

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Monday June 19, 2006
6:30 p.m.**

SEQR = State Environmental Quality Review
PB = (Town of Bolton) Planning Board
WCPB = Warren County Planning Board
APA = Adirondack Park Agency
LGPC = Lake George Park Commission
DEC = Dept of Environmental Conservation

Present: Chairman Greg Smith, Tony DePace, Kam Hoopes, Meredith McComb, Tom McGurl Jr., Michael Murray, Bill Pfau (arrived at 6:35 pm), Zoning Administrator Pam Kenyon, Town Counsel Michael Muller

Absent: None

Chairman G. Smith opened the meeting at 6:32 pm by asking for corrections to the May 15, 2006 ZBA minutes.

1. K. Hoopes said on page 1, the motion to approve the April 25, 2006 minutes should read as follows: **“Motion by K. Hoopes to approve the April 25, 2006 minutes as amended. Seconded by B. Pfau. Three in favor (K. Hoopes, B. Pfau and G. Smith). Three recused (M. McComb, T. DePace and M. Murray, as they were not in attendance at the April 25, 2006 meeting). Motion carried. Note: T. McGurl Jr. was not in attendance at the May 15, 2006 meeting to vote on the April 25, 2006 minutes.”**
2. K. Hoopes said that on page 23, first paragraph, second sentence should read, “..., (2) this ZBA is just going back to the Code reading of the Town’s Zoning Regulations which says, “...over 6 inches tall or over 100 square feet is a structure...”
3. K. Hoopes said that on page 25, paragraph 5, sentence should read, *“Mitzi Nittmann said in the PB minutes of January 23, 1992, the fifth paragraph, Section D it says “...the Planning Board has to exercise their discretion...” , so it is not P. Kenyon as the Zoning Administrator to determine—this is saying that the PB has to make the decision.”*

Motion by K. Hoopes to approve the May 15, 2006 minutes as amended. Seconded by T. DePace. Five in favor (T. DePace, K. Hoopes, M. McComb, M. Murray and G. Smith). One recused (T. McGurl, as he was not in attendance at the May 15, 2006 meeting). Motion carried.

Note, B. Pfau arrived at 6:35 pm and was not in attendance to vote on the May 16, 2006 minutes, but was present for and participated in the rest of the June 19, 2006 meeting.

- 1) **V06-16a ENGLISH, EDWARD.** Represented by Eugene Baker. For the construction of a proposed 26.8 ft. x 32.8 ft. garage with storage, seeks area variance for deficient setbacks. 1) Front; 50 ft. is required, 15 ft. is proposed, and 2) Shoreline; 75 ft. is required from the mean high water mark, 30 ft. is proposed.

Section 171.08, Block 1, Lot 12, Zone RCM1.3. Property Location: 18 Braley Point. Subject to WCPB & APA REVIEW. *The WCPB recommends: “ no county impact with the condition, clarification of the use of the existing buildings, and if any buildings are to be removed due to the proposal.” Note: This item was tabled at the April 25, 2006 meeting pending additional information.*

Note, T. DePace recused himself from hearing this agenda item, as he is a direct neighbor to the applicant.

P. Kenyon said the County denied the application without prejudice requesting more information.

Eugene Baker, representing Edward English, gave an overview and said (1) he was not in attendance at the County meeting, (2) a small two-car garage currently exists on the property, (3) the proposed building would replace the existing small garage, house equipment currently being stored in a Quonset hut (which would be removed) with the second floor being used for storage and a weight room and (4) the proposal includes collecting 2,400 additional square feet of stormwater that would be diverted into retention basins which is not being collected now.

B. Pfau asked if the original proposal was for the proposed building to be 20 ft. from the brook and Eugene Baker said yes, but for this proposal they have pulled the proposed building back from the brook an additional 10 ft.

P. Kenyon said she has a concern with the location of the retention basin and requested the Eugene Baker meet with her to discuss a new location. Eugene Baker replied by saying that he doesn't see a problem with retaining an engineer to address this concern. M. McComb said that is good and asked if P. Kenyon is saying that the concern is that having the stormwater retention right next to the stream is a bad location for it and P. Kenyon said yes. M. McComb said that she would be in favor of knowing where there is a good location.

M. McComb said (1) to an extent the proposed building is nicer than the Quonset hut, (2) she is concerned with the existing two-car garage and a temporary one-bay garage immediately adjacent to that garage and there is also the Quonset hut that exists and (3) she asked if anything is proposed for the second temporary garage. Eugene Baker said the proposal doesn't mention that and the garage in question houses a small compact tractor. M. McComb asked if there is any limit at some point to the number of accessory structures you can have and G. Smith replied by saying that as of today when the applicant put up the accessory one-bay accessory structure it was legal to do and doesn't count so to speak. M. McComb said that the applicant has three garage spaces now and is proposing to add two more.

