

Town of Bolton
ZONING BOARD OF APPEALS
Minutes
June 15, 2010

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- Jason Saris, William Pfau, Kam Hoopes, Tony DePace, John Michaels, Jeff Anthony, David Ray Counsel Michael Muller, Zoning Administrator Pamela Kenyon

Absent- none

The meeting was called to order at 6:33pm

Jason Saris asked if there were any corrections or changes to the May 18, 2010 minutes.

Kam Hoopes, pg 12, 4th paragraph, last sentence should read that “Counsel stated that he does not feel that this is properly before the Board tonight.”

RESOLUTION

Motion by Kam Hoopes to accept the minutes as corrected. **Seconded by** Tony DePace. David Ray abstained. **All Others in Favor. Motion Carried.**

1) V10-17 F.R. SMITH & SONS, INC. Represented by, Scott Andersen. For the installation of twin 2000 gallon fuel tanks and associated 10.5’x 22’ reinforced concrete slab, seek area variance for a deficient side yard setback. 8’ minimum is required, 4’ is proposed. Section 171.15, Block 3, Lot 58, Zone GB5000. Property Location: 36 Sagamore Road. Subject to WCPB review.

Scott Andersen stated that they are seeking relief for the sideline setback. The two tanks in question are already in place and permitted on the property. They are not new tanks, they will just be relocated. The reason for the relief sought is because they need to move the tanks from one side of the property to the other due to a settlement in court regarding a property line. They reviewed a number of locations on their site, including the upper parking lot, but found that this was the best location. It is better shielded and out of view and got them as close to reasonable with the 4 feet. They also have ledge rock underneath the proposed site so they do not anticipate any shifting or moving of the tanks. Due to LGPC regulations they need as much parking as they can get and therefore they proposed to put them in the corner as far out of the way.

Scott Andersen stated that they have notified NYS DEC and LGPC of the project. As long as they construct everything by the NYS DEC regulations, which DEC will inspect, their only other approval is from this Board. Scott Andersen stated that they need relief because this is the most ideal location for the tanks and they do not meet the setbacks.

Bill Pfau asked if these tanks have to be moved. Scott Andersen replied that they were required to move the tanks. Kam Hoopes asked how many agencies were overseeing this project. Scott

Andersen replied that he was not sure of the APA's jurisdiction but he does know that NYS DEC and LGPC will definitely oversee the project. He stated that this project will be headed up by federally licensed contractor, Northeast Petroleum out of Schenectady, New York. They will oversee the tank move, cleaning, piping, hook-ups and re-certification of the tanks.

Jason Saris asked if this was the same installation they already have in place, but just in a different location. Scott Andersen replied yes they are the identical tanks just in a different location. Jason Saris asked how long the tanks have existed on the property. Scott Andersen replied that they have been in place since 1997.

John Michaels asked if the tree row will remain in place. Scott Andersen stated that the back of the tree row may have to be trimmed in height because some of the branches are low. He stated that in his discussions with Northeast Petroleum, they will try to dig down as far as they can go so the height is as low as they can go. He also stated that they intend on screening the tanks when the project is complete.

Tony DePace asked if they had any other feasible locations. Scott Andersen replied no. They looked at one other site on the property in the top parking lot, but since that is built with a retaining wall their engineer found that it would have to come out too far and be in the middle of the parking lot. Jason Saris stated that the grade on this property makes finding a proper location difficult plus there are buildings already on this site that they have to work around.

Scott Andersen stated that he has spoken to his neighbor to the south who has seen the plans and has indicated that he has no objection to the project.

Jason Saris asked if there was any correspondence. Pam Kenyon replied no and stated there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from F.R. Smith & Sons, Inc. (V10-17) 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 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 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 Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; the constrictions that the applicant is working under have been very clearly laid out.

2) There will be no undesirable change in the neighborhood character or to nearby properties, the neighbor most immediately affected by this move has given their support. These are the same tanks that were on the other side of the property so there really is no change to the neighborhood.

