

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, August 18, 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, Carla Cumming, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller and Counsel; Dan Mannix

Absent:

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

RESOLUTION:

Motion by Lorraine Lefevre to approve the July 14, 2020 minutes. **Seconded by,** Brendan Murnane. **All in Favor. Motion Carried.**

- 1. V20-16 Andrew & Donna Volkmann:** Represented by Andrew & Donna Volkmann via ZOOM. To alter single family dwelling and detached garage. The single-family alterations will consist of a complete renovation for optimal energy efficiency with the addition of a first floor master bedroom and bathroom and relocated laundry area and half bath. The existing apartment which is part of the garage will have its first floor entry way and second floor bathroom updated. Seeking area variance for 1) a deficient setback. 20' is required, 6'-10" is proposed; 2) increase allowable lot coverage from the existing 16.4% to 23.6% and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 1, Lot 70, Zone RM 1.3. Property Location: 15 and 17 Dula Place. Subject to WCPS and LWRP review.

Andrew & Donna Volkmann presented the following:

- Their goal is to get a master bedroom on the first floor.
- They are keeping the main house.
- They are ripping off the back 1/3 to get rid of some of the miscellaneous roof lines Where there's been additions in the past.
- Their goal is to completely renovate and expand.
- They will be focusing on energy efficiency and a home that they can enjoy for the future.
- He depicted the plans to the Board.

- The porch will be 6 feet wider and the bedroom on the right side will be a new addition.
- The main house will look exactly as it does today.
- They have not decided on the final colors of the house yet.
- They are also looking at replacing the driveway eventually possibly with permeable pavers.
- The yard will be fully landscaped when the project is done.
- It will aesthetically look much better than what exists now.

Veronica Fitzgerald representing her parents stated the following:

- They have been property owners at 19 Dula Place since 1979.
- She thanked the Volkman's for sending the plans for their review.
- As it stands right now the distance between the two houses is 29'.7".
- The houses were built before the current code existed.
- Their house sits approximately 18" from the property line as apposed to the required 20'.
- This would be a 23' extension to the existing Volkman home, leaving only 8'.6" between the two houses.
- Additionally, the proposed ground level egress, would further decrease the space between the two homes to 3.5'.
- The way the addition is situated it will completely take away a full third of the view from the screened in porch behind their house.
- In addition to the extreme closeness they feel that this would reduce the air flow and sunlight for a good portion of the day.
- Their privacy would be compromised, and they are concerned about potential problems with ground water flow from the additional construction.
- Overall, they would have an urban alley between the two homes, and this would not be with the character of the homes on the street.
- They also have concerns of getting an emergency vehicle behind the house if the addition was put there.

Jason Saris asked how far their house was from the property line. Ms. Fitzgerald stated 18".

Jason Saris stated that he thinks the basic concern is that there will only be 8' between the 2 structures, which is pretty close. Holly Dansbury asked what the current setback was. Ms. Fitzgerald stated 30'.

Holly Barcome asked Mr. Volkman if the addition would take the distance from the two structures from 30' to 8'. Mr. Volkman replied yes for the length of the bedroom, not the entire house.

John Whitney stated that it was a pretty deep lot and asked if they considered placing the addition front to back rather than side to side so they would not have any setback issues. Mr. Volkman stated that they would not meet any of the setbacks no matter where they placed the addition due to the non-conformity of the home. John Whitney said it would be more compliant if it was not on the side of the house. Mr. Volkman replied that the problem would

be that it would run into the garage and the apartment and then they would lose their back yard. John Whitney stated that it seemed like a pretty big back yard. Mr. Volkmann said that the lot was 120' long. If he goes back it will run into the garage. John Whitney stated that one of the items that they consider is whether there is an alternative available besides the requested variance, and when he looks at the schematic, particularly the last page with the garage, it appears that there is a lot of room behind the house. It may not be idea, but it creates less of a setback issue by doing this. Brendan Murnane explained that if they moved the addition back, they would be creating more space between the two houses. Mr. Volkmann said on that side of the house, the only windows were on the upper half of the wall of the bedroom, so there would be no visual into their house, like exists today. They will have to work with their designer to figure it out, which will be a cost. Mrs. Volkmann asked if they put landscaping in between the homes if that would make a difference. Mr. Volkmann inquired if the issue was just the closeness of the house. He asked if it was because the neighbor's house was only 18" off the lot. Brendan Murnane answered that was one of the concerns that the neighbor had brought up and they are trying to figure out if there is a middle ground.

