

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, September 20, 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, Jeff Anthony, Lorraine Lefevre, Alternate Carla Cumming and Zoning Administrator Pamela Kenyon

Absent: Counsel Michael Muller and Tom McGurl

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

Jason Saris asked if there were any corrections or changes to the August 16, 2016 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the August 16, 2016 minutes as presented. **Seconded by** Jeff Anthony. Carla Cumming abstained. **All others in Favor. Motion Carried.**

1. **V16-36 CLEAVLAND, DENISE.** To alter single family dwelling, specifically to increase the size of the front porch from 6'x 6' to 11'4"x 7', seeks area variance for 1) A deficient front yard setback. 100' is required, 50' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B1b. Section 123.00, Block 2, Lot 29, Zone RR5. Property Location: 33 Alder Brook Road.

Denise Cleavland presented the following:

- She would like to replace the porch which is in bad shape.
- It will be a little bigger than the existing porch.
- It will be the same distance from the road setback as it exists now.

Jason Saris asked if she would be increasing the setback violation. Ms. Cleavland stated she would not.

Jason Saris inquired the age of the home. Ms. Cleavland stated it was built in 1985 and met the setbacks at that time. Jason Saris asked if the setback change was due to this area being declared a scenic corridor now. Zoning Administrator, Pamela Kenyon stated this was correct.

RESOLUTION

The Zoning Board of Appeals received an application from Denise Cleavland, (V16-36) 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.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: They are simply replacing the already non-compliant porch for safety reasons.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It is improving the aesthetics of the building.

3) The request is not substantial. It is a small addition within the existing setbacks.

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

2. **V16-37 SALAMONE, CAROL.** Represented by the Dock Doctors. For the construction of a hillside trolley, seeks area variance for deficient setbacks. 1) Shoreline: 75' is required, 4' is proposed from Lake George and 5' is proposed from the stream on the north side of the property; and 2) Side yard. 30' is required, 15' is proposed. Section 141.00, Block 1, Lot 22, Zone RCL3. Property Location: 5666 Lake Shore Drive. Subject to WCPS and APA review.

Carol Salamone and the Dock Doctors presented the following:

- A lift would extend from the dock to a level area on the property.
- This would enable her and her family to safely access her shoreline, boat and dock.
- It's extremely difficult to maneuver down the steep slope to the lake, especially when it is wet.
- Members of her family are not able to access the lake due to the steep slope.
- They have looked at other means to accomplish this, but they would all create more runoff and disturbance.
- Stairs have the same short comings and still would not solve the issue for physically challenged people to access the lake.
- The rail system will be low lying and screened.
- The trolley is secured to the ledge rock.
- The location only requires one 6" tree to be removed.

- This is not self-created due to the steep slope and ledge rock.
- There is no undesirable change to the neighborhood.
- This is one of the least disturbed properties in the area.
- The rail system would be screened and low lying.
- This is a very steep grade all the way to the dock.
- The chose the proposed location as it would require the least disturbance.
- The difficulty is not self-created; the property is very steep.
- She handed out copies to the Board stating that her mother was permanently disabled.
- This system will allow her entire family to enjoy the waterfront.

Chris Dry of the Dock Doctors stated he would be happy to discuss any questions and stated the following:

- The hillside trolley is a prefabricated system.
- He detailed the rail system to the Board.
- This system does not use footings.
- They look for the cleanest, most direct route, with minimal ground disturbance and tree removal.
- He detailed the slope and where the system would work the best.
- The location is canopied by the existing trees.
- The disturbance is basically nil.
- The vegetation should continue to grow with minimal pruning.

Jason Saris asked if it was a quiet system. Mr. Dry stated it was very quiet.

Lorrain Lefevé inquired about the path they would be using to the lake. Mr. Dry stated one of the reasons they chose this route was because they were trying to miss the trees and have the least amount of ground disturbance.

Lorrain Lefevé asked how high from the ground it would be. Mr. Dry stated the lower third would be about 6" to 12" from the ground. He stated as you get to the middle of the system it would be 2' to 3'. At the top by the transition station it would be 4.5' to 5' to allow the mechanicals to be placed at a safe elevation.

