

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday April 21, 2009

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, William Pfau, Tony DePace, Jeff Anthony, Kam Hoopes , John Michaels, David Ray, Zoning Administrator Pamela Kenyon and Counsel Michael Muller.

Absent: None

Meeting was called to order at 6:32 p.m.

Greg Smith asked if there were any changes or corrections to the March 17, 2009 minutes:

Motion by John Michaels to accept the March 17, 2009 minutes as written. Seconded by Jeff Anthony. Tony DePace abstained. All Others in Favor. Motion Carried.

1) V09-02 HOFFMAN, WILLIAM. Represented by Joe Roulrier. To alter single family dwelling, specifically to allow a front entrance to remain, seeks area variance to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section 186.10, Block 1, Lot 10.1, Zone RM1.3. Property Location: 37 Apperson Lane. Subject to WCPB and APA review.

The application was tabled at the applicant's request.

2) V09-06 ABBATIELLO, JOSEPH & CAROLE; SWOPE, ANNE; and HIATRIDES, JAMES. (Lagoon Manor) Represented by Frank McDonald. In accordance with Section 200-93A (other regulation applicable to Planned Unit Developments), seek area variance to expand three decks on building 600. Section: 157.05, Block 1, Lots 88.32, 88.33 and 88.34. Property Location: 30, 32 and 34 Lagoon Manor Drive. Subject to TB, PB, WCPB & APA review.

(Note: Jeff Anthony recused himself)

Frank McDonald stated that he was representing all three parties and was informed by Zoning Administrator Pam Kenyon that the applications could be heard as one. He stated that all three applicants live in building 6 at Lagoon Manor. The applicants are seeking to expand their current decks on the lakeside. The current decks have a post coming down from the smaller deck above off the master bedroom and does not allow for much room to enjoy the space. He stated that approximately 80% of the current residents already have their decks expanded.

Frank McDonald stated that the expansion will not affect any of the neighbors view due to the location of the buildings and the elevation change. Greg Smith agreed.

John Michaels stated that there were no ZBA signs posted at the site and he felt uncomfortable walking around the premises without having some sort of notice posted. Frank McDonald apologized for not having the signs posted.

Kam Hoopes stated that the only reason the applicant is here is because this is a PUD amendment because they really have no other variance concerns. Counsel agreed.

Frank McDonald stated that he believes the APA has already reviewed and approved the application, but he does not have confirmation. Pam Kenyon stated that she thought the APA has already granted approval.

There were no comments from the public in attendance. Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Joseph and Carole Abbatiello, Anne Swope and James Hiatriides (Lagoon Manor) (V09-06) 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 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 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; this is a PUD and the only way to make changes is through a variance.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, they will not be affecting any of the neighbors view in any way.
- 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 not self-created, in any way that they are interested in.

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 Kam Hoopes and seconded by John Michaels, it is resolved that the ZBA does hereby approve the PUD variance request as presented. **Jeff Anthony abstained. All others in Favor. Motion Carried.**

3) V09-07 RYTERBAND, DANIEL. Represented by, John Michaels. To alter non-conforming structure, specifically to remove covered dock roof and replace with covered deck, seeks area variance for 1) a deficient side yard setback in accordance with Section 200-38B. 20' is required - 6' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section: 213.09, Block 1, Lot 13, Zone RM1.3. Property Location: 4038 Lake Shore Drive. Subject to WCPB and APA review.

(Note: John Michaels recused himself)

Tony LaCassio stated that they have a non-conforming structure and they are looking to take the roof off the dock and put a flat roof on with a railing. This would still conform to the height requirement. Greg Smith asked if everything else will stay the same exact size. Tony LaCassio replied yes. Greg Smith asked if it will impede any of the neighbors' views. Tony LaCassio replied no.

Kam Hoopes stated that it would only affect John to the north which is the property that is being encroached upon. This is a pre-existing, non-conforming structure and they cannot move the whole dock. Greg Smith agreed.

There were no comments from the public in attendance.

William Pfau stated that the plans call for stairs instead of a ramp. Tony LaCassio replied that a ramp would not work on that property with the elevation, so stairs were their only option to access the deck. Greg Smith stated that the stairs will be hidden in the back so that shouldn't be a problem.

Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from Daniel Ryterband (V09-07) 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 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 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance; because the dock itself does not meet setbacks to the north.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, there are no objections from any of the neighbors, it is strictly a change from a roof to a deck.
- 3) The request is not substantial; it is just a change from a roof to a deck.
- 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, as the dock exists where it is and therefore it causes no detriment to the neighborhood.

