

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, February 19, 2019**  
**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:** Jason Saris, Carla Cumming, Jeff Anthony, John Whitney, Holly Dansbury, Brendan Murnane, Zoning Administrator, Pamela Kenyon and Counsel, Michael Muller

**Absent:** Joy Barcome and Alternate; Lorraine Lefevre

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

Jason Saris asked if there were any corrections or changes to the January 15, 2019 minutes.

**RESOLUTION:**

**Motion by Carla Cumming to approve the January 15, 2019 minutes as presented. Seconded by, Holly Dansbury. All in Favor. Motion Carried.**

- 1. V18-16 PASSARO, FRANK.** 1) Seeks use variance for a marina; and 2) to place a 12'x 20' canopy over existing ping pong table, seeks area variance for a deficient side yard setback. 20' is required, 7' is proposed. Section 200.06, Block 1, Lot 21, Zone RM1.3. Property Location: 4410 Lake Shore Drive known as Cool Ledge Resort. Subject to WCPS review. Subject to SEQR. In accordance with Section 200-66, the Planning Board offered on advisory opinion on August 16, 2018 as it pertains to the use variance. This item was tabled at the September meeting at the applicant's request. Subject to the LWRP.

*\*This application was tabled at the applicants request\**

- 2. V19-01 MILLER, JOHN.** Represented by Stephen Jung. To alter non-conforming mixed-use structure, specifically to remove an existing 429 square foot deck and replace with a new 714 square foot upper and lower deck with concrete seat, seeks area variance for 1) deficient setbacks. Front: 30' is required from the edge of the right-of-way. 2.4' is proposed from Route 9N and 6.3' is proposed from Goodman Avenue. Side: 20' is required. 6.1' is proposed; 2) Lot coverage. 40% is allowed. 69% is proposed; and 3) To alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 1, Lot 84, Zone GB5000. Property Location: 4941 Lake Shore Drive. Subject to WCPS review.

Stephen Jung presented the following;

- They would like to make it more inviting to street traffic by expanding the deck and making it two levels with a little seating.
- The new seating would be an area that is nicer than what he currently has.
- They are trying to create a similar street scape of the other properties in the area.
- He detailed the plans to the Board.
- They did move the deck slightly forward.
- It will not affect the sight lines and will actually improve them.
- The deck is slightly larger allowing for seating and is more attractive than what exists.

Jason Saris asked if there would be backfilling against the seating wall. Mr. Jung stated they would not, they would be using deck joist. He would have gravel under the deck surface. Jason Saris asked what would be happening to all the water running through the deck when it rained, and if it would collect behind it. He said he had concerns that if it collected where it would be running out to. Devin Dickinson stated they could put in a shallow stone drainage trench under the deck to infiltrate the water to deter the stormwater from running anywhere else.

John Whitney inquired about how far the deck would extend on the Goodman Avenue side. Mr. Jung detailed it on the plans and explained that it would not change from what exists. He explained that they would only be moving 2' closer to 9N.

John Whitney asked if they would be making changes to the upper deck for the apartment. Mr. Jung stated they would not. He stated the handicap access would remain the same.

John Whitney inquired about the loss of a parking space that was expressed in a letter. Mr. Jung replied that they would not be losing a parking space and he did not understand what they were referring to.

Holly Dansbury inquired about the railing and concrete seating area. Mr. Jung detailed them on the plans and explained they would need hand rails for the stairs.

Brendan Murnane asked if they were using the concrete wall as continuity with the town. Mr. Jung replied yes and explained that it provided a surface for the ledger board for the deck joist to come into, but it was really to maintain what is already there. Brendan Murnane asked if wood would be a better surface than concrete for the wall. Mr. Jung said that he felt that the concrete would withstand the elements better than wood. John Whitney said they were both impervious and it would be better to have something that could catch the water underneath, which would be better than what exists now.

Atty. Muller read an e-mail in opposition from John and Lorraine Lefevre to this project.

Holly Dansbury asked if the chairs on the plans were free standing or attached. Mr. Jung replied that they were not attached.

Zoning Administrator, Pamela Kenyon explained that if they proposed any retail requiring seating, they would require further variances for parking.

Carla Cumming inquired about the upper and lower decking. Mr. Jung explained them on the plans. Carla Cumming asked if there would be seating on both levels. Mr. Jung replied that there would, and he detailed it on the plans.

No County Impact

## **RESOLUTION**

The Zoning Board of Appeals received an application from John Miller, (V19-01) 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: The changes requested are not that different from what currently exists. It will be more consistent with the street scape in general.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. When you look at what exists the updating and consistency of the street scape will be a positive change and fit well with the neighborhood.
- 3) The request is not substantial. There is no change to the side setback on Goodman Avenue which is the most challenging from a visual perspective in terms of traffic and there is no loss of parking despite the letter.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The added drainage will be an improvement to the environment.
- 5) The alleged difficulty is self-created; It is the owners desire to improve the entry into his tenants' businesses.

In weighing the factors, 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 with the following condition: 1) Stormwater controls are to be added under the deck as described which include shallow trenches and gravel. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

3. **V19-02 NEWKAM, KEITH.** Represented by Jarrett Engineers. For the construction of a proposed single-family dwelling, seeks area variance for 1) deficient setbacks. Front: 50' is required from Three Oaks Drive. 13'3" is proposed. Rear: 30' is required. 9'6" is proposed; and 2) in accordance with Section 125.10.A(3) 100' is required between the well and infiltration basin. 42'7" is proposed. Section 185.20, Block 1, Lot 33, Zone RCL3. Property Location: 10 Three Oaks Drive. Subject to WCPS review.