Holly Dansbury asked how they planned to get from the house to this location. Ms. Salamone stated they would follow an existing woodchip path around the garage.

Lorrain Lefevé asked if they would need to put a roof cover over it in the winter. Mr. Dry stated they would not, as it constructed with marine grade aluminum. There are covers for the seats available if the applicant would like to purchase them.

Jason Saris asked if it could be used in the winter. Mr. Dry replied that it could, as long as the snow was not up over the track.

John Whitney asked if there was an existing staircase to the lake. Ms. Salamone stated it did not go all the way to the lake. She detailed on the plan where it was.

John Whitney inquired about a path on the south side of the property. Ms. Salamone stated that it was an existing stone path from about 80 years ago, that was there when they bought the property.

John Whitney asked what the current access to the lake was. Jason Saris stated he walked it and a stair case went short of the midpoint and it was a very steep straight brush access. He stated it was challenging to even walk down to the lake.

Lorrain Lefevre stated that some of the rocks were hard to even get a foothold on and they would be slippery when they were damp.

Chris Navitsky stated he had concerns with the cumulative effects of the disturbance associated with redevelopment, the continued loss of the stream corridor protection and potential impacts on the lake quality. He would like additional information before the Zoning Board gives any approvals.

Gena Lindyberg, neighbor to the applicant stated:

- The stream is a very important part of the neighborhood.
- It is not an intermittent stream.
- There is a lot going on there and the structure should be moved further back.
- She asks if there is an alternative plan that could place it further back from the stream.

Jason Saris read a letter in opposition from James Wolitarsky

Carol Salamone stated the main concern from Mr. Wolitarsky was the removal of trees and they were only moving one tree.

Jason Saris asked about alternative locations. Ms. Salamone stated there was 0 chance of an alternative cart path, it would be much easier and cheaper to traverse the property with a path if it was possible. The topography does not allow for this.

Jason Saris asked about runoff during installation. Mr. Dry stated that by avoiding bringing in heavy equipment to build a path, this trolley is much better for the land. This is just an open track which allows for regrowth. It is transparent unlike a set of stairs and it allows for increased growth. Soil would not be removed or pushed around with this system. He stated they would use approximately 22 round pipes that were about 2.5" in diameter. He detailed how they would be installed to the Board. Ms. Salamone stated that the people would be in a cart as opposed to walking up and down the hill and traversing over the vegetation. She would think this would be more environmentally friendly and much safer for her family.

Jason Saris stated aesthetically it would be virtually invisible from the lake. He asked if it would be possible to move it further from the stream. Ms. Salamone replied yes if they removed many more trees and created more disturbance. She stated if they do it also becomes steeper and further from the docks.

Holly Dansbury asked about considering using the south side and cut across the lake front. Ms. Salamone stated you could not walk across the front of the shoreline and it would not be practical. Jason Saris stated he did not see where this system effects the stream. He stated it does not have any effect on the water flow patterns or anything else.

Jason Saris stated when you cruise the shoreline you see lots of stairs going to the lake, he stated this was one of the least disturbed looking properties in the area.

Joy Barcome asked about the Waterkeeper's concern for compaction of the soils and asked if he was basing this from the thought that equipment was coming in. Mr. Navitsky stated he did not know how they would be constructing this operation. Mr. Dry stated there would not be any equipment used. It would all be manually carried in and installed.

Jason Saris stated the practical difficulty was definitely the pre-existing grade and ledge.

John Whitney stated his concern was the lack of topography maps, elevations, assessments on the impact to the stream and information on the choice of placement of this trolley. He would like additional information on why this system is needed, to be included in the application packet before he made a decision. Jeff Anthony stated he agreed with this and would like to see why the system could not be shifted away from the stream and still be functional. Without topography maps he can't see why it could not be moved. He had no issues with using a tram, but he would like more information on the topography and why this was the best possible area.

Jason Saris said he understood and he had walked the property and this seems like the most appropriate location, but the A.P.A. works from the record of these meetings, not by visiting the site, and they may decide that there is not enough information here.

