

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Monday July 17, 2006**  
**6:30 p.m.**

SEQR = State Environmental Quality Review  
PB = (Town of Bolton) Planning Board  
WCPB = Warren County Planning Board  
APA = Adirondack Park Agency  
LGPC = Lake George Park Commission  
DEC = Dept of Environmental Conservation

**Present:** Chairman Greg Smith, Tony DePace, Kam Hoopes, Tom McGurl Jr., Bill Pfau,  
Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

**Absent:** Meredith McComb

Chairman G. Smith opened the meeting at 6:36 pm by asking for corrections to the June 19, 2006 ZBA minutes.

**Motion by T. DePace** to approve the June 19, 2006 minutes as presented. Seconded by B. Pfau. **All in favor. Motion carried.**

G. Smith noted that there are only five of seven ZBA members in attendance and said that if any applicants feel they need a majority vote on their applications, they are more than welcome to leave their applications open until next month or the ZBA can move forward with them tonight.

**1) V06-27 NEUMANN, FLORENCE.** Represented by Carl Schoder of Schoder Rivers Associates. For a proposed 4-lot subdivision, seeks area variance for a deficient front setback on lot 2. 50 ft. is required, 30 ft. is proposed. Section 155.00, Block 1, Lot 36, Zones RR5 & LC45. Property Location. 609 Edgecomb Pond Rd. *Note: This application is in conjunction with SD06-07.*

Carl Schoder of Schoder Rivers Associates, representing Florence Neumann, gave a history of the property along with an overview of the project and said (1) the requested variance is for the setback from the existing garage, (2) the intent of the subdivision is to transfer lots to the applicant's children as bonafide gifts and (3) they would like to extend the existing driveway but also establish a 30-foot setback (50-feet required) from the corner of the existing house to the proposed easement line on lot 2.

G. Smith asked if the applicants want to access lot three by keeping the existing driveway and house where they are and said that it makes sense to use the existing driveway and extending it rather than constructing a new driveway requiring additional clearing. Carl Schoder said yes and added that they propose an intentional jog in the driveway in an attempt to push the existing driveway where it terminates 30-feet away from the garage but not into the steep bank.

B. Pfau said he doesn't see any detriment to what the applicants want to do here and asked about the area set aside for the future septic system replacement and Carl Schoder replied by saying that (1) the existing septic at the Neumann residence will at some point

in time need to be replaced—they will need some area to do that and (2) the plans reflect the logical place.

There were no additional ZBA member comments or questions.

No public in attendance.

## RESOLUTION

The Zoning Board of Appeals received an application from (V06-27) Florence Neumann for an area variance as described above.

And, due notice of the public hearing of the ZBA at which time the application was to be considered having been given;

and, after reviewing the application and supporting documents of the same, and there being no public comment 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 Board makes the following conclusions of law:

- 1) The benefit cannot be achieved by other means feasible to the applicant besides an area variance, this is a dimensional problem;
- 2) There will be no undesirable change in neighborhood character or to nearby properties;
- 3) The request is not substantial, a 20-foot variance for a 50-foot requirement is not that great;
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district, in fact the area reserved for future septic is being taken into account;
- 5) The alleged difficulty is not self-created.

The benefit to the applicant is not outweighed by the potential detriment to the health, safety and welfare of the community.

Now, upon motion duly made by Kam Hoopes and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

- 2) **V06-28 WARDLES, BRIAN.** Represented by Atty. Mark Rehm of Krantz & Rehm LLC. For the construction of a proposed single-family dwelling, seeks area variance for 1) Deficient shoreline setback; 75 ft. is required, 50 ft. is proposed. 2) Deficient rear yard setback; 30 ft. is required, 22 ft. is proposed. 3) Height; 35 ft. maximum allowed, 37 ft. is proposed. Section 199.07, Block 1, Lot 5.313, Zone RCL3. Property Location: North side of South Trout Lake Rd., approximately 1,800 ft. from Coolidge Hill Rd. intersection. Subject to APA Review. *Note: This is an amendment to V05-42 approved by the ZBA on 9/19/05.*

Atty. Mark Rehm, representing Brian Wardles, gave an overview and said that (1) the applicant has decided to eliminate the need for the detached garage, so the new proposed garage will be attached to and underneath the proposed single-family dwelling in order to reduce the density of buildings, (2) the applicant's position is that the elimination of the previously approved garage makes sense and seeks to preserve the view from South Trout Lake Road because the garage won't be seen and (3) the applicant is looking for an amendment to V06-42 to accomplish those goals.

