

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, May 15, 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, Jason Saris, John Whitney, Lorraine Lefevre, Carla Cumming, Jeff Anthony, Zoning Administrator, Pamela Kenyon and Counsel Michael Muller

Absent:

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

Jason Saris asked if there were any corrections or changes to the April 17, 2018 minutes.

RESOLUTION:

Motion by Holly Dansbury to approve the April 17, 2018 minutes as presented. Seconded by, Joy Barcome. All in Favor. Motion Carried.

1. **V18-08 ABEEL, JOHN & SANDRA.** Represented by Curtis Dybas. To alter single family dwelling, specifically to add 4' to the rear of the structure resulting in a 173 sq. ft. addition to the living space and reduction of the screened porch and exterior decks by 52 sq. ft. Seek area variance for 1) a deficient front yard setback. 20' is required, 15'6" is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.11, Block 1, Lot 34, Zone RL3. Property Location: 61 Woodland Ridge.

Curtis Dybas presented the following:

- They purchased the property in October 2017.
- It was built in the early 80's.
- The rear yard setback is not in conformance.
- There were no railings on the deck when they bought the property, so they threw up a quick make shift railing, so they could insure the home.
- It is a modest size house of 1,543 sq. ft.
- They are trying to keep the setback encroachment to a minimum.
- This is a difficult site.
- The house was a rental before they purchased it and there is a lot of disrepair.
- They are also going to re-side the entire house.
- They are not increasing the height at all.

Jason Saris asked if they planned on changing the outside lighting. Mr. Dybas stated it will be updated to the dark sky compliant lighting.

Carla Cumming said after viewing the property, she was glad Mr. Dybas explained the decks and railings and told them that they were being replaced. Mr. Dybas stated they are planning on replacing all the decks and railings.

Holly Dansbury asked what type of siding and colors they would be using. Mr. Dybas said it will be an earth tone colored, painted siding and not vinyl on the entire house.

Jason Saris asked if they had any discussions with any of the neighboring property owners. Mr. Dybas stated they had not seen anyone around.

Bob Fellema stated he was the president of the Woodland Ridge Association and he would like a copy of the plans and as long as they comply with the bylaws, he does not see a problem with this expansion/renovation.

RESOLUTION

The Zoning Board of Appeals received an application from John & Sandra Abeel, (V18-08) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: They are updating the entire structure and they could not achieve the desired benefit by another means.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. This is minor variance request and they were very respectful of the setbacks.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will improve the environmental conditions.
- 5) The alleged difficulty is self-created; The house was non-conforming when purchased and they are opting to improve the house, but in weighing all the factors it supports recommendation to accept the variance.

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

Now, upon motion duly made by John Whitney and **Seconded by**, Carla Cumming it is resolved that the ZBA does hereby approve the variance request as presented with the

following conditions 1) All lighting is downward shielded and dark sky compliant. 2) The siding is to be earth tones. **All in favor. Motion Carried.**

2. **V18-04 BAILLIE, WILLIAM.** To alter single family dwelling, specifically to replace and enlarge front and back porches and add a second story dormer, seeks area variance for 1) a deficient front yard setback. 30' is required, 19.5' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 3, Lot 34, Zone GB5000. Property Location: 7 Sagamore Road. Subject to WCPS review.

Carol Newell stated she was here to answer some questions, but she did not know much about the project.

- She is a tenant at this location.
- This is a 3-season 14' x 14' back porch and a bigger front porch.
- They will be keeping the columns.
- She does not know anything about the dormer.

Zoning Administrator, Pamela Kenyon stated that Mr. Baillie plans on adding a dormer and expanding the front and back porches.

Jason Saris suggested they make a motion to table the application, until someone who has been advised of the project, can present it and answer any of the Board's questions.

Now, upon motion duly made by Holly Dansbury and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby table the variance request for someone with knowledge of the project to present it to the Board. **All in favor. Motion Carried.**

3. **V18-09 BAUMANN, BRIAN.** Represented by Timothy Wade. To alter single family dwelling, specifically to convert an open deck into a screened porch, seeks area variance for 1) a deficient side yard setback. 20' is required, 19' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 156.00, Block 2, Lot 9, Zone RM1.3. Property Location: 116 Federal Hill Road. Subject to WCPS review.

Brian Baumann presented the following:

- He has owned the house for about 10 years.
- He would like to put a screened in porch on the existing deck on the back of the house.
- The deck abuts the Kimak property.
- He spoke with the neighbor and they do not seem to have any problems with this project.

Jason Saris asked if there were any future plans to expand the home. Mr. Baumann replied that there were not.

