

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, January 19, 2021
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, Brendan Murnane Joy Barcome, Holly Dansbury, Jeff Anthony, Jim Senese, Dan Sheridan, Planning & Zoning Director; Richard Miller, PE and Counsel; Michael Muller

Absent: Alternate; Lorraine Lefevre

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

RESOLUTION:

Motion by Jim Senese to approve the November 17, 2020 minutes **Seconded by Joy Barcome, All in Favor. Motion Carried.**

1. **V20-32 Partners are for Dancing, LLC (amendment):** Represented by Curt Dybas. To construct a 20' x 30' x 12' high open sided pavilion on approved concrete patio in rear yard of restaurant. Seeking amendment to area variance presented on October 13, 2020 (V20-25). 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:

- The propane tank has been moved.
- The storage shed has been eliminated.
- The neighbor to the north has expressed a desire for a green fence as opposed to a wooden fence.
- They would like a 20' x 30' open sided covered area for outdoor dining.

Joy Barcome asked if this would just be a pavilion over the already approved patio area. Mr. Dybas replied yes.

Jason Saris said to be clear, this is just a roof over an area that was already approved and intended for outdoor dining, for protection from the elements. This area would not have entertainment. Mr. Dybas stated that this was correct.

Holly Dansbury inquired about the parking between the dining area and asked if there would be anything else besides the arborvitaes. Mr. Dybas replied that there would not. He stated they would have the arborvitaes in pots. Holly Dansbury expressed her concern for the safety of this. Mr. Dybas said they would be screening the back and the south side also with the plants. Holly Dansbury asked if they were still making the patio at grade level. Mr. Dybas said they were.

Joy Barcome read a letter of concern for noise from Kevin Beaugez. Jason Saris stated that the applicant would not be entertaining in this area, it would be for dining only.

Jim Senese asked if the pavilion would remain as dining after the Covid-19 Pandemic is over. Mr. Dybas replied, most likely.

Brendan Murnane stated it sounded like they were concerned with music and since there would not be any this is not an issue. Jason Saris stated this pavilion would not change the noise output in any way. They have already approved outdoor dining in this area.

RESOLUTION

The Zoning Board of Appeals received an application from Partners are for Dancing, LLC (V20-32) 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 pavilion structure is a cover for seating during a pandemic.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The design will fit, and it is in the back of the building and will be screened.
- 3) The request is not substantial. The outdoor dining was already approved, and this is just a cover.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. There will not be any music or entertainment.
- 5) The alleged difficulty is self-created. This is just to protect the diners from the elements. 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 Jim Senese, it is resolved that the ZBA does hereby approve the variance request as presented with the condition that there is to be no entertainment in this area. 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.**

- 2. V20-33 Alkin LLC: Represented by Tracey Clothier.** To construct a 287 foot long fully accessible crushed stone pathway with retaining walls for pedestrians and cart access to the lakefront. Seeking area variance for 1) a deficient side setback. 15' is required, 4.89' is proposed and 2) a deficient setback from the waterfront. 75' is required, 51.8' is proposed. Section 171.08, Block 1, Lot 11.1, Zone RCM1.3. Property Location: 28 Bradley Point Road. Subject to APA, WCPS and LWRP review.

Tracey Clothier presented the following:

- This is a cart path that snakes from the rear of the building to the south side continuing down to the existing pathway lake front.
- This is part of a historic pathway that started at the DePace property.
- Portions were already there.
- The owners are getting older and the 44 stairs to the lakefront is difficult for them.
- This will give them better accessibility to the lake.
- The path will be constructed out of crushed stone.
- The wall will be 3' to 5' with decorative stone.
- It will be lit with solar lighting as needed.
- The pathway will terminate by the lake.
- It is all grassy and natural foliage down there and will remain that way.
- There is a rain garden included to treat any stormwater created by the path.
- There is no other alternative for the placement of this.
- They have tried other alternatives, but the rough, steep terrain does not allow for this, which creates the practical difficulty.
- They determined that a trolley would be unattractive and require tree and foliage removal and a variance too.
- This would be the most minimal impact to the environment.

