

Town of Bolton
ZONING BOARD OF APPEALS
MINUTES
Tuesday, November 17, 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, Jeff Anthony, Jim Senese, Alternate; Lorraine Lefevre, Planning & Zoning Director; Richard Miller, PE and Counsel; Michael Muller

Absent: Brendan Murnane

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

RESOLUTION:

Motion by Holly Dansbury to approve the October 13, 2020 minutes **Seconded by, Jim Senese. All in Favor. Motion Carried.**

1. **V20-25 Partners are for Dancing, LLC (Amendment):** 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 amendment to area variance presented on October 13 for parking, 42 spaces are required, 2 are proposed. 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:

- He was here last month and was advised that he needed a variance for parking deficiency.
- He has submitted a new drawing proposing 2 spots.
- There is no way they can get 42 parking spots on that site.
- They will need street parking for the customers.

Jason Saris asked if the 2 parking spots were for the tenants. Mr. Dybas replied that they were. Holly Dansbury asked how they would turn around. Mr. Dybas replied that they would do what they are doing now, and back out.

Jason Saris explained that most of all downtown businesses do not meet the parking requirements. In town there is other parking available. Holly Dansbury said that there did not seem to be anywhere on the site to put the parking. Mr. Dybas replied that they would have to

have nothing on the site and double the area, to meet the required 42 parking spots. Holly Dansbury stated that this appeared to be the only place on the site to place the 2 existing parking spots. Mr. Dybas agreed.

Mr. Dybas asked if the applicant could change the previously approved raised deck to a patio. Mr. Miller said he would like some stormwater control for the new impervious surface. Mr. Dybas stated he would consult with Mr. Miller to resolve this issue. The Board stated this modification would be fine as long as it was in the same area and same basic layout.

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 #1 of the agenda.

- 1) The benefit could not be achieved by other means feasible to the applicant besides an area variance. As discussed, there is no other area to place these parking spaces and it is consistent with other businesses in town.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It is consistent with other businesses in town.
- 3) The request is substantial. This is consistent with other businesses in the town.
- 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 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 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. **All in favor. Motion Carried.**

- 2. **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, 9.33' is proposed; 2) a deficient total side setback. 40' is required, 35' is proposed; 3) a deficient rear

setback. 20' is required, 4' is proposed; 4) a deficient easement setback. 50' required, 2' is proposed and 5) 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.

*** This item was tabled at the October 2020 meeting***

Gary Hughes presented the following:

- He found the easement for the driveway and had the surveyor draw it on the property map.
- He has moved the building back from the line, keeping it out of the neighbor's easement.
- The variance requested is for the distance back from the easement.

Holly Dansbury asked if the neighbor has room to swing into their driveway now. Jason Saris explained that the structure does not encroach on the easement anymore, so the neighbor has complete availability to the easement.

Mr. Hughes stated he had spoken to the neighbor and dropped off the new plans to him. He also explained that the meeting was via zoom tonight and if he wanted to join, he just needed to call the town.

RESOLUTION

The Zoning Board of Appeals received an application from Doug Johnson (V20-27) 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 existing structure is not in good shape and it is non-conforming. The easement issue has been addressed.

2) There will be no undesirable change in the neighborhood character or to nearby properties. This will be an improvement to what exists.

3) The request is not substantial. They are replacing an existing building.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will be better than what exists.

5) The alleged difficulty is not self-created. This structure needs to be replaced.

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 Lorraine Lefevre, it is resolved that the ZBA does hereby approve the variance request as presented. It is hereby determined

that the action to be taken is consistent with the Town of Bolton Local Waterfront Revitalization Program policies and standards. **All in favor. Motion Carried.**

3. **V20-29 Brian Callanan:** Represented by Brian Callanan. To demolish existing two story wood frame single family dwelling and rebuild a two story wood frame single family dwelling at same location. Seeking area variance for 1) a deficient shoreline setback. 75' is required, 24' is proposed; 2) a deficient front setback. 50' is required, 49' is proposed and 3) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.15, Block 1, Lot 20, Zone RM1.3. Property Location: 14 Brook Street. Subject to WCPS and LWRP review.

