

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, May 19, 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, John Whitney, Jeff Anthony Holly Dansbury, Carla Cumming & Brendan Murnane, Joy Barcome, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller and Counsel; Michael Muller

Absent:

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

RESOLUTION:

Motion by Carla Cumming to approve the November 19, 2019 minutes. **Seconded by,** Brendan Murnane. **All in Favor. Motion Carried.**

Motion by Holly Dansbury to approve the January 14, 2020, 2019 minutes. **Seconded by,** Joy Barcome. **All in Favor. Motion Carried.**

1. **V20-01 GREEN FLASH HOLDING GROUP, LLC.** Represented by Paul Rutherford. To place a storage shed (12.5 feet by 20.5 feet) on property. Seeks area variance for 1) deficient side setback 20' is required, 0' is proposed. Section 200.18, Block 1, Lot 7.2. Zone RM1.3. Property Location: 4184 Lake Shore Drive. Subject to WCPS and LWRP.

Paul Rutherford presented the following:

- This storage shed that will be delivered to store outdoor materials to take care of the property.
- They chose this area so it would not interfere with the stormwater controls.
- They are piping everything from the culvert into the rain garden south of the shed.
- It is not impacting any views and creates a sound/privacy barrier between the two properties.
- It is the most convenient area on the property given the stormwater protection requirements.

Jason Saris asked if a 0' setback the best they can do. Mr. Rutherford stated he could move it forward a few feet, but he can't move it enough to meet the 20' setback, without impacting the stormwater implements. Jason Saris stated that his concern with a 0' setback is that in the future, if part of the back of the building needs any maintenance it would be on somebody

else's property and that is not a relief this Board can offer. Mr. Rutherford said that he and his neighbor have a good working relationship and this shed could be moved forward a few feet.

John Whitney said that the maintenance agreement that may exist between these neighbors is not relevant to the question of the zoning and the setbacks. This variance goes with the property. A 0' setback is an extreme request. Mr. Rutherford asked what an acceptable setback would be in that area. Would it be acceptable to place it with enough room to get behind it to do any maintenance? Jason Saris stated that they were not here to design the project for him, but when people ask for a variance, the board looks for the least intrusive request that an applicant can supply. Mr. Rutherford said there must be some reason to deny the variance and if in this instance it was due to the lack of space for maintaining the back of the shed. Jason Saris asked if Mr. Rutherford had read the application questions. He explained that the Board needed to consider those questions and the applicants answers to them when granting a variance.

Holly Dansbury asked had looked at other areas to place this shed. This was a fairly large property and she wonders if he considered other placements. Mr. Rutherford said they had looked at a lot of other areas with his engineer. One was the other side of the house, but it was to impactful to the stormwater controls. This area was the least impactful place on the site. He detailed other placements and why they would not work.

John Whitney stated he could not tell by the application that there were no other locations to site the shed and he did not find the map/drawings very helpful. Something on a property line will shed water on the neighboring property and the first of the Boards balancing tests has not been adequately determined. Also, there were several objections that had been sent to the Board with concerns with the whole application.

Joy Barcome stated a 0' setback was a concern to her, and she is wondering if there are any other options. She is concerned with the neighbor's properties. Mr. Rutherford stated this was the least impactful and most practical area to place this shed.

Brendan Murnane stated that he believes part of the problem is that the application is mostly dealing with the shed and the size of the shed. He would like more information as to why they need the 0' setback. Mr. Rutherford stated he understood, and he can see about moving it forward, to make it more compliant.

Jason Saris said this was pretty much his concern too, and he would like to see the most minimal setback possible. He understands what they are trying to achieve, but the Board is required to have the applicant find a usable area with the least amount of impact to the setbacks. Mr. Rutherford said his options are limited if this was to be usable, they have looked at other sites and there is nothing they do without impacting the setbacks or stormwater mitigation. They did not just decide to put it there without careful thought. He wanted to put it in an area that would not impact the lake or stormwater.

Holly Dansbury said she has concerns on the impact to the drainage on the property line. Mr. Rutherford stated that it did not affect it. Holly Dansbury said the shed roof would add to

stormwater. Mr. Rutherford said the drainage came from the stream above. He was going to use a gravel pad for any impact.

