

**Town of Bolton**  
**ZONING BOARD OF APPEALS**  
**MINUTES**  
**Tuesday, October 13, 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, Joy Barcome, Holly Dansbury, Brendan Murnane, Jim Senese, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller, PE and Counsel; Michael Muller

**Absent:** John Whitney & Jeff Anthony

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

**RESOLUTION:**

**Motion by** Lorrain Lefevre to approve the September 15, 2020 minutes **Seconded by**, Jim Senese. Joy Barcome abstained. **All others in Favor. Motion Carried.**

- 1. V20-16 Andrew & Donna Volkmann:** Represented by Eric Schwenker and Melissa Lescault of McPhillips, Fitzgerald & Cullum, LLP. 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.

*\*This item was tabled at the September 2020 ZBA meeting\**

Attorney Eric Schwenker of McPhillips, Fitzgerald & Cullum, LLP presented the following:

- He submitted a packet to the Board which he detailed thoroughly.
- This matter has been heard twice by this board.
- It is their intention tonight to refocus the board on the 5 factors that they must consider in the balancing test between the character of the neighborhood vs. the benefit to be gained by the applicants.

- No "undesirable change would be produced in the character of the neighborhood". as nearly all properties on Dula Pl. and the surrounding area contain deficient side yard setbacks and lot coverage percentages.
- Satellite imagery shows that the majority of area homes have nonconforming structures with respect to side setbacks.
- The uncontroverted evidence presented at each of the past two hearings establishes that in the neighborhood around Dula Place and the Volkmann's' lot, nearly all of the lots fail to meet Bolton's area requirements in some respect.
- There is no objective factual basis for the board finding an alternative method to achieve the benefit to the Volkmann's.
- There was an argument that the Volkmann's have a huge back yard and can place the addition in this area. This is simply not true.
- Moreover, it would not allow the Volkmann's to achieve the desired benefit of a home with a first floor master suite meeting appropriate residential architectural design standards for functionality, energy efficiency, home value, and ability for ageing in place a first floor master suite.
- This functionality requirement is confirmed by both of the Volkmann's' experts including Ms. Casaccio at the September zoning meeting.
- In short, the Volkmann's' cannot obtain the actual benefit they seek - a functional, efficient home, with outdoor living space, suitable for themselves as a retirement home and capable of hosting their kids and grandkids, a legacy home- without the aid of the requested variance or any variance.
- Nothing can be done on Dula Place without a variance.
- The requested area variances are not substantial, and, in any event, substantiality is not determinative.
- Substantiality requires qualitative analysis, not merely a quantitative one. Thus, the Zoning Board must consider substantiality in the context of non-conformance of neighboring properties.
- Here, although the quantity of the requested area variance in the present application appears significant, the objective evidence before the Board only rationally establishes that the quality of the requested area variance is far less than substantial.
- As already shown above, the proposed area variance does not adversely alter the character of the Dula Place neighborhood.
- Any detriment to the Neville property is created by that property's own gross non-conformance.
- In reviewing the totality of the relevant circumstances, it is submitted that no substantive effects would result from the granting of area variances that are otherwise consistent with the density of development and non-conforming character of the Dula Place neighborhood.
- No objective factual basis exists for finding that the variances would create adverse impact on physical or environmental conditions in the neighborhood.
- Ms. Casaccio greatly detailed the considerations of the impact that might occur with respect to neighboring properties at the September meeting.

