

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, May 14, 2013**  
**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, Jeff Anthony, Tony DePace, John Michaels, Donald King, John Famosi, David Ray, Matt Slaughter, Zoning Administrator Pamela Kenyon and Counsel Michael Muller

**Absent:**

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

Jason Saris asked if there were any corrections or changes to the April 16, 2013 minutes.

**RESOLUTION:**

**Motion by Don King** to approve the April 16, 2013 meeting minutes as written. **Seconded by Jeff Anthony.** Tony DePace abstained. **All Others in Favor. Motion Carried.**

- 1. V13-03 BOLTON CROSS LLC.** Represented by the LA Group. For a proposed 10-unit townhouse project with each unit located on a separate parcel, seeks area variance for 1) **Density.** 7.95 acres are required- 2.54 acres exists. 2) **Lot coverage.** 40% is allowed in the GB5000 zone and 15% is allowed in the RM1.3 zone. 0' is proposed. 3) **Setbacks: Front:** 30' is required, **Rear:** 15' is required, **Sides:** A total of 20' is required in the GB5000 zone and **Front:** 50' is required, **Sides:** 20' is required, **Rear:** 20' is required in the RM1.3 zone; 0' is proposed for all. 4) **Lot Width:** 50' is required in the GB5000 zone and 125' is required in RM1.3 zone. Approximately 24' is proposed for all. 5) **Lot Depth:** 100' is required in the GB5000 zone and 150' is required in the RM1.3 zone. Approximately 55' is proposed for all. 6) **Lot Size:** 20,000 square feet is required in the GB5000 zone and 1.3 acres is required in the RM1.3 zone – approximately 1,296 square feet is proposed for lots 1 through 6 and approximately 1,128 square feet is proposed for Lots 7 through 10. 7) **Section 200-37B Shoreline Regulations:** 215 linear feet is required, 156 linear feet exists. 8) **Shoreline setback:** 75' is required, approximately 32.26' is proposed for Lot 10 – approximately 45' is proposed for Lots 9 & 8, approximately 54' is proposed for Lot 7 and approximately 61' is proposed for Lot 6. 9) **Side yard setback.** 20' is required between Lot 6 and the southern property line – approximately 16' is proposed. 10) **Front yard setback from Evergreen Lane.** 50' is required in the RM1.3 zone – approximately 20.63' is proposed for lot 1 & approximately 40' is proposed for Lot 2. Section 171.19, Block 1, Lot 55, Zones RM1.3 & GB5000. Property Location: 4913 Lake Shore Drive. Subject to WCPB review. *Note: See SPR13-09 & SD13-02 associated with this project. This item was tabled at the April meeting at the applicant's request.*

*Note: Jeff Anthony recused himself.*

Jon Lapper discussed the changes since the previous meeting. The applicant listened to the concerns of the Board and neighbors and made changes to the proposal. One of the more significant changes is that they have decreased the size of the units by 14%. This has a benefit of increasing the green space and improving the stormwater management. The stormwater plan is compliant with Town regulations and setbacks.

Jon Lapper explained that the applicant also changed the width of the driveway and improved the site distance from the driveway. Since the last meeting the architect really looked at the design and made changes to best fit with the Town. They plan to keep the stone wall and part of the fence but make it more aesthetically pleasing. The current building is in complete disrepair and the applicant wants to do something appropriate for the hamlet and Bolton.

Justin Sanford, LA Group, stated that since the last meeting they revisited and revised the architecture. The footprints have been reduced. Along the streetscape, the town house units were reduced by 4' in width resulting in a 216 sq. ft reduction per unit. Altogether the streetscape development will be reduced by approximately 1300 sq ft of building. The 4 unit building will see a reduction of 188 sq. ft per unit, for a total reduction of 1128 sq. ft. The combined total of 2,428 sq. ft is similar to a reduction of 1 ½ units. The proposed reduction brings the overall development to 13,000 sq. ft. Justin Sanford stated that in GB 5000 they are allowed 40% building coverage. With the 3 unit buildings they are at 34.7% area which is compliant. In the RM1.3 zone they are allowed 15% coverage, with the proposal they are at just over 7% which includes the lands under Dula Pond. Justin Sanford stated that there was some discussion about removing those lands from the calculation in developable acreage. If they were to do that they would still be compliant by 13.8% building coverage in the RM1.3 zone.

Justin Sanford stated that reducing the building size has helped increase the green space. They had 15' between the buildings on Lakeshore Drive, and now they have added an extra 7'. They also were able to shift the units to the south so they will not encroach on the front yard setback. They still do need the front yard setback in the RM1.3 zone but it has decreased to just under 21 feet. They also were able to reduce their stormwater basins.

