

**Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, March 18, 2014
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, Matt Slaughter, Jeff Anthony, Tony DePace, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent: David Ray, John Michaels & Donald King

The meeting was called to order at 6:31 pm.

Jason Saris asked if there were any corrections or changes to the February 11, 2014 minutes.

RESOLUTION:

Motion by John Famosi to approve the February 11, 2014 minutes as presented. **Seconded by** Matthew Slaughter. **All in Favor. Motion Carried.**

Jason Saris explained to the applicants they had the option to table their projects as they did not have a full Board.

1. **MARKI, BERNARD & PATRICIA.** Represented by the Atty. Thomas Ulasewicz. In accordance with Section 200-72 of the zoning ordinance, seek to appeal the Zoning Administrator's interpretation whereby determining that wildlife rehabilitation undertaken on those parcels designated as Section 171.07, Block 2, Lots 37 & 38 is not considered an artisan activity. If the Board determines that an artisan activity exists 1) are the cages in excess of 100 square feet considered an accessory use structures? And 2) Is wildlife rehabilitation and its facilities (cages in excess of 100 square feet) customarily incidental and subordinate to a residential use where the residents are bona fide trained, skilled and licensed wildlife rehabilitators? Zone RCM1.3. Property Location: 2 Braley Point Road.

***** THIS ITEM WAS TABLED AT THE APPLICANTS REQUEST*****

2. **V13-39 CECCHINI, LOUIS & ARLINE.** Represented by Gary Hughes. To alter non-conforming single family dwelling, specifically to renovate front roof framing from 6:12 & 2:12 pitches to 4:12 pitch and add a 16'x 24' garage /storage, seek area variance for 1) deficient front yard setback. 50' is required, 5' is proposed; 2) To alter pre-existing non-conforming structure in accordance with Section 200'57B(1)(b). Section 171.11, Block 1, Lot 62, Zone RL3. Property Location: Northbrook Co-op Unit 7. Subject to WCPS review. The roof renovation was approved at the October 2013 meeting. The garage portion was tabled pending grading and stormwater plans.

Mr. Cecchini stated that the Board should have all the information they had requested at the previous meeting and inquired if they had any questions.

Jason Saris asked if the existing paved walk would become part of the driveway. Gary Hughes replied yes. Mr. Cecchini replied the walk would become 8 ft. wide now and it was an access to the garage, and it would not be used for parking.

RESOLUTION

The Zoning Board of Appeals received an application from Louis & Arlene Cecchini (V13-39) 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#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;
- 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; everyone needs a garage.

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 Tony DePace and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented. Jeff Anthony Opposed. **All others in Favor. Motion Carried.**

- 3. V14-05 BAKER, IRENE.** Represented by Atty. Brian Reichenbach. To allow a 10'x 12' storage building to remain in its present location, seeks area variance for a deficient front yard setback. 50' is required, 16' is proposed. Section 185.00, Block 2, Lot 35.3, Zone LC25. Property Location: 57 Alpine View Drive.

Atty. Brian Reichenbach presented the following:

- This is a pre-built shed on a base not designed to be moved.

- The setback is sufficient from the property line, not from the privately owned right of way.
- Moving it is not an option due to possible damage.
- This fits in well and will not produce an undesirable change to the neighborhood.
- The variance is not substantial.

Matthew Slaughter inquired to the whereabouts of Alpine View Drive on the map. He then asked if there were trees between the drive and the shed. Atty. Reichenbach replied yes and pointed them out.

Jason Saris stated that the property falls off behind the house and they would probably need a variance anywhere that it was placed. He stated that they have run into this a lot with ridge line development because everyone wants a right of way and where the developer puts the road in.

No correspondence.

RESOLUTION

The Zoning Board of Appeals received an application from Irene Baker (V14-05) for an area variance as described above.

And, due to notice of the public hearing of the ZBA 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; a variance is a reasonable solution to this problem.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, The building is small and screened.
- 3) The request is not substantial; It is a small structure.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; There have been no drainage or other environmental issues.
- 5) The alleged difficulty is self-created; This is not a reason for denial.

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 Jeff Anthony and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

Mr. Whitford asked to move his project to the end of the meeting.

