

**Town of Bolton  
ZONING BOARD OF APPEALS  
MINUTES  
Tuesday, April 14, 2015  
6:30 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:** Jeff Anthony, Jason Saris, John Famosi, Matthew Slaughter, Holly Dansbury, Michael Calautti, John Whitney, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

**Absent:** Tom McGurl & Donald King,

The meeting was called to order at 6:31 pm.

Jason Saris asked if there were any corrections or changes to the March 17, 2015 minutes.

**RESOLUTION:**

**Motion by** John Whitney to approve the March 17, 2015 minutes as presented. **Seconded by,** Holly Dansbury. Jason Saris abstained. **All others in Favor. Motion Carried.**

- 1) **V14-49 LUDWIG, MICHAEL.** To allow an 18.10' x 10.8' storage building to remain in its present location, seeks area variance for deficient front yard setbacks. 50' is required. 48.7' is proposed from Thunderbird Road and 36.6' is proposed from Brereton Road. Section 213.13, Block 1, Lot 20, Zone RCM1.3. Property Location: 1 Thunderbird Road. Subject to WCPS review. This item was tabled at the December 2014 meeting at the applicant's request. This item was tabled at the March 2015 meeting as no one was present to present the application.

\*This item was heard last on the agenda\*

The applicant was not present. Atty. Muller stated that the town had notified Mr. Ludwig by personal service, certified and first class mail that he was required to attend tonight's meeting and if he did not appear the Board was going to proceed on the applications merits. He recommended that the Board proceed because the town needed a final resolution on this problem.

Atty. Muller read the following responses on the variance application from the applicant.

- 1) How can the benefit be achieved by any other means feasible to the applicant besides an area variance: the applicant stated he could buy several smaller sheds and put them 3' apart which will be a greater visual impact.

- 2) How will the project not produce an undesirable change in the neighborhood character or to nearby properties. The applicant responded that having a single slightly larger shed is far more desirable than 3 or 4 smaller sheds.
- 3) Is the request for the area variance substantial; the applicant replied no, he is very close to the required setbacks and there is no other logical place to put the shed.
- 4) Will the request have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the applicant replied no, the shed is set on the ground and no excavation was required or effects on drainage.
- 5) How is the alleged difficulty self-created; the applicant stated that he had a large amount of equipment for construction and property maintenance. His garage is already full and he requires dry space for storage and it is difficult on a corner lot.

Jason Saris asked if the applicant had any input as to why this was after the fact. Atty. Muller stated that the Planning Office alerted him to the setback violations after receiving complaints from other people of activities that were going on at the site. He stated that to the best of his knowledge these activities had ceased.

Jason Saris said he assumes the applicant was just unaware that a variance was required. Atty. Muller stated he believes the applicant was unaware that there was any setback for an accessory structure, but he has been well informed at this time of what the setback is now.

Holly Dansbury asked why the applicant was not present. Atty. Muller stated he could not speculate but the town has given him many chances.

John Whitney stated that if the business the applicant was operating was a dock manufacturing business, multiple smaller sheds would be useless. He said the point of the bigger shed was about the business which he is not even operating today.

Jason Saris asked if the Board wanted to proceed with the applicant being absent.

Jeff Anthony asked what the Town would do if this variance was denied. Atty. Muller stated that they would notify the applicant of the action that the Board had taken and he would then have the right to appeal it. He explained after the time for appeal had ran out the town would then enforce it and require he meet the setbacks by moving the structure to the proper location.

Jason Saris asked the Board if they were ready to move forward on this application. They replied that they were.

The Board decided to address this application last.

Jason Saris stated that he was unclear as to why they were doing this after the fact and if the applicant was unwilling to work with the town or if he was unaware of the zoning regulations and he is not at all sure that it can't be placed in a more compliant area. Holly Dansbury stated she feels that if the applicant does not even show up to present his justification or reasoning the Board needs to move forward. John Whitney stated if the Board has questions they have to make assumptions if the applicant is not present. Jeff Anthony stated that if an

applicant can't appear before the Board and rationalize why he wants a variance and answer questions he is not in favor of granting the variance. John Whitney agreed and said especially if the applicant could easily remediate it; they need to know the reason it can't be done. He stated this is one of the primary parts of the motion.

Atty. Muller read letters from Sherry Yattaw requesting postponement and stating her concerns and request for denial of the variance.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Michael Ludwig, (V14-49) 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 Board makes the following conclusions of law:

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

- 1) The benefit could be achieved by any other means feasible to the applicant besides an area variance: The applicant can also move the shed.
- 2) There will be undesirable change in the neighborhood character or to nearby properties. The location of the existing shed is violating the side yard setbacks causing undesirable change.
- 3) The request is substantial; there may be a more logical place to put the shed but the applicant is not here to answer any questions.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this is probably true.
- 5) The alleged difficulty is not self-created; a variance should not be granted on personal needs but must be granted on its merits.

