

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, October 17, 2017**  
**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, Joy Barcome, Holly Dansbury, Lorraine Lefevé, Jeff Anthony, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

**Absent:** John Whitney and Carla Cumming

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

Jason Saris asked if there were any corrections or changes to the September 19, 2017 minutes.

**RESOLUTION:**

**Motion by Holly Dansbury** to approve the September 19, 2017 minutes as presented. **Seconded by, Joy Barcome.** Jeff Anthony abstained. **All others in Favor. Motion Carried.**

1. **V17-26 DUARTE, DENNIS.** Represented by Greg Bonath. To allow a 15'5" x 30' deck to remain in its present location, seeks area variance for deficient setbacks. Front: 75' is required, 64' 10" is proposed. Side: 30' is required, 24'8" is proposed. Section 185.00, Block 1, Lot 50, Zone RCL3. Property Location: 589 Trout Lake Road. Subject to WCPS review. See V15-20 for previous approvals for a 15' x 30' deck with a 66' front yard setback. *This item was tabled at the September 2017 meeting as no one was present to represent the application.*

Greg Bonath presented the following:

- He came into the project after the original variance was approved approximately 1.5 years ago.
- This variance was sought by Carl Schoder for the homeowners.
- Their plan was to do all the work themselves, and then realized they needed help.
- He spoke to the homeowners and explained to them that the 3 piers did not line up and they were very old.
- There was no way to attach the deck to them.
- The deck is at ground level and not visible.
- He got the deck as close to the house as he possibly could, it is 9" from the stone pier.
- The existing piers are not up to today's standards.
- He could not undermine the existing house.

- He detailed a picture of the piers to explain why the deck was 5” larger than approved 15”.
- There was also a giant boulder in the left front corner of the deck and it could not be removed.
- This made the piers 15’ 5”.
- He is asking for 14”.
- He did not realize they were off until they had set all the girders and main carrying beam.
- He brought this 5” to the Zoning Administrator’s attention to see what he needed to do.
- He will have to destroy the deck at a great expense, if this variance is not allowed.
- There will be no railing on the deck.

Jason Saris asked if it was 14” closer than what was approved. Mr. Bonath stated it was 14” closer to the road than the approval. He detailed the Warren County permit and stating the deck would not be attached.

Joy Barcome asked if it was 9” from the house because it had to be and an additional 5” on the end due to a large rock and the septic. Mr. Bonath agreed and explained that it was not done on purpose. They are now 14” closer to the setbacks.

Jason Saris asked if the setbacks were being measured from the edge of the right of way. Zoning Administrator, Pamela Kenyon said this was correct.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from Dennis Duarte, (V17-26) 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: This was due to a front pier issue and a mistake.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is a ground level deck that fits in the neighborhood.
- 3) The request is not substantial. It is only 14” larger than the previous approval.
- 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 an error that has been explained in detail.

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.**

2. **V17-27 CAROLYN BEEBE.** Represented by Curtis Dybas. To alter a single-family dwelling, seeks area variance for deficient setbacks. 1) Front: 50' is required, 24' is proposed. Rear: 20' is required, 18' is proposed. 2) Lot coverage. 15% allowed, 17% proposed: and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 186.18, Block 1, Lot 29, Zone RM 1.3. Property Location: 26 Back Road.

This item was tabled to the end of the meeting.

Curtis Dybas presented the following:

- This is a 125 sq. ft. addition on the northwest corner of the existing cottage.
- It is a small laundry closet, second bathroom and storage area.
- It will be an 8'x15'.8" single story addition on piers.
- This is a seasonal use cottage.
- It has plumbing, and water connected to the Rainbow Beach Association system.

Jason Saris asked if the cottage had been added on to before. Mr. Dybas stated this cottage has been in the Beebe family since the 1960's. He has no idea when the rear addition was put on. It is a quaint little place. Jason Saris stated that from the footprint it looks like it was added on to.

Holly Dansbury inquired about the requested relief. Mr. Dybas stated that it was the eaves that made the dimensions larger than what was depicted on the application. Holly Dansbury asked if the addition would encroach any further into the setbacks. Mr. Dybas stated it would not.