Brian Callanan presented the following:

- He is looking to demolish the existing 2 story, single family residence.
- He would like to rebuild a 2 story single family residence in the same location.
- The current lot is a non-conforming lot.
- The new structure will be a little larger in size.
- The existing non-conformances will be reduced on the north and east sides.
- He will be moving the house away from the stream and the neighboring home.
- He has considered many options, and this seems to be the most conforming spot with the least amount of impact and disturbance.
- The property owner in front of him is in concurrence with this plan.
- He does not believe that there is any adverse effect on the neighborhood.
- This new structure conforms with the neighborhood.

Jason Saris asked if this project would involve the APA. Atty. Muller replied that it would not as it is in the hamlet.

Jason Saris read a letter in favor of the project from Christine & Robert McCarthy.

RESOLUTION

The Zoning Board of Appeals received an application from Brian Callanan (V20-29) 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. They are keeping the house within the same footprint in addition to improving the setbacks.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be a good improvement to the neighborhood.
- 3) The request is not substantial. They will be improving the setbacks.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They will be moving the structure further away from the stream.
- 5) The alleged difficulty is not self-created. This is a non-conforming lot.
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.

4. **V20-30 Adam and Patricia Savage:** Represented by Jerri Woodard. To remodel interior and exterior reducing a 4 unit multifamily to 2 unit multifamily and enclosing exterior stairways. Seeking area variance to alter a non-conforming structure in accordance with Section 200-57B(1)b. Existing variances will be reduced on both sides of the existing multifamily dwelling. Section 171.15, Block 1, Lot 37, Zone GB5000. Property Location: 11 Horicon Avenue. Subject to WCPS and LWRP review.

Jeff Anthony recused himself from this item.

Jerri Woodard presented the following:

- This will be a complete remodel.
- The existing porch exceeds their property line by about 2’.
- They will be turning the 4 unit building into a 2 unit building.
- The 2 apartments will mirror each other.
- She detailed the plans to the Board.
- It will reduce the setback off from the neighbor’s property.
- The building will be white with black windows.
- They feel this will be a big improvement to the area.

Jason Saris stated that to be clear, the applicants were here due to the fact that it was a pre-existing, non-conforming structure even though they were reducing the setbacks.

Holly Dansbury asked if they were requiring variances on all sides. Ms. Woodward replied that they were ok on the east side, they require it on the other side because although they are pulling it back 2' from what exists, it is still 0'.

Lorraine Lefeeve stated that it would be a definite improvement to the neighborhood.

RESOLUTION

The Zoning Board of Appeals received an application from Partners are for Dancing, LLC (V20-30) 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. They are improving the setbacks on a non-conforming lot.
- 2) There will be no undesirable change in the neighborhood character or to nearby properties. It will be a more conforming structure and look much nicer.
- 3) The request is not substantial. They are enclosing the stairway and fixing the encroachment.
- 4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. This will be a nice 2 unit apartment.
- 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 Jim Senese, 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.

5. **V20-31 Andy and Darcy DeFrancesco:** Represented by Studio A. To demolish existing single family dwelling and rebuild a single family dwelling at same location. Seeking area variance for 1) a deficient side setback. 20' is required, 5.59' on east side and 5.35' on west side is proposed; 2) a deficient total side setback. 40' is required, 10.94' is proposed; 3) a deficient shoreline setback. 75' is required, 15.43' is proposed; 4) a deficient front setback. 50' is required, 15.16' is proposed; 5) maximum percentage of lot occupied 15% is allowed, 27.2% is proposed and 6) to alter a non-conforming structure in accordance with Section 200-57B(1)b. Section 171.19, Block 1, Lot 56, Zone RM1.3. Property Location: 11 Evergreen Lane. Subject to WCPS and LWRP review.

Jeff Anthony recused himself.

Jerry Woodward presented the following:

- This is a very non-conforming lot that does not meet any of the current standards.
- They have been living in the small cottage for the past 7 years and they would like to create a forever home.
- They are going from 600 sq. ft to about 2,000 sq. ft.
- She detailed the required setbacks to the Board.
- The new house will take up more of the lot.

Jason Saris asked if the project was subject to APA review. Atty. Muller said that it was due to the shoreline setback.

Ms. Woodward stated that the 75' setback from the pond crosses over the front yard setback of 25' so there is no building envelope there. There is no room to move back. They do not have a building envelope at all. The requested project conforms with the neighborhood and will fit in.

