

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, June 15, 2021
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: Jason Saris, Brendan Murnane, Dan Sheridan, Joy Barcome, Jim Senese, Alternate; Lorraine Lefevé, Planning & Zoning Director; Richard Miller, PE

Absent: Jeff Anthony, Holly Dansbury, and Counsel; Michael Muller

The meeting was called to order at 6:00pm.

RESOLUTION:

Motion by Joy Barcome to approve the May 18, 2021 minutes **Seconded by Lorraine Lefevé.**
All in Favor. Motion Carried.

- 1. V21-13: Patrick Cahill;** Seeks variances for 1) building side setback 8 feet is required; 1 foot is proposed. Section 186.14, Block 1, Lot 73, Zone RCH5000; Property Location: 15 Beckers Drive. Subject to WCPS and LWRP review
This item was tabled at the May 18, meeting for additional information

Jason Saris advised the Board that they were here tonight to only act on a stone wall as described in the application.

Patrick Cahill presented the following:

- This is a retaining wall that is 10' away from the property line and about 30' from the nearest residency.
- He is looking to widen the area by his garage from 4' to 6'.
- Due to the specifications of this, it becomes a structure.

Jason Saris asked what the actual dimensions of the wall were. Mr. Cahill stated it would be 4' high, 24' in length and 2' wide. Each piece weighs 3,600lbs.

Jason Saris asked if the ground level was the same on both sides of the wall or if it would serve as a retaining wall. Mr. Cahill said it would be acting as a retaining wall. Lorraine Lefevé asked if it was his plan to fill it in. Mr. Cahill replied yes. Lorraine Lefevé asked what they were trying to accommodate with this plan. Mr. Cahill replied he was looking for more useable space by his garage, better utilization of his property and storage area for his

snowmobiles in the winter. Lorraine Lefevé asked where he kept the snowmobiles now. Mr. Cahill replied in a trailer. Lorraine Lefevé asked if he had thought of any alternatives. Mr. Cahill replied that he had, but this would be the best area to utilize so he can better use his driveway in the winter.

Joy Barcome asked if the south side of the garage was the only usable area he could utilize to accomplish the goals he was looking for. Mr. Cahill replied yes, this would give him an extra 3' to 4'.

Lorraine Lefevé inquired about the current location of the snowmobiles. Mr. Cahill replied they were usually parked in front of the garage during the winter, and he needed the space.

Representing the neighbors, Atty. Nathan Hall of Stafford, Carr & McNally, P.C. presented the following:

- This is a hardship created by the applicant.
- He believes this is a very substantial variance request.
- The applicant is looking to encroach on his client's setback.
- He asks how they can construct a wall 1' from the property line without encroaching on the neighbor's property. *Jason Saris explained that this was not an issue for this Board to consider or act on.*
- This definitely impacts the neighborhood and his client's property.
- There are other feasible areas for the storage of snowmobiles.

Jason Saris asked how this would substantially impact the neighbor's property other than they don't like it aesthetically. Atty. Hall said his clients house was relatively near the property line. He also said there was a potential for stormwater impact. The applicant put fill in to put in a garage and now a retaining wall is necessary. Jason Saris stated he would think that adding a retaining wall and leveling it off would make less runoff rather than more. Atty. Hall said his clients object to it and has the potential for trespassing in building the wall. Jason Saris stated that the Board is not granting anyone permission to go on his client's property.

Joe Gallo the adjacent neighbor said the snowmobile trailer Mr. Cahill would be placing behind the garage would be right near his kitchen window. Aesthetically it is just a problem. He said he believes that the stormwater runoff would be an issue too. Jason Saris asked how the wall would change this. Mr. Gallo stated the rain coming off the south side of the roof hits the gravel and runs on to his property. Bringing the wall over will allow the water to come over to his property and hit his gardens. He does not want to look at Mr. Cahill's trailer.

Dan Sheridan said it sounded as though the problem was more the trailer than the wall. He asked if Mr. Cahill could already put the trailer there without a wall. Mr. Gallo said he didn't know, but Mr. Cahill could easily move the trailer behind the garage because he had plenty of property there. Jason Saris explained that the Board was not here to design Mr. Cahill's site plan for him, they are here to review his application and what he was asking for. Mr. Gallo said there were plenty of other places to place the trailer.

Atty. Hall said that one of the factors the Board should be considering is a feasible alternative. He also believes the Board should be considering stormwater and he can see the potential for it to run on to the neighboring property. Joy Barcome asked for clarification of the concerns of runoff of stormwater over to the neighbor's property. Atty. Hall stated it was a potential. She stated that she was trying to understand how a retaining wall would facilitate stormwater runoff onto the neighboring property.

Patrick Cahill stated that he stores his trailer off the property during the summer. It is only there during the winter months. His neighbors spend the winters in Florida. He said the garage has gutters and pushes the water off the back onto his property. The garage is 12' off the property line.

Jason Saris asked if the 4' wall was impervious and what the land level on the garage side would be. Mr. Cahill stated that the joints of the wall would be mitered, and the fill level would be a few inches below the top and filled with stone for drainage. Jason Saris said he was trying to get a feel for the stormwater and how it would possibly flow on the neighbor's property. Dan Sheridan asked if it was feasible to add a French drain to his property. Mr. Cahill said it was possible, he said this would only be for water landing on the ground, water from the garage roof is already taken care of. He thinks that the 4' of stone and wall will stop any stormwater that should occur.