Tom Jarrett of Jarrett Engineers presented the following;

- They have owned this ½ acre lot for about 20 years.
- The lot is in a 3-acre zone and they would like to put a house on it now.
- It is a very shallow lot, so they need two setback variances for the front and back.
- They would also like a stormwater variance.
- The lot is hampered by the zoning that has been super imposed over the years.
- The property is moderately sloped on the upper eastern end and it slopes off on the western end.
- They have chosen to develop the area on the flatter section.
- Mr. Jarrett detailed the plans to the Board.
- He said that the town engineer would like a little more separation between the waste water system and the stormwater system. He will be working with them on that.

Holly Dansbury asked if there would be a garage. Mr. Jarrett stated that there would not.

Carla Cumming asked if there would be additional bedrooms or a bathroom in the basement. Mr. Newkam replied that there would not, it would be used for access from the lake, a rec room, storage and a work shop. It would be full height.

Holly Dansbury inquired about the requested setback variance in the rear associated with the sunroom. Mr. Jarrett replied that it was the stoop attached to the sunroom. He said the basement entry was under the sunroom. Mr. Jarrett detailed a pathway to the basement on the plans. Holly Dansbury asked if they could move the sunroom anywhere else to lessen the encroachment on the setback. Mr. Newkam explained that they needed to place this sunroom in this location, due to the layout of the design of the home.

Carla Cumming asked if they would be looking for a garage at a later date. Mr. Newkam said he did not believe so, there really was no room for a garage on this lot.

John Whitney said it seemed as though they could rearrange the design to reduce the rear setbacks and be more compliant. Mr. Newkam said they had looked at other designs and moving the porch would not really work with the design. He explained that there are no neighboring homes that would be looking at this porch. He said that the lot next door is vacant, and he does not believe that they would ever build a structure on it near there building lot, as most people would prefer to be down closer to the lake.

Atty. Muller read a letter of opposition from Dennis and Mary Louise Murphy.

Mr. Jarrett stated that setback relief would be required to build on any area of this lot. He detailed the infiltration basin driveway plans and stated that they like design treatment from impervious surfaces as close to the source as possible, which is the most practical and effective way. This is a residential driveway and is not generating hazardous waste. They could route the stormwater down to the other basin, but he does not recommend this. He explained the proposal that the LGPC has proposed reducing the setbacks for residential driveways to 35'. There is access to this property in the winter and the road is plowed.

Mr. Newkam said he did go to the Murphys last fall and explained what they were planning on doing. Jason Saris asked if Mr. Murphy lived on the adjacent lot. Mr. Newkam said he did not, the vacant lot separated the two of them.

Jeff Anthony asked about municipal water. Mr. Newkam explained that it was a seasonal 3/4" association line that was only available from May 15<sup>th</sup> to October 15<sup>th</sup>.

Carla Cumming asked if there were other wells in this association. Mr. Newkam replied that there were. Mr. Jarrett detailed the recommended well protection seal on the plans and said it could be mandatory if the Board felt it was warranted.

Jason Saris asked if the well was compliant where it was placed now or if it needed to go before DOH. Zoning Administrator, Pamela Kenyon replied that it was. Jeff Anthony asked if the well needed to go before the Town Local Board of Health. Zoning Administrator, Pamela Kenyon replied that it did not.

Holly Dansbury asked if the Town Engineer was suggesting that they move the infiltration system. Mr. Jarrett replied that they were looking for a little more separation between the waste water system and the stormwater system. He said he will probably need to move it a few feet, but he needed to talk with the Town Engineer first. Holly Dansbury asked if they could move the runoff from the driveway elsewhere to avoid the variance. Mr. Jarrett stated they could, but he would rather treat it near the source as possible, which is what DEC and all the standards call for. He said this is why they designed it that way. Jeff Anthony stated this he agreed with this.

Brendan Murnane inquired about moving the sunroom to the west side corner of the home. Mr. Newkam said doing that would ruin the view. Carla Cumming said they already had a big porch. Mr. Newkam said it was not enclosed and they wanted the privacy and a 3-season porch that they could enjoy throughout the year.

Jason Saris asked what the dimensions of the sunroom were. Mr. Jarrett replied that they were 10.2' x 16', he said they could narrow it to 8' if they really wanted them to, he would rather narrow it down and keep it on that side of the house for the privacy aspect. Carla Cumming suggested cutting the porch in half and put the room there. John Whitney and Holly Dansbury said that would mess up the design of the home. Jason Saris stated that 8' is a very small space

and 10' is like the minimum. He said they see setbacks that are almost 0'. This is almost 13' away from an empty lot. John Whitney agreed saying it is not even near another existing structure. Jason Saris stated this was a modestly sized home by today's standards.

No County Impact

## RESOLUTION

The Zoning Board of Appeals received an application from Keith Newkam, (V19-02) 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 lot is extremely non-conforming and there are not many options.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will fit in with the environment and the area.
- 3) The request is substantial. This is a non-conforming lot that they are working with.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The stormwater controls and sign off from the town engineer will alleviate any adverse effects on the neighborhood.
- 5) The alleged difficulty is self-created; This is a non-conforming lot they are working with. In weighing the factors, 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. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

The meeting was adjourned at 6:45PM

Minutes respectfully submitted by Kate Persons