

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, March 20, 2018**  
**6:00 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:** Joy Barcome, Holly Dansbury, Jason Saris, John Whitney, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

**Absent:** Lorraine Lefevre, Carla Cumming & Jeff Anthony

The meeting was called to order at 6:04 pm.

Jason Saris asked if there were any corrections or changes to the February 13, 2018 minutes.

**RESOLUTION:**

**Motion by Joy Barcome** to approve the February 13, 2018 minutes as presented. **Seconded by, Holly Dansbury. All in Favor. Motion Carried.**

- 1. V18-03, BENWAY, ERNEST.** Represented by Patrick Cahill. For the construction of a proposed garage/storage building, seeks area variance for deficient front yard setbacks. 30' is required, 27' is proposed from the north right-of-way and 16' is proposed from the pedestrian right-of-way. Section 186.14, Block 1, Lot 64, Zone RCH5000. Property Location: 14 Beckers Drive. Subject to WCPS review.

Patrick Cahill presented the following:

- This is a summer residence.
- This garage is for storage.
- The cabin has no basement.
- The only egress is the one depicted on the plans.
- There is no other location on the lot due to the septic.
- The garage would require variances anywhere it would be placed on the lot.
- He depicted the septic area on the plans.

Joy Barcome asked if the 2 large pine trees would be removed for the project. Mr. Cahill stated he was not sure what the plan was, but he would remove them, as white pines are a liability and the trees in the association are at the autumn of their life.

Joy Barcome asked if there were plans for living space over the garage. Mr. Cahill stated he had not heard of any plans for living space. Holly Dansbury asked if there would be any other requirements if they were using it for living space. Zoning Administrator, Pamela Kenyon stated they would be the same as they have requested.

Mr. Cahill stated that most of the structures in the neighborhood have a garage.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Ernest Benway, (V18-03) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA

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.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Based on the size of the property and the placement of the septic this is the only area to locate this structure.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It is consistent with the other properties in the association.

3) The request is moderately substantial, but there are no other options as it is a small property.

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 self-created; It was purchased as is, but in weighing all the factors it is a reasonable request.

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 Whitney and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

2. **V18-06 PETTINATO, ROBERT.** Represented by Chris Gabriels. To replace existing retaining wall to accommodate a new septic system, seeks area variance for deficient setbacks. 1) Front: 50' is required, 5' is proposed; and 2) Side: 15' is required, 4' is proposed on both sides. Section 156.20, Block 1, Lot 17, Zone RCM1.3. Property Location: 108 Pioneer Village Road. See V10-13 approved 4-20-10 that has expired.

Chris Gabriels presented the following:

- This is a renewal of a variance granted by the ZBA back in 2010.
- The homeowners did not follow through with this in a timely fashion, so they are asking for the exact same variance, so they may move forward.

- The septic is not before this Board.
- This is only for the retaining wall.

John Whitney asked if they are replacing the existing wall, why would it need a variance. Zoning Administrator, Pamela Kenyon that it must have changed in size or location.

Mr. Gabriels detailed the plans to the Board.

Holly Dansbury asked how much larger the new retaining wall would be. Mr. Gabriels pointed out the changes on the map.

Atty. Muller read the following letters:

- Sherry Panzardi, President of Pioneer Association Inc. in favor of replacement of retaining wall only.
- Kenneth and Rosemarie Arnold detailing their concerns about replacing the septic system and stating they have no concerns with replacing the retaining wall.

Jason Saris stated the ZBA does not deal with septic or wells. Atty. Muller agreed stating that septic variances were dealt with by the Town Board acting as the Local Board of Health.

Joy Barcome asked if they were only dealing with the retaining wall at this time. Atty. Muller stated this was correct.

Jason Saris explained that procedure that would be undertaken by the applicant to move forward with the septic. They had to start with this board first, for the retaining wall, and then they would move on to the Local Board of Health for the septic. Zoning Administrator, Pamela Kenyon stated this was correct, but when the variance was originally granted, they received approvals from the Local Board of Health for the septic. John Whitney inquired if the septic had a time limit like the variance did. Atty. Muller stated he did not know of any time limitations for septic variances.

Holly Dansbury stated that they could make a condition of approval that the Local Board of Health rehear the septic variance. John Whitney stated it seemed like there were legitimate issues from the neighbors that should be reheard at the Local Board of Health. Atty. Muller stated this was a legitimate concern, but the Town Board acting as the Local Board of Health is not bound by this recommendation.

John Whitney asked if there was any immediate plan for the septic. Mr. Gabriels stated he did not know. He stated this was a small property without many options for placing the septic. Jason Saris stated that there are a number of concerns, but any variance granted, in no way ever allows an applicant to go on another person's property. They are bound by the criteria for an area variance only. John Whitney stated they could replace the wall in kind and they would not need a variance. Jason Saris stated they have explained that they are here for a change in the wall to accommodate a septic. The Board discussed the factors in granting a variance.

Jason Saris stated they could make a recommendation to the Town Board acting as the Local Board of Health review the septic variance granted previously.

No County Impact

**RESOLUTION**

The Zoning Board of Appeals received an application from Robert Pettinato, (V18-06) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. Basically, this wall is where it is, and they need to expand it.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. There is virtually no visual change and it will certainly improve the safety of the wall.
- 3) The request is not substantial. This is minimal extension of the wall.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It actually improves the conditions.
- 5) The alleged difficulty is self-created; This is a pre-existing old wall, and this is a reasonable request.

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 Holly Dansbury and **Seconded by**, John Whitney it is resolved that the ZBA does hereby approve the variance request as presented with the recommendation to the Town Board, acting as the Local Board of Health, to reconsider the previously approved septic variances. **All in favor. Motion Carried.**

3. **V18-05 WARNOCK, JEFFREY & GREGORY.** To alter single family dwelling, specifically to add a deck, seek area variance for 1) Deficient setbacks. Front: 50' is required, 15' is proposed. Sides: 30' is required, 17.8' is proposed on the southeast side and 25.6' is proposed on northwest side; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 185.19, Block 1, Lot 24, Zone RCL3. Property Location: 3 Nellie Lane. Subject to WCPS review.

Jeffrey Warnock presented the following:

- They are extending on an existing structure.
- The house was built in 1962-1963 by his parents.

- There have been no additions or changes made to this structure over the years.
- They would like to put an exterior open-air deck on the structure.
- They will not impede on any of the lakeside setbacks.
- They moved the deck back 4.5' to meet these setbacks.
- He detailed the deck plans to the Board.
- They will not be going any closer to the Neller property.
- They will not be cutting off his neighbor's view.
- The deck will not be seen from the road or the Association property.
- There were no setbacks when the house was built and as it sits now does not meet the setbacks from the road.
- There is no way to get the required 50' setback.

Joy Barcome said it looked like this deck would be very similar to his neighbor's deck. Mr. Warnock replied that this was correct. He stated they had not received any objections from his neighbors.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Jeffrey & Gregory Warnock, (V18-05) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. It appears that they have put a lot of thought in this plan to accommodate the setbacks and this is the only place to put the deck.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is a positive addition and in line with what is in the neighborhood.
- 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. It adds to what is currently there in a positive way.
- 5) The alleged difficulty is self-created; In 1961 there were no setbacks. 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 Joy Barcome and **Seconded by**, John Whitney it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

The meeting was adjourned at 6:50 pm

Minutes respectfully submitted by Kate Persons