

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, August 9, 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:** Chairman Jason Saris, David Kneeshaw (6:23 PM), Jim Senese, Holly Dansbury, Dan Sheridan, Alternates - Lorraine Lefevé & Henry Caldwell, Acting Planning & Zoning Director - Joshua Westfall, AICP & Town Counsel – Brian Reichenbach

**Absent:** Joy Barcome

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

**Minutes Approval:** Jason Saris asked if there were any changes or corrections to the July 26, 2022 minutes.

**RESOLUTION:**

Motion by Lorraine Lefevé to approve the July 26, 2022 minutes as presented. Seconded by Dan Sheridan. **All in Favor. Motion Carried.**

- 1. V22-19 Malanga, Gregg & Susan;** The applicants seek the following area variances for the construction of a deck and bathroom/laundry room addition: • An area variance related to the alteration of a preexisting, non-conforming structure (single-family residence) per §200-57(B)(1)(b). • An area variance related to total side yard setbacks per §200-15. The proposed total side yard setback is 18', 20' required, 2.6' of relief is requested. 25+/- 'existing. • An area variance related to §200-15 related to side yard setback. The proposed side yard setback (northwest) is 3.1', 8' is required. 4.9' of relief requested. • An area variance related to shoreline setback per both §200-15 and §200-37B for shoreline setbacks and the removal of vegetation near a stream (10') respectively. The proposed shoreline setback is 6.3', 50' is required, 43.7' of relief requested. 12.5' existing. Zoning District GB5000. SBL 171.15-1-39. Location: 19 Horicon Ave. Subject to APA, WCPS and LWRP Review.

Gregg Malanga stated that they would like to put on a small bathroom and laundry room addition to expand the bedrooms. They would also like a deck addition on the back to allow access to the home and give them a little outdoor space.

Jason Saris asked if this would be exempt from the APA shoreline setback due to the fact that it was within the hamlet. Atty. Reichenbach stated he believed that was correct.

Jason Saris asked if they had explored other options to reduce the setbacks. Mr. Malanga stated they had, and this was the most practical option for them to get a little more livable space in this existing 600 sq ft. home. Jason Saris stated that it looked like the only way they could expand without further

encroaching into the setbacks would be where the porch is. Mr. Malanga stated it would be closer to the wet area and they wanted the bathroom here, so that they did not need to walk through the bedrooms to get to the bathroom.

Jason Saris asked if they had any mitigating engineering to negate any stormwater from going into the stream. Mr. Malanga stated currently there are only gutters on the front of the house and stated they were open to anything to help mitigate any impacts. They want to keep this very minimal, and they are not looking to disrupt anything. The addition and deck are being placed in open areas.

Chris Navitsky, Lake George Waterkeeper stated that the protection of stream corridors is the most important way to protect Lake George's water quality since streams convey 55% of the water to Lake George. Therefore, they will advocate for the protection of stream corridors. It is recognized the variance request is minimal for bathroom addition; however, the variance request for the deck is unnecessary. The need for the deck, to provide direct connection from the house to the rear yard could be accomplished with a smaller deck. This would allow for a small natural buffer to remain and prevent the continual sacrifice of our important stream corridors while allowing access to the rear yard. He said he would be glad to work with them if they wanted ideas on stormwater management.

Henry Caldwell stated stormwater controls would certainly be a good idea. Mr. Malanga stated they were fine with that.

Jim Senese asked Mr. Navitsky to clarify what he was looking for on the deck. Mr. Navitsky detailed it on the plans and stated that if the deck dimension was cut back on the eastern side, it would still allow access to the backyard and provide more of a buffer. Mr. Malanga stated they would be good with that. Jason Saris stated this would certainly reduce the setback encroachment.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Gregg & Susan Malanga (V22-19) 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.

The benefit could not be achieved by other means feasible to the applicant besides an area variance. It is a small narrow lot with a stream, and they are not asking for that much of an addition and they are doing what they can.

There will be no undesirable change in the neighborhood character or to nearby properties. This is an update to the house and mostly done toward the back of the house.

The request is not substantial.

The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are moving the stairs further away from the brook.