Holly Dansbury asked if the Association had any issues with this addition. Mr. Dybas stated they had a letter in favor of the project from the president.

LG Water Keeper, Chris Navitsky stated the following:

- They don't generally support variances for lot coverage, but Rainbow Beach has a lot of small lots so there are constraints.
- Rainbow Beach Association has done stormwater improvement projects.
- They don't object to the project with the consideration of a condition of stormwater management contained on the small lot.

Mr. Dybas stated that this lot is a retention basin and he detailed it to the Board on the plan.

## RESOLUTION

The Zoning Board of Appeals received an application from Carolyn Beebe, (V17-27) 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, 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: This is a small addition that can't be accomplished in any other way.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 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 self-created; This is 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 with the condition that stormwater measures are implemented for the addition. **All in favor. Motion Carried.**

3. **V17-28 McPARTLAND, PATRICK & CINDY.** Represented by Kevin Knobloch. To alter single family dwelling, specifically to add a 10' x 24' deck, seek area variance for 1) a deficient front yard setback. 50' is required, 49' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 185.20, Block 1, Lot 10, Zone RCL3. Property Location: 31 Millstone Drive. See V17-17 for previous approvals.

This item was tabled to the end of the meeting as no one was here to represent.

Kevin Knobloch presented the following:

- When they applied for the variance for the addition, they somehow neglected to add the deck.
- They are requesting the deck that is 49' from the road where the setback is 50'.
- It will be attached to the new addition and will be non-visible from the road.
- They are looking for approval to add the deck.

Lorraine Lefevre asked if they had already started the addition and garage that was previously approved. Mr. Knobloch replied that they were in the construction phase at this time.

## RESOLUTION

The Zoning Board of Appeals received an application from Patrick & Cindy McPartland, (V17-28) 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, 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: This is the only location that is feasible.
  - 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be compliant with the new structure and will not be changing the shape of the home. It is also a good means of egress to the yard.
  - 3) The request is not substantial. It is 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. The deck will blend into the existing surroundings.
  - 5) The alleged difficulty is self-created; It is a small 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 Lorraine Lefevre and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

4. **V17-29 PARROTTA, ROBERT.** To allow two 550 gallon fuel tanks to remain in their present location, seeks area variance for 1) deficient shoreline setbacks. 75' is required, 30' is proposed on the south lot and 35' is proposed on the north lot; and 2) Section 200-45A, B & C. Storage of volatile liquids. No proposed storage area can be within 500 feet of any residential development. A dike capable of containing the entire stored volume must surround the storage facility. In no case shall the height of the dike be less than five feet. A 100' buffer must surround the entire parcel. Existing vegetation should be retained, or additional new planting should be installed to create a visual screen. Section 171.11, Block 2, Lots 11 & 12, Zone RCM1.3. Property Location: 5102 Lake Shore Drive. Subject to WCPS & APA review. See SPR17-15 associated with this project.

Robert Parrotta presented the following:

- He created the problem that exists by starting a pontoon boat rental business in 2009. Although he has had to use what existed on the property before the rules were set in place.
- He actually removed one dock finger and spread the docks further apart so as to give inexperienced boaters more space to dock when returning. He never imagined

that this business would have blossomed into what it is today, and he has tried his best to run it within the rules.

