

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, June 17, 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, John Famosi, Tony DePace, Donald King, Jeff Anthony, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

**Absent:** Matthew Slaughter

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

Jason Saris asked if there were any corrections or changes to the May 20, 2014 minutes.

**RESOLUTION:**

**Motion by** John Famosi to approve the May 20, 2014 minutes as presented. **Seconded by** Don King. **All in Favor. Motion Carried.**

Jason Saris expressed the Board's deep regret of the loss of Board member John Michaels.

Jason Saris informed the applicant's of their option to table their projects as it was not a full Board.

**V14-15 JENSEN, ROY.** Represented by Atty. Jack Libowitz. To demolish and rebuild single family dwelling, seeks area variance for deficient setbacks. Front: 30' is required. 18' is proposed on the north side and 11' is proposed on the south side. Sides: A total of 20' is required. 10.8' is proposed on the east side and 6.6' is proposed on the west side. Section 171.15, Block 3, Lot 42, Zone GB5000. Property Location: 36 Norowal Road. Subject to WCPS review. See V14-12 for previous denial

Atty. Libowitz presented the following:

- This matter was denied by the Board last month.
- They decided to make some changes to the application and presentation.
- They are hoping they have addressed many of the concerns of the Board and the neighbors.
- He handed out letters of support from immediate and broader neighbors.
- They have dealt with the stormwater concerns of the Board and had a plan drawn up by Devin Dickinson.
- The roof has been reduced 4' in height.
- This is 6.5' under the town standard of 35'.
- They have removed the eastern 4' walkway from the side yard to the deck.
- They have tried to adjust the plans to meet the town's standards.

- There have been many changes in the neighborhood through the last 35 years.
- They believe a bigger home fits better with what the neighborhood is today.
- These are all pre-existing, non-conforming lots.
- They believe the property owners in the back do not have unobstructed views of the lake at this time.
- Nobody really has the right of a view across someone else's property.
- The applicant is proposing to reorient the roof so it is turned 90 degrees so the neighbor is not looking at a wall directly in front of him.
- They believe they are trying to accommodate the neighbors' concerns.
- They respectively disagree with the difficulty being self-created, as the lot was developed in 1980 and is a prior non-conforming lot.
- There have been many variances granted in this neighborhood to allow larger homes.
- They believe they have addressed the Board's prior concerns with the changes they have made a good case for meeting the practical difficulties.
- The practical difficulties arise from this being a pre-existing non-conforming building.

Jason Saris stated that the Board is not the A.P.A. and they do not require a practical difficulty and it has no bearing on this Board. He also mentioned it is clearly part of an area variance, not only a use variance. He explained that there is some validity in the argument that it is self-created, but stated this is not a deal breaker for a variance, and he believes this is a far better plan than the one that was first presented.

Don King stated that he did not see a rendering of what the building view shed would be when it's built. He believes the applicant has come back with a plan that has taken into consideration the concerns of the Board and it appears that the impact is on one neighbor. Jason Saris stated that shaving off 4' from the roof line and readjusting the gables is huge in a situation like this and he believes it is a vastly improved plan.

Tony DePace said he agreed with Don King and he would like to see the view shed. Mr. Jensen stated he put balloons up and tried depicting to the Board what it would look like by pointing to the photographs. Tony DePace stated the neighbor in the back would lose his view that he is accustomed to having. Jeff Anthony asked why they did not take pictures so the Board could clearly see it. Don King asked if the 7' broke the ridge line of the hills in this view. Mr. Jensen stated he would have to look at his phone to see. Jeff Anthony stated he would rather have pictures the Board could view.

Jeff Anthony stated he was glad they did some stormwater but he did not see any deep test pits on the drawing and he was not happy enough, not knowing if the 2' of stone was sitting in water or not, thus losing its effectiveness and if he was doing the job he would have done the test pits. Mr. Jensen stated the engineer had done them. Jeff Anthony stated he could not see them on the drawings and he would like to see them in front of him so he could make an educated opinion.

Tom Ulrichs stated that Mr. Jensen was not asking for anything more than what had been done before in any number of associations around the lake in town.

Wilma Rizzie a neighbor to the right stated it was great to have a year round neighbor to watch the neighborhood and she believes the project is a good thing.

Atty. Pasquariello, representing, Mike and Sandy Pachucki and Joyce Snedeker, owners of cabins 7 and 8 stated the site area had not changed much from the previous application. He went on to state the following:

- The front setback is 18' which is a 40% difference of what is required.
- The other front setback is only 11' which is 63% difference.
- The side setbacks are 17.4' which is a 13% difference.
- He feels these are substantial variance requests.
- A structure 28.5' high within 12' of the roadway will have a significant effect on the neighbors behind the applicant's structure.
- He read a provision from the declaration of restrictions that was submitted and stated he believes this project was a violation of the restrictions of the HOA.
- He believes the criteria for a variance has not been adequately addressed.
- He believes the view is a big deal.
- He read a letter from Sally Pepper of Caldwell Banker King George Realty into the record.
- He read a letter from Town Assessor, David Rosebrook into the record.
- He believes it is clear that they will lose a part of view of the lake that they have enjoyed for many years.
- They believe that the applicant knew what the site requirements were when he bought the property making this a self-created hardship.
- He went over a case that happened in the Town of Lake George.
- He submitted modified pictures to the Board.
- He stated they are asking for the variance to be denied.

