

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, January 16, 2018
6:00 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: Joy Barcome, Holly Dansbury, Lorraine Lefevé, Jeff Anthony, John Whitney, Carla Cumming Jason Saris and Counsel Michael Muller

Absent: Zoning Administrator, Pamela Kenyon

The meeting was called to order at 6:00 pm.

Jason Saris asked if there were any corrections or changes to the November 14, 2017 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the November 14, 2017 minutes as presented. Seconded by, Carla Cumming. All in Favor. Motion Carried.

1. **V17-34 GRANGER, GAIL.** Represented by Rick Granger. To alter single family dwelling, specifically to add a cantilevered roof over garage doors and screen porch off rear deck with connector roof, seeks area variance for 1) Deficient Setbacks. Front: 50' is required, 43' is proposed. Side 20' is required, 10' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 1, Lot 36, Zone RL3. Property Location: 7 Heritage Lane.

Rick Granger presented the following:

- They recently bought a chalet on Heritage Lane and there are a couple of things they would like to do.
- He detailed the location of the home on his site plan.
- He pointed out the proposed additions on his site plan.
- The house is 10' off the property line.
- He depicted the proposed alterations on his plans to the Board.
- They would like a screened porch off the back of the deck.
- His neighbors have a garage blocking the view of their house making it invisible to them.

Jason Saris asked if either of the proposals would increase the existing encroachments on the setbacks. Mr. Granger replied that they would be the same or less.

Jason Saris asked if the screened porch would match the house. Mr. Granger stated they would like to.

Joy Barcome asked if the screened porch was an extension of what exists. Mr. Granger said yes it was a continuation off the back with a covered walkway. He detailed it on the plans.

Holly Dansbury asked if they had considered placing the porch closer for a lesser setback encroachment so it would not require a variance. Mr. Granger stated they had, but this is the most logical area to place it. Jason Saris stated it would still require a variance as the original building is a non-conforming structure.

Lorraine Lefevre inquired if the intention was to keep this as a screened in structure. Mr. Granger replied yes, it was on piers and would not be turned into a 4-season porch.

RESOLUTION

The Zoning Board of Appeals received an application from Gail Granger, (V17-34) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA

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.

- 1) The benefit could not be achieved by 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. This is a minor change.
- 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 self-created; They bought the house as is and it does not encroach any further into the setbacks.

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 Carla Cumming and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

2. **V17-35 JTR LAKE GEORGE, LLC.** Represented by Atty. Jon Lapper, Studio A and AJA Architecture. To alter single family dwelling (Gatehouse), specifically to add a landing/stairs, seeks area variance for a deficient front yard setback. 75' is required, 56' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 200.10, Block 1, Lot 1, Zone RM1.3. Property Location: 4376 Lake Shore Drive. Subject to WCPS review.

Jeff Anthony recused himself.

Andy Allison of AJ Architecture presented the following:

- The exterior of the gatehouse is not being physically changed with the exception of a set of stairs as a second set of egress as a safety issue.
- They come off the east side of the house toward the lake.
- This can't be seen from the lake as it is a wooded area.
- There will be a landing at the bottom of the steps.

Jason Saris asked if this was a code requirement or just a smart thing to have. Mr. Allison replied that it is a safety issue to get in and out of the building, but not a code requirement.

Jason Saris asked why this would be the best location for the placement of the steps. Mr. Allison stated they looked at the back, but it was too steep. This was the least obtrusive and worked best with the layout of the house.

Holly Dansbury asked about the changes to the driveway. Mr. Allison stated that they were improving the driveway by removing some of the existing asphalt and adding a grass landscape area. This will greatly improve the drainage of the site.

Holly Dansbury asked about the screening. Mr. Allison stated they would be using vegetative and landscaped screening.

Holly Dansbury asked about the septic. Mr. Allison stated it has an existing functioning system. They were not changing the number of bedrooms, so they were fine.