With regard to Evergreen Lane, Justin Sanford stated that currently it is between 12.5-14' wide. The proposal will widen the lane coming in from Lakeshore Drive to the first parking lot to 18' and the remainder of the driveway will be 16' tapering down to 14'. The increased width will allow for 2 cars to pass safely.

Jonathon Bunker discussed some of the changes to the architecture. Each of the 3 unit buildings will be 24' each instead of the 28'. Other than the size of the units, the four unit building did not change in architecture or offsets from one another. However the 2-3 unit buildings on Lakeshore Drive were substantially revised, especially the elevation. They created a more traditional 2 story building to reflect the existing inn. It also has a smaller roof mass. The building height did not change which is still below the 35' height restriction. He provided further details of the architecture.

Jon Lapper stated that they kept the 10 units but made the 14% reduction to address the Board's concerns. He stated that the need for all of the variances is due to the fact of the zero setback issue that they are faced with in doing a townhouse project. He stated that they could have less units but those units could each be larger than the townhomes proposed as well as take up more green space and create the need for larger stormwater controls.

Jon Lapper stated that if they were to look at other permitted uses in the commercial zone, someone could build a 6,000 sq. ft restaurant which would have far more impact than what they are proposing. There could also be a bed and breakfast or inn with more rooms and more intense use. This proposal aids Bolton in its goal of having more full time residents. The density may need a variance but the size does not. Jon Lapper stated that this is justified as a good project, it is keeping with the historical character and they listened to the Board and made changes to address their concerns.

With regard to the contractual access to Dula Pond, Jon Lapper stated that it is different than Lake George, they will not be using Dula Pond for recreation. So there is really no impact. With regard to the neighbors, Jon Lapper stated that they have received some positive feedback especially after addressing the driveway.

Jason Saris agreed that this is a far better plan than what was originally presented. He can understand the applicant's argument about the other uses that could be on the property and their increased intensity of use. However if those projects are compliant, then they wouldn't need to be here for variances. He stated that this project does require variances so it is hard to compare.

Jason Saris stated that he wants the applicant to show how the benefit cannot be achieved otherwise and that this is the least variance that he can seek. Jon Lapper stated that they could build a bigger building which doesn't make it a more viable project or better for the Town. There are 10 stylish units in a viable project.

Jason Saris stated that if the 4 units in the back were moved to the east there would be less impact and the variance request would be decreased. Jon Lapper stated that the shape of the lot does restrict them. If they were to move it, it would move the units closer together which will make it more cramped and less desirable. Jason Saris stated that he is not looking to move it significantly but to the point of where it was proposed previously. He stated that it would reduce the relief requested by half. There was further discussion of moving the back building. The applicant agreed to move the building to the east.

Chris Navitsky, Lake George Waterkeeper stated that they feel the variances requested are significant and excessive. They appreciate the Board's discussion of balancing the criteria. He provided some additional suggestions. The variances need to consider the APA act and the calculations should not include any lands underwater and should be taken out of the density calculations. They also feel that stormwater has not been properly shown to be mitigated. Additionally, there is very little information on the stormwater plan. The calculations need to include the existing impervious surface and not just the additional impervious surfaces. The rain gardens are within the shoreline setback so they feel that another variance should be required. He stated that the sewer plant has indicated that there is capacity to handle this

project. However the Town plant has received 26 violations in the last 3 years, which also needs to be taken into consideration. It is imperative that the ZBA ask the PB to review these issues.

Art Franz stated that he is concerned with a 170' wall of buildings. The property is approximately 4' above 9N which will put the top of this building 35' above 9N. This type of high density housing is found in Albany, Schenectady and other big cities, not in Bolton. Bolton's zoning has been in effect for over 35 years. He does not understand why the developer would not subdivide the property to meet the requirements or require fewer variances.

Art Franz stated that members of the Bolton community and Saratoga Associates took over 2 years to develop a strategic plan for the hamlet of Bolton. The plan has been in effect since May of 2003. Two major priorities of the community was 1) to maintain the rural look and feel of the community, and 2) to regulate development along the lake, roads and ridge lines. He requested that the Board deny the application.

Heidi Figueroa stated that she formerly lived in the house and it bothers her to see it in such disrepair. She stated that her father had plans to do something similar to this property. This plan is much better than what previous developers proposed for the site. There are already a lot of buildings on the site and this proposal improves the current condition of the site. It carries the character well. She stated that she does not have any problems with the proposal.

Deanne Rehm stated at the last meeting there was discussion about the Anchorage being the poster child for current zoning restrictions. She stated that at the time, the zoning required 5,000 sq ft per principle building. With the amount of land, it calculated to be 19 compliant building lots which was the maximum allowed. She knew the applicants at the time who indicated that they would have been happy with 12 lots but they went in with the max because of the calculation and they got approval for 19 lots. The TB then revisited the GB5000 zone and in order to encourage more business in the district they increased it to 20,000 sq ft.