3) The request is not substantial; this is the same number and size tanks; they are just being put on the other side of the property.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; these questions will all be overseen by several regulatory boards.

5) The alleged difficulty is not self-created; the applicant needs gas tanks for their business and are required to move them.

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 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) V10-18 DeLARM, MICHAEL. To alter pre-existing non-conforming structure, specifically to add a 14' x 14' addition to the antique barn, seeks area variance for 1) Deficient rear yard setback. 20' is required, approximately 2' is proposed, 2) Parking. 2 additional spaces required, 0' proposed, and 3) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 1, Lot 83, Zone GB5000 & RM1.3. Property Location: 4935 Lake Shore Drive and known as Lakeview Antiques. Subject to WCPB review.

Mike DeLarm stated that he and his wife own and operate Lake View Trading Company and Lake View Antiques. They are proposing to construct a 14' x 14' addition to the southwest corner of their antique barn. This space will be used for storage and a work area. The location seems to be the best spot on the property.

Kam Hoopes stated that is one of their favorite solutions to a problem of filling in a vacant corner. He stated that they are not adding anything further to block someone's view or further encroach on the setback. Jason Saris asked how old the barn is. Mike DeLarm replied that they guess that it was built back in early 1900's but the main house was built in the mid to late 1800's. Jason Saris stated that these structures pre-date other structures around them as well as the zoning ordinance.

Bill Pfau asked if the space is just being used for storage would it require the relief for parking. Pam Kenyon replied yes. Jason Saris stated that it should be noted that one side of this property joins a public parking lot. Mike DeLarm added that they are one of the few places on 9N that

has parking on their property. He stated that they can fit almost 10 vehicles for parking. Jason Saris asked if they anticipate this addition to increase their need for parking. Mike DeLarm replied no, it will strictly be used for storage and as a work station.

There were no comments from the public in attendance. Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Michael DeLarm (V10-18) 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 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 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 Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; the building pre-dates the zoning and does not meet setbacks.

2) There will be no undesirable change in the neighborhood character or to nearby properties, it is a corner fill in for a retail operation in the business district.

3) The request is not substantial; considering that it is keeping in line with the setbacks on the building now.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; There are no objections from the neighbors.

5) The alleged difficulty is not self-created, due to the pre-existing location of the building.

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 Bill Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

3) V10-19 TED AKERSON ADVERTISING. To alter pre-existing non-conforming structure, specifically to expand deck and add stairs, seeks area variance for 1) Deficient setbacks. a) Front:

50' is required, 24' is proposed; and b) Shore: 75' is required, 35' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 157.05, Block 1, Lot 21, Zone RCL3. Property Location: 2 Rose Lane. Subject to WCPB and APA review.

Lynnette Akerson introduced herself and Mike Baker. She stated that they are simply looking to add better access to the entryway of the house. She stated that her husband is getting older and it is getting more difficult to go down the series of steps from the parking area and then back up again to the house. They would like to remove 13 stairs and instead of a radical decline and going back up, make it a more gradual slant. This is the main entrance to the house and a more gradual descent and rise would have less wear and tear on their joints. She stated that the stairs to the west will not be new they will just be extended a bit further to the west and the stairs to the south will be added to gain access to the trash area and the water. The total project only affects approximately 180 sq. ft. with a very minimal expansion of the deck. They are building a ramp from the front door to meet directly with the access stairs to the house to make the entrance and exit safer, easier and more comfortable for older legs. Lynnette Akerson stated that she has often times thought that if they required medical attention she is not sure how the emergency squad would be able to get her husband easily down the steps, across the way and back up the stairs. She feels that the current situation is a severe safety issue for them.

Kam Hoopes stated that he understands that they are trying to bridge their gap between the present deck and the walkway from the drive. It seems to make sense.

John Michaels stated that he feels as though the stairs is just a minor part of this. He stated that upon visiting the site he found that there were a lot of structures in the way of retaining walls close the property line and asked if the property was in compliance. Pam Kenyon replied that this has been under discussion for a few years and she is not sure if it is totally resolved yet.