K. Hoopes said (1) he has a problem with the proposed building being 30 ft. from the stream—while it is an improvement over the original proposal, he doesn't think it is enough and (2) he thinks that under these circumstances considering the location of the

stream and that this is definitely a self-created problem, he is still in the same frame of mind as the last time the ZBA saw the original proposal. Eugene Baker responded by saying that (1) the lot has a lot of unique features—there are two right-of-ways going through it, the brook, etc. and (2) the proposed location for the building is the most principal site for the building without too much disturbance of everything. Little land disturbance has to be done in the proposed location.

K. Hoopes said that (1) another compelling factor that he had last time is that Edward English has asked for a lot of variances and doesn't seem to be showing any signs of letting up, (2) he thinks there is a sort of limit to the number of times the ZBA is interested in accommodating the applicant's needs or desires on this particular piece of property and (3) it is a unique property in regards to terrain, the streams, the right-of-ways, etc. but that is not the ZBA's problem. Eugene Baker said (1) he thinks the applicant understands that and (2) with the unique features of the land, the applicant was just trying to see if it is possible to build the proposed structure, that he doesn't feel is too obtrusive, as the applicant would like to leave his things on his lot instead of storing them somewhere else. K. Hoopes said he is all in favor of covering up the items that are visible at this time, but in this case it is covered right now, it's just not the best situation.

M. McComb asked if any thought was given to expanding the existing garage and Eugene Baker said that the applicant did bring it up to him at one point, but he thought it would be more attractive to add the proposed structure. M. McComb said the plans for the proposed structure are very attractive, but it does not look minimum with the upper level, the balcony and the sliders—at some point it looks like another guesthouse in the making regardless of what the intended use for it is at this time. G. Smith said that (1) he thinks the applicant wants to do that to make the building more attractive and he doesn't have a problem with that, (2) he does have a problem with the existing Quonset huts (the existing one that the proposed building would replace and another existing one behind the two-car garage that is not shown on the plans), (3) if the applicant builds the proposed garage, there should be room in it for the tractor too and (4) neighboring property owners have voiced their opinions to him that they want to see the two Quonset huts taken down permanently if the proposed garage goes up.

M. McComb said that while the ZBA has one letter that says it is not particularly subject to flooding there, she likes the idea of stormwater controls. Eugene Baker said (1) the applicant is aware of problems with stormwater and would like to address some of the stormwater from the regular and the extreme storms and (2) there is no stopping the 100-year storms that came down through that area. M. McComb agreed and said (1) on the other hand that is why there is a 75' setback from a stream and why when you already have a two-car garage and a third temporary structure (not even counting the Quonset hut down on the stream) that it is problematic for her, (2) she would love to see a plan that actually shows a place where the applicant could put stormwater as that would mitigate the project somewhat for her mind and (3) she knows the applicant is hemmed in by that stream, but if there were an actual plan she would feel better about it than she does now, because the ZBA doesn't generally grant variances for things that they don't quite know what it is. Eugene Baker replied by saying it would not be approved by the Zoning

Administrator. B. Pfau asked if stormwater retention is mandatory for this project and Eugene Baker said yes. P. Kenyon agreed. B. Pfau asked if the stormwater plan for retaining the additional 2,400 square ft. of stormwater is doable in P. Kenyon's opinion and P. Kenyon replied by saying that (1) she is not sure at this point and (2) suggests that the applicant get an engineer to look at it.

G. Smith said if the applicant would like, the ZBA can keep this public hearing open until next month so that an engineer can be retained to address stormwater, because it is mandatory for the proposed structure and there is no sense in the ZBA going through all this and approving something if the applicant can't have it.

M. Murray said it should also be mentioned that the second Quonset hut should come down.

Now, upon motion duly made by Meredith McComb and seconded by Mike Murray, it is resolved that the ZBA does hereby table the application and leave the public hearing open pending the following information; 1) An engineered stormwater plan be submitted. 2) Both Quonset huts are to be removed. Tony DePace recused himself. **All others in favor. Motion carried.**

2) V06-25 FRICK, GERTRUDE, REVOCABLE TRUST. Represented by Karen Connolly, Trustee. To alter a pre-existing, nonconforming, single-family dwelling. Specifically to alter the rear entry stoop. 1) Seeks area variance for deficient setbacks. a) Front: 50 ft. required, 9.5 ft. proposed. b) Shore: 100 ft. required, 63 ft. proposed. c) Side: 50 ft. required, approximately 19 ft. proposed on north side, and 41ft. proposed on the south side. 2) To alter a pre-existing non conforming structure in accordance with Section 200-56A. Section 186.15, Block 1, Lot 10, Zone LC45. Property Location: 64 Treasure Point. Subject to WCPB and APA REVIEW.