Mr. Volkmann asked about the issue of the lack of the sunshine. He said the roof line of the back of the house was going to be lower. Jason Saris said he believes that the problem is that there are two homes that will only be 8' apart from each other after this. He understands that these are two non-conforming pre-existing structures that don't presently meet the setbacks, but the whole idea of setbacks is to try and keep some distance between structures. Putting a 15' addition on too an already non-complying structure will make two noncomplying structures only 8 feet apart from each other, which is pretty close. The ordinance requests 20' from each setback which would make the distance 40' apart from each structure. Here it is only going to be 8'.

Holly Dansbury inquired if they could reconfigure the addition longer and narrower so it would not be as close to the lot line. Mr. Volkmann stated he would have to speak with his designer to see if that would work. He is sure anything is possible; he will have to figure out the options to meet the needs. He would need some guidance from the Board, he does not want to redesign and come back with another plan that does not meet the needs. Jason Saris stated that unfortunately, that is hard to do. Quite frankly they are not here to design the project. He understands that Mr. Volkmann has heard that some of the Board members have expressed some concerns along with his neighbors about the proximity of the two structures. Holly Dansbury stated that part of their goal is to make sure that the applicant has considered all of the options, and that is what they are asking. They would like him to consult with his designer to see if it is possible to reconfigure that portion to limit the amount of variance, they are requesting the Board to grant. Mr. Volkmann stated that moving the bedroom would make a huge reconfiguration on the inside.

John Whitney stated from his perspective, there are a lot of different options that he can see by looking at the layout and he has not heard that they have been considered. There is not a physical or environmental reason why they are not possible. It seems like it is a preference of the homeowner to build it directly perpendicular from the main house for convenience reasons which are perfectly legitimate, but in doing so they enter the setback in a very significant way. When he thinks about the balancing test here, he sees another solution.

Jason Saris explained that they could proceed, or they could talk to their designer and perhaps the neighbor to see if they come up with other options. Mr. Volkmann stated he could speak with his designer and come back.

RESOLUTION

Now, upon motion duly made by John Whitney and seconded by, Joy Barcome it is resolved that the ZBA does hereby table V20-16 at the applicant's request. **All in favor. Motion Carried.**

Carla Cumming left the meeting at this time due to technical difficulties as she could not hear.

- 2. V20-17 Twin Bolton LLC:** Represented by Studio A Landscape Architecture & Engineering, DPC. Seeking an advisory opinion for proposed PUD for 30 townhouses and 5 single family residence plus subdivision of Sembrich Residence on a ½+/- acre lot. Section 186.6 Block 1, Lot 14, Zone RM 1.3 & RL-3 and 186.7 Block 1, Lot 13, Zone RM 1.3. Property Location: 4804 Lake Shore Drive. Subject to APA, WCPS and LWRP review. **This item was heard last on the agenda**

Jason Saris explained to the Board that they were here tonight to give an advisory opinion only. The applicants were not here to seek any variances. PUD's are a zone within a zone. He stated that the applicant is here to create a zone within a zone, like what exists at the Sagamore and Lagoon Manor. If the applicant does the PUD right, they should not require any variances as everything should be compliant within the zone they are proposing. Ultimately, the Board is here only to give an advisory opinion along with the Planning Board. It is up to the Town Board to approve a PUD or any other amendments to the zoning within the town. They are here tonight to give the Town Board the benefits of their thoughts. The Planning Board will be doing most of the heavy lifting on this. The proposal is more of a site plan review type application because they don't need any area variances. He suggests that the Board think about it in a way of how their new proposed zoning dovetails with the existing zoning. The stormwater etc. will be looked at by the Planning Board.

Atty Jon Lapper presented the following:

- His client is building a single family residence across the road on the lakeside.
- Most people would have tried to develop the lakeside involving townhouses or residences.
- They are here to talk about the mountainside.
- This is an important piece of property for the town because coming into the hamlet is the first thing they see.
- This is a very dilapidated area, and they bought it with the intention of improving it.
- After many informal meetings with the Supervisor, Sue Wilson and Atty. Muller they have decided that asking for a PUD was the best way to encompass the whole project all at once.
- Visually when you come into town, you are looking at the parking lot and dilapidated buildings.
- They're proposing 15 duplex townhouses of which the ones on the road will be buffered with plantings and the parking lot removed.
- 24 of the 35 acres will be untouched.
- At the top there are five single family sites.

- If they were looking to build large single family homes they would be more spread out on the property and a lot more of the trees would have to be removed.
- Jeff Anthony has done visual renderings from the lakeside and they have submitted all of this to the APA where they received a non-jurisdictional determination on the whole project.
- There are no stormwater protections at all right now, and this is going to fully comply.
- the Supervisor has asked them to meet with the water keeper and look seriously at his low impact development criteria and this project does meet those criteria.
- Wastewater is all going to be pumped up away from the Lake and this includes the wastewater from the house across the street.
- They have gone to Park Recreation and Historic Preservation and there are no issues there.
- They are going to keep the Sembrich residence on a separate parcel and sell that.
- It seems that a PUD is the best way to do this project all at once and seems that the Town Board agrees with it from the informal meetings they have had.