- On any given day during high season you can find him at the lake most of the day, especially when boats are going out in the morning and when they are returning in the afternoon.
- They always had their boats refuel at Norowal at the end of the day between 5pm and 6 pm, as all the other marinas are closed at 5 pm, and this became a problem. Norowal only has one gas dock for boats over 20 feet so it would take quite some time to fuel them all.
- Not only were his boats with inexperienced drivers vying for position at the gas dock, but also an unknown number of other boaters would be trying to fuel at the same time making that small bay a dangerous place, especially for vacationers renting boats. He would hear complaints about this on a daily basis.
- Sometimes they had minor collisions that would cost them dollars to repair and sour their vacation experience.
- That's what it's all about for people coming to Bolton on vacation its and experience and we want it to be a good one, so they have fun and return.
- We have people that have driven from as far away as NYC for the day, to rent one of our pontoon boats, and I'm sure while they are here they use convenience stores, delis, or Tops for sandwiches, snacks, ice, beer, soda, ice cream and other items, as well as using local restaurants, buying gas, maybe stopping into the garden center or shopping at one of the local stores.
- Last Autumn he happened upon someone who told him that anyone could have gas on their property up to 1100 gallons without a permit, to use in their own equipment.
- He thought this would solve a few problems. 1) Not having all his boats in the bay at Norowal, freeing up that bay. 2) Making it a better experience for the novice renters who are scared to dock a boat more than necessary, especially without help.
- At his dock they do whatever is necessary to get them in safely and smoothly, including jumping on a boat and docking it.
- It actually worked out really well, they had four boats come in to be fueled at a time, while others were waiting a few hundred feet off our docks, no congestion, after fueling we would move the boats to other dock spaces and then have the next set of boats come in.
- He checked with the LGPC about having gas tanks for use in your own equipment and sure enough they said no permit was required.
- They do require a way to catch spills, which they accomplished by having a row of cement blocks around the tank re-barred into an 8-inch thick concrete slab that is water tight, as well as having a spill kit, which is basically absorbent doth that only absorbs gas and oil, and a fire extinguisher at each tank.
- He did all these things, and the DEC, LGPC, and Warren County were all good with it.
- He didn't realize that the Town might have other restrictions requiring a variance. We pumped gas all summer out of two tanks without incident, no spills, and we are not selling gas to the public.

- Before placing the tanks where they are they considered all locations it would be impossible to move them the required 75' set back from the lake, with both tanks the terrain gets steep, the southern tank would have fuel lines running through the parking lot, the northern tank would be sitting atop the leech field for the grey building.
- By having the gas tanks, we have created two more jobs as we need the extra help in the afternoons, so we can run smoothly.
- They have also eliminated the congestion at Norowal at days end.
- We have made it a better experience for vacationers eliminating the need for them to dock several times, they now only have to dock where he and his staff are there to help them navigate safely.

Mr. Parrotta went through the variance application.

1. How can the benefit that you desire not be achieved by other feasible means? It can't be achieved by moving them to the proper setback of 75' from the shoreline, because the property has a steep incline just beyond 60' from the shore line, and the southern tank would then have its hose running through the parking lot, and the northern tank would be sitting on the leech field as well as a steep incline.
2. How will your project not produce an undesirable change to the neighborhood? My property is zoned commercial and has been run as a resort and a class A marina for many years. There are many other commercial properties nearby, Timberlane, Lagoon Manor, Candle Light, Juniper hills, Norowal, and Lake George Camping all of which have Class A marina licenses as well. You also have RPI and the properties to the north known as Hidden Hills which was a resort, and so was the property to the south now owned by the Cossman's and the Kiessling's. Many of these properties have buildings closer than 75' from the shoreline, both commercial and private. He believes it's in keeping with the character of the neighborhood. As a Class A marina, the storage and pumping of fuel is a permitted use.
3. Is the requested area variance substantial? No, it's not, because they are barely structures. The tanks are 5' by 4'. The zoning law in Bolton is anything over 100 square feet, and tanks over 250 gallons. He is willing to do screening with a natural color to blend and hide it from my neighbors to the north, even though the tanks are barely visible from the water. My neighbors to the south cannot see the southern tank at all with all the bamboo that's growing on the southern and eastern sides of the tank. I could construct a 9' by 10' shed in its place and paint it pink and no variance would be required, these tanks take up less than a third of that space. The southern tank is located 25' from the shoreline and 19' from the southern lot line; code is 15'. The northern tank is 30' from the shoreline and 70' from the northern

lot line.

4. Will there be an adverse effect or impact on the physical or environmental conditions of the neighborhood or district? There is no negative environmental impact from what I am doing. They are adhering to the very stringent DEC codes, which require, spill kits, fire extinguishers, and catch basins for leaks. The tanks are double walled and there is an 8" thick concrete slab base with wire and rebar and a row of cement blocks running on top around the edge of the slab which is 8 feet by 5 feet, and water tight to catch any possible leaks. The tanks were also inspected by LGPC and Warren County weights and measures. We do not allow smoking at the docks and strictly enforce it. They have serviced their boats this season without any spills or issues.
5. How is the alleged difficulty self-created? He started the boat rental business in 2009 and a would have to say that created the need. The rest of the property was pre-existing non-conforming.

