

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, June 23, 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 and Counsel; Michael Muller

Absent: Carla Cumming

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

- 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:

- After the last meeting the Board asked him to move the shed away from the property line.
- He is now proposing a 5' setback from the property line.
- He sent the Board paperwork showing the limitations due to the terrain, rain garden and stormwater controls.
- This location is the most feasible for the shed.
- They removed the 16 structures that were inside the setbacks after purchasing the property, including 1 that was 5 or 6 times the size of the shed that they are proposing, which was right on the property line.

Jason Saris asked if Mr. Rutherford felt this was the best he could do as far as getting it away from the property line. Mr. Rutherford said that he could possibly move it 6' but any more would compromise the rain garden.

Jeff Anthony asked what the purpose of the shed was. Mr. Rutherford explained that it was to handle the blowers for the docks, waterfront and lakeside furnishings, life jacket, etc. Jeff Anthony said it appears that it is for lakeside related activities. Mr. Rutherford agreed.

John Whitney stated that it looked like the property was pretty steep to the left of it and it does not look like there are any alternatives. Mr. Rutherford stated this was the flattest area coming down without digging into the landscape. John Whitney stated that if it was moved elsewhere,

they would be encroaching on other setbacks. Mr. Rutherford said that this was the best area for what it would be used for and their options are limited due to the stormwater mitigations.

Holly Dansbury inquired as to whether it was a shoreline set back as well. Mr. Rutherford replied that it was 59.5 feet from the corner of the shoreline. John Whitney asked how long ago the previous building that was sitting there was torn down. Mr. Rutherford stated in approximately 2017. Jeff Anthony asked if he had photos of the building. Mr. Rutherford said he did. The previous building was two-stories and very large. Jason Saris stated that he believes that Mr. Rutherford's stormwater management that is required for the entire property limits the placement of this shed within the setbacks, which creates a practical difficulty. Jeff Anthony said this shed could be placed near the existing studio, but it would be impractical to carry all of beach equipment back and forth with the grade. The placement of the shed wants to be proximate to the lakeside because of what its function will be. Mr. Rutherford agreed and said the only other option makes the shed impractical for what is to be used for.

John Whitney asked if the shed was being put on an area where a pre-existing, non-conforming structure was previously, would there be a consideration, as the applicant has been working on the new construction on the property for the past 3 years. This shed is more conforming than what was previously there. Jeff Anthony agreed and stated even if it is not in the same exact footprint, they are making it more conforming and pulling it back from the property line. Mr. Rutherford stated that the structure that was removed is shown in the plans. It was much larger and 2 stories high. Holly Dansbury asked if the previous structure had been removed for 3 years, would he still be able to use this as a consideration. John Whitney asked if the site has been under construction for the last 3 years would the clock not be ticking until they were done with construction.

Atty. Muller asked if the choice of location was bound up with trying to avoid stormwater devices. Jeff Anthony explained that it was adjacent to a stormwater device on the east side and adjacent to a slope that was 10 or more feet on the west side. It is in a practical location. Atty. Muller said considering all of the alternatives, this would be an excellent and most feasible choice. The Board agreed. The other alternative is an undesirable choice. Atty. Muller asked what the time interval was from the removal of the previous non-conforming structure. Mr. Rutherford replied November of 2017. John Whitney asked if there were any remnants of that building. Mr. Rutherford replied no. He said he has photos, but he believes the structure was completely removed.

Holly Dansbury asked about the previous concerns from the neighboring properties about runoff down the side that it looks like he has addressed. Mr. Rutherford said that he had moved the shed forward and in addition they have lowered the pitch of the roof so that any runoff will be directed into the existing rain garden. This is a much smaller structure than what was previously there, and he does not believe they will see much runoff.

Holly Dansbury inquired if they were planning to do anything else on the property that would require a variance after this shed. Mr. Rutherford said he was done.

Holly Dansbury said that the new placement of the shed is closer to the rain garden which will help with runoff. Mr. Rutherford stated that the rain garden is gigantic and will certainly handle the job of any runoff from the shed. Jeff Anthony stated that he did not believe they would have any runoff problems from the shed on to the neighbor's property if they use gutters to direct the water to the rain garden. He does not believe this is an issue anymore. Holly Dansbury agreed.

Jeff Anthony inquired about the notification of this item being within a shoreline setback and the ability to vote on it. Atty. Muller replied it needed to be properly noticed. He explained that the applicant could move forward but it could be appealed. Jeff Anthony stated that it was the applicant's decision whether he would like to move forward or wait to have the item re-noticed. Mr. Rutherford stated that he was comfortable moving forward. If a neighbor has an issue, he would deal with it. He believes he has addressed the issues of it being directly on the property line.