John Whitney stated that if the stairs were moved to the side they would not be encroaching on the setback anymore. Mr. Baumann stated this was not an issue, and he could easily do this.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Brian Baumann, (V18-09) for an area variance as described above.

And, due to notice of the Public Hearing of the ZBA at which time the application was to be considered having been given and the application having been referred to the Warren County Planning Staff;

And, whereas the Warren County Planning Staff determined that there was no County impact; And, after reviewing the application and supporting documents of the same, and public comment being heard regarding the application; this Board makes the following findings of fact:

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

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: It is not adding any additional variance to a pre-existing non-conforming structure.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial, It is a small screened in area on an existing deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This is a small screened in porch.
- 5) The alleged difficulty is not self-created; The house was non-conforming when purchased like this.

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**, Carla Cumming it is resolved that the ZBA does hereby approve the variance request as presented with the condition that the stairs are relocated to the east side of the deck to fit within the setbacks. **All in favor. Motion Carried.**

4. **V18-10 FOY SR., EDWARD.** Represented by Gary Hughes. To connect two structures (Cate's Italian Garden and Cate's famous pizza) with an 815 sq. ft. addition and replace existing porch and awning with 1,527 sq. ft. of porches and decks, seeks area variance for the following: **Lot 90** - Deficient setbacks. Front: 30' is required. 4' is proposed to 9N and 2'8" is proposed to Congers Point Way. Side: A total of the 20' is required. 0' is proposed on the south side. Lot Coverage. 40% allowed. 56.9% proposed. **Lot 91** - Deficient setbacks. Side: 8' is required. 0' is proposed on the north side. Parking. 90 combined parking spaces are required. 17 spaces exist. 7 additional spaces required. Section 171.15, Block 3, Lots 90 & 91, Zone GB5000. Two separate parcels exist. Property Location: 4948 and 4950 Lake Shore Drive. Subject to WCPS review. See SPR18-07 associated with this project.

Gary Hughes presented the following:

- He pointed out the existing buildings and stated they are proposing to connect the two buildings.
- He detailed the proposed plans to the Board.
- They will try to save the trees in the green area, if not they will replace them.
- They will also have 2 decks upstairs.

Jason Saris said that if they merged the lots, many of the variances should go away. Mr. Hughes stated this is correct. Jason Saris asked why they don't merge them. Mr. Foy stated that he had not thought about merging the lots. There were many stipulations on the previous owner. At the time of purchase, he did not know if he was going to merge all 4 buildings or separate them. He is sure he would not be allowed to ever unmerge them by the Boards if he joins them. Jason Saris stated that Mr. Foy is making quite a commitment and questioned who would buy the lot when it is has permanently attached structures on the 2 lots. Mr. Foy said to be perfectly honest it would probably all go at once, or he would take down the structure. The point of this is to move the bar and allow better movement, grab more kitchen space and move the bathrooms over. Jason Saris stated he gets the practicality of it all. Mr. Hughes said it would have to be sold as 1 lot. Jason Saris said if it was merged it would be 1 lot and would not need a boat load of variances. Mr. Hughes said that was correct. Mr. Foy said he understood this and said his plan had originally been to build a 40-room motel there. He does not want to separate the properties as they are 2 different properties with 4 structures.

Mr. Foy stated that the outside patio has a leaky awning and they want to put up a permanent structure like other establishments in town have. They want to bring this out 2' to 3' further toward the sidewalk. The roof will be no different than the existing awning, with the exception of being a little longer. The entry will come out more. The apartments upstairs will have a small deck on each side which will give them the opportunity to sit outside and watch the world go by. This will do amazingly nice things to the building and give it nice lines. The stone will be dry stone and not cemented. The north side of the building will not protrude any further than it is right now. They will keep working to stop people from parking and blocking Congers Point. Stormwater management will be worked out with the Waterkeeper. He could care less if they don't want him to connect the buildings in the front, he can use the outside. The most important thing to them is to get more kitchen space, move the bathrooms over and extend the bar, this is really the whole philosophy behind this. Mr. Hughes stated this will create a more efficient flow for the business and allow the kitchen to handle the additional tables. Mr. Foy explained what his thoughts were for the stormwater runoff. Mr. Hughes detailed some of the possible ways to handle the stormwater. Jason Saris stated that as far as stormwater goes with this Board, if they satisfy the Zoning Administrator, they satisfy the Board. He explained that this Board does not administer stormwater.

Holly Dansbury asked what he meant about attaching the building. Mr. Foy showed her on the plans where he could push back the attachment of the buildings in the front. He does not want to do this, but he could. He needs to get the bar away from the kitchen.