G. Smith asked if it is correct that there was a full foundation or basement underneath the house the ZBA approved on September 19, 2005 and Brian Wardles said (1) yes, it did have a full basement except for the right wing, which had a crawl space and (2) nothing changed—the foundation isn't raised out of the ground at all, they just dug one end down so they could drive underneath it. G. Smith asked if there was going to be a full 8-foot foundation underneath the approved dwelling and Brian Wardles said yes. G. Smith asked why there can't be an 8-foot garage underneath this proposed single-family dwelling without raising it and Brian Wardles replied by saying they are having exactly an 8-foot basement.

G. Smith said that the last house the ZBA approved was underneath the maximum height allowed where this one is not. Brian Wardles said they are digging the dirt out on one end, which makes that end look taller which increases the end height. G. Smith said (1) it didn't need to be dug out for the last house and (2) he doesn't understand why it has to be for this proposal. Brian Wardles said in the last proposal they weren't driving under the house. G. Smith said that his only issue with this proposal is height—he doesn't see why the proposed structure can't be under 35-feet high. K. Hoopes said that (1) the grade went from the top of the foundation to the top of the house but now the applicants are putting the driveway there and (2) the main issue with height variances is not aesthetics or blocking views, but it is fire fighting. G. Smith said it is fire prevention. Brian Wardles said all three sides except for the garage end are at 31 feet, it is just the end they dug down to drive underneath which is at 37 feet, so it is an extra 5 feet to drive under. K. Hoopes was concerned about safety issues for the firefighters.

G. Smith asked if this application has been to the APA yet and P. Kenyon said no, because this is a new application it will not be sent unless approvals are granted.

P. Kenyon asked if it is correct that on this new plan the house is 2 feet higher (excluding the garage) and said she remembers telling the applicant the new plan would have to be

sent back to the ZBA because it is different from what they originally approved. Brian Wardles said (1) yes, that is correct and (2) he increased one of the floors from 8 feet to 9 feet and he changed the height of some of the ridgelines to make it look more aesthetically pleasing. P. Kenyon said that if the applicant went with that original plan presented to the ZBA just with adding the garage underneath then he probably wouldn't need the variance and Brian Wardles said no, he would probably not need the variance for height.

G. Smith asked if the application has gone to Warren County and P. Kenyon said no, it doesn't have to.

B. Pfau asked if they have tried to address the height problem and Brian Wardles responded by saying (1) yes, he could change the upstairs to a cape, but he really doesn't want to do that. T. McGurl asked how high the ceilings are on the second-floor and Brian Wardles said they are 8 feet high. G. Smith said (1) he would prefer the applicant change it to a cape, because he has a big problem with the height issue for lots of reasons—mainly fire prevention, (2) anybody can build almost anything they want and keep within the zoning regulations of 35 feet—that is not something that gets by the ZBA often and (3) he would prefer the applicant re-design the house to fit within the 35 foot height limit.

K. Hoopes said that the ZBA has let some height variances go through before, but they were always on a remote part of the house that fire equipment couldn't get to anyway. Brian Wardles replied by saying that they are talking about the ridge—a very small section of the ridge—and the Fire Dept. does not fight the ridge—they go through the windows because their ladder equipment and everything reaches the windows. K. Hoopes said that (1) he thinks the Fire Dept. likes to reach everything, (2) the really important part is that the number one approach to the applicant's house is right at the driveway, which is where the height variance would be issued, so the ZBA would have a tough time defending themselves as to why they are issuing a height variance in that particular area—that is the most critical spot. G. Smith said that even if for some reason the ZBA approved it with the proposed height, he feels the APA would reverse the ZBA's decision. B. Pfau asked if the other setback numbers are the same from the previous application and Atty. Rehm said yes. G. Smith said he feels the height request is too much.

Brian Wardles asked if there were any other ZBA issues other than height and G. Smith said no, because the ZBA already gave the applicant variances on the other two issues back in September.

