

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, October 14, 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, John Famosi, Matthew Slaughter, Holly Dansbury

**Absent:** Jeff Anthony, Michael Calautti, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

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

Jason Saris asked if there were any corrections or changes to the September 16, 2014 minutes.

**RESOLUTION:**

**Motion by** Holly Dansbury to approve the September 16, 2014 minutes as presented.

**Seconded by,** Matthew Slaughter. **All in Favor. Motion Carried.**

- 1) **V14-36 COON, TIMOTHY.** Represented by Eugene Baker. To alter non-conforming single family dwelling, specifically to add a 150 square foot deck off back of house, seeks area variance for 1) a deficient front yard setback. 75' is required, 60' is proposed, and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 185.00, Block 2, Lot 20, Zone RL3. Property Location: 836 Coolidge Hill Road. Subject to WCPS review. See V13-49 for previous approvals.

Eugene Baker stated;

- They wanted to add a little deck on the back of house for a second egress.
- It can't be seen from Coolidge Hill Rd.
- They put a small addition on last year.

Jason Saris asked if there were any compliant areas to put the deck on this house. Mr. Baker replied no, not on this lot. Jason Saris asked if this would be the most compliant place on the house to put this deck so it did not encroach any more on the setbacks. Mr. Baker replied yes, this house was built in the 1930's.

Don King asked if this was just an afterthought after the variance granted last year. Mr. Baker stated the homeowners thought it would be nice to have a second egress from the home. Don King stated that it would make sense in a safety aspect.

## RESOLUTION

The Zoning Board of Appeals received an application from Timothy Coon, (V14-36) 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#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: It's on the back of the house and does not encroach any more on the setbacks.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will not be seen and is keeping with the design of the house.
- 3) The request is not substantial; it's a small deck.
- 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; this is a pre-existing non-conforming building. 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 John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

- 2) **V14-37 NEWTON, ROGER & LYNDA.** For a proposed lot line adjustment between those parcels designated as 171.15-1-57 & 171.15-1-56, seek area variance for deficient density. 50,000 square feet is required, .23 acres exists, .21 acres is proposed. Zone GB5000. Property Location: 7 Maple Street. Subject to WCPS review. See V89-33 and SPR89-17 for previous approvals.

Roger Newton stated;

It will improve the setback on his garage which is 0 on the back side.

It will allow him access to the back of the garage that he does not have.

It will transfer a useless piece of the property to the neighbor and give him some useable property.

Jason Saris asked if they are trying to move the property line between the neighbors to benefit them both by re-arranging it around existing structures. Mr. Newton stated yes.

Jason Saris asked if the garage has always been there. Mr. Newton stated that it pre-dates him owning the property which has been 24 years. Jason Saris stated that it looks like it pre-dates the ordinance where unfortunately people built a lot of things wherever they felt like it.

Robert McCarthy adjacent property owner stated;

- They had no concern with a boundary swap, unless it will be used for other purposes.
- He is concerned about parking and traffic ingress and egress. He wants to be a good neighbor, but he would object to this.

Jodi Connally of 5 Maple St. stated;

- She believes this swap made a lot of sense and she would like to put up a fence
- That swatch of property would make a good swap giving them both a piece of useable property.

Roger Newton stated that there is a parking variance in existence that was from a prior variance, and he does not plan on using it as a driveway. He stated that there are two existing parking spots on the right hand side of the garage granted from that prior variance. He stated that they are only used when they have company and that's what they have done for 20 years. He stated that it would not become a driveway and he does not want the extra parking that the engineer drew in these plans.

Robert McCarthy stated he did not know about the previous variances and any parking granted. He also stated that he did not know who owned the strip of land, and he believes that it was designated as no man's land and he believes the Board may need to address it. He showed the Board where he was speaking of.

Jason Saris stated that the Board had no authority to grant variances on someone else's property so if this was the case, any variance granted tonight would be null and void if it was not the applicant's property

Don King asked if there was a recent survey done. Mr. Newton replied yes and it was in the packet that the Board has.

