

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, December 18, 2012
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: Jason Saris, Jeff Anthony, Donald King, John Michaels, John Famosi, Tony DePace, David Ray, Matt Slaughter, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent: None

The meeting was called to order at 6:30 pm.

Jason Saris asked if there were any corrections or changes to the November 13, 2012 minutes.

RESOLUTION:

Motion by Don King to approve the November 13, 2012 minutes as written. **Seconded by Jeff Anthony.** Tony DePace and David Ray abstained. **All Others in Favor.**
Motion Carried.

1. **V12-38 RUSSELL, JOSEPH.** Represented by Don Russell. To alter non-conforming single family dwelling, specifically to construct a deck, stairs, grotto and addition, seeks area variance for 1) a deficient front yard setback. 50' is required, 46' is proposed; 2) length. 120' is allowed, 145' is proposed; and 3) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 156.16, Block 1, Lot 6, Zone RCM1.3. Property Location: 121 Norwood Drive. Subject to WCPS review. This item was tabled at the October meeting pending additional information.

Don Russell stated that the applicant is proposing the same plan but they did take the stairs and moved them around to the front. There is no real change to the patio structure. Don Russell stated that he tried to incorporate the footprint for the proposed expansion in the spring. However he is not sure that it will require a variance anyway, it will be a 15' bump out on the front. Pam Kenyon stated that they may still have to deal with the right-of-way to the other 2 lots in the front of the house, which would require a variance. Don Russell asked if he should be asking for a variance for that as well tonight. Jason Saris asked if that would meet their notice requirements. Counsel Muller replied no because it was not publicly noticed for that request.

Tony DePace stated that he thought the applicant owned the other two lots anyway. Don Russell replied that he does. Don King asked if the immediate neighboring lots being owned by the applicant negates the notice factor. Counsel Muller replied that it does help however he wonders how they are going to bind the applicant on the adjacent

property to always agree or comply. Even if the applicant were to agree to the condition now they don't have any follow-through unless it is set up as a deed covenant. Pam Kenyon asked if the access was even necessary or could it be cut off. Don Russell stated that it could be cut off with a tree or fence but that may not be as desirable. Pam Kenyon stated that if those other lots no longer have access and it is just used as a driveway to access this lot then the applicant would not have to come before this Board for permission on the expansion. Don King stated that could get complicated in the future if the applicant were to sell the parcel. He suggested that it would be best for the applicant to clear this up once and for all. Counsel Muller agreed.

John Michaels stated that moving the stairs is a vast improvement. Jason Saris agreed and stated that it also helps with the visual impact. Don King stated that it is tucked back so it is less of an impact visually.

Pam Kenyon stated that there was no correspondence and no WC impact.

With regard to the driveway, Jason Saris asked if the applicant wanted to deal with any other aspects. Don Russell replied no he would prefer to just deal with the patio expansion so that he can talk to the applicant about what he would like to do with the driveway.

RESOLUTION

The Zoning Board of Appeals received an application from Joseph Russell (V12-48) 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.

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; this lot has significant topographical restrictions. The amount of usable property is not large especially when having family or events. Creating the deck will enhance the usability of the property.

2) There will be no undesirable change in the neighborhood character or to nearby properties, the design and overall appearance of the property is in keeping with the rest of the house that exists with regard to finished surfaces. It would be in character with the Adirondack design.

3) The request is not substantial; this is a debatable subject but it is less substantial with the efforts put forth to listen to the Board and consolidate to the greatest degree possible. The applicant has limited the overall length to the maximum allowed.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this works with the lay of the land and minimizes the impact. There is a visual impact from the lake but it is tucked front of the house and the height will not be higher than the existing structure.

5) The alleged difficulty is not self-created, dealing with the terrain and steep land towards the lake and up the hill behind. There is no formal planting plan other than we know that there are some trees that surround it and that applicant plans to add some vegetation.

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 Don King and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) the applicant will add additional substantial vegetation to cover up the foundation of the patio. **All in Favor. Motion Carried.**

2. V12-44 SAGBOLT, LLC. Represented by Atty. Benjamin Pratt. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) for **1)** redesign the docks at the boat museum/warehouse to enable the Morgan to be docked there perpendicular to the shore; and **2)** to relocate and redesign the dock where the Morgan currently docks in the summer. Boat rentals are proposed in this area. Existing dock to be removed. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQ. Note: This application replaces V12-01 as it pertains to the berthing of the Morgan. *Note: Item V12-44 was tabled at the applicant's request.*

Jeff Anthony and Tony DePace recused themselves. Matt Slaughter sat in as an alternate.