Jeff Anthony stated that he did not believe that the neighbors to the north store or sell fuel.

Jason Saris asked if there were any fuel sales to the public. Mr. Parrotta stated that there was not. He only fueled his boats.

Holly Dansbury asked why they could not move the pumps back further from the shoreline. Mr. Parrotta explained that it is very steep and there is also a leach field behind one of them. Holly Dansbury asked why he had gas when it was stated in his condition of approval that he could not have gas. Mr. Parrotta stated that as it became a problem with his boats trying to get gas from Norowal and creating havoc, he decided that he should refuel his own boats.

Jeff Anthony stated that there were at least 4 or 5 fueling dispensers in the area. Mr. Parrotta stated that they all close at 5pm. Jeff Anthony stated people that were in need of fuel should realize that they need to get it done before 5pm. Mr. Parrotta stated that they were on vacation and he can't make them fuel. Jeff Anthony inquired as to why Mr. Parrotta or his staff did not take the boats to be refueled in the morning. Mr. Parrotta explained that the boats are rented in the morning and it would take him at least 2 hours to do this. Jeff Anthony said there are 4 or 5 places he could do this. Mr. Parrotta stated he would have to hire a bunch of people just to do this in the morning. Jeff Anthony replied that it was Mr. Parrotta's problem.

Jason Saris stated he was contacted by John Mooseburger the manager of Norowal stating he was supportive of this application because it was a pain and Norowal did not care for having to service commercial boats with all the congestion.

Zoning Administrator, Pamela Kenyon stated that this application was subject to APA approval for shoreline setbacks.



Holly Dansbury stated she is concerned that the Planning Board needs to address the original condition of approval before this Board addresses this application. Jeff Anthony agreed stating the Planning Board made this condition in 2008 and they reviewed the project thoroughly looking at the technical issues and if this Board approves the variance, they will overrule the Planning Board's decision. Holly Dansbury suggested postponing this application and let the Planning Board review it.

Pete Cossman of 5078 Lakeshore Drive read his letters to the Board as follows:

- First concern is the need for a use variance and a special use permit.
- The area variance is mute if he is not allowed to pump gas on the sight.
- The issue of pumping gas needs to be relieved by the Planning Board as they made the condition of approval.
- It does not make any sense for this Board to act on this before the Planning Board relieves this restriction.
- Mr. Parrotta has used his property for many years as a non-conforming use for the renting of docks and seasonal cottages along with a restaurant which proceeded the zoning ordinances.
- How does he get permission to operate a marina on this site?
- In 2008 Mr. Parrotta stated he had obtained a Class "A" marina permit.
- Bolton Landing has a zoning ordinance that states Mr. Parrotta is in a residential zone.
- This property is being used for commercial use in a residential zone.
- Neither marinas or pumping gas are allowed in this zone.
- He is confident that at no time has Mr. Parrotta applied for a special use permit.
- The Bolton Landing zoning ordinance supersedes the LGPC permit.
- Mr. Parrotta needs to procedurally either apply for a use variance or a special use permit to continue doing what he has been doing.
- This affords the public and the neighbors an opportunity to be heard.
- Only after one of these permits is granted should they be considering area variances.
- This property is not suitable for a marina based on its size and shape.
- The steep slope is part of the problem.
- He suggests that the Board dismiss this application as it currently exists and Mr. Parrotta should apply for a special use permit or a use variance to permit him to pump gasoline on the site.
- If this is granted, then area variances can be discussed.
- Many things are critical to the use and enjoyment of their property along with the air and water quality.
- He would like to know the Board's position on the need for a special use variance.

Jason Saris stated that the Zoning Board was here on the application before them. They do not determine compliance, that is the job of the Zoning Administrator. If she feels that the operation is compliant then they were here to discuss what is before them. Mr. Cossman stated he is not challenging the right to rent boats, he is challenging the issue of pumping gas. He would like to know if the Zoning Administrator agrees that either a special use permit or a use permit is necessary. If she can answer this, they would know which direction to go. Zoning

Administrator, Pamela Kenyon stated that in 2008 he was before the Planning Board for the rental of pontoon boats on the most southerly lot, through site plan review and received approvals. She is not sure what is happening on the northerly lot and will look into this.

