

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, November 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: Carla Cumming, Jeff Anthony & Brendan Murnane, Joy Barcome, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller and Counsel; Michael Muller

Absent: Jason Saris, John Whitney & Holly Dansbury.

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

Jeff Anthony asked if there were any corrections or changes to the October 15, 2019 minutes.

RESOLUTION:

Motion by Joy Barcome to approve the October 15, 2019 minutes as presented. **Seconded by, Lorraine Lefevre.** Jeff Anthony & Carla Cumming abstained. **All others in Favor. Motion Carried.**

1. **V19-28 ZILKA, FRANK and SUZANNE.** Represented by John Clarke. Seeks to alter single family dwelling, specifically to add a screen porch on part of the existing patio, add dormers to the front side (roadside), add overhangs and repair damaged roof seeks area variance for 1) Deficient shoreline setback. 75' is required, 53.7' exists and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 186.19, Block 1, Lot 5, Zone RM1.3. Property Location: 94 Homer Point Road. Subject to WCPS, LWRP and APA review.

John Clarke of J.A. Clarke Construction presented the following:

- They considered many options for the placement of the screened porch, but this was the most conforming, with the least amount of disturbance or impact to the property.
- This area would not encroach any further into the setbacks and would keep the roof lines the same on the lakeside.
- They will be repairing the rundown conditions of this structure making it more desirable to the neighborhood without increasing the footprint or changing the lakeside appearance.
- They do not believe the variance is substantial because they are staying within the existing footprint of this pre-existing, non-conforming structure.
- This location was chosen because it would have the least amount of impact and disturbance to the surrounding areas.

- The proposed changes are within the current footprint and should not increase stormwater runoff, but they are adding gutters to capture water, to improve what exists.
- This is not a self-created problem because it was a pre-existing, non-conforming home in disrepair when it was purchased.

Joy Barcome asked if the damage was already there when the property was purchased and if it was on the same footprint. Mr. Clarke replied yes.

Lorraine Lefevre asked if the screened room was over the existing patio. Mr. Clarke stated it would be over a portion of the existing patio.

Carla Cumming asked if they were just extending out on to the existing patio with the same roof line. Mr. Clarke stated this was correct.

Jeff Anthony inquired asked if the retaining wall was in existence prior to the purchase of the house. Mr. Clark replied that it was done when the house was originally built. Jeff Anthony asked if the patio was pre-existing and non-conforming. Mr. Clarke replied that it was.

Joy Barcome asked if they would be adding gutters. Mr. Clarke stated they would be. Lorraine Lefevre asked where they would drain in to. Mr. Clarke replied that there were existing storm grids that go underground they would tie into.

Atty. Muller stated that the house is already located within the shoreline setback and these are really some minor additions to maintain it, protect it and enhance it so that overall it is not a big negative impact. The building and patio are already in the setbacks. The requested changes are proportional to the existing structure.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Frank & Suzanne Zilka. (V19-28) 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: This is a pre-existing, non-conforming structure where they are using an existing patio so as not to encroach any further on the setbacks or add any disturbance to the parcel.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This house is in need of repair and this will be an improvement to the neighborhood.

3) The request is not substantial. This is a minor request and they are not adding to the non-conformity of the property. The house and patio are already located within the shoreline setback and these are really some minor additions to maintain it, protect it and enhance it so that overall, it is not a big negative impact. The requested changes are proportional to the existing structure.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They discussed many options, and this is the best. They will be doing stormwater mitigation which will be an improvement to what exists.

5) The alleged difficulty is not self-created. This is pre-existing, non-conforming structure with a leaking roof.

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 Lorraine Lefevé 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.**

2. V19-27 DEPACE, ANTHONY. Represented by Gary Hughes. Seeks to demolish and rebuild a single-family dwelling seeks 1) density variance 32,500 square feet required, 23,958 square feet proposed, and 2) Deficient front setback 30' is required, 10.5' proposed. Section 186.06, Block 1, Lot 18, Zone RCH5000. Present site development consists of a pre-existing garage with apartment and at the shoreline a pre-existing marina in use since 1981 requiring 16 customer parking spaces. Property Location: 4768 Lake Shore Drive. Subject to WCPS and LWRP review.

