

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, March 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, Holly Dansbury, Brendan Murnane, Joy Barcome, Zoning Administrator, Pamela Kenyon and Counsel, Michael Muller

Absent: John Whitney, Jeff Anthony 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 February 19, 2019 minutes.

RESOLUTION:

Motion by Holly Dansbury to approve the February 19, 2019 minutes as presented. **Seconded by, Carla Cumming.** Joy Barcome abstained. **All others in Favor. Motion Carried.**

1. **PASSARO, FRANK.** Seeks to appeal the Zoning Administrator's determination, whereby determining that a use variance is required for a marina at that property designated as Section 200.06, Block 1, Lot 21. Zone RM1.3. Property Location: 4410 Lake Shore Drive know as Cool Ledge Resort.

Frank Passaro presented the following:

- He would like the Zoning Administrator's ruling reversed as he believes it was done because of an erroneous and egregious misinterpretation of the zoning laws at the time.
- In 1988 his parents were granted a marina permit by the Town Board.
- They have been in the resort business since 1954.
- They got a marina permit because they had been renting their docks since 1954.
- The permit was rescinded a couple weeks later due to an erroneous and egregious interpretation of the zoning laws.
- It was rescinded due to a threatened Article 78.
- He was not present for this as he was in college.
- It was a backroom deal between the town lawyer and his parents' lawyer.
- In 1999 he took over the business and he submitted a new application for a marina and a dock permit from the LGPC.
- The town attorney was the same and he interpreted the laws as saying that the Town Law #15 was controlling stating that there should be no new commercial development or increase in Basin Bay. It should be strictly residential.

- That was a misinterpretation of the law because Ordinance #15 started at the tip of Cotton Point, went around the bay, jumped over Nates Bayshore went along the shore and ended at Porters Cottages. It did not apply to his water front.
- A zoning law change made it a little less restrictive.
- He was denied the marina permit at the time and the LGPC told him he needed to pull his application, or he would not be able to proceed with his dock applications.
- At the meeting for the dock application the chairman of the LGPC said that the Town of Bolton had found a long-lost Zoning Ordinance stating there could be no commercial development on Basin Bay, and the Town of Bolton trumps the LGPC so they would have to deny his application with no appeal.
- This was not in the minutes and he asked for the audio archive of the minutes. They told them he could not find them. He was told by Molly Gallagher that it had been recorded over and was not available.
- He said there was no records in the Zoning Office about a notification from them to the LGPC about the long-lost Zoning Ordinance.
- He finds this very curious.
- After that meeting that he was told there was no appeal he went to the Zoning Office and was met by the Zoning Officer who apologized and said they had just found the long-lost Zoning Ordinance and there was nothing they could do.
- He asked for a copy of it and he told the Zoning Officer it did not apply to him.
- He was then told that Ordinance #9 applied to him. He asked for a copy of this and realized that this did not apply to him either.
- Ordinance #9 was for north end of the bay and ends at Loomis Lane South.
- The Zoning Administrator went to the Town Assessor to confirm his interpretation of the law and was told that Mr. Passaro was correct.
- The Zoning Administrator said she would send a letter to LGPC saying his application for the docks was still on the table. He received his dock permits the very next month.
- The LCPC has been handing out marina permits all over the lake to residential people who are renting their docks.
- In Basin Bay there is a brand-new marina on the tip of Fish Point.
- He has a commercial fisherman that will not be able to stay on his docks because he is not a marina.
- He pays the full amount for a commercial rate since day 1 and does not get the full usage of his docks for that payment.
- Motel rentals have changed, and there are fewer people trailering up boats.
- Therefore, many of his docks are going unused and they are costly.
- He is taxed on them and he pays the LGPC the full commercial rate on them.
- He needs to be able to rent them.
- His commercial fisherman has been there for 18 years who will not be able to stay there if he is not granted a marina permit.
- He needs to rent to other entities.
- His customers do not recreate in the bay for the most part, they go out on the lake.
- He believes he should be granted the marina permit that his parents were granted originally.

