

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, July 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, John Whitney, Jeff Anthony Holly Dansbury & Brendan Murnane, Joy Barcome, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller

**Absent:** Carla Cumming and Counsel; Michael Muller

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

**RESOLUTION:**

**Motion by** Brendan Murnane to approve the June 23, 2020 minutes. **Seconded by,** John Whitney. **All in Favor. Motion Carried.**

**Motion by** Joy Barcome to approve the May 19, 2020 minutes. **Seconded by,** Jeff Anthony. **All in Favor. Motion Carried.**

- 1. V20-14 TIMOTHY & ALLYSON HENKEL:** Represented by Hutchins Engineering, PLLC; renovations and addition to main house and cabin. Seeks area variance for setbacks and to alter a non-conforming structures (cabin and House) in accordance with Section 200-57 B (1)b. For cabin site setbacks on north side 20 feet is required, 13.8 feet exist and 19.2 feet is proposed; on south side 20 feet is required, 19.5 feet exist and 19.4 feet is proposed; and on the share driveway easement 50 feet is required, 5.0 feet exist and 3.1 feet is proposed. For house site setbacks on south side 20 feet is required, 7.3 feet exist and 5.1 feet is proposed; on east side 20 feet is required, 19.5 feet exist and 19.4 feet is proposed; and on the share driveway easement 50 feet is required, 1.0 feet exist and 0.2 feet is proposed. Section 171, 11 Block 2, Lot 1, Zone RM1.3. Property Location: 21 Countess Loop. Subject to APA, WCPS and LWRP.

Jon Lapper Esq. of Bartlett, Pontiff, Stewart and Rhodes, P.C. presented the following:

- They believe this is a very modest proposal to make important visual changes to these buildings.

- It is a very constrained site in terms of setbacks, obviously when it was built there wasn't any required setback to a project's driveway, and that's what causes the need for most of these type variances.
- Mr. Hutchins has a map showing the allowable building envelope which is a very small triangle due to the setbacks.
- The project is to improve the look of the house from the front, replace the front porch and replace the roof on the cottage.
- These are modest changes and respect what already exists, but due to the constraints, nothing can be done without requiring an area variance.
- They're pulling it back a couple feet from where it exists now in the front making it less of a variance request.

Tom Hutchins of Hutchins Engineering presented the following:

- There are two structures on this property.
- He detailed the site plan to the board.
- The main house is the big Brown house up by 9N.
- There is a cabin down closer to the shoreline which is also on the same parcel.
- This cabin is served by a driveway that is shared between this parcel and the neighbor immediately to the South.
- This driveway crosses over on to the adjoining neighboring property.
- With the zoning setbacks to this right-of-way, there is a compliant building envelope on this property which he detailed on the map.
- This area is wooded area with relatively shallow bedrock and rather steep.
- They're proposing minimal improvements to the cabin which he detailed on the plans.
- they're still within the setbacks but the improvements are lessening the nonconformance of the structure as it sits.
- There is a series of upgrades proposed to the main house.
- The whole existing porch will be removed and replaced with a partial pergola structure and a partial porch with the conventional dormers being updated with 1 shed dormer.
- There is an addition on the northern side of the building which he detailed on the plans.
- There is a deck addition on the southeast corner of the building.
- There are significant structural issues with the foundation in that corner which will be repaired.
- The shared drive will be resurfaced and improved with a cross slope and a storm water trench to the northerly side.
- There will be stormwater drainage added around the house and around the cabin.

Tim Henkel said they bought the house about two years ago. They knew they needed to address the foundation issues on the lakeside. Their addition basically tries to solve this problem with another solution. This would also give them the opportunity to go out the basement and increase the basement steps. The other problem they have inherited is a lot of stormwater flow that carries to the lake from the driveway. The proposed cross slope and the engineering of the road is a big improvement.

