

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, August 18, 2015
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, John Famosi, Holly Dansbury, John Whitney, Alternate Joy Barcome, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent: Michael Calautti, Tom McGurl & Jeff Anthony

The meeting was called to order at 6:32 pm.

Jason Saris asked if there were any corrections or changes to the July 14, 2015 minutes.

RESOLUTION:

Motion by John Whitney to approve the July 14, 2015 minutes as presented. **Seconded by,** John Famosi. **All in Favor. Motion Carried.**

Jason Saris explained to the first applicant that they had the option to wait to see if one of the Board members would show up as they would need a super majority vote from this Board due to Warren County denying the application. He explained this means that the applicant would need 5 affirmative votes which would consist of all present members this evening. Mr. Haines stated they would wait to see if another Board member would make the meeting.

Mr. Haines stated that Warren County was delinquent in getting the letter back in a timely fashion to the Board. He stated they said they had concerns as presented and that they have even less variances this evening. Jason Saris stated that he is not even sure that Warren County acted on what was presented to the Board. He said Warren County stated that a variance of 240' length was proposed and this was never asked for. Mr. Haines stated another issue with Warren County was the parking, and they were told at the previous meeting a parking variance was not required. He stated that they are presenting a lower roof height this evening. Jason Saris asked if the applicant moved forward and did not receive all the votes needed from the Board could they reapply at the County level based on the changes. Atty. Muller stated that he did not like what Warren County Planning said. He stated they denied without prejudice and it obviously was with prejudice. Jason Saris asked if procedurally they were granted a variance but without a super majority if it would be acceptable. Atty. Muller stated he would take the position on the behalf of Bolton that it would be a good variance.

1. **V15-24 BWM REALTY ASSOCIATES (JOHN KELLY).** Represented by Joseph Haines. To demolish several buildings and relocate 58 lodging units into a hotel style building, seek area variance for 1) Height: 35' is allowed, 45'1" is proposed. 2) Length: 120' is allowed, 185' is proposed. 3) Lot Coverage: 15% allowed. 21.4% exists. 20.9% is proposed. Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lake

Shore Drive. Blue Water Manor. Subject to WCPS review. See SPR15-15 associated with this project. This item was tabled at the July meeting pending additional information.

***This item was heard last on the agenda. ***

Joseph Haines stated that they met with the fire chief and made the following changes to address his comments and concerns;

- They have reduced the height of the building to 39.10’.
- They are reducing the pitch to a 4 on 12 and removing 2.5’ on the lower level.
- The back side of the building drive through will be widened and leveled for access for the fire trucks.
- They will be adding a wider turning area on either side to accommodate the trucks.
- The carport will be high enough for the fire truck to drive through.
- The building will have complete sprinkler systems and fire breaks that meet all the codes.

Jason Saris asked about the overall length of the building and that Warren County added confusion to this. Zoning Administrator, Pamela Kenyon explained how she took the measurements and apologized for the 120’ and stated that it would be 185’ not the 240’ that Warren County denied. Mr. Haines stated the 185’ is the length of the building not the length of the façade. He stated they are not trying to make a building that is 185’ across. Jason Saris stated that there was some discussion that in the last meeting they were discussing 125’ and it is really 185’.

Mr. Haines stated they were down to 3 variances at this time.

Jason Saris stated Warren County is quoting the Town of Bolton variance; they need to measure it the same way.

John Whitney stated that they need to take into account of the fact that they are consolidating both of the existing footprints. He stated this would be a nicer, newer and up to code structure.

Atty. Muller read;
Email in support from Wauneata Waller.
A letter in support from Heidi Hess
Email in support from Fire Chief, Jeremy Coon.

Jeff Killeen, Chairman of the Lake George Fund stated that he would like to register his support for the project, and stated it would be a huge improvement environmentally and economically and it was a very smart low impact development plan for the Town, Region and Lake.

Frank Passaro, neighbor to the south stated his support in general but had questions about the stormwater runoff plan. Jason Saris stated that stormwater plan would be dealt with by the Planning Board.

Greg Smith stated his biggest concern was always the height of the structure when he was on the board, but he was in total support of the project.

Chris Navitsky Lake George Waterkeeper expressed his support of the project stating the applicant is working hard on low impact development.

RESOLUTION

The Zoning Board of Appeals received an application from BWM Realty Associates (John Kelly). (V15-24) 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 Staff;

And, whereas the Warren County Planning Staff 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 height has been reduced, the length is not actually significant due to the amount of structures being removed and the impact to the site is actually less. There is no parking variance required. The lot coverage is a reduction from what currently exists.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be a vast improvement, and will be a very desirable change.

3) The request is substantial; balancing the benefits to the town plan, business community and many other considerations is very favorable.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The stormwater plan will be well addressed in the process.

5) The alleged difficulty is not self-created; This is part of a very thoughtful improvement plan to a property in need.