Jason Saris read letters of opposition from the following:
Lynn & David Call of 15 Boon Bay Road
Dave & Judy Forshay of Chelka Lodge
John O'Carroll

Mr. Rutherford said that the boathouse was approved by the LGPC not the Town of Bolton 3 years ago and is compliant with what is allowed on the lake. This is not a 3-acre lot. This is 2 separate lots and they are required to operate within these setbacks of both lots. Privacy fences were never submitted on their plans. He understands that everyone has construction fatigue. Fences would never be put up until the landscaping is complete. It is a much quieter property from what existed, and they want to finish this project as soon as possible.

John Whitney asked if the applicant wanted to reconsider the location or 0' setback and/or move the shed forward. Mr. Rutherford said he would certainly look to move the shed forward, but he does not know how far until he is able to measure it out. Jason Saris explained that they could table the application or proceed, whichever direction the applicant would like to go. Mr. Rutherford said he would table if that was the only objection out there.

Brendan Murnane said his biggest concern is the 0' setback and it would be more agreeable if the applicant could come back with a location that was less of a setback intrusion. Carla Cumming and Joy Barcome stated they had the same concern. Holly Dansbury asked him to consider a privacy fence to make it less objectionable. Mr. Rutherford stated that the shed was finished and was no more of an impact than a fence.

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

2. **V20-02 ANTHONY, JEFF AND SANDY.** Represented by Jeff Anthony. To construct a 5-foot addition to an existing 3 foot wide balcony/deck on main living floor of house at living room/great room. Seeks area variance for 1) deficient side setback 30' is required, 15' side setback was based on original cottage, 12' was approved by variance granted 7/16/01, 7.72' is currently proposed and 2) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 157.05, Block 1, Lot 17. Zone RCL 3. Property Location: 20 Rudy Lane. Subject to WCPS and LWRP.

Jeff Anthony recused himself.

Jeff Anthony presented the following:

- They have an existing house built on a lot created in 1990 which allowed a 15' setback from the side yard line under the previous zoning law.

- It went through a variance procedure in 1990 which allowed houses to be built in accordance with the previous zoning law and in compliance with the setbacks required of that law.
- They built their house and it complied with the setbacks with the exception of two.
- One was the patio on the south side due to a retaining wall and the other was the slight corner of their porch on the southwest side.
- They put a square house on a triangle lot.
- The front of the house, including the 3' wide deck complied with the previous setback requirement of the previous zoning law.
- They are proposing to make this 3' wide deck and make it a little more usable by going 5' out further.
- There is an existing stone patio beneath the deck which extends several feet further than where they propose to extend the deck.
- This is just under 50 sq. ft. of deck.

Jason Saris asked if there were any alternatives. Mr. Anthony replied no matter which way they go, they would encroach on the setbacks. They are pretty much boxed in on all sides.

Jason Saris asked if it would impede any views. Mr. Anthony replied that it would not.

Holly Dansbury stated that anything they did to the house would require a variance as it was a non-conforming structure. Mr. Anthony stated they would need a variance on any side that they expanded. When they built the house, they had two minimal variances.

John Whitney asked if they discussed the setbacks at the original meeting where variances were required to build the house. Mr. Anthony said the existing deck complied with the previous zoning laws when the house was built. John Whitney said they must have had a rational for only building a 3' standing deck. Jeff Anthony said he believes he is mixing up the variance requests. They needed the variance for the entrance porch, not the deck. A 15' setback was allowed at that time. The deck is compliant with the previous zoning law. John Whitney said that when they built the deck it was so small; they must have had a reason for building something so small. Mr. Anthony said that they had two French doors on that side, and they wanted something there at the time so when the doors were open it did not feel like you could just fall down one story. So, they put on the standing deck.

Carla Cumming asked why they wanted to change this now. Mr. Anthony stated they wanted to be able enjoy the deck for more than just standing on.

Jason Saris read a letter in opposition from Robert & Diane Joseph.

Mr. Anthony stated that their house was not behind the Joseph house and their house was north of the Joseph house and they look directly over 3 Rudy Lane which is a new house. The Joseph's are confused as to which neighbor was behind them. They have no view to them at all.

John Whitney asked what the distance from the end of the deck to that house, it looked like a fair distance. Mr. Anthony said it had to be at least 40' and it was wooded. They did not own that land

and could not control the vegetation on that land. John Whitney stated that adding a couple of feet to the deck would not change how far from the house they were. Mr. Anthony agreed.

Holly Dansbury said the location of the deck is where it is and an additional 5' is not going to make a difference.

Carla Cumming asked if it was possible to add screening so they could not look down on them. Mr. Anthony said they were not behind that house and they did not look down on it. They would have to look at an angle and to put a wall there would block the other neighbors view.

Jason Saris asked if the deck was in keeping with the neighborhood. Mr. Anthony replied said all the neighbors have decks, including the Joseph's who doubled the size of their deck a couple of years ago.

RESOLUTION

The Zoning Board of Appeals received an application from Jeff & Sandy Anthony (V20-02) 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 #2 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.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is substantial, but there will be no adverse effect on the neighborhood.
- 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.

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, 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. **V20-03 STRUZZIERI, THOMAS.** Represented by Chris Girard. To construct a U-shaped permanent pile dock/wharf with an open-sided sundeck structure. The existing PUD states that two docks/wharfs can be constructed on the westerly facing shore. One has been constructed. Seeks area variance for 1) modification of the PUD restriction by the Town of Bolton to allow installation of the second dock/wharf on the east side of Green Island. Section 171.16, Block 1, Lot 15. Zone PUD. Property Location: 16 North Island Drive. Subject to LWRP.

Chris Girard of the Dock Doctors presented the following:

- There are 2 properties that were subdivided within the PUD with restrictions limiting structures to the west side of the property.
- This parcel does consist of 740' of shoreline with 223' of it on the west side and 517' on the east side.
- The homeowner currently has one covered wharf and is looking to install the second wharf.
- Due to LGPC property line setbacks the neighbor to the north and DEC commercial facilities the west side has been exhausted and deemed not a viable option to meet setback requirements of 20'.
- Alternatively, they have gone to the east side looking to install a 561 sq. ft. permanent u-shaped dock beyond the mean high water mark.
- The open sided sundeck built above it, is also located beyond the mean high water mark.
- There is a short set of stairs on the back side of the dock for egress.
- The APA has visited the site and deemed it no wetlands and written a letter of concurrence.
- LGPC has issued a fully compliant permit.
- They will not be removing any vegetation or tree cutting.
- The PUD was first created in 1984 and 1987 with the language deeming the number of docks allowed per parcel.
- This was amended in 1996 allowing for covered boathouses on the westerly side.
- They simply want to add a u-shaped dock for residential use only not allowing any commercial use or rentals.
- The color schemes will mirror the house and PUD regulations.

Jason Saris asked if it has been determined that the town does not have any jurisdiction on the lake any longer. Atty. Muller stated that the courts made a determination that the shoreline communities no longer regulate those structures, such as docks or boathouses that are over or upon Lake George. The zoning jurisdiction ends at the shoreline. This is a sovereign lake and owned by the state and they control jurisdiction over it. When the Town of Bolton created a PUD in this area, it basically rewrote the zoning for that area. Whatever the PUD allows, restricts or limits is the zoning for that area and in order to tinker with this requires 1. Get a variance. 2. Go before the Planning Board. 3. Go to the Town Board who in turn listens to the advice and directives of the Zoning and Planning Boards creates a legislative act to amend the PUD. When grappling with this project the applicant needs the board to make a recommendation that the ZBA supports the variance of the PUD restriction and recommend that they may move forward and go to the planning level and then on to the Town Board for approval. Jeff Anthony asked if that meant that they were not voting on a variance, they were just making an advisory opinion to the Town Board. Atty. Muller replied that was correct.

Holly Dansbury asked if there was any information as to why they only allowed docks on the west side at the time of the PUD's creation. Jeff Anthony replied that he believes that the west

shoreline was considered more protected and conducive to dockage and the east side was considered more of a travel lane, with the exception of the Sagamore's steamboat dock. Jason Saris said that anytime you build a dock, you look for the most protected area. At the time when it was a blank space, he would have wanted to put a dock on the west side to for practical purposes too.

RESOLUTION

The Zoning Board of Appeals received an application from Thomas Struzzieri (V20-03) for an area variance as described above.

Now, upon motion duly made by Jeff Anthony and seconded by, Holly Dansbury it is resolved that the ZBA does hereby support the application for modification of the PUD restriction by the Town of Bolton to allow installation of the second dock/wharf on the east side of Green Island. 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. **V20-06 DAVID SMITH** Represented by David Smith. To place a storage shed (24 feet by 24 feet) on property. Seeks area variance for 1) deficient side setback 50' is required, 25' is proposed and 2) deficient front setback 100' is required, 50' is proposed. Section 139.00, Block 1, Lot 20. Zone LC25. Property Location: 205 New Vermont Road. Subject to LWRP.

David Smith presented the following:

- The building is already in place as he was originally slated for the March meeting which was cancelled due to Covid-19 restrictions along with the April meeting.
- He had a significant deposit on the building that was non-refundable.
- The building was placed on Friday.
- The color matches the house.
- The 25' side setback is necessary to stay out of the septic system.
- The 50' front setback is to match the house's setback.

Carla Cumming asked if this would be treated as an after the fact variance. Jason Saris replied technically yes, but due to the relatively unique circumstances he is not sure. Carla Cumming asked if they needed to do anything differently. Atty. Muller replied they did not.

Jeff Anthony asked if there would be any stormwater management around the building such as a drip edge. Mr. Smith said due to the large amount of ground water runoff from the mountain he would be extending the existing significant french drain built for the new house. Carla Cumming asked if the trench was working for the ground water. Mr. Smith replied that it has made a significant improvement. Before the house was built it would not dry up until late June.

Planning & Zoning Director; Richard Miller stated that they should see some sort of stormwater controls on the drip edge. Mr. Smith stated he could certainly do this and direct all

stormwater into the french drain which discharges into the culvert. The stormwater goes into a catch basin in the front. Planning & Zoning Director; Richard Miller suggested they get together and discuss it.

Jason Saris read a letter of support from James Kneeshaw.

No County Impact.

RESOLUTION

The Zoning Board of Appeals received an application from David Smith (V20-06) 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, 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: As the applicant outlined due to topography and the location of the septic, this is the only feasible area to place the shed.
- 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. The applicant will be adding stormwater mitigation.
- 5) The alleged difficulty is not self-created. This is due to the site location.

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, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented with the condition that the applicant work with the Planning & Zoning Administrator to implement minor stormwater. 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. V20-07 REBECCA SMITH.** Represented by Balzer & Tuck Architecture. To construct an artist studio/guest cottage and renovate the existing single-family dwelling. Seeks area variance for 1) increase to 3,640 sq. ft. from 1,500 sq. ft. allowed for an accessory structure and 2) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 155.00, Block 1, Lot 36.1. Zone RR5. Property Location: 609 Edgecomb Pond Road. Subject to APA and LWRP

Trevor Flynn of Balzer & Tuck Architecture presented the following:

- The estate is located directly across the road from the David Smith Estate.
- They acquired this property from a 4-lot subdivision.
- There is an existing farmhouse on the site.
- They are looking for a studio of their own.
- They are relocating an easement to lot 4 to create the proper setbacks.
- There is 100' buffer from the wetlands.
- They are removing an existing garage.
- He detailed the plans to the Board.
- They are limiting their overall area of disturbance.
- He detailed the rain gardens on the plans.
- They have decreased the size of the footprint they are looking for.
- They have changed some of the materials that they will be using on the structures.

Jason Saris said they had received a letter from the APA that mentions some restrictions. Mr. Flynn replied that they sent the entire application back to the APA and they have since received a non-jurisdictional letter back.

Jeff Anthony asked if the artist studio would be used for commercial use. Mr. Flynn replied that it was a for personal use. It would be a residential structure.

John Whitney said there is already one residence on the property, and this appears to be a second residence as it is a rather large structure for an accessory structure. He is a little concerned that this is twice the allowable square footage for an accessory structure. The only unique feature to this structure is the word "artist". This seems like a rather large variance request from what would be allowed on anyone else's property. He is concerned that it is such a substantial request.

Holly Dansbury stated she agreed that is a substantial request, but as it balances out with what is proposed. It is not negative to the environment. Mr. Flynn stated that as the code reads this is a kitchenette and not a kitchen. Brendan Murnane asked if there would be a dishwasher. Mr. Flynn replied there would be.

John Whitney inquired what the square footage of the main building was. Mr. Flynn replied he did not know. John Whitney stated that the accessory structure appeared larger than the main structure. Mr. Flynn stated they worked hard on the proportions of this studio and this is the size they need while working on their artwork.

Mr. Ferguson stated that guest cottages are allowed in this zone, so it is not out of character to have a bedroom. Joy Barcome stated there was a concern with the kitchen. Holly Dansbury stated that there are a lot of houses with auxiliary buildings that have kitchens with everything but a stove. Atty. Muller stated this is correct. You can have a complete kitchen, without a stove. Jason Saris said it appears that is mostly for a cleanup area. Our zoning allows for auxiliary buildings.

John Whitney stated the size was independent of the use. The size is the issue with the zoning. The point of the zoning ordinance is to say you can have a house and a small second structure at 1,500 sq. ft. This is more than twice the zoning limit. It looks beautiful but that is irrelevant. The question is how do you defend the code if you allow substantial request like this.

Cala Cumming asked if they join to lots together would they be able to have a larger structure. Jason Saris said the lot size is not the concern, they are here due to size of the accessory structure. Jason Saris said they were not asking for the variance due to a substandard lot size. It is because the allowable size of the accessory structure is larger than what is allowed.

Mr. Flynn said the current footprint of the existing farmhouse is roughly 845 sq. ft. They thought about making this the accessory structure and the art studio the primary structure, but the client wants to maintain the historical significance of the farmhouse. From their standpoint, they think they are doing this the correct way. Jeff Anthony asked what would be going on in the existing structure. Mr. Flynn replied that it would be renovated for additional space for the family when they visit. Jeff Anthony asked if they would be able to use a portion of the farmhouse as a conference room and extra bedroom while limiting the accessory building to artisan type use and getting it closer to the 1,500 sq. ft. Mr. Flynn said they had tried this, but it would make the existing building encroach into the setbacks even more creating an APA issue. Jeff Anthony asked if it would create any impact within the 100' setback. Mr. Flynn replied they would be disturbing more. They would be altering the footprint. Even when making the suggested changes they would still be over the 1,500 sq. ft. which would require a variance.

Holly Dansbury said if they started adding on to the farmhouse, they would be lose the historical significance.

Lorraine Lefevre asked if the problem in question was the artist studio/guest cottage and not the single family farmhouse. Jason Saris said that was the part requiring the largest relief.

Jeff Anthony said he believes it is a well designed project but they need to find a way to get around the fact that it is double the size of an accessory structure. Jason Saris said his personal thought is that he understands the large studio for the artwork, along with a bathroom and other areas in this circumstance. He knows if a problem is self-created, if it does not necessarily mean that the Board can't find favorably for the project. He asked Atty. Muller if in the balancing act, they find that a request is substantial, does that mean that the variance can't be granted. Atty. Muller said the variance can still be granted and John hit it on the head with the size concerns. The self-created aspect and substantial does not kill the chance to grant the variance. If it is substantial, they need to do the balancing act of does it do any destruction or disrupt the balance of the neighborhood at large. Not worrying about setting a precedent. Each property is unique. John Whitney said that if you wanted to build a 3,600 sq. ft. building you buy a lot to put it on. You don't call it an accessory structure on an existing lot, that completely subverts the code. He believes this is a precedent setting decision. There is nothing unique about this, he did not hear any explanation as to why should be considered differently. This is just a request from someone wanting a big building that is twice the size that the code allows. He did not here any explanation except they want a big building.

Atty. Muller said that there are feasible alternatives. They can make the accessory smaller which is certainly in the applicant's realm of possibility.

