

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, October 18, 2016**  
**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, Joy Barcome, Tom McGurl, Holly Dansbury, Lorraine Lefevé, Alternate Carla Cumming, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

**Absent:** John Whitney & Jeff Anthony

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

Jason Saris asked if there were any corrections or changes to the September 20, 2016 minutes.

**RESOLUTION:**

**Motion by** Lorraine Lefevé to approve the September 20, 2016 minutes as presented. **Seconded by,** Joy Barcome. **All in Favor. Motion Carried.**

1. **V16-37 STROLLO, DONALD.** Represented by Geff Redrek. To demolish and rebuild existing retaining walls and stairs, seeks area variance for deficient setbacks. 1) Side. 20' is required, 14' is proposed; and 2) Shoreline. 75' is required, 52' is proposed. Section 200.18, Block 1, Lot 3, Zone RM1.2. Property Location: 4216 Lake Shore Drive. Subject to WCPS and APA review. This item was tabled September 20, 2016 pending additional information.

Geff Redrek presented the following:

- They have an existing set of pressure treated timber retaining walls that incorporate a set of wooden stairs which are somewhat dangerous and encroach into the setbacks.
- They are at the end of their life span; their goal is to replace them with boulder retaining walls.
- Code Enforcement Officer, Mitzi Nittmann has suggested that they are not technically retaining walls, they are actually more of a rip rap material. The definition as she understands it is that a retaining wall is slightly different because these boulders will have pockets of earth in between them where they will be able to plant creeping ground cover to soften the look of the wall or rip rap. They are really looking at these as more of a natural rip rap with vegetation in between as Ms. Nittmann has suggested, not a retaining wall.
- The goal is to incorporate a set of natural stone stairs 8" thick, 5' wide with a 14" tread depth.
- They are reducing the wall location from the side line setback where it currently stands to give them access to the front yard.

Jason Saris asked if Mr. Redrek was suggesting that they were not actually retaining walls because of the new make-up of them. Mr. Redrek stated that it was not his suggestion it was a request by Ms. Nittmann that he ask that question and get a interpretation as to what is a wall and what is rip rap, because when he was having meetings with her, she was unclear as to what the definition was. Zoning Administrator, Pamela Kenyon asked if the plans had changed since he had met with her. Mr. Redrek stated they had not. Ms. Kenyon replied that they are considered walls. Jason Saris asked what made them walls as opposed to rip rap. Ms. Kenyon stated they did not have anything specific, it is always case by case basis, but if it is stepped back, it is usually considered rip rapping. Mr. Redrek stated it was going to be stepped back, so that is where the question arose. Ms. Kenyon stated if it was stepped back, she would need to look at it, she understands revised plans were submitted while she was away and she could not make a judgement right now. Mr. Redrek stated the only change to the plans were relative to the area of disturbance for stormwater as the Board requested at the last meeting. Jason Saris stated he is asking the question because he needs to know whether they need relief for what they are doing or not. Ms. Kenyon stated she would like to leave it as considered a retaining wall.

Carla Cumming asked about the earth disturbance on the right hand side, and if they were looking for a variance on that side for steps. Mr. Redrek stated they were not asking for a variance for that side, it was not needed.

Tom McGurl asked about the proposed impervious for car parking and if they were adding the impervious to that area. Mr. Redrek said no they were actually decreasing the impervious area and detailed the calculation formula, stating there was a total of net decrease with impervious.

Jason Saris stated that last month Jeff Anthony had concerns with stormwater concerns, but he is not here tonight.

Holly Dansbury asked if they were extending the patio further than what exists. Mr. Redrek replied no, they were actually making it smaller in size. Holly Dansbury asked if it requires the setback variance. Zoning Administrator, Pamela Kenyon stated it was only the wall and the stairs.

Jason Saris asked what the practical difficulty was. Mr. Redrek stated it was a pre-existing non-conforming structure that they needed to replace because the walls were rotting. If it is not replaced it will undermine the existing trees, they are hoping to use the boulders that they can incorporate vegetation into so they will not have to come back again to replace it, when the timbers start to rot again. Jason Saris asked why they needed a wall. Mr. Redrek stated that the neighbor's property is significantly higher and the wall is holding and supporting the root system and vegetation. If they remove it, this vegetation will erode and fail.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Donald Strollo, (V16-37) 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 an existing location and a means to get from the front to the back yard.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement with natural landscape.

3) The request is not substantial. It is reconstructing what is already there.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will correct some rotting timbers and make it a more natural setting.