Deanne Rehm stated that after some negative comments about the Cross Street development, the applicant commented that he was just the builder. However he did feel that this was a direction that the Town was headed in. So when this property came available he thought he could maximize this property as well. At that meeting Jason Saris had commented that maybe the Board made a mistake with the Cross Street project. Deanne Rehm stated that the ZBA is the gatekeeper. If they approve this project with all of the variances, especially the density, it will be very hard to deny anyone else to use virtually all of their property.

If approved, Deanne Rehm stated that although this will go for site plan review, the Planning Board will look at the site plan which the applicant has already done well. And with regard to the subdivision, it will see that the ZBA has already given its blessing for the variances and she does not see them saying no.

Deanne Rehm stated that the applicant really only has 1.5 acres of useable land. The applicant is proposing to put 10 units on this land when zoning only allows 2 units. The ZA has said that 4 units exist now. With regard to the character of the neighborhood, she stated that the lots

surrounding the project site range from 12,000-20,000 sq ft per principle building. The applicant is proposing 6,600 sq ft per principle building which is not the character of the neighborhood. The property can reasonably support 4-5 units. The benefit could be achieved by only building 4-5 units. It would make good use of the land and utilities and be of a good benefit to the Town. She feels that it is clearly feasible to build less units.

Deanne Rehm stated that the request is substantial; the applicant is allowed 2 units and is proposing 10 units which is a 500% increase, or if you use the 4 units that are existing and 10 units are proposed it is a 250% increase. The ZBA sent the applicant back to consider getting to a 50% increase but instead they are still dealing with a 250 to 500% increase.

Deanne Rehm stated that the biggest environmental impact will be traffic. Although this is not a reason to deny the application. The relief sought is self-created, because the applicant bought the property knowing the limitations and the zoning restrictions. This is not the minimum necessary variance. She cannot balance what is good for the community versus one applicant's desire.

Willie Bea McDonald stated that the current zoning states that when calculating the density you use all land even if it is underwater. There is no restriction in using that land currently. She stated that if all of the acreage is used then they have 100,000 sq ft of density which gets them to the 10,000-12,000 sq. ft per building which puts them closer to the surrounding neighborhood. Willie Bea McDonald stated that this property has been for sale for a long time. She has seen a number of contracts fall through and projects fail or not even start. She stated that this applicant is willing to do a great project and see it through.

Counsel Muller read the following correspondence:

1. Joe Pfau in opposition to the proposal.
2. Frank J. Parillo Bolton Landing Marina, in support of the proposal.
3. Alexander Gabriels, III in opposition to the proposal.
4. John Miller, in support of the proposal.
5. Joann Parillo, in opposition of the proposal.
6. Patricia Lamb, listing concerns regarding the proposal.
7. Gregory Holstein, in support of the proposal.
8. John LeFevre in opposition to the proposal.

Counsel Muller noted that the WC Planning Department determined no county impact but had the following staff notes "Given the location of the project and its adjacent pond that drains into Lake George there are potential impacts on County resources. The lake has been identified in General Municipal Law section 239L. The County recommends that all appropriate actions be taken at the local level to mitigate the drain off into the pond. They also recommend that the Town work with the applicant to use permeable pavement for all parking areas."

Jason Saris stated that the land under the pond is an issue. As per our regulations it can be used as part of the density. However the Waterkeeper indicates that the APA act does not allow those lands to be used in the calculations. Counsel Muller stated that Bolton's position is that we have never taken a deduction for lands under the water. Jason Saris asked if this will be

going before the APA. Counsel Muller replied that there is a portion that is wetland and a portion that is not. Jon Lapper stated that the wetland is not being subdivided.

Counsel Muller stated that the APA regulation would take effect in those areas where there is not an approved land use plan. They would not have jurisdiction in the hamlet. There is a wetland but there is no subdivision of the wetland. There is no requirement in the local covenant. Matt Slaughter asked if there has never been an issue like this in the past. Counsel Muller replied no, not to his knowledge.

Jon Lapper stated that the philosophy behind the land under the water, is that it is still open space, so in terms of density it would put them at approximately 11,000 sq. ft which is compatible to the neighborhood. With regard to the Waterkeeper's comments, they have submitted a full stormwater management plan to the Town engineer for review. They believe that it is a compliant plan. With regard to the rain garden within 100' of the shoreline, it is going to be lined so it is not infiltrating into the ground directly.

With regard to Mr. Franz' comments, the 2003 proposed code that was not adopted. He talked about rural character however that is found elsewhere in the community and not in the GB5000. With regard to the view the 30' setback on Lakeshore Drive are being respected.

With regard to Deanne's comments on significance, Jon Lapper stated that their justification is that even though there are more units they are utilizing a smaller footprint than what is allowed on this lot. With regard to traffic, residential trip generation is less than commercial in terms of traffic impact. Jon Lapper stated that the buildings will be clustered together and will allow for more green space.