Jason Saris asked the Zoning Administrator if the ordinances Mr. Passaro is referring to were part of the Zoning Ordinance. She replied that they had been repealed they had existed many years ago. Jason Saris asked if the marina permit Mr. Passaro was referring to was a Type II Site Plan Review. Atty. Muller said it was not. The town does not use the nomenclature marina permit. That is LGPC language. The town just calls it a marina. The one truth that thinks is important to emphasize for Mr. Passaro is that he is correct that he has had a charter boat there for a long time. The LGPC had a regulation that if you had such a use at your docks, you would be required to get a LGPC Class A Marina permit. They did not enforce it for many years and the Town of Bolton is not behind this enforcement. The LGPC started to enforce it facility by facility and Mr. Passaro was told that he could not have the commercial fisherman there. Mr. Passaro went to the LGPC to apply for a marina permit as the commercial fisherman had been there for 18 years. The LGPC told him that he had to go back to Bolton to make sure a Class A Marina activity is permitted by the local ZBA. Mr. Passaro is here to challenge the Zoning Administrator's determination that he could not have it there.

Jason Saris asked if the applicant was looking for a certificate of compliance to go to the LGPC. Atty. Muller said no he was looking for the ZBA to basically say that the determination was incorrect. Jason Saris asked if this meant that the activity was not allowed unless it was grandfathered in. Atty. Muller replied yes, the subtlety here was that he certainly has a continuing use. The dock facilities were oriented around tourist accommodations, you had a cabin meant you had a slip. This was not prohibited by the Zoning Ordinance. If he understands his current inquiry, Mr. Passaro wants to disassociate the docking with the cabin rental. Just have weekly or seasonal boats down there that are not associated with occupying the tourist accommodations. That determination was not favorable to Mr. Passaro. He would like something different so it was determined that he will need a Use Variance. Mr. Passaro stated that one of his neighbors who rented a slip did not have a cabin.

Jason Saris asked if there was no permit needed from the town, would he need a letter for the LGPC to satisfy them. Atty. Muller stated he would need something stating he was in line and in compliance with the local code.

Brendan Murnane asked about the charge for commercial rates on the docks. Atty. Muller stated that this was through the LGPC and that the Town of Bolton had nothing to do with it.

Jason Saris said he understood they have been in business since 1954 and has rented the slip to a fisherman for commercial use for 18 years. Jason Saris asked if the fisherman rented a cabin with the slip. Mr. Passaro replied that he occasionally had clients of the fisherman that did, but the fisherman did not. Jason Saris asked if he had rented any other docks that were not associated to a cabin rental. Mr. Passaro replied yes, because there are not enough docking rentals associated with the cabins. Zoning Administrator, Pamela Kenyon stated she had requested documentation from the owner of the fishing charters as to how long he had been docking there but had not received anything at this time. Mr. Passaro stated he would talk to him about it. He believes he has been there since 2001 or 2002.

Jason Saris asked about the definition of a marina stating that it states that a marina activity is the leasing of a dock in some way. It goes on to say that the exception was 2 or fewer boats and or that it was associated with an upland property. Is this why they are saying the use of the docks is not a marina activity here.

Zoning Administrator, Pamela Kenyon said that the people who were renting the cabins also had a dock space. Jason Saris said the definition of a marina did not specify why it would not make this a marina, unless it was due to the sentence at the bottom of the definition stating it was associated with an upland business. Zoning Administrator, Pamela Kenyon said this was true, and it was up to the Board to decide. She said this would then apply to every accommodation in the town.

Atty. Muller said that the RM1.3 Zone did not permit a marina, but it did permit a tourist accommodation. What he is doing is an activity that is associated with in part and parcel of a tourist accommodation. That being rental of cabins with the additional feature that the renter can bring their boat and leave it there while they were renting the cabin., so it was never called a marina. Jason Saris said this is a marina activity according to the definition of a marina.

Atty. Muller read the Town of Bolton definition of a marina into the record as follows:

MARINA — Any waterfront facility which provides accommodations or services for boats by engaging in any of the following:

(1) The sale of marine products or services.

(2) The sale, lease, rental or charter of boats of any type.

(3) The sale, lease, rental or any other provisions of storage, wharf space, or mooring for more than two boats not registered to the owners of said facility, member of the owner's immediate family, the owner or lessee of the immediately adjoining upland property, or members of their immediate families, or an overnight guest on said property.

He explained that in this case you have an overnight guest on the property who has permission to have a boat there, that is why it is not considered a marina. This is not easily understood, and it is not a smooth transition from a tourist accommodation activity to a marina utilization. For a variety of issues, they have sat down with the LCPC and they have agreed not to issue any permits for any activity without approval from the town first.

