

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday May 19, 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: William Pfau, Tony DePace, Kam Hoopes , John Michaels, Zoning Administrator
Pamela Kenyon and Counsel Michael Muller.

Absent: Greg Smith, Jeff Anthony and David Ray

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

Bill Pfau asked if there were any changes or corrections to the April 21, 2009 minutes:

Motion by Kam Hoopes to accept the April 21, 2009 minutes as written. Seconded by Tony DePace. All in Favor. Motion Carried.

1) V09-02 HOFFMAN, WILLIAM. Represented by Joe Roulier. 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.

Joe Roulier explained that the front entrance was added on the structure during a roof renovation. He stated that since there was a pre-existing landing, which are the exact dimensions of the new roof extension, Mr. Hoffman did not think that he would need a building permit or area variance. Joe Roulier stated that in other towns where he has worked there is some confusion regarding setback requirements. For instance, in Queensbury if you have a non-conforming structure and a portion of the alteration is on the outside of the 75' setback it does not require an area variance. However, in Bolton any alteration to a non-conforming structure requires an area variance. Joe Roulier provided a diagram to the Board members which included the dimensions of the structure.

Joe Roulier stated that knowing Mr. Hoffman, he knows that this was purely an innocent mistake. He stated that he has worked for Mr. Hoffman for 2 years and he can say that unequivocally any project which has requires a permit or variance is thoroughly looked into and any permits that are necessary are obtained by either himself of Mr. Hoffman.

Joe Roulier stated that Mr. Hoffman is a wonderful man and a great asset to Bolton Landing. He stated that he keeps his property well maintained with an Adirondack feel. He has continued to keep foliage and trees around the lake which create a shoreline buffer. He stated that Mr. Hoffman's intent is to move to Bolton year-round and to become fully involved in the Bolton Landing community.

Bill Pfau asked if the landing had been there previously. Joe Roulier replied yes the landing was pre-existing. He stated that the landing is the identical size to the peaked roof that Mr. Hoffman put over it. He stated that living in the northeast a peaked roof becomes an asset for the safety of getting in and out of his home. Bill Pfau asked if Mr. Hoffman has ever been before this Board before. Joe Roulier replied no.

Kam Hoopes stated that at the last meeting they discussed after-the-fact applications. He stated that Counsel provided them with 3 options once the variance has been applied for; approval, disapproval or tabling it for the TB to review. He feels that if they move forward they should act the same way every time. Counsel stated that the ZBA has discretion because they are a quasi-judicial body and can make any of those choices. If the third choice is chosen and the applicant goes before the TB, the TB will decide what penalties, fines or action will be taken. He stated that he is not trying to direct the ZBA to pass all applicants to the TB because they can exercise their own discretion and make their own determinations and make the decision here. He stated that the TB trusts that the ZBA will make the decision on which applications are appropriate for alternative remedy. Kam Hoopes stated that he is uncomfortable with that because they are not that kind of government body. Counsel replied that they are a judicial body and they can make determinations based on the facts. Kam Hoopes stated that they cannot impose any fines on the applicants. Counsel replied no. Kam Hoopes stated that he is on the Zoning Revision Committee and this is one of the regulations that they are looking at closely.

John Michaels asked how the applicant came before the Board tonight. Pam Kenyon stated that Mitzi was doing some routine inspections and saw this addition. Bill Pfau stated that he thought that the Zoning Office was going to be able to levy minor fines for minor infractions. Pam Kenyon stated that they can only do that for minor infractions that do not require ZBA or PB approval.

Kam Hoopes stated that he would be in favor of moving forward on this application tonight. All the Board members agreed.

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

RESOLUTION

The Zoning Board of Appeals received an application from William Hoffman (V09-02) 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#1 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; the house itself is non-compliant, thereby the porch which is in the compliant zone also becomes non-compliant.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, it is a good looking structure which is out of view from almost everybody.
- 3) The request is not substantial; it is a porch roof over a pre-existing landing. Given the winters around here is safety addition.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it is just shedding rain and snow from the entryway.
- 5) The alleged difficulty is self-created, but not in any way that concerns 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.**

2) V09-10 JENSEN, DAVID. For the placement of a proposed 14' x 25' storage building, seeks area variance for deficient front yard setbacks. 30' is required; 15' is proposed on the south side and approximately 20' is proposed on the east side. Section 186.14, Block 1, Lot 67, Zone RCG5000. Property Location: 38 Beckers Drive.

David Jensen stated that the proposed location of the storage building is really the only location due to 2 right-of-ways which create 3 front yard setbacks. He stated that he does not feel this will have any undesirable change to the neighborhood characteristics. It is similar to the size and shape of what most of the other neighbors have. It is not a substantial request. He requested that this application be looked at as a rear-yard setback due to his unique situation. He stated that this will not have any negative environmental impact and is not self-created.