The alleged difficulty is not self-created. This is 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 Dan Sheridan and seconded by Jim Senese, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions: 1. The stairs are to be moved away from the stream and the deck perimeter reduced to the eastern edge of the existing structure. 2. A minor stormwater plan is to be approved by the Planning Office. 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. V22-21. F. R. Smith and Sons Marina;** The applicant seeks two area variances to alter and reconstruct a preexisting, non-conforming structure (storage building) per §200-57(B)(1)(b). The applicant also seeks an area variance related to §200-15 related to setbacks; the proposed replaced structure will have a 0' shoreline and 0' side yard setback; 50' shoreline and 8' side yard setback required; total of 50' and 8' of relief requested. 0' shoreline and 0' side yard setback currently exists. The new building will occupy a portion of the existing footprint (northeast), the remaining footprint will be for stormwater management and open working space. Zoning District GB5000. SBL 171.15-3-56 and 171.15-3-58. Location: 36 Sagamore Rd. Subject to APA, WCPS and LWRP Review.

Scott Olsen, Partial Owner & General Manager of F.R. Smith presented the following:

- The project started with the evaluation of the whole property.
- They realized that the best building on the property was the shop.
- The problem with this shop was the building sitting in front of the shop limited mobility to get the boats in and out it and has for 100 years.
- They would like to remove this building and make the access to the front of the shop a little more manageable.
- This will also help solve a big piece of the stormwater problems that they have.
- They also need to replace the dock and would like to make it narrower, in doing this they would need to move the store off the dock.
- They would need to add a small building off to the side for the rental office and store, which would be significantly smaller than what presently exists.
- Everything about the proposed project is to make everything smaller and dramatically improve the stormwater for the entire facility.

Tom Jarrett of Jarrett Engineers detailed the stormwater mitigation plans to the Board and explained the trench drain and raingardens intended to capture the stormwater for treatment.

Jason Saris stated that the Board had no jurisdiction on the dock portion of the plan. He said he certainly sympathizes with the applicant as he has seen them jockeying boats to try and get them into the shop.

Jason Saris asked about the launch area and if it would remain the same. Mr. Olsen replied at this time yes. Jason Saris asked if the docks would be affected by the plan. Mr. Olsen said the only dock to be changed would be the gas dock.

Jason Saris asked if they would be re-grading the hill at all. Mr. Olsen replied that they would only be pitching the driveway for the stormwater to access the trench across the site. Jason Saris asked if they

would be leveling the outdoor work area. Mr. Jarrett stated the retaining wall would be 4' above the dock elevation. That area would be level.

Correspondence:

- No County Impact with Informal staff comments.

Tom Jarrett stated that the stormwater would flow from the trench through the crushed stone to remove the sediment before it reaches the rain garden. He stated the rain garden would not need cleaning for many years. Mr. Olsen stated the trench across the driveway would be cleaned out regularly.

## **RESOLUTION**

The Zoning Board of Appeals received an application from F.R. Smith & Sons Marina (V22-21) 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.

The benefit could not be achieved by other means feasible to the applicant besides an area variance.

For the purpose that have been discussed and stated it makes sense to approve.

There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement to stormwater drainage and a new smaller building.

The request is not substantial.

The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The alleged difficulty is not self-created.

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 by Lorrain Lefevre, 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.**

## **Appeal**

- 3. Fortuna;** Mr. Fortuna seeks to appeal a Second Notice of Violation and Order to Remedy from the Zoning Administrator, dated June 23, 2022, related to an Order to remove all items from the Brookside Parkway right of way (trailers, stumps, rocks, etc.) to allow the installation of the storm water management plan as approved by the Town. Zoning District RL3. SBL Location: 18 Brookside Pkwy.

The Board discussed making a determination to table the appeal with the stipulation that they would be acting on the appeal at the September 2022 ZBA meeting.

David Kneeshaw inquired about the lack of ownership of the property by the appellant. Atty. Reichenbach explained that the Zoning Administrator had provided an order with an order to remedy

for an interference with a stormwater management plan with the town, to enter into with the property owners. Mr. Fortuna owns neighboring property. The allegation from the Zoning Office is that he has interfered with the stormwater plan. The order was to stop the interference with that plan and take certain action. This is a subdivision and Mr. Fortuna is interfering with the stormwater plan which is prohibited by the Stormwater & Erosion Control Regulations. The order was to stop the interference. The ownership of the property is not an element of the violation of the regulations.

Dan Sheridan asked about the notification to the appellant. Atty. Reichenbach stated that he believes there were two prior notifications, but this one was given on June 23, 2022 and signed for by the appellant.

**RESOLUTION**

Now, upon motion duly made by Dan Sheridan and seconded by Jim Senese, it is resolved that the ZBA does hereby approve the applicants request to table this item to the September 13, 2022 meeting with the understanding that the Zoning Board will act on this appeal at that meeting whether the appellant appears at the meeting or not. **All in favor. Motion Carried.**

The meeting was adjourned at 6:47 PM  
Minutes respectfully submitted by Kate Persons