Jason Saris asked how close the structure closest to the property line on the plans was. Atty. Lapper stated that is met the current setbacks, so approximately 25’.

Jason Saris asked what the proposed setbacks were for the structures from each other for the new PUD. Atty. Lapper replied nothing that would have required a variance other than the common party wall between the 2. They were 25’ to 30’.

Jason Saris asked how tall the proposed structures were. Atty. Lapper replied under 35’. They would not require a height variance. Lorraine Lefevé said she thought that some of the narrative stated that it was 45’. Atty. Lapper stated that was a mistake and not the way the proposed it to the APA.

Lorraine Lefevé inquired about the traffic. Atty. Lapper replied that they had a traffic analysis done and they would be trimming of the hedges and shrubs to make the site distance better. Lorraine Lefevé said that they refer to the state as taking care of the foliage and vegetation on the side of the road. She said they don’t keep up with that now. Atty. Lapper said that they would be getting DOT permits for permission to trim that area.

Holly Dansbury asked if there would be any common areas or pools included with this PUD. Atty. Lapper replied there was nothing proposed as of now. This would just be a quiet residential development. He said that there were passes in the back that the residents could hike, but nothing active. Holly Dansbury asked about how it would tie into the community. Atty. Lapper stated that they were making a very old looking dilapidated motel that is built right to the road into a residential area. John Lapper said there was no doubt that it is an improvement. Holly Dansbury agreed but said she was surprised that it did not have any common elements to it. Atty. Lapper replied said it was a quiet residential development and it would all shake out in the review process. If the Town Board wanted them to add something they certainly would.

John Whitney said he had concerns with the traffic issues and the site lines. It is a busy, narrow section of the road. The site lines are terrible. He would love to see a walkway created that would slow the cars down along 9N, some sort of sidewalk or dirt path. Atty. Lapper replied that the applicants were certainly willing to look at something like this. The traffic generated from the

number of homes here would be 30 town homes and 5 single family residences. John Whitney replied that this is not the way it works in this area; they will be renting these out and there will be more cars up there than people. There will be cars coming and going constantly. It is not reasonable to think that the 2 cars per house they are currently estimating is correct. Atty. Lapper said that the site distance and traffic would all be tweaked, as necessary.

John Whitney stated that for the record, he was formally concerned and asks the Planning Board to strongly consider requiring a more diligent traffic assessment of the entrance and exit and to create some link to the community, along the lines of a walking path, or walkway along 9N for a more safe migration into the community. He believes the upland area of the property presents a really interesting opportunity again to be integrating into the Bolton community, maybe like the Sagamore has, with a walking trail that the people from the community are free to use. There are no common elements here, there is no benefit to the community, except for, obviously all the cleanup. This will be much, much more beautiful and he is incredibly supportive of the project, but he believes that there could be more that would be of a greater benefit to the community at large. Atty. Lapper said that there was room for that.

Lorraine Lefevre questioned the comment in the packet they received that people could walk to Bixby Beach from this development and she believes this would be extremely dangerous. Atty. Lapper said he did not recall that. Lorraine Lefevre stated that there is no parking on Bixby Beach Road and people deciding to drive down there from this new community would not have anywhere to park. Atty. Lapper stated that he believes it was just talking about the community resources and not anything to do with this project. Lorraine Lefevre stated she saw that as them listing that as a positive and she did not see that as a positive. She thinks that it is a beautiful project and a beautiful piece of property and people will be happy to live there, but she does have concerns for the people who will be living there and going other places. Atty. Lapper said that the applicants are going to do it right and that is what this process is all about, to tweak the application.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by, Joy Barcome on behalf of the Zoning Board that the PUD be looked upon favorably with the following recommendations
1) A new more comprehensive traffic study is to be completed. 2) There be a walkway of some sort along 9N to tie into the community. 3) Consideration for community trails to be installed to benefit the Bolton community. **All in favor. Motion Carried.**

3. **V20-18 William & Elise Hettler:** To alter single family dwelling, specifically to add a two story addition, an attached two story garage and a new deck. Two story addition will include on the second floor two new bedrooms and associated full baths, walk in closet and play area. The first floor will include a master bedroom and full bath, walk in closet and laundry area. Seeking area variance for 1) a deficient front setback. 30' is required, 18 'is proposed; and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 2, Lot 18, Zone GB5000. Property Location: 7 Anchorage Rd. Subject to WCPS and LWRP review.