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 Jeff Anthony and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby deny the variance request as presented. **All in favor. Motion Carried.**

- 2) **V15-11 LUCAS, WARREN & SUSAN.** To alter non-conforming single family dwelling, specifically to add a two story addition on the north side which includes a one bay garage with bedrooms on the second floor, seek area variance for 1) Deficient setbacks: Front. 30' is required, 16.5' minimum is proposed. Side: A total of 20' is required, 15.8' is proposed; and 2) to alter a non-conforming structure in accordance

with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 88, Zone GB5000. Property Location: 12 Congers Point South. Subject to WCPS review.

Warren Lucas presented the following:

- This house is in Congers Point.
- There is no garage or furnace room.
- There is a second story loft.
- They are looking for storage and to make the house look better.
- The Association was for this project.
- They looked at doing it on the other side but there is no room.
- It is an odd shaped lot.
- He detailed the setbacks on the plans.
- This will be more in character to the other homes in the neighborhood.
- This will give them the room for storage they need and an extra bedroom.
- There is no difference in the outside elevations
- The roof line is lower than the existing roof line.

Jason Saris asked how big the house is presently. Mr. Lucas stated 1,173 sq. ft. He stated they would be adding 792 sq. ft.

Jason Saris asked if they were required to implement stormwater. Zoning Administrator, Pamela Kenyon stated if he was creating less than 1,000 sq. ft. of new impervious they would be exempt.

Holly Dansbury asked about sewer and water. Mr. Lucas replied that they were on town sewer and water.

Matthew Slaughter asked if the addition was on the lakeside. Mr. Lucas replied it would be going on the north side.

John Whitney asked about the right of ways and driveways. Mr. Lucas detailed them on the site plan.

Atty. Muller read a letters and e-mails in support of the project from the following:

Congers Point Association

McCleery's

Rich Moccia

Ned Berkowitz

Pat Cianci

## **RESOLUTION**

The Zoning Board of Appeals received an application from Warren & Susan Lucas, (V15-11) 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 Board makes the following conclusions of law:

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

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: because of the way the house is situated on the property.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement.
- 3) The request is not substantial; it is small enough when you take in the existing character of the neighborhood.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the stormwater requested will help alleviate that.
- 5) The alleged difficulty is not self-created; this home is in need of a garage and the pre-existing structure does not allow for this without a variance.

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 Matthew Slaughter and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition 1) a minor stormwater plan is to be implemented. **All in favor. Motion Carried.**

- 3) **V15-12 LOUBRIEL, RICHARD (ROGER MONROE).** Represented by Bret Winchip Engineering. For the construction of a proposed single family dwelling and associated driveway, seeks area variance for 1) In accordance with Section 125-10.B.2.c of the stormwater regulations, a 100' separation between an infiltration device for a roadway and a wetland is required. 34' is proposed for stormwater treatment area #1, 53' is proposed for area #2 and 4' is proposed for area #3; 2) In accordance with Section 200-46B(10) Soil Erosion Standards, 6' maximum cut and fills are allowed for all construction with the exception of a basement, a 15.5' maximum cut is proposed and 9' maximum fills are proposed; 3) In accordance with Section 200-51C(2), 20' clearing limits are allowed outside the area of the foundation. 110' maximum is proposed. Section 199.00, Block 1, Lot 13.12, Zone LC25. Property Location: Wall Street across from Monroe's auto shop.

Zach Monroe of Winchip Engineering presented the following;

- This is for the construction of a single family dwelling.
- There is a giant wetland that has to be crossed to get the building location.
- There is an existing crossing from the 1800's which the town had put a bridge over.
- They are rehabilitating this wetland crossing.
- They have obtained permits from the Army Corps of Engineers and DEC.
- APA has no further comments on the crossing.
- The house will be constructed on the side of a hill away from the wetlands.
- The cut and fill are for the walk out basement and to make the area flat for a pool.
- The 9' of fill is for the driveway leading to the house location.
- The setbacks variances for the stormwater controls are because they are trying to catch as much of the impervious runoff as they can. In order to do this they have to put the infiltration areas right near the wetlands to catch as much of the driveway as they can.

Jason Saris asked why they would need to clear so much. Mr. Monroe stated one reason was to open up and make a flatter area around the home and the owner also does not want to worry about any trees falling on his home. He stated that the 110 ft. is the maximum and the average is about 55'.