Lorraine Lefevre asked about the interior floorplan. Mr. Roth stated it had 2 floors with an apartment upstairs and an apartment downstairs. It had 2 kitchens, 2 bathrooms and 4 bedrooms combined. Lorraine Lefevre asked if the additional stairs would be going up to the 2nd story. Mr. Allison replied no, they came off the main floor level at about 3' or 4' from the ground.

Atty. Muller referenced the following letters:

Joseph DiNapoli - in favor of the project.

Susan Millington – in objection to the project.

Mr. Roth stated the letter from Ms. Millington was sour grapes and he disputed all of it. The court awarded them the sale of the property. Jason Saris asked about the environmental concerns mentioned in the letter. Mr. Roth stated they had gone through and had all the wetlands mitigated, an environmental overlay, historical impact study, done test pits and they have not found anything on the site that she describes in the letter.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from JTR Lake George LLC, (V17-35) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: It is a reasonable and minor alteration to the house.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The stairs will not be visible from neighboring properties or the road.
- 3) The request is not substantial. This is a very minor variance.
- 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; The house was purchased without a second point of egress and it is not an unreasonable request for the safety of the occupants. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by John Whitney and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

3. **V17-36 JTR LAKE GEORGE, LLC.** Represented by Atty. Jon Lapper, Studio A and AJA Architecture. For the construction of a proposed single-family dwelling/breezeway/garage to be located partially within the footprint of previous single-family dwelling, seeks area variance for 1) a deficient shoreline setback. 75' is required, 43' is proposed; and 2) Height 35' is allowed, 42' is proposed. Section 200.10, Block 1, Lot 1, Zone RM1.3. Property Location: 4376 Lake Shore Drive. Subject to WCPS review and APA review.

Jeff Anthony recused himself.

Andy Allison presented the following:

- They went through the existing house onsite.
- It had a considerable amount of structural issues, and it would be very difficult to bring it up to current NYS Building Code for energy efficiency.
- They also looked at the property to see where else they could build.

- There is a wetland area to the north.
- The archeological resources come into play to the south along with a wooded area.
- He detailed a natural water runoff in the rear of the property.
- They liked the original siting of the house on the rock.
- There is a nice view of the lake from the first floor.
- He detailed on the site plan all the different areas they looked at to relocate and decided to keep it right where it is.
- They would have to wipe out a bunch of trees and encroach on the neighbors if they moved the building to the south which is not logical.
- They did not want to move toward the road and lose the view of the lake and encroach on the natural water runoff.
- North of the original site has wetlands.
- They decided to stay within the original footprint with a smaller house, than what is currently there.
- He depicted the proposed house on the plans.
- They are not encroaching on the setback.
- The porch on the north is also in the existing footprint.
- They are within or behind the existing footprint with the house.
- The proposed home is 5' lower than what currently exists.
- The new proposed garage area is within the setbacks.
- The porch to the north is also within the existing footprint.
- Everything will be dark sky compliant.
- They will be putting in a new code compliant septic system.
- The client would have been within his rights to build the house within the existing roof line, but he was committed to bring it down to 35' on the lakeside.
- The proposed gable is pulled back 2' from the lake from what presently exists.
- The total project including the garage represents a 15% - 17% increase to the square footage of the existing house alone.
- This is a relatively small increase as the client was well within his rights to rebuild the house in the same footprint with the same height, but he was committed to getting it down to 35' on the lakeside.

Holly Dansbury asked looking at the house only, what their height from the lowest to the highest point would be. Mr. Allison stated from the lakeside they were 35' to the top of the chimney, probably 32' on the lakeside. On the downhill side it was about 40'. From the lakeside they are at least 5' lower.

Mr. Allison depicted the lines of the new and existing roof on the plans. All the roof lines were below the 35' on the lakeside.

Jason Saris asked if they were to build this house without the garage how tall would it be. Mr. Allison replied 35' from the lakeside and 42' from the lowest point on the front side. He stated the existing house was 47'. He depicted these heights on his plans to the Board.