Ben Pratt stated that in 2011 they came before the ZBA to request something very similar to this and it was approved. However since then 2 things occurred which amended their application. Ben Pratt stated that originally they proposed to move the Morgan dock from the south end of the island to the west side of the island by the warehouse and dock parallel to the shore. However, when they went to the LGPC for approval, Mike White, Director at the time, dove in the area and concluded that they would not be able to put the Morgan there on a consistent basis without doing some extensive dredging and moving of

boulders. The LGPC suggested and the applicants agree that they would dock the Morgan perpendicular to the shore on the north end of the warehouse in front of what used to be the FR Smith and Son property. The LGPC issued that permit and they have come back to review it with the Town and seek approval of that modification.

Ben Pratt stated that the previous application also revised the area where the Morgan is currently docked. They proposed new docks and to move the Chic's Marina operation so that it is away from the main front area of the hotel and closer to the south end by the property owned by Blesser, Chrys and Baum. However they had objections from the neighboring property owner who commenced litigation. They have since come up with a stipulation that resolves the litigation. As a result they have moved the docks away from the property line and agreed to several conditions, which he is hoping can be part of the application as conditions of approval if found acceptable to the Board. He provided a copy of the conditions for the Board to review. Ben Pratt stated that basically the conditions state that if anything changes with respect to the Chic's Marina docks the applicant would have to come before the ZBA, which would be required due to the PUD.

Ben Pratt stated that he feels that this proposal will work better; it is better for the lake and neighbors. There is a lot less square footage than exists presently. They are reducing the number of rental boats as well. The only difference from the plan submitted and approved by the LGPC is that the Chic's docks were shown only to be 5' wide and due to safety concerns they are proposing that the docks be 7' wide. Ben Pratt stated that the LGPC has been made aware of the change and have indicated that they have no objection but the formal application is being submitted now. Additionally the neighbors have no objection to this change.

John Michaels stated that he is concerned that they don't even have jurisdiction over these docks anyway. He stated that it would be nice to have the LGPC approval first. Ben Pratt stated that they have an indication of what the LGPC is going to do, which is approve this minor change without a variance.

Jason Saris stated that he doesn't have any issue with what the applicant is doing with the Chic's docks. However he did prefer that the Morgan be docked parallel to the shore. He finds it surprising that the Morgan has been docked here before parallel to the shore so he is confused as to why it would be perpendicular to the shore considering this is a busy thoroughfare.

Ben Pratt stated that the question is whether it can be docked parallel all of the time. Jason Saris stated that the water level over the winter is the lowest time and that is when he has seen it docked in this position. He finds it will be more problematic backing it in and out of the spot perpendicular to the shore.

Pam Kenyon stated that there was no correspondence and no County impact.

Dorothy Robinson stated that their house directly faces this dock. She is concerned that

this will add to the over abundance of lights that already exist from the Sagamore and other neighbors. Ben Pratt stated that all lights will be downward facing and shielded. Additionally, the Morgan will not be boarding in this location so the lighting will not need to be as bright.

Jason Saris stated that there was concern that docking the Morgan in this area would encroach on neighboring docks. Ben Pratt stated that has been resolved; the applicant under an independent LLC has purchased the property. He stated that he is not sure if it will be added to the PUD at a later time. Counsel Muller asked if there is a formal easement with the new property owner. Ben Pratt stated that when FR Smith owned the property they had a 99 year lease that allowed them the use of that property and the railroad property, and that will remain.

Chris Navitsky, Lake George Waterkeeper asked about the slips that are to the north of this property. He stated that the Waterkeeper boat is berthed in this location and when the Morgan has been dry docked in the past they have had to move their boat. He also expressed concern about navigational issues in this area given the heavy volume of traffic.

Ben Pratt stated that the applicant, Scott Andersen and Sagamore Storage, LLC are speaking and he anticipates a decision quickly. In terms of navigational issues, he feels that it is in the eye of the beholder. He stated that he understands their concerns but he stated that this is how the LGPC wanted them to do this.