Jason Saris said his question is, if dock spaces have been rented in violation of the code for the past 18 years without repercussion, is it then grandfathered in. Atty. Muller replied no it is a continuing violation. Jason Saris asked at what time does the statute of limitations run out, because they have had things that are clearly violations and after 10 years, they have accepted them. Atty. Muller said that after 10 years it would be a statute of limitations issue that is it is basically something that has not been brought to task and is no longer enforceable. On the other hand, it could be considered as a continuing wrong and once discovered it can be promptly acted on. They did not discover this in terms of bringing an enforcement proceeding against Mr. Passaro. Mr. Passaro came to the town and said he would like to make it square with the LGPC and he wanted to know how to do this. He was told that he would need to apply for a Use Variance. The first thing the Board needs to do, is to make sure this determination was correct.

Jason Saris asked if in 1954 these activities were going on, by what right were they ended. Atty. Muller stated that he does not see any end to that if they were going on. The facts that they have to date do not support the proposition that there was something different going on in 1954. Holly Dansbury asked if there was always a tourist accommodation going on. Atty. Muller replied yes. Jason Saris said there also could have been dock spaces rented out. Atty. Muller said that would be up to Mr. Passaro to show evidence to demonstrate with documentation that there has been a long continuous rental, a different kind of business proposition going on there to a point of time that predates our current controversy. We would need to see the proof.

Brendan Murnane asked Mr. Passaro how far back he had records of rentals for the docks. Mr. Passaro replied that it was referenced in Mr. Bebee's letter that they had rented the boat house to a neighbor to the south. He has not kept records going back that far. He has rented to a number of different people over the years to try and fill his docks. He has approval for dock spaces for 20 boats and he only has 13 cottages. His dock permit was what the law said he could have with the waterfront he has. Jason Saris asked if it would be possible for Mr. Passaro to get letters and statements from some of these people. The Board needs evidence in order to see if this can be grandfathered in. Mr. Passaro stated he could probably contact people.

Carla Cumming asked about the back-door deal between the lawyers about no marina that was mentioned and the validity of it. Atty. Muller said the court allowed the parties to stipulate that the Passaro's were not going to proceed on their application with the Town of Bolton and the only requirement in the stipulation was that in the event that the Passaro's, at any future date, renew an application pertaining to the same relief for the same marina, Mr. Robert Beebe, the then attorney for the nearby neighbors, was to be given special notice. They have complied with this and will continue to. This is the only thing, there is nothing on the merits in terms of a decision or a finding evidentiary. That is the whole record. Mr. Passaro said he does not believe Judge Dier ever read the merits of the case. Atty. Muller said he believed that was correct, he believes Judge Dier did not read the merits, but he did sign an order that said that the litigation was over and withdrawn which he believes was a 1999 decision. There was an appellate division case that in 2001 as follows: *In the Matter of FRANK PASSARO, as Trustee of the Passaro Family Trust, Appellant, v. LAKE GEORGE PARK COMMISSION, In January 1999, petitioner applied to respondent for a permit to operate a class A marina and for a permit to modify existing wharfs and moorings at his family's lakefront resort located on Lake George in the Town of Bolton, Warren County. In connection with the marina project, he also applied to the Town of Bolton Zoning Board of Appeals (hereinafter ZBA) for a use variance. In February 1999, the ZBA denied petitioner's application for a use variance to establish a class A marina. Thereafter, in March 1999, respondent informed petitioner that, based on the ZBA's denial of the use variance, he should withdraw his application for the marina permit inasmuch as respondent could not segment its review by holding the marina permit in abeyance while processing the wharf and mooring permit. Petitioner subsequently withdrew the marina permit application and, in November 1999, respondent issued a wharf and mooring permit.* It goes on and you can see that is how that litigation ended between, as far as Passaro's are concerned, Bolton.

Atty. Muller read a letter in opposition for both the Use Variance and the relief from the determination by Mr. Robert L. Beebe and additionally signed by the following:

Dennis Curtis and Judith Resnik
Joel and Bernice Breslau
The Fein Family
Colleen Golub
Ellen-Deane Cummins
Amy Bloom
Louise and Larry Marwill
James Jampel
Sandra Marwill
Elinor Slater

Dave Sayles of 5425 Lake Shore Drive said he concurred with the letter that Atty. Muller read and the impact to the bay. He would be against the approval.

Sandy Balducci of Loomis Lane stated that she agreed with this too and a marina should not be allowed.

Jason Saris explained that they could proceed with this or table it if Mr. Passaro would like to provide documentation to the Board before they made any decisions. He explained that a Board decision needed to be based on evidence. Mr. Passaro said he would postpone until next month so that he could get some documentation together.

Jason Saris said he would like more information that showed evidence to demonstrate that these activities predate the time period so that it could be grandfathered in. Holly Dansbury stated she would like evidence of more than just one or two renters here and there.