Lorraine Lefevre asked if the Zoning Administrator had been to the site and approved these plans. Atty. Muller stated she had been to the site and had reviewed the project enough to send it to the Board for them to make a determination on a needed variance.

Lorraine Lefevre stated the house was demolished and blocked off when she went to look at it.

John Whitney stated that height requirements have a special status with the town, especially on the lake.

Jason Saris stated that he is struggling with why they can't design a house that is more compliant with the height variance. The Board's criteria for granting a variance is about the property and he needs some viable reasons as to why they can't stay within the height requirements. The Board does very few height variances.

John Whitney asked if the house would require a variance if the attached breezeway was not there and the house was within the current footprint. Jason Saris stated they were not building the same house. John Whitney asked why they would need one if the height of the house was less than what previously existed. Atty. Muller stated this would need to be an interpretation by the Zoning Administrator.

Atty. John Wright stated that the most important alternative is that the applicant could have and can still build what was previously there. From the lakeside, building exactly what was there, is 5' taller than what is proposed. One of the feasible alternatives and the easiest route is to build what was there, but it would be less conscientious as a property development. This plan is to lower the height of the roof from the lakeside. This is a feasible alternative. They have considered many feasible alternatives for both the location and the height of the building. This plan as a whole provides the applicant with the benefit that he seeks with a residence near the lake while mitigating any adverse effects to the neighborhood. He asked the Board to look at what could have remained and what is being proposed.

Jason Saris said with all that said, they are talking about what they are proposing, not what they could have done. He wanted to know why it needed to be so tall. It will still be a desirable house that they could make a good profit on at 35'. Mr. Roth stated that he wanted to correct the Board's perception that this was a home that would be sold for profit. He stated that he was building it to live in, not sell it. Jason Saris stated the criteria of the Board is that they need to know why they can't be more compliant. Mr. Allison stated that the only reason that it is 42' on the backside of the house is because they need to get the house down to existing grade. They would love to flatten the site out, but that would not be the right thing to do for a stormwater prospective or for the lake. That is the same reason the existing house was 47' tall. The rock outcropping comes out and drops down. If they brought the house forward, they would encroach more on the lake. If they moved it back they would lose their view and impede the natural water runoff. If they moved to the south they would need to remove all the trees and deal with the archeological issue. If they moved north it would encroach on the wetlands. This was not the right thing to do for the site or the neighborhood, so they came back to the existing site. This is the right place to do it with the minimum impact to the entire site. They are trying to shorten the existing house.

John Whitney said none of that addressed the question as to why isn't there a 35' solution. There is no doubt that they could build a two-story house. Mr. Allison said that this was plan was the least impact that could be done on this site. Holly Dansbury stated that there are lots of homes built on ledge rock that are able to meet the 35' height requirement. She can't understand why they could not move it back. Mr. Allison stated that they would not have a view from the main floor of the house if they did this. He depicted the view on the plans if they pulled the house back. Jason Saris asked how much higher the rock was from the first floor. Mr. Allison stated that the ground floor and the rock were even now. Jason Saris asked if that was the level they were going up 35' from on the lakeside. Mr. Allison stated this was correct. Jason Saris asked if they could bring this down some. This should be able to be achieved. Mr. Roth asked if they were looking for him to lower even more than he already had. Jason Saris stated the Board is looking for the least amount of impact for a variance.

Mr. Allison told the Board he needed to make a correction, he had actually been calculating to the top to the chimney and not the ridgeline. Atty. Muller stated that the Zoning Administrator calculated it to the ridge. Mr. Allison said that this made the lakeside height 32'. He supposes they could shrink it down a little more, but too much would make the house look weird, and not be in character with the other homes on the lake. Holly Dansbury stated she had a hard time believing it could not be done. They can stretch the house out longer. Mr. Allison stated if this is what the Board decided, the client would probably just come back and rebuild exactly what had been there. The intention of the project is not for them to build a single-story house where a two-story house previously existed.