John Michaels stated that he has a hard time granting a variance if the whole project itself is not in compliance. Pam Kenyon stated that this is a very difficult situation with how they measure the 100 sq. ft and keep the 2" separation from everything. John Michaels stated that if that does meet our zoning then they should be working weekends on the zoning law. He is concerned that all of that could be built on the property without going to the zoning office. Pam Kenyon stated that this issue arose when there were two people running the zoning office. She stated that it became very difficult to make the determination. John Michaels asked if someone could make the determination if the property is compliant or not. Jason Saris stated that this property has been looked at and he can say that there is nothing there that the Town is not aware of. He stated that they had issues with the way the ordinance was being interpreted and the fact that they had two separate individuals interpreting it, which the TB authorized to do, but has since changed. He stated that there is a lot of evolution, some of which was in the way they viewed the ordinance and what constituted a structure and the things that would be allowed to separate it or what would join it. Jason Saris stated that they have a new ordinance in the wings which will hopefully clear some of this up.

John Michaels asked if the applicants were trying to find every loop hole to accomplish their goal or were they in here with a plan showing what they wanted to do. Pam Kenyon replied that

there were no plans in the beginning. John Michaels stated that they way the applicants got to this point was to use every favorable interpretation to this point. Lynette Akerson stated that is one huge issue but it is on the other side of the house and separate from her request. She stated that this proposal is for the entryway to the house from the street. This is simply to make it safer and easier for her husband to get up and down the stairs. John Michaels stated that in an effort to assist the applicant she should refrain from using her husband as the reason for the variance, he suggested that she say that it will be safer for everyone to use the stairs, because they cannot issue a variance based on an individual. Jason Saris agreed and stated that the applicant is seeking to improve ingress and egress access to the house for anyone that may need it. Lynette Akerson agreed and added that it will also look better aesthetically.

John Michaels stated that he has a hard time granting a variance if the house is non-conforming. He stated that if it is not in compliance, this is the time to have that corrected. Jason Saris stated that although the applicant did not present formal plans for the retaining walls the applicants were in close contact with the Code Enforcement Officer at the time to be sure that they were in compliance. Whether it was or not has not been fully determined. John Michaels stated that he does not understand why they cannot get to that determination. Tony DePace stated that currently there are no violations on the property so they need to just work on the current agenda. Counsel Muller stated with certainty that there are no open violations on this property at this time.

Jason Saris asked if there was any correspondence. Pam Kenyon replied that there was no correspondence and there was no WC impact.

Bill Pfau asked if there will be any railings or if it will be visible from the lake. Mike Baker replied that there will be a railing but it will be well screened. Jason Saris stated that someone would have to look through the Lagoon Manor boathouse to see this structure. Kam Hoopes agreed that there is a lot that would screen this project, including trees and boat masts.

Jason Saris asked if the applicants looked at other feasible alternatives for this project. Lynette Akerson stated that this is the main entrance to the house and the walkway from the driveway is the main access to the door. She stated that there is not another way to get into the house that would be any easier. Jason Saris asked if they could move the parking area anywhere else on the property. Lynette Akerson replied no. She stated that when her husband and Mike Baker were trying to plan this project they looked at many different options to address the issue and what is being presented is the best possible solution.

Kam Hoopes stated that the property is very challenging. It has tight confines and steep grades, which makes it challenging to move this around any or to find alternatives.

Counsel Muller stated that they should be sure that they have had a thorough discussion of the Town code as well as give consideration to practical difficulty or unnecessary hardship. He feels that they should put as much detail into the record so that someone that may not have visited the site could make an appropriate decision based upon the record. Kam Hoopes stated that the applicant has included photos in this application. Counsel Muller asked if Pam Kenyon provides everything including pictures to the APA for their review. Pam Kenyon replied yes.

Jason Saris stated that Deanne Rehm provided them a copy of the APA criteria and regulations which indicate that the APA is seeking to fulfill either practical difficulty or unnecessary hardship and not both. He stated that in their meeting with Brian Grisi he seemed to indicate that the fact a house is a pre-existing non-conforming structure would satisfy the practical difficulty aspect of it and that the hardship would not be necessary. Counsel Muller agreed. He stated that this is also found in their code Section 200-67b.

