

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, January 14, 2020**  
**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, Holly Dansbury, Carla Cumming & Brendan Murnane, Joy Barcome, Planning & Zoning Director; Richard Miller and Counsel; Michael Muller

**Absent:** Alternate; Lorraine Lefevre, John Whitney & Jeff Anthony

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

**RESOLUTION:**

**Motion by** Brendan Murnane to table the November 19, 2019 minutes. **Seconded by,** Joy Barcome. **All in Favor. Motion Carried.**

1. **V19-31 SMITH, WILLIAM.** Represented by William Smith. To construct a detached one car garage and remove an old garage and travel trailer. Seeks area variance for 1) deficient front line setback 75' is required, 25' is proposed; and 2) deficient shoreline setback 100' is required, 25' is proposed. Section 171.06, Block 1, Lot 32 & 33 Zone RL3. Property Location: 73 Heroes Loop. Subject to WCPS, LWRP and APA review.

William Smith presented the following:

- He would like to build a garage.
- He will be removing an old travel trailer and garage located right next to the brook which he uses for storage.
- Neither one of the structures have any stormwater controls.
- The new construction will be substantially further back from the brook and will include stormwater management.
- He has combined the two lots, so no use variance is required.
- There is no room to build the garage without removing any trees.
- The property is mostly hillside and wooded. He would create more disturbance if he chose another area.
- There is no way he could go up any further on the property and be able to use the garage for storage.
- This will be an improvement to the neighborhood, the existing structures are unsightly and unstable, and this will clean up the area by removing the run-down structures from the edge of the brook and adding stormwater mitigation to the new garage.

- When the Brook flooded it bowed out the garage wall and made it structurally unsound.
- The existing garage is 3' from the stream at the closest point to the stream without any stormwater management.
- The new garage will also be further from the road than the existing one.
- The trailer is also located right next to the stream.
- The practical difficulty is that there is no other place to build this garage without creating major disturbance.
- This is the only logical and feasible flat area for this improvement.

Jason Saris asked if the rear yard setback was supposed to be shoreline setback on the application. Richard Miller replied that it was.

Carla Cumming stated that she did not go up the driveway and she would like to know if there was any place to build there. Mr. Smith replied that the house was at the end of the driveway and he depicted on the plans why he could not place it in those areas. The zoning allows for covered boat storage and garages. He is trying to achieve it, in the most practical way.

Atty. Muller explained to the applicant what he needed to substantiate his practical difficulty such as topographical maps and photos.

Holly Dansbury inquired about the stormwater implements and if the applicant could provide that information when he comes back. Mr. Smith said he could and said that he would be using a rain gutter to an infiltration trench away from the stream.

The Board requested a topographical map and photos to be added to the application so the APA could see what he was working with.

Now, upon motion duly made by Brendan Murnane and seconded by, Carla Cumming it is resolved that the ZBA does hereby table the variance request for additional information. **All in favor. Motion Carried.**

2. **V19-32 RUSSO, NORMAN.** Represented by Curtis Dybas. This is an After-the Fact variance. Installed an 800 square foot rectangular slate patio edged with pressure treated timbers plus a fence along the top of a retaining wall. Seeks area variance for 1) Deficient front setback. 75' is required, 57' exists and 2) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 171.07, Block 2, Lot 45, Zone RM1.3. Property Location: 3 Braley Lane Subject to LWRP and WCPS review.

Applicant was not available to present application.

Now, upon motion duly made by Brendan Murnane and seconded by, Joy Barcome it is resolved that the ZBA does hereby table the variance request. **All in favor. Motion Carried.**

3. **V19-33 PETINATO, ROBERT AND SHURTS, WAYNE.** Represented by Chris Gabriels and Tom Jarrett. Seeks to demolish and rebuild a retaining wall across two adjacent properties seeks 1) Deficient shoreline setback 75' is required, 44'-11 is proposed on Shurts' Property and 53'-9 on Petinato's property; 2) Deficient front line setback 50' is required, 6' is proposed on Shurts' Property and 0' on Petinato's property; and 3) Deficient sideline setback one side 15' total 30': Shurts' property 7'-4 is proposed on the south side and 0' is proposed on the north side; Petinato's property 0' is proposed on the south side and 6'-3 is proposed on the north side; and 4) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 156.20, Block 1, Lot 17, Zone RCM1.3 and Section 156.20, Block 1, Lot 16, Zone RCM1.3. Property Location: 108 Pioneer Village Road and 15 Cottage Lane. Subject to WCPS, APA and LWRP review.

