

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, October 16, 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: Jeff Anthony, Donald King, John Michaels, Tony DePace, John Famosi, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent: Jason Saris and David Ray

The meeting was called to order at 6:34 pm.

Jason Saris asked if there were any corrections or changes to the September 18, 2012 minutes.

RESOLUTION:

Motion by John Michaels to approve the September 18, 2012 minutes as written. **Seconded** by Don King. Tony DePace abstained. **All Others in Favor. Motion Carried.**

1. **V12-35 FERRIS, JIM.** Represented by Greg Bonath. To alter non-conforming single family dwelling, specifically to raise a portion of the roof 6', seeks area variance for 1) Deficient setbacks. Front: 30' is required, 7' is proposed; Side 8' is required, 6' is proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lot 12, Zone GB5000. Property Location: 8 Hondah Loop. Subject to WCPS review.

Greg Bonath provided a brief overview of the project. He stated that they will not be changing the footprint at all. They are just increasing the upstairs by 6' to make it a more usable space. There is no plumbing involved.

Tony DePace asked how many bedrooms currently exist. Greg Bonath replied three. John Michaels asked what the overall height of the structure will be. Greg Bonath replied that the front section will just be raised up to the 26' which is the same as the rest of the house. There will be no further visual impact than already exists. Jeff Anthony asked if the expansion is for a bedroom. Greg Bonath replied no, it is just making the room usable as a rec room. He added that the home is only used seasonally so there will not be added use to the septic.

Pam Kenyon stated that there was no WC Impact.

Rod Owens, neighbor, stated that although he was not speaking on behalf of the HOA, no one from the association was opposed to this application. He indicated his support of the project and recommended approval of the application. Mary Owens stated that she too was in favor of the application.

RESOLUTION

The Zoning Board of Appeals received an application from Jim Ferris (V12-35) 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 is a very small plot of land and there is no expansion beyond the footprint or existing height.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is slightly extending the roofline but will not block anyone's view.

3) The request is not substantial; it is a 4' rise which is not greater than what already exists on the house.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there is no disturbance of the land or change in the overall footprint.

5) The alleged difficulty is not self-created, this portion of the house could have been built to the original roofline when it was first built; however cost was probably a factor at the time.

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. **All in Favor. Motion Carried.**

2. V12-36 SILLS, STEPHEN. Represented by Curtis Dybas. To alter non-conforming single family dwelling, specifically to replace a sunroom, seeks area variance for 1) a deficient shoreline setback. 75' is required, 70' is proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 213.17, Block 1, Lot 23, Zone RCM1.3. Property Location: 48 The Mooring. Subject to WCPS and APA review.

Curt Dybas stated that the green house was built shortly after the main house. The applicant has had

issues with it leaking. Additionally it is becoming an ongoing problem with cost and finding replacement panels for the structure. The applicant has proposed to remove the greenhouse and replace it with a seasonal room with a crawl space underneath.

John Michaels stated that he noticed the boat ramp carries a lot of stormwater into the lake. Tony DePace stated that the ramp has been in existence for a long time. John Michaels agreed but given the amount of use that it gets it might be nice to see something done to control the run-off better.

Jeff Anthony asked if the conversion is on the existing footprint. Curt Dybas replied yes they will not be expanding beyond the footprint but they will be putting a crawl space foundation in.

Chris Navitsky, Lake George Waterkeeper, stated that they are not opposed to project but they would like to see the stormwater addressed.

Jeff Anthony asked if they could consider minor stormwater for the project. John Michaels stated that in situations when the applicant is making a change to the footprint or increasing disturbance they have asked for stormwater measures to be taken. Although he would like to see the stormwater addressed in this project the applicant is only making a minor change within the footprint. Curt Dybas replied that he would talk with the applicant and Pam Kenyon about doing some minor stormwater mitigation. However they are dealing with bedrock approximately 8” below the surface so it will probably be limited.

Jeff Anthony stated that this will go before the APA so they will need to consider their requirements as well if we are to approve the application.

RESOLUTION

The Zoning Board of Appeals received an application from Stephen Sills (V12-36) 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 a simple exchange of an old structure that will be less upkeep and maintenance.

