



LAKE • GEORGE
WATERKEEPER®

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July 12, 2010

Mr. Jason Saris, Chairman
Town of Bolton Zoning Board of Appeals
4949 Lakeshore Drive
Bolton Landing, NY 12814

Re: Bennett/Turner (186.10-1-6)
V10-20 and V10-21

Dear Mr. Saris,

The Lake George Waterkeeper Program has reviewed the submission for the above referenced variance applications and offers the following comments:

Replacement structures should comply with zoning

The proposed renovation of 2 of the 3 cabins within 16 feet of the shoreline is an expansion of living space, even though the application states that the 'same basic footprint' will be used. The Adirondack Park Agency Shoreline Restrictions §575.5(b)(2) states that *"An existing structure located within the shoreline setback area may not be expanded in any direction within the shoreline setback area, including an increase of structure height, without a variance. Additions up to a maximum of two hundred fifty (250) square feet may be added to a lawfully existing non-conforming shoreline structure provided the additions (1) are rearward, and (2) the existing ridge lines are not raised by more than two feet.* What is being proposed is not to "...demolish and rebuild a 2 bedroom cabin", and "...alter a 1 bedroom cabin", but to completely change the existing structures, doubling the size of what is currently located on the site.

With the amount of buildable land available on this parcel, the Zoning Board of Appeals should require that the replacement of the existing 60+/- year old cabins should comply with all Town of Bolton Zoning Code, including the required 75 ft shoreline setback in RM 1.3.

Regardless of the fact that the need to address alternatives to rebuilding within 16 feet of the shoreline was discussed by several Zoning Board of Appeals members on June 15, 2010, the application does not reflect any changes. The proposed rebuilding of two SFDs is not a replacement in kind, but a large expansion of each of these structures within 16 feet of the shoreline.



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The following criteria for variance approvals must be addressed by the Town of Bolton Zoning Board of Appeals and is required by the Adirondack Park Agency and Town Law:

- 1) Were alternatives considered and/or discussed?**
- 2) Are there any adverse impacts to the environment?**
- 3) If there are no alternatives, is the minimum variance necessary being granted?**

The Town of Bolton's approved Local Land Use Program may require an Adirondack Park Agency (APA) written determination for new structures on the shoreline (APA Shoreline Restrictions, effective December 31, 2008).

Site Plan should accurately reflect clearing limits

Trees needed to be removed (per Stan Hunt Tree Care) and limits of clearing for new construction have been shown on the site plan, but are not realistic. They do not reflect necessary clearing for construction of the SFD and the proposed stormwater management (stormwater collection swales, etc). The photo renditions showing what the structures will look like from the lake are not accurate, as all of the existing trees that will be removed are still shown in the photos.

Shoreline buffering

Based on the site and stormwater management plans that were submitted, most of the trees in front of and behind the existing cabins will be removed. If the two proposed SFDs were moved back further from the lake as required by the Town of Bolton Zoning, the shoreline could be properly buffered, utilizing a mixed height of native trees, shrubs and perennials to protect Lake George's water quality. Vegetation, in lieu of new structures on the shoreline, would effectively buffer the lake from stormwater runoff and the nutrients and pollutants that flow with the stormwater. All existing vegetation should be maintained and enhanced to protect water quality. See Lake George Fact Sheet about Shoreline Buffers.

Fertilizer and pesticide restