

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, August 20, 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, Joy Barcome, Holly Dansbury, Jeff Anthony, Alternate; Lorraine Lefevre and Counsel; Michael Muller

Absent: John Whitney, Zoning Administrator; Pamela Kenyon

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

Jason Saris asked if there were any corrections or changes to the July 16, 2019 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the July 16, 2019 minutes as presented. **Seconded by,** Carla Cumming. Jeff Anthony Abstained. **All in Favor. Motion Carried.**

- 1. V19-20 GADINIS, GARY.** To alter single family dwelling, specifically to allow the addition of 45” x 51” steps on driveway side of residence to remain in their present location, seeks area variance for 1) a deficient front yard setback. 50’ is required, 25’ is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 156.00, Block 1, Lot 6, Zone RM1.3. Property Location: 28 Lake View Hill Road. Subject to WCPS and LWRP review. See V18-19 for previous approvals.

John Isaacs with C. Raymond Davis presented the following:

- They had an approved set of plans, but the carpenters made their own configuration on the stairs and thankfully Duane from Warren County caught it.
- He detailed the plans and pointed out where the carpenters attached the stairs which increased the footprint of the non-conforming home.
- He is asking for the stairs to remain.

Jason Saris said to be clear it has not increased any further into the setbacks, it just has a larger footprint. Mr. Isaacs said that was correct.

Holly Dansbury asked if the stairs went beyond the house. Mr. Isaacs detailed where they were on the plans, and stated they expanded the area of the deck, but did not encroach on the

setbacks. Holly Dansbury asked if the placement made more sense for getting on and off the deck. Mr. Isaacs replied that they did.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Gary Gadinis, (V19-20) 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 #1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The applicant explained that this structure makes more sense.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The steps are fitting with the rest of the house.
- 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 is not encroaching any further into the setbacks.
- 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 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.**

2. **V19-19 RICCI, ROBERT & PATRICIA.** To alter single family dwelling, specifically to add a bedroom, half bathroom and all-season room and expand the kitchen and living room, seek area variance for 1) a deficient side yard setback. 30' is required, 17' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 185.19, Block 1, Lot 31, Zone RCL3. Property Location: 22 Trout Lake Village Road. Subject to WCPS and LWRP review.

Robert Ricci presented the following:

- Detailed his plan showing the existing structures and where he would like to expand.
- He will not be encroaching anymore on any of the setbacks.
- They will be utilizing open space so as not to remove any trees.

- They can't go back because that is the septic area.
- They also have a stormwater retention area.
- They can't go to the other side as it goes down a hill.

Jason Saris asked if they would be installing a new septic system. Mr. Ricci said yes. He said he has met the A.P.A. easement requirements.

Jason Saris asked if the addition would match the existing structure. Mr. Ricci stated they would be putting vinyl siding on the entire structure to make it all match and look better. Jason Saris asked if they would be adding exterior lighting. Mr. Ricci replied that they would not be.

Holly Dansbury asked for clarification stating the existing house is 14'.4" from the side yard setback, and he is asking for 17' so he is not encroaching any further into the setback than what already exists. Mr. Ricci stated this was correct. They are only expanding the structure approximately 500 sq. ft.

Holly Dansbury asked if the septic and stormwater plans were done by Hutchins Engineering. Mr. Ricci stated they were and detailed the plans to the Board. They will be infiltration and trench basins for the stormwater controls.

Carla Cumming asked if it was a seasonal camp or a 4-season home. Mr. Ricci stated it was seasonal. Carla Cumming asked if it would be a screened porch or windows. Mr. Ricci stated it would be enclosed. Carla Cumming asked if they would be changing the roof to one continuous roof across. Mr. Ricci replied yes and showed it on the plans. Carla Cumming said he is really not changing any of the setbacks and were staying pretty much in line with what exists. Mr. Ricci agreed and said they were pretty much squaring off the existing structure.

Charles Klass, neighbor on two of the sides, said he had no concerns with the application and that it would actually improve what exists.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Robert & Patricia Ricci, (V19-19) 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: They can't place this in any other location.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. They are not changing setbacks and improving the over all look of the structure.
 - 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 actually improve it with the additional stormwater and upgraded septic.
 - 5) The alleged difficulty is not self-created; They are moving it away from the water and it 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.**

3. **V19-22 JTR LAKE GEORGE, LLC.** Represented by Studio A. For a proposed 4 lot subdivision, seeks area variance for a deficient front yard setback. 50' is required between the proposed shared driveway and the existing single-family dwelling on 2. 31' is proposed. Section 200.10, Block 1, Lot 1, Zone RM1.3. Property Location: 4376 Lake Shore Drive. Subject to WCPS and LWRP review. See SD19-04 associated with this project.

