

**Town of Bolton  
ZONING BOARD OF APPEALS  
MINUTES  
Tuesday, November 19, 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, John Famosi, Donald King, Matt Slaughter, Jeff Anthony, Tony DePace and Counsel Michael Muller

**Absent:** John Michaels and David Ray

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

Jason Saris asked if there were any corrections or changes to the October 15, 2013 minutes.

**RESOLUTION:**

**Motion by Don King** to approve the October 15, 2013 minutes as presented. **Seconded by John Famosi. All in Favor. Motion Carried.**

Jason Saris informed the applicants that there would not be a full Board and anyone wishing to table their application could do so now.

**1. V13-01 F.R. SMITH & SONS.** Represented by Chris Gabriels. For the construction of three additional commercial boat storage buildings, seek to amend V13-01 to include an area variance for Density: 20 acres is required. 4.92 acres exist. Section 171.00, Block 1, Lot 10, Zones RR5 and LC45. Subject to PB, LGPC, WCPS, DEC and APA review.  
NOTES: This item was tabled at the October meeting. See approvals granted on May 14, 2013 for deficient setbacks and lengths as follows: For the construction of three commercial boat storage buildings, seek 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. See SPR87-08 approved by the PB on 4/30/87 for commercial boat storage.

**\*\*\*\*\*THIS ITEM HAS BEEN TABLED UNTIL THE DECEMBER 2013 MEETING\*\*\*\*\***

**2. V13-37 KUBIKIAN, ARTHUR & LOUISA.** Represented by Mark Boucher. To alter non-conforming single family dwelling, specifically to replace existing deck with an 8'x 23' dining area, new staircase to second floor and basement, seek area variance for 1) deficient setbacks. Front: 30' is required, 17' is proposed. Side: A total of 20' is required, 15' is proposed; and 2) To alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 171.19, Block 2, Lot 34, Zone GB5000. Property Location: 2

Anchorage Road. Subject to WCPS review. **Note: This item was tabled at the October meeting.**

Mark Boucher explained that they had tabled this item last month to make a decision as to whether or not they wanted to include a basement with this project.

Jason Saris asked if he had submitted anything new. Mr. Boucher replied yes, a second set of drawings showing a basement and the front wall being moved out to an 8' x 24' foundation.

Don King inquired if the November 11, 2013 plan was the newest plan and if Mr. Boucher would explain the changes. Mr. Boucher replied that the new plan shows the basement addition that he had talked about with the Board last month. Don King asked if there would be any rooms in the new basement or if anything had changed in the old one. Mr. Boucher replied no.

Jeff Anthony asked if there was a HOA and if so, had they approved of these plans. Mr. Boucher replied that as far as he knew, it had been approved.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Arthur & Louisa Kubikian (V13-37) 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; This is a very restrictive area and they are making a modest adjustment to the structure.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, the addition is in the back and not seen by the neighbors. This project is consistent with adjoining properties.
- 3) The request is not substantial; Although it presents a modest footprint, it is modest in size and adequate for the property.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; They are removing a deck and adding a modest addition to a well screened property.
- 5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is an older non-conforming structure, due to the changes in the code.

Jeff Anthony asked that minor stormwater be part of the condition of approval.

Now, upon motion duly made by Don King and seconded by Jeff Anthony, it is resolved that the ZBA does hereby approve the variance request as presented with the following condition:

1) minor stormwater be implemented to this project. **All in Favor. Motion Carried.**

**3. V13-41 SMITH, REBECCA.** Represented by Kenneth Martin, PE. To alter non-conforming single family dwelling, specifically to construct an exterior access to the mechanical room from the west patio deck which will also provide a location for an emergency generator hidden by the stairs and the retaining wall and to add a proposed shade device, seeks area variance for 1) a deficient front yard setback. 75' is required, 53' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57B(1)(b). Section 155.00, Block 1, Lot 43, Zone RL3 & LC25. Property Location: 606 Edgecomb Pond Road.

Kenneth Martin explained that the applicant was looking for:

- Access way from an existing first floor down to a new mechanical room under the deck.
- They are using a steel stair that will match the existing rail around the deck.
- This is on the back side of the house which is not very visible.
- The generator will be moved from the front to the back side of the house.