RESOLUTION

The Zoning Board of Appeals received an application from Green Flash Holding Group, LLC (V20-01) 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 #1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: Based on the topography and the improvements made to the property including substantial stormwater management this was the most feasible area to locate a relatively small shed for the purposes of proper maintenance of the docks and other shoreline materials.
 - 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is not visible to the nearest neighbor.
 - 3) The request is not substantial; it is typical for a small shed to be relatively close to a property line.
 - 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The property has been tremendously approved from the prior ownership and this small shed will have no negative impact.
 - 5) The alleged difficulty is not self-created. This is a pre-existing, non-conforming property that had a much larger building in the same location for many years which has been removed. The applicant is replacing this structure with a much more conforming structure. In order to maintain your dock and lake front it is reasonable to have a small accessory structure relatively nearby. The practical difficulty is created by the need to have a location that does not interfere with stormwater management which is by far the most important issue.
- 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, Holly Dansbury it is resolved that the ZBA does hereby approve the variance request as presented with the following condition: 1) The shed is to be set back 6' back from the property line. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. Lorraine Lefevé opposed. **All others in favor.**
Motion Carried.

2. **V20-11 PETER & LYNN LAVELLE.** Represented by Brian Donahue. To remove existing 10'x14' open sun deck and construct a 16'x14' three season porch. Seeks area variance for 1) deficient side setback 20' is required, 12' is proposed and 2) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 171.15, Block 2, Lot 17. Zone RM1.3. Property Location: 19 First Street. Subject to LWRP.

Brian Donohue presented the following:

- The homeowners had the property surveyed to verify the property lines.
- The existing deck encroaches the setback by 3'
- They would like to remove this deck and replace it with a 3-season porch that will encroach on the setback an additional 5'.
- This will create a new entryway on the home.
- It is very encumbered and very small property.

Jason Saris asked if they had looked at other options. Mr. Donohue stated that they had but it would require constructing a new entrance to the house, so this was the only practical location. He said that they would like to enjoy this area for 3 seasons.

Jason Saris asked if this was part of a larger project. Mr. Donohue replied that this was the only thing on their plate right now. They would have to address any other changes that they may have at a later date.

Holly Dansbury asked about the side yard setback. Mr. Donohue explained 20' is required, 17' is what exists now, and they are looking to make it 12'.

Lorraine Lefevé asked which line they would be encroaching. Mr. Donohue stated that it was the southern setback.

RESOLUTION

The Zoning Board of Appeals received an application from Peter & Lynn Lavelle (V20-11) 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: They are dealing with constraints from an existing non-conforming lot.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be improving the structure within 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 pre-existing, non-conforming structure. In weighing the factors, the benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Holly Dansbury and seconded by, Jeff Anthony 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. **V20-12 JOYCE ANN BURNS.** Represented by Tom Hutchins, Hutchins Engineering, PLLC. To construct new 2-bedroom residence, deck, new gravel driveway, wastewater system and stormwater management system. Seeks area variance 1) deficient front setback 50' is required, 17' is proposed and 2) deficient rear setback 20' is required, 11.6' is proposed 3) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 171.07, Block 1, Lot 35 Zone RM-1.3. Property Location: Lake View Hill Rd. Subject to LWRP.

Tom Hutchins of Hutchins Engineering & Joyce Burns presented the following:

- He corrected item 3 of the agenda stating this was a totally vacant lot and undeveloped.
- The applicant is proposing a 2-bedroom, 14,000 sq. ft. log cabin.
- They have put a lot of thought into the layout of the structure
- This is lot 15 of the Lake View Hills Estate subdivision of 1971.
- It is a wide lot, but the depth is restrictive to today's standards.
- They need front and rear setbacks due to this.
- The property line is a long way off from the edge of the road.
- The road is not built in the center of the original right-of-way, so it is 25' from the property line.
- They looked at a number of alternative placements for the structure and this layout works the best.
- It keeps the house on the somewhat higher side of the property.
- It also allows a single bay garage under the living quarters, so another structure is not required on the property.
- They have included a stormwater and wastewater design.
- Once they get the variance, they will do a grading plan.

Jason Saris asked what the dimensions of the house was. Mr. Hutchins replied that it was a 14,000 sq. ft. footprint. Ms. Burns replied that it was 28' x 50'. Jason Saris asked if that

included the decks. Ms. Burns replied that it did not. The deck to the east facing portion of the house was 8' and the deck to the north side was 8'. She explained that one of them was a screened in porch, while the other was an open deck.

Lorraine Lefevre inquired about the adjacent lot in the back of the house. Mr. Hutchins replied that there was a strip of land there that was a right-of-way owned by the association, which was presumably used for walking trails. The property beyond that is a very large wooded lot. Mr. Ormsby stated that it was over 5 acres of open land owned by Hollis King.

Brendan Murnane inquired if the HOA was fine with the plans. Mr. Ormsby replied yes.

John Whitney asked if there were plans for additional accessory buildings that would require additional variances. Ms. Burns replied no, the plan is for the one building with the garage incorporated under it to keep the footprint small.