Jason Saris asked about any expansion of marina activities if this Board decided this activity was grandfathered in and if it would be in the narrow scope of the rental of dock space. Atty. Muller stated that he could not expand on what presently exists. Mr. Passaro would still need a variance to expand.

Now, upon motion duly made by Brendan Murnane and Seconded by Joy Barcome, it is resolved that the ZBA does hereby table items 1 and 2 on the agenda at the applicant's request for additional information. **All in favor. Motion Carried.**

2. **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.

Now, upon motion duly made by Brendan Murnane and Seconded by Joy Barcome, it is resolved that the ZBA does hereby table items 1 and 2 on the agenda at the applicant's request for additional information. **All in favor. Motion Carried.**

- 3. BALDUCCI, SANDRA.** Seeks to appeal the Zoning Administrator's determination, whereby determining that 1) "in kind" replacement of cabins and structures at Blue Water Manor does not require Site Plan Review by the Planning Board; and 2) Vegetative buffers or fence requirements are not required at this time. Section 200.06, Block 1, Lot 19.1, Zone RM1.3. Property Location: 4436 Lake Shore Drive.

Susan Balducci presented the following;

- She owns the property at 9 Loomis Lane.
- Her neighbor to the south, Blue Water Manor have made changes to their property during renovation projects on its northern boundaries.
- Specifically, they removed existing trees, a fence and have deposited dumpsters, construction materials and outhouses along the boundary.
- The Zoning Administrator denied her application to address these conditions claiming that Blue Water Manor had not violated any provisions of the Bolton Code.
- She is here to appeal this determination.
- On the north side of Blue Water Manor property there is a strip of property that previously had a fence, trees, and large boulders.
- They have since clear cut a large majority of these trees and removed the fence and boulders.
- She presented the Board with photos.
- She believes that the code for clear cutting requires a variance and the reason being is that it has opened objectional views in the past.
- He has clearly clear cut and opened up objectional views which she detailed in the photos.
- She told the Zoning Administrator that she thought clear cutting was happening and was told by her to go check it out.
- She foiled DEC and the Town of Bolton and found out that there was a change in business by removing cottages and adding another restaurant. This is a huge change of business.
- She does not deny that he is making the place nicer, but she would appreciate a fence blocking this horrible view.
- The impact to his neighbors has been great.
- He changed his boat house and docks were put up.
- She believes all the rules have been bypassed because he is building "in kind", which is incorrect. A restaurant is not cottages.

- She quoted code 200-48(7).
- The lighting is glaring and the lights over the dumpsters are obnoxious and she would like them to be turned off.
- She works shift work as a nurse and the lights are glaring when she tries to sleep.
- She said the town had a code for intensity and she believes the intensity and impact of Blue Water Manor and have been very high and hard on her.
- She is just asking for a barrier, she does not understand why she has to be here asking for this.

John Kelly asked her, from the audience, what she was looking for. She stated she wanted a fence and trees from 9N to the golf cart trail and the lights to be turned off over the dumpsters. Mr. Kelly stated this would be done in the spring. Ms. Balducci asked Atty. Muller if she would be protected if Mr. Kelly did not carry through with his promises. Atty. Muller suggested she may want to table her application to see if her requests were accommodated by the neighbor. They shook hands on it and Ms. Balducci asked the Board to table her appeal.

No County Impact

RESOLUTION

Now, upon motion duly made by Holly Dansbury and Seconded by, Brendan to table the appeal at the applicant's request. **All in favor. Motion Carried.**

4. V19-03 FELLEMA, BOB. To allow a 102.92 square foot relocated shed to remain in its present location, seeks area variance for deficient setbacks. Front: 50' is required, 15' is proposed; and Side: 20' is required, 5' is proposed. Section 171.11, Block 1, Lot 38, Zone RM1.3. Property Location: 72 Woodland Ridge Road. Subject to WCPS review.

Bob Fellema presented the following;

- He is seeking a variance for his pre-existing shed that he had moved while doing renovations to the property.
- He was under the assumption it was in compliance as he had measured it and it was roughly 100 sq. ft.
- When measured by the Zoning Office it was determined to be 2.8 sq. ft. over which makes it non-compliant.
- No matter where he puts it on his property it will be non-compliant.
- Jason Saris asked if there was a more compliant area to place the shed. Mr. Fellama said he had to move it for renovations to his home which made it non-compliant.
- He placed it on the property where it would not be an eyesore or hinder views to the neighborhood.