2) There will be no undesirable change in the neighborhood character or to nearby properties, most neighbors won't even see or notice the difference.

3) The request is not substantial; this is a replacement of a pre-existing non-conforming structure, it will not expand the footprint.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; there will be no change in what exists.

5) The alleged difficulty is not self-created, this structure was in existence when the applicant purchased it and he is just looking to replace it.

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

The sunroom is outdated and is leaking which has caused damage to the structure. Additionally, the replacement panels are no longer available to the applicant. The practical difficulty is that they are making a modification to a pre-existing non-conforming structure.

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

3. V12-37 FARLEIGH, DONALD. To alter non-conforming single family dwelling, specifically to construct a porch, seeks area variance for 1) a deficient front yard setback. 75' is required, 62' is proposed; and 2) to alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 185.18, Block 1, Lot 2, Zone RL3. Property Location 165 South Trout Lake Road.

Don Farleigh stated that he bought this house in 1976. He provided pictures of the home as it exists today which shows that the house was moved back slightly. At one time there was a porch on the front of the original house and he is proposing to build a wrap-around porch but he needs relief from the right-of-way. He feels that the porch will balance the house out. John Michaels stated even with the addition of a porch the house is not going to be any closer to the road.

There was no correspondence or comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Donald Farleigh (V12-37) 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; this is safety to get around the house.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, since 1976 the project has just gotten nicer.
- 3) The request is not substantial; it is almost a 5 acre lot with only 2 structures on it. It will be no closer to the road than the existing house.
- 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 deck.
- 5) The alleged difficulty is not self-created, it will be an improvement to the property and it is a 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 John Michaels and seconded by Don King, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

4. **V12-38 RUSSELL, JOSEPH.** Represented by Don Russell. To alter non-conforming single family dwelling, specifically to construct a deck, stairs and grotto, seeks area variance for 1) a deficient front yard setback. 50' is required, 46' is proposed; 2) length. 120' is allowed, 155' 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.

Don Russell stated that his brother would like to increase the outdoor space. He does a lot entertaining and their life has changed a lot since they built the house in 1995. There were other ways to build this but this proposal at its closest point is 120' and 75' is required. When they built the house they kept it back from the lake. There is a large stormwater containment basin in front of the house which was put in before the stormwater regulations were put into effect. There are also a lot of gardens on the property. There will be a lot of trees and vegetation removed but the applicant plans to replace it with gardens and additional plantings.

Don Russell stated that he just received the Lake George Waterkeepers letter. However it is his understanding that when he applies for his permit he will be required to comply with stormwater regulations.

Don Russell presented the plan which indicated what portion of the patio exceeds the 125' width, which is a staircase and pie shape portion of the deck.

John Michaels stated that the variance application has a differing amount of relief being requested than what is on the agenda. Pam Kenyon stated that it might be due to how they measured it. John

Michaels stated that he really needs to have a better understanding of what is being requested. Don Russell stated that even if they were to measure as Pam did they would only be talking about 20' instead of 18'. John Michaels stated that his is a 40' x 40' deck and the variance they are asking for is 35' beyond what is allowed. He stated that even if they were to take 18'-20' off this patio they would still have a 22' x 40' which would be the equivalent of a 4 car garage. He stated that he is concerned that this is excessive; the deck will almost dwarf the house. There was further discussion on the how the house length was measured.

Tony DePace asked if there is a right-of-way on this property. Don Russell replied yes but it is far enough away.

Jeff Anthony stated that the patio seems to be impervious and asked what measures they will be taking to accommodate for the additional 40' x 40' impervious area on the site. He asked if the existing stormwater basin will be adequate to handle the additional area. Don Russell replied probably not besides he wouldn't even be able to access it because this patio is down gradient from the basin. He will have to do a system out in front of the patio. Jeff Anthony asked if anything has been engineered. Don Russell replied no he was just taking it one step at a time. Don King asked if there would be concern with the pitch in that area. Don Russell replied no it levels out before the next pitch. He agrees with the Waterkeeper about addressing stormwater but he plans to meet regulations and there is plenty of property to meet it with no problem.