Jeff Anthony said he looked at stormwater and wastewater plans, and he believes that Mr. Hutchins did a fabulous job.

RESOLUTION

The Zoning Board of Appeals received an application from Joyce Ann Burns (V20-12) 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: It is a relatively small lot on the side of a hill and presents challenges in terms of where a primary residence can be sited on it. Based on the topography the benefit could not be achieved without the requested variances.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It looks like a beautiful structure.

3) The request is not substantial; it is a modest house.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The submitted stormwater mitigations will improve the management of the stormwater.

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, Jeff Anthony it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront

Revitalization Program policies and standards. Holly Dansbury recused herself. **All others in favor. Motion Carried.**

- 4. V20-13 GREGORY SWICK.** Represented by Don Russell. To construct new 16'x30' open deck and roof modification on east side of existing building and construction of new 20' long x 13'-4" shed dormer on south side of existing building. Seeks area variance 1) deficient rear setback 15' is required, 6' is proposed and 2) to alter a non-conforming structure in accordance with Section 200-57 B(1)b. Section 186.07, Block 1, Lot 6.42 Zone RCH 5000. Property Location: 4824 Lake Shore Drive, Bolton Landing. Subject to WCPS and LWRP.

Don Russell presented the following:

- This is a pre-existing, non-conforming structure, so any additions to the building require a variance.

Holly Dansbury asked if this was the only area to place the deck. Mr. Russell said basically yes. They have a 6' setback on the north side and the back side is driveway and the other side is a very shallow setback.

Holly Dansbury asked if they were encroaching any further into the setback from what already exists. Mr. Russell replied actually less. Holly Dansbury inquired where the steps would be placed. Mr. Russell said it would be a 3' x 6' wide stairway in the area along the fence line. Holly Dansbury asked if they would encroach further into the setback. Mr. Russell replied that they were will within the setback.

Holly Dansbury asked if they were reconfiguring the whole building and improving it. Mr. Russell replied yes, they were remodeling the interior right now and the dormer and deck will be a nice asset to the building. It is an old hotel unit from Victorian Village. The previous hotel was about twice the size of what exists now.

John Whitney said it looked like a nice project to him.

Kevin Maschewski, of 4818 Lakeshore Drive said he was the former owner of this property. He is all for the dormer which will give it nice architectural features. His concern is that in May of 2013 he subdivided these properties. He first needed to obtain a variance to convert the motel unit into a residence. In the variance drawing he showed a septic system for a two-bedroom system. He proposed a brand-new septic system which was approved with variance V2013-11 which he never installed. The septic tank he had proposed was to be placed right where the deck is being located. There is an old antiquated system there now. He does not know how the standing for a previously approved variance would hold for a new septic system. Jason Saris stated that the Zoning Board does not consider septic's, but obviously the system must be compliant. He does not know what triggers a system to be compliant. He asked Director of Planning & Zoning Rich Miller P.E. for information. Director of Planning & Zoning Rich Miller P.E. replied that he was just apprised of this a few days ago and he does not know exactly what needs to be done at this point. He is looking into the situation and discussing it with Atty. Muller. Mr. Zwick stated that when he sold the property below, they

had to have a full septic system test which passed and was all approved. They have a variance from the town for the shared system between the 2 properties and they have all the approvals. This happened this year and is on the record. The location of the system is not where Mr. Maschewski seems to think it is. Mr. Maschewski said it was approved as a subdivision with the septic. He is not sure if this needs to stand. Mr. Swick said they are not subdividing it and it has its required approvals. John Whitney asked if the deck extended into the leach field and if it did not, this would not be an issue the ZBA would deal with. Mr. Swick stated it is his understanding that the leach field was on the other side of the house. Director of Planning & Zoning Rich Miller P.E. inquired where the tank was located. Mr. Swick replied on the other property next door, near the green house. This is where it gets pumped out. Director of Planning & Zoning Rich Miller P.E. said he would need to look into this, he did not have the information. John Whitney asked if they could move forward with the application because the septic was not under the ZBA purview. Atty. Muller agreed stating that septic is not a zoning question. Director of Planning & Zoning Rich Miller P.E. said he would look into this, but he did not believe this should hold up the variance request. Jason Saris said the applicant would require a variance and certificate of compliance from the Zoning Office, so if they approve this, Director of Planning & Zoning Rich Miller P.E. will be able to hold off issuing the certificate of compliance until the applicant has met all the necessary requirements of the code. He said this Board does not consider septic and this is really not part of their deliberation.

RESOLUTION

The Zoning Board of Appeals received an application from Gregory Swick (V20-13) 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 #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance: There is no other feasible place to put this deck.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. This will change the structure from looking like a motel to a full time residence.
- 3) The request is not substantial; it is actually reduced in size from the previous structure.
- 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 pre-existing, non-conforming.

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, John Whitney 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