Robert McCarthy stated he did not know for sure. Jason Saris stated that his survey map looks like it is showing it as it is owned by Mr. Newton.

Holly Dansbury asked about the 4 parking spaces. Mr. Newton stated that the two were existing spots and the two spots behind the garage were new. Holly Dansbury asked if he would be ok with losing the 2 new parking spots behind the garage. Mr. Newton said he would be perfectly happy with that and the extra spots were not his idea.

Jason Saris stated that they are dealing with a property line location and not parking.

Mr. McCarthy and the Board discussed the different maps and any extra parking.

Jason Saris stated the reason they are here is because one lot is a substandard size.

Don King stated that in the future he would prefer that there are distinct before and after prints. He stated that it is very confusing the way these plans were presented.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Roger & Lynda Newton (V14-37) 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#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 pre-existing non-conforming piece of land, which will benefit both neighbors with a property line adjustment.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It seems like the drawing is confusing due to the parking that was drawn in but not to be used.
- 3) The request is not substantial; this is a minor sq. footage adjustment to adjacent properties.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; this will not allow for more buildings, just useable access to the back of the garage.
- 5) The alleged difficulty is not self-created; they are pre-existing non-conforming properties. 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 Holly Dansbury, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that the parking is to remain as it presently exists. **All in Favor. Motion Carried.**

- 3) **V14-38 BURNS, THOMAS & CATHERINE.** Represented by Mark Hughes. To alter pre-existing single family dwelling, specifically to raise the roof to create attic storage, seek area variance for 1) deficient setbacks. Shoreline: 75' is required, 0' is proposed; Front: 50' is required; 12' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.14, Block 1, Lot 10, Zone RM1.3. Property Location: 163 Cotton Point Road. Subject to WCPS review.

Mark Hughes presented the following:

- They are looking for storage space upstairs.
- They have a pull down stair in the trusses right now.
- The change of the roof line takes the water from the north side and splits it toward the lake and the road.

- It is a new building.

Jason Saris asked if the overhangs or footprint would change. Mr. Hughes replied no. He stated that he was enclosing a porch in the front and build above for the stair way to the attic. Jason Saris asked if they were also enclosing the porch. Mr. Hughes replied apparently yes. Jason Saris asked if the porch presently had a roof over it. Mr. Hughes replied yes.

Don King asked Mr. Hughes to point out the porch on the drawings.

Jason Saris asked if the Zoning Administrator was aware that he was enclosing the porch. Mr. Hughes replied he believed so it was in her drawings. Jason Saris asked if he mentioned it to her. Jason Saris stated that his concern was that Mr. Hughes was not asking for any relief for this and he is concerned. Mr. Hughes stated that he did not realize this was part of what the Board would be looking at. He inquired if it was a square footage issue. Jason Saris explained that with a non-conforming structure, any expansion requires a variance. He stated that it is the Zoning Administrator's role to decide whether or not a variance was required and the applicant could not cut her out of this role and come directly to the Zoning Board. He explained that the Board could not act on this due to the fact that what was advertised and sent to the neighbors was not the complete application. He stated they could continue with the roof part or Mr. Hughes could table it and talk with the Zoning Administrator and come back to the Board with a complete application. Mr. Hughes explained that in not changing the footprint he did think it was relevant, so he thought they should table it.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Thomas & Catherine Burns (V14-38) 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:

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

- 4) **V14-39 VITALE, JOSEPH.** Represented by Joseph Castiglione. To alter pre-existing non-conforming single family dwelling, specifically to add 58 square feet to the dining area, 170 square feet for a new family room, 202 square feet for new porch addition and a proposed 10'x 20' deck, seeks area variance for 1) Deficient setbacks. Shoreline: 75' is required, 46.5' is proposed. Rear: 30' is required, .63' is proposed. Front: 50' is required, 44' is proposed. Side: 30' is required, 6.9' is proposed; and 2) To alter non-

conforming structure in accordance with Section 200-B(1)(b). Section 185.20, Block 1, Lot 22, Zone RCL3. Property Location: 64 Millstone Drive. Subject to WCPS and APA review. This application was previously approved under V14-10. The APA reversed the deck portion of that application only.