Tony DePace asked what the total square footage of the buildings in existence on the site. Justin Sanford replied that the total is 8,549 sq. ft.

There were conditions discussed about compliant stormwater and moving the 4 unit structure to reduce the overall variance request from Dula Pond. Pam Kenyon stated that she would like to know what the setbacks are from the pond. The applicant stated that it varies due to the offset; he will submit a revised plan that will be reviewed and approved by the ZA for those units moved 24' to the east.

Art Franz asked about summer hours for blasting and construction. There was further discussion. Counsel Muller stated that the PB can make those requirements. The Board decided to add that as a condition of approval.

Counsel Muller reviewed the long form.

Part 1-Project Information

Name of Action: Bolton Cross LLC

The proposed action proposes that all building are to be razed. The proposed development of 10 townhouses consisting of 3 buildings.

A. Site Description:

1. Present land use: urban, vacant 6 room inn with 2 unit apartments building and garden apartment with 2 car garage.
2. Total acreage of project area: 2.54 acres  
Approximate acreage  
water surface 1.03 acres Presently; 1.03 acres After Completion  
buildings and .52 acres presently; .67 acres after completion  
lawn 1.05 acres presently; .091 acres after completion
3. What is predominant soil on project site?
  - a. Soil drainage: well drained 25% of site, Moderately well drained 50% of site, Poorly drained 25 % of site.
  - b. If any agricultural land is involved how many acres of soil are classified within soil group 1 through 4 of NYS Classification System? No
4. Are there bedrock outcroppings? Yes, between 2-6' below surface.
5. Approximate percentage of proposed project site with slopes:
6. 0-10% 100% 10-15% 15% or greater
7. Is project substantially contiguous to a site listed on the Register of National Natural Landmarks? no
8. What is the depth to water table? Approximately 6'.
9. Is site located over primary, principal or sole source aquifer? no
10. Do hunting, fishing or shell fishing opportunities presently exist in the project area?  
no
11. Does project site contain any species of plant or animal life that is identified as threatened or endangered? no
12. Are there any unique land forms on the project site? no
13. Is the project site presently used by the community or neighborhood as an open space or recreation area? no
14. Does the present site include scenic views known to be important to the community? no
15. Streams within or contiguous to project area? none
16. Lakes, ponds, wetland areas within or contiguous to project area? Yes Dula Pond (Rye Pond)
17. Is the site served by existing public utilities? yes
  - a. Is the sufficient capacity to allow connection? yes
  - b. Will improvements be necessary to allow connection? yes
18. Is the site located in an agricultural district? no
19. Is the site located in or substantially contiguous to a critical environmental area? no
20. Has the site ever been used for the disposal of solid or hazardous waste? no

## B. Project Description

1. Physical dimensions and scale of project
  - a. Total contiguous acreage owned or controlled by project sponsor: 2.54 acres
  - b. Project acreage to be developed: 1.25 acres initially and ultimately
  - c. Project acreage to remain undeveloped: 1.3
  - d. Length of project
  - e. If the project is an expansion, indicate percent of expansion
  - f. Number of off-street parking spaces: 9 existing 24 proposed

- g. Maximum vehicular trips generated per hour (upon completion of the project) 5 cars/hour
- h. If residential: Number and type of housing units
 

	One Family	Two Family	Multiple Family	Condo
Initially	10			
Ultimately	10			
- i. Dimensions of largest proposed structure: 34'6" in height, 112' in width, and 103 length
- j. Linear feet of frontage along a public thoroughfare project will occupy 232'
- 2. How much natural material will be removed from the site? 250 yards
- 3. Will disturbed areas be reclaimed? yes
- 4. How many acres of vegetation will be removed from site? .14 acres
- 5. Will mature forest (over 100 years old) or other locally-important vegetation be removed by this project? no
- 6. If single phase project: anticipated period of construction? 18 months including demolition
- 7. If multi-phased:
  - a. Total number of phases
  - b. Anticipated date of commencement for phase 1
  - c. Approximate completion of final phase
  - d. Is phase 1 functionally dependent on subsequent phases.
- 8. Will blasting occur during construction? yes
- 9. Number of jobs generated: 40 during construction; 2 after project is complete
- 10. Number of jobs eliminated by this project? 0
- 11. Will project require relocation of any projects or facilities? no
- 12. Is surface liquid waste disposal involved? no
- 13. Is subsurface liquid waste disposal involved? no
- 14. Will surface area of an existing water body increase or decrease by proposal? no
- 15. Is project or any portion of project located in a 100 year flood plain? no
- 16. Will project generate solid waste? Yes.
  - a. If yes, what is amount per month 2 tons/month
  - b. If yes, will an existing solid waste facility be used? yes
  - c. If yes, give name: Bolton Transfer Station on Finkle Road
  - d. Will any wastes not go into sewage disposal system or into sanitary landfill?  
no
- 17. Will project involve the disposal of solid waste? No
  - a. If yes, what is the anticipated rate of disposal?
  - b. If yes, what is the anticipated site life
- 18. Will project use herbicides or pesticides? no
- 19. Will project routinely produce odors (more than 1 hour per day)? no
- 20. Will project produce operating noise exceeding the local ambient noise levels? no
- 21. Will project result in an increase to energy use? Yes propane for heating and electricity for lighting and appliances.
- 22. If water supply is from wells, indicate pumping capacity
- 23. Total anticipated water usage per day 3,750 gallons per day.
- 24. Does project involve Local, State or Federal funding? no
- 25. Approvals required:

1. Planning Board Site plan and Subdivision.
2. Zoning Board variances
3. City, Town Board of Health subdivision.

C. Zoning and Planning Information

1. Does proposed action involve a planning or zoning decision? yes
2. What is the zoning classification of the site? GB5000 and RM1.3
3. What is the maximum potential development of the site if developed as permitted by present zoning? 2 residential units or 30 rooms in an inn less than 300 sq. ft.
4. What is the proposed zoning of the site? There is no change.
5. What is the maximum potential development of the site if developed as permitted by the proposed zoning? 3 residential units or 30 rooms in an inn less than 300 sq. ft.
6. Is the proposed action consistent with the recommended uses in adopted local land use plans? yes
7. What are the predominant land use and zoning classifications within ¼ mile radius of proposed action? GB5000, RM1.3 and RL3
8. Is the proposed action compatible with adjoining/surrounding land uses within ¼ mile? yes
9. If the proposed action is the subdivision of land, how many lots are proposed? 11
  - a. What is the minimum lot size proposed? 1,350 sq ft.
10. Will proposed action require any authorization for the formation of sewer or water districts? no
11. Will the proposed action create a demand for any community provided services? Yes, yes
12. Will the proposed action result in the generation of traffic significantly above present levels? no

D. Informational Details

Part 2- Project Impacts and their Magnitude

1. Will proposed action result in a physical change to the project site: yes, small to moderate with regard to construction on land where bedrock is exposed or generally within 3 feet of existing ground surface, construction that will continue for more than 1 year or involve more than one phase but will be properly mitigated.
2. Will there be an effect to any unique or unusual land forms found on the site? no
3. Will proposed action affect any water body designated as protected? no
4. Will proposed action affect any non-protected existing or new body of water? Yes, noted in other impacts would be visual aesthetics which is of moderate impact.
5. Will proposed action affect surface or groundwater quality or quantity? Yes but as a positive effect/impact on Dula Pond with stormwater management the impact will be less than what exists today.
6. Will proposed action alter drainage flow or patterns, or surface water runoff? Yes, noted in other impacts-improved drainage flow than what exists presently.
7. Will proposed action affect air quality? no
8. Will proposed action affect any threatened or endangered species? no
9. Will proposed action substantially affect non-threatened or non-endangered species? no

10. Will proposed action affect agricultural land resources? no
11. Will proposed action affect aesthetic resources? Yes, visually small to moderate.
12. Will proposed action impact any site or structure of historic, prehistoric or paleontological importance? no
13. Will proposed action affect the quality or quantity of existing or future open spaces or recreational opportunities? no
14. Will proposed action impact the exceptional or unique characteristics of a critical environmental area established pursuant to subdivision 6NYCRR 617.14(g)? no
15. Will there be an effect to existing transportation systems? no
16. Will proposed action affect the community's sources of fuel or energy supply? no
17. Will there be objectionable odors, noise, or vibration as a result of the proposed action? Yes blasting during construction but can be properly mitigated
18. Will proposed action affect public health and safety? no
19. Will proposed action affect character of the existing community? yes
20. Is there, or is there likely to be, public controversy related to potential adverse environmental impacts? no

Jason Saris stated that there has been some controversy about whether this fits aesthetically or whether it is an appropriate project for the community, but not necessarily due to environmental impacts.

### Part 3- Evaluation of Impacts

The Board found that the project will have small to moderate impact and with proper mitigation can lessen the impact. The Board found the following conditions acceptable: applicant must obtain Site Plan Review, Stormwater and subdivision approval.

### Determination of Significance

Although the project could have significant effect on the environment, there will not be a significant effect for this Unlisted Action because the mitigation measures described in Part 3 have been required, therefore a conditioned negative declaration will be prepared. with mitigation SPR, Stormwater, obtain subdivision approval.

