

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, February 14, 2012
6:30 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, Tony DePace, Donald King, Jeff Anthony, John Famosi, David Ray, Counsel Michael Muller, Zoning Administrator Pamela Kenyon

Absent: John Michaels

The meeting was called to order at 6:30 pm.

Jason Saris asked if there were any corrections or changes to the January 17, 2012 minutes.

RESOLUTION:

Motion by Don King to approve the January 17, 2012 minutes as written. **Seconded by David Ray.** Tony DePace abstained. **All Others in Favor. Motion Carried.**

- 1) **MARKI, BERNARD & PATRICIA.** Represented by Atty. David Pentkowski. In accordance with Section 200-72 of the zoning ordinance, seeks to appeal the Zoning Administrator's interpretation whereby determining that because animal rehabilitation is not an allowed use in the RCM1.3 zone and no permits (certificates of compliance) were issued for the structures, Bernard and Patricia Marki are in violation of Section 200-21(Application of Regulations) and 200-78A(1) (Building Permits) of the zoning ordinance as a new land use (animal rehabilitation) has been established and is being use in such a manner that is not in conformity with the regulations set forth in the RCM1.3 zoning schedule thus requiring a use variance and no permits(certificates of compliance) were issued to construct the structures in which the wild birds are housed. See interpretation/determination dated October 24, 2011 for specifics. Section 171.07, Block 2, Lot 37, Zone RCM1.3. Property Location: Braley Point.

Note: This item was tabled.

- 2) **V12-01 SAGBOLT, LLC.** Represented by Atty. Benjamin Pratt. In accordance with Section 200-93A (other regulations applicable to Planned Unit Developments), seeks area variance (PUD Amendment) to amend V11-23 to **1)** convert and extend a hard roof and eliminate an awning to create balconies for the benefit of 3 hotel rooms above the dining deck; and **2)** to berth the Morgan perpendicular to the shore immediately in front of the former boat museum rather than parallel to the shore. Section 171.16, Block 1, Lot 16, Zone PUD. Property Location: 110 Sagamore Road. Subject to WCPS, ZBA, PB, APA and TB review. Subject to

SEQR.

Note: Jeff Anthony recused himself.

Ben Pratt stated that the applicants are presenting a minor change to the previously approved amendment of the PUD. In the spring the ZBA reviewed a project that included enclosing Shelving Rock and a variety of other things to the front of the hotel including a hard roof over half of the dining deck at the hotel and an awning coming off that hard roof to cover the rest of the deck. Subsequent to that approval Sagbolt felt that it would make sense to not only put in the hard roof but to extend it over the deck and eliminate the awning. This would also allow them to put a balcony on top of that hard roof for 3 hotel rooms on the second floor of the hotel. In effect it doesn't change anything in terms of the appearance of the hotel; the same roof lines are maintained, the same windows are maintained, except some may be converted to doors and an additional window will be added for symmetry. Aesthetically from the lake the hotel will look the same. The front of the balcony will be a glass strip like the one on the dining deck below and on the Shelving Rock patio area. Ben Pratt stated that these changes create the ability for the hotel to charge a little more for these rooms but also allow the patrons of these rooms use of the balconies.

Ben Pratt provided a picture of the hotel as it exists and what it will look like with the improvement to show that it will virtually look the same. He stated that this proposal does not involve any change in footprint or use; it is merely a change to the façade.

Jason Saris stated that he doesn't mind this going to a hard deck instead of the awnings because when they take the canvas off it in the winter it is not an attractive sight. Tony DePace stated that they will better be able to use this in rainy weather. Ben Pratt added that it is both sun and rain protection for that portion of the dining deck.

David Ray asked if the depth of the balconies will be for the entire overhang. Ben Pratt stated they will come out close to the existing façade of the hotel but not exceed it. Don King stated that it is set back approximately 1' of the east and 4' on the west side. The roof comes out beyond the protrusion of those 2 sections of the hotel but it appears that it is no further out than the deck itself. Ben Pratt stated that his understanding is that the new copper standing seam roof will match the existing roof and cover the balconies. There is an existing roof now, but it is shorter.

Jason Saris asked if there was any correspondence. Counsel Muller replied that there is a letter from the Lake George Waterkeeper but it mostly pertains to the other portion of the application. Jason Saris stated that he would prefer to have this held until that matter is discussed. Pam Kenyon stated that the Lake Champlain Regional Planning Board determined that there was no Warren County Impact.

Zandy Gabriels stated that as neighbors they are very much in favor of the replacement of the awnings. With regard to the bridge, he understands that it is not part of this project, but he would like to see the lighting on the bridge addressed when they look at the PUD conditions.

