

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, November 15, 2011
6:30 p.m.**

SEQR = 5 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- Jason Saris, Tony DePace, John Michaels, Don King, Kam Hoopes, Jeff Anthony, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

Absent- David Ray

The meeting was called to order at 6:33 pm.

Jason Saris asked if there were any corrections or changes to the October 18, 2011 minutes.

RESOLUTION:

Motion by John Michaels to approve the October 18, 2011 minutes as written.

Seconded by Don King. Jason Saris and Kam Hoopes abstained. **All Others in Favor.**

Motion Carried.

1) V11-51 SENESE, JAMES & ANN MARIE. Represented by Kevin Kershaw. For the construction of a proposed 14' x 20' garage with storage above, seek area variance for a deficient front yard setback. **1) Front:** 30' is required, 12' is proposed. Section 171.15, Block 3, Lot 77, Zone GB5000. Property Location: 3 Congers Point Way. Subject to WCPB review.

Jim Senese stated that he is asking for the Board's consideration in granting a variance to build a 14' x 20' storage shed/garage. He has come to the Board numerous times in the past. However he is asking for only a front yard variance as opposed to front, side and rear yard variances. In using their 2 car attached garage to house 2 vehicles over the winter he is requesting the additional storage area to store lawn and garden equipment, tools, small table saw, propane grill and professional sales material. He stated that the hardship arises from the fact that the home has no attic space and the majority of the basement has little headroom and is damp with an uneven floor since the home is built on rock ledge. He provided pictures of the basement space.

Jim Sense stated that the proposed attached structure is approximately 14' x 20', which has been greatly downsized from his past proposals. It will be built on a concrete slab and will only be 1 story. The structure will be 18'9" and will occupy 280 sq. ft. Access to the above storage area will be from a drop down stair and there will be no exterior access nor will it be used as living space. The structure will be vinyl sided to match the existing home.

Jim Senese stated that he looked at using a Garden Time Shed and even though there are some very nice sheds they wanted to allow the shed to blend in with the existing home and environment.

With regard to stormwater run-off, Jim Senese stated that they have planted 12 arborvitae on the property and they will finish fully landscaping this property in 2012. He has met with Kathy Bozony and Chris Navitsky several times to look at the larger design proposal and they have given them some guidance with planting a rain garden. This design will minimize the amount of run-off.

Jim Senese stated that the existing home is 101' long and occupies 2,829 sq. ft. With the proposed detached structure it brings it to approximately 3,100 sq. ft. Their lot size is .34 acres and with the proposed shed it brings it to about 20.9% density with a maximum of 40% allowed. The proposed site for the structure is flat and they will have no impact on anyone's view of the lake. The rock ledge with Congers Point sign along with additional plantings will minimize anyone's view of this structure as they come in. Their intent is to landscape so as you come into the association all they will see is the landscape.

Jim Senese stated that they have included a letter of approval from the Vice President of Congers Point HOA. He stated that there was one other spot on the east side without the requirement of a variance. However he would like to eliminate that spot for 2 reasons; 1) it would interfere with the view of the neighbors and 2) it is too close to another neighbor's home. He has looked at other sites on the property but this is the ideal spot on their property.

Don King asked for clarification of the height of the structure. Jim Senese stated that it is 18'9".

Jeff Anthony stated that this is the first time that the applicant has offered an alternative location, which is his first concern. Upon his site visit this afternoon he is still concerned with the placement of the structure on the west end of the building behind the sign because it is very tight and visible. This would make the building look even longer. Jeff Anthony stated that the applicant would not need a variance to place the building on the east side. In fact the building could be bigger and possibly accommodate 20-22' wide by 22-24' deep. He feels that this is the best location for this structure and it will not be as visible as the proposed location. He does not feel that his neighbor to the north will have any impaired views. Jeff Anthony stated that he is also concerned that if they grant the approval for this variance, there would be nothing to prevent the applicant from putting another structure on the east side of the house without needing to come before this Board. He stated that they already have a building that is over 100' long, this is an additional 14' and the applicant could have another building on the east side. He feels like the applicant keeps coming back for more because what he is asking for is not filling his needs in the first place.

Jim Senese stated that he has looked at this alternative site. However, he would like not

to use this site based on his neighbors opinions. Additionally, he feels they are enhancing the view of the entrance to Congers Point. Jeff Anthony stated that they have a viable alternative which is not being considered. Jim Senese replied that it is not viable at the request of his neighbors. John Michaels stated that they would not know that. He stated that one of their biggest considerations is that there are no other means that they can achieve this. He stated that in all the times the applicant has been before this Board he has never mentioned that he had an alternative. He is not quite understanding why this alternative is not a good alternative. Jim Senese stated that it has to do with the slope of the land, proximity of the neighbors and the neighbor's request. John Michaels asked if that was in writing anywhere. Jim Senese replied no but he can get something in writing. He stated that they usually go around and speak with all of the neighbors.