Joy Barcome asked if it was non-compliant due to the fact that it was over 100 sq. ft. Mr. Fellama replied yes.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Bob Fellema, (V19-03) 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: In order to make use of the existing shed they have simply moved it to a better area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. There is no significant change, it is actually in a better spot.
- 3) The request is not substantial. It is simply 2.8 sq. ft. over the limit.
- 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 a pre-existing structure.

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, Carla Cumming 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.**

5. V19-04 GATES, WILLIAM. To demolish a 634.5 square foot garage and replace with a two story 1,152 square foot (total square footage on both floors) garage with storage, seeks area variance for deficient setbacks. Front: 50' is required, 28' is proposed; and Shoreline: 75' is required, 67' is proposed. Section 186.14, Block 1, Lot 33, Zone RL3. Property Location: 53 Grist Mill Road Extension. Subject to WCPS review.

William Gates presented the following:

- He would like to replace a two-car garage with something nicer.
- He is here because he would like to change the footprint a little bit instead of replacing it in kind, so he requires a variance.
- He detailed the plans to the Board.
- He would be removing the little storage area on the right where the roof slopes down toward the brook projecting all the runoff into it.
- He would like a second story for storage instead which would keep the runoff away

from the brook.

- He will be cutting the footprint back a little bit.
- Neighbors cannot see the property.
- He will be using brown roofing and paint.
- He will be reducing the stormwater runoff that goes toward the brook.
- He can also add additional stormwater if requested.

Jason Saris inquired if the APA will be involved in this application. Zoning Administrator, Pamela Kenyon replied yes.

Jason Saris asked if he had considered any other site on the property. Mr. Gates stated he had, and he detailed the reasons why, stating the septic, driveway and property topography would not allow for it. He stated he is improving the existing setbacks from the brook. This is the only logical placement of the shed

Jason Saris asked how close to the brook the proposed structure was. Mr. Gates said it was 67' from the brook. Jason Saris asked how close the existing structure was to the brook. Mr. Gates replied that it 62' from the brook. Jason Saris said he was actually improving the existing setback from the creek. Mr. Gates agreed.

Jason Saris asked what his practical difficulty was. Mr. Gates said the present structure was from the 1940's and was a ramshackle building that is a pre-existing, non-conforming structure.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from William Gates, (V19-04) 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 #5 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The topography of the property only allows this location and it will be increasing the setback from the brook.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is an improvement and can't be seen by neighbors.
- 3) The request is not substantial. He is going up and increasing the setback from the brook.

- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It is lessening the setback from the brook.
- 5) The alleged difficulty is self-created; This is a pre-existing, non-conforming structure. 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 Joy Barcome and Seconded by, Carla Cumming 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.**

6. V19-05, LUCAS, WARREN & SUSAN. To alter single family dwelling, specifically remove existing 8' deck and replace with a 12' deck, seek area variance for 1) a deficient front yard setback. 30' is required, 15.8' is proposed; and 2) To alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 3, Lot 88, Zone GB5000. Property Location: 12 Congers Point South. Subject to WCPS review

Warren Lucas presented the following:

- His deck is 35 years old and the deck is in disrepair.
- He needs to replace it and he would like to extend it from 8' to 12'.
- It will not go to the left or right any further.
- He has sent a notice to all his neighbors and has received two responses saying that it would look great.
- There is no impermeable layer, the deck is about 8' off the ground.
- The existing deck needs to be removed as it is substandard.
- He has 3 front yard setbacks and 1 side yard.

Jason Saris asked if it would be the same in appearance. Mr. Lucas said it would be substantially structurally stronger and it would be similar in appearance.

Jason Saris asked if there were any proposed changes in the lighting. Mr. Lucas said no.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Warren & Susan Lucas, (V19-05) 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 deck is old and needs replacing to make it safer and usable.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will look much better than what presently exists.
- 3) The request is not substantial. He is only adding 4' more to the deck.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It will be an improvement to the area.
- 5) The alleged difficulty is self-created;

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 Carla Cumming and Seconded by, Brendan Murnane 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.**

7. V19-06 SAYLES, DAVID & KATHLEEN. Represented by Joseph Haines. To alter single family dwelling, specifically to remove a portion of existing 3-season room and replace with a dining room and 3-season room on the first floor and an expanded bedroom on the second floor, seek area variance to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 186.18, Block 1, Lot 17, Zone RM1.3. Property Location: 4524 Lake Shore Drive. Subject to WCPS review.