Ms. Salamone asked if they would just need a topography map. Jason Saris stated they should explain why this is the best spot and a good alternative analysis as to why they picked this location.

Jeff Anthony said the A.P.A. would be happier with a clear alternative analysis. He suggested a comparative analysis from a professional be included with the topography map. John Whitney he would recommend that they explain the existing stone steps and why they are not practical more thoroughly.

Jason Saris stated that after being there, he believes this is the best location, but by looking at the application he would never have grasped this.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by Lorraine Lefevé, it is resolved that the ZBA does hereby table the variance request as presented for additional information. Carol Cumming abstained. **All others in favor. Motion Carried.**

3. **V16-38 STROLLO, DONALD.** Represented by Geff Redick. To demolish and rebuild existing retaining walls and stairs, seeks area variance for deficient setbacks. 1) Side. 20' is required, 14' is proposed; and 2) Shoreline. 75' is required, 52' is proposed. Section 200.18, Block 1, Lot 3, Zone RM1.2. Property Location: 4216 Lake Shore Drive. Subject to WCPS and APA review.

Geff Redick presented the following:

- Currently they are proposing to significantly shorten the existing wall and literally soften the slope.
- The existing stairs and deck would stay.
- He detailed photos and the site plan of his proposal.
- They would like to remove existing wooden timber walls and replace with natural stone products.
- They would like to replace the existing decaying walls and reduce the current encroachment.
- This would make a more navigable slope, increasing the enjoyment of the property.

Jason Saris asked how much of a fill and grade change would be required. Mr. Redick stated it would be very minimal. He stated they would reduce the overall square face footage by approximately 75 to 100 sq. ft. They would be managing and modifying the soils by sculpting them back, which he detailed on the plans and stated there was no fill required.

Lorrain Lefevre asked about the location of the property line. Mr. Redick detailed it on the plans.

Jeff Anthony asked about discrepancy of the survey drawings scale and the disturbed area calculations on the plans. He stated they are very close to the 15,000' of disturbance and his concern is that the disturbance has not been calculated correctly. His second concern is that there are no calculations for proposed stormwater on the drawings or on anything that has been submitted to them. Pamela Kenyon, Zoning Administrator stated that this application was not here for a stormwater project, it was only there for the stairs. Jeff Anthony stated this was a project involving site disturbance and if they go over the 15,000 sq. ft. of disturbance he has concerns. Pamela Kenyon, Zoning Administrator agreed stating that if he was over the 15,000 sq. ft. of disturbance it would need Planning Board approval but the applicant was not here for stormwater. Jeff Anthony stated he had the right to ask questions about stormwater. Mr. Redick stated he was not fully prepared to defend a stormwater application as he did not know that was why they were here. He stated he did not have the stormwater application that he had submitted to the Planning Office with him.

Jeff Anthony asked about the shoreline disturbance shown on their application. Mr. Redick stated that this was not part of what he was asking for here tonight and he is not sure why those drawings were submitted.

Holly Dansbury asked if the request was only for the side yard setback for the stairs which it appeared they would be improving. Pamela Kenyon, Zoning Administrator stated this was correct, they were here for the set of stairs and not the wall.

John Whitney inquired about the patio on the plans. Mr. Redick stated that the patio is existing and they are replacing it in kind, possibly a little bit smaller. John Whitney asked if they were improving the incursion on the south side of the property. Mr. Redick stated they were. John Whitney asked if any of the regrading would divert water to, or impact any neighboring properties. Mr. Redick replied absolutely not.

Jeff Anthony stated he does not see any proposed stormwater management practices on the drawings. He was not even sure if it is a major or minor. Mr. Redick pointed out some of their proposed stormwater intentions on the plans. Jeff Anthony inquired about the soil types. Mr. Redick stated they did not do perc tests. Pamela Kenyon, Zoning Administrator stated again that the applicant was not here for stormwater, he is here for the variance for the stairs. Jason Saris stated he understood this, but the variance was about doing the driveway and regrading it. Pamela Kenyon, Zoning Administrator stated that none of that was included in this variance request. Jason Saris asked if it was part of the application. Pamela Kenyon, Zoning Administrator stated it was not.

