

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, December 16, 2014
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, Donald King, Matthew Slaughter, Holly Dansbury, Tom McGurl, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent: Michael Calautti, John Famosi & Jeff Anthony

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

Jason Saris asked if there were any corrections or changes to the November 18, 2014 minutes.

RESOLUTION:

Motion by Matthew Slaughter to approve the November 18, 2014 minutes as presented.

Seconded by, Don King. **All in Favor. Motion Carried.**

Jason Saris explained to all of the applicants that due to the fact that they did not have a full Board, the applicants could table their applications at any point.

1. **V14-48 TROY, BRUCE & ELEANOR.** Represented by Curtis Dybas. To alter non-conforming single family dwelling, specifically to add a master bedroom and a 3 season porch, seek area variance for 1) a deficient side yard setback. 20' is required, 17.33 feet is proposed; 2) Lot coverage. 15% allowed, 18% proposed; and 3) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 1, Lot 44, Zone RM1.3. Property Location: 35 Horicon Avenue. Subject to WCPS review.

Curt Dybas presented the following:

- They are looking to enlarge the home to provide for a maturing family.
- The house is currently a two bedroom one bath home.
- They would like to add a master bedroom on the back with a bath a walk in closet and a three season porch.
- The two additions are to the rear.
- The porch may not be built immediately but the addition will.
- The stormwater management will be handled by eve trenches on the two sides.
- They are trying to remedy the sheeting water coming down Horicon Avenue when it rains.

Jason Saris asked if there were plans for future expansions. Mr. Dybas replied they would like to retire here and there would be no future plans to expand.

Holly Dansbury asked if the existing shed would be affected by the expansion. Mr. Dybas replied no.

Jason Saris asked if the three season porch would be another room with no basement. Mr. Dybas replied that the intent is never to heat it.

Tom McGurl asked if they could shift the three season porch to the left to avoid the side yard variance. Mr. Dybas replied that it could be shifted.

Atty. Muller read a letter from the Lake George Waterkeeper in opposition to the project into the minutes.

RESOLUTION

The Zoning Board of Appeals received an application from Bruce & Eleanor Troy, (V14-48) 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: the addition could be at another level but it would create an undesirable situation.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The lot coverage and encroachment is minimal and most of the addition will not be visible.
- 3) The request is not substantial; this is a small change.
- 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 changes are of minor impact.

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

Now, upon motion duly made by Matthew Slaughter and seconded by Holly Dansbury, it is resolved that the ZBA does hereby approve the variance request as presented. Tom McGurl opposed. **All others in Favor. Motion Carried.**

2. **V14-47 MASTERSON, JOSEPH & KATHLEEN.** Represented by Northfield Design. To alter non-conforming single family dwelling, specifically to add an addition, deck, stairs and relocate stone walk, seek area variance for 1) deficient setbacks. Front: 50' is required, 5' is proposed; Side: 15' is required, 8' is proposed; Rear: 20' is required, 18' is proposed. 2) Lot coverage. 15% allowed, 19% proposed; and 3) To alter non- conforming structure in accordance with Section 200-57B(1)(b). Section 156.20, Block 1, Lot 45, Zone RCM1.3. Property Location: 109 Rock Cove Road. Subject to WCPS review.

James Miller of Northfield Design stated;

- Rock Cove Association is a seasonal Association from April to October.
- He believes they are in compliance with the side yards and rear yard.
- They are looking for relief for a front yard setback and density of the site.
- They explored other avenues for this project and this was the most acceptable to the Association.
- They have received Association approvals.
- The existing lots do not conform to the existing zoning ordinance.
- It is very difficult to do anything with any of the lots without requiring a variance.
- The new addition will be on piers and they are not affecting any drainage patterns.
- They will be using gutters that drain to a rain garden for runoff which will be much better than what exists at this time.
- There is an existing sewer and water system for the existing subdivision.

Jason Saris asked Mr. Miller to explain the different avenues they had tried before reaching this plan. Mr. Miller explained the different issues they faced and stated they believe this is the least obtrusive plan.

Holly Dansbury inquired what the addition was being used for. Mr. Miller replied that it would increase the seasonal living area. He stated if they were limited to the amount of time it could be used.

Zoning Administrator, Pamela Kenyon made a correction to the agenda eliminating the side yard setback variances.

Atty. Muller read a letter of opposition to the project from the Lake George Waterkeeper into the record.

RESOLUTION

The Zoning Board of Appeals received an application from Joseph & Kathleen Masterson (V14-47) 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#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 owner took into consideration the neighbors input and picked the least intrusive plan.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is an Association of similar structures.
- 3) The request is not substantial; while it is relatively small, it still has a bit more coverage so stormwater is to be recommended.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; An engineered stormwater plan is to be implemented which will be much better as none exists at this time.
- 5) The alleged difficulty is not self-created; this is a pre-existing, non-conforming structure. 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 Matthew Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition; 1). An engineered stormwater plan is to be implemented and submitted to the Zoning Office. **All in Favor. Motion Carried.**

3. **V14-49 LUDWIG, MICHAEL.** To allow an 18.10' x 10.8' storage building to remain in its present location, seeks area variance for deficient front yard setbacks. 50' is required. 48.7' is proposed from Thunderbird Road and 36.6' is proposed from Brereton Road. Section 213.13, Block 1, Lot 20, Zone RCM1.3. Property Location: 1 Thunderbird Road. Subject to WCPS review.