Jason Saris stated that he was not an engineer but he would assume that the setbacks for stormwater from the wetlands was that they may not be as effective being so close and so they would not damage them. Mr. Monroe stated they are trying to capture as much of the runoff from the existing crossing and if they met the setbacks there would be 100' on each side of the driveway that would be running directly into the wetland. He stated putting them closer to the wetland would allow them to treat it before it went to the wetlands. Jason Saris asked if they anticipated ground water being a problem having it that close. Mr. Monroe stated that they had done test holes in the areas of all the infiltration basins and determined the depth of the ground water table under 2' above it with the bottom of the infiltration basins.

John Whitney asked Mr. Monroe to show the clearance on the plans. He asked if there was also clearance in excess of 20' beyond the pool and if it was to create a view. Mr. Monroe stated it was in excess of 20' but it was not for a view. He stated that by doing the 16' cut and flattening out the area they would essentially be lowering the house and tucking it behind the trees. He stated there was no view.

Holly Dansbury asked for clarification as to why the house had to be placed where they have it. Mr. Monroe stated it was due to the elevations and wetlands in the other areas.

Jeff Anthony inquired about test pit 4 in the septic disposal area and how the A.P.A. would allow only a seasonal high ground water table of 20" when they require 42". Mr. Monroe could not explain it. He said he would need to check it out, and he could not understand how the Town Engineer did not catch it. He stated he was not there when the test holes were done.

Zoning Administrator, Pamela Kenyon asked Jeff Anthony what separations he was saying were required. He replied depth to ground water at the waste water location. He stated that the A.P.A. required 42". Mr. Monroe stated that the A.P.A. required 24" to ground water and 48"

to bedrock. Pamela Kenyon stated the Town of Bolton required 2". Mr. Monroe stated the A.P.A. was not reviewing the waste water, and their only jurisdiction was the wetland crossing. Jeff Anthony disagreed with this statement and said if there is a wetland impact it automatically is reviewed by them as a Class A project. Pamela Kenyon agreed and said the house would be under A.P.A. jurisdiction because of the wetland. They went over the December 5<sup>th</sup> letter from the A.P.A. Mr. Monroe stated he really had to check on the test pit, if he really believes it is mislabeled on the plans.

Jason Saris asked if there was any correspondence. Pamela Kenyon stated that the Tom Nace had signed off on the project.

John Whitney suggested tabling the application for clarification on the water issue and ask for alternative options for clearing. The Board discussed this and agreed.

Mike Calautti asked for clarification as to why the needed 450% variance on maximum clearing for trees possibly falling on the house. Mr. Monroe stated it was a combination of trees being removed around the house to open it up and to level it out and to make the back yard level and get the waste water where it is, pushing it out for the grading.

Holly Dansbury asked if they would be willing to try to minimize this expansion. Mr. Monroe stated that they already have and they will be able to reduce it some.

Jason Saris stated that they could also replant and regrade.

Jeff Anthony asked if the Board would like to see a proposed planting plan. The Board said yes.

Jeff Anthony asked if the project was over one acre. Mr. Monroe replied yes they would have a DEC SWIFT coming.

## **RESOLUTION**

Now, upon motion duly made by John Whitney and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby table the variance request for additional information;

- 1) A planting plan and/or reduced clearing.
- 2) Clarification of the test hole.

**All in favor. Motion Carried.**

- 4) V15-13 TONN, ROBERT & KATHLEEN.** To alter non-conforming single family dwelling, specifically to add a proposed 2 story addition to accommodate a kitchen, mudroom and two bay garage on the first floor and a master bedroom/bedroom on the second floor, seek area variance for **1)** a deficient front yard setback. 50' is required, 46' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57 B (1) (b). Section 185.19, Block 1, lot 21, Zone RCL3. Property Location: 31

T.L.V. Road. Subject to WCPS review. *NOTE: See V12-10 that has expired for previous approvals.*

Robert Tonn presented the following:

- They built the house in 1987 and their family has expanded.
- They would like to retire here in a few years.
- He has been before this Board twice before with bigger versions that have been approved.
- They have now reduced much of what they had originally been looking for.
- The setback is 46' now; it was originally going to be 33'.
- They will be using the original driveway now as opposed to moving it.
- There is master bath going upstairs.
- As far as the neighbors are concerned he is the last house in and he is not going toward any other homes.

John Whitney asked if Mr. Tonn had stated that he would not have asked for the additional 4'. Mr. Tonn replied he did not realize the setback and he could have pushed the whole project back originally.

Atty. Muller read a letter from Ryan Case in support of the application.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Robert & Kathleen Tonn, (V15-13) 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 Board makes the following conclusions of law:

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

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance: construction is going on the side of building that has the most available area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. it will be an improvement and allow for better function of the home.
- 3) The request is not substantial; it is about 10% and construction is not increasing the variance.
- 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 original structure was pre-existing non-conforming.  
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 John Famosi and seconded by Mike Calautti, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

The meeting was adjourned at 7:37pm.

Minutes respectfully submitted by Kate Persons.