Jeff Anthony asked if it would go to the Planning Board. Pamela Kenyon, Zoning Administrator stated it would not because it was a minor stormwater plan and she would be reviewing it. Jeff Anthony stated he would like to see information stating that the applicant was complying with minor stormwater management and there is nothing here to make that decision. Pamela Kenyon, Zoning Administrator replied this was because the applicant was not here for this and it is not required. Jeff Anthony stated this Board has the right to ask for this. Complying with stormwater has been requested by this Board for many years and they have that prerogative. Pamela Kenyon, Zoning Administrator recommended they table the application for stormwater if this is what they are looking for.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by John Whitney, it is resolved that the ZBA does hereby table the variance request as presented for additional information.

All in favor. Motion Carried.

4. **V16-33 DUNN, MICHAEL.** Represented by Winchip Engineering. For the construction of a proposed garage/guest cottage, seeks area variance for a deficient setback between an infiltration device for a parking area and Finkle Brook. In accordance with Section 125-10A(3) of the stormwater regulations 100' is required, 25' is proposed. Section 171.07, Block 1, Lot 4, Zone RM1.3 & RL3. Property Location: 21 Valley Woods Road. Subject to WCPS review.

Zach Monroe of Winchip Engineering presented the following:

- This application is to construct a garage with a bedroom/guestroom above it

- The structure will meet all the required setbacks for zoning.
- The variance they are looking for is the setback from the infiltration area to Finkle Brook.
- The actual set back is 33' not 25' as mentioned in the agenda.
- The existing site has no stormwater controls and they will be collecting all of the existing impervious area that they can and directing it to the retention area.
- This will provide storage and infiltration for a bunch of impervious area that currently runs off into the brook.

Holly Dansbury asked if there were a lot of trees in this area. Mr. Monroe stated it was all open in the retention area. They would be removing a few trees for the placement of the garage.

Lorraine Lefevé asked if they would be extending the existing driveway. Mr. Monroe stated they would be extending it to the proposed garage and proposing a little turn around in and out of the garage.

Lorraine Lefevé asked if the bedroom above the garage was a studio. Mr. Monroe stated it was essentially a studio/workshop. They show it in the plans because it could be used as a bedroom. The original house had two bedrooms that have been turned into one bedroom. This will allow for the second bedroom as needed.

Lorraine Lefevé asked if the stream was in front of the home. Mr. Monroe stated it was correct and they would be building the garage behind the existing home.

Lorraine Lefevé asked how many years the applicant owned the house. Mr. Monroe replied 2 years and it was built in 1935 when there were no restrictions. Lorraine Lefevé stated these conditions were pre-existing.

Chris Navitsky stated the following:

- He has questions and concern about the impacts to the Finkle Brook stream corridor.
- The project fails to comply with the stormwater requirements under chapter 125.
- He believes there are alternatives that exist.
- Could the applicant relocate the garage behind the house where the sheds are.
- They are replacing an existing septic which gives them flexibility to look at alternatives.
- They recognize that they are proposing stormwater, however the setbacks should be maximized.
- He detailed what he thought the stormwater calculations should be.
- He believes the town should maximize the stormwater compliance along Finkle Brook.

Lorraine Lefevé asked if he was asking for more stormwater. Mr. Navitsky stated he feels this does not meet the town's code and requires more stormwater controls.

Jason Saris read a letter in opposition to the project from Sandi Aldrich.

Mr. Monroe stated the size of the retention area that they have is to deal with the existing runoff from the existing house and driveway that runs off with no treatment at all. The retention volume is not indicated for storage volume above ground, it indicates mitigation including the infiltration. They are dealing with the volume with retention and infiltration. Also the Town Engineer has reviewed and approved it. To move the garage by the existing sheds, as Mr. Navitsky suggested, would need to turn the garage 90 degrees and would not decrease the impervious area. This would not any decrease of impervious area by doing this, it would probably be an increase. To open the area Mr. Navitsky mentioned for stormwater is not practical as the area is uphill from the proposed garage.