Jeff Anthony recused himself.

Atty. Stephanie Bitter presented the following:

- Lot 1 is 5.22 acres and has a house under construction.
- This lot's boundary will include the existing driveway which will turn into the road for the subdivision.
- Lot 2 is 1.63 acres and includes the existing gatehouse.
- Lot 3 is 1.366 acre lot which will have the two existing leach fields on it.
- Lot 4 is 1.42 acres in size.
- The reason they need this area variance is because the applicant wishes to maintain the existing driveway on his lot for purposes of control of the maintenance and they will provide access to the other landowner for purposes of access to 9N.
- The existing gatehouse does not meet the 50' setback from this driveway.
- They do not believe this will be a physical change but more of a paper change.
- The benefit can not be achieved by any other feasible means because they would like to maintain control of the driveway. The gate house and driveway are already existing, and the setback is already there so there is no feasible alternative.
- Because the gatehouse and driveway were both existing features, they do not feel that

this relief will create an undesirable change. There will not be creating any additional environmental impacts.

- This is not a substantial request because it is not a physical change.
- There will not be any adverse effects to the neighborhood, and there will be no environmental impacts in seeking this setback request as the gatehouse already has this setback to the driveway now.
- This may be considered self-created, but they feel that all in all the benefit to them will outweigh any detriments in granting this variance.

Jason Saris asked if they could procedurally grant this for a subdivision before it went before the Planning Board. Atty. Muller replied that they may so that it is perfectly square with the zoning ordinance before it went to the Planning Board. They could table it to ask the Planning Board if they had an opinion on this. Over the greater scope of things, this is a small request for a big project. Jason Saris said they could grant the relief pending the subdivision. Atty. Muller agreed and said if it was not approved, they would need to come back. Lorraine Lefevé asked why they would approve this before the Planning Board gave their approvals. Atty. Muller replied that the Planning Board's jurisdiction was triggered by an applicant who can present a plan that conforms to all aspects of the code. This is an applicant that cannot until they receive a variance. It is this Board's discretion to table this until the Planning Board comments on it, but the variance sought here is minor in the scope of the whole subdivision. Atty. Bitter stated it was on the Planning Board agenda for their upcoming meeting. Jason Saris stated that he did not believe that the setback request would have a huge effect on what the Planning Board is considering for the subdivision and it does not tie their hands in any way. Lorraine Lefevé said she was not comfortable approving this before the Planning Board sees it. Jason Saris stated he could not understand how this would affect the Planning Board's decision because it is such a minor variance.

Carla Cumming asked if they could move the driveway at the point where it does not meet the setback. Atty. Bitter stated it was an existing driveway, and in doing so it would create an environmental impact that otherwise would not be necessary. Carla Cumming stated they would already be creating an environmental impact up there with the septic systems. Atty. Bitter explained that they were already in.

Holly Dansbury asked what had changed from the last variance the Board had granted where they said that there were many reasons why they could not move the house. John Roth, property owner, stated that the house had to be placed where it was due to the bedrock and in terms of the footprint it was essentially in the same footprint. He said directly south of the house there is an archeological site that cannot be touched, and it will stay with lot #1 which he is retaining. This project will not impact that at all. It does not progress on to lot #4. He could not move the house to the south due to this site or to the left due to the rock.

Holly Dansbury asked if lot #3 was all wooded right now. Mr. Roth stated it was an open field and he detailed on the plans where all the runoff would go into a retention basin that was put in for the initial project that had already been approved. Atty. Bitter said that all of this will be reviewed by the Planning Board. Mr. Roth said that all of the big trees were remaining, they may possibly lose one or two of the small trees. Jason Saris said that it is if the subdivision is

approved. They are here to only review the request for the setback variance. The Planning Board reviews the subdivision, the stormwater and all of that, not this Board. They are here for a setback variance for an existing driveway and house. They are not here for the subdivision. Holly Dansbury said she agreed but by opening this they are opening the gate to the Planning Board's next step. Jason Saris said this is just about leaving an existing driveway where it is with a setback to the house and he does not see how this ties the Planning Board's hands or implies that this Board considers this a subdivision. Holly Dansbury said she would like more of the Planning Board review before they consider this.

