

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Monday, May 17, 2016
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, John Whitney, Joy Barcome, Holly Dansbury, Tom McGurl, Jeff Anthony, Lorraine Lefevé, Zoning Administrator Pamela Kenyon, and Counsel Michael Muller

Absent:

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

Jason Saris asked if there were any corrections or changes to the April 18, 2016 minutes.

RESOLUTION:

Motion by Lorraine Lefevé to approve the April 18, 2016 minutes as presented. **Seconded by,** Tom McGurl. **All in Favor. Motion Carried.**

1. **V16-16 McGURL, THOMAS.** Represented by Apex Solar. For the placement of a 1,050 square foot ground mounted solar array, seeks area variance for deficient setbacks. Side: 30' is required, 20' is proposed. Rear: 30' is required, 24' is proposed. Section 170.00, Block 1, Lot 41, Zone RCL3. Property Location: 539 Trout Lake Road. Subject to WCPS review.

Robert Reynolds of Apex Solar presented the following;

- Handed out photos to the Board.
- They are requesting to install a ground array within the setback requirements.
- The dimensions of the array are rather large and this is the only place that they can seem to fit it on the property.

Jason Saris asked what would happen if they shift it closer toward the house. Mr. Reynolds stated that if they shift it closer to the house they would not be able to do to the required length of the array that is needed and this is the best location to place it. Jason Saris asked if there was any other way to configure the array. Mr. Reynolds stated that it is laid out to produce the optimum amount of energy and if they split them up they would be shaded.

Lorraine Lefevé asked the dimensions. Mr. Reynolds stated 57.5' long.

Lorraine Lefevé asked if the array would be visible from Trout Lake Road. Mr. Reynolds said yes, but only the rear of it, and there would be no glare issues.

Holly Dansbury asked if they would have enough roof space to place it on the home. Mr. Reynolds said it was not large enough for the desired size of the array.

Lorraine Lefevre asked about screening from the road. Mr. McGurl stated he had trees ordered that would grow to about 8' to 10' high that would be used for screening.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Thomas McGurl, (V16-16) 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#1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: It would be difficult if not impossible to place it anywhere else on the property to meet the electricity usage needs and keep it screened from the roads.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial; It's a slight intrusion on the setback requirements but it is well off the property line.
- 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; but on balance considering the substantiality as well as the lack of any adverse impact it's a comparable solution.

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. Tom McGurl abstained **All others in favor. Motion Carried.**

2. **V16-17 NEACY, KEVIN.** To alter single family dwelling, specifically to replace a shed roof on the back porch to a pitched roof to create additional living space, seeks area variance for 1) A deficient front yard setback. 50' is required from Water Plant Road. 22' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B1b. Section 171.15, Block 1, Lot 3, Zone RM1.3. Property Location: 39 Goodman Avenue. Subject to WCPS review.

Kevin Neacy presented the following:

- He would like to move his kitchen to where the existing back porch is to make a larger kitchen.
- The roof is leaking now and needs to be replaced so he thought it would be a good time to do this.

Jason Saris asked if the footprint of the building would be expanding. Mr. Neacy replied no he would be going over the same structure. Jason Saris asked if he would be further encroaching on the setbacks. Mr. Neacy said no.

Joy Barcome asked if he was simply replacing an existing leaking roof and expanding his living space. Mr. Neacy replied he would be changing the roof from flat to an A-frame style.

John Whitney asked if it was still a single story with a different style roof. Mr. Neacy replied yes.

Jason Saris asked if there were any plans to add another porch in the future. Mr. Neacy replied no.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Kevin Neacy, (V16-17) 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: The building is not being moved and there are no additional impediments or violations on the site, the only reason they are here is because the building is non-conforming in its current situation.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. There will be no significant change to the building. It will have a slightly pitched roof from a flat roof and it will probably be more in conformance with the character of the existing building.
- 3) The request is not substantial; There is no expansion or cause for additional variances.
- 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 increase of impervious area all existing conditions will be the same.

5) The alleged difficulty is self-created; the immediate cause is the roof is leaking and the expansions will all be internal to the building. It is only a desire to fix the problem and change the roof line for drainage.

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 Jeff Anthony and seconded by John Whitney, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

3. **V16-19 O'BRIEN, DANIEL.** Represented by Sam Caldwell. To alter single family dwelling, specifically to remove a 9'x 4' section of existing deck and add a 5'x 10' section, seeks area variance for 1) A deficient front yard setback. 30' is required, 22' is proposed from Anchorage Road right-of-way; and 2) To alter a non-conforming structure in accordance with Section 200-57B1b. Section 171.19, Block 2, Lot 16, Zone GB5000. Property Location: 4916 Lake Shore Drive. Subject to WCPS review.

Sam Caldwell presented the following:

- They are looking to alter the configuration of the deck.
- He detailed the change on the plans.
- The deck will be the same elevation.
- The whole area is screened from the south and roadside.

Jason Saris asked for the reason of the reconfiguration. Mr. Caldwell said they would like to get away from the 20" overhang on the eve end of the roof.

Lorraine Lefevre asked what materials they would be using to replace the deck. Mr. Caldwell stated the same pressure treated materials.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Daniel O'Brien, (V16-19) 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 basically altering a current non-conforming structure by adding 14 sq. ft.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is just improving a deck which is already screened with Cedar trees around the property.
- 3) The request is not substantial; it is only 14 sq. ft.
- 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; They are working with a non-conforming structure. 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 Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

4. **V16-20 SMITH, REBECCA.** Represented by Stan Dobert. For the placement of a 355 square foot ground mounted solar array, seeks area variance for a deficient front yard setback. 75' is required. 46.2' is proposed. Section 155.00, Block 1, Lot 43, Zone **RL3 & LC25.** Property Location: 606 Edgecomb Pond Road.

