

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, June 19, 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 and Counsel Michael Muller

Absent: Jeff Anthony and 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 May 15, 2018 minutes.

RESOLUTION:

Motion by John Whitney to approve the May 15, 2018 minutes as presented. **Seconded by, Joy Barcome. All in Favor. Motion Carried.**

- 1. 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. This item was tabled at the May 2018 meeting.

Attorney Paul Kelly presented the following:

- The only real change is a 2' extension on the front porch.
- These are the original front and rear porches which need replacing for safety issues.
- The only aesthetic change is the 2' extension on the front.
- 19.5 is consistent with the neighborhood and the historical appearance of the structure, including the added dormer at the top, which is additional storage space.

Jason Saris asked for the reason for the extension. Atty. Kelly stated it was more of a cosmetic and structural change. He does not believe there will be any adverse impacts to the neighborhood. They would like a little more leg room and now would be the time to do it.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from William Baillie,

(V18-04) 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: This is basically to architecturally make it look better and improve the benefit to the applicant.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is consistent with the neighboring 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. They are improving the look of the porch and changing the dormers,
- 5) The alleged difficulty is self-created; This is a non-conforming, pre-existing structure. 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**, Lorrain Lefevé it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

2. **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; and 2) 200-37B(6) Grading is proposed within 10' from the top of the slope of a stream. 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. This item was tabled at the May 2018 meeting pending additional information.

Holly Dansbury recused herself.

Zach Monroe of Winchip Engineering presented the following:

- The setback between the infiltration device and the stream is actually 75' now which reads incorrect on the agenda as 64.5'.
- They reduced the setback at the Board's request.
- They provided infiltration trenches up by the house to collect some of the roof top runoff to infiltrate it closer to the source as Mr. Anthony requested, which reduced

some of the requirement for the retention area down below.

- This helped increase the setback.
- The plans now include the bottomless culvert to cross the stream.
- They have a permit from DEC for the stream crossing.
- They are asking for the variance even though this type of stream is exempt from the code.

Jason Saris asked if this new plan was reviewed by the Town Engineer, Tom Nace. Mr. Monroe stated it had been and it was approved.

John Whitney stated that it was appreciated that provisions to the plans were made based on the Board's comments at the last meeting.

RESOLUTION

The Zoning Board of Appeals received an application from Steven Hornsby Consulting Services,

(V18-11) 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: This is a challenging topography and the engineer did a nice job trying to balance all the concerns and give the applicant the benefit he seeks. There are no other feasible means to attain this request.

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. In the scheme of things anything to do with a stream is substantial but given the design there is no net adverse effect.

5) The alleged difficulty is not self-created; This is based on the topography of the land.

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

3. V18-12 FAULKNER, ERIC. Represented by Jeff O'Connor. To allow a swimming

pool, patio and retaining walls to remain in their present location, seeks area variance for a deficient front yard setback. 50' is required, 37.8' is proposed. Section 156.12, Block 1, Lot 41, Zone RCM1.3. Property Location: 45 Ridgewood Court. Subject to WCPS review.

Jeff O'Connor presented the following:

- This property was purchased 2 years ago.
- At the time they hired Adirondack Pools to put in a swimming pool.
- Last fall a survey was done and they realized that they needed setbacks for the pool and the proposed deck.

Joy Barcome asked if the pool was put in before the applicant purchased the property. Mr. O'Conner stated that the applicant had the pool put in and when they came for the deck with a new survey, they realized that the pool did not meet the setbacks.

The Board discussed their options on what how they could address this application.

Carla Cumming asked if they were here to get approvals for the pool placement. Mr. O'Conner replied that this was correct.

Jason Saris said that it appears that it would be hard to have a pool that met the setbacks on that parcel. This is a minimum request.

John Whitney asked if the town could send the pool company a letter with the town zoning code, advising them that the concrete around the pool is also included.

The Board discussed lighting and that it should be dark sky compliant.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Eric Faulkner, (V18-12) 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: The pool is already there, and it would be hard to rip it out and start over.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It fits in nicely.