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 John Whitney and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

2. **V15-27 COLETTI, RUDOLPH.** Represented by Gonen Yohamanof. To alter single family dwelling, specifically to enlarge existing deck 1.5' and relocate the stairs, seeks area variance for **1)** a deficient front yard setback. 50' is required, 36' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 171.10, Block 1, Lot 3, Zone RL3. Property Location: 45 Skyline Drive.

Gonen Yohamanof presented the following:

- They are changing the direction of the stairs toward the parking lot.
- They are increasing the front length of the deck by only 1.5 ft.
- The deck is in bad repair and not up to code.

Jason Saris asked why the applicant was making the changes to the stairs. Mr. Yohamonof stated the stairs do not face the driveway at this time and the size of the deck increase will help accommodate table and chairs.

Jason Saris asked what the finished dimensions of the deck would be. Mr. Yohamonof stated 12' in the front.

Holly Dansbury asked if the style of the deck would be the same. Mr. Yohanonof replied it would be the same style with pressure treated lumber.

RESOLUTION

The Zoning Board of Appeals received an application from Rudolph Coletti (V15-27) for an area variance as described above.

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: They are basically replacing the existing deck to make it safer and more easily accessible.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement. They are primarily replacing the existing deck which will be an improvement.
- 3) The request is not substantial; This will not increase the variance of what is existing.
- 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 house is a pre-existing non-conforming structure which will not increase its non-conformity.

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 John Famosi and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

3. **V15-25 SMITH, STUART & MAXAM, CONNIE. (Frederick's Restaurant)** To alter non-conforming restaurant, specifically to allow a canopy over front deck to remain in its present location, seek area variance for **1)** a deficient front yard setbacks. 30' is required, 4' is proposed from Route 9N and the private right-of-way; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 171.15, Block 3, Lots 66, 67, and 68, Zone GB5000. Property Location: 4970 Lake Shore Drive. Subject to WCPS review.

Greg Smith presented the following:

- The only reason the canopy was put up was due to the large maple tree being removed across the street that served as a buffer from the sun in the summer.
- People were complaining about the sun and it being too hot to sit out there.
- This was causing them to lose business.
- They have received many compliments on this canopy.

- It is only going to be up 3 months out of the year; it comes down in mid-September and will go back up in mid-June.

Jason Saris asked if only the canvas was coming down or if the whole structure would come down. Mr. Smith said only the canvas the rail would stay up. He stated the company who installed it would remove it and store it. He stated that they would have lost all the seating on the deck if it was not put up.

Jason Saris stated it did not change the footprint at all. Mr. Smith agreed and stated it would not extend any further than the existing deck.

Jason Saris asked if there were side curtains. Mr. Smith stated that there were not any. Zoning Administrator, Pamela Kenyon stated she believed that there were two curtain panels. Mr. Smith stated his brother did not mention it to him if there were. He stated it would probably only be temporary and would only be used for rain.

Mr. Smith stated his brother did not think he needed a variance because it was only temporary.

John Whitney asked about the ability to add gutters to the canopy to accommodate the stormwater as the rain that previously went through the slats of the deck. Mr. Smith stated that it will be going into the green area between the sidewalk and the deck and that the entrance of the deck would probably go onto the sidewalk.

John Whitney inquired if it was about 1000 sq. ft. Mr. Smith stated yes.

Holly Dansbury asked if they looked at any other ways to remediate the issue. Mr. Smith stated this was the right way to do it; the umbrellas did not work anymore now that the tree was removed.

Jason Saris stated that it is consistent with what other restaurants have. Mr. Smith stated this was correct and it was done very tastefully and it was expensive. He stated they did not have a choice as the umbrellas were no longer effective.
No County Impact.

The Zoning Board of Appeals received an application from Stuart Smith & Connie Maxam (V15-25) 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 Staff;

And, whereas the Warren County Planning Staff 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: Due to the removal of the tree, a full canopy was necessary.

- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This looks nicer and more professional than what was there before.
 - 3) The request is not substantial; this will only be up three months out of the year.
 - 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; it won't change anything and will improve the look.
 - 5) The alleged difficulty is not self-created; it was due to the tree removal and the building being non-conforming and pre-existing.
- 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 Holly Dansbury and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

4. **V15-28 TROUT LAKE CLUB INC.** Represented by Andy Roden. For the construction of a proposed rental cottage, seeks area variance for deficient setbacks. **Front:** 50' is required, 12' is proposed from the edge of the right-of-way. **Shoreline:** 75' is required, 60' is proposed. Section 185.15, Block 1, Lot 4, Zone RCL3. Property Location: 1 Trout Lake Club Road. Subject to WCPS and APA review. See SPR15-19 associated with this project. Now, upon motion duly made by Jeff Anthony and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

Andy Roden presented the following:

- They handed out plans and letters and Mr. Roden detailed them to the Board.
- He is actually asking for a 22' setback from the driveway not 12'.
- The map was incorrect.
- They are a family owned and operated resort that consists of rental and private cottages.
- This property was mostly subdivided in the 20's – 50's for development and financing purposes.
- His grandfather would build 2 or 3 cottages to finance the business while he built the business.
- There are several private cottages that they are allowed to rent for 5 weeks in the summer.
- Currently only 3 of the owners rent there cottages and this will be reduced to 1 next year.
- 90% of the customers are repeat customers.
- One of their repeat customers of 40 years always rents on the lake will now have no place to stay.
- They are here because they would like to build a new cottage on this part of the parcel that is undeveloped lakefront to accommodate long standing customers.
- They would like to build a cottage next to the waterfront.
- They are doing a lot line adjustment at this time to accommodate the wastewater.
- They would be adding a new septic system to pump up away from the lake for two of the cottages which would be up to current code.
- There may be a need for all of the lake front cottages to be pumped away from the lake at some point.

Jason Saris asked when they would plan on construction. Mr. Roden said throughout the fall and winter to be ready by the end of June next year. Jason Saris asked if it would be on a foundation. Mr. Roden stated it would be on piers and it would be strictly seasonal. He stated that all their plumbing is above ground and is approved by the New York State Health Department.

Atty. Muller read letters of support from Gloria Lewis and Sylvia & Martin Hack.

John Whitney inquired how this would be a hardship for Mr. Roden. Mr. Roden stated that these families have been coming for many years and are friends with all the clientele. He explained that they would now have to find somewhere else to go, so they could potentially contact other families that rent from the Trout Lake Club at the same time as they normally do and take them to wherever they found new accommodations, which would hurt his business.

Jason Saris stated the Town of Bolton's comprehensive plan realizes that the loss of tourism is a hardship to the area and the economy. He stated that the rental units are the most threatened of all the parts that make up the economy of the town and in that respect it is a hardship when it disappears.

John Whitney asked if they were not the land owners of the cottages they are losing how it would it affect them. Mr. Roden stated that it would be loss of a commission as they allow them to use the Trout Lake Club facilities. He stated if the homeowners use it themselves they are out that financial commission.

Atty. Muller stated the proposed cabin is in scale with the property that is proposed for development, and it fits perfectly as just an additional lot. He stated the property cannot be reasonably used in meeting the setbacks as its currently zoned. He stated that granting this variance would not reasonably alter the essential character of the neighborhood or the surrounding properties.

John Whitney asked if the shoreline setback needed to be addressed. Jason Saris stated it did even though our standard did not require it, the APA does.

Mr. Roden stated this part of the lake front is narrow. He stated the existing cottages are 40' back from the lake front, and the one they are asking for is 60' back. He stated the 22' from the driveway is due to the power lines.

No County Impact.

The Zoning Board of Appeals received an application from Trout Lake Club, Inc. (V15-25) 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 Staff;

And, whereas the Warren County Planning Staff 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: This is the lot that had been reserved for future development and the only one available.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This is similar in size and scale to the other cottages in the club.
- 3) The request is not substantial; the shape of the lot and driveway creates the practical hardship so they need the variances.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; the septic will now be pumped away from the lake for this new structure and an existing structure to the north.
- 5) The alleged difficulty is not self-created; Due to the size and shape of the lot there is no other way to build on this lot without a need for a variance

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 John Famosi and seconded by Holly Dansbury, it is resolved that the ZBA does hereby approve the variance request as presented. John Whitney opposed. **All others in Favor. Motion Carried.**

5. **V15-29, FRENCH, PETER & LUCINDA.** To alter single family dwelling, specifically to construct an addition and front porch, seeks area variance for **1)** a deficient front yard setback. 75' is required, 68' is proposed; and **2)** to alter non-conforming structure in accordance with Section 200-57B1b. Section 155.00, Block 1, Lot 49, Zone RL3. Property Location: 39 Finkle Road.

Gene Baker and Peter French presented the following:

- They are asking to put a porch back on that had been taken off years before.
- The existing slab is there.
- They are doing a small addition on the east side of the house.
- The porch falls within the setback.

Jason Saris asked if the porch was going to be the same size as the existing slab. Mr. Baker stated the overhangs would be a little bigger.

Jason Saris asked if the addition would encroach any more on the setback. Mr. Baker stated it is very minimal.

Jason Saris asked if the addition would match what already exists on the property. Mr. Baker replied yes.

No Correspondence.

The Zoning Board of Appeals received an application from Trout Lake Club, Inc. (V15-25) 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 Staff;

And, whereas the Warren County Planning Staff 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#5 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 minimal request with a small encroachment.

2) There will be no undesirable change in the neighborhood character or to nearby properties.

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; the house is pre-existing and non-conforming.

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 John Whitney and seconded by Joy Barcome, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:45 pm.

Minutes respectfully submitted by Kate Persons.