Jason asked what a shade device was. Mr. Martin stated he was not sure, it was part of the original variance and he was not involved with it. Don King asked why it had been included in these plans. Mr. Martin stated that he did not include it with his variance request and was not sure why it was there. Don King asked if they were panels or screens that went over the windows. Mr. Martin stated he was really not sure. Pamela Kenyon stated she had added it because the plans had said proposed shade device. Mr. Martin stated that it was part of the original approvals of variance V12-05 and he was not sure about it. Jason Saris asked if it was approved in 2005 would it still be current if it had not been installed. Pamela replied that they were still working on that project so it was in fact still valid.

Don King stated that the plans show new canopy. Mr. Martin replied that they should not have been on his plans. Jason Saris stated if they had already received the variance and started the project they would not need any approvals for the shade device. Pamela Kenyon asked the Board to include the shade device to make sure everything was covered.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Rebecca Smith (V13-41) 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; This is the best place for an entrance.
  - 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; The building has been there for many years.
  - 5) The alleged difficulty is not self-created; the applicants have accommodated our requests.
- The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This will not affect the neighbors.

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. **All in Favor. Motion Carried.**

**4. V13-43 KUDLACK, RICHARD.** Represented by Hutchins Engineering. For the construction of a proposed single family dwelling, seeks area variance for a deficient 1) shoreline setback. 75' is required, 53.2' is proposed. 2) Height. 35' is allowed. 38' is proposed. Section 141.00, Block 1, Lot 3.11, Zone RL3 & LC25. Property Location: 5879 Lake Shore Drive. Subject to WCPS and APA review. Subject to SEQR.

Richard Kudlack stated:

- He is looking for 2 variances.
- This is for his personal residence.
- It is a project he started 9 years ago.
- He has built 3 structures on the property.
- He will be tearing down 4 existing structures down on the property.
- He will be building the house in the same location where there is an existing barn.
- The house will be located where it will fit well with existing driveways already in place.
- The existing barn is 52.8'. from the stream, and he is proposing to build the home 53 ft. from the stream.
- He has already done perc tests.
- The other setbacks are more than sufficient.
- Everything drains away from the stream.
- He has an existing stone wall that is about 150'. long and 5'. high which is a great stormwater control, because it is 4' thick with shot rock and crushed stone on a 2 ft. gravel base.

Tony DePace asked if the existing barn had a sewer system or bathroom in it. Mr. Kudlack replied no, but that it did have an existing basement.

Mr. Kudlack explained that the second variance he was looking for was for a ridge height and he stated the following:

The proposed house has a garage below grade on 3 sides.

He is building a post and beam home and he would like to put solar panels on the roof.

In order to do this he needs a 10 on 12 pitch, and this would bring him up to 38 ft. for the ridge height as opposed to the 35'.

The chimney will be at or below 40'.

The 3 feet is critical to allow him to put on the solar panels.

Tony DePace asked what the height of the existing barn was. Lucas Dobey of Hutchins Engineering replied 32' to 35'.

Matthew Slaughter asked what Mr. Kudlack's objection to using dormers was. Mr. Kudlack that he would not be able to use his solar panels if he had dormers.

Jason Saris stated that Mr. Kudlack had a steep grade behind the proposed structure, and due to the APA review, they would have to determine the practical difficulty in meeting the setback. Mr. Kudlack replied that he had already received an APA permit on this and they had limited him to building in areas that were already developed. He has two open spots and he is approved to replace the farm house and is allowed a 4500 sq. ft. footprint that he would not be coming close to. Jason Saris said when he was at the site, it looked like the most practical site to him and he did not see any impact on the stream. Jason Saris stated that it should blend nicely with the ridgeline. Jeff Anthony stated that he agreed with Jason Saris and that it was a good practical reuse of the property and a practical proposal.

Letter from the Lake George Waterkeeper was read into the record.

Pamela Kenyon inquired if the structure was built, what would happen to the existing residence. Mr. Kudlack stated that it would be torn down.

Attorney John Lapper stated that the practical difficulty was that it was not possible to move, and that nothing would impact the stream on this site.

Jason Saris stated that he saw no signs of water issues with the existing structures when he was on the site and if there were problems with runoff and stormwater there would have been evidence of it.

