

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, October 15, 2013
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, Donald King, Matt Slaughter, Jeff Anthony, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent: David Ray, Tony DePace and John Michaels.

The meeting was called to order at 6:31 pm.

Jason Saris asked if there were any corrections or changes to the September 17, 2013 minutes.

RESOLUTION:

Motion by Don King to approve the September 17, 2013 minutes as written. **Seconded by** Matthew Slaughter. **All in Favor. Motion Carried.**

V13-34 SCHUPP, ROBERT & HELEN. Represented by Carl Schoder. To remove existing shed and replace with an existing relocated storage shed, seek area variance for a deficient front yard setback. 50' is required, 20.5' is proposed. Section 171.08, Block 1, Lot 2, Zone RCM1.3. Property Location: 52 Jacobi Point Road. Subject to WCPS review.

Jason Saris explained to all of the applicants that they could table their applications at any time due to the lack of a full board.

Robert Schupp presented his project as follows:

- They are asking to remove 1 storage shed from the property and replace an existing storage shed with a new one.
- The new storage shed would be further back from the setback than the existing one it is replacing.

Jason Saris asked if they would be removing the original shed. Mr. Schupp replied yes.

Don King stated that this application seemed pretty straight forward.

There was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Robert & Helen Schupp (V13-34) 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; They are removing one shed and adding another further back from the setback.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the addition is in the back and not seen by the neighbors. Area is well screened.
- 3) The request is not substantial; Applicant removing and eliminating one of two structures.
- 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 positive impact as they are pulling back from setback.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. 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 Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

V13-35 HOFFMAN, DARRELL & MARY. To alter non-conforming single family dwelling, specifically to allow a patio and retaining walls to remain in their present location, seek area variance for 1) deficient setbacks. Shoreline: 100' is required, 17.3' is proposed. Side: 30' is required, 19' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 122.16, Block 2, Lot 11, Zone RR10. Property Location: 169 Sherman Lake Road. Subject to WCPS and APA review.

Mr. Hoffman presented his project as follows:

- He stated that he understands that this is not the proper way to do a project but it was an honest mistake.
- The cabin is over 80 years old, has been in his family for 50 years.
- They purchased the cabin from his mother in 1979, and used it lightly for the next few years.
- He purchased zoning regulations in 2003 the year before the rules were changed and he was unaware of the changes as he was going about the changes to his cabin.
- Many repairs were needed and expansion was not feasible due to the proximity to the lake, so they fixed it up over the next 7 years staying within the footprint of the existing building.
- Did not realize patio and retaining walls were considered a structure in the new 2004 zoning regulations until informed by the Zoning Office.
- He put the patio in on the only practical place which was the south side of the building.

- He stayed within 6 inches of the grade as was in the code.
- He put down slate and did not use mortar and left gaps for stormwater.
- The retaining wall is done in 2 steps and the size of it followed the natural contours.
- He put in erosion controls that had been non-existent before including gutters for the house.
- He was here in hopes that the Zoning Board would allow him to keep the patio and retaining walls.

Jason Saris said that they needed to touch on why it was put where it was. Jason stated he understood why it was not in the front as it would have been closer to the lake and the reason they did not put it in the back was due to the slope and incline. Mr. Hoffmann stated the hill was steep and a rock ledge in the back of the house and the other side would have been closer to property line and it's steep behind it. Mr. Hoffmann stated that this was the better way to go. Mr. Hoffmann explained that his Mom was elderly and mobility impaired and this patio eased her access to the cabin with the minimal amount of help.

Jason Saris stated that this application was subject to APA review which their criteria does not always coincide with the towns so they needed to be clear on the practical difficulty. Jason asked when the cabin was built. Mr. Hoffmann replied he had no documentation on it, but he believes it was built in 1930. Jason Saris stated that this was clearly a pre-existing, non-conforming structure which constitutes a practical difficulty.

Matthew Slaughter asked Zoning Administrator, Pam Kenyon if in 2003 this project would have been in compliance. Counsel Michael Muller replied that the town had a controversy between adjacent homeowners, that went to court and it was determined that our code does have a provision to define structures and retaining walls. He stated that a specific height and a specific length would be considered a structure. Prior to 2004 the Town was not certain, but by reason of the court decision, we are now certain.

Mr. Hoffmann went over the definitions in the 2003 regulations and explained the changes between these and the 2004 regulations. Jason Saris stated that it was changed from "and" to "or". Mr. Hoffmann agreed and said he was over 100 sq. ft. but he did not set out to do this but went with the contour of the land. Mr. Hoffmann stated that he understands that it violates the current code, but he did believe they violated the 2003 rules that he followed. Mr. Hoffmann stated that he hopes that he will not have to rip it all out.