Kam Hoopes stated that there are 3 or more cedar trees and asked if they will remain. Mike Baker replied yes. Kam Hoopes stated that the trees and screening will remain and the land will not be disturbed. He indicated that there are pictures that go with site. The applicants need stairs to access the lakefront and they cannot crawl out a window so this deck is moving the stairs that go up into the porch and thereby down from the present porch to the driveway side and down to ground level. Jason Saris stated that this is a perfect example of how difficult it is to verbally describe the site. He stated that the parking is up high and the ground level is down low and the entrance to the house is up high again. Kam Hoopes asked when the house was constructed. Lynn Akerson stated that her husband moved into the house in 1993 and the house was built sometime before then. Jeff Anthony stated that he was not sure exactly when but it was probably a few years before that. Kam Hoopes stated that for their purposes it was a pre-existing condition for the applicant.

RESOLUTION

The Zoning Board of Appeals received an application from Ted Akerson Advertising (V10-19) 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 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 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.

The Board makes the following conclusions of law:

1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; these are all dimensional considerations. There is no other access to the door of the house, and it is unreasonable to ask the applicant to move the door or change the façade of the house. It is also not feasible to have the applicant change the topography of the land because this would create more disturbance to the land and trees on the property. There are several cedar trees that the applicant would like to keep and if they were to disturb the land they would be creating stormwater issues.

2) There will be no undesirable change in the neighborhood character or to nearby properties, everything is heavily screened. It is tight neighborhood and is in itself a tight knit community of summer and year round homes. This improvement to the access of the front door from the driveway which is situated above the house is both for safety and aesthetic purposes, and it is virtually invisible.

3) The request is not substantial; It is a small bridging of the downward path to the ground level and the upward steps to the house. The steps that go to the ground level will be moved to the outside of the deck and go down towards the shore.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it is a simple deck and stairs. The positive physical effect is that the access to the house becomes safer and more reasonable.

5) The alleged difficulty is not self-created, the topography and the location of the house were already there when the owner moved in.

The practical difficulty is that the house as it sits is non-conforming and therefore the difficulty is the complying with the ordinance itself.

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 Kam Hoopes and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. John Michaels opposed. Jeff Anthony abstained. **All others in Favor. Motion Carried.**

4) V10-20 BENNETT, DAN & TURNER, RUTH. Represented by Adam Pelkey. To demolish and rebuild 2 bedroom cabin, seek area variance for a deficient shoreline setback. 50' is required, 11' is proposed. Section 186.10, Block 1, Lot 6, Zone RCH5000. Property Location: 4750 Lake Shore Drive. Subject to WCPB review.

Adam Pelky noted that with regard to the 11' proposed setback on the agenda, the applicant is seeking to rebuild on the current footprint and their measurement is 19' 11" from the lake. He stated that is not indicated on the plan but that is their measurement and he is not sure where the 11' came from.

Adam Pelky stated that this variance is for the main camp on the property is the structure on the southeast corner of the lot. The existing camp was built in 1927. He stated that there are pictures of the property from 1927 and again from 1946 to show what the camps looked like when they were built. There are also pictures of the camps as they exist today. Adam Pelky stated that on this camp the foundation is crumbling and the pictures show various stages of water damage and rotting wood.

Adam Pelky stated that the existing footprint is 900 sq. ft on the first floor and 467.5 sq. ft on the second floor. They are proposing to replace this existing structure that includes 900 sq. ft on the both floors. This will increase the roof ridge 9' to 29' total, which is still 6' below the height restriction. The additional space on the second floor is needed to allow for 2 usable bedrooms

and to bring the stairway up to code. Aesthetically, they intend to retain the character and material look of the existing structures that are there. They will use vertical half log siding in the same color. The gables will be cedar shakes and the stone from the existing fireplace will be used on the new fireplace. The railing and the screened porch in the front will be retained.