- There will be no impact on air flow and shadows from the roof line will not cast any further than what exists, except perhaps in the winter when the sun is already low in the sky, but the house and the trees already block that.
- Ground water flow from the addition was a concern, but the stormwater requirements will fully comply and there will be no stormwater flow onto the neighbor's property.
- This will not create an urban alley between the homes; it will still be green space as proposed.
- As proposed, there are only high fixed windows in the addition and will have no privacy issues between the two structures.
- This achieves the stated goal of maintaining privacy to the back yard.
- The addition adds visual interest from all sides of the house.
- A greater adverse visual impact would be created by the lengthening of the Volkmann home. In this regard, as cited by Ms. Casaccio, the master bedroom does not run the length of the house.
- One need only see the view of the Whitney house to the east to recognize that an extended wall of white space compared to the current proposal, is more detrimental.
- The only other source than the Volkman's expert for the Board's finding on this factor is limited to neighborly opposition, which is devoid of any objective evidence relating to the impact of the variance itself.
- This Board should find that this factor does not weigh against the Volkman's.
- The difficulty sought to be remedied was not self-created and, in any event, self-creation is not determinative.
- The Neville residence is only 18" from the property line.
- The requested variance, while bringing the Neville and Volkmann homes closer together, does not "create" the issues cited by the Nevilles (Fitzgeralds); rather, it's the Neville's own non-conforming structure that creates the hardship discussed before this Board.
- The Volkman's did not create that issue.
- The Volkman's' desire to renovate their home, does not constitute self-creation; the Nevilles' substandard lot is not of the Volkman's' own making.
- The Volkman's suggest that mere acquisition of the family home, subject to the restrictions sought to be varied, should not in itself constitute a self-created hardship particularly in light of the hardship created by non-conforming neighbors.
- Mr. Volkmann tried to contact Mrs. Neville to no avail as per the Board's request.
- The balancing test is at the heart of this matter, and the character, health, safety, and welfare of the neighborhood and community will not adversely change by granting the requested variances to the Volkman's. The application is consistent with the neighborhood regardless of the Neville Property.

Veronica Fitzgerald stated that they continue to object to the variance request and believe it is substantial by any measure. She asked if any considerations were given to the town zoning laws while developing the plans. No consideration was given to the impact to their home. At no point during the planning process was Mrs. Neville contacted. The first they learned of the project was in July 2020 when the plans were already completed and submitted to the Board.

At the August meeting the Board directed the Volkman's to consider modifications to their plans and to reach out to her mother to discuss a potential compromise. This did not happen. On October 9<sup>th</sup>, Mr. Volkman did call her to make one last plea, but not to discuss any change to the plans.

Regan Fitzgerald submitted a handout to the Board of what he thought was viable alternative and detailed it thoroughly to the Board. They have no objections to the remodel of the back house. Their objection is to the proposed changes to the front house. He thinks there are a lot more solutions that would be more compliant. Their issue is the proximity of the addition to their house.

Patricia Fitzgerald stated that the gable end of the Volkman house will be a significant visual impact to them. Their primary objection is the undesirable neighborhood change and detriment to the nearby properties. In viewing the photos submitted by Ms. Casaccio, of other existing structures close by. Most of these were done before there was a code and or they had a variance. They are trying to avoid this continued congestion. They believe this is why the zoning laws were put in effect. The variance at issue violates the 20' setback and 15% lot coverage allowance. She submitted handouts and discussed them thoroughly to the Board. Again, their main issue is the proximity. This benefit can be achieved by another method and fit within the setback. The Volkman's say they have been working on this project for over 18 months. During the initial plan of the project the zoning laws could have been addressed. There was no demonstration of any considerable effort made to follow the zoning laws. They do not object to a renovation, it is that they have realized the significant impact of putting this large addition right next to the primary living space of their house. She questions Ms. Casaccio's hand drawn sketches of alternative plans, with limited detail in terms of dimensions. One conversation via email and a phone call last Friday does not constitute the Volkman's trying to work it out with them. Having read and reviewed the previous meetings minutes, they have several other objections regarding the representation of the project. They object to the Volkman's mischaracterization of their effort to find a solution, and their implication had that Mrs. Neville spoke to them before the August meeting or this past Friday, a solution could have been found.

Atty. Schwenker stated that although Mr. Fitzgerald said he created a different design with scissors and tape showing the master bedroom on the second floor, this is not the desired benefit the Volkman's seek, nor is it a feasible alternative. Mr. Fitzgerald also has indicated that with his design there would be no need for a variance. Section 200-57 states that a non-conforming building or structure requires an area variance with any and all reconfiguration and modifications. The Board has before it the uncontroverted testimony of Ms. Casaccio, an experienced architect, regarding alternatives that were considered, and none of them achieved the desired benefit. The Volkman's not only want a home to age in place, but they have 3 children which they want to be able to accommodate in a non-flowing non-open house. The Volkman's are planning for the future. The submission from the Fitzgerald should be stricken because it still bears the William & Williams design and it is not a William & Williams design. It came from the Fitzgerald's and he objects to it. Jason Saris stated that the Board is here to consider the application and design at hand. This was just a graphic that the Fitzgerald's were using to demonstrate their argument, that's all it is. Atty. Schwenker stated that it has been

detailed that the nature of the neighborhood is that it is very congested. A variance would be required by any of the parcels in the neighborhood wishing to make any changes in accordance with 200-57. All that the Volkmann's seek is consistency for them to do the same as exists elsewhere in the neighborhood.