Robert Reynolds of Apex Solar presented the following;

- They would like to install a ground mounted array.
- They tried to work with the available roof structures but they do not have the proper roof mounting attachment points.
- He detailed the site plan.
- The property tapers and anything over a 15-degree pitch is impossible to install an array on.
- This is the only viable location on the property they could find to place it.

Jason Saris asked about the visibility of the array from the right of way. Mr. Reynolds stated that there was a bunch of tree coverage on the north side of Edgecomb Pond Road. He stated that maybe a car passing by would be able to see a cross section of the array, but there was no risk of glare.

Jason Saris asked if they needed to do any tree clearing for this project. Mr. Reynolds stated they would not.

Fred Brown stated this mount array was originally on the roof of the building by the road, but due to the new materials used on the new roof it cannot be placed back there. He stated this was the only feasible place to put this array on the property.

RESOLUTION

The Zoning Board of Appeals received an application from Rebecca Smith, (V16-20) 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.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Based on the layout of the property and the new concrete roof, they cannot accommodate a roof top array.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It is off the road and not visible.

3) The request is not substantial; It is not significant due to the location of the property and the amount of green space around it.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Solar power is good,

5) The alleged difficulty is not self-created; It was on the roof and they repaired the roof and can't put it back. It is not substantial and has no adverse impacts.

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 Lorraine Lefevre, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

5. **V16-18 TRE ROSE LLC.** Represented by Jeff Anthony. For proposed lot line adjustment between those parcels designated as Section 157.05, Block 1, Lots 19, 20 and 10, seeks area variance for 1) Lot size: 1-acre minimum is required, .214 acres is proposed; 2) Lot depth: 200' is required, 114' is proposed; and 3) Lot width: 175' is required, 98' is proposed. All variances pertain to Lot 19. Zone RCL3. Property Location: Rose Lane. Subject to WCPS review.

Corinna Martino and Kristen Anthony of Martino & Anthony presented the following;

- They presented the Board with handouts.
- This will be effecting 3 parcels that were created as part of a 1972 subdivision that predates any Town of Bolton and A.P.A. regulations.
- They are existing non-conforming lots, that cannot be modified and brought into compliance with current standings.
- They detailed the site plans to the Board and detailed the purposes of reconfigurations.
- Once the proposed adjustments occur, .08 acres of lot 4 will go to lot 3, and .036 acres of lot 4 will go to lot 5.
- The final size of lot 4 will be .214 acres.

- Future plans to develop lot 4 would be to rebuild on the existing footprint. It would still be in conformance with the rear and side yard setbacks, it would just require a front yard setback variance as it does now.
- The purpose of moving these portions to the other lots is that essentially both portions are not useable to lot 4 as they stand.
- They detailed the reason for the changes on the site plans.
- Lot 5 would control the docks and this would allow the same entity to control the marina and the docks.
- Lot 3 and 5 will still be non-conforming, but they will be larger and less non-conforming.
- Lot 4 will be smaller, but will still be developable lot.

Jason Saris asked about the usable outdoor space for another lot. Ms. Martino detailed this on the plans and stated that it would make it more accessible for the adjacent lots home.

Jason Saris asked if lot 3 would be used as common area. Ms. Martino stated the added portion would become part of lot 3 and be used as outdoor space for the home on this lot.

Lorraine Lefevre asked if lot 5 was on the other side of the road. Ms. Martino replied that was correct.

Lorraine Lefevre asked for clarifications a house on the plans. Ms. Martino detailed it for her on the plans.

John Whitney asked why the lots were numbered different then what they were on the agenda. Jerri Woodard explained that the numbers 3, 4 and 5 were the subdivision numbers. Atty. Muller stated that the numbers on the agenda were the tax map id numbers.

Holly Dansbury asked if lot 4 was lot 19. Tom McGurl replied yes.

Holly Dansbury asked if lot 4 owned the current dock portion and if the purpose was to get the docks associated with lot 5. Ms. Martino replied yes, this would essentially allow the marina and docks to be controlled by the same entity.

Holly Dansbury inquired why they would be moving the portion from lot 4 to lot 3. Ms. Martino replied it was desirable to the homeowners of lot 3 because they could use this, but lot 4 can't use it. Holly Dansbury asked if the same variance would be necessary for lot 4 even though they would be reducing the lot. Ms. Martino replied that this was correct.

Jason Saris asked if they would need a variance for density to develop the lot in the future because they were pre-existing non-conforming lots. Zoning Administrator, Pamela Kenyon replied no, not for density. She said this will be subject to A.P.A. approval and lot 4 would need a variance for setbacks.

Holly Dansbury inquired about the PUD. Zoning Administrator, Pamela Kenyon stated this parcel was not part of the PUD.

Jason Saris inquired if a practical difficulty was needed for the A.P.A. Atty. Muller replied he did not believe so as it was not a density issue or a shoreline setback.

John Whitney asked if Tre Rose LLC, was the owner of lot 4. Ms. Martino replied this was correct.

No Correspondence.

RESOLUTION

The Zoning Board of Appeals received an application from Tre Rose LLC, (V16-18) 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#5 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: All 3 lots are non-conforming no matter what you do to them and will require a variance for anything you do to them.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will make a more practical use of the lots.
- 3) The request is not substantial; This is just a lot line adjustment.
- 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; but again this is working with non-conforming lots and is not substantial.

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 Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony recused himself. **All others in favor. Motion Carried.**

The meeting was adjourned at 6:41.

Minutes respectfully submitted by Kate Persons