Don King asked if there was any consideration of reducing the size or changing the configuration to lessen the length. Don Russell replied that the applicant looked at the front of the house but next year he wants to put a 15' extension on the front of the house. He explained that the applicant liked this proposal for the overall flow of the traffic.

Jeff Anthony asked if this will be major stormwater project. Pam Kenyon replied that it would have to be over 15,000 sq. ft of disturbance so this project would just require permits. Counsel Muller stated that the ZBA or Pam Kenyon can require it if they feel it is necessary.

Jeff Anthony asked if there was any correspondence.

Counsel Muller read a letter from Jay Steiner in support of the application.

Chris Navitsky, Lake George Waterkeeper stated that they feel that there is information missing regarding mitigation measures to reduce the potential negative impacts from the project. Therefore they feel the variance should not be granted at this time. They appreciate the discussion on alternatives because they feel they should be considered on a shoreline parcel. They appreciate the existing stormwater but there is no information on the plan on how stormwater for the patio will be handled and it should be discussed. With regard to the trees to be removed, there is limited shoreline buffer and they feel that landscaping buffers should be considered. Chris Navitsky stated that overall they did not feel that enough information was provided to make a decision at this time.

Pam Kenyon asked what will be under the patio. Don Russell replied that other than the small patio/game room area it will be fill that will be brought in to the site. Jeff Anthony asked how deep the

fill will be. Don Russell replied that it will vary; approximately 9' to nothing. They will create an 8' wall underneath to make a small covered space and everything behind that will be filled.

John Michaels stated that they have a 120' width restriction for a reason. He has not heard compelling evidence as to why this is the best proposal other than the fact that the applicant just wants it. Additionally it is not an on-grade patio it is a structure in itself and is almost as big as the house.

Tony DePace stated that he is concerned that you will be looking at a 7-9' wall from the lake. Don Russell replied that they won't because the applicant plans to keep some of the larger trees in front of it and will plant additional trees and vegetation to provide a buffer.

Don King suggested that the applicant consider a reconfiguration to minimize the massive addition. Tony DePace added that the Board would really like to see some better measurements. Jeff Anthony stated that they also need to address the consideration of viable alternatives.

Don Russell stated that they could have gone back behind the house but it would have been more difficult with the grade. They could have also gone closer to the lake without a variance but the applicant didn't want to do that. John Michaels asked how big this patio would be without the variance. Don Russell replied 25' x 40'. John Michaels replied that would still be a large patio. Just because the applicant likes to entertain is not a compelling reason to have a patio this size.

Don King stated that he thinks that he should talk to the applicant about addressing this massive size. He stated that he likes the look of the staircase but maybe it could be incorporated into the footprint. He feels that the applicant could come up with some alternative to address the size and still achieve the benefit he desires.

John Michaels stated that they need to have exact measurements. Jeff Anthony added that he was unaware that there was a phase 2 of this project with the addition on the front of the house until tonight. Don Russell replied that anything else done to the house will be done in compliance. Pam Kenyon stated that anything that is done to this house will require a variance from the right-of-way that runs in front of the house to the other 2 parcels. Don Russell stated that he was unaware that the parcel in front of the house was an easement to the other lots. Pam Kenyon indicated that it was on the survey map. Don Russell stated that if it is deeded it could be stricken from the deeds since the applicant owns the other two lots.

Jeff Anthony stated that he would like to see phase 2 of the project. He stated it doesn't mean that they couldn't phase the project but it would be nice to have some idea of what is going to be done. He also stated that they don't have any information on the stormwater. John Michaels agreed and stated that he would suggest that the applicant be sure that they don't need a variance for the second part of the project. Jeff Anthony stated that he sees no consideration of how stormwater is going to be handled. John Michaels agreed that they need to show that it will work.

RESOLUTION

Motion by John Michaels to table V12-38 pending further information. Seconded by Tony DePace. All in Favor. Motion Carried.

The meeting was adjourned at 7:45pm.

Minutes respectfully submitted by Kristen MacEwan.