Gary Hughes said that this project is basically to demolish a 3-bedroom house and construct a 4-bedroom house with a new septic system.

Lorraine Lefevé asked what percentage of the property was being used for the new building. Mr. Dickinson said the existing coverage was 11% and the proposed would be 18%.

Lorraine Lefevé inquired about the item #2 and asked if the longer length of the house was so there was a longer view of the lake. Mr. Hughes said this was correct.

Lorraine Lefevé asked if this would be owner occupied or a rental property. Ms. DePace replied that it was undetermined at this time.

Carla Cumming inquired about the setbacks from the lake. Mr. Hughes stated it was 50' and the plot plan shows that it was 50' from the shoreline to the building envelope. Carla Cumming asked what the existing buildings setback from the lake was. Mr. Hughes said that the existing structure was approximately 110' from the lake.

Devin Dickinson stated this lot was developed long before stormwater regulations so currently there are no stormwater devices. They have now retrofitted stormwater for the existing garage and new house. They will be removing some of the existing pavement and adding porous parking for the new parking area. They have added some vegetative planters at the shoreline. The new septic system will be an Elgin system and it will treat the 4 bedrooms in the proposed house and the 2 bedrooms in the existing garage apartment.

Lorraine Lefevre asked if anyone was currently living on the property. Mr. Dickinson not at this time.

Lorraine Lefevre inquired about the porta johns for the summer. Mr. Dickinson stated that these would be for transient usage in the summer so as not to encumber the site.

Lorraine Lefevre asked if the new system would be located behind the house. Mr. Dickinson replied that it would.

Jeff Anthony asked if the septic system was to be designed for 6 bedrooms. Mr. Dickinson replied yes, the current garage had two bedrooms and the new house had 4 bedrooms.

Lorraine Lefevre asked where they were proposing their new parking. Mr. Dickinson detailed the new parking on the plans in between the existing garage and the septic system. He said they would be adding four spaces to the existing parking.

Jeff Anthony asked about the three depressed planters on the lakeside. Mr. Dickinson stated he did not take any credit in the stormwater calculations with these planters, but in a practical sense they will trap some water. Jeff Anthony asked if they would maintain the remainder of the existing shoreline vegetation. Mr. Dickinson stated they would and that it was mostly lawn down to the shoreline, so this would be an addition to make a little buffer.

Jeff Anthony asked who operated the marina. Kristen Depace replied that Chic's Marina would be overseeing it.

Jeff Anthony asked if they would be selling the house. Ms. DePace replied that they would not.

Chris Navitsky, Lake George Waterkeeper stated they were not opposed to this project, but they are hoping the Board would add some conditions if they approved the project. He said this was actually an opportunity to bring the site more into compliance with town regulations. He is hoping for consideration some conditions for some additional stormwater management for the existing impervious surfaces to the maximum extent possible. Consideration of the placement of the Porta John and where it would be located. They would like the existing shoreline vegetation to stay intact. They question the overflow weir of rain garden A, which appears to be running right into the septic tank.

Mr. Dickinson stated that the trees on the shoreline could be saved. He said he could move the stormwater overflow away from septic. He stated they had proposed 686 cubic feet of

stormwater treatment and they only needed 200 cubic feet, so they have an additional approximate 500 cubic feet of treatment than what is required.

There is an existing porta john there every summer that most people utilize. Ms. DePace stated they would hide it as much as possible.