5) The alleged difficulty is not self-created; this is a pre-existing non-conforming wall. The rotting timbers need to be replaced and the wall is required for the difference in elevation from the neighboring property. The new stairs will allow safer passage from the front to the rear of the property.

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 Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

2. **V16-39 MILLER, JOHN.** Represented by Stephen Jung. To convert second story two apartments into one apartment and add a second story deck, seeks area variance for deficient setbacks. 1) Front. 30' required, Goodman Ave. 23'6" proposed, Lakeshore Drive 11'4" proposed. 2) Side. Total 20' required, 19' 8" proposed; and 3) To alter a non-conforming structure in accordance with Section 200-57 B1(b). Zone GB 5000. Property Location: 4941 Lakeshore Drive. Section 171.19, Block 1, Lot 84. Subject to WCPS review.

Stephen Jung presented the following:

- They would like to take the existing two apartments and convert them into one larger floor plan.
- They would also like a deck for the street side.
- The deck does not go past the existing bay windows on the front of the building.
- The deck would be accessed by sliding glass doors.
- They are also proposing a couple of new windows.
- He detailed his plans for the deck on the site plan.

Lorraine Lefevé asked if the railing would be going completely across the front, and if it would be also going on the side of each of the sliding glass doors. Mr. Jung replied that this was correct and detailed them on the plans.

Lorraine Lefevé asked about the new sky lights depicted on the plans were going to be roof level. Mr. Jung stated they would be curbed just enough to keep the water from running in. Lorraine Lefevé stated she thought it would look nice.

Jason Saris asked if the footprint would basically stay the same. Mr. Jung stated that was correct.

Holly Dansbury asked if they had considered putting the deck off the back. Mr. Jung stated the applicant really wanted the atmosphere of sitting out on the front. He stated they would need supports in the back that would cut into the very limited parking they have back there.

Holly Dansbury asked if they planned on grilling on the deck as it is close to the entrance of the stores below. John Miller, from the audience stated they would not and that it was not close to the business entrances, it was close to the apartment entrance.

Jason Saris asked what the dimensions for the deck were. Mr. Jung stated 5' x 21'.

Jason Saris asked if there were plans to ever extend the roof out over it. Mr. Jung replied not to his knowledge.

Jason Saris stated 5' was pretty modest. Holly Dansbury stated that it was unusual to have a deck above a retail space and she has a few concerns about it.

Lorraine Lefevé inquired what the lighting would be. Mr. Jung stated it was required to have lighting on the deck.

No County Impact.

## **RESOLUTION**

The Zoning Board of Appeals received an application from John Miller, (V16-39) 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: due to the location of the property and the desire to extend out with a deck.

- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is not expanding the encroachment in any way and is a minimal change.
- 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.
- 5) 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 Tom McGurl and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition. Exterior lighting is to be dark sky compliant. Holly Dansbury was opposed. **All others in favor. Motion Carried.**

3. **V16-40 FAMOSI, JOHN. (CAPRI VILLAGE)** Represented by Tom Howsen of Monolith Solar. To alter a non-conforming motel building, specifically to construct a roof mount solar array. 1) Front. 75' required, 43' is proposed. 2) Side. 15' required, 2' is proposed; and 3) To alter a non-conforming structure in accordance with Section 200-57 B1(b). Zone RCM 1.3. Property Location: 3926 Lakeshore Drive. Section 213.13 Block 1 Lot 52. Subject to WCPS.

Lindsey McEntire presented the following:

- They are proposing to install 95 solar panels on Capri Village offsetting the electricity usage of their resort by about 100%.
- This will be minimally visible from the road.
- It sets on the roof about 2.5" above the shingles, keeping a low profile.
- The panels are dark in color.

Jason Saris asked if they were a reflective finish. Lindsey McEntire replied they were more of a matt finish and detailed it to the Board.

Joy Barcome asked about the safety of a fire when they are mounted on the roof. Lindsey McEntire stated that they teach fire safety and detailed where they can ventilate and stated they never put the panels on the north side. Joy Barcome asked about the electricity and voltage going through them. Lindsey McEntire detailed how they work and the voltage and amps, stating it was not a high voltage system which can be deactivated in the event of an emergency which they can do remotely.

Carla Cumming inquired why they chose that particular building to put them on. Lindsey McEntire replied because this was minimally invasive and on the corner of the property and it was southern facing. Carla Cumming asked if they would be cutting down the trees. Lindsey McEntire replied no they were very small. Carla Cumming inquired if it would affect the building next door. Lindsey McEntire replied that it would not. Tom Howsen stated the building would act as a shield.