Holly Dansbury asked if they could run the path on the other side for less of a setback. Ms. Clothier replied that they could not, they tried but the terrain is too steep and there is not enough space. Holly Dansbury asked why they chose the back as opposed to the front. Ms. Clothier said it was very steep and there was no entrance into the home in that area. She detailed the property terrain to the Board and explained why it was necessary to use the requested area. She stated it was not practical.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Alkin LLC (V20-33) 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. This is the only practical safe way to access the lakefront by a pathway.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. The applicant has done a good job to minimize the impact.
- 3) The request is not substantial. It is in keeping with the contour of the land.
- 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. Given the lot configuration this is the only means to get to the lakefront.

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. 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. **V20-34 Steven and Constance Moffitt:** Represented by Studio A. To subdivide an existing 1.4 acre lot into two parcels of 0.93 acres and 0.47 acres in the RM1.3 zone which requires a minimum lot size of one acre. Seeking area variance to subdivide an existing conforming lot into two non-conforming lots. Section 200.14, Block 1, Lot 25, Zone RM1.3. Property Location: 11 Cotton Court. Subject to WCPS and LWRP review.

Jeff Anthony recused himself.

Kristen Catalier of Studio A presented the following:

- The current parcel is 1.4 acres.
- Cotton Court comes right between the property.
- They are proposing to subdivide them into two parcels.
- The overall goal is mainly for estate planning purposes to have the ability to deed to his children.

Jason Saris inquired about the requirements of a density variance. Atty. Muller stated that it was unless the accessory structure was over 1,250 sq. ft. He said that one lot has a structure on it and the other lot had an accessory structure on it. This would create 2 non-conforming lots. Ms. Catalier stated that there was a road separating the properties which serviced other residences. Atty. Muller stated that the issue was that they will be taking a conforming lot and creating two non-conforming lots and doubling the density. Jason Saris asked if the lot with the accessory structure on it would require a use variance. Atty. Muller said it would unless it was over 1,250 sq. ft.

The Board discussed this item at length and decided that more information and other more compliant options would be helpful for them to make a decision. Ms. Catalier asked to table the application to talk it over with her clients.

RESOLUTION

Now, upon motion duly made by Holly Dansbury and seconded by Brendan Murnane, it is resolved that the ZBA does hereby table this application at the applicant's request. **All in favor. Motion Carried.**

4. **V20-35 Stewart Smith:** Represented by Erik Sandblom of SRA Engineers. To replace an existing fabric canopy with a permanent roof canopy over existing deck and outdoor dining area. Seeking area variance for 1) a deficient side setback. 8' is required, 0.83' is proposed; 2) a deficient front setback. 30' is required, 2.65' is proposed and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 3, Lot 66,67,68 & 69, Zone GB5000. Property Location: 4970 Lake Shore Drive. Subject to WCPS and LWRP review.

Erik Sandblom of SRA Engineers presented the following:

- This is a restaurant with an outdoor deck and canopy.
- A portion is roof and a part of it is a canvas canopy.
- They are proposing to make a hard top roof in place of the canopy.
- They colors will match the existing structure.
- This will maintain consistency with neighboring structures.
- This is to change from a temporary structure to a permanent structure.

Jason Saris he personally likes the permanent look as opposed to the poles of the temporary structure in the winter. Mr. Sandblom stated the canopy is difficult to maintain.

Jason Saris asked if there were plans for a gutter on the front. Mr. Sandblom replied not at this time.

Holly Dansbury said it would be a nice addition. Jeff Anthony agreed. He said the permanent structure would be more compatible with the architecture of the surrounding buildings and a

visual improvement. He asked if it would remain open sided. Mr. Sandblom replied that it would. He said that there will be some excavating for the posts.

Holly Dansbury inquired about the canvas walls. Mr. Sandblom replied that they will stay.

No County Impact

RESOLUTION

The Zoning Board of Appeals received an application from Stewart Smith (V20-35) 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. There is no other option. They are just making it permanent.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. As discussed, it will look better.
- 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. It will be consistent with what exists.
- 5) The alleged difficulty is self-created. This is a non-conforming lot within the business district.

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. 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 7:08PM.

Minutes respectfully submitted by Kate Persons