John Michaels asked if they could move the structure back. Adam Pelky replied that they considered moving it. However as the survey indicates on the west/southwest portion of the property is wet 12 months out of the year, but it is not considered a wetland. Also, if they were to move the main cabin they would have to move the camp behind it because they would have to go back 30' to meet the setback. John Michaels stated that he was not suggesting that they have to necessarily meet the setback but they could consider shifting it back a bit since this will be a bigger structure to reduce the visibility from the lake. He felt that they could move the structure back 20' to reduce the impact to the lake and he doesn't feel that it would affect the guest cottage. Adam Pelky stated that on the southwest side there is also a rock outcropping. John Michaels stated that when he visited the site he did not feel that the rock would be an issue because it could be part of the crawl space. John Michaels stated that he is just asking if there is any way that the project could be shifted back 15-20'. Adam Pelky stated that they did not look into moving the house back because they still would have needed a variance.

John Michaels stated that the Board has to look at trying to minimize the impact that this variance will have and to grant the minimum relief needed. Kam Hoopes stated that he often favors this type of application because it does not disturb the ground any further. John Michaels stated that he already can see that 3 trees will be impacted by this new structure due to the increased height in this location. However, if they move the house back they could keep those trees and create less of an impact. Kam Hoopes asked if he thought that the upper branches would need to be trimmed to allow for the additional height. John Michaels stated that they would probably have to remove 2 of the trees altogether to do it right. The site behind the house just has grass and a gravel driveway. Adam Pelky stated that if they excavate in the area that John Michaels is talking about and find ledge it would make construction that much harder because they could not put the foundation there if it is higher than the ground floor. John Michaels stated that they could pin the footing in if it is not higher than the ground floor. However, if it is not possible then they need to show proof of that. Dan Bennett stated that the ledge rock being discussed is pretty extensive and on the south side of the house it is higher than the first floor level. John Michaels stated that they are comparing the impact of a rock versus the visual impact from the lake on a structure that is significantly higher than what exists. He stated that they have to balance these things. Dan Bennett stated that if they look at the pictures in their packet they will find that this structure is hard to see from the lake now and they are only anticipating taking down 2 trees that are next to and behind the house.

Bill Pfau asked if the applicant considered updating the current structure or replacing in kind. Adam Pelky replied yes but the usable square footage upstairs does not include a bathroom and the stairs are not to code. There is not enough square footage to allow for a proper stairway, bathroom and 2 bedrooms. Kam Hoopes stated that these cabins are very old and make shift. Dan Bennett stated this cabin was built with chestnut logs split and part of the cabin was built on the ground. At the time they thought the chestnut wood would last a lifetime, which it has, but not 3 generations of family.

Kam Hoopes asked if they should incorporate the other agenda item to discuss them together. Counsel Muller replied that is up to the applicant. Dan Bennett stated that he had no problem with that.

5) V10-21 BENNETT, DAN & TURNER, RUTH. Represented by Adam Pelkey. To alter 1 bedroom cabin, specifically to rearrange the footprint, seek area variance for a deficient shoreline setback. 50' is required, 12' is proposed. Section 186.10, Block 1, Lot 6, Zone RCH5000. Property Location: 4750 Lake Shore Drive. Subject to WCPB review.

Kam Hoopes stated that the applicant has two buildings on the same lot that have the same problem of meeting the shoreline setback. Adam Pelky stated that again the setback according to their measurement was 15'8" to the closest edge of the water. Jason Saris asked if these setback measurements were from the shoreline to the mean high water mark. Pam Kenyon replied that she took the measurement from the edge of the dock. Adam Pelky stated that the shoreline is located at the front edge of the dock and that is where they took their measurement from.

Bill Pfau asked if these would be subject to APA review. Pam Kenyon replied no because this property falls within the hamlet.