Joy Barcome asked if Mr. Dickinson could outline the stormwater mitigation again. Mr. Dickinson replied they are treating the new impervious area and they are also treating approximately 500 cubic feet of existing stormwater.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Anthony DePace (V19-27) 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: As stated a renovation would be costly and the building is not up to the new standards. A new structure would have to meet all the required codes.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement and will be a nice change.
- 3) The request is substantial. They are doing a lot of work but there is no other way to do this.
- 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 updating the septic system and adding stormwater mitigation for the whole site.
- 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, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented with the following conditions 1. Stormwater management is to be at the maximum extent possible. 2. Existing shoreline vegetation is not to be disturbed. 3. Porta John location is to be concealed so it is not seen by the public driving into town. 4. Rain Garden A is to be redirected away from the septic. 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. **V19-25 FERRI, DEBBIE.** Represented by Brian Johnson. Seeks to alter single family dwelling, specifically to alter front entry way by adding a 55 square foot deck and stairs, seeks area variance for 1) a deficient shoreline setback. 75' is required, 55' exists; Front: 50' is required, 26' exists; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 185.00, Block 1, Lot 36, Zone RCL3. Property Location: 458 Trout Lake Road. Subject to WCPS, LWRP and APA review.

Brian Johnson presented the following:

- This is currently a non-conforming structure.
- They are looking to replace the existing concrete pad and blue stone area with a 55 sq. ft. deck.
- He detailed the photos of the walkway and pad.
- They have removed much of the blue stone and the deteriorating fence.
- They are doing this to make it a safer area.
- The deck does not encroach any further than the existing structure into the setbacks.

Jeff Anthony stated that the project was not on the lakeside and they were not encroaching any further onto the lake. Mr. Johnson replied this was correct.

Carla Cumming stated this was a pre-existing, non-conforming structure.

Joy Barcome stated this was a smaller area than what **presently** exists.

Lorraine Lefevre asked if this was to improve the egress. Mr. Johnson replied yes, they needed a larger and more stable landing to make it more accessible.

Jeff Anthony asked if the current condition as it exists was difficult to use. Mr. Johnson stated that it was, and it was also dangerous in the winter because the pieces **shift**, and it collects ice.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Debbie Ferri (V19-25) 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 #3 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: This is a pre-existing, non-conforming structure where they are fixing an existing unsafe walkway and making it smaller and safer.

- 2) There will be no undesirable change in the neighborhood character or to nearby properties. They are fixing an unsafe walkway with a smaller and safer area.
 - 3) The request is not substantial. This is basically to replace deteriorating steps.
 - 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are replacing unsafe steps with new.
 - 5) The alleged difficulty is not self-created. They are replacing steps and walkway on 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.**

4. V19-29 CARAVELLA, GARY. Represented by Jon Lapper. To alter pre-existing non-conforming structure, specifically to install a permanent carport 14'-6 by 19'-6, seeks area variance for 1) deficient setbacks. **Front:** 50' is required, 15.6' is proposed; **Shoreline:** 75' is required, 11.5' is proposed; **Front:** 50' is required, 10.5' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 200.14, Block 1, Lot (part of 10), Zone RM1.3. Property Location: 145 Cotton Point Road. Subject to WCPB, LWRP and APA review.

Attorney Jon Lapper presented the following:

- They already have an existing temporary carport.
- They have an issue with water gathering there now.
- They need to protect the area so it may function as a carport.
- They already have permeable pavers so nothing will change in that aspect.
- This is an attempt to make it look more presentable too.
- The Cotton Point Association has approved the submitted plan.
- This will be a more attractive structure than the existing tent.
- It is 1% larger than what already exists. This is not on the lakeside.
- This will be a permanent beneficial structure for the applicant.

Jeff Anthony said that this was going away from the lake and would not be viewed from the lake. Atty. Lapper said this was correct.

Brendan Murnane asked if the stormwater runoff would be going to a vegetative area. Atty. Lapper said it would.

Carla Cumming inquired about the roofing material. Atty. Lapper stated he was sure it would match the existing house.

Brendan Murnane asked if the HOA signed off on the project. Atty. Lapper replied they had.