Joseph Castiglione presented the following:

- The deck is needed so Mr. Vitale can enjoy the outdoors due to his disability.
- They received an area variance in April and he detailed the request.
- The only place to go out is west and slightly south.
- They can't build up without creating more of an impact.
- It now encroaches more on the shoreline setback.
- It is a pre-existing non-conforming structure.
- This expansion is consistent with other homes in the area.
- The property also has some steep slopes.
- The Zoning Board approved this in April only to have the deck denied by the A.P.A.
- They had the A.P.A. come out to look at the property to advise them to what they would accept and now they are back looking for an approval of the deck meeting these requirements.
- The deck is going to be 10 x 20 sq. ft.
- He explained the advice the A.P.A. gave them to make it more to their liking.
- He ran through the criteria of granting an area variance.

Jason Saris asked what the practical difficulty was. Mr. Castiglione replied the steepness of the slopes and the configuration of the property and that it is a pre-existing non-conforming structure and the only way they can go is west and south. Jason Saris asked if there were any more compliant areas on the property to place the deck. Mr. Castiglione replied no there was not due to the configuration of the property.

Don King asked if they gave any consideration to a smaller deck. Mr. Castiglione replied that they had come down from the previously approved size of 10' x 22' and this is consistent with the neighborhood.

Don King asked if there were any other modifications to the approved variance besides the deck. Richard Horsche architect of the plans stated as of right now the plans conform to the existing plan and the original approved setbacks from V11-53. They did not go any further than the existing deck. They have not broken any pre-existing planes and have not added anymore rooms or space. He stated the A.P.A. wanted the deck smaller and pushed back, which they have now done.

He stated that the current structure does not meet the current code due to the age of the structure and they need to do a fair amount of new construction to meet the new loads. He said he could not stamp drawings with the existing cement block footers for the structure. Don King asked if he was putting in a foundation. Mr. Horshe stated they would be putting in a 4' frost wall foundation to alleviate the posts and cinder blocks. He explained to meet all the current building codes they would be doing a fair amount of new construction.

Don King inquired if this project would be going back to the A.P.A. Jason Saris replied yes.

Dennis Murphy stated that this is a former cabin rental and that the A.P.A. has made it clear that they will not allow any encroachment toward the lake. He stated the current deck was on prior to Mr. Vitale's ownership and he is not aware of any variances or permits that were applied for prior to Mr. Vitale's ownership for the fourth current deck. Mr. Murphy stated that he did not believe Mr. Vitale does not own any lake front, and that it is owned by the Millstone Association. He stated the he thought it looked like a gentle slope to the lake is not steep.

Mr. Castiglione stated he is not sure of the ownership of the lake front, but does not have anything to do with the area variance. He also stated that someone's personal opinion of the steepness of a slope is their opinion, but he was there with Brian Grisi from the A.P.A. and they both determined it to be steep.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Joseph Vitale (V14-22) 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 property is restricting and the original house is pre-existing and non-conforming.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be a visual improvement to the neighborhood. They are also considering Mr. Vitale's disability.
- 3) The request is not substantial; the deck is being slightly reduced due to the recommendation of the A.P.A.
- 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; It is a difficulty that is self-created but it is not substantial. There are no additional directions they can take this project due to the property lines and neighbors.

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.**

Zandy Gabriels questioned the suggestion made by Mr. King about clarifying the applications and drawings and to whom that suggestion directed to as it was obviously not to the applicant. Don King stated that it was for the Zoning Administrator.

The meeting was adjourned at 7:378pm.

Minutes respectfully submitted by Kate Persons.