John Whitney inquired about driving over the septic. Mr. Monroe stated that they would be replacing the septic with traffic rated tanks that are designed to be driven over. John Whitney asked if the proposed driving surface would be paved. Mr. Monroe said yes. John Whitney asked if the leach field was off to the side. Mr. Monroe replied yes, the wastewater system was designed several years ago for a two-bedroom home. They are only changing the tanks, not the whole system.

Jeff Anthony asked if the Town Engineer reviewed the project. Zoning Administrator, Pamela Kenyon stated it was reviewed and had been signed off.

Holly Dansbury asked about moving the garage. Mr. Monroe detailed why this could not be accomplished, stating to turn the garage the suggested 90 degrees would then make the impervious driving surface closer to the stream. The infiltration area would essentially stay the same because there would not be any decrease in impervious area after you did all of that.

Joy Barcome asked for more information on the infiltration mitigation system. Mr. Monroe stated the stormwater regulations call for a gallon and a half per square foot of new impervious surface. They designed it for a gallon and a half per square foot for total impervious, not just new impervious. They are dealing with a larger volume than what is required to start with and they have done perc test to determine the perc rate of the soil. He stated the perc rate was 15 minutes. They used this and added a safety factor to deal with any potential slow down over time. He detailed the calculations he had used to the Board, explaining how they reached the proposed system they had presented.

John Whitney stated he appreciated taking the stormwater from nothing to something. He said asked if there was opportunity to maybe further enhance the protection of the stream without a huge additional cost. Mr. Monroe stated not without getting closer to the brook. John Whitney asked about the area behind the septic field. Mr. Monroe stated it was up hill and detailed it on the plan, stating by the time you got to an area where it would work, it would be closer to the brook and you would need to disturb more area and clear more trees.

Chris Navitsky stated that the numbers show they are going above the required impervious area, which is commendable. He just feels that it is more important to provide additional volume. He wondered if a protective buffer could be put up along Finkle Brook. He would prefer a side yard setback as opposed to a stream corridor setback. Joy Barcome asked what he

suggested for a protective buffer. Mr. Navitsky stated it should just be more vegetation with an established root system to protect from possible further erosion.

Jason Saris asked why it was okay for it to be 33' away when it is supposed to be 100' away. Mr. Monroe stated he believes that the 100' requirement is because silt and sediment could potentially flow past the retention area into a water body. The design of this retention area is designed to deal with the water volume from the entire project including roof tops. If they separated out stormwater by using gutters on the house and garage and routed it to its own retention area 10' from the stream, they would not need the requested setback and they could pull that retention area for the driveway much closer to the driveway. This would create much more disturbance and be a much more complicated project. They still would not be able to get the 100' due to the size of the property and grades. He does not believe this would be a beneficial approach.

John Whitney asked if in regards to the paved area, there were other pervious surfaces that could be used for the pavement to further enhance the stream corridor. Mr. Monroe stated that it would still be classified by the town as impervious and still treated as such. He could use a pervious surface and the water would not run off it as readily, but they would still be asking for a variance. He does not believe this would greatly increase the treatment of the stormwater.

Lorraine Lefevre asked if they recommended planting along Finkle Brook. Mr. Monroe stated there was already significant established vegetation along the top of the bank. The area that isn't treated is heavily grassed.

RESOLUTION

The Zoning Board of Appeals received an application from Michael Dunn, (V16-33) 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, 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 extensive discussion of the topography it appears that the various challenges show that it could not be achieved by any other feasible means.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is potentially substantial; the incursion on the stream is potentially substantial, but in weighing that against the added mitigation to the project for stormwater, which does not exist, currently makes the net effect unsubstantial.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The balance of adding the new structure is offset by the stormwater mitigation that will be added to a property that does not have any mitigation to speak of at this time.

5) The alleged difficulty is not a self-created; this is an existing undersized lot. 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 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 8:54.

Minutes respectfully submitted by Kate Persons