Tom Jarrett of Jarrett Engineering presented the following:

- The two families are proposing a retaining wall that spans the lakeside of their properties.
- The Petinato's have an existing dilapidated wooden wall which the new wall will replace.
- The Shurts do not have a wall, they have a steep embankment in front of their property.
- The new wall would extend across both properties.
- The sideline setbacks are significant, but the wall would expand both properties.
- Petinato's are improving the lot coverage slightly.
- Shurts are aggravating it slightly.
- Shoreline is significant and they are asking for relief from the shoreline in both cases, but there is an existing wall below this wall, closer to the lake and it will remain intact.
- The new wall will be very similar to this wall.
- This new wall will stabilize the slopes and give them the ability to trap some of the runoff on the slope.
- It will also improve the aesthetics of the property.
- Most importantly though, both property owners are planning new wastewater disposal systems. Petinato's already have approvals and it will be installed in the spring.
- The Shurts have a plan in front of the Director of Planning & Zoning for review right now.
- They will be removing quite a bit of soil to put the new tanks in and they will be putting the soil behind the new wall so they will not need to haul it out of Pioneer Village which would be hard to do.
- The Shurts will be putting an addition on the north side of their house as part of the wastewater system, which will require a variance. This addition will not aggravate the existing sideline variance.

Jason Saris inquired if there would be any screening in front and on top of the wall. Mr. Jarret replied yes, they are planning on keeping the wall no more than a couple of feet in exposed height and he detailed the planting areas on the plans.

Mr. Jarrett said that the Lake George Waterkeeper had brought up the issue of an underdrain for the wall, which they would normally want on a concrete wall like this, but they don't start the stone on the wall until 2' down into the ground so as not to short circuit stormwater into that drain. The drain will daylight into a pocket of stone at the end of the wall and not down toward the lake.

Mr. Jarrett stated that there was an existing wall there now which they will replace in kind in the same location for part of it. Going shoreward somewhat for room to put the soil from the new wastewater system rather than hauling it off the site which would be difficult. They believe putting the soil behind the new wall is a very practical way to handle this difficulty which is one of the reasons for moving the wall slightly toward the shoreline and it will be behind an existing wall that is closer to the lake.

Jason Saris asked if there was any history of erosion problems on this site. Mr. Jarrett replied that he saw some minor erosion on the slope. He said there is an area where they have lost some trees, and this will help to stabilize it. He detailed this area on the plans.

Holly Dansbury asked if the flat area would remain as grassy lawn area. Mr. Jarrett replied yes, the new tanks for wastewater would be going in above the old wall and the landscaping would be right on top of the new wall.

Mr. Gabriels stated that the Petinato lot was land locked and it was difficult to get access to it. These neighbors already have a shared well system. Mr. Jarrett said lot #6 on the plans did not really have a road between it and the Petinato Property, so they would need to use wheelbarrows to remove the soil from the septic which would be quite difficult. This will create a difficulty to remove the soils when installing the new septic systems, which is why they would like to leave the soils on site. Mr. Jarrett pointed out a well on the map and stated this would also create an area to drive around it in order to bring the tanks in.

Holly Dansbury asked if there was any other option for the placement of the new wastewater system. Mr. Jarrett replied that the property was very constrained with regards to wastewater. The walls are part of the construction for the wastewater.

