

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, July 11, 2023
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, Dan Sheridan, David Kneeshaw, Jim Senese, Willie Bea McDonald, Robert Kennedy, Alternate - Lorraine Lefevre, Director of Planning & Zoning - Joshua Westfall, AICP & Town Counsel – Brian Reichenbach

Absent: Joy Barcome

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 June 13, 2023 minutes.

RESOLUTION:

Motion by James Senese to approve the June 13, 2023 minutes as presented. Seconded by Robert Kennedy. **All in Favor. Motion Carried.**

New Business

- 1. V23-15 Vacations by Quality PM, LLC.** Applicant seeks an area variance from §208-15 related to the construction of a new “vacation rental “structure and accessory garage. Specific variances include: Front Yard Setback (From Private Easement) – Existing: - 1.4’ (existing cabin south of proposed structure). Proposed 0’. Required 30’. Relief Requested: 30’. Zoning District GB5000. APA Land Use Classification: Hamlet. SBL 171.16-1-2. Location: 39 Sagamore Road. Subject to WCPS, SEQRA and LWRP Review.

John Hitchcock of ABD Engineers, LLP presented the following:

- There are 2 existing structures at the south end of the lot.
- They are both rental cabins with access off Sagamore Road.
- There is a 33’ existing access easement that runs up the west end of the property allowing access to the adjacent properties to the north.
- There is no buildable area if you meet the easement setbacks.
- The south cabin is already located a foot into the easement.
- They are planning to build a cabin in the northwest corner right up to the easement which would be a 0’ setback.

Jason Saris asked if this project would require a density variance. Director of Planning & Zoning Josh Westfall explained that it did require a density variance which he had informed the applicant, but they opted to come tonight for the setback variance and come back in August for the density. Jason Saris explained to the Board if they preferred to hear both variance requests at the same time, they had the option to table the application. The Board discussed this and decided that it would be better to table the application.

Mr. Hitchcock stated that they are also here tonight to get the Boards input on this project.

James Senese inquired about the easement. Mr. Hitchcock explained that the easement was for access, egress and ingress. The adjacent properties to the north have the right to use it. Mr. Hitchcock said it was a 33' common access.

Willie Bea McDonald asked if the easement allowed the applicant the right to continue up the road up to the Gage property and back around, or only to their own property. Mr. Hitchcock stated that the owner has an easement for lakefront rights. Mr. Biche stated that they did, but he did not know why they would have any reason to. He detailed the right-of-way on the site plan for the Board.

Jason Saris stated that he believes the request for 100% is substantial, which is a concern for him. He also believes this is self-created, which the application states it is not.

David Kneeshaw stated that the 25' x 20' garage was a substantial size for such a small piece of property. Mr. Hitchcock stated that was the depth of a parking space and some equipment. Mr. Biche stated that this would allow for parking a vehicle and an area on either side for storage.

Robert Kennedy asked if they would be blasting. Mr. Biche said he was unsure at this time, but the way the home is designed they would not need to.

Robert Kennedy inquired where the front entrance would be. Mr. Biche stated that the front door would be toward the road going in, but in reality they would not use that door much.

Dan Sheridan stated that he has concerns with the right-of-way and the need for it to be more accessible for emergency vehicles. Mr. Biche stated that there were already more houses beyond them. Dan Sheridan replied that those could be easily accessed by the back entrance. Mr. Biche stated he liked it this way so that people were not driving too fast on it.

RESOLUTION:

Now, upon motion duly made by Jim Senese and seconded by David Kneeshaw it is resolved that the ZBA does hereby table this application for additional information. **All in favor.**
Motion Carried.

2. **V23-17 Seamans.** Applicant seeks an area variance from §200-14 related to principal structure density for the subdivision of a 5.11-acre lot into two buildable lots. The subdivision will result in two conforming lots per §200-15 (1 acre). Zoning District RR5. APA Land Use Classification: Rural Residential SBL 199.06-1-1 Location: 4 Woodland Lane. (Wood View Lane) Subject to APA, WCPS, SEQRA and LWRP Review.