Kathy Spahn, neighbor, stated that she lives next to the applicants; her view will not be affected because the side of her house that faces the applicants is essentially her back yard. However the applicants did discuss the possibility of the alternative location. She thought they might have to move the propane tank. She stated that she is not sure how the next door neighbor feels but from her point of view but she would rather have it on the entrance side because it would blend in better than a separate structure. She stated that they do not have separate structures in Congers Point mostly because people do not have the room for it.

Jason Saris stated that he prefers the proposed location because it is shielded by the sign and they are not really in the community yet. Jeff Anthony stated that his concern is that the applicant could place another building on the site without the need for a variance and they cannot ask the applicant to agree to a stipulation which would prevent them from doing so in the future. Counsel Muller stated that they can make reasonable requirement, especially if the applicant agrees. However it is a fair issue that could be presented by future owners and boards, so there is no guarantee that it is permanent. Jim Senese stated that he would agree to it. John Michaels stated that he could agree but it does not run with the land for future owners.

John Michaels stated that he appreciates the reduction in size and feels they are moving in the right direction. His biggest concern is that they have not evaluated the alternative. He would like to have time to review the alternative prior to making a decision. Jeff Anthony stated that he specifically drove around this property 3 times and found that this area is flat, a foundation could make up for the change in grade and they would not need a variance.

Kam Hoopes stated that this is the third time for this proposal and the applicant is down to one variance. Congers Point is in the GB5000 zone, which is a lot different than other residential areas of Town. It has a 40% allowable density and this house with this added building will only have 21% density, which is slightly over half of the allowed density. He agreed with Jason Saris that this location is hidden by the sign and is on the business end of the house. He can understand that this is a preferable location for the applicant and for the residents that are in Congers Point. He stated that this does make for a long thin structure, however he does not find that the applicant should be restricted from this

location or the possibility of placing another structure down the road.

Jason Saris stated that he understands the issues but that is true with most of the homes in Congers Point. They are talking about an allowable accessory structure. There is no perfect spot to put it but they do have a spot that the owner and community would prefer it. He stated that he could build it in the alternative site but why would the Board make him do that. John Michaels agrees but he does not know if that is true. He would like to hear something from the association.

Tony DePace stated that he agrees with Kam Hoopes on this one with regard to the density. He stated that it is not something he would personally like but there are no neighbors objecting to this location.

John Michaels stated that he just wished that the applicant indicated that there was an alternative so he would have had a chance to review it. He stated that he agrees with the size and style of the structure. He also agrees with this being an allowed structure on the property but he would rather evaluate the other location. Jim Senese stated that he ruled this location out once he talked to the neighbors. Jason Saris stated that he is not sure that when the proposal was for a larger building that it would have fit in that alternative location without a variance. Jeff Anthony stated that the applicant could have placed a detached structure that was 22' wide and 22-24' deep.

Kathy Spahn stated that she was the president of the Association for a long time. She stated that the association does not look favorably on separate buildings and structures. She stated that even though this proposal is for a detached structure the proposed location is much closer to the house than the alternative site. Jeff Anthony stated that the alternative location would be less than 4' from the house.

Don King stated that he never considered this property with the garage on the east side of the house. He feels that it might be better hidden in the alternative location because the house is already very long and this structure would be offset slightly and works away from the house. Since it does not require a variance it is difficult to answer the first question of their criteria. He would like to see what that option is before he makes a decision. Jim Senese stated that he eliminated this site from the beginning after talking with his neighbors. Additionally, the area is on a slope and he is more concerned about run-off from that area than he is in the proposed area.

John Michaels suggested tabling the application and to stake out the building before he makes a decision. Jim Senese stated that he would stake out the location and provide letters from his neighbors.

Kam Hoopes stated that most people would not put this type of structure between them and the lake. So it doesn't surprise him that they would not put it in the alternative location. Jim Senese stated that he may have to take down some trees for it to fit in that spot. Kathy Spahn asked if it will affect his view. Jim Senese replied that he had not given that any thought because he eliminated that spot. Tony DePace suggested taking a

picture from the window to show how it will impact his view. Jim Senese agreed and indicated that he will also stake out the area. Kathy Spahn stated that also have to consider the possibility of moving the propane tank if they were to choose the alternative location. It is a buried tank and she is not sure where else they can put that on the property.

RESOLUTION:

Motion by Kam Hoopes to table the application pending further information. **Seconded by** Tony DePace. **All in Favor. Motion Carried.**