

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, July 16, 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, Brendan Murnane, Carla Cumming, John Whitney, Joy Barcome, Alternate; Lorraine Lefevre, Zoning Administrator; Pamela Kenyon and Counsel; Michael Muller

**Absent:** Jeff Anthony, Holly Dansbury,

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

Jason Saris asked if there were any corrections or changes to the June 18, 2019 minutes.

**RESOLUTION:**

**Motion by** Lorraine Lefevre to approve the June 18, 2019 minutes as presented. **Seconded by,** Carla Cumming. **All in Favor. Motion Carried.**

1. **V18-30 FORTUNA, CHRISTOPHER.** Represented by Richard Fortuna. To allow an 8'x 40' storage container to remain in its present location, seeks area variance for a deficient front yard setback. 50' is required. 0' is proposed. Section 186.00, Block 1, Lot 40.111, Zone RL3. Property Location: 18 Brookside Parkway. Subject to WCPS. This item was last heard at the July 2019 meeting.

Atty. Muller stated this item had been brought into compliance and was off the table.

2. **V19-17 McCARTHY, JOHN & SUSAN.** Represented by Barry Bisner. To alter single family dwelling, specifically to enclose a portion of existing deck to create a 12'x 12' screened porch, seek area variance for 1) Deficient setbacks. Front: 50' is required, 8.3' is proposed. Shoreline: 75' is required, 25' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 200.18, Block 1, Lot 38, Zone RM1.3. Property Location: 12 Island View Loop. Subject to WCPS, LWRP and APA review.

Barry Bisner presented the following:

- The setbacks from the lake shoreline is at least 200' and the agenda states that it is 25' which is incorrect. Zoning Administrator, Pamela Kenyon stated she believes it is a

stream that is referenced on the agenda which counts as a shoreline setback. Mr. Bisner stated it was only a runoff stream.

- They bought the property a couple of years ago.
- They want to enclose the north end of the 12' x 31' deck making a 12' x 12' screened area.

Jason Saris asked if it would be expanding the footprint or further encroaching in any way. Mr. Bisner replied it would not. They were building on top of what was already existing, and they would not be encroaching any further on the setbacks.

Jason Saris asked how it would blend in with what exists. Mr. Bisner said it was a screen porch and would not impede anyone's view. The roof peak would be lower than the existing roof peak. They have one residence behind them, and they would still see perfectly over it. They would be using shingles for the roofing material.

Jason Saris asked if they had considered any other location on the property. Mr. Bisner stated that they had considered the other end of the existing deck, but this end was more conducive to the flow of the house with the existing doors and windows, along with a better view of the lake. Placing this any other place would mean encroaching on setbacks. This is the best location for the screened porch.

Jason Saris asked what the practical difficulty would be. Mr. Bisner stated it was a pre-existing non-conforming structure and there is no place that would be more conforming that they could put this screened porch that would be conforming. The south end of the building is all up hill. The east side is where the existing parking area is. It meets the shoreline setback from the lake, and they don't want to move any closer to it. They are 5 houses back from the lake.

Jason Saris asked if it met the shoreline setback from the lake. Mr. Bisner replied yes it was over 200' from the lake. Mr. McCarthy stated that the home was clearly 200' from the shoreline. Mr. Bisner said the runoff stream from a runoff culvert on Route 9 was the shoreline setback they are working with for this application.

## **RESOLUTION**

The Zoning Board of Appeals received an application from John & Susan McCarthy, (V19-17) 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, 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 request is for screening in and putting a roof over an existing portion of the

home. This does not extend or expand the boundaries or further encroach on the existing setbacks of this pre-existing non-conforming house. There does not seem to be any other option on the property to give them this benefit without expanding the footprint which would make it less compliant.

2) There will be no undesirable change in the neighborhood character or to nearby properties.

3) The request is not substantial. It is clearly not substantial in anyway whatsoever.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

5) The alleged difficulty is self-created. They bought the house as a pre-existing, non-conforming structure. This association and these houses are on small lots and are all non-conforming to the current zoning requirements. This is a practical difficulty in terms of any modification to the home requiring the variance. This request here is very minor and quite reasonable.

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, 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.**

3. **V19-18 MILLINGTON, SUSAN.** Seeks to amend condition of approval set forth by the ZBA on March 13, 2000 when approving V00-08 to reestablish a commercial retail space. The condition reads as follows: No further development or changes to this property can take place without coming back to the Board for approval. The applicant is proposing to convert the approved commercial retail space to an office. Section 171.15, Block 3, 74.1, Zone GB5000. Property Location 4960 Lake Shore Drive. Subject to WCPS and LWRP review.

Susan Millington presented the following:

- They are looking to take the space between Lily's and the salon and use it as a law office.
- It will be weekdays somewhere between 9:00am – 5:00pm and some weekend hours.
- She will not be having an assistant at this location.
- She would like to use this space on a year round basis.

Jason Saris said he did not have any problem with this. John Whitney said he does not know why this restriction even there. Atty. Muller said that this was an interesting point and they are looking into this in the new code and possibly proposing no parking restrictions in the GB5000. They have not taken this plunge, but very few businesses can meet these restrictions.

John Whitney said that the issue here is not the parking so much as it is that they were limited in their uses, more restrictive than the code for some reason in 2000. Zoning Administrator, Pamela Kenyon stated that it was a condition of approval. John Whitney asked why they need a restriction on this lot at all, that is his question. Carla Cumming agreed. This is an allowed

use. Jason Saris said that he thinks that last time when the request was approved, they told them if it was going to become something different, they would need to come back to the ZBA for approvals. He is not sure why they decided this. Brendan Murnane asked if it was possibly for the whole building and not the one single space. Jason Saris said as long as it is an allowable use, he does not understand what the restriction is for. That space has been there for as long as he can remember.

Carla Cumming asked if they could eliminate that condition. Zoning Administrator, Pamela Kenyon stated they could through a resolution.

No Correspondence.

### **RESOLUTION**

The Zoning Board of Appeals received an application from Susan Millington, (V19-18) 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:

2) There will be no undesirable change in the neighborhood character or to nearby properties.

3) The request is 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 not self-created; It is the same non-conforming building.

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, Carla Cumming it is resolved that the ZBA does hereby approve the variance request as presented to rescind the prior restriction on the allowable uses on the property and restore them to the allowed uses per the zoning district that this property is in. 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 6:26 pm.

Minutes respectfully submitted by Kate Persons