Chris Navitsky, Lake George Waterkeeper said that they tend not to support variances that would increase coverage on lake front properties, however on this application he does not feel that they are opposed because the wall can be utilized for stormwater management. They do have concerns with the short circuiting. If they build the wall up and it captures some stormwater, and it infiltrates into the ground it is understandable as to why they would want to put a perforated pipe into the ground. Unfortunately, this will create the potential of short circuiting and they would prefer no perforated drain, but that may not be the best engineering wise. In light of this, they could use a type of impermeable layer near the footing drain and outlet it to an area that will allow infiltration below the wall, which would be a better design. They are not opposed as long as they could put in some additional protection measures for the stormwater. Mr. Jarrett replied that they had no objection to this, and they could put in a

barrier to separate the top stormwater infiltration section from the underdrain. It is a good suggestion.

**RESOLUTION**

The Zoning Board of Appeals received an application from Robert Petinato & Wayne Shurts (V19-33) 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, 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: Due to the steep incline and runoff problems, it seems like they are improving the situation.

2) There will be no undesirable change in the neighborhood character or to nearby properties. Improving the walls and additional stormwater mitigation will be helpful to the site.

3) The request is substantial. There are very few options to achieve the septic installation.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are improving the wall and stormwater mitigation.

5) The alleged difficulty is self-created, but they are eager to help protect the lake and there is no other area to put the wall for the stability of the property. There is no other place to easily move the soils from the new septic as there is no access for the equipment to the second property.

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 condition; 1. A barrier for the infiltration system be included in the plans for the wall. 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. V19-34 HESS, HEIDI.** Represented by Mark Hess. This is an After-the Fact variance. Installed a handicap ramp to access main entrance and covered wrap around porch. Seeks area variance for 1) a deficient front setback 75' is required, 49' exists; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 156.19, Block 1, Lot 2, Zone RL3. Property Location: 5246 Lake Shore Road. Subject to WCPS and LWRP review.

Mark Hess presented the following:

- They purchased the property in January of 2018.
- The house was built in 1949 and was a pre-existing non-conforming structure in need of repair.
- Originally it had a ledge rock walkway, and it was very unsafe and difficult to get in and out of the porch.
- They put in a level platform and made it handicap friendly to access the existing wrap around porch.
- This was to upgrade it and make it more accessible and safer.

Holly Dansbury asked if the ramp was there when they bought it. Mr. Hess replied that it was not. It was a ledge rock walkway and a wood and plywood step to get on the porch. It was very unsafe. The ledge rock was sort of like a ramp to the step.

Jason Saris said that they understand that the house is a pre-existing, non-conforming structure but they need to know if there were any compliant areas in which to put this ramp. Mr. Hess replied that there would not be because the entire house was pre-existing and non-conforming, and it would require a variance anywhere they placed it.

Carla Cumming said that they have done a wonderful job refinishing this house. She said that they took an existing unsafe ramp and made it more useable by replacing it with the new safer one.

No County Impact.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Heidi Hess (V19-34) 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: The existing entrance was unsafe, and this is the best location for it.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This improves the neighborhood and makes the entrance safer.
- 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. This ramp makes it safer.
- 5) The alleged difficulty is not 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.**

**5. V19-35 BERG, JAMES.** Represented by James Berg. To construct a detached two car garage. Seeks area variance for 1) deficient front line setback 75' is required, 41-6' is proposed; and 2) to alter pre-existing non-conforming structure in accordance with Section 200-57 B (1) (b). Section 124.00, Block 1, Lot 15.2 Zone RL3. Property Location: 601 New Vermont Road. Subject to LWRP review.

Mary Ogint presented the following:

- They would like to build a detached garage for storage of a boat and landscape equipment.
- This is the only flat spot that is mostly cleared and relatively close to the house.
- It will be natural colors and fit the area and will not be seen from the street.
- The topography of the lot is not conducive to building in any other area.
- This area will create the least disturbance while being accessible for the boat.
- They do not want to remove any more trees than they absolutely have to, and this is the most reasonable space to place the garage.

Jason Saris asked about the natural screening from the road and if it would stay in place. Ms. Ogint replied yes.

## **RESOLUTION**

The Zoning Board of Appeals received an application from James Berg (V19-35) 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, 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: As discussed this is the best location with the least disturbance.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will fit in nicely 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.

5) The alleged difficulty is not self-created. This is a 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, 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.**

The meeting was adjourned at 7:10pm.

Minutes respectfully submitted by Kate Persons