Don King stated that he has docked at the docks to the south for a number of years. He has observed that there is a lot of motor boat traffic going both ways and there are a lot of uneducated canoe and kayak users who typically stay away and hug the shore. When the Morgan is departing the kayakers are going to be forced out into the main traffic area so he can support their concerns. John Michaels stated that he is concerned that this will stick out into the channel. Ben Pratt stated that if they were to put the Morgan parallel to the shore he feels that it won't be sticking out much further. John Michaels stated that they do have a place for the Morgan right now. Ben Pratt agreed, however the difficulty is stocking the boat and removing the garbage around the island in front of the hotel. Jason Saris stated that those fingers could be shortened if they wanted to park it parallel. However this is not really their jurisdiction but rather friendly advice.

Tony DePace, stated that they are looking to extending the existing dock by less than 30'; he does not feel that this substantial change. With regard to the kayak and canoes he stated that this is a 5 mph zone. Additionally if you were to line yourself up with where the end of this will come out and look north you will notice the State boathouse.

Tony DePace stated that the Chic's Marina docks are being pushed back to the north by approximately 80'. He stated that he will not have as many rental boats in this location due to the relocation and size of the docks.

With regard to the conditions that the applicant would like us to include, John Michaels replied that he does not feel comfortable with adding them. He stated that they don't dictate the size of the boats or types of boats, hours of operation. This seems to be more of a personal agreement between the neighbors.

Marney Abbott, attorney representing Blesser, Cryst stated that they tried to address some of the concerns that Mr. Blesser had. They wanted a stipulation to be filed but Ben Pratt didn't want that so they were looking to set some limitations. Ben Pratt stated that they can find another way to handle these conditions/stipulations.

John Michaels asked what would be the delay if they were to wait to see what the LGPC says. Ben Pratt stated that the applicant would like to start this work before the lake freezes and have it done by spring. He anticipates having approval from LGPC by the end of the month. Jason Saris stated that if the LGPC makes any changes to what is being approved the applicant will have to return anyway.

RESOLUTION

The Zoning Board of Appeals received an application from Sagbolt, LLC (V12-44) 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.

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; there will be less square footage of dock for the Morgan.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, this will be used as a dock as it has always been used. The adjoining neighbor is here and they have an agreement in place.
- 3) The request is not substantial; there is very little change being requested, the dock will be smaller.
- 4) The request will not have an adverse effect or impact on the physical or

environmental conditions in the neighborhood or district; it is just a dock.

5) The alleged difficulty is not self-created, it is a change to a previously approved application.

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 Michaels and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented and amended to reflect the 7' width to the dock with the following condition: 1) any lighting on the dock will be downward facing and shielded. Tony DePace and Jeff Anthony recused themselves. **All Others in Favor. Motion Carried.**

3. V12-47 **ABBATIELLO, JOSEPH & CAROL-BEGGS, GREG-JAQUEWAY, DEBORAH- HIATRIDES, JAMES AND FLORY-JANSON, HERBERT- SWOPE, ANN- LOKUS, RONALD-O'REILLY, JAMES & TERESA-BAYER, DAVID & CAROLYN.** Represented by Frank McDonald. In accordance with Section 200-93 (other regulations applicable to Planned Unit Development), seek area variance (PUD Amendment) to allow 5 patios to remain, extend one patio and construct 2 additional patios. Section 157.05, Block 1, Lots 88.34, 88.37, 88.32, 88.33, 88.36, 88.35 & 88.38, Zone PUD. Property Location: Lagoon Manor. Subject to WCPS, ZBA, PB, APA and TB review. Subject to SEQ. R.

Note: Jeff Anthony recused himself. Matt Slaughter sat in as alternate.

Frank McDonald stated that these applicants would like to have patios out of their walkouts which are in the shadow of the above patios. Five of these patios are already in place and are after the fact. There are 23 town homes in this PUD already constructed. These are the only 7 town homes that have a walkout. He was not aware that these were constructed without approval. All decks are on the lakeside which he has not seen because if he had he would have recommended to request permission from the town. He stated that there is one patio that has been constructed that has more than a flat level of ground patio it has two walls and little columns; all laid up dry so it can be removed.

Counsel Muller stated that this was not included in the PUD plan so they needed to come before the Board to amend the PUD. Frank McDonald replied that one drawing that did include a deck and patio however he was not able to locate that drawing in the zoning office.

Tony DePace asked who owns the property that the patios are on. Frank McDonald stated that it is common area. Jason Saris stated that if you look at the pictures you can see that it would make sense to do this because it is difficult to grow grass under the decks.