There was no correspondence or WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Darrell & Mary Hoffman (V13-35) 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#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; No other feasible means, and they did not go closer to the lake.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the addition is in the back and not seen by the neighbors. The character is similar to applicants.
- 3) The request is not substantial; this is marginal and blends with the site.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it is visually compatible with the neighborhood and it is very beneficial to the environment due to the use of stormwater controls. They also used natural vegetation between the lake and the cabin which is very beneficial for stormwater runoff.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. Zoning law changed and it was an honest mistake.

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

V13-36 PECORARO, JAMES. Represented by Brian Allen. To alter non-conforming single family dwelling, specifically to construct a front covered deck/entry and back deck addition, seeks area variance for 1) deficient setbacks. Front: 75' is required, 39' is proposed. Side: 20' is required, 13.4' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 185.00, Block 2, Lot 7, Zone RL3. Property Location 715 Trout Lake Road. Subject to WCPS review.

Brian Allen presented the project stating the following:

- He stated that there used to be 2 buildings on this property, but the applicant had removed one.
- Mr. Pecoraro has done a lot of work fixing up the inside and outside of the home and had removed a front porch without a demolition permit, because he did not realize he needed one.
- He is seeking to do this project within the letter of the law now that he knows what the proper procedure is.
- Mr. Pecoraro has given up a dwelling and a front porch and has added drainage to the property.
- Mr. Pecoraro would now like a front porch and a rear deck.

Don King asked if there was a prior variance issued to this property. Mr. Allen replied that he did not know and asked Zoning Administrator Pamela Kenyon who replied that she was not aware of any.

Mr. Allen explained that many of the homes in the neighborhood are now all out of compliance due to the Zoning Codes and require variances. Don King asked if they all had front porches. Mr. Allen replied that they did. Don King commented on the large piece of vacant land adjacent to the property owner. Mr. Allen explained that was due to a fire last year burning down the Pratt house which was from the civil war era.

Jason Saris stated that it was a very modest porch. Mr. Allen stated that he believed the house was back further than most homes in the neighborhood. Jason Saris stated that they could not go back much further due to rear property lines. Mr. Allen stated wetlands also exist beyond rear property line.

There was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from James Pecoraro (V13-36) 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#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; House is on existing foundation and setbacks offer a fair margin. Any smaller would not be practical.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the addition is in the back and not seen by the neighbors. It is not visible from the back.
- 3) The request is not substantial; It is a modest roof structure that enhances the house.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The size is modest and will have no change in watershed.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. The addition is to a former non-conforming structure.

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

V13-37 KUBIKIAN, ARTHUR & LOUISA. Represented by Mark Boucher. To alter non-conforming single family dwelling, specifically to replace existing deck with an 8'x 23' dining area and new staircase to second floor, seek area variance for 1) deficient setbacks. Front: 30'

is required, 17' is proposed. Side: A total of 20' is required, 15' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 2, Lot 34, Zone GB5000. Property Location: 2 Anchorage Road. Subject to WCPS review.

Mark Boucher presented this project as follows:

- Explained that they wanted to remove deck and add 4.5 feet to the length by 8 feet wide.
- Basically this would be the dining room area, and the existing stairs do not meet code at this time.
- With the addition they would be able to put the stairs to code.

Jason Saris asked if they had considered any other locations. Mr. Boucher stated this is the only location that makes sense, it will not work in any other area.

Jason Saris asked how long the applicant had owned the home. Mr. Boucher replied that the deed indicated 2004 but he was not sure.

Don King asked if the new stairs would be inside or outside the new addition. Mr. Boucher replied inside where the new dining room would be. Don King asked if the plan that he had was the existing plan. Mr. Boucher said no, the new stairs would be a straight run instead of a 90 degree.

Mr. Boucher asked if they would need another variance if applicant decided to add a full basement. Counsel Michael Muller stated this was a modification of the structure and they would. Jason Saris explained that any aesthetic changes would also trigger the board to call it back. Don King asked if this was anticipated wouldn't it make more sense to withdraw the application. Mr. Boucher stated that was his thoughts but the applicant wanted to go forward with it and then she would make a decision if they received the approvals. Counsel Michael Muller asked if this would be habitable space. Mr. Boucher replied yes. Counsel Michael Muller stated that Mr. Boucher did not have to withdraw the application, he could just table it and find out what the applicants desire was. Mr. Boucher stated he thought he should go forward with the application and then the applicant could make a decision.