Town Counsel, Michael Muller read the SEQR form into the record.

Name of Action or Project: Northwest Bay Farm – New Building

Project Location: 5879 Lakeshore Drive – Town of Bolton

Brief Description of Proposed Action: To construct a 3 bedroom carriage house over the area of an existing barn

Motion by Jeff Anthony to declare the Bolton Zoning Board of Appeals as lead agency for V13-43. Seconded by Tony DePace. All in Favor. Motion Carried.

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? No
2. Will the proposed action result in a change in the use or intensity of use of land? No
3. Will the proposed action impair the character or quality of the existing community? No
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? No
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? No
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? No, it improves it.
7. Will the proposed action impact existing:
  - a. public / private water supplies? No
  - b. public / private wastewater treatment utilities? No
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? No
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, Water bodies, groundwater, air quality, flora and fauna? No
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? No
11. Will the proposed action create a hazard to environmental resources or human health? No

Now, upon motion duly made by Jeff Anthony and seconded by Don King it is resolved that the ZBA does hereby agree that there will be no significant environmental impacts. **All in Favor. Motion Carried.**

## **RESOLUTION**

The Zoning Board of Appeals received an application from Richard Kudlack (V13-43) 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 applicant evaluated the site carefully and selected a suitable location for this proposed house.

- 2) There will be no undesirable change in the neighborhood character or to nearby properties, It will improve it by removing 4 dilapidated buildings and building a new structure well within the front yard setbacks.
- 3) The request is not substantial; No, very minimal in regards to zoning.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; The stormwater has been looked at carefully and the visual impacts have been carefully considered.
- 5) The alleged difficulty is not self-created; The practical difficulty is the building is being tucked in too avoid extreme grading, it is being located in the area currently occupied by an existing barn structure and is the redevelopment of an existing site. The applicant has done a great job in reacting to the existing site conditions. 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. **All in Favor. Motion Carried.**

**5. V13-42 MOWERY, BRUCE & STARR and MOWERY, BRUCE JR.** Represented by the LA Group. For a proposed 7 Lot subdivision, seek area variance for deficient density. The allowable density in the RL3 portion of the site is 6.21 principal buildings (18.64 acres divided by 3 = 6.21). Only 0.47 principal buildings are allowed in the LC25 zone portion of the site (11.92 acres divided by 25= 0.47). Section 199.04, Block 1, Lot 11, Zone RL3 & LC25. Property Location: 442 Coolidge Hill Road. Subject to WCPS review. Subject to SEQR.

Mark Tabor of the LA Group stated that they were here tonight requesting stormwater and density variances. Pamela Kenyon informed the Board that they were not on the agenda for stormwater because they were still waiting for a sign off from Town Engineer, Tom Nace.

Mark Tabor detailed the following:

- This is a 30.5 acre parcel on Coolidge Hill Rd.
- There is an existing 2 story house on site.
- Most of the property is wooded.
- There are some wetlands on the center of the property.
- This parcel is classified in the RL3 and LC25 zones.
- The total allowable building rights between the parcels is 6.68 building rights and they are requesting a 7 lot subdivision.
- The subdivision will cut out 1 lot for the existing house and create 6 new lots.
- The lots range in size from 1.87 acres to 7.5 acres.
- Due to wetlands they decided to go to 2 driveways opposed to a cul de sac.
- Each shared driveway will service 3 lots.
- Sewer and water will be on sight.
- This is a major stormwater project and will include a SWIPPP.
- Stormwater management will be handled by rain gardens and bio retention areas.
- Most of the site will be preserved and they stayed away from the wetland buffers and steep slopes.

- The project is compatible with all the adjacent land uses.
- The soils and slopes are all conducive to development.
- The project will include all mitigation measures to minimize all potential impacts.

Jason Saris stated that the Board would not be making any decisions tonight as they were waiting for the stormwater signoff. Mark Tabor replied they were looking for the Board's input so they could make any changes before they came back for their final approvals.

Jason Saris asked if the sites would be preapproved building sites when they sold a lot. Mark Tabor replied yes, within a couple of feet.

Jason Saris asked if there would be 7 different land owners to change the building envelopes and if they were planning on selling the lots, or building the houses and then selling them.