Mr. Fitzgerald said his submission was for illustration only and has been stamped as such by him. He does not feel that they should bear the brunt of what the Volkmann's may need in the future.

Ms. Casaccio stated that master bedrooms on the main level has been a trend for the past 20 years. This is something that has been sought out by people so that they may age in place. This is common knowledge. Holly Dansbury agreed and stated that she understood this to be the applicant's main goals.

Jason Saris stated that the Board needs to keep in mind that this is the Volkmann's application and they have had requests from the Board, to demonstrate that they have considered alternatives and to answer all of the Boards questions, which they have done. The Board needs to decide whether or not they have done this to their satisfaction. He does not see any reason why they should not move forward and act on this application. Secondly, they need to focus on the 5 aspects of granting a variance.

The Board discussed the application amongst themselves.

Brendan Murnane said the applicants did not need to put the bedroom on the first floor, no, but it would be helpful to them. He said it would not really change the character of the neighborhood, but the neighbors feel that it would. They have tried to encourage the neighbors to work it out, but it has not happened, and this is not the Board's job to make it happen.

Holly Dansbury stated that in balancing the benefit to the applicant of the master on the first floor vs the potential detriment to the neighborhood, she feels strongly that it is consistent with the other homes in the neighborhood. She does not find that it outweighs the benefit to the applicant.

Joy Barcome stated that she understands why having somebody so close is frustrating. But she also understands the need for a first floor master bedroom. Lorraine Lefevre stated she expected them to come back with a different plan. So, she is going with her first impression that she would not want that either if she lived next door to them. It is a beautiful design, but she feels that it would really impact the neighborhood. Jim Senese stated that he was at the second meeting and he is concerned with the close proximity of the homes. It is a fireman's nightmare with the close proximity. He asked if it is prudent to look at the design the Fitzgerald's submitted. Mr. Volkmann said they want the master on the first floor. They had looked at other ideas with the designer way back when they first started the project. It is not what they desire. They were asked to show alternatives, which they did with sketches, as opposed to spending thousands of dollars with the designer. They were sketched and explained by Ms. Casaccio.

Jason Saris explained that the first meeting on Zoom was very hard to understand and communication was bad.

Atty. Schwenker said that meaningful considerations for alternatives were considered and could not meet the desired benefit. It is not just a first floor master, it is the appropriate house that will allow for a functioning, flowing, efficient home with a first floor master which will accommodate their family. They considered alternatives at great length and this is what fits best.

Jason Saris said it was important to note that there has been multiple meetings and as Board members, it is up to them to decide whether or not they are viable alternatives or not. This is what the applicant has put forward and this is what they are asking the Board to consider.

Mr. Fitzgerald asked if they considered moving the great room upstairs. Jason Saris stated that the Board was not here to design the applicant's home for them.

Eileen Neville stated she does not see the need to repeat that the law was put in place to prevent homes being built on top of each other and she feels this is a huge request.

Ms. Fitzgerald said she did not feel like that there was any consideration into the lot size and what could be built. She is curious as to what alternatives were really shown. Jason Saris it is ultimately up to each of the Board members to decide whether or not the alternatives that were submitted satisfied them. It is not up to the Board to design a project. The applicant is within their right to ask for what they are looking for. He explained what criteria the Board used for their decisions.

Jason Saris closed the Public Hearing.

Motion by Holly Dansbury and seconded by Brendan Murnane, to close the Public Hearing.  
**All in favor. Motion Carried.**

Jason Saris said this is a tough one. It is a modest expansion to a modest home. It is an encroachment on a property line setback. They need to decide whether it is substantial or not. Certainly, the other house encroaches more. He questioned what expectations you could have when purchasing a house that is only 18" off the property line. Keeping in mind that there are regulations to follow and they also have mechanisms for relief.

Holly Dansbury stated that they were presented many options by Ms. Casaccio. This is a long and narrow lot. This is a long time family wanting to continue staying in the area.