John Michaels stated that he is concerned about the stormwater. He would like to make sure that it does not violate the master stormwater plan. Jason Saris asked if the space under the deck would be counted in the stormwater calculations. John Michaels replied yes it could be depending on how the calculations were done. John Michaels stated that it could easily be resolved by adding a stone trench. Jason Saris asked if Pam Kenyon was okay with the stormwater. She replied yes because there was a master stormwater plan. Jeff Anthony replied that the decks were never included in the stormwater calculations. Jason Saris stated that approval could be conditioned to verify that the stormwater can handle the additional surface and if necessary something is done. Counsel Muller suggested conditioning that it is minor stormwater if it is necessary.

Jeff Anthony stated that it is 3000 additional square feet of impervious surface that was not included in the calculations. It could be accomplished by putting some stone and gravel just past the patios. Frank McDonald stated that would be agreeable.

There was no County impact or correspondence.

RESOLUTION

The Zoning Board of Appeals received an application from Abbatiello, Beggs, Jaqueway, Hiatriides, Janson, Swope, Lokus, O'Reilly & Bayer (V12-47) 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.

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; it is a piece of land under the deck where vegetation is not going to grow. It is logical that something be done and if nothing else this will help with erosion to have a less vulnerable surface than dirt.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it is almost not seen, it is a patio structure underneath an existing wooden deck.

3) The request is not substantial; these are small patios and under 3,000 sq. ft combined.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; not in the sense of neighborhood, however there will be a condition that all patios have a drainage receptor of some along the downhill edge of the patios to catch the run-off.

5) The alleged difficulty is not self-created, there was an oversight at the time the PUD was submitted.

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 Don King and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) minor stormwater will be required. Jeff Anthony recused himself. **All Others in Favor. Motion Carried.**

4. V12-49 BROWN, ROBERT. Represented by Brian Johnson. To demolish and rebuild single family dwelling and construct associated retaining walls, seeks area variance for deficient setbacks. 1) Front: 50' is required, 15' is proposed; and 2) Rear: 50' is required, 13' is proposed. Section 122.16, Block 2, Lot 10, Zone RR10. Property Location: 170 Sherman Lake Road. Subject to WCPS review.

Brian Johnson stated that the applicants are asking for a variance on the front and rear setback. It is a non-conforming cottage and they are only looking to further encroach on the setbacks by approximately 1' overall. The applicants would like to take down the deteriorating cottage and replace it with a new house of similar size.

John Michaels asked how the applicants get their water now. Brian Johnson replied that currently they draw from the lake but would like to drill a new well if possible.

Jason Saris asked how tall the structure will be in comparison to what exists now. Brian Johnson replied that it is currently a single story and the proposed structure is as well and will be similar in height. Jason Saris asked about the overall size. Brian Johnson replied that it will be approximately 1200 sq ft.

There was no County impact or correspondence.

Jason Saris asked if there were any comments from the public in attendance.

Doug Hartman, neighbors, stated that they are not concerned at this time with the design. However there may be some concerns with the septic. Brian Johnson stated that a new septic system is being designed to replace the existing cesspool. It will be further from the neighbors' well at approximately 150'. The elevation for the bottom of the leach

field is at 106' and the top of the well casing is 95' and is cross gradient.

Jason Saris asked about the type of materials to be used. Brian Johnson replied that it will be a clay colored vinyl siding. The roof will be shingled, darker brown or black.

RESOLUTION

The Zoning Board of Appeals received an application from Robert Brown (V12-49) 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 application of the applicant is as described in Item# 4 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 applicants are asking to replace the existing building and squaring up the corners.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, being a new structure this will be an improvement.
- 3) The request is not substantial; a building already exists there, this new building will only be squaring off the corners.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this should be an improvement they will be going with a new well and installing a new septic system to replace the current cesspool.
- 5) The alleged difficulty is not self-created, it is an old existing structure that wouldn't be cost effective to fix up.

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 Michaels and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

Jason Saris asked about the additional information that was presented to the Board before the meeting. Pam Kenyon stated that she provided information regarding some changes to original plans and approvals and wanted to know if the Board would like to see these applicants come back. She provided some details; Joe Pelli, the deck is substantially larger than originally proposed. The Board decided to ask for them to come back. With regard to Sisca, the applicant wants to fill in an area that was supposed to be stairs and make it part of the deck. After further discussion, the Board decided they were okay with the change to Sisca.

With regard to meeting schedule Pam Kenyon stated that she has an issue with November meeting being so late in the month. The Board agreed to move it to the 2nd week.

The meeting was adjourned 8:35pm.

Minutes respectfully submitted by Kristen MacEwan.