Bruce Mowery Sr. stated that the building envelopes presented are definitely the building envelopes to be used by the new land owners to build on. Mr. Mowery stated that they would like to be the sole builders, but they may not happen. He stated that the owners would have to build within a certain amount of time.

Don King asked if they anticipated building a spec house. Mr. Mowery replied not at this time, but he would not rule it out.

Mr. Mowery stated there were only 6 lots to be built on in this 7 lot subdivision.

Letter from the Lake George Waterkeeper was read into the record.

No County Impact.

Matthew Slaughter stated that it was hard to talk about the impact on the sights without having any idea what the buildings will look like. Mr. Mowery stated that they had indicated on the plans the size of the footprint that is an allowable use on each site, and they have taken into consideration the topography on the piece of property and density is still density. He stated they have stayed away from the steep slopes and this is a minor variance for density. Mr. Mowery stated that whoever purchased the property would do so with the knowledge that they would need to build in the footprint that has been approved.

Tony DePace inquired if they should do the density variance tonight. Jason Saris stated they could, but if they did and the Town Engineer wants it reconfigured, they would have to come back again.

Jason Saris stated he thought it was a well thought out subdivision and he liked the two driveways. Tony DePace agreed.

Matthew Slaughter asked if there would be any practical difficulties in waiting for the stormwater sign off. Mark Tabor replied no.

**6. V13-44 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 (previously granted). 2) Lot coverage. 40% is allowed in the GB5000 zone and 15% is allowed in the RM1.3 zone. 0' is proposed for all (previously granted). 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' is proposed for Lot 10, 45' is proposed for Lots 9, 46' is proposed for lot 8, 50' is proposed for Lot 7 and 69' is proposed for Lot 6. 9) Front yard setback from Evergreen Lane. 50' is required in the RM1.3 zone – approximately 18' is proposed for lot 1 & approximately 40' is proposed for Lot 2. 30' is required in the GB5000 zone, 27' is proposed for Lot 1. Section 171.19, Block 1, Lot 55, Zones RM1.3 & GB5000. Property Location: 4913 Lake Shore Drive. Subject to WCPB review. Note: See SPR13-30 & SD13-09 associated with this project. Note: This is an amendment to V13-03.

Atty. John Lapper stated that the project has been fully approved. He stated that at the public hearing the Lake George Land Conservancy and the Lake George Waterkeeper had concerns with the significant blasting to be done on the site. Atty. Lapper stated that they found that they could drastically reduce the blasting by moving the buildings after doing more soil borings. Atty. Lapper explained that this would change a condition of approval.

Mark Tabor of the LA Group presented an overlay of the project.

Tony DePace asked if they were looking to push the whole project 20 ft. to the north. Mr. Tabor explained the changes. Tony DePace inquired if this is what the Board had been looking for in the beginning. Don King agreed. Atty. Lapper replied that it turned out that this is where the majority of the rock ledge is. Jason Saris asked if they build it the new way would it still require blasting. Mark Tabor replied yes but it would be much less. Atty. Lapper replied that part of the problem was the close proximity to the Land Conservancy building. Atty. Lapper also stated that none of the stormwater changes.

Don King asked if this application was simply to make slight adjustments of the three buildings, and everything else stays the same. Jason Saris asked if this project was approved would it be going back to the Planning Board. Pamela Kenyon replied yes. Jason Saris asked if this was based on the relocation of the buildings. Atty. Lapper replied yes due to the modification of the site plan and the subdivision. Jason Saris stated he just wanted to make sure any approvals the Board gave would be seen by the Planning Board.

Matthew Slaughter asked if there would still be blasting. Mark Tabor replied yes and he detailed on the plans how it would be reduced. Matthew Slaughter asked if they could quantify the amount of blasting to be done. Mark Tabor replied that he could not it was not only the blasting but also the removal. Atty. Lapper stated that there would not be anymore site disturbance.

Tony DePace inquired about the reduction of rock by just moving the building 20 ft. Don King stated that 2 or 3 ft could reduce it 25% to 30%.