William Hettler and Mark Boucher of Trade Mark Builders presented the following:

- They bought the house approximately 10 years ago.
- They paid a very high price for it.
- It is a very small house, but it has expansion property which was one of the reasons it attracted them.
- Their family has grown, and they currently only have 3 bedrooms for approximately 12 people.
- The garages built on the property are very cumbersome to use and they are trying to get a functional 2 car garage.
- They would like to finish off the space above the garage as a room in the foreseeable future.
- There will not be any bedrooms here.
- They are renovating the kitchen and existing bathrooms bringing the house up to 2020 standards.

Holly Dansbury inquired if there were 2 separate additions. Mr. Hettler replied it was just one and detailed it to the Board.

Holly Dansbury asked what the total area they were adding to the main building would be. Mr. Boucher replied the 2,240 sq. ft. on the first and second floors of the main addition. The garage is 776 sq. ft. including the bonus room. Holly Dansbury asked what currently exists. Mr. Boucher replied 2,240 sq. ft. for the main houses.

Holly Dansbury asked if they would be reconfiguring and fixing the garage. Mr. Boucher replied yes.

John Whitney inquired if there were two front setbacks due to Rogers Park Road. Director of Zoning & Planning Richard Miller P.E. said the problem was Anchorage Road and the right-of-way that they have. John Whitney asked what the allowable setback was. Mr. Hettler replied that the rear was 15' and they were about 18'. Mr. Hettler stated they were here for one specific reason tonight. There is a very mature Japanese Maple tree that they consider a very big asset to the property and the community. They decided to expand the current deck on the front of the house by cutting into the tree approximately 2.5 ft. so that they could maintain the integrity of the tree. They are not removing the tree. John Whitney asked what the current front yard incursion was from. Director of Zoning & Planning Richard Miller P.E. said it was from the deck. Mr. Hettler stated that they were only expanding the deck out 3' by squaring it off.

Lorraine Lefevre asked if the deck on the side was connected to the front deck. Mr. Hettler replied yes, it was an L-shaped deck. He said all the decks are substandard and extremely tight. They would be upgrading the deck.

Holly Dansbury asked if the increase of the deck was what was triggering the variance. Jason Saris replied that was how it appeared.

John Whitney asked what the current incursion of the front yard setback was. Mr. Hettler

Bill Mulderry, neighbor at 5 Anchorage Road stated he supports them having more room for their family. He believes the benefit they were looking for could be achieved by utilizing the bonus over the garage and give a little more architectural charm to the rear addition. His backyard is directly adjacent, and the addition will block his view of the lake through the trees from his upstairs deck. He understands that if they are fully within code and inside the lines, he has to live with it, but he feels that the addition of a straight back 2-story addition will be a barricade. He would appreciate it if they could decrease the height a little.

Norm Crisp, neighbor to the south, said they do not have any disagreement about the plans but are concerned about the impact of all the construction. They would like them to explore using Rogers Park Road for all the earth moving equipment as opposed to using Anchorage Road. They would also like them to indemnify the Anchorage from any damage by additionally insuring the Association. Mr. Boucher stated he has done work in the Anchorage and had earth moving equipment and did not tear up the road. He is not sure how this will affect him. He has done 5 other projects, and this was not asked of him.

John Whitney asked if the design elements of the addition and if it could be eased at all. Mr. Hettler said that he has talked to the architect and had more windows put in, but beyond that he does not know what he can do. Jason Saris said they could make it smaller as it is pretty big. Mr. Hettler stated that he did not believe it was big in comparison to the other houses in the Anchorage. Jason Saris stated a 40' x 25' addition is pretty good size. He asked about the height being 36'. The town requirement is 35' maximum. Mr. Boucher stated that it would not be higher than 35'.

Jeff Anthony said that he is extremely sensitive to people's views, that is why people are at Lake George and live on the lake. He is sensitive to taking away people's view of the lake. He believes some consideration should be given to the neighbor and redesign considered. Mr. Hettler said for the record the neighbor does not have any view of the lake now. He thinks that his neighbor misspoke of the significance of his view. They can not see the lake with all the trees in view.

Mr. Mulderry said they had a great view of the lake from the upstairs deck on top of the garage. The only thing blocking it is the Hettler's Japanese Maple. They can see the lake through the trees.

John Whitney said the rear addition is within the setbacks and they are here for only for the front deck. They can build the rear addition without any approvals. So, all they are really talking about is the front deck.

RESOLUTION

The Zoning Board of Appeals received an application from William & Elise Hettler (V20-18) 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, whereas the Warren County Planning Staff determined that there was No County Impact.

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: The part of this project that is creating the setback incursion is relatively a minor alteration to the configuration of the front deck. It 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 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 deck will not have any adverse change to the neighborhood.
- 5) The alleged difficulty is self-created. This is a pre-existing, non-conforming structure.

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) A stormwater mitigation plan is to be submitted and approved by the Planning Department. 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 7:30PM.

Minutes respectfully submitted by Kate Persons