Kam Hoopes stated that both of these structures are very temporary structures. Physically both of these buildings need to be addressed and replaced, there is no fixing them. Any change to these structures would be considered an improvement. They have moisture issues, aesthetic issues and code issues. With regard to location of the structures, an applicant can replace this in kind without the need for a variance. Freshening up and better utilization of space is always a good thing.

John Michaels stated that this is a significantly bigger structure which will be seen from the lake. He would like to see the house moved back from the lake the same distance that they are raising the house height, which he does not feel is an unreasonable request. It would save some trees and provide more room to provide stormwater management. He asked what the difference in the height would be. Adam Pelky replied 9'. John Michaels stated that he would like to see the house moved back 18' so that it looks the same from the lake as it does now. He stated that he does not see why they couldn't move the structure back because it will not affect their view. Kam Hoopes stated that the applicant has indicated that there is rock ledge which might require blasting. John Michaels stated that he does not feel that the applicant has sufficiently addressed other feasible alternatives. He stated that he does agree that the structures need to be replaced and feels that the plans are good, he would just like to see about moving the structure back a bit from the lake to lessen the impact.

Jeff Anthony agreed with John Michaels assessment of the situation. He feels that any few additional feet that they can get from the shoreline helps with stormwater management. The applicant could certainly look to move the structure back and they would not lose any view of the lake. Jason Saris stated that the point is to allow for the applicant the benefit but granting the minimum relief necessary. He stated that he is not sure if all the Board members feel this is the minimum relief necessary. He stated that it may turn out that they can only move back 3', or that

it cannot be moved back at all, but the applicant has not given an answer with certainty that this is the best location and the reasons proving it.

Bill Pfau suggested that they table this item. Jeff Anthony agreed and stated that if they should table both applications because they have an integral design for stormwater management, grading, drainage. He stated that the structures will affect one another. Jason Saris stated that it is up to the applicant if they wish to proceed with what is proposed or if they would like to table the application until they can provide more answers. Adam Pelky stated that the applicant would like to table the applications.

Kathy Bozony Lake George Waterkeeper, requested to comment on the application because she felt that it may help the applicant in their planning for the upcoming meeting. Kam Hoopes stated that this application will be back because it was tabled. He stated that she could reserve her comments until the project is presented again. Kathy Bozony stated that this is a public hearing and she should be able to speak prior to tabling the application. Jason Saris stated that she was welcome to speak.

Kathy Bozony stated that she had some questions with regard to the 2001 map. The map indicates that there are 3 cabins on the site, but on the 2010 stormwater management plan it states that there are 2 cabins and a shed and asked for clarification of what is on the property. Pam Kenyon replied that she could have helped her if she contacted her at the office prior to the meeting. Kathy Bozony asked if she knew the answer. Pam Kenyon replied that she would be happy to assist her when she is in the office. Kathy Bozony stated that when it was suggested that the main house be moved back where the shed is the applicant stated that it was a cabin and she would like clarification of that.

Kathy Bozony stated that she was hoping that both the Board and applicant would consider the following comments. A stormwater plan to minimize the effects on the lake. This would include increasing the land space between the house and the lake. Although this project is exempt from Bolton stormwater regulations because its' indicated disturbance and no additional impervious surfaces, all structures built within the critical environmental area of Lake George should address stormwater management. The proposed voluntary stormwater management using gutters and grass swales to direct stormwater into a rain garden next to one of the dwellings could more effectively manage stormwater if there were more land between the single family dwellings and the lake.

Kathy Bozony stated that the proposed renovation of the 2 cabins is considered an expansion of living space. The APA shoreline act restrictions are administered as part of the Bolton Approved Land Use program and states that existing structures within the shoreline setback may not be expanded in any direction within the shoreline setback area including an increase of structure height.

Kathy Bozony stated that no clearing limits have been identified in this application. Increasing the setback of the proposed family dwelling and the use of mixed height native trees, shrubs and plants on the shoreline would allow their land to effectively protect the lake. Vegetation in lieu of new structures on the shoreline buffers the lake from stormwater run-off.

Kathy Bozony also requested that the Board restrict the use of pesticides and fertilizers on the property, which should be conditioned with all construction approvals. She also feels that on site waste water treatment should be reviewed.