Mary Dorritie from the public stated that the homes in question are not directly behind the applicant's project, they are staggered so the view does not change directly out.

Town Council read letters in favor from:

Scott Kupetz  
Scott Andersen  
Ann Brickner  
Heidi Brickner  
Dorothy Robinson  
Jack Robinson  
David Gabriels  
Frank McDonald  
Sherry Dufresne  
Carol Newell  
Jesse Foy  
William Bashant  
John Maranville  
Thomas Ulrichs

Atty. Libowitz stated that the house in Lake George that Atty. Passarella cited was definitely not the situation they were talking about tonight. He also stated that he respected Jeff Anthony's concern with stormwater, but they did pay an engineer to do the stormwater and they would accept a condition on the variance stating that any concerns or short comings of the stormwater plan was acceptable by the Zoning Administrator.

Atty. Passarella stated the larger houses in the subdivision are on the far East side. The rest are smaller and he is relying on the case law he submitted and he thinks it is important for the Board to consider it in their deliberation.

Don King stated he would like to see more information on the view shed coming from the other properties so the Board could move forward with this application.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Roy Jensen

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 be achieved by any other means feasible to the applicant besides an area variance; There are other possibilities that could be offered.

2) There will be an undesirable change in the neighborhood character or to nearby properties; While the applicant has huge support from the neighbors, none of those neighbors will be impacted like the neighbors in the back.

3) The request is not substantial; The setbacks are in minor adjustments to the existing structure which is pre-existing and non-conforming.

4) The request will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; They do not know this at this time because they do not have a good rendering of the stormwater or the view shed.

5) The alleged difficulty is not self-created; It is a pre-existing, non-conforming structure. The benefit to the applicant is 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 deny the variance request as presented. **All in Favor. Motion Carried.**

Atty. Thomas Ulasewicz requested that items 3 and 4 of the agenda be adjourned for a full Board.

**V14-16 SQUEO, FRANK.** Represented by Bruce Soloyna. To alter non-conforming single family dwelling, specifically to place solar panels on the roof, seeks area variance for 1) deficient setbacks. Shoreline: 100' is required, 26' is proposed. Side: 50' is required, 14' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(2). Section 186.15, Block 1, Lot 8, Zone LC45. Subject to WCPS and APA review. See SPR14-15 associated with this project.

Bruce Soloyna, Greg Crawford and Lindsay MacEntire of Monolith Solar handed out site plans to the Board and presented the following:

- They are proposing to install roof mounted solar panels.
- This includes 58 solar panels.
- It is approximately 6 to 8 inches above the roof.
- They propose to mount them on the south east and west facing roofs.
- They are commercial solar modules with a light blue shades.
- They are polycrystalline modules with different shades of blue.

Jason Saris asked if they were parallel to the roof. Mr. Crawford explained that they were flush mounted parallel to the roof and stayed the same pitch as the roof.

- He showed a rendering of what the panels would look like on the roof.
- NYSERDA requires that all wires be raised off the roof.
- The PV wires run in conduit on the side of the building.
- They are housing the inverter in a shed.
- The shed is adjacent to the home.

Jason Saris asked if the shed already exists. Mr. Crawford said yes.

- This system will offset Mr. Squeo's usage by about 103%.

Tony DePace asked if this would run the whole house. Ms. MacEntire replied yes.

Tony DePace inquired about large snowfalls. Mr. Crawford stated that snow does accumulate on the modules and as soon as it is exposed to the sun it melts quickly and they can install snow guards to protect walks and doorways. Tony DePace asked if this was a generator back up system. Ms. MacEntire replied no, that it was a grid tie system so when the grid goes down the system goes down.

Jason Saris asked if they would need to do anything structurally to support the roof. Mr. Crawford replied no, but he can get a structural letter if the Board needs it.

Ms. MacEntire stated that the solar panels protect the asphalt roofing from the elements of nature furthering the longevity of the roof.

Tony DePace asked how the house is heated. Ms. MacEntire stated she believes it is propane.

Tony DePace asked the Zoning Administrator if the notices were sent out notifying the neighbors across the bay. Pamela Kenyon replied she has to notify everyone within 500' of the applicant and she believes that they are farther than 500' away.

Zoning Administrator, Pamela Kenyon explained the Board that the Warren County Building and Codes Department would require a structural analysis to make sure the roof can handle the load.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Frank Squeo (V14-16) 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; This is simply a non-conforming structure and will not violate any setbacks.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is pretty isolated out there.
- 3) The request is not substantial; They are not asking for any relief.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; It will have a positive impact reducing the carbon footprint of the structure.
- 5) The alleged difficulty is not self-created;

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

Now, upon motion duly made by Jeff Anthony and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

**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 are not considered an artisan activity. If the Board determines that an artisan activity exists, the applicant's ask 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 tabled at the applicant's request\*\*\*

**THE FUND FOR LAKE GEORGE AND THE LAKE GEORGE**

**WATERKEEPER.** 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 Section 200.51C(3) of the Town's zoning Ordinance does not apply to a "shared driveway" as it pertains to a maximum clearance width of 16'. See ZA's letter dated March 6, 2014 for specifics. Section 171.00, Block 1, Lots 6 & 15.2, Zone LC25. Property Location: Edgecomb Pond Road.

\*\*\*This item was tabled at the applicant's request\*\*\*

The meeting was adjourned at 7:51pm.

Minutes respectfully submitted by Kate Persons.