Holly Dansbury said that not having a building envelope is a huge practical difficulty. Jason Saris said that they are encroaching on the setbacks more than what exists and although he understands the need for the expansion he needs to know if there are other feasible alternatives. Ms. Woodward stated that they could eliminate the new deck on the front, which would set it back 10' or so. Holly Dansbury said in order for the applicant to use the way they would need to get out from the kitchen to grill and bbq. It only goes out on the one corner and they limited it to 10'. Holly Dansbury asked if they had tried to stay in the same exact footprint at all. Ms. Woodward stated that the front corner of the existing house is the same distance to the pond, without the deck. Holly Dansbury said that they are expanding the footprint for needed space for the family and first floor living. Ms. Woodward agreed and stated the house is not very big. She stated that it is very tight downstairs.

Heidi Figueroa a neighbor of the applicant spoke in support of the project.

Jason Saris stated that the practical difficulty was that it was pre-existing, non-conforming without a compliant potential building envelope on the entire site. Holly Dansbury agreed. Ms. Woodward stated that it would be no closer than neighboring buildings.

Lorraine Lefevre stated that there was correspondence in favor from the HOA next to the applicant. Jason Saris asked that this information be included with packet being sent to the APA.

RESOLUTION

The Zoning Board of Appeals received an application from BSI Realty / Keith Scott (V20-31) 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. The lot is non-conforming and requires variances no matter where they place the structure on the lot.

2) There will be no undesirable change in the neighborhood character or to nearby properties. It is beautifully designed and will fit the neighborhood well.

3) The request is substantial. There are no other options.

4) The request will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. They are consistent with existing properties in the neighborhood.

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 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.

6. **20 APPEAL -01 : Michael G. Moore and Mary T. Capaci**, Tax Map Parcels 171.08-1-14 & 171.08-1-16, 10 & 14 Braley Point Road represented by Attorney Jonathan C. Lapper takes an Appeal from the determination of the Zoning Administrator stated in a DENIAL letter dated October 14, 2020 that the applicant's proposal to create a deeded or contractual access across a shoreline parcel does not meet the requirements of the minimum criteria provided in ARTICLE IV Supplementary Regulations Zoning Code Section 200-37 B (4)

Atty. Lapper presented the following:

- The applicants purchased this lot this summer and own the adjacent lot at 10 Braley Point.
- 14 has two pre-existing boat houses on the property with 173+ feet of shoreline.
- He prepared the easement of the non-lake lot to the Zoning Administrator for review before filing.
- He read section 200-37B (4) to the Board.

- He believes “total” is important in this interpretation.
- 125’ is what is required, and they have more than this,

Director of Planning and Zoning, Richard Miller stated his interpretation is that they require 125’ on the shoreline lot and 135 additional feet on the second lot. Holly Dansbury said it did not make sense to her. Jason Saris said he thought that it read that the first lot required the 125’ and each additional lot would require 10 linear feet which would be added to the 125’. The Board agreed that they also have always interpreted it this way.

Jason Saris said it does not make sense for the non-lakefront lot to require more than the lakefront lot. The Board discussed this, and Jason Saris said that when the zoning is ambiguously written, you have to find in the favor of the property owner. In this case Mr. Miller and 3 different Board members have come up with different interpretations. He believes it is reasonable to interpret the less restrictive to the property owner as 3 Board members agree with Atty. Lapper. Atty. Muller stated that he honestly believes this is not ambiguous, in speaking with Pam Kenyon, the rule that has been followed in Bolton for the last 20 years is that there is a threshold minimum of shoreline which is specified in this particular zone as 125 linear feet. Find more linear shoreline for each 10’ and in this case this property could support 4 easements. The Board all discussed it again and agreed with the applicant.

Jeff Anthony stated in reading the statute in this zone the mother property is required to have a 125’ minimum in order to be able to give away contractual access to a non-lakefront lot. In this instance, the mother property has 173’ which exceeds the required 125’ and then the statute reads that for every additional rear lot, the mother property must contain another 10’ per easement that may be granted. In his estimation the mother property has the capability of giving 4 non-lakefront accesses to the lake.

RESOLUTION

Now, upon motion duly made by Jeff Anthony and seconded by Jim Senese, it is resolved that the ZBA does overturn the Zoning Administrators determination of denial, dated October 14, 2020 for tax map parcels 171.08-1-14 & 171.08-1-16. Located at 10 & 14 Braley Point Road. **All in favor. Motion Carried.**

The meeting was adjourned at 7:24PM.

Minutes respectfully submitted by Kate Persons