### RESOLUTIONS:

**Motion by Don King** to approve SEQRA with the following conditions: 1) the applicant will meet stormwater requirements, 2) the applicant will meet site plan review requirements and 3) the applicant will obtain subdivision approval. **Seconded by Matthew Slaughter. Jeff Anthony & John Michaels recused themselves. All others in Favor. Motion Carried.**

The Zoning Board of Appeals received an application from Bolton Cross LLC(V13-03) 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; it is obvious that the applicant is asking for a change to the existing property in terms of the density. There are other alternatives that have not been presented to the Board in terms of drawings and charts but they have been discussed by the applicant in terms of subdivision of the property and other commercial uses of the property. In terms of the commercial end of business, the commercial operations in Bolton are not thriving in extreme and the utilization of this area as a residential area goes a long way towards providing substance of traffic and people to support the existing commercial infrastructure of the Town instead of spreading it out especially seasonal operation. This could bring in more people year round. Some of the alternatives considered are not necessarily as desirable.

2) There will be no undesirable change in the neighborhood character or to nearby properties, this is a derelict property located in a desirable area of Bolton. This is the first feasible project in terms of economics. The applicant has produced a plan to improve the community look with the recommendations of the Board. The new structures as proposed are mimicking the inn that is currently sitting there. The applicant has cut back on the width and separated the units so that they do not have one continuous wall. They have also offset the buildings which also enhances the neighborhood.

3) The request is not substantial; with the square footage that the applicant is developing versus what he can develop, the applicant is developing less square footage even though the number of units is intense. The applicant is utilizing less building footprint under the existing regulations of the Town. It is still substantial but it is maximizing the ability to provide green space and not have the impact. The applicant's willingness to make further adjustments goes a long way to minimizing a significant development area.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; a significant improvement is taking a derelict development with no stormwater controls and putting them in place. A few trees are being removed but will be replaced. A condition of this Board is that a fully compliant stormwater plan go before the Planning Board. It will improve the overall neighborhood. If this project does not go through it will be difficult to say when the next project will come along the sooner that we can get the project back on the tax map the better.

5) The alleged difficulty is not self-created, the applicant bought the property with good intent and has made the effort to minimize and listen to the Board and community members in terms of getting this approval. The applicant has overcome a lot of inherent difficulties that came with this property. He has spent a lot of money and hired a lot of good professionals to develop a responsible plan.

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 Don King and seconded by John Famosi, it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions: 1) a compliant stormwater plan is approved and completed, 2) the 4 unit structure in the back will be adjusted to the east by a full unit width of 24' to reduce the overall variance request, 3) the applicant will submit a revised plan to reflect the changes to the setback to the Zoning Administrator for approval, and 4) review and approval of the summer construction schedule by the Planning Board. Jason Saris and Tony DePace were opposed. *Jeff Anthony & John Michaels recused themselves.* **All Others in Favor. Motion Carried.**

2. **V13-15 POWERS, JOHN & TERRY.** To alter non-conforming single family dwelling, specifically to construct two decks, seek area variance for 1) a deficient front yard setback. 50' is required, 15' minimum is proposed; and 2) to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 200.00, Block 1, Lot 19, Zone LC25. Property Location: 95 Powers Court.

John Powers stated that he is seeking to construct 2 decks on a house that he built in 2004. Jason Saris asked what makes this a pre-existing non-conforming structure when it was built in 2004. Pam Kenyon replied that she does not use that to just mean pre-existing zoning law. It was built non-conforming and they received a variance back then to make it compliant.

John Powers stated that the decks will be for recreational use to enjoy the outdoors. The purpose of the 2 decks is for the architectural symmetry.

There were no comments from the public in attendance or correspondence.

## **RESOLUTION**

The Zoning Board of Appeals received an application from John and Terry Powers (V13-15) 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, it will be more aesthetically pleasing.
- 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 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.**

3. **V13-16 MENZIES, PETER & GRETCHEN.** Represented by the LA Group. **1)** To alter non-conforming winter cabin and associated retaining wall, specifically to add 530 square feet to the cabin and enlarge the retaining wall, seek area variance for **a)** a deficient front yard setback. 50' is required, 35' minimum is proposed; and **b)** to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). **2)** To alter non-conforming summer cabin, specifically to add 813 square feet, seek area variance for **a)** a deficient shoreline setback. 75' is required, 52' is proposed; and **b)** to alter a pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.08, Block 1, Lot 6, Zone RCM1.3. Property Location: 32 Jacobi Point. Subject to WCPS and APA review. *Note: The walkway and timber stair system along with the retaining wall associated with the summer cabin are not included with this application. Site Plan Review will be required for these items.*

Justin Sanford stated that there are 2 existing cabins on the property. The cabin up top is referred to as the winter cabin and the one by the lake is the summer cabin. After the applicants purchased last year they realized that they would like to make some aesthetic improvements to the cabins and landscaping. However, after reviewing the architecture they realized that the expansion to the winter cabin was much larger than they really needed. He provided further details. On the winter cabin they are removing the covered walkway and reducing the addition so the front yard setback has been reduced. On the summer cabin they squared off the deck adding an additional 4' to the deck but it will not further encroach on the original setback request.