Dan Sheridan & Robert Kennedy recused themselves.

Andrea and Brett Seamans presented the following:

- This all started when the adjacent property was subdivided.
- They were told that the zoning had changed so they decided to subdivide, which has caused the need for this variance.
- They had the property surveyed and filled out the application.
- They were told that an error was made, and they would need a variance.
- In the meantime, they have sold their property on Coolidge Hill Rd. which they were planning on building a smaller home that would be more manageable in their retirement and would be easier to access.
- They were then told the lot that they want to subdivide is not compliant.
- They plan to build a smaller more manageable home on the other side of their property which is located on the other side of the right-of-way.
- They meet all the setbacks, but they are a bit short on the size of the parcel.
- Their neighbors have concerns with the thought that they would be clear cutting, which they are not going to do.
- There are no wetlands.
- They will be using the existing right-of-way to minimize disturbance from the road.
- They have no intention of doing anything to the property line and would be adding shrubbery and trees to the back of the lot.
- They want to maintain their privacy as much as the neighbors do.

Jason Saris asked about the zoning change for the total lot zone. Director of Planning and Zoning Josh Westfall stated he had looked at the RL3 zoning district, which is a 1 acre minimum lot size, but the density requires 1 principal building for every 3 acres. Jason Saris asked for the total lot size. Josh Westfall stated it was a 5.11 acre lot. Willie Bea McDonald asked if it was 5 acre zoning. Josh Westfall stated that it was 3 acre zoning. Willie Bea McDonald stated that they were short less than an acre.

Willie Bea McDonald asked if they would be building toward the front of the building envelope toward the road or to the back. Mr. Seamans stated midway. Mrs. Seamans stated they would definitely maintain the wooded privacy between the properties. They handed out photos to the Board depicting the neighboring properties and the foliage.

Jason Saris stated that if this was subdivided into a 1 acre lot and a 4.11 acre lot, it would be more compliant. Josh Westfall stated that this was here for density. Willie Bea McDonald stated they did not have enough total acreage.

Jim Senese asked if they would be required to come back for any additional variances. Josh Westfall replied, no.

Dan Sheridan, neighboring property owner read a letter of opposition to the Board.

- He said that this is RR5 not RL3 zone.
- They meet the minimum requirement but not for a house.
- They need 5 acres for a principal structure unless they receive a variance.
- This lot is undersized for the existing home.
- This is 3.5 acres shy of the 5 acre requirement.
- This variance request is significant and substantial in his opinion.
- This project substantially increases density in this area.
- The benefit can be achieved by other means.
- This will produce an undesirable change to the neighborhood.

Correspondence:

Letters of opposition for the project were received from the following neighbors:

Dennis & Jean Carol

Don & Cheryl Rafferty

Tom & Jodi Sheridan

Andrea Seamans stated that the hardship was that they were told that they could subdivide the property by the Planning Office. They have since sold their other buildable parcel of property because of this information and now that they have done this, they are being told that they were misinformed and now need a variance. This is their only option. They will not be cutting trees between the properties. They have always maintained their home and they feel this situation is unfair to them. With respect to the Board, she would hope that they will see that this is pretty much their only option.

Willie Bea McDonald asked if the right-of-way was changed at all from the original. Mr. Seamans stated that it was widened somewhat a year ago. He said that this has negatively increased the speed traveled across the right-of-way. Dan Sheridan stated that they had widened the easement from 12' to 20'. Dan Sheridan stated they did widen the driveway from 12' to 20', not 50'. They exposed a rock wall that had been buried forever. The stormwater drainage is a problem, and this is why they trenched the side of the easement.