K. Hoopes said that he agreed that he liked the consolidation idea on the property because it all makes a lot of sense, but the height is the one sticking point. T. McGurl asked what the proposed ceiling height for the first-floor is and Brian Wardles said it is a 9-foot ceiling.

G. Smith said that if the applicant likes, the item could be left open until next month or the September meeting. Atty. Rehm asked if they would have to be back before the ZBA if the applicant re-designs the plan accomplishing the height restriction and G. Smith said yes, because it is a new design, but his feeling is that the ZBA won't have much of an issue with it as long as the applicant controls the height issue.

No public in attendance.

## RESOLUTION

Now, upon motion duly made by Kam Hoopes and seconded by Tom McGurl to table the application and leave the public hearing open allowing the applicant time to revise his plans. **All in favor. Motion carried.**

- 3) **V06-29 MAYDAN, RUSSELL.** Represented by Don Kingsley of Kingsley Excavating. In accordance with Section 200-51C3, seeks area variance to clear a driveway greater than 16' in width. Various widths are proposed. Section 185.00, Block 1, Lot 14, Zones RR5 & LC45. Property Location: Lamb Hill Road. Subject to WCPB review.

Don Kingsley, representing Russell Maydan, gave an overview and said (1) the driveway they are building is on Lamb Hill Road and they obtained a permit from the Town of Bolton to construct a driveway 600-feet long and 12-feet wide, (2) they had to cut through two side slopes to get the driveway in, (3) when they cut through the side slopes they realized they would have to cut wider than 16-feet allowed by the Town of Bolton in order to stabilize the driveway, (3) there are two sections—each section is about 75-feet long, and (4) once the slopes are cut there will be a ditch created also to contain the water and bring it into the existing swales and pipe it across the road into the subdivision.

B. Pfau asked how much clearing would be required and Don Kingsley replied by saying probably 5 feet on each side at each of the two 75 foot sections. G. Smith asked if that equates to them being a maximum of 26 feet wide at any given spot and Don Kingsley said yes. G. Smith said the bottom measurement says 27 feet while the top says 26 feet, so the applicant may want to go with 27 feet. B. Pfau asked if the ZBA should include the length of the road that would be cleared and Counsel said that to give it a specification the ZBA can say "...as exactly depicted on the map..." and the ZBA can't possibly go wrong because that is what was represented and that is what has to be done. B. Pfau said the ZBA doesn't need a number then and Counsel said no.

G. Smith asked if it is correct that it is going to be 27 feet wide for a certain distance at the lower section and it is going to be 26 feet wide or 27 feet wide for a certain distance on the upper section and Don Kingsley said yes, that is correct. Counsel said that in the ZBA's resolution in approving it, they should make specific reference to the "Map of driveway of Russell Maydan dated 06/15/2006". P. Kenyon said that this is going to be discussed as part of the revisions by the zoning revisions committee because it is getting harder to fit everything into 16 feet.

No County impact.

No public in attendance.

G. Smith said (1) the land is as the land is and this is what needs to be done for this application and (2) as P. Kenyon said, the Town of Bolton is looking at this topic in raising the minimum width of the roads for the reasons she spoke of.

## RESOLUTION

The Zoning Board of Appeals received an application from (V06-29) Russell Maydan for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment 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.

The Board makes the following conclusions of law:

- 1) The benefit cannot be achieved by other means feasible to the applicant besides an area variance, the applicant needs relief from the 16-foot wide cut because of the steepness of the banks;
- 2) There will be no undesirable change in neighborhood character or to nearby properties;
- 3) The request is not substantial, as the applicant would be exceeding the 16-foot limit only in the appropriate places;
- 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 the health, safety and welfare of the community.

Now, upon motion duly made by Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented on map entitled “map of a driveway as built for Russell Maydan”, dated June 15, 2006, prepared by D.L. Dickinson Associates. **All in favor. Motion carried.**

**Other Business:**

G. Smith said that Michael Murray has resigned from the ZBA due to the issues of the property next door to him.

Meeting adjourned at 7:09 pm.

Respectfully submitted by,  
Jennifer Torebka  
Recording Secretary

07/18/06