Jason Saris asked what the difference between a special use permit and site plan review was. Atty. Muller stated that in Bolton code there is no distinction. The process that Mr. Parrotta presented before the Planning Board cultivated him permission under the ordinance to conduct a marina.

Mr. Cossman asked if the application in 2008 was to rent pontoon boats, not to run a marina. Atty. Muller stated that he would need to look at the application but whatever was the manifestation of you have permission to do x y and z, whatever that resolution says, indeed the Planning Board was the authorized Board to give him permission to do this. Mr. Cossman asked if he was saying that this constituted a special use permit. Atty. Muller stated that it did. Mr. Cossman asked where the standards for a special use permit were in the ordinance. Atty. Muller stated that it was lacking. Mr. Cossman stated that meant if there were no standards that aspect of the zoning ordinance are unenforceable and invalid. Atty. Muller stated that the standard was site plan review. If you look at the schedule of uses in the zone, by Type II Site Plan Review seek permission for a marina in that zone. Atty. Muller stated that whatever the LGPC does in the way of issuing permission under a Class A marina permit, it does not relieve the applicant the requirements of Bolton's code. Mr. Cossman asked if what happened in 2008 constituted an application for operating a marina as a special use. Atty. Muller replied that whatever the Planning Board stated in their resolution would be what was granted, but if it was not mentioned, it was not. Zoning Administrator, Pamela Kenyon stated that the 2008 application was for a marina/tourist accommodation. Mr. Cossman stated that from the minutes that he did not believe that the Board had ruled on the point of granting a marina if you read the minutes. Atty. Muller read the 2008 resolution as follows:

**Motion by** Donald Roessler to accept SPR08-25 application as complete, waive a public hearing and having met the criteria set forth in the code, grant approval with the following conditions:

1. There shall be no more than 12 rental boats.
2. Rental boats shall be pontoon boats only, no jet skis, wave runners or speedboats will be allowed;
3. Any exterior lighting on the tourist accommodation are to be downward facing and shielded;
4. The hours of operation, including maintenance, are to be between the hours of 8:00 am and 5:00 pm;
5. No major maintenance of the rental boats is to be done at the waterfront;
6. There shall be no pumping of gas on site;
7. There shall be no waste removal from the boats on site;
8. There shall be no launching of boats on site;

This motion includes a SEQR analysis and findings of no negative environmental impacts with all aspects favorable to the application as presented. **Seconded by** Henry Caldwell. Sandi Aldrich opposed. **All Others in Favor. Motion Carried.**

Mr. Cossman said that based on that, Mr. Parrotta was granted permission to rent pontoon boats and this is what the resolution addressed, and it imposed a restriction on gasoline, which brings us

to tonight's meeting. Tonight's meeting is about area variances and the placement of tanks. Atty. Muller replied setbacks. Mr. Cossman stated he believes the issue is, how do you deal with the setback of tanks when he does not even have permission to pump gas which is not even before this Board. Atty Muller stated this is where the Board seemed to be heading. The chairman, decided to hear the public first as they had traveled a great distance to be here. Mr. Cossman stated that he hoped the Board would not continue this until the Planning Board had a chance to make a decision first.