- 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 did hire someone to put the pool in who did not put it in the correct area. This is a minimal request.
- 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**, Lorraine Lefevé it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions 1) Any additional lighting is downward shielded and dark sky compliant. **All in favor. Motion Carried.**

4. **V18-13 FAULKNER, ERIC.** Represented by Jeff O'Connor. To alter single family dwelling, specifically to add a 296 square foot deck, seeks area variance for 1) Length: 120' maximum is allowed, 142' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 156.12, Block 1, Lot 41, Zone RCM1.3. Property Location: 45 Ridgewood Court. Subject to WCPS review.

Jeff O'Connor presented the following:

- To enjoy the pool more, they would like to build a deck.
- The deck will not extend past the house.
- The house was built in 1983.

Holly Dansbury stated this was basically a 24' x 16' deck. Mr. O'Conner stated that was correct.

Jason Saris asked if a variance was required because it was a non-conforming structure. Holly Dansbury replied yes.

Holly Dansbury asked if there was already stone underneath the proposed deck area. Mr. O'Conner replied yes.

Lorraine Lefevé asked how high the deck would be. Mr. O'Conner stated it would be high.

Carla Cumming asked how many sets of stairs were proposed for the deck. Mr. O'Conner replied just one set.

Joy Barcome asked if this was the only feasible spot to place the deck. Mr. O'Conner stated this was the most practical area, so they can use the door. John Whitney stated placing it anywhere else would not change the need for a variance.

Joy Barcome asked if the deck would be really high. Mr. O'Conner stated it would be about 6'.

Lorraine Lefevre asked how close the deck was to the fencing. Mr. O’Conner stated it was close to the retaining wall. Lorraine Lefevre asked if there would be railing on the deck. Mr. O’Conner replied absolutely.

Carla Cumming said the pool was currently enclosed and asked if there would be a gate from the deck, so children could not walk right into the pool area. Mr. O’Conner replied that there would.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Eric Faulkner, (V18-13) 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: It could be in another place, but it would not make a difference. This is where the owner would like to have it.
- 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 deck will be consistent with existing decks in the neighborhood.
- 5) The alleged difficulty is self-created; This is a non-conforming, pre-existing lot. 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 Joy Barcome 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. **All in favor. Motion Carried.**

5. **V18-14 STERN, SALLY.** For the construction of a proposed 14’x 20’ carport seeks area variance for deficient setbacks. Front: 50’ is required, 7’ is proposed. Side: 15’ is required, 4’ is proposed. Section 171.11, Block 2, Lot 15, Zone RCM1.3. Property Location: 16 Countess Loop Road. Subject to WCPS review.

This item was heard last

Sally Stern presented the following:

- She hopes to move into the house next month.
- She is planning to live here year-round.
- She will still be working and would really like some coverage for her vehicle in the winter.
- This seems to be the only place to put this.
- She detailed the plans and showed why this was the only area to place this without cutting trees.
- She is only looking to keep it small and keep only enough room for one vehicle.

Lorraine Lefevre asked how many feet it would be from turn around. Sally Stern stated that she was not sure, but this was a one-way drive.

Jason Saris asked if she considered building a garage. Sally Stern said she did, but she did not want a bigger structure, which also would cost more and take up more space.

Lorraine Lefevre asked if she planned on enclosing it at any time. Sally Stern said her only plan would be to maybe enclose it with canvas in the winter time to keep the snow out.

Jason Saris said it was not often that they got an applicant looking for less.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Sally Stern, (V18-14) for an area variance as described above.

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

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

The application of the applicant is as described in Item #5 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is the only area to place this carport.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will fit in well with the neighborhood. Having a carport is a good idea.
 - 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; This is due to the topography and it will fit fine.
- 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 Lorraine Lefevre and **Seconded by**, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented. **All in favor. Motion Carried.**

- 6. V18-15 BLUMENTHAL, CHARLOTTE.** Represented by Dean Howland. To alter single family dwelling, specifically to add steps, seeks area variance for 1) Deficient setbacks. Shoreline: 75' is required, 30.8' is proposed. Side: 20' is required, 17.2' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1). Section 186.15, Block 1, Lot 35, Zone RM1.3. Property Location: 191 Homer Point Road. Subject to WCPS and APA review. See V15-52 associated with this project.