Lorraine Lefevre asked if the solar panels would generate 100% of their electrical usage for the whole site. Lindsey McEntire stated not the entire site, but that portion of the site it would offset 100% of the usage.

Jason Saris asked if it could be used to offset other structures on the property during the off season. Lindsey McEntire replied yes, they would be channeling the production to the other accounts on the property.

## **RESOLUTION**

The Zoning Board of Appeals received an application from John Famosi, (V16-40) 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#3 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: It is facing south and in the perfect position and this is the best possible location.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be very unobtrusive.
- 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. This will be unobtrusive to the neighborhood and very minimal impact to the surrounding areas.
- 5) The alleged difficulty is not self-created; This is a perfect location that makes a lot of sense. 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 Joy Barcome and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

4. **V16-02 SLINGERLAND, TODD.** To alter single family dwelling, specifically to add a 33'7"x 16' extension on existing deck and construct a set of stairs, seeks area variance for 1) a deficient side yard setback. 20' is required, 0' is proposed (Approximately 2' of the proposed stairs is located on the common property); and 2) to alter a nonconforming structure in accordance with Section 200-57B1b. Section 171.11, Block 1, Lot 23, Zone RM1.3. Property Location: 27 Woodland Ridge. Subject to WCPS review.

To discuss if the current exterior lighting is acceptable per condition of approval dated February 16, 2016 “Now, upon motion duly made by Holly Dansbury and seconded by John Famosi, it is resolved that the ZBA does hereby approve variance request as presented with the following condition; any lighting on the rear of the house, both new or existing, be dark sky compliant.” Jeff Anthony opposed. **All others in favor.**

**Motion Carried.**

Todd Slingerland stated the following:

- There are questions as to whether his lighting is dark sky compliant.
- He bought the stuff that says dark sky compliant.

Joy Barcome asked what the definition of dark sky compliant. Mr. Slingerland stated it was his understanding that it is to be downward facing lighting that does not light up the sky. His lighting only lights up a 2’ circle on his deck. He believes the concern is the existing clam shell type fluorescent lights that were already there. They are tipped down now. Holly Dansbury asked if they were underneath the deck. Mr. Slingerland stated they were underneath the deck. They used to be tipped out, they are now tipped down. He needs them for safety. He detailed them on the photos.

Zoning Administrator, Pamela Kenyon asked if he had two additional flood lights on the home. Mr. Slingerland replied yes, on each corner of the house. Holly Dansbury stated that the big ones that they have are detailed as unacceptable in the packet that they received. Mr. Slingerland said they were the floodlights. Jason Saris stated that he believes the Board’s concern was that they did not want the lighting footprint to be expanded when they expanded the deck. He stated that some of the Board member concerns are what it looks like from neighboring properties or from the lake, and not to have a shining beacon. Mr. Slingerland stated they were the existing lights and he would remove them if that was what the Board wanted. He believes the problem was that he was told they were compliant by facing them down. He stated the lights under the deck have not been completed and they are only tacked up at this time. Holly Dansbury asked if that meant they were temporary and would be moved. Mr. Slingerland stated they were the existing lights that were tacked back up where they were and faced down instead of out into the woods like they were. Tom McGurl stated if they were temporarily placed, are they planning on reusing them when they finished or would they be using something else. Mr. Slingerland stated they would be putting new lights on the front of the deck. Tom McGurl asked if they would be the same style. Mr. Slingerland replied whatever they told him to use. Tom McGurl stated that he could see that the glare from the floodlights could affect the neighbors even though they were pointing down. He made a few suggestions. Jason Saris stated that some of the issue is the intensity of the lights. Mr. Slingerland agreed stating they were existing lights. Mr. Slingerland stated he understood.

Atty. Muller read a letter of objection of the existing floodlights from Bill Petersen.

Zoning Administrator, Pamela Kenyon asked if there was still work to be done to complete the deck. Mr. Slingerland replied there was. Ms. Kenyon asked if they were using the deck. Mr. Slingerland stated they were. Ms. Kenyon asked when he planned to complete the work and what was left to do. Mr. Slingerland stated he was waiting on the contractor and they needed

to enclose underneath the balcony area above the deck. Mr. Slingerland stated he would be pleased to remove the floodlights. He had no problem in taking them down. Jason Saris stated he believes Mr. Slingerland has a pretty clear picture of what the Board wants. He stated the Zoning Office is the entity that will enforce this issue. Zoning Administrator, Pamela Kenyon stated she brought this before the Board to see if they found this lighting acceptable as dark sky compliant lighting as there is no code. Atty. Muller stated the owner could pick anything on the handout that was depicted as dark sky compliant.