James Senese asked if they were told by the Planning Office that they could subdivide. Mrs. Seamans stated that they met with Josh Westfall and were told they could subdivide. They met with Josh and Bob Kennedy and again asked if they were sure they could subdivide. They were told repeatedly that they could, which then prompted them to sell their other parcel of land and they had this parcel surveyed for subdivision and filled out the paperwork so they could eventually build a new retirement home for themselves. They came back to the Planning

Office to see how the project was progressing and were told that the office had made a mistake and they now required a variance. Jim Senese asked when this meeting took place. Josh Westfall stated they initiated the talks last summer and they met this May about the application.

Jason Saris asked if there were any legal obligations if the Town makes a mistake. Atty. Reichenbach stated that the law was very clear that a mistake made in good faith of judgement by a municipal official is not actionable. As the ZBA they are entitled to take this into account when they determine whether the hardship was self-created or not. Clearly anything that was an error from the municipality is not self-created. The Boards actions are not dictated by this and they still need to consider the normal factors.

Willie Bea McDonald asked about adding something in the deed to maintain the trees along the property line. Mr. Seamans stated that he would have no problem with that.

David Kneeshaw asked if the house could be pulled forward toward the road. Mrs. Seamans stated that they would certainly be willing to move the house forward.

Willie Bea McDonald inquired about the setback. Mr. Seamans stated that it was a Scenic Corridor and a 75' setback. Mr. Seamans stated that they could definitely move the home closer to the front so they would not need to remove any trees from the back of the property.

The Board discussed the project and possible conditions of approval.

Jason Saris said he would consider the project self-created and somewhat substantial, not that either of those reasons on their own are reasons for denial. He is not so sure he agrees with the answers. Lorrain Lefevé stated that the applicant was acting in good faith, and they don't deserve to be penalized. She believes that it should be approved with conditions to protect the neighbors. Jim Senese stated that due to the conflicting information the applicant was given, which started them on an action plan, he believes that they should rule in favor of the applicant with conditions. Mrs. Seamans stated that their hardship was the need for a one story home as their current home has multiple stairs. This smaller single story home will be much easier for them to access and maintain in their old age.

Atty. Reichenbach stated building the proposed structure outside the building envelope would require another variance. The proposed building could be pushed to the edge of the building envelope though. Jason Saris asked about clearing. Mr. Seamans stated that they would clear for the 20' building envelope and the septic system. David Kneeshaw inquired if the septic could be moved to the front of the house to minimize the clearing. Mr. Seamans stated that there would be at least 50' of trees between the septic and the back lot line. They do not want to see the neighbor's property any more than they would want to see theirs.

Dan Sheridan stated that 300' of trees is not very much and 50' is nothing. He subdivided his property, and he met all of the Town's setbacks and requirements.

Cheryl Rafferty stated that their properties are very nicely landscaped, and they have nice looking well upkept properties and homes.

Jim Senese stated that he is hoping the neighbors can work things out. Willie Bea McDonald stated that this does not always work, and she believes that they need conditions for the approval.

No County Impact

RESOLUTION:

The Zoning Board of Appeals received an application from Seamans, (V23-17) 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. This is the only option for the applicant to build their desired home.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The applicant has conceded to move home forward and maintain wooded buffer.
- 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 applicant has indicated that they will maintain a wooded buffer between the properties.
- 5) The alleged difficulty is not self-created. The applicant desires a single level structure as they age.

In weighing the factors, 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 David Kneeshaw it is resolved that the ZBA does hereby approve the variance request as presented due to ambiguous information from the Zoning Office with the following conditions;

1. Structure must be built at the very front of the building envelope.
2. There are to be no trees cut within the 50' rear setback.
3. Hedge is to be built for screening purposes at the rear edge of the allowable clearing envelope.
4. No cutting of trees beyond the 20' building envelope in accordance with §200 of the zoning code.

It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. Jason Saris opposed. **All others in favor. Motion Carried.**

The meeting was adjourned at 7:20PM
Minutes respectfully submitted by Kate Persons