5. **V14-07 COPPOLA JR., ALBERT.** Represented by Melissa Lescault and Tom Hutchins. For a proposed two lot subdivision, specifically to re-subdivide existing lot 2 of a previously approved subdivision into 2 additional lots, for a total of three lots from the parent parcel, seeks area variance for deficient density. A total of 3.9 acres is required for the three parcels, 3.88 acres exists. **NOTE:** The minimum lot size of 1 acre is satisfied for each parcel of the proposed two lot subdivision. A variance is required because the overall acreage of 3.9 acres from the parent parcel is deficient. Section 213.13, Block 1, Lot 64, Zone RCM1.3. Property Location: Lower Brereton Road. Subject to WCPS and APA review. Subdivision approval will also be required but had not yet been applied for.

Atty. Melissa Lescault of McPhillips, Fitzgerald and Cullem presented the project stating the following:

- They are asking for a .02 acreage variance that they are short due to density.
- The property is located right off on 9N.
- Access to property is off of Lower Brereton Road.
- As of now the property consists of two tax parcels.
- An existing lot with a home and a vacant tax parcel.
- They are requesting a subdivision of this parcel,
- The total existing acreage of everything is 3.88 acres.
- They lack .02 of density acreage.
- They need a total of 3.9 acres.
- She went through the variance balancing test.
- They cannot get additional acreage from the properties south of them.
- There will be no undesirable change to the neighborhood.
- Only 2 out of 13 parcels are in compliance with the density requirement in this area.
- The average acreage for this area is 1.018 acres.
- This variance is less than 1% and is not substantial.
- They are only looking for 1 variance for this project.
- 1 additional lot will not increase municipal services.
- The one lot will not create any additional traffic to the area.
- The addition of a new home will probably increase the property value of the adjoining areas.
- It is self-created.

Jason Saris asked if the previous water issues had been addressed and whether the construction of new homes would have an impact on the controls that are presently in place now.

Atty. Lescault stated that in 2006 there were some dead and diseased trees removed by the owner's father without knowing that they needed permits to do this. They have since hired Hutchins Engineering and have approvals from the Town Engineer for a stormwater maintenance plan that has been put in place for almost 5 years now. National Grid also

removed trees along the property line. They did not do a stormwater management plan for this project at this time because they are waiting to see if they receive the approvals first. They do realize they need to do this before going before the Planning Board for subdivision approvals. Atty. Lescault stated that they do realize the property is wet and there would be a need for some fill. She said that they realize that they would need to comply with all of the Town's regulations.

Jason Saris asked if the present owner planned on developing the lots or just selling them off. Atty. Lescault replied that the two parcels would be for the property owner's siblings.

Jason Saris asked if the home site's locations that were depicted on the plans were set in stone or would they be moving them. Atty. Lescault replied that due to the fact that they don't have the engineered stormwater plans at this time, it is subject to possible change.

Matthew Slaughter asked if he was correct in the fact, that as it exists now, there would be the possibility of two homes on this site and if they subdivide they could put 3 homes on the property. Atty. Lescault agreed.

Atty. Muller read letter from Sandra J. Dott, Trustee of The Oliver Irrevocable Trust, in opposition of this project.

Atty. Lescault stated that the reason for major stormwater and engineering is to make sure that there isn't any pollution to the lake. She said if you look back at the previous issue of the trees the Town Engineer stated less than 1/3 of the water coming through the creek is coming from their parcel, the majority of it is coming from the property to the north and the properties across 9N and the road itself. She also presented photos of the trees that had been previously removed taken by the Town.

Matthew Slaughter asked what this would look like from the lake. Atty. Lescault stated that it was mostly developed. Jason Saris stated it was mostly visible from 9N.

Mr. Coppola stated that the previously removed trees were all dead and diseased or trees that had been blown down. He stated that they liked having a buffer of trees and did not just willy nilly cut them down.

Jason Saris stated he did not have a problem with the percentage and he understands not wanting to invest in the stormwater before getting approvals. He stated that it is not a huge concern because it still needs to go before the Planning Board

Jeff Anthony stated he agreed but he would like a condition that the Planning Board pay close attention to the Stormwater and visual aspects.

RESOLUTION

The Zoning Board of Appeals received an application from Albert Coppola Jr. (V14-07) 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 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; Due to the density of the surrounding properties.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the lots are fairly well screened and protected and are in keeping with the neighborhood.
- 3) The request is not substantial; it is very small.
- 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; only looking for a small amount of acreage to comply.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

John Famosi inquired about the practical difficulty for the A.P.A. Jeff Anthony stated the practical difficulty was that the site is shy 0.2 acres required by the Town's zoning law and there is no ability to acquire adjacent land to meet this requirement. He stated that it is so minor that it is inconsequential. Matthew Slaughter agreed.