Joy Barcome stated that she understands the issues on both sides. They also need to talk about safety and being able to service both homes in an emergency. Holly Dansbury said they designed it, so the windows are not looking into the other home. She believes a lot of thought went into this design. Joy Barcome agreed. Jason Saris stated that sometimes what you want, and what works may not be the same. When he looks at the grand scheme of things and variances look at month after month, this is very modest.

## RESOLUTION

The Zoning Board of Appeals received an application from Andrew & Donna Volkmann (V20-16) 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 #1 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. The applicant has shown that they have tried other options and this best meets their needs.

2) There will be no undesirable change in the neighborhood character or to nearby properties. Despite the closeness of the homes it is consistent with the character in the neighborhood.

3) The request is not substantial. It is consistent with the neighborhood.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It will be keeping some green space.

5) The alleged difficulty is self-created. This is a non-conforming, pre-existing structures requiring a variance for any modifications.

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 Jim Senese, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that it is subject to 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. Lorraine Lefevre opposed. **All others in favor. Motion Carried.**

2. **V20-23 Amy & Tom Sibilla:** Represented by Amy & Tom Sibilla. Removal and replacement of an existing wood deck and expanding deck at rear of house to northwest and southeast. Seeking area variance for 1) a deficient side setback. 8' is required, 4' is proposed and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 2, Lot 31, Zone GB5000. Property Location: 10 Anchorage Road. Subject to WCPS and LWRP review.

Tom Sibilla presented the following:

- They purchased the house back in July of this year.
- They are trying to remove the rotten sections of the existing deck.
- The house was built in 1980.
- They are removing the section of the deck that is visible to the neighbors.
- They will have the deck start closer to the back side of the house.

- They would like to add to the deck on the back and the neighbor who would see it does not have a problem with it.
- They are trying to create some more livable, usable space on the deck.
- They sent out the information to the HOA and spoke to the neighbors on all sides and they did not seem to have any issues.

Lorraine Lefevre inquired about the decks on the plans. Mr. Sibilla explained them to her.

Holly Dansbury asked if the new deck was closer to the line instead of being squared off. Mr. Sibilla stated that the reason for this was that this was the only area where they had a view of the lake.

Jason Saris asked about a discrepancy in the plans. Mr. Sibilla explained that this was information he got from the Planning Office and that picture predated what presently existed on the property, so he modified the drawing to depict what was actually there.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Amy & Tom Sibilla (V20-23) 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 #2 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. The deck is already in place and the small expansion is to see the lake.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. Adding and expanding the deck is not an undesirable change and the neighbors seem to be fine with it.
- 3) The request is not substantial. Expansion of the deck will not encroach on the neighbors.
- 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.

The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Brendan Murnane and seconded by, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. 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. **V20-24 Jeffery Strief / Dramatically Improved Property LLC:** Represented by Jeff Strief. To construct a small single family residence on property located behind Happy Jacks. Seeking area variance for 1) a deficient front setback. 30' is required, 24'-6" is proposed; 2) a deficient side setback. 8' is required, 5' is proposed; and 3) a deficient rear setback. 15' is required, 12' is proposed. Section 171.15, Block 2, Lot 42.2, Zone GB5000. Property Location: 4 Stewart Avenue. Subject to WCPS and LWRP review.

Jeffery Strief presented the following:

- The project is pretty simple.
- He wants to build a tiny home on the back lot.
- He needs setback variances on the north and east sides to make room for a new driveway.
- This will allow for parking for the Happy Jack's employees.
- This will be placed where the old garage used to be.

Holly Dansbury asked if he had considered moving it more toward the middle so it would lessen the significance of the requested variance. Nikki Ogden stated that they had, but they would lose the parking and dumpster area. Mr. Strief stated that there is a retaining wall along Stewart Avenue and putting the house here would not allow any driveway space for the garbage pickup. The benefit to putting it further to the east would actually allow for off street parking for the employees creating two more parking along Stewart Avenue.

Lorraine Lefevre asked for clarification on the parking. Ms. Ogden depicted this on the plans.