John Roth stated he does not need a variance if he took off the breeze way, and he did not need a variance if he made the house as tall as the existing house was. This does not make sense to him, he is trying to make the house smaller and make it fit in better with the community. He does not understand the argument. Jason Saris explained that the ordinance asks that you build something completely compliant. Sometimes that is not practical, he knows they can build what is there (which was built before the ordinance), but they are trying to strike the best compromise that they can for the town. They are trying to work with him and get something that is as close to the town's ordinance. What is the minimum that is needed to achieve the benefit to them. Mr. Roth said he understood this, but he thought when they laid this plan out that they were trying to make it smaller and giving the town a better scenario to match the ordinance. Jason Saris stated he believes that members of the Board would agree with that, but they are looking to see if it can be any better.

Mr. Allison stated that they had looked at scenarios to bring sleeping areas down to first level, but it stretches the house making it a greater impact to the site. They felt staying within the footprint was more within the nature of the zoning than spreading out the footprint. The client bought a great big house on the lake and wants to reduce the size of it. Mr. Roth stated they could make it less, but it would not be within the required 35' on the backside. Jason Saris stated it would not be compliant, but it would be much better and in spirit with the ordinance. Mr. Allison said if they dropped the house it would be at 37' not 35'. Jason Saris stated he understands they might not be able to be completely compliant, but they like to see that they

have tried everything possible to make it compliant or to see what really is the minimum height required.

The applicants discussed changing the peak amongst themselves. They offered to lower the main ridge of the house to 37' and lowered the lakeside to 29'.

Holly Dansbury stated she would prefer the height to be 35' and have them spread the house out. Atty. Wright stated that spreading it out made it less aesthetically pleasing from the lake was not the intention of the client. The architect had taken the Board through all the many other alternatives they had considered and told them why they were not feasible. What the town is getting in this design is a peak that is much, much smaller than what previously existed. They are talking about a 2' height variance now. John Whitney asked if the APA had a height requirement. Jason Saris stated the Town of Bolton was 35' but the APA had a taller height requirement. Jason Saris asked what the practical difficulty was for the lakefront setback. Atty. Wright stated that they are not increasing any of the non-conformity of the lakefront setback and as of right they could build a larger taller building. They stand by their application that will be presented to the APA.

John Whitney stated he believes they are making a substantial revision to their request. There are unique features to the property and he believes it is a reasonable change.

Jason Saris stated he was comfortable with the amended application of a maximum 37' height on the backside, given the 12' difference in grade.

Atty. Muller referenced the previously discussed correspondence:
Joseph DiNapoli - in favor of the project.
Susan Millington – in objection to the project.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from JTR Lake George LLC, (V17-36) 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:

John Whitney made a motion recommending approval of the amended requested variance, with the proposed shoreline setback being unchanged from the pre-existing. They are rebuilding a smaller structure in the same footprint. The height variance request was originally for 42' and after deliberations tonight the applicant has amended his request to a height variance of 37' at the backside. This is only a 2' height variance.

The application of the applicant is as described in Item #3 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The applicant spoke extensively about not wanting to do any of the following: encroaching on the wetlands, cutting of trees to the south, or encroaching further into the lakeshore setback. The topography of the land is very difficult to design a compliant property in terms of the total height restriction in order to have a view.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be substantially more compliant than the previously existing structure.
- 3) The request is not substantial. The original request was substantial but the reduction to a 2' height variance request is not as substantial.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are doing a lot of corrective measures for positive things for the lake. This will definitely not be a negative impact.
- 5) The alleged difficulty is self-created; It is a designed building that is more compliant than the current structure so in weighing all the factors he recommends approval of the amended request.
- 6) The practical difficulty for the shoreline setback is that it is a pre-existing, non-conforming setback. The height falls within the APA regulations.
The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community. This is a pre-existing

Now, upon motion duly made by John Whitney and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby approve the amended variance request as presented with a height variance of 37' as opposed to the originally requested 42'. Holly Dansbury and Lorraine Lefevre opposed. **All others in favor. Motion Carried.**

The meeting was adjourned at 7:38pm

Minutes respectfully submitted by Kate Persons