Letters of approval were submitted from the president of the Cotton Point Association and the Architectural Review Committee for Cotton Point.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from Gary Caravella (V19-29) 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 #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: There is an existing temporary carport and this permanent structure will keep the snow, ice and water out of the area and provide cover for the vehicles and safe conditions for the owners to get in and out of their vehicles.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. They have a temporary carport and they have received sign offs from the HOA.
- 3) The request is not substantial. This will protect the vehicles from the snow and ice in the winter causing unsafe conditions for entering the home.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They HOA has approved the project and the runoff will be going into vegetation.
- 5) The alleged difficulty is not self-created. There is a pre-existing, non-conforming structure here already.

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, Lorraine Lefevé 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. V19-30 RAINBOW BEACH ASSOCIATION.** Represented by Paul Cummings. To install a permanent pavilion 32' by 24', seeks area variance for deficient setbacks. **Shoreline:** 75' is required, 36' is proposed. Section 186.18, Block 1, Lot 29, Zone RM1.3. Property Location: Located on the Rainbow Beach Association Basin Bay waterfront. Subject to WCPB, LWRP and APA review.

Paul Cummings presented the following:

- He handed out an aerial photo of the Association.
- This structure is associated with 41 camps in a small cabin colony.
- Most of the camps are for summer use only.
- This pavilion would be primarily used for a few months of the year.
- They are trying to emulate some of the pavilions on some of the islands of Lake George.
- They have looked at many alternative sites and this proves to be the best.
- He depicted the different areas they looked at on the plans.
- For 12 years they have been putting up a portable structure.
- They have decided to make the structure smaller than they had first intended.
- He depicted all the areas they had looked at and explained why they would not work.
- There was a cabin in this area years ago that has since been removed.
- There will be no clearing of the vegetation as it had already been cleared for the cabin that was removed.
- The soils in this area are very sandy and barren.
- They sought many alternatives and they do not feel there is a more feasible area for this structure.
- This will be a community structure and it will not have an undesirable effect on the neighborhood.
- This setback is very comparable to the existing cabins on the lake.
- This will mirror the existing temporary structure they have been using every year.
- They are prepared to mitigate any stormwater issues.
- They believe this is a unique situation with the way the site was laid out for the cabin colony.

John Baldwin of 38 Fish Point Road said he was speaking on behalf of his mother and submitted a letter stating they were opposed to this project because of both the visual impact and the increased traffic and parking along Fish Point Road while accessing the pavilion. They are also concerned that emergency vehicles will have difficulty getting to them. They are proposing that vehicle parking is limited to one side of the road to mitigate this issue.

Jeff Anthony stated that any restrictions imposed on this road would need to come from the town board, not the association or this board as this was a town road. Mr. Cummings explained that there would not be any change to the traffic as they have had a temporary structure there for the past 12 years. He thinks it is a worthwhile conversation on the part of the town board if parking is a concern. They already have a designated dock slip for the LGPC to use for emergency services and an AED located at the pavilion.

Chris Navitsky, Lake George Waterkeeper stated they had some concerns with stormwater mitigation and offered a couple of options. He stated that there is some history with this area on the site and to eliminate additional clearing is a positive. Jeff Anthony inquired if he was proposing gutters to be directed into crushed stone below the permeable pavers. Mr. Navitsky replied yes, and he believes this is acceptable to the applicant.

No County Impact

Mr. Cummings stated that they have had a temporary structure for the past 10 years and he did

RESOLUTION

The Zoning Board of Appeals received an application from Rainbow Beach Association (V19-30) 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 #5 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: The applicant has looked at many different locations on the site and this is the most feasible area on the site and is already being used
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. They have had a non-permanent structure here for the past 12 years.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Association is in favor of this
- 5) The alleged difficulty is self-created. This is the best location for the drainage and the 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 with the following conditions: 1. The pavilion has a gutter system as depicted by Mr. Navitsky to mitigate any stormwater runoff. 2. They recommend that the Town Board take into consideration the possibility of limited or restricted parking along the road due to the concerns expressed tonight. 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 7:24 pm.

Minutes respectfully submitted by Kate Persons