Justin Sanford stated that in addition to the building expansions the applicants would like to make landscaping changes. The shared driveway pitches down and flows onto the neighbor's property. They would like to provide an intermittent trench drain to capture some of the water. Additionally they are also proposing the rework a high point on the driveway, which will reduce the stormwater flow. While the applicants are proposing the site work they have also decided to replace the existing septic system which they will need apply and gain approval for.

Justin Sanford stated that the applicants are looking to reduce the amount of impervious surface, and will rework the parking and remove some of the pavement. They are also proposing to create some timber stairs leading from the winter cabin to the summer cabin.

Justin Sanford stated that the variances include a deficient shoreline which already exists. They are seeking a variance for a front yard setback because the winter cabin is dealing with a shared driveway. The applicants need 50' from it but the existing cabin is already 45' and with the proposed addition they are looking at 38', which is greatly reduced from the 16' originally requested. The two other variances are for adding to a pre-existing non-conforming structure.

John Michaels stated that the way the summer cabin is only used in the summer and is not winterized but assumes that it will be made to. Justin Sanford stated that the applicants are not proposing to winterize the summer cabin. John Michaels stated that he is concerned that there is potential that both homes could be winterized and then 2 primary structures would exist on one lot. He would rather both houses become compliant and winterized but choose which one they would like to reside in and make the other one a guest house without a kitchen.

Justin Sanford stated that they contacted the assessor regarding the structures and found that both buildings were built in the late 1960's so they pre-date the zoning requirements. Additionally, according to WC Planning, there have been no building permits for these structures since 1997. There have been 2 primary structures on one lot for some time.

Jason Saris stated that he does not doubt that the structures are grandfathered in, but it is more than what is allowed and now the applicants are seeking to expand them both and increase the non-compliance. He asked about the size of the structures. Justin Sanford stated that currently each structure is approximately 800 sq. ft and the proposed expansions will put the winter cabin at 1150 sq. ft and the summer cabin at 1600 sq. ft not including the decks.

John Michaels stated that if the applicant was willing to not winterize the summer cabin it could be the guest house. Jason Saris stated that he understands that people want to get as close to the lake as they can but that is why they have a setback. The 75' setback was to make these lots more compliant. Most individuals would take down the cabin and build a compliant structure. Justin Sanford stated that the applicants wanted to avoid as much impact on the site. If they were to tear down the existing building more of the site would be impacted. He stated that the applicants do not occupy the summer cabin in the winter; they cannot even access it because the driveway is so steep. If they were to move it back to come into compliance it will involve a lot of earth work which they are not interested in. That is why they decreased the proposed addition. The previous application regarding the dock renovation and shed also prove that the applicant wants to create minimal disturbance and maintain the natural vegetation on the site. The design was so they could keep those pockets of vegetation wherever they could.

Jason Saris asked if the Board can even ask the applicants to accept that kind of condition. Counsel Muller stated that this building predates the code and has a substantial right to remain the way it is. Any owner could winterize them and not need a variance. John Michaels stated that he would like to see the kitchen removed from one of the structures. He agrees that removing both structures and building a compliant structure would involve a lot of environmental impact because there really isn't a good place to construct a house.

Chris Navitsky, Lake George Waterkeeper chose to speak instead of having his letter read. He stated that they recognize the difficulties faced on this site. They did have some questions about the existing leach field because they saw a rain garden placed in that site and would like that removed. They also would like to see a condition to address stormwater run-off of the existing impervious cover.

Pam Kenyon asked how much land disturbance they were talking about. Justin Sanford replied 14,400 sq. ft. which includes a pretty sizable development area for the stairs. It also includes the septic work and the 10' trenching. They were trying to be as conservative as possible and feel that it can be reduced.

John Michaels asked if this will go for site plan review. Pam Kenyon replied yes, the walkway and timber stair system along with the retaining wall associated with the summer cabin which are not included with this application because they did not require variances.

Pam Kenyon indicated that there was no WC impact.

Justin Sanford stated that after the trenching, the applicants will be restoring vegetation. They are also proposing a series of rain gardens. He provides further details. With the expansion they have 1,000 additional sq. ft of impervious surface.

John Michaels stated that both buildings are getting second floors. This is a significant project and he cannot see anyone putting that much money into these homes and not making them year round. He would like to see the applicants pick one house and make the other house a guest house. John Famosi asked if the septic system will pick up both houses. Justin Sanford replied yes it will be sized for a 6 bedroom house.