They are trying respect the lake, stormwater, lake pollution and septic while trying to improve the existing house. They're not really looking for more space, the addition to the north is an outdoor space where we can sit under cover, which they are trying to do within the existing non-conforming setbacks that they have inherited. The stormwater is a pretty dramatic problem, which they want to get ahold of. These stormwater updates for the driveway will significantly help their neighbor below them.

Jason Saris asked if they looked at any alternatives. John Whitney said that there's two structures on the property only one of which is within the lake setback. They should probably split this into two motions because the focus for the APA is on the cabin which is in the shoreline setback. He is wondering about the driveway easement and where it was, specifically relative to the lakeshore and the 75' trigger for APA. Jason Saris said he believes they might want to consider segmenting their application in terms of the resolution. The applicant said this was a good idea.

Jeff Anthony asked if the new construction on the cabin was going to be away from the lake. Atty. Lapper stated this was correct, the new construction was in the back. The practical difficulty is the existing setbacks around the cabin.

John Whitney the only additional variance they need is .4' on the cabin and everything else is more compliant than it was. Mr. Henkel said that they were pulling the bathroom around the back so it was not as close to the lake and they will be pulling off an existing lakeside balcony. They are trying to pull back as much as they can and maintain a good emergency access. Mr. Hutchins stated that the north side was 13.2 feet and they are making it more compliant. Atty. Lapper explained that it was still the modification of a non-conforming structure and would require a variance. Mr. Hutchins stated the addition was completely outside of the shoreline setback. Jason Saris stated that any other method of achieving the benefit would actually cause greater non-compliance. They have looked at relocating the bathroom in any other area, but this would increase the non-compliance of the structure. Mr. Hutchins agreed stating this was the only compliant area to relocate the bathroom.

Jason Saris stated that it appears that the practical difficulty is that this is a pre-existing, non-conforming structure and any modifications to it, would require a variance. They are actually decreasing the non-compliance. Atty. Lapper agreed.

Holly Dansbury stated they would also be adding much needed stormwater this parcel.

John Whitney asked about the driveway setbacks. Mr. Hutchins said the new outside area was a little bit closer to the driveway than what presently exists. Jason Saris said if it was a private driveway and not shared, they would not need a variance from it at all. The neighbor who shares the driveway has no objections to the project. Mr. Henkel said they are widening the road for emergency access and adding stormwater mitigation, so it did not rush down to the lake during a storm.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Timothy & Allyson Henkel (V20-14) 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: FOR THE REQUESTED HOUSE SITE SETBACKS WITH THE SOUTH SIDE, EAST SIDE and DRIVEWAY.

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: It is a pre-existing, non-conforming structure that sits outside the compliant building envelope of the property.
- 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 improvements for drainage will be beneficial to the environmental conditions of the property.
- 5) The alleged difficulty is not self-created. This is a pre-existing, non-conforming structure.

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 others in favor. Motion Carried.**

The Zoning Board of Appeals received an application from Timothy & Allyson Henkel (V20-14) 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: FOR THE REQUESTED CABIN VARIANCE.

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 cabin is nonconforming as it exists. The compliant building near the road is not adequate to accept any addition, so the only solution to this problem is to issue an area variance for the expansion of the cabin.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This cabin is in character with the neighborhood and the neighborhood structures. The small addition and removal of part of a portion of it is totally in character with other structures within the vicinity.
- 3) The request is not substantial. This is a modest, small addition to square off the non-lakeside building and the addition is outside of the 75' shoreline setback. It is pretty compliant with APA regulations as it is going away from the lake.

- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The improvements for drainage and stormwater mitigations that currently do not exist will be beneficial to the neighborhood.
- 5) The alleged difficulty is self-created. They would like an addition and there is no reason to deny it.  
The practical difficulty is that there is no other way to allow this expansion to take place as there is no compliant building envelope for it to take place within.

Now, upon motion duly made by Jeff Anthony and seconded by, Lorraine Lefevre 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 others in favor. Motion Carried.**

The meeting was adjourned at 7:10pm.

Minutes respectfully submitted by Kate Persons