Lorraine Lefevre asked about the garage and why he would need the extra area. Mr. Cahill stated it was to let him utilize his property better and to have more room for the utility deliverer to maneuver.

The Board discussed the issues and concerns among themselves. Lorraine Lefevre stated she had concerns with someone extending their usable yard into a neighbors' property. Jason Saris stated that a 6' tall fence could be put right on the property line with no variances. He said he would have the same concern as Lorraine Lefevre if he thought this would be causing a physical problem to a neighboring property, he would be very concerned, but this is not on the neighbor's property and appears to be an aesthetic issue. This Board's concern is the balancing act, not aesthetics. The Board discussed the 5 questions and went through them one by one to make a decision. They asked Mr. Cahill why he was looking for this variance. Mr. Cahill stated he was trying to better utilize his property. This would be for seasonal storage, and he is using an aesthetically pleasing block so as not to be offensive. This can be perceived as not substantial and as substantial. Jason Saris stated that it is a retaining wall and he does not see that as substantial. Joy Barcome stated that the retaining wall might help any stormwater from running over to the neighboring property.

RESOLUTION

The Zoning Board of Appeals received an application from Patrick Cahill (V21-13) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. For the purposes that have been discussed this makes sense for the applicant.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is an aesthetically pleasing wall.
 - 3) The request is somewhat substantial. This is a retaining wall, not a big building.
 - 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This may actually help and stop any runoff onto the neighboring property.
 - 5) The alleged difficulty is self-created. The applicant is going from a seasonal to year round occupancy and this will help better utilize his property.
- 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 Brendan Murnane, it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. Jim Senese and Lorraine Lefevé opposed. **All others in favor. Motion Carried.**

2. **V21-14: Andrew and Maureen Keefe;** Seeks variances for 1) building rear setback 20 feet required, 15 feet is proposed. Section 171.19, Block 1, Lot 38, Zone RL3; Property Location: 19 Heritage Lane. Subject to WCPS and LWRP review
This item was tabled at the May 18, meeting for additional information

Andrew Keefe presented the following:

- This application was tabled at the last meeting due to the lack of a site map.
- The existing structure is 24' wide by 38' in length.
- They will be encroaching the 20' setback by 5'.
- The proposed addition will put them 15' off the wooded property line.
- They are looking to put on a first floor master bedroom suite and laundry as this will be a retirement home for them.

Joy Barcome asked if they would be removing any trees for the construction. Mr. Keefe replied no.

Jason Saris asked if the addition would be raised up off the ground and if so, were there any plans to utilize the area underneath it. Mr. Keefe replied not at this time.

RESOLUTION

The Zoning Board of Appeals received an application from Andrew and Maureen Keefe (V21-14) 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. They are building it in the back and there is not a better area to place this addition.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It will not be seen by anyone driving by.

3) The request is not substantial. The adjoining properties are wooded areas, and they are not encroaching on their neighbors.

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. This is a simple addition.

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 Brendan Murnane and seconded by Dan Sheridan, it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

- 3. V21-16 Wanda Maciariello:** Represented by Environmental Design Partnership. Seeking area variances for 1) removing existing impermeable concrete walkway and replacing in kind, the walkway with permeable pavers and adding a patio area also with permeable pavers, 2) shoreline setback, 75 feet is required, 0 feet is requested (note that entire lot falls in the 75 foot shoreline setback) and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 200.14, Block 1, Lot 10, Zone RM 1.3. Property Location 166 Cotton Point. Subject to LWRP & APA Review.

Dennis MacElroy of Environmental Design Partnership presented the following:

- This project is out on Cotton Point.
- There isn't any property out there that can meet the shoreline setback.
- They would like to replace an existing impermeable walkway with a permeable paver walkway to make it safer and more secure.

- This will be a more stable and safer surface to walk for them.

Lorraine Lefevre asked if they would be replacing the grassy area with pavers. Mr. MacElroy stated they would be using a certain amount of the grassy area.

Dan Sheridan asked for an approximate square footage of the existing impermeable surface. Mr. MacElroy stated that it was in the 305 sq. ft area. Jason Saris said it looked like they would be replacing 300 sq. ft. of impervious area with pervious pavers along with the additionally requested patio area.

Jason Saris asked if there were any stormwater or erosion issues that exist on the site now. Mr. MacElroy stated that they have some retention at times which make the area muddy and slippery and the pavers would make it safer and more secure to maneuver on.

Jason Saris inquired about pervious pavers and how they are better than the impervious. Mr. MacElroy explained how the permeable block pavers they were using had tabs where the water could absorb down through the seams into the storm reservoir. Jason Saris asked if there was anything that needed to be placed under the block to catch the water. Mr. MacElroy replied yes and explained the stone needed under the pavers to collect water.

Correspondence:

Email from the Cotton Point Association in favor of the project.

Lorraine Lefevre asked what equipment would be needed for the project. Mr. MacElroy stated they would most likely use a small rubber track excavator.

Jason Saris said that the entire lot is within the 75' shoreline setback and in order to utilize the outside area of the lot for normal outdoor type activities they require a variance.

RESOLUTION

The Zoning Board of Appeals received an application from Wanda Maciariello (V21-16) 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 #3 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. They are replacing the old impervious sidewalk with updated permeable pavers.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be much nicer looking.
- 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. They will be improving the drainage.

5) The alleged difficulty is not self-created. The lot size is not adequate to provide the adequate 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 Dan Sheridan and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

The meeting was adjourned at 7:25PM.

Minutes respectfully submitted by Kate Persons