Jason Saris asked if they could split the relief being sought. Pam Kenyon replied yes. Jason Saris stated that he is concerned that these houses are grandfathered in and can be used simultaneously because that is what existed before the code. He understands the applicants' use of the property. However if the applicant sells this property there is nothing that can stop the next owner to use it in that manner and not be in violation.

Justin Sanford stated that he would like to consult with the clients to address some of the Board's concerns. He asked for some feedback from the Board members. Tony DePace stated that he doesn't mind having the 2 kitchens because it has been there so long. He stated that he doesn't mind the size of the buildings but would rather see one expanded and leave the other alone. He also wouldn't mind seeing the summer house moved back. Jason Saris stated that he has concerns that the less compliant house is expanding its non-compliance.

Zandy Gabriels stated that he has concerns with segregating the variance requests because it may impact getting a better septic system on the property.

## **RESOLUTION**

**Motion by** John Michaels to table application V13-16 pending further information. **Seconded by** Tony DePace **All in Favor. Motion Carried.**

4. **13-01 F.R. SMITH & SONS.** Represented by Chris Gabriels. For the construction of three commercial boat storage buildings, seeks area variance for 1) **Deficient setbacks.** **Front:** 200' is required from Edgecomb Pond Road. Building A-1: 50' is proposed. Building A-2: 155' is proposed. Building B: 150' is proposed. **Side:** 60' is required. Building B: 50' is proposed. **Shoreline:** 200' is required. Building A-1: 165' is proposed. Building A-2: 62' is proposed. Building B: 55' is proposed. **Length:** 120' is allowed. 122' is proposed for Buildings A-1 & A-2 and 162' is proposed for Building B. Section 171.00, Block 1, Lot 10, Zones **RR5** and LC45. Subject to PB, LGPC, WCPS, DEC and APA review. *Notes: See SPR87-08 approved by the PB on 4/30/87 for commercial boat storage. Site Plan Review is required but has not yet been applied for. Wetlands exist on this parcel. \*\*\*This item was tabled at the Feb. 2013, meeting.\*\*\**

Chris Gabriels stated that this received review and conceptual approval from the ZBA previously. Topo and stormwater have been completed and there are no additional requests for variances.

John Michaels asked if the Town engineer reviewed this. Pam Kenyon replied that it is currently under review.

Tom Jarrett reviewed the stormwater. The site will be managing stormwater from all 4 buildings. Stormwater will be managed in between the buildings as well as under the 3 new buildings. Each building footprint is being managed under the building in the stone layer. The aisles will be managed with trench systems.

Tom Jarrett stated that they are outside the 100' setback from the stream as well as compliant vertical separation. They meet DEC and Town of Bolton standards for the entire development for up to a 2 year storm. Beyond the 2 year storm they meet DEC and Town standards for volume but the rate of run-off for more severe storms is higher as opposed to a virgin site. The proposed new development meets all the standards.

John Michaels asked if someone will be looking at the grading plan. Pam Kenyon replied yes Tom Nace. Tom Jarrett gave further details on the grading. John Michaels stated that he would prefer that Tom Nace sign off on this first. Tom Jarrett stated that they do not need any variances for the stormwater and would like to continue review of the project.

Don King asked if this is a balanced site. Tom Jarrett replied they got very close but it is not quite balanced. He stated that it is a balance going out.

Jason Saris stated that last time the Board wanted the applicant show that the stormwater could work and they have done so. Jeff Anthony agreed.

Chris Navitsky, Lake George Waterkeeper stated that they appreciate the additional information requested by the Board and provided by the applicant. However they still have concerns about the shoreline variance and the encroachment into the stream corridor. They feel that there are alternatives that should be considered to reduce the shoreline setback. The applicants could possibly move the buildings closer to the west which would take the buildings

off the steep bank or connect it to an existing building which would eliminate the grading and clearing on the steep slope. Regarding stormwater, Chris Navitsky stated that they are not as comfortable with stormwater going under the driving surface because of compaction which will impact stormwater. Additionally they also suggested increasing plantings on the hillside.

There was no correspondence.

Tom Jarrett noted that the setbacks listed on the agenda are the original setbacks which they have improved upon. Counsel Muller asked Tom Jarrett to correct the agenda. The applicant has a plan that can be approved but the measurements really need to be resubmitted to the planning office. Jason Saris stated that all of the setbacks are as stated or improved. Tom Jarrett added that he believes one variance has actually been eliminated.

## **RESOLUTION**

The Zoning Board of Appeals received an application from (V) 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# 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,

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 Don King, it is hereby resolved that the ZBA does hereby approve the variance request with the following conditions; 1) the stormwater plan is to be approved by the Planning Board and 2) the downhill side of the

slope between the stream and the 2 shelters furthest from the road is to be replanted with natural vegetation. **All in Favor. Motion Carried.**

Minutes respectfully submitted by Kristen MacEwan  
Meeting adjourned at 10:00 am