John Michaels asked if he was going to incorporate the existing shed into the new structure. David Jensen replied no. John Michaels stated that in that zone they are not allowed 2 sheds. He stated that if he could incorporate the existing shed in the design he would find it more compatible. Pam Kenyon stated that historically they have allowed more than 2 storage sheds in this zone. John Michaels stated that history has nothing to do with it. He stated that the roof pitches will not even be going the same way; nor is the architecture the same. David Jensen stated that the new shed is similar in style to the existing shed but bigger. Bill Pfau stated that in that neighborhood there are a lot of storage buildings and sheds so the character of the neighborhood would not be an issue. John Michaels stated that 2 buildings on that lot would look better than 3.

Kam Hoopes stated that he would prefer to see the existing shed go away to accommodate the new one but it would not be a deal breaker. Kam Hoopes asked if the applicant would be willing to give up the small shed. David Jensen replied that if he has to he will but he would prefer not to.

Kam Hoopes stated that when he visited the site he did note that they are at a different level in that area which would put the shed out of direct view. Counsel asked how big the existing shed was. David Jensen replied 8' x 8'. Pam Kenyon replied that it is non-jurisdictional because it is less than 100 sq. ft. John Michaels stated that even though it may not be jurisdictional he would still like to have it incorporated into 1 shed. David Jensen stated that he does not see that it will be feasible to tie the 2 sheds together because they are 2 different sizes. John Michaels stated that he would like to see why it is not a feasible alternative at the next meeting. He stated that if Mr. Jensen could provide some sort of hardship so that they can prove that there is a need for a variance, but right now he does not feel that is the case.

Counsel reminded the applicant that he has complete control of his application and that if he felt that he would rather wait for a full Board that he could table his application until next month.

David Jensen asked how John Michaels would like to see the structures tied together. John Michaels replied in some way that is architecturally pleasing. There was further discussion of options for Mr. Jensen's existing shed. David Jensen asked if it would be more acceptable to move the existing shed away from the proposed structure. John Michaels replied yes. David Jensen indicated on the survey where he could move the existing shed. Bill Pfau asked if he would be willing to agree to a condition to move the shed. David Jensen replied yes.

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

RESOLUTION

The Zoning Board of Appeals received an application from David Jensen (V09-10) 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; the applicant suffers under the pressure of two right-of-ways which create three front yards.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this new structure will be lower and substantially out of view.

3) The request is not substantial; because under normal circumstances he would only be required a 15' setback.

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 applicant is a victim of the Town Zoning Regulations which claim that he has three front yards.

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 variance request as presented with the following condition(s): 1) That the small 8 x 8 shed be relocated closer to the driveway.

All in Favor. Motion Carried.

3) V09-12 FOY, EDWARD. To alter two pre-existing non-conforming structures, specifically to attach the two with a foyer, seeks 1) deficient side yard setbacks. 8' minimum is proposed; 0' is proposed on both parcels; and 2) to alter non-conforming structures in accordance with Section 200-57B(1)(b). Section 171.15, Block 3, Lots 90 & 91, Zone GB5000. Property Location: 4950 & 4952 Lake Shore Drive known as Kate's Italian Garden and previous Blueberry Basket. Subject to WCPB review.

Buddy Foy stated that originally in January they proposed the foyer going in between the 2 buildings but they were not sure if they were going to put a canopy up there or whether they were going to build a free-standing, less than 100 sq. ft. connector from building to building. He stated that since that time they have put on an overhang on the roof line which is about 2' wide and 13' across which puts the building over 100 sq. ft. They would like to attach the buildings with the breeze-way, which will still be less than 100 sq. ft, so that they can move freely back and forth from the buildings.

Kam Hoopes asked if the parcels will remain as separate parcels. Buddy Foy replied yes. Kam Hoopes asked if they would accept the condition that if the 2 parcels are sold separately then the structure would need to be removed. Buddy Foy replied yes.

Bill Pfau asked if this will allow him to use his liquor license in the other side of the building. Buddy Foy replied yes. Bill Pfau stated that he agrees with the condition that Kam Hoopes suggested.

Pam Kenyon stated that there was default approval from the WC PB due to a lack of quorum. There were no comments from the public in attendance.

RESOLUTION

The Zoning Board of Appeals received an application from Edward Foy (V09-12) 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, by default;

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; it is a dimensional consideration.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, this is the business district.
- 3) The request is not substantial; it doesn't even reach the threshold for a structure freestanding and with it connecting two businesses operated by the same applicant.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; people will be able to come and go in the rain and not get wet.
- 5) The alleged difficulty is not self-created,

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 with the following condition(s): 1) In the event that either parcel is sold the attached structure shall be removed.
All in Favor. Motion Carried.

The meeting was adjourned at 7:04 pm.

Minutes respectfully submitted by Kristen MacEwan.