Kathy Bozony stated that she was pleased to hear the Board discussion of feasible alternatives and adverse impacts on the environment and if this is the minimum relief necessary because it is so critical in shoreline variances.

RESOLUTION

Motion by John Michaels to table applications V10-20 and V10-21 at the applicants' request.
Seconded by Tony DePace. **All in Favor. Motion Carried.**

6. Zandy Gabriels

With regard to the ZBA meeting with APA's Brian Grisi, Zandy Gabriels stated that he would like to offer a suggestion. He stated that the meeting discussed the difficulty that the Town has in with the differing APA criteria. He stated that Brian Grisi did indicate that the APA standards are from a different generation. However, things have evolved and Town Law and Bolton are up to speed but the State agency is still hung on their practical difficulties or unnecessary hardships criteria. He stated that Brian Grisi also commended the Town on their work in enforcing the Town criteria and doing their best in applying the APA criteria.

Zandy Gabriels proposed that it was time for the APA to change their criteria and come up to speed so that they don't have to face the problem of dual standards for variance criteria. The legislature 18 years ago gave the Town criteria and at that time the legislature overlooked or did not discuss the APA Executive Law. Currently the APA has 3 bills in the legislature in dealing with changes in the APA law and he was hoping that they could gather support from the ZBA, Town of Bolton and all Towns within the blue line to offer up a fourth bill in the legislature. He stated that he was hoping that this could be an executive bill, but if not it could be offered by Senator Little in which the APA criteria follows the Town law criteria. He asked if the ZBA would be willing to discuss this suggestion and possibly pass this resolution onto the TB for approval and in hopes to gather support elsewhere.

Jeff Anthony stated that he agreed with Zandy Gabriels that it is time for this change. He stated that the one thing that came out of that meeting was that they found that they no longer have to fulfill both practical difficulty and unnecessary hardship, it is one or the other. This will help them tremendously in future applications, however it would be nice if it were all conforming under one set of criteria. He stated that he would support such a resolution.

Kam Hoopes stated that he came out of that meeting with the same feeling, because the APA is still leaning on those actual words in the record. He also is concerned with the fact that the APA will not visit the site once a decision is made. He stated that to him it seems that would be arbitrary and capricious behavior because they are over-turning the ZBA's very carefully observed and contemplated variances from inside an office. He stated that if they cannot visit

the site and see the various constraints, they should be sending someone to look at it. However, the APA cannot legally go to the site once a decision has been made

Jason Saris stated that he feels that the applicants rights are better served under the current Town criteria, and that is what the legislature decided 18 years ago. He stated that ultimately it is about the owner's rights and the balance between that and protecting the environment and neighborhood character and community. He stated that this is the new and improved standards to do that and he feels that it would only make sense that they should use them for everyone.

Zandy Gabriels stated that the best thing that they could do is to suggest changing the law to make it simpler. Jason Saris stated that Zandy is asking if the ZBA would make a resolution to pass this suggestion of legislation onto the TB to make a request to the APA to make a change their criteria. Jeff Anthony stated that Fred Monroe sits on the APA review Board to cause changes in the Park Agency act and the way they do business. He feels that this resolution should not only be passed onto the Town Board but also to Fred Monroe. Zandy Gabriels agreed and stated that there is also a group called the Adirondack Association of Towns and Villages that would be interested in this as well.

RESOLUTION

Motion by Jeff Anthony to adopt a position that they request the TB to petition the APA to consider adjusting or revising their laws regarding issuance of variances, in particular the use of practical difficulty or unnecessary hardship in their measure for approving a variance and suggest eliminating such criteria and make their criteria more in line, or exactly in line with Town Law and the five standards that they are required to consider. They also recommend that they this resolution be passed on to Senator Betty Little, Fred Monroe, Teresa Sayward, and the Adirondack Association of Towns and Villages. **Seconded by** John Michaels. **All in Favor.**
Motion Carried.

The meeting was adjourned at 7:56pm.