David Sayles presented the following:

- They bought the house in 2000.
- They have had a continuing issue with the 3 seasoned porch being moist and wet.
- They would like to enlarge the upstairs bedroom to accommodate the family.
- They are adding about 600 sq. ft.
- It is not on the side of the house where the variance applies.
- The variance is due to the setback of the right of way on the side of the house.
- They will expand the dining room a little bit.
- The porch will be the same size as what currently exists.

Jason Saris asked if this would encroach on the setbacks in the right of way any further. Mr. Sayles replied that they would not. They are there due to the house being pre-existing and non-conforming.

He emailed his neighbors and 2 wished him good luck.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from David & Kathleen Sayles,

(V19-06) 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 #7 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: They are working on the other side and not encroaching the setback.
- 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. It will not be encroaching much on the on the easements.
- 5) The alleged difficulty is self-created; This is a pre-existing, non-conforming structure. 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 Brendan Murnane and Seconded by, Joy Barcome 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.**

8. V19-07 DUARTE, DENNIS & PATRICIA. For the construction of a proposed 30'x 32' (including overhangs) garage with loft storage, seek area variance for a deficient side yard setback. 30' is required, 10' is proposed. Section 185.00, Block1, Lot 50, Zone RCL3. Property Location: 589 Trout Lake Road. Subject to WCPS review.

Don Russell presented the following:

- He explained that they could not put the garage in the other area due to the well.
- They would like to build the garage 10' off the sideline.
- He detailed why they could not place it elsewhere due to the well.
- This will be mostly used for storage and it is in keeping with the area.
- They are proposing a grass entrance for the garage.
- The garage will be used as a storage area for their boat in the winter time and other things.
- This would clean up the yard moving a lot of the items out of sight.
- It is in keeping with the area.

Jason Saris asked this was as compliant as they could get this structure due to the location of the well. Mr. Russell said it was.

Jason Saris inquired about the paving on the picture in the plans. Mr. Russell stated it would be grass.

Mr. Russell said they could put some stormwater mitigation in once they received approvals.

Mr. Russell said they may add a shed dormer which would not increase the square footage. Jason Saris asked if the applicant built it without the dormers would they need to come back to install them. Zoning Administrator, Pamela Kenyon replied yes. Atty. Muller stated that they could allow it as an option. Atty. Muller suggested that they stipulate that it would not be used for living space. Storage only. Mr. Russell said that would be fine.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Dennis & Patricia Duarte, (V19-07) 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 #8 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: There is a well in the other optional area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is not visible from the road.
- 3) The request is not substantial. The garage is located in the rear of 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 will be adding stormwater mitigation.
- 5) The alleged difficulty is self-created;

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 Brendan Murnane and Seconded by, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented with an option for an additional dormer as long as there was no living space created. 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.**

9. V19-08 HOFFMAN JR., WILLIAM. Represented by Gary Hughes. To alter single family dwelling, specifically to a new 576 sq. ft. trophy room, 64 sq. ft. porch and a 504 sq. ft. patio, seeks area variance for 1) a deficient shoreline setback. 75' is required, 56' is

proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 186.10, Block 1, Lot 10.1, Zone RM1.3. Property Location: 37 Apperson Lane. Subject to WCPS and APA review.

Gary Hughes asked the Board if they had any questions.

Jason Saris asked why there were not any other more compliant alternatives. Mr. Hughes detailed on the map and plot plan that the only alternative was the side because they could not go any closer to the lake and there was a septic system in the front. He kept the building 75' from the water, but the addition of a patio made it closer.

Carla Cumming asked if he was here due to the house being non-conforming. Mr. Hughes replied this was correct.

Holly Dansbury stated that it did not look like there was very much room for parking once they put in an addition. Mr. Hughes said that there is currently a lawn area where the proposed addition would be which is not used for parking. He detailed where the existing parking was on the plan.

Jason Saris asked what the practical difficulty was. Mr. Hughes said this was truly only place to put the addition and this was a pre-existing, non-conforming structure.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from William Hoffman Jr., (V19-08) 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 #9 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 place to put the proposed addition.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is a low-profile addition in keeping with the neighborhood.
 - 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. Stormwater mitigation will be added to the project.
 - 5) The alleged difficulty is self-created; It is a non-conforming, pre-existing structure
- 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, Brendan Murnane it is resolved that the ZBA does hereby approve the variance request as presented with the condition that some stormwater mitigation is added to the plan and approved by the Zoning Administrator. 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 8:10PM

Minutes respectfully submitted by Kate Persons