Now, upon motion duly made by Matthew Slaughter and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that once the site plan is established, stormwater classification is to be determined by the Zoning Administrator. **All in Favor. Motion Carried.**

6. **V14-09 HERSHEY, DANIEL.** To allow an alteration to a roofline on a non-conforming structure to remain in its present location, seeks area variance for 1) Deficient setbacks. Side: 30' is required, 18' is proposed. Shoreline: 100' is required, 24' is proposed; and 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b). Section 122.16, Block 2, Lot 13, Zone RR10. Property Location: 181 Sherman Lake Road. Subject to WCPS and APA review.

Elizabeth Brohonic and Dan Hershey stated they were here to represent themselves.

This is a seasonal 3rd generation camp.

They inherited the camp in 2007-2008.

It was in very poor condition and needed repairs.

The first thing they did was meet with a roofer to prevent the leaking they had been having.

As part of the roof line change they made minor changes.

They unwittingly did not seek a required variance.

Jason Saris asked what the problem was with the old roof line and what the specific changes were that they made. Ms. Brohonic stated that they changed the shed roof because it always leaked and they increased this peak by 4 ft. and made it one continuous roof which is 19 ft. She stated they also covered an existing deck as a part of the overall coverage.

Jeff Anthony stated they were not really increasing any of the non-conformity. Ms. Brohonic agreed, stating they had to fix the water damage year after year.

RESOLUTION

The Zoning Board of Appeals received an application from Daniel Hershey (V14-09) 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#6 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; Flat roofs do not work in the north country.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties,
- 3) The request is not substantial; simply changing the roof line.
- 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 self-created; no other way to accommodate the snow problems.

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 Tony DePace and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented. **All in Favor. Motion Carried.**

4. **V14-06 WHITFORD, JAY.** Represented by Bret Winchip. To alter non-conforming two- family dwelling, specifically to demolish existing rear addition at grade level and replace with new rear addition living space at 1st floor (grade)level with garage above, seeks area variance for 1) Deficient setbacks. Front: 50' is required from private right-of-way, 22.8' is proposed, Side: 20' is required, 6.4' is proposed on the west side and 16.5' is proposed on the east side; 2) To alter non-conforming structure in accordance with Section 200-57B(1)(b); and 3) Lot Coverage: 15% is allowed, 32.5% is proposed.

Section 171.15, Block 2, Lot 27, Zone RM1.3. Property Location: 38 Horicon Avenue. Subject to WCPS review.

Zach Monroe of Winchip Engineering presented the following:

They would like to put on an addition with a garage.

The existing house is pre-existing and non-conforming.

They will be increasing the setbacks.

They are increasing the lot coverage.

He noted a difference in the totals he had with those of the Zoning Administrator.

Jason Saris asked if the increases were more for living space or to accommodate the two car garage. Mr. Monroe stated essentially the whole project is a garage, the living space will be under the garage.

Jason Saris asked what the actual dimensions of the garage were. Mr. Monroe stated the outside dimensions were approximately 30' x 40' or 41' and part of this includes the area of the removed addition. Jason Saris said he saw 5' of the interior was used as an entryway. Mr. Monroe stated it was an entryway to an existing upstairs apartment. Jason Saris stated that the reason they were inquiring was because the Board usually looks for the variances to be the minimum needed for the applicant to achieve the benefit. Mr. Whitford stated that part of the reason for this design was due to all of the snow sliding off into his walkways, so width wise he thinks he needs to across the whole back of the house. Mr. Monroe stated that this would also look funny if you tried to shift it.

Jason Saris asked if the overhangs were included in all the dimensions. Mr. Monroe replied yes. Jason Saris asked if it would ascetically match the house. Mr. Whitford replied yes.

Jason Saris asked if the snow coming off the roof would affect any of the neighboring properties. Mr. Whitford replied no and they would be doing stormwater for drainage. Mr. Monroe stated this project would also alleviate some of the parking congestion at the top of the hill. Jason Saris stated it was set up in an awkward way right now and this would help.

Matthew Slaughter inquired about the roof line and stated he wanted a sense of the bulk of the new addition. Mr. Monroe stated it was 16.1' to the top of the garage and that they were separate roof lines.

RESOLUTION

The Zoning Board of Appeals received an application from Jay Whitford (V14-06) 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 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; the application is feasible.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties,
- 3) The request is substantial; it is a reasonable request and appropriate.
- 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; They are doing the best they can with the property as purchased.

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 Jeff Anthony and seconded by Tony DePace, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that a minor stormwater plan be submitted before any permits are issued. **All in Favor. Motion Carried.**

The meeting was adjourned at 7:39 pm.

Minutes respectfully submitted by Kate Persons.