Matthew Slaughter stated that the blasting would not be done in the summer and now it would be located where the applicant had originally wanted it. Jason Saris stated his only thought that it is up to the developer to make all variance requests at a minimum, unless there was mitigating circumstances of a practical difficulty or hardship that would make it so they could not. He feels they would have so they would not have to come back again with new plans. Atty. Lapper stated the Land Conservancy had huge concerns with the proximity. Matthew Slaughter asked if they were more concerned with connection of the rock then they were of the disturbance of the blasting. Atty. Lapper replied both, but they were also concerned that the building was only 7.5 ft. away from their building. Jason Saris said that this new plan made it more compliant. Tony DePace said this new plan looks much better.

Tony DePace asked if they had discussed when the work would be done. Atty. Lapper replied yes.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Bolton Cross LLC (V13-44) 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; They have done significant investigation as to the quantity of rock to minimize the amount of blasting.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties, No, it is actually positive to the neighborhood.
- 3) The request is not substantial; It is a minor shifting of the buildings.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; Less blasting, truck traffic and excavation is better for the neighborhood.

5) The alleged difficulty is not self-created; the applicants have accommodated our requests. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. The site and the rock is pre-existing.

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) this modest change does not affect the previous SEQR and 2). All previous conditions of approval continue to apply with the exception of the condition #2 that specifically states that the 4 unit structure in the back will be adjusted to the east by a full unit width of 24 ft. to reduce the overall variance request. Jeff Anthony abstained. All others in Favor. Motion Carried.

**7. DANIGER, DANIEL.** In accordance with Section 200-72 of the zoning ordinance, seeks to appeal the Zoning Administrator's interpretation whereby determining that no violation exists on the subject parcel as it pertains to the residential use of the property. As a result, Planning Board approval for "change of use" was not required. Section 213.13, Block 1, Lot 7, Zone RCM1.3. Property Location: 75 Coolidge Hill Road.

Mr. Daniger read following letter:

Tonight I am here to appeal the decision by the Zoning Administrator dated Aug. 13, 2013. Since the current property owners purchased the property in 2004, it has seen a substantial change in residential rental use. From a two family residence with four bedrooms to a recorded property with the Assessor's and Zoning Offices as a five bedrooms with an in-law apartment compromising six bedrooms on a recorded three bedroom septic tank and field from 1993 in the Town of Bolton without a site-plan review, needing an upgrade in the septic system to meet current code. Last year when I informed the Zoning Administrator of my plans to replace our septic field to meet a four bedroom residence I was required to add a larger 1250 gal tank to meet this change, and the 75 Coolidge Hill residence is not? There have been interior renovations and modifications to the interior space to accomplish this which I believe also need a site plan review to determine if it is a two family or one family thereby increasing the useable interior space for large groups in one large residence as advertised previously as a rental and as a property for sale, stating these very accommodations. Further, there is created by the volume of traffic, a "parking area" for numerous vehicles stretching down on our property line without proper light restrictions and distances normally allowed under the zoning codes even with variances for off street parking, without a site plan review. This is the current circumstance.

This change in use has been accompanied with numerous noise and traffic issues with increased traffic, amplified music and crowd noise prohibited in the Town of Bolton Ordinance #22. This as recently as August of this year resulted in a trespassing citation on one occasion and disorderly conduct citation on another being issued on our behalf. I filed a total of four New York State affidavits with supporting law enforcement records to the Bolton Zoning Office under this Ordinance and its statutes seeking relief from these totally unacceptable circumstances. One of this Board's findings of fact in the June 19, 2012 meeting minutes is "the increased traffic at all hours through the night."

I have read the Town and Zoning minutes concerning the “events and circumstances” surrounding two other “rental” properties in the town, and the resident's concerns and complaints from the Highland Castle and Somewhere In Time neighborhoods. What my family has endured since the “closing” of “Camp Thunder” on Coolidge Hill Road last September (2012) and rolling “down the hill” is similar to in extent but even more extreme than the other resident’s concerns in their neighborhoods. The detrimental change in the residential nature of our neighborhood on Coolidge Hill prompted Mike Dier and I to request the adoption of nuisance laws in Bolton as far back as Aug. 2008 and again I asked for this relief to hold property owners accountable at the Aug 2013 meeting.