Jeff Anthony asked how many of the balancing questions do they need to come up with a negative response to in order to turn a project down. Atty. Muller said with the exception of the self-created hardship, the others are stand alone. If they find that the other criteria exceeds the limit of what they feel should be granted, that stand alone is sufficient to vote no.

Lorain Lefevre asked how many accessory structures are allowed on one parcel. Atty. Muller stated only 1 guest cottage with habitable space, not to exceed 1,500 square feet without a variance. Mr. Flynn said the code says that the code says that accessory structure containing more than 1,500 sq. ft. of floor space is allowable in this zone with site plan review. Atty. Muller stated this is correct and has been done before. Mr. Flynn asked if the Planning Board approves it, do they even need ZBA approval. Atty. Muller said if this is permitted by site plan review, they will not need a variance. He suggests that they allow he and the Planning & Zoning Director; Richard Miller to research this before they make any decisions. If they find this is a decision that supports the application, they will still need to go before of the Planning Board. Mr. Flynn stated that they would be adjusting the easement through lot 2 during site plan review. They need a variance to alter a non-conforming structure. Jason Saris asked if they are only dealing with part 2 of the application. Atty. Muller stated this was correct.

Holly Dansbury asked what the non-conformity would be for existing structure. Jeff Anthony replied they would be removing a garage and adding an entrance way. Mr. Flynn stated that will not be non-conforming once they relocate the easement. He does not believe the town would have jurisdiction on this. Atty. Muller asked if it was violating any setbacks as it sits now. Mr. Flynn said yes, when they move the easement, they will no longer be violating any setbacks. John Whitney said that 200-14D says that it restricts artisan activities, so it needs to be researched.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by, Brendan Murnane it is resolved that the ZBA does hereby table this application for more information. **All in favor. Motion Carried.**

- 6. V20-10 SUZANNE & CURTIS SPACAVENTO.** Represented by Dennis MacElroy. To construct a 2,580 sq. ft. single family dwelling with driveway, porch & deck. Seeks area variance for deficient front setback 30' is required 15' is proposed. This property is subject to two front setbacks due to the location of roads. Section 171.19, Block 2, Lot 4. Zone GB5000. Property Location: 15 Congers Point S. Subject to WCPS and LWRP.

Dennis MacElroy of Environmental Design presented the following:

- They are under contract with the property owners.
- This is lot 16 on 15 Congers Point South.
- This is the last approved lot in this subdivision.

- It borders BLM to the south.
- It is about 1/3 of an acre.
- They are proposing a single-family residence similar to what currently exists in the neighborhood.
- He detailed the plans to the Board.
- They have met the 30' front setback from the more restrictive public road, but the south side is interpreted as a front-line setback too because of a private service road owned by BLM.
- They seeking 15' of relief from this 30' standard due to this second "frontage".
- He questions if this is really a front road.
- The applicants are under contract to purchase this property and have been awaiting town decisions.

Jason Saris stated he had a right of way over that service road, but his property does not meet this lot. He asked if they had played around with other configurations to find the minimum encroachments to the setbacks. Mr. MacElroy stated that the architect had taken in the limitations such as the sewer easement and the setbacks while trying to position the house. They positioned the house, so they meet the 30' front line setback from Congers Point. This setback would have been spot on if the service road was not interpreted as a second front yard setback.

John Whitney asked if they would be accessing the property from Congers Point side. Mr. MacElroy replied yes and detailed it on the plans. The utilities would connect from the south.

Jason Saris said the structure was listed as 2,500 sq. ft, and 2,580 sq. ft. in another spot on the application and he would like to know if this included the decks or was just the footprint of the house. Mr. MacElroy replied that he believes it is the footprint of the house. He detailed it on the plans to the Board.

RESOLUTION

The Zoning Board of Appeals received an application from Suzanne & Curtis Spacavento (V20-10) 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 #6 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: They did a nice job with some difficult setback easement issues.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties.
- 3) The request is not substantial. This is a technical issue due to having two front yard setbacks.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The stormwater mitigations will be an improvement to the lot.

5) The alleged difficulty is self-created. They are encroaching on the setbacks but 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. 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.**

Dennis MacElroy thanked the Board.

The meeting was adjourned at 8:30pm.

Minutes respectfully submitted by Kate Persons