The Board discussed whether or not they wanted to consider this application now or send it to the Planning Board first.

Atty. Muller stated that everything that the Planning Board ought to be hearing and acting upon is in conformity with our zoning code. If they suggest that the Planning Board hears the whole thing and consider whether or not this is a good idea for a subdivision, consider the stormwater and do all that, they are really not at a point where they would have standing because it's just not perfect as it should conform with the code in all respects. This applicant can either conform with the code, which allows him to present it to the Planning Board or needs what is called a variance so he may present it to the Planning Board.

Carla Cumming asked the size of the buildings on the proposed lots. Matt Huntington of Schoder River Associates said that square footage of the homes was schematic only right now. They are roughly less than 2,000 sq. ft. When they go to the Planning Board the intention is to have a condition of approval that these 2 lots must come back to the Planning Board for Site Plan Review because they don't have a house in mind at this time. Carla Cumming said that meant it was possible for the new owner to come back and put a house that was 6,000 sq. ft. on it. Mr. Huntington replied that was up to the Planning Board.

Brendan Murnane said what the applicant is here for and what they are discussing are two different things. The applicant is here only for a variance for the road and the existing house. He thinks they should only be discussing what they are here for. If the Board has a problem with what they are asking for right now, that is all they should be voting on. The future plans are to go before the Planning Board and future construction will come back to them if it requires variances.

Lorraine Lefevre said her concern is the first sentence "for a proposed 4 lot subdivision". Atty. Bitter explained that it has to say that because they are creating this subdivision line which now requires them to have an area variance for the road front. The subdivision line, which is in conjunction with the application, now makes the structure non-compliant. When you apply for a subdivision you must have a compliant proposal. Once they get past the Zoning Board, they will have an extensive review by the Planning Board. Many of the items they have mentioned tonight will all be part of the review at that time. The only thing they are asking from the Zoning Board tonight is this setback, which is existing.

Joy Barcome asked if they would be tying the Planning Board's hands with an approval. Atty. Muller stated that he did not believe they would be. Jason Saris asked Lorraine Lefevre why

she was concerned that it said, “for a proposed 4 lot subdivision”. She replied because if they approve that, they are giving them a variance for 4 lot subdivision. Jason Saris said no they were not. They would be granting an area variance for a deficient front yard setback that would make it compliant so they could ask the Planning Board for a 4 lot subdivision. When they get done here tonight all they would have is a compliant distance between an existing house and driveway should they be granted a 4 lot subdivision granted by the Planning Board. Atty. Muller stated that the Zoning Board had no jurisdiction whatsoever to approve a subdivision.

Atty. Muller explained to Holly Dansbury that the normal thing would be to deal with the area variance as presented tonight and then make it subject to approval by the Planning Board for the overall subdivision.

Holly Dansbury said this was the third time they heard this; she feels this is sort of piece meal.

Jason Saris stated that he looks at this and feels it is one of the simpler requests that they have received. Atty. Muller stated he agreed with him, but they needed 4 votes. Jason Saris said the variance request is pretty straight forward and he does not see how any plans for the future has much to do with this request. Holly Dansbury said she thinks the applicant is doing a great job but her concern of the possible detriment. Jason Saris asked what the detriment would be if the driveway and the house stay there. Holly Dansbury said this would be opening the gate to ask for the whole thing. Jason Saris said they had the right to ask for it. They had enough land. Denying a variance will not stop someone from subdividing their property. They have enough property. Holly Dansbury said they could deny variances so people could not do certain projects. Jason Saris said that is correct, but it had to be within the scope of the benefit to the applicant versus the detriment to the neighborhood, not because they want to keep people from having a subdivision. Atty. Bitter said if she is in fact concerned that they could correct this and come out without needing any variances, in order to do this, they would have to move the driveway which would encroach on the fields and become more of an environmental disturbance. They are only seeking to keep the driveway where it already exists from this board, nothing else. Brendan Murnane stated that in granting this variance, it would not give the applicant carte blanche to do anything they want to down the road. This is just the road and the house. Jason Saris stated that they had no jurisdiction over whether or not the 4 lot subdivision should fly or not. It is up to the Planning Board and he does not see why it is coming into consideration when they are considering this variance. Lorraine Lefevre stated it was because it was mentioned in the description.