In my family's behalf, I request that this Board find the Zoning Administrator’s determination of Aug. 13. 2013 be in error with regards to the substantial change in use of the 75 Coolidge Hill Road property and “that further inquiry as to the actual use, intensity of use, impacts upon the neighborhood character, and the essential elements of the type of consideration ordinarily given to these activities in a RCM1.3 zoning district” be given through a site plan review. This use as a “transient tenancy accommodations” with “itinerant occupancies is a use that is not appropriate to protecting and preserving the character of the adjacent residences as such use constitutes a substantially negative change in the character of our neighborhood” on Coolidge Hill.

Jason Saris asked Zoning Administrator, Pamela Kenyon the basis of her determination. Pamela Kenyon replied her determination was based on the fact that it was a single family dwelling and the use has not changed so it does not require site plan review. Jason Saris asked if she was aware of any changes to the interior and if it had become a 5 bedroom residence. Pamela Kenyon replied that she was not aware of any interior inspections. Town Counsel, Michael Muller stated that this is the allegation but we have no specific knowledge that this is true. He reminded the Board that they had to be very cognizant of what their task was tonight, Mr. Daniger is proposing that this is a change of use and the Zoning Administrator disagrees. Town Counsel, Michael Muller stated that Mr. Daniger had every right to challenge this interpretation. Town Counsel, Michael Muller stated the question is if it is a residence. He stated that the Board had given an extensive opinion from the State of New York General Counsel on the genesis of what defines a family, and he believes it would be very helpful to the Board to read this thoroughly. He believes Mr. Daniger’s view is that it is transient, and if this is the case it is not allowed. Jason Saris stated that he had read this and the one thing that was a constant was the word permanent. He asked how the Town was supposed to ascertain any changes to the home. Town Counsel, Michael Muller stated this would start with a complaint to the Town Board as the Local Board of Health and this would allow the Code Enforcement Officer to investigate this with the authority of the law.

Jason Saris stated that the Board needed more information to make this determination. Town Counsel, Michael Muller replied that the Board would have to tell him what they would need to make a determination, and if he could not get it voluntarily, he would ask the Town Board for an administrative search warrant.

Jeff Anthony stated he would like to see contracts or rental agreements to better be able make a decision. Jason Saris and Don King agreed. Tony DePace asked what the chances of having a

judge sign off on a search warrant. Town Counsel, Mike Muller stated that this would be his concern and he suggests they table it for further information.

Tony DePace asked if the parking issue would be a way for the Town to investigate this issue. Town Counsel, Mike Muller said there were many opportunities to investigate, but he suggests the Board table it so he could first ask Mr. Dunn for the information. If Mr. Dunn agrees, than he would be back with the information, if not he would go before the Town Board for authority to move forward on the behalf of the Town of Bolton. Town Counsel, Mike Muller stated that they would never intrude or investigate any further without being sensitive to all the Constitutional rights. Town Counsel, Mike Muller explained to Tony DePace that a Judge would probably sign an administrative warrant, if it was properly presented to the Court and Bolton has done this before.

Jason Saris stated he was very sympathetic to his plight, but they may not be the correct Board to address all of Mr. Daniger's concerns. If the neighbors are in violation of a zoning code, the Board would be able to act. Mr. Daniger stated it was now a 5 bedroom house and the septic would be different. Jason Saris stated that the Board would not have authority over anything that was not in violation of the zoning code. Town Counsel, Mike Muller stated that the Town of Bolton does not limit the amount of bedrooms by virtue of zoning code, although it could have concerns in the septic ordinance. He stated that you did not have to be an owner to have it be occupied by residents, and you don't have a limitation on bedrooms in a residence.

Matthew Slaughter asked if the Dunn's were provided with notice of tonight's meeting. Zoning Administrator, Pamela Kenyon replied yes. Mr. Dunn stated that he was present.

Town Counsel, Mike Muller stated that before the Board made a decision, they would require more facts as they could only make this determination based upon rational information. He suggested they table this item so he could collect more facts.

Now, upon motion duly made by Jeff Anthony and seconded by Matthew Slaughter, it is resolved that the ZBA does hereby table the appeal as presented to allow Town Counsel, Michael Muller to obtain further information for the Boards review. **All in Favor. Motion Carried.**

Mr. Dunn stated he would be happy to supply this information.

The meeting was adjourned at 8:34 pm.

Minutes respectfully submitted by Kate Persons.