Unless the applicants plan to change the bridge, which they probably won't since they repaired it several years ago and it is in good shape. Zandy Gabriels stated that dark sky compliant lighting comes up all the time and this really should be considered as a condition. He stated that he plans to raise this at the PB and TB meetings as well.

Jason Saris stated that part of their review of the PUD is to be sure that what is being requested is consistent with the operation of the resort, which this certainly is. The applicant is looking to add some balconies to hotel rooms and provide cover for their restaurant patrons.

RESOLUTION

Motion by Tony DePace to make a favorable recommendation to the TB for approval.

Seconded by Don King. Jeff Anthony recused himself. **All in Favor. Motion Carried.** *It is noted that the second portion of this application pertaining to the berthing of the Morgan was tabled pending additional information.*

Ben Pratt asked if the ZBA would be willing to address any concerns or discuss the other portion of the application. Jason Saris stated that his first concern was that the description of the relief being sought did not match the drawing. Ben Pratt stated that they were not sure what was going to be required, in terms of what Boards they would be presenting to. The applicant found out last minute that they were going before the ZBA and had very little time to make the submission date. With respect to the submittal Ben Pratt stated that he did not look closely at the drawings and missed the discrepancy. He stated that the Morgan is docked at the north end of the warehouse building and not in front of it.

Jason Saris stated that his concern is that part of the application process is a public hearing. Neighbors or interested parties are only notified of the upcoming meeting and the particular item that might affect them. These individuals do not get the drawings or any plans, so there may be some that may not have the right idea of what the applicant is requesting. He would be concerned that someone may choose not to come to the meeting based upon their notice and then find out that the approval was for something completely different. Ben Pratt stated that it was not their intent to be deceptive, it was just the way the process went. He indicated that they would have no problem amending that aspect of the application and notice.

Jason Saris stated that his other concern is that the dock as proposed does not appear to meet the setbacks. He is not sure about PUD setbacks but all other docks need to be 20' from the property line. He stated that he knows that the applicant rents/leases this property from FR Smith & Sons but it is still a property line and he is not sure if an area variance would also be required. Ben Pratt stated that the Town ordinance requires permits and setbacks for docks. However, this dock is located completely within the PUD, so like everything else within the PUD it will be up to the ZBA's discretion to determine if it is acceptable. He does not feel that they would need a variance because it is within the PUD.

Ben Pratt stated that the dock is approximately 7-8' from the property line. Tony DePace stated that he is concerned with berthing this 20' wide boat 7' off the property line because he

feels like it will be a problem. Ben Pratt stated that they may have an issue with FR Smith & Sons. Tony DePace asked if they would have a problem with the LGPC. Ben Pratt replied no the LGPC has already issued a permit. The issue is between the neighbors more than anything. Jason Saris stated that his impression of the LGPC is that it is okay as long as the dock isn't over the property line. However the LGPC is not necessarily giving you permission to invade the riparian right of the other person.

Ben Pratt stated that their application to the LGPC went through its usual review process; they had a public hearing and there was no objection. He stated that just this morning they received a call from FR Smith & Sons attorney indicating they had concern over being able to drive their boats by one another. Ben Pratt stated that they told FR Smith that they would go back and review this and see what they can do to try and make this work and that is why they decided to adjourn this portion of the application.

Ben Pratt stated that in the spring/summer they originally proposed to berth the Morgan parallel to the shoreline and construct a dock along the end of the existing fingers. However, Mike White from the LGPC dove at the site and found there were too many rocks, boulders and shallow spots in this area. Therefore they would not be able to berth the Morgan parallel to the shore without significant dredging, which was not preferred. The applicant decided to amend their proposal and dock the Morgan at the north end of the docks because the water is deep enough.

Zandy Gabriels stated that in the past there have been problems dealing with riparian rights. None were reconciled very clearly mainly due to not having sufficient legal resources to bring some of these cases to court and why they have this new situation here. Zandy Gabriels stated that he remembers when the Morgan was first launched it was parallel to the front of the dock and he doesn't recall any problems with lack of depth or boulders being an issue, so he is not sure if there really is a problem. Ben Pratt stated that the applicant would prefer to have the Morgan parallel to the shore as initially proposed but cannot. He indicated that he will provide verification of that at the next meeting.

Jason Saris stated that he does not have a preference one way or another; his concern is that if the applicant needs setback relief it does not say so in the application. Ben Pratt thanked the Board for the time to address some of their concerns.

The meeting was adjourned at 6:55pm

Minutes respectfully submitted by Kristen MacEwan.