applicant has 40 acres, and he does not feel it should be allowed this close to his property line. Jason Saris asked if this would be an invasion on his property. Mr. Jones replied yes. He does not want a neighbor this close. To not be able to meet a setback on two sides is crazy on a lot this size. Mr. Coon stated that the reason he did not build on the back of the property was due to the fact that at least 10 acres of the property was wetlands and swamps and not readily accessible. You can see how steep the property is and this is one of the flatter areas on the entire property. There are wet areas all around the property.

Jason Saris said he was curious as to why the last time Mr. Coon came before the Board, he said the camp was compliant and there were no setback issues. Mr. Coon explained that at that time he was unaware of the fact that the property was in 2 different zones. He thought the whole property was 3 acre zoning and it would meet the setbacks.

Mr. Jones stated that if Mr. Coon had applied for a building permit in the first place, he would have known that there were 2 different zones on his property. Maybe every inch of property in Bolton is not made to be developed. Holly Dansbury asked Mr. Jones if his residence was at that back portion of the property and if there woods between his house and the cabin. Mr. Jones replied, no there was no house and it was all woods.

James Senese asked if the camp was elevated and built on pressure treated lumber. Mr. Coon replied yes, it was on 6 x 6's. Mr. Senese said that it looked like they were trying to accommodate this area by elevating it on pressure treated lumber and he wonders why they could not do this somewhere else. Mr. Coon explained that this was an easily accessed dry area. Behind it is steep and wet. There are not to many level spots on the property.

Dan Sheridan asked what it looked like from the right of the cabin porch. Mr. Coon replied that is was all wet. Mr. Jones stated it was flat though.

Holly Dansbury said they could ask for screening for privacy but it is all woods already so that doesn't make much sense.

Jason Saris said this is complicated by being an after the fact application, but when you look at the application and the question is, "Can the benefit to the applicant be achieved by some means other than an area variance". Obviously no, if the cabin is already there, but could the cabin be placed in a more compliant area, and would the Board approve the variance request for the cabin to be placed in this spot if it had not already been built. This is a very difficult question to answer. Holly Dansbury says that it looks like there would be a more compliant area, but the applicant says that it is very wet and steep. Mr. Coon stated that the property was logged years ago, and this was the most compliant area to build without more disturbance to the land.

Dan Sheridan asked where the zoning line was on the property. Mr. Coon stated that he did not.

Zoning & Planning Director Miller stated that he had been to the property and cabin and the area that it is built is about the only area to place it. There would be a lot of disturbance if they moved it. He said main reason the APA came in the first place is they were not sure whether or not he had built it in the wetlands. The APA determined that he had not. The reason the Board tabled the application at the last meeting was due to Mr. Jones uncertainty as to whether the cabin had been built partially on his property. He said Mr. Coon had it surveyed, and it was determined that it was built on his property. He does not believe Mr. Coon could move the cabin to meet the property line setbacks.

Dan Sheridan said it would have been much easier for the Board if he had come to them first before building this structure. He would like to see a compromise for between Mr. Coon and Mr. Jones. Mr. Coon said he would be willing to agree to a condition that no trees are to be disturbed around the cabin so that there would always be a buffer for Mr. Jones. It is a very thick canopy of trees in this area.

RESOLUTION

The Zoning Board of Appeals received an application from Coon, Matthew P.

(V21-30) 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. This is the only area that is feasible to build this cabin.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is in a wooded area of the lot.
- 3) The request is substantial. This is the only location to place this without major disturbance.
- 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 self-created. This is the only area to place the cabin.

The practical difficulty is that this is the only area to place this cabin without creating major disturbance. The topography of the land does not lend for a better area to place this cabin. 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 with the following condition: 1) The buffer between the cabin and the neighboring property line is to be maintained and no cutting is allowed. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. Jim Senese Opposed. **All others in favor. Motion Carried.**

2. **V22-01 Schwerman Residence:** Represented by EDP. The applicant seeks an area variance related to shoreline setback as required by §200-15 for the installation of a new wastewater system on a non-conforming lot. Applicant seeks 47' waterfront setback; 75' waterfront setback required. Total relief requested is 28'. Zoning District: 1.3.; Section 200.14 Block 1 Lot 8 Location: Cotton Point Road. Subject to APA, WCPS and LWRP Review.