Karen Connolly, representing Gertrude Frick Revocable Trust, gave an overview and said (1) they are considering re-doing the rear-entrance stoop that is deteriorating and (2) it is a potential hazard, as they have had two family members fall.

G. Smith said that (1) this is a very minimal, minor and simple request and (2) it is a safety hazard. K. Hoopes agreed and said with the pitch of the existing roof the water comes down on the steps and freezes.

No County impact.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-25) Gertrude Frick Revocable Trust for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment 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.

The Board makes the following conclusions of law:

- 1) The benefit cannot be achieved by other means feasible to the applicant besides an area variance, it is a pre-existing non-conforming structure and the applicant's plans are a very minimal change which will have a desirable effect for safety and she thinks it will probably look better too—it is a repair and a safety issue;
- 2) There will be no undesirable change in neighborhood character or to nearby properties, by this very minimal change;
- 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, because is it so small;
- 5) The alleged difficulty is not self-created, it is a repair that looks like it needs to be made.

The benefit to the applicant is not outweighed by the potential detriment to the health, safety and welfare of the community.

Now, upon motion duly made by Meredith McComb and seconded by Tom McGurl, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

- 3) **V06-26 LAMB, JR., WALTER & CHERYL.** To alter pre-existing, non-conforming single-family dwelling. Specifically to construct an approximate 220 sq. ft. deck. 1) Seeks area variance for a deficient front yard setback; 30 ft. required, 13 ft. is proposed. 2) To alter a pre-existing non-conforming structure in accordance

with Section 200-56A. Section 171.15, Block 3, Lot 46, Zone GB5000. Property Location: 41 Norowal Road. Subject to WCPB REVIEW.

Walter Lamb, Jr. gave an overview and said (1) they are requesting a variance to put a deck on one of the seasonal cottages he has at Norowal Cabin Owners Association, (2) they are proposing a 220 ft. deck on the front of the cottage that would extend to the end where the step ends—not where the big stone slab is, (3) the vegetation on the western side of the cottage will remain and the vegetation on the eastern side of the cottage would move forward to accommodate the proposed deck, (4) the entrance would then come in from the side with two steps as opposed to the existing six steps and (5) the proposed deck would be level with the block structure on the bottom—the foundation of the cottage and the proposed deck would extend 12 ft. out and 16 ft. wide.

G. Smith asked if there would be one step off the deck into the front door and Walter Lamb said yes. M. McComb said she drove down the road at this location and asked if the 13 ft. from the right-of-way would be where the visible rock in front of the cabin is after the proposed deck is built. Walter Lamb replied by saying that the road is not actually right there at the rock—even though there is bluestone there, where the road is on the map is actually away from where the bluestone is. Walter Lamb approached the ZBA bench to clarify the location in question for M. McComb by referencing details on the subdivision map. M. McComb said it doesn't look like it is 13 ft. wide there and G. Smith said to the end of the right of way it is 13 ft., but it looks deceiving because where all the weeds are growing, the applicant just put bluestone down there basically to park a car.

K. Hoopes said that (1) either way, it is not pertinent to the right-of-way and (2) in some respects it is an addition, but in another, it moves the stairs away from the front, so he thinks it is an improvement. G. Smith agreed and added that it is up on top in the middle of the hill where nobody belongs except for a few people who have the right-of-way over that driveway. M. McComb said (1) the neighbors that have their little decks have no setback at all and (2) the proposed deck is a way lot bigger than the rest of the decks up there, but it is a bigger lot. G. Smith said that he has no problem with it and no further questions.

No County impact.

RESOLUTION

The Zoning Board of Appeals received an application from (V06-26) Walter Lamb Jr. and Cheryl Lamb for an area variance as described above.

And, due 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 Board;

and, whereas the Warren County Planning Board determined that there was no County impact;

and, after reviewing the application and supporting documents of the same, and there being no public comment 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.

The Board makes the following conclusions of law:

- 1) The benefit cannot be achieved by other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in neighborhood character or to nearby properties;
- 3) The request is not substantial, given the parameters of the neighborhood and the other items involved;
- 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.

The benefit to the applicant is not outweighed by the potential detriment to the health, safety and welfare of the community.

Now, upon motion duly made by Kam Hoopes and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion carried.**

Meeting adjourned at 7:05 pm.

Respectfully submitted by,
Jennifer Torebka
Recording Secretary

06/27/06