Jeff Anthony stated he would like to see the whole project at once and not to have it come back two or three times. Mr. Boucher stated that he thought the applicant did not understand the process and was under the assumption that this variance would cover it all. He stated that the applicant wanted him to move forward so they can start the construction.

Don King asked if the Board had set a precedence on rejecting an application based on the fact that there may be changes. Jason Saris replied that he did not think there was a precedence for it. Counsel Michael Muller stated that the Board could do that because they do not want a segmented project. He also stated that the applicant was in control of his application and it was his choice if he wanted to move forward. Don King asked if the Board could table it. Counsel Michael Muller replied yes. Jason Saris stated they could move forward with this and if the applicant came back they could always say no. Counsel Michael Muller stated they had many options.

Don King stated he was going to make a motion to table the application due to the uncertainty of the possibility of further construction and the Board would like to see a project that was not going to be segmented.

There was no WC impact.

RESOLUTION

Now, upon motion duly made by Don King and seconded by Jeff Anthony, it is resolved that the ZBA does hereby table the variance request as presented pending further information. **All in Favor. Motion Carried.**

V13-38 ZECCOLA, VINCENT & DIANE. Represented by Curtis Dybas. To alter non-conforming single family dwelling, specifically to add a 6' x 22' addition to enlarge two bedrooms and a bathroom, seek area variance for 1) deficient front yard setback. 50' is required, 27' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.18, Block 1, Lot 29, Zone RM1.3. Property Location: 24 The Back Road. Subject to WCPS review.

Curtis Dybas presented the project as follows:

- This is known as the Robin Hood Cottage in Rainbow Beach Association.
- The applicants had purchased property in March 2013, and would like to enlarge two of the existing bedrooms.
- The cottage was built in the 1960's.
- They are proposing a 6' x 22' addition to the north.
- There are two small bedrooms on the side and they would like to enlarge them and add closets to each.
- There is a small bathroom that will be enlarged slightly to add a shower.
- This is a modest addition to an existing cottage.

Jason Saris asked if there had been any previous expansions on the cottage. Mr. Dybas replied that there was a great room on the back, but he had no idea when it had been added and had been done by a previous owner. Mr. Dybas stated that it is a seasonal cottage and that the homeowners have to follow HOA regulations by Rainbow Beach Association.

Counsel Michael Muller read a letter from the President of the Rainbow Beach Association into the record.

There was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Vincent & Diane Zeccola (V13-38) 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 #6 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 expansion to the north is reasonable.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, all the cottages in the neighborhood are similar in character.
- 3) The request is not substantial; it is a minimal variance application.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the site is flat and will not exacerbate any environmental conditions.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. It is a pre-existing building.

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

V13-39 CECCHINI, LOUIS & ARLINE. Represented by Gary Hughes. To alter non-conforming single family dwelling, specifically to renovate front roof framing from 6:12 & 2:12 pitches to 4:12 pitch and add a 16'x 24' garage /storage, seek area variance for 1) deficient front yard setback. 50' is required, 5' is proposed; 2) To alter pre-existing non-conforming structure in accordance with Section 200'57B(1)(b). For the construction of a proposed retaining wall, seeks area variance for a deficient front yard setback. 50' is required, approximately 2' is proposed. Section 171.11, Block 1, Lot 62, Zone RL3. Property Location: Northbrook Co-op Unit 7. Subject to WCPB review.

Gary Hughes presented the project as follows:

The applicant is having problems with the existing roof and it is increasing his insurance premiums.

They would like to address this problem as soon as possible.

He would like to flatten the roof line to fix these problems.

They would also like to add a 16' x 24' garage on the right side elevation.

Jeff Anthony asked if the proposed garage was to be accessed by vehicles or if it was for storage only. Mr. Hughes replied that it was for storage of cars and other vehicles. Jeff Anthony inquired if they planned on parking a vehicle in this garage. Mr. Hughes replied yes. Jeff Anthony asked how they proposed to get there. Mr. Hughes replied that they were proposing splitting the existing 3' strip of macadam going up to the neighbors and/or laying

another 1.5' of macadam. Jeff Anthony asked how they were going to work around the grades. Mr. Hughes replied that it may be a problem in the winter but not in the summer. Jeff Anthony stated that they would need substantial construction to get a pathway not even a good driveway to the garage area and he would like to see a grade plan.