Dean Howland presented the following:

- This is a house that had approvals a few years ago.
- Building code requires 3 risers for an exterior door with a landing the width of the door.
- He detailed the placement of the stairs.
- He has to have these stairs to satisfy NYS building code.
- Pam Kenyon stated they would need to come for a variance or remove the steps when she did the final inspection.
- The original drawings should have shown the steps and he has no idea why they were not in them.

Holly Dansbury asked what the other options were. Mr. Howland said there were no other options. The original variance should have shown the landing and steps. It has been a building code requirement for many years. The applicant was given a 20' 4" variance on the lake side, this is back 33'. The side yard setback is requested.

Carla Cumming asked if there were stairs there now. Mr. Howland stated there were. Carla Cumming asked if there were plans for a patio. Mr. Howland stated there was not, these were stairs to get out of the house. He informed the owner that there is no room for anything but the lawn.

Carla Cumming asked about pavers in the front of the house. Mr. Howland stated they are having a hard time getting their help from south of the border to put in the permeable pavers. They are still planning to use them. Carla Cumming asked about the main entry step. Mr. Howland stated it will be fine once the pavers are put in.

John Whitney said that this is a lot farther from the shoreline from what was already approved. He wondered how the building got 6' further from the shoreline. Holly Dansbury said the shoreline setback improved. John Whitney said they had already given that much relief. He asked if there was a benefit in making that determination.

Jason Saris said the question is when the variance was granted for the house to be built, the approved setbacks were less from the lake front than they are now. They were already granted

that amount of relief and the placement of the house now, with the steps on it, makes it a greater setback than what was approved originally. Atty. Muller stated that the Zoning Administrator has decided she wants them to revisit it and make a determination. The Board can go either way with it, they can say fine, it is within the ghost area of what was previously approved, or a they can decide a variance is needed. John Whitney asked if there was an advantage to approve it one way or the other. Atty. Muller stated that if they approved it as if it was in the ghost area it would be fine and end it. If they determine it needs a variance it will go back to the APA. They are the Zoning Board of Appeals and they can determine it different from the Zoning Administrator. It is their decision.

John Whitney stated that it was a side setback, not a shoreline. Lorraine Lefevre stated she thought they should do what Pam asked them to do. John Whitney stated he was fine with that, but he is wondering about the down side of this if they approve it as a variance as it becomes a shoreline variance and needs to go to the APA. Atty. Muller stated they could adequately deal with the practical difficulty aspect as the stairs are naturally attached to the structure. Jason Saris said that NYS Building and Code needs to be met.

John Whitney stated that

RESOLUTION

The Zoning Board of Appeals received an application from Charlotte Blumenthal, (V18-15) 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 #6 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The side setback is required for the stairs and landing for the entrance way to be in accordance with the uniform building codes. The same is required for the shoreline setback. It is not feasible to move the house at this point in order to not need a 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 self-created; The entry steps should have been on the original plans, but in discussing this tonight, this Board would have approved the needed setback. This is a clear practical difficulty with a pre-existing, non-conforming structure with entryways that require safe egress and ingress which includes stairs that meet NYS code.

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.

1. Atty. Muller told the Board that Mitzi Nittmann had expressed concern with a project from Cindy McPartland and wanted to know if the applicant needed to come back to the Board to amend their variance due to the deck being 2' larger than what was approved. He said the deck meets all setback requirements and Jason Saris, Atty. Muller and Councilmember Wilson have all agreed that it did need to come back, never the less she would like to know how to proceed. The Board agreed that this did not need to come back before them.
2. Mr. O'Reilly was approved to replace a deck in kind in the Lagoon Manor PUD. The contractor adjusted it up 7' or 8' higher than what was depicted and approved on the plans. The Board agreed that they were fine with this.

The meeting was adjourned at 7:05pm

Minutes respectfully submitted by Kate Persons