Mr. Ludwig requested that his application be tabled.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by Don King, it is resolved that the ZBA does hereby table agenda item V14-49 at the applicant's request. **All in Favor. Motion Carried.**

4. **MARKI, BERNARD & PATRICIA.** Represented by the Atty. Thomas Ulasewicz. In accordance with Section 200-72 of the zoning ordinance, seek to appeal the Zoning Administrator's interpretation whereby determining that wildlife rehabilitation undertaken on those parcels designated as Section 171.07, Block 2, Lots 37 & 38 is not considered an artisan activity. If the Board determines that an artisan activity exists, the applicant's seek the following: 1) are the cages in excess of 100 square feet

considered an accessory use structures? And 2) Is wildlife rehabilitation and its facilities (cages in excess of 100 square feet) customarily incidental and subordinate to a residential use where the residents are bona fide trained, skilled and licensed wildlife rehabilitators? Zone RCM1.3. Property Location: 2 Braley Point Road.

****THIS ITEM WAS WITHDRAWN AT THE APPLICANTS REQUEST****

Atty. Muller stated that the interpretation that Marki's had appealed is now considered final.

Jason Saris inquired if this is being withdrawn and if no other application for relief had been filed would this leave the applicant in violation. Atty. Muller replied yes. Jason Saris asked if the structures were still in violation with or without any animals on site and if the Town could proceed with enforcement. Atty. Muller replied the structures constituted a part of the violation and he has instructed the Zoning Administrator to send a letter informing them that they were in violation.

5. **V14-50 BOLTON LANDING MARINA, LLC.** Represented by Atty. Robert Sweeney. To alter non-conforming boat storage building to increase the storage capacity of an additional 56 boats, seeks area variance for 1) Height. 35' is allowed, 55' is proposed; 2) Front yard setback. 60' is required; 0' is proposed from right-of-way; 3) Building Length. 120' is allowed, 280' is proposed; and 4) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 2, Lot 3, Zone GB5000. Property Location: 4932 Lake Shore Drive. Subject to WCPS, APA, and LGPC review. See SPR14-27 associated with this project. Discussion purposes only.

Jason Saris recused himself. He explained to the Board that they could save the public hearing to a later date as this was only a discussion at this time.

Atty. Bob Sweeney of Whiteman, Osterman and Hannon with members of the LA Group presented the following;

- They are looking for 3 variances from the Board.
- They would like to do an additional 20' in height to the building.
- This would add another rack to the boat storage vertically.
- Everything else will stay the same on the site.
- They are required by the zoning law to get two additional variances even though nothing else is changing.
- This is a pre-existing, non-conforming use.
- The building is 280' long, and current zoning limits it to 120'.
- The driveway on the north side of the building is a right of way or road open to the public which requires a variance.
- He identified the many approvals they would need from other entities for this project.
- He suggested that the Planning Board continue to act as lead agency for this project.

- He presented a power point presentation with photo simulations from different viewpoints and detailed them to the Board.
- He explained that this is a marina and they are not storing transient boats, which will help with the potential hazard of invasive species.
- A critical factor is the LGPC permit limits the number of boats out of this marina at any one time to 100.
- There is currently 171 boat storage spaces at this time and they are proposing to add an additional 56 more.
- There are 124 existing parking spaces on the site.
- The average daily number of boats out of the marina during July and August of 2014 is 32.
- The highest recorded number of boats out was 62, which shows that they do not even come close to the amount allowed by their LGPC permit.
- They have sufficient parking and access rights to the town lot.

Holly Dansbury asked why they needed to go up 20'. Atty. Sweeney stated that the current configuration is for a shorter boat and they are trying to accommodate larger boats with higher vertical levels to them. Holly Dansbury asked if this was really necessary. Atty. Sweeney replied that it was.

Tom McGurl asked the Zoning Administrator what the history was for height variances. Zoning Administrator, Pamela Kenyon stated that the Board had been granting them, but the Board needed to act on each application on its own merits. Tom McGurl asked that the applicant bring photos showing what it will look when all the leaves are off the trees.

Holly Dansbury asked if adding 56 boats would affect the parking. He stated they believe there is more than adequate parking. Don King asked if they could provide documentation on the highs and lows. Atty. Sweeney stated that it is in the packet.

Atty. Sweeney stated that there would also be an economic benefit to the town.

Don King opened the floor to the public.

Ned Berkowitz expressed his opposition to this project detailing the many questions and objections he had and stated he wanted assurances there would not be additional changes to any approvals. He also stated he would like to look at any modifications that had been approved to any of the previously granted permits.

Brian Allen stated his opposition to the project and stated it was most definitely an undesirable change to the neighborhood and a visual impediment.

Zandy Gabriels questioned the height of the project and the availability of equipment to fight a fire effectively if that unfortunate event occurs.

John Whitney stated this was a great business and important to the community but he had concerns with the impact and stated he would also like additional information on the impacts and more photo renderings from different areas.

Jason Saris stated as a neighboring property owner he did not have any objection to the project.

Atty. Muller read letters in opposition from the Lake George Waterkeeper into the record.

No County impact with the preceding stipulation with a recommendation based on the information submitted according to the suggested review criteria of NYS General Municipal Law Section 239 L applied to the proposed project.

Don King stated the public hearing would remain open for further comment at a future date.

The meeting was adjourned at 7:57pm.

Minutes respectfully submitted by Kate Persons.