Correspondence from Bill Gates in favor of the project.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Jeffery Strief / Dramatically Improved Property LLC

(V20-24) 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 setback requirements do not allow for desired size and placement of the structure

- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be a nice change to the neighborhood.
- 3) The request is not substantial. It is very small home.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. It will be an improvement.
- 5) The alleged difficulty is not self-created.  
The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Joy Barcome and seconded by, Brendan Murnane it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

4. **V20-25 Partners are for Dancing, LLC:** Represented by Curt Dybas. To construct a patio/deck in rear of building for seasonal dining, relocate an existing storage shed and a raised waiting area with seating in front of building. Seeking area variance for 1) a deficient front setback. 30' is required, 0' is proposed; 2) a deficient side setback. 8' is required, 4' is proposed for the patio/deck and 3' for the relocated storage shed; 3) a deficient total side setback. 20' is required, 7' is proposed and 4) a deficient rear setback. 15' is required, 4' is proposed and 5) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 2, Lot 46, Zone GB5000. Property Location: 4983 Lake Shore Drive. Subject to WCPS and LWRP review.

Curt Dybas presented the following:

- This project was before the Board in May of 2017.
- This is just about the same configuration.
- They are leaving the paved area and the paved patio and raised deck and seating area in the front.
- They are relocating an existing shed.
- The 4 – 6 car parking on the north side has been eliminated, as it would never work correctly.
- The front seating will be used for waiting.
- Two couples have purchased the restaurant.
- They have done some repair work and are anxious to get going.

Jason Saris asked if there was any onsite parking. Mr. Dybas replied that there was minimal parking for 2 to 3 cars. Jason Saris said a parking variance was needed for this project. Mr. Dybas said he was not informed he needed this.

Jason Saris inquired if there was parking for the 2 apartments upstairs. Mr. Dybas stated that there would be. There is parking already available for them and he showed the Board where they were located.

Holly Dansbury asked if the applicants were the same that came back in 2017. Mr. Dybas replied no. He said the variance granted to the previous applicants was never acted on so it became null after 1 year.

Jason Saris inquired about the parking variance being noticed to the public. Atty. Muller replied that it would need to be. If the Board chose to favor this application with an approval tonight, the applicants would have to come back for a parking variance.

Holly Dansbury asked about the access to the back. Mr. Dybas explained that it would be from the alley at the south side of the building. He explained the construction of the walkway and deck to the Board. He said they would maintain the screening from the school with shrubbery.

Lorraine Lefevre asked if the waiting area in the front would remain the same. Mr. Dybas said that right now there are two planters in the front of the building, and they would rebuild them in the same footprint and there would be seating.

Jason Saris inquired if there would be seating inside too. Mr. Dybas replied yes.

Brendan Murnane asked if they had talked to the NYS Liquor Authority about the proximity of the school. Mr. Dybas stated that was not his jurisdiction.

Holly Dansbury asked about canopies. Mr. Dybas stated there was a canopy on the side.

## **RESOLUTION**

The Zoning Board of Appeals received an application from Partners are for Dancing, LLC (V20-25) 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 #4 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be screened and improving the property.
- 3) The request is not substantial. It is in keeping with the community.
- 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. This is pre-existing, non-conforming structure.

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 following conditions; 1) This approval is contingent on the applicant coming back and receiving a parking variance. 2) Parking spaces for the tenants renting the apartments above the restaurant are to be depicted on a map to scale and supplied to the Zoning Office. 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. V20-26 BSI Realty / Keith Scott:** Represented by Keith Scott. To construct three walk-in coolers and one freezer outside of the existing building, re-roof an existing storage area and construct a retaining wall. Seeking area variance for 1) a deficient side setback. 8' is required, 7' is proposed and 2) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 186.06, Block 1, Lot 17, Zone RCH5000. Property Location: 4770 Lake Shore Drive. Subject to WCPS and LWRP review.

Keith Scott presented the following:

- He is seeking a variance to add some walk-in coolers to the back side of the restaurant.
- This will give them a little room to expand their kitchen.
- There are 2 buildings at the Algonquin, the restaurant and the barn.
- Right now, they unload all food deliveries goes into the barn and they have to restock from there every night.
- This will allow them to be more efficient.
- They have a retaining wall that was put up in 2013 so visually it will not be seen.
- He talked to his neighbor and they have no problems with the project.

Holly Dansbury asked if there was any other place to put this. Mr. Scott replied no, and this will be very efficient.