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 William Pfau and seconded by Kam Hoopes, it is resolved that the ZBA does hereby approve the variance request as presented. **John Michaels abstained. All others in Favor. Motion Carried.**

4) V09-08 PAINTER, JOHN & JAN. Represented by Atty. Jon Lapper. To alter single family dwelling, specifically to reconfigure the porte-cochere, seek area variance for 1) a deficient shoreline setback. 75' is required, 63' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)(b). Section: 213.09, Block 1, Lot 15, Zone RM1.3. Property Location: 4030 Lake Shore Drive. Subject to WCPB and APA review.

Stephanie Bitter stated that they are seeking 2 minor modifications. The applicants are working on a replacement in kind. Last year a building permit was issued and they are under construction. Due to the fact that this is a pre-existing non-conforming structure within the 75' setback any modification of the structure requires a variance.

Stephanie Bitter explained that the 2 modifications they are seeking are to 1) to change the roof line of the carport from a shed style roof to a gable roof, which is on the west side elevation entering the premises; and 2) to change the stairs on the north side, which are proposed to be in the center, but existing to be on the lakeside. This would decrease the number of stairs from approximately 13 to 6, which will lessen the visibility of the stairs from the lakeside. She stated that the neighbor from the north side has submitted a letter in support of that modification.

Stephanie Bitter stated that these modifications are minimal at best and would only improve the structure. Due to the recent changes in the APA Act, they did submit a jurisdictional inquiry and the APA have provided them with a non-jurisdictional letter which they have submitted with their packet. She stated that they feel when they review the area variance in whole the balancing test definitely favors the applicant with these 2 minor changes with minimal impact.

Greg Smith stated that it seems that the roof line of the carport has already been constructed. Stephanie Bitter replied no. John Michaels stated that it is constructed and ready for the gable style roof, but the roof has not been installed. Greg Smith stated that he agrees but his point is that they should have come before the ZBA with this request before constructing it even this far. He stated that this happens way too often and applicants just think that the ZBA will give it to them anyway, which is a slap in the face. He feels the applicant has been to the ZBA enough to know better. He stated that this should have been thought out a little better and further in advance.

John Michaels stated that this is another site that was not adequately posted. He stated that this would be the last meeting that he would vote for an application without a sign up. He stated that there was plenty of building permit signs, contractors, etc, but nothing to put people on notice as to what is going on. Stephanie Bitter replied that she understood.

Kam Hoopes stated that the new roof for the carport is a definite improvement for aesthetics as well as practicality. Greg Smith agreed that this design is an improvement because the carport ridge is now in line with the ridge of the house and would serve them better than a shed roof.

With regard to the stairs, Greg Smith stated were a definite improvement to lessen the view. Counsel Muller read a letter from Bernie Martinese, the northerly neighbor, in support of the modifications to the project. Counsel stated that there were 2 other letters but neither had to do with the stairs or carport.

There were no comments from the public in attendance.

Pam Kenyon stated that there was no WC impact.

RESOLUTION

The Zoning Board of Appeals received an application from John and Jan Painter (V09-08) 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 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 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.

The Board makes the following conclusions of law:

- 1) The benefit could not be achieved by any other means feasible to the applicant besides an area variance;
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, both items on the agenda are improvements to the original design.
- 3) The request is not substantial; in fact the staircase will be moving away from the lakeshore.
- 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, in any way that affects this Board.

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 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.**

5) Discussion of “after the fact” applications.

Counsel stated that if the ZA, ZBA and PB see anything that is a request for “as built” approval or “after the fact” applications they have three options: 1) to approve it, 2) deny it, or 3) table the application and direct that the applicant go before the TB for alternative remedy.

He stated that ordinarily there are some little applications that they do not allow the Boards to put their teeth into because it is something that simply requires a certificate of compliance. In these situations Pam Kenyon has the authority to deal with it and administer a fine. However, if there is something else with it like a variance, LGPC, APA or stormwater issue, etc. it will come before them and they can choose any of the 3 options available to them.

William Pfau stated that he thought that most of these after the fact applications had already been through some sort of TB alternative remedy. Counsel replied that is not always the case. William Pfau stated that he thought that applicant’s had to bring their project into compliance in some way before they could come before the ZBA. Counsel replied that applicants have the absolute right to submit an application for a variance, when they do that the Zoning Office is to take no enforcement action and to let the ZBA make the decision and they can choose to exercise any of their options.

The meeting was adjourned at 6:59 pm.

Minutes respectfully submitted by Kristen MacEwan.