Mr. Parrotta is running more than the 12 boats allowed in the 2008 approval. Pumping gas is a self-created hardship and he can rent fewer boats, so he alleviates the problem. Also, Smiths Marina pumps gas after 5pm and if he needs to hire more people, it is a hardship that is the cost of doing business and not a justification for pumping gas. They are very concerned about the gas tanks, especially the southernly one which is right on the property line. Mr. Cossman shared some photos and spoke at great length on them and the issues that he would like addressed. One concern is the safety issue presented by having a 550-steel tank located right on their property line only a few feet from where our grandchildren are playing. This is not your ordinary gasoline pumping facility. The hoses are so long that if, at any point, there were a leak, it would be impossible to contain the flow of gasoline into the ground and the Lake. To my knowledge there is no cutoff at the tank; no means of measuring how many gallons of gasoline have been delivered to a boat; and no provision made for the venting or recapture of fumes. He related how his family and guests have been affected by the fumes. He would like the opportunity of hiring an engineer at his expense to look at the gas pumps and opine on whether or not it conforms to fire, DEC and any other codes that may apply along with the minimization of gasoline fumes and moving the tanks in another area. This is a very serious matter. They are afraid to be on their beach with this tank so close to them. It has a major impact on the safe and healthy use of their property and detrimental effect on their property value. Mr. Parrotta needs to solve his problem by gassing up at other marinas.

Elaine Bartley, trustee of the property located at 28 Hidden Hills Drive spoke on the following:

- She does not believe they received notice in 2008 of any application for a marina.
- If there was authorization for a special use permit for 12 boats, there are far more than 12 boats on his property.
- This is a problem of his own making.
- The permit if there is one, specifically prohibits pumping of gas.
- He chopped down 50% of the trees on the property over the past 2 years.
- This has made the water running down the hill more pronounced.
- They have noticed the gas in the lake over the summer.
- The boaters are inexperienced and detrimental to the neighbors.
- This is a problem of Mr. Parrotta's own making.
- She is sure he could make an arrangement with one of the marinas as a solution.
- She cannot imagine a more undesirable change then having an unsafe gas tank.
- She believes a serious assessment of the tank construction needs to be done if he has authority to pump gas.
- Gas running into the lake is an adverse effect on the environment.
- The lake is the economic engine of this community.

- Since the start of the boat rental business, new algae blooms and zebra mussels have increased over the last 8 or 9 years.
- The quality of the water has definitely degraded.
- She suggests a substantial review done before they grant any approvals.

Chris Navitsky read the following letter:

- The Town of Bolton had concerns about the storage of volatile liquids and placed stringent restrictions in their Code. Additionally, the New York State Department of Environmental Conservation ("NYSDEC") had concerns about volatile liquids and their negative impacts from pollution to the environment and requires special design standards for any above ground storage tanks ("AST") "within 500 feet of a lake/pond, estuary or other similar surface water body". Additionally, the Town Planning Board had concerns about gas storage on subject site and approved the application with the condition "There shall be no pumping of gas on the property"2 The Lake George Waterkeeper has concerns about the negative impacts of the requested variance on the neighborhood and on the environment. The Waterkeeper recommends the Zoning Board of Appeals apply the Town's regulations, in particular the undesirable change to the neighborhood, consideration of the available alternatives and adverse environmental impacts, during your deliberations regarding the above referenced variance request.
- **The granting of the variance will result in an undesirable change and impact to neighboring properties.** §200-45 prohibits storage of volatile liquids within 500 feet of residential properties for numerous health and safety reasons, which adjoining property owners have noted experiencing. It was for this reason the Town Planning Board expressed concern and conditioned their approval in November 2008. At that same hearing, the applicant stated that "they will not be pumping or storing gas." Based on the impact to neighbors, this variance should not be granted.
- **There are alternatives available for the applicant to achieve the intent of the variance instead of granting the variance.** The applicant can utilize existing gas pumping facilities in the Bolton commercial district and adjust hours to accommodate.
- **The granting of the variance can have an adverse impact on the environment.** The application does not contain any information regarding measures to comply with NYSDEC regulations, which has requirements for secondary containment, specialized piping, etc. for facilities located with 500 feet of "special receptors" (i.e. lakes). There is also concern about discharge and spills into the lake, which is a drinking water supply. The Board should also consider the impacts to air quality as well with the discharge of vapors, especially in close proximity to residential properties.
- In conclusion, the Lake George Waterkeeper recommends the Zoning Board of Appeals deny the application based on the undesirable change to the neighborhood the existence of viable alternatives instead of granting a variance and the potential adverse impacts to the environment.

Zandy Gabriels questioned the following:

- The indication that a phone call with Mr. Mooseburger who is some sort of employee of Norowal Marina in support of this application and he wonders if this represents the

opinion of the whole Norowal Board. Jason Saris stated Mr. Mooseburger was speaking as the manager of the marina and not for the Board.