Holly Dansbury stated she is not a fan of the decks above. John Whitney stated he had concerns about them too. Mr. Foy stated that if he and Cate moved into the apartment, they could sit up there and enjoy Main Street. John Whitney stated they seemed like a recipe for disaster. Holly Dansbury stated she could envision people hanging out all over up there. She asked if they could do it in the center. She asked if they needed to do a flat roof because of the decks. Mr. Hughes stated they would need to maintain an egress for the apartments, so it would still be the very slightly pitched roof they proposed.

Jason Saris asked if they planned on enclosing the area where the awning was. Mr. Foy stated they would be using the side curtains, as far as closing it in, to be honest, he has too much business now and he has no desire to close it in.

John Whitney asked if the café extended any further south than it is. Mr. Foy said no. John Whitney asked if he could take the 3 separate structures out front and split them into 2 lots with a lot line adjustment instead of merging the 2 parcels. Mr. Foy stated this is money he does not want to spend at this time to pay an attorney, and he does not see any purpose in doing it, to just get rid of a couple of variances. To separate it does not make any sense to him at this time. If he sells it, it will either go to the tenants or it will go as 1 big parcel. When they get this project done, there is nothing else they will be doing at Cate's except a new floor inside and things like that. He said another reason he would like the balcony's so that he and his wife can eventually either move in the apartments over the restaurant or the house in the rear as they are going to sell their house on Mohican.

John Whitney stated the decks bother him. Holly Dansbury agreed. Jason Saris stated the decks don't bother him and he likes the hard roof as opposed to the awning. He said he has no problem with the project. He said this is an odd situation, usually when people come in, they don't own the property that they are encroaching on. Mr. Foy is encroaching on his own setbacks as he owns the neighboring property. How can the benefit desired be achieved by other feasible means? A lot of the variances can be relieved by merging the properties. Mr. Hughes stated if it is sold it will have to go as one whole project. Jason Saris stated he agreed, so why not merge it and have it become a much more compliant project. The building has been there a long time and they want Mr. Foy to get the benefit he is looking for and be as compliant as possible. Mr. Foy stated he did not know what he is going to do with the rest of the block. This is a question to he would have ask his attorneys and it will be expensive. When he did the town house project down the street, he spent all this money trying to get access to the back side, so the banks would buy them. He spent a fortune, which he has not paid yet, because he never got the final approval. This would cost thousands and thousands of dollars for something that can be done down the road and he does not want to spend that kind of money on this. Atty. Muller stated there would not be a huge cost by going to the assessor and having her merge them. Mr. Foy stated they would need to be resurveyed. Atty. Muller stated a survey would not be required. Mr. Foy stated he did not want to separate it.

Chris Navitsky, LG Waterkeeper stated the following:

- They are not opposed to the variance request.
- Their recommendation is to take this opportunity to reduce stormwater runoff.
- Working in any improvements to this project for stormwater management would be a

benefit.

- They would be glad to work with the applicant to achieve this.

John Whitney stated that the size of the decks was a concern. He asked what the size was. Mr. Hughes said they were all the way 13' 4" side to side. Holly Dansbury asked if there were any alternatives. Mr. Hughes said he is getting the feeling that the concern is that too many people will be hanging out on the decks. One solution is to cut it down to 6' x 12' and make it a deck for 2 or 4 people. Holly Dansbury stated she was not comfortable with this either. Mr. Foy stated it was aesthetically pleasing and makes the deck look nicer. Also, if you are up here on vacation, you would like to sit on a deck and watch what's going on. Years ago, his slogan was, "Sit outside of Cate's and literally watch the global world go by" as there are people at the hotel from all over the world. He said he is fine with cutting them down, but he wants to make sure the lines with the building look good. He would like to at least be able to have 6 people on the deck. Mr. Hughes stated that the symmetry would be a concern along with the ability to get a table and chairs on it. John Whitney asked if 6' deep would be good. Mr. Hughes stated it was doable. Mr. Foy stated there were 2 large bedrooms in the apartments. John Whitney stated the decks are aggressive. Holly Dansbury agreed and said she liked what they are doing with the project, but she is not for these large decks upstairs. Mr. Foy said the real reason they are here is to improve the flow in their business and he just put a lot of money in renovating the one apartment, he will be renovating the other soon and a deck for renters would be nice. Holly Dansbury stated that he could rent them 1000 times over with or without a deck. Mr. Hughes said to be fair, the minimum he would want to do is a 6' x 12' to allow people to move around comfortably. Lorrain Lefevre stated she does not have any problem with the decks because they don't have a yard. Holly Dansbury said she did not want grills on the decks. Mr. Foy stated that could be a condition of approval. The Board discussed what items they would not like to see on the decks. Mr. Foy said 6' really limits the size of the chairs they can put on. "As long as he is alive, Main Street will be policed, he has cameras everywhere. When the State Troopers have an issue, they come to him to see what he has on camera". If he passes away tomorrow he can't answer for that, but he has been a good steward in this town for 45 years and that is not going to change. Holly Dansbury asked if they could move the deck back so they were closer to the middle of the building. Mr. Foy said they could, but it would have to be moved back on both sides. He said he has no problem with that. The Board discussed the size they would like amongst themselves. John Whitney asked if 8' x 12' would be doable. Mr. Foy stated it would.