Mr. Slingerland asked if they could agree that everything but the flood lights were dark sky compliant. Tom McGurl stated that although he does not personally find them offensive, according to the chart they had, these lights were not dark sky compliant. They would need to have a shroud around the bulb itself to make them compliant. Zoning Administrator, Pamela Kenyon agreed. Tom McGurl stated that going by the chart, they are definitely not compliant. Mr. Slingerland stated that they were downward facing and the light bulb were at the bottom. He stated that he had purchased all these lights twice now. Tom McGurl replied that he was not trying to give him a hard time, he is just going by the chart and they do not fit in to dark sky compliant lighting. Mr. Slingerland stated that it would be helpful to have that chart because he has replaced the bulbs 3 times now and they are not cheap. Tom McGurl stated that the lights he has are unshielded. Atty. Muller stated if Mr. Slingerland picked anything on the right hand side of the sheet he would be compliant. Mr. Slingerland stated that it would have been nice to have received this chart the night the Board mandated this. He has spent \$500.00 and a lot of man hours putting these up. They are marketed as black sky compliant lights. Atty. Muller stated they are. The bulb is more than satisfactory; it is the fixtures that are not compliant. Mr. Slingerland asked if the Board was suggesting he removed all the sconces too. It was about \$2,000.00 for them. Atty. Muller suggested painting them to shield them. Mr. Slingerland asked if that was the Board's wishes. Tom McGurl stated that if these lights were not dark sky compliant he would be back before the Board again. He can replace them or paint them, it is his decision. Mr. Slingerland said that as a homeowner paying taxes for 3 years now, this sheet would have been great when they granted the variance. It has cost him at least \$2,500.00 in damage by not having it, plus his time. Now they are saying he must rip them off the wall because they are offensive. Holly Dansbury stated in all fairness the Board did not have the chart at the time the variance was granted. When they granted this variance, they wanted to protect the neighbors and address their concerns with excessive light. Mr. Slingerland stated that he could not believe that Mr. Petersen would find these offensive, he is worried about the flood lights. This is not fair to him.

Jason Saris stated that the Board did not design his project. He came to the Board for a variance to build his project. They gave him the variance with a condition and the Board did not pick out these fixtures. If there was a question about its compliance, he should have come to the Planning Office and asked what he would need to be compliant. Mr. Slingerland stated he did and was told 3 different things he could do and not one of them would comply with this chart. Those sconces were on the wall long before the deck project was started or he had applied for the variance. He did not realize that the variance for the deck would cause him to rip off the lights he had already installed. The inspector told him these bulbs were what he had to buy and the sconces were ok. Her only issue was with the fluorescent lights. Jason Saris stated that he did not buy the sconces due to what the inspector told him. He does not



understand why he is upset with the Board for saying they were not dark sky compliant as he had already spent the money and they were already there. Mr. Slingerland stated his understanding is that the Boards intent was not to have the lighting, light up a neighbor's yard or in a window. He would not be here if he was handed this chart before.

Tom McGurl asked if the Board had given him the chart, would he have been taking all those pre-existing lights down, or would he be making the case that they were pre-existing. Mr. Slingerland stated he did not know, because the inspector told him they were ok, he only needed to change the bulbs.

Tom McGurl asked why they were questioning this if the lights predated the variance request. Ms. Kenyon replied because the Board made it a condition of approval for the variance that all existing lighting was to be dark sky compliant. Jason Saris stated it was a condition the Board put on in keeping with granting such a variance. He believes the concern was that the deck was expanding and the light would be expanding with it. Mr. Slingerland stated it was a condition due to the neighbor's request. He believes he would be fine with it, if he just removed the flood lights. Tom McGurl read an excerpt of the letter from Mr. Petersen stating he called out all the lighting, not just the flood lights.

Jason Saris stated it was unfortunate that he did not have the guide that this Board follows, but those lights are not dark sky compliant, which was a condition of approval for the variance. The option is to make them dark sky compliant or submit an application for a variance from this condition. Mr. Slingerland asked what this would accomplish as the lights are downward facing. Atty. Muller used the photo and explained what made a light fixture dark sky compliant. Mr. Slingerland said he was not told they were not compliant by the Code Enforcement Officer. He stated he will either paint them or replace them. Atty. Muller asked him when this would be accomplished. Mr. Slingerland stated he would try to have it done by December 1, 2016. Jason Saris stated if it was a problem accomplishing it by this time, he should notify the Planning Office. Zoning Administrator, Pamela Kenyon stated that she would inspect the lights when they were replaced.

The meeting was adjourned at 7:09

Minutes respectfully submitted by Kate Persons