Holly Dansbury asked about additional runoff. Mr. Scott replied that they have a catch basin to catch what additional runoff they may create. Holly Dansbury said it would be better than what exists. Mr. Scott said they would be putting 8" to 12" of stone underneath the coolers for drainage.

Jason Saris asked where the mechanical components would go. Mr. Scott stated that they would be mounted on the roof of the coolers.

Jason Saris inquired how far from the lake these would be. Mr. Scott stated he believes it is over 60'. Director of Planning & Zoning Richard Miller, PE pulled out the plans and measured it out. He stated that it met the 75' setback and did not require a shoreline variance.

Brendan Murnane inquired on who was constructing the coolers. Mr. Scott replied Advance from Clifton Park.

## RESOLUTION

The Zoning Board of Appeals received an application from BSI Realty / Keith Scott (V20-26) 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 #5 of the agenda.

1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. It is on the back of the wall away from the lake and out of eyesight. It will be also more energy efficient and logistically makes sense.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It is out of sight.

3) The request is not substantial. It is a minor change to the building.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Roofing and runoff have been taken into consideration for stormwater controls.

5) The alleged difficulty is not self-created. This is a non-conforming, pre-existing structure. The benefit to the applicant is not outweighed by the potential detriment to health, safety and welfare of the community.

Now, upon motion duly made by Brendan Murnane and seconded by, Joy Barcome it is resolved that the ZBA does hereby approve the variance request as presented. 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.**

6. **V20-27 Doug Johnson:** Represented by Gary Hughes. To demolish existing garage/storage building and rebuild garage/apartment at same location. Seeking area variance for 1) a deficient side setback. 20' is required, 6' is proposed; 2) a deficient total side setback. 40' is required, 35' is proposed and 3) a deficient rear setback. 20' is required, 6' is proposed and 4) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 2, Lot 26, Zone RM1.3. Property Location: 42 Horicon Avenue. Subject to WCPS and LWRP review

Gary Hughes presented the following:

- They are proposing to demolish an existing garage with storage on the side and above it.
- They will be replacing it with a new garage with a small apartment with a kitchenette.

- The existing building is about 7.5” from the property line so they will be pushing it forward about 6’ from the rear line to give them some more room.
- They will be introducing stormwater controls to the new structure.

Jason Saris asked if there were any density issues. Rich Miller, PE replied that he did not think so. Jason Saris asked if there was density for a second dwelling. You can have a guest house, which does not have a kitchen in it. If you have an apartment, the site needs to have enough area for 2 dwellings or ask for relief for this. Atty. Muller said there is a permitted accessory use for guest cottage, but not for an apartment. Jason Saris said the determination between the two was whether or not there was a kitchen in it. Atty. Muller stated this was correct. Mr. Hughes said this had a kitchenette which is acceptable for a guest cottage. Atty. Muller said this is correct and it should be considered a guest cottage, not an apartment. Mr. Hughes said he used the improper term.

Jason Saris asked if the guest cottage would be rented out. Mr. Hughes said that it will be used in the future by the Johnson’s when they retire and now it will be used by Mr. Johnson as a place to watch sports and hangout with his friends.

Jay Whitford, a neighbor said his concerns are parking, and density and the right-of-way. He said the parking is pretty full there now. He was told when he bought his house that they could not put an apartment there due to density. Jason Saris stated that this is an allowable accessory structure, it is not an apartment. Mr. Hughes stated that he is proposing a two car garage plus parking for the motorcycles and jet skis. Mr. Whitford asked how far he planned on moving the garage forward. Mr. Hughes replied 6’. Mr. Whitford stated that would place the garage in his deeded right-of-way. Atty. Muller suggested they table this until they find out the information on the right-of-way. Mr. Whitford stated this was a deeded right-of-way going back to 1906. Atty. Muller stated that if this was correct there would need to be a setback relief from the right-of-way. Jason Saris explained that they would need to come back for relief from the setback of the right-of-way to Mr. Hughes.

## **RESOLUTION**

Now, upon motion duly made by Joy Barcome and seconded by, Lorraine Lefevre, it is resolved that the ZBA does table the application for additional information. **All in favor. Motion Carried.**

The meeting was adjourned at 8:34PM.

Minutes respectfully submitted by Kate Persons