Michael Cecchini, the applicants son stated that access driveway into the property is very very steep and the driveway to the proposed driveway to the garage is not that nearly as steep. He also stated that they had deeded right of way through the adjoining property and this would enhance the neighbors property. He stated they would be expanding on the existing walkway and he would like to use mainly for storage, but there would be cars there at times and access it with a vehicle. He stated that in 1986 a driveway was approved by the Board in the original plans, and they would like to install it in now. He explained that they had considered just putting a shed in, but thought it was less aesthetically pleasing.

Don King stated that he believed the project had merit, but he agreed with Jeff Anthony and the terrain is such that modification and stormwater are needed. He stated he would like a grading plan with runoff information to know how the project works. Jeff Anthony stated he would like to see a layout of the drive, and how it grades in. He would also like to see where the water is going to go. Jeff Anthony stated the site would be considerably impacted by whatever they did to get the garage. Mr. Cecchini asked them to look at the original plans that D.L. Dickinson Associates had drawn up with the driveway approvals. He showed them how this was approved in 1986. Jeff Anthony asked if they were modifying the retaining walls. Mr. Cecchini stated the retaining wall was put in incorrectly because there is supposed to be access to the adjoining property and needed to be opened up. Jeff Anthony stated that it would be a considerable modification to the retaining wall and in his opinion would need a grading plan. Mr. Cecchini asked if the Board was looking for a grading plan. Jeff Anthony replied yes along with a stormwater plan.

Mr. Cecchini asked if they could separate the plan because the roof issue is very important and really needs to be addressed immediately. Jason Saris asked the Board if they had any issues separating the plan. The Board was fine with it.

Don King asked if they were just changing the pitch on roof and not doing anything with concerns to the garage. Mr. Cecchini replied yes and he would be happy to apply separately for the garage.

Don King asked what the procedure was to do this. Counsel Michael Muller said the Board could bifurcate this project to allow alleviating the potential of another catastrophe over the winter and grant relief for the roof and table the rest of the application. Don King explained that they could be back as soon as November for the garage if they got their plans together. Mr. Cecchini explained that he really needs to address the roof issue now and was not concerned with the garage portion for now.

Lynn ?? adjacent landowner in cabin 8 of the Northbrook Association spoke of her concerns about the project.

- She stated that she was just made aware of the project this weekend.
- She agreed with Mr. Cecchini's concerns with his roof as she had, had the same issues.

- She was not able to really check the plans and had concerns with the proposed driveway for the garage as the turnaround would be in front of her deck and ruin her views.
- She was also concerned with where the vehicles would be parked and would like to know if they had any other options for the driveway.
- She is willing to talk to Mr. Cecchini about it but would like more time to look at the project.
- The previous owners had added on to the other side of the cabin and now she may be hindered if she tried to add on to her cabin with the garage being so close.

There was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Louis & Arline Cecchini (V13-39) 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 #7 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 existing roof has failed.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, they are just redoing pitches on existing roof.
- 3) The request is not substantial; it is just rebuilding an existing roof.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The roof is in the same footprint and they are just changing the pitch.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. It is a pre-existing, non-conforming structure not caused by the applicant.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is a pre-existing, non-conforming structure not caused by the applicant.

Now, upon motion duly made by Jeff Anthony and seconded by Don King, it is resolved that the ZBA does hereby table the garage portion of the variance request as presented pending grading and stormwater plans. **All in Favor. Motion Carried.**

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 to reconstruct the roof on the existing structure as presented. **All in Favor. Motion Carried.**

V13-40 SCHMUKLER, ALEKSANDER. Represented by Bruce Mowery. To alter pre-existing non-conforming single family dwelling/garage, specifically to add a shed roof over garage doors and roof over entry door to shed water away from doors, seeks area variance to alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 200.18, Block 1, Lot 2, Zone RM1.3. Property Location: 4218 Lake Shore Drive. Subject to WCPS and APA review. See V12-45 for previous approvals.

Applicant's representative was not present.

Jason Saris asked the Board if they would like to table the application or act upon on it. Counsel Michael Muller stated that the Board could either approve or table the application but could not deny it.

Don King stated he would make a motion to approve the project due to the fact that it was negligible.

There was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Aleksander Schmuckler (V13-40) 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 #8 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;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the addition is in the back and not seen by the neighbors.
- 3) The request is not substantial;
- 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 applicants have accommodated our requests. 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. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:58 pm. .

Minutes respectfully submitted by Kate Persons.