Dennis MacElroy of EDP presented the following:

- This is for the replacement of a wastewater system and to put in holding tanks which is the only reasonable replacement type system.
- This property is located in the Cotton Point Association.
- In June of 2021 the newly adopted wastewater regulations that state that a shoreline setback variance was required from the Zoning Board prior to going to the Town Board Local Board of Health for a septic variance.
- Evidently the holding tanks are considered structures and require a variance.
- This is unusual and is not required in other towns.
- So prior to going to the Town Board, they are required to receive a variance from the ZBA.

Jason Saris asked what type of structures would be above ground on this project. Mr. MacElroy said that there were ground level covers at grade to allow for pump out. Jason Saris asked if they had dug any test pits to check the conditions. Mr. MacElroy said they had not, but the neighbors had recently put in holding tanks and it was fine and that they did not anticipate any ledge rock.

Holly Dansbury asked what existed on site. Mr. MacElroy explained that there were septic tanks and some type of leaching devices. They have had pump outs of the tanks over the years. This replacement will meet some current standards as opposed to what exists now. He explained they are battling two items on this site, separation to groundwater and separation to the lake. Jason Saris said he applauded the applicant for moving forward and trying to do the right thing by putting in a system that works. He is sorry they have to go through all of these steps including the need for the Board of Health requiring a variance to install holding tanks. They should be encouraging this, as opposed to putting in all these roadblocks discouraging people from replacing old septic systems. He thinks it is great when people are replacing systems just because it should be done, not because they have to.

Dan Sheridan read an email in opposition from John & Victoria O'Donnell.

Mr. Schwerman stated that the Cotton Point HOA had sent an email of support for this project. The current septic system is at least 60 years old, and they are trying to replace this system with the holding tanks before there is a problem.

Jason Saris asked if there was any area on the lot that was more compliant for this system. Mr. MacElroy replied, no.

RESOLUTION

The Zoning Board of Appeals received an application from Schwerman Residence (V22-01) 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.

3. The benefit could not be achieved by other means feasible to the applicant besides an area variance. This is due to the size of the lot and the proximity to the lake.
4. There will be no undesirable change in the neighborhood character or to nearby properties. This will be a great upgrade.
5. The request is not substantial.
6. The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will be a benefit to the lake and the neighborhood.
7. The alleged difficulty is not self-created. This is a non-conforming lot. 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 Jim Senese and seconded Dan Sheridan, 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.**

3. **V22-03 Lake George Club.** Represented by Hutchins Engineering. The applicant seeks an area variance related to waterbody setback as required by §200-15 for the construction of a new maintenance building. Applicant seeks a 33' waterfront setback; 75' waterfront setback required. Total relief requested is 42'. Zoning Districts: RM 1.3 and LC 25 with construction occurring only in RM 1.3.; Section 213.09 Block 1 Lot 6 Location: 4000 Lakeshore Drive. Subject to APA, WCPS and LWRP Review.

This application was tabled for additional information

4. **V22-04 Boccato;** Applicant seeks an area variance related to side and rear setbacks as required by §200-15 for the installation of shed with a concrete pad. Applicant seeks 3' setback for rear yard and 6' for side yard. 15' and 8' are required for rear and side yards respectively. Total relief requested is 12' for rear yard and 2' for side yard. Zoning District: GB5000.; Section 171.15 Block 2 Lot 46. Location: 4983 Lakeshore Drive. Subject to WCPS and LWRP Review.

Richard Boccato presented the following:

- They would like to establish a storage shed with a concrete slab for kitchen supplies.
- It is not feasible to relocate the propane tank according to their propane distributor.
- This would not affect parking.

Joy Barcome asked for clarification of the propane tank. Mr. Boccato explained that they could not relocate the propane tank so they would like to use that space for a shed. Jason Saris asked what the shed would be used for. Mr. Boccato replied, storage for restaurant equipment and supplies. Jason Saris asked if there would be any trash stored there. Mr. Boccato replied, no.

Holly Dansbury asked about parking and the ability to maneuver in and out. Mr. Boccato detailed it on the plan and stated he had an agreement with the previous neighbors for turning around.

Joy Barcome asked about movable landscaping on the previous plans. Mr. Boccato replied that it was probably the potted plants.

RESOLUTION

The Zoning Board of Appeals received an application from Boccato (V22-04) 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 lot is small, and they need more room for the kitchen supplies.
2. There will be no undesirable change in the neighborhood character or to nearby properties. The shed will be tucked in the back and may have movable landscaping to screen it.
3. The request is not substantial. It is in line with properties in the neighborhood.
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 self-created. They are requiring needing more space for their kitchen due to the larger outdoor space. 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 Jim Senese, 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 6:52 p.m.

Minutes respectfully submitted by Kate Persons