Atty. Muller read letters in opposition of the application from:  
Martha & John Kiessling

Atty. Muller read the following letters in favor of the application from.  
Bryan Goey

Atty. Muller referenced letters of opposition from The Lake George Water Keeper, Chris Navitsky and 2 letters from Peter Cossman.

Mr. Parrotta stated the tanks were not gravity fed, they were pumps.

Jason Saris stated this Board was not here to consider the criteria that the Planning Board would. They are here to consider the criteria for an area variance.

Jeff Anthony stated he believes that the Planning Board should act on this issue first before they make an opinion. They have made a condition and this condition prohibits the storage and dispensing of fuel. He believes that Mr. Cossman should be afforded the opportunity to present information to the Planning Board if they will accept it.  
Holly Dansbury agreed.

No County Impact

## **RESOLUTION**

Now, upon motion duly made by Lorraine Lefevé and **Seconded by**, Jeff Anthony it is resolved that the ZBA does hereby table this application to send it to the Planning Board for their reconsideration of the resolution on the fuel dispensation. **All in favor. Motion Carried.**

- 5. V17-30 BECKLEY, KEN & SARA.** To alter single family dwelling, specifically to add a dining room addition/deck, seek area variance for 1) a deficient front yard setback. 100' is required, 1.5' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 212.00, Block 1, Lot 6.1, Zone RR10. Property Location: 235 Dickinson Hill Road.

Ken Beckley presented the following:

- They took possession of the property last November and they are trying to upgrade this property.
- The home was built in the 1940's.
- They are actually trying to reduce the setback incursion.
- They would like to push out over the deck to make a dining room.
- They would like to be able to enjoy the dining room and push out the deck.
- As it is now they can't move freely through the home.

Lorraine Lefevre asked if they were removing the existing rotting deck. Mr. Beckley replied that he was, and then adding a new deck off the addition.

Jason Saris asked if they would be encroaching any further on the setbacks with this proposal. Mr. Beckley replied it would actually be less of an encroachment. They are here because it is a non-conforming structure.

Holly Dansbury asked if they would be keeping it in line with what presently exists and removing the steps. Mr. Beckley agreed and stated this would make the house more functional.

### **RESOLUTION**

The Zoning Board of Appeals received an application from Ken & Sara Beckley, (V17-30) 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, 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: The expansion is the only way to make the home more practical.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. This is only 150 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; This is a pre-existing 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**, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

6. **V17-31 JOHNSON, WILLIAM.** To replace single family dwelling destroyed by fire, seeks area variance for a deficient front yard setback. 75' is required, 25' is proposed. Section 185.20, Block 1, Lot 38, Zone RL3. Property Location: 680 Coolidge Hill Road. Subject to WCPS review.

William Johnson presented the following:

- They lost their house last December to a fire.
- They initially intended to repair the house.

- They decided to take it down and rebuild due to the water damage and it was cheaper to rebuild.
- The house was originally 2 stories which they would like to replace it with a smaller single story home.
- They will be further back from the right of way than the original structure.

Jason Saris asked if they would be using the original well and septic system. Mr. Johnson replied they would. He explained they will be building within most of the original footprint with a minor change.

Holly Dansbury asked if they were staying where the original home was built due to the existing systems. Mr. Johnson stated yes, the reason they were placing it where they were was due to where the septic, existing foundation and well are already located.

Joy Barcome asked the new home would be staying in the exact same footprint. Zoning Administrator, Pamela Kenyon stated it would be in the existing footprint and a small area outside the footprint in the back of the house.

Lorraine Lefevre stated that it was a non-conforming home to begin with and by placing it where they planned it would make the home more in compliance.

No County Impact

**RESOLUTION**

The Zoning Board of Appeals received an application from William Johnson, (V17-31) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is a smaller structure that will be placed mostly in the original footprint.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. It is actually smaller.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. No it is a new home being placed in basically the same footprint.
- 5) The alleged difficulty is not self-created; This was a loss due to a fire.

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

The meeting was adjourned at 8:00pm

Minutes respectfully submitted by Kate Persons