Carla Cumming said she had great faith in the Planning Board. Atty. Muller agreed and said that this subdivision has met all of the requirements so that it could be presented to the Planning Board except one and this minor thing in relation to the scope of the whole project should be easy for them.

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No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from JTR Lake George, LLC, (V19-22) 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: This would not be a simple change to move the whole driveway.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. No this is an improvement to 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. The road is already existing.
- 5) The alleged difficulty is self-created; This is a minor request.

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, 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. Holly Dansbury **Opposed**. Lorraine Lefevre **Abstained**. **All others in favor. Motion Carried.**

4. **V19-23 DUNN, MICHAEL.** Represented by Luc LeMaire. To alter single family dwelling, specifically to replace an existing deck with a master bedroom/bathroom addition, seeks area variance for 1) a deficient shoreline setback. 75' is required, 45' is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.07, Block 1, Lot 4, Zoned RL3 & RM1.3. Property Location: 21 Valley Woods Road. Subject to WCPS, APA and LWRP review.

Luc LeMaire presented the following:

- They would like to replace an existing deck with a master bedroom and bathroom.
- They need the variance to square off the house to improve the overall look.
- The entire structure is a non-conforming structure, so they need a variance no matter what they do.
- They looked at adding a top to the existing porch without squaring off the house but do not believe that is the best option because the roof line would create an unnecessary

valley creating more stormwater.

- They considered the front it would create more problems because it would create a larger non-conformity to the stream.
- The right side of the house would require a bunch of excavation and disturbance.
- The expansion they are proposing is behind the house and not visible from the road and already exists.

Jeff Anthony asked if they had evaluated the septic system to accommodate the additional bedroom. Mr. LeMaire stated that it did, it was 1,000 gallon septic tank. The home was already a rated as a 2 bedroom house, which they are making it again.

Jason Saris asked if they had considered any stormwater measures. Mr. LeMaire stated they would be adding a new gutter to the new construction to tie into the existing gutter system for stormwater mitigation.

Michael Dunn said he was approved for a garage 5 years ago. The bedroom was going to be up above the garage until they realized that the stream was closer than they thought so they did not build it. Their septic was approved for 2 bedrooms at that time. They are not disturbing the property; he just wants to enclose his back porch.

Carla Cumming asked if the porch was structurally sound enough to enclose. Mr. Dunn said they would remove the deck area and placing the bedroom expansion in that area. Carla Cumming asked if he planned on adding decking to the bedroom. Mr. Dunn stated no, just enclosing the porch.

Carla Cumming asked if it was seasonal. Mr. Dunn replied yes.

Joy Barcome asked about the protection of the stream while they were building. Mr. Dunn said that he spoke with the Zoning Administrator and she recommended eave line trenches to divert the water. They will not be bringing in any big construction equipment so as not to disturb the land very much. There is no cement trucks, they are using footers. They are building on what exists.

Brendan Murnane asked what the construction schedule was. Mr. Dunn said he was not sure and asked if there were any restrictions. Jason Saris replied that there were not. He would need to be compliant with NY State Building Codes.

Email correspondence from Sandi Aldrich with concerns for the septic and stormwater measures.

Holly Dansbury stated that in response to these concerns Mr. Dunn has a septic that has been sized for 2 bedrooms and is adding stormwater controls with the additional gutters. Jeff Anthony stated that there was a simple calculation for minor stormwater, and he should provide these stormwater mitigations to the Zoning Administrator. Mr. Dunn stated he had already done test pits and he will provide them to the Zoning Administrator.

No County Impact with conditions.

RESOLUTION

The Zoning Board of Appeals received an application from Michael Dunn, (V19-23) 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 with conditions;

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: He explained why this was the best option and he is building on an existing area.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. This is on the existing footprint.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Stormwater mitigations will be implemented.
- 5) The alleged difficulty is not self-created; The house 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, Brendan Murnane it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions; 1. that a minor stormwater plan is presented and approved by the Zoning Administrator. 2. They demonstrate that the septic is adequate for 2 bedrooms. 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 7:21 pm.

Minutes respectfully submitted by Kate Persons