Carla Cumming inquired about the lighting. Mr. Foy stated it would downward facing and shielded. Carla Cumming stated she wanted the lighting to be minimal for the decks.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Edward Foy Sr., (V18-10) 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.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: There is no other way to expand to achieve the benefit the applicant wants to improve the flow of the business.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. There has been a lot of thought in creating an aesthetically pleasing project that fits within the surrounding town.
 - 3) The request is not substantial, it's a in the grand scheme of things.
 - 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 want more space.
- The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Holly Dansbury and **Seconded by**, John Whitney it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions; 1) All exterior lighting is to be dark sky compliant. 2) The upper decks are to be 8' x 12' and moved in to the edge of the proposed doorways. 3) The decks are to only have patio furniture on them. 4) An acceptable stormwater plan is to be included. **All in favor. Motion Carried.**

5. **V18-11 STEVEN HORNSBY CONSULTING SERVICES.** Represented by Winchip Engineering. For the construction of a proposed single-family dwelling attached garage, seeks area variance for 1) In accordance with Section 125-10. B.2.(d) of the stormwater regulations, a 100' separation between an infiltration device and a stream is required, 64.5' is proposed. Section 171.06, Block 1, Lot 19, Zone RL3. Property Location: Horicon Valley Lane. Subject to WCPS review. See SPR18-08 associated with this project.

Holly Dansbury recused herself.

Zach Monroe of Winchip Engineering presented the following:

- They propose to construct a single-family residence on this vacant land.
- They will be crossing an existing brook along the eastern part of the property to access the land.
- The variance is for the infiltration area for all of the impervious surface on the site.
- They are bringing the retention area as far down the hill as possible to collect as much runoff from the driveway as they can.

- This puts it closer to the setback.

Jason Saris asked if the stormwater had been approved by the Town Engineer. Zoning Administrator, Pamela Kenyon stated that it had, and it also required Planning Board approval as well. Mr. Monroe stated they were in the process of getting a DEC permit for the stream crossing.

Chris Navitsky, LG Waterkeeper presented the following:

- He feels the variance setback request can be reduced by spreading the stormwater management throughout the site, such as moving it closer to the house.
- He understands and appreciates trying to catch as much as possible going down hill, but he feels the basin could be reduced.
- He questioned why a variance is not necessary for grading within 10' of a stream bank under Section 200-37.
- The application proposes 4' to 5' of fill and is a 4' culvert for the stream crossing.
- This is a designated stream by DEC and classified as AA special.
- This is one of the most impacted streams within the Lake George Watershed and disturbance should be minimized.
- All previous references to the project stated a bridge would be installed, which the APA jurisdictional letter was based on.
- He requests a determination for the need of a variance under this section as there can be significant impacts to the stream.

Jason Saris inquired about the change of plans Mr. Navitsky is referencing. Zoning Administrator, Pamela Kenyon replied that she would need to look into this before the Planning Board meeting.

Mr. Monroe stated that he missed the stream bed variance. He explained that the plans that the Board has shows a culvert. They are in the process of working with DEC and they suggested that they not use a culvert. They are now in the process of proposing a bottomless culvert which is essentially a bridge.

Mr. Monroe stated they could make the retention area skinnier and longer, but they would still be putting it in down there. He does not believe there will be a big benefit to making it smaller.

Jeff Anthony asked if they could infiltrate water at the source rather than gathering it all in one basin. Mr. Monroe stated they could look into it, he is sure they can do something, but front of the house is very steep. They would have to do a little in the back of the house.

No County Impact

RESOLUTION

Now, upon motion duly made by John Whitney and **Seconded by**, Joy Barcome it is resolved that the ZBA does hereby table the variance request as presented for more stormwater and possible variance requirements. **All in favor. Motion Carried.**

No County Impact

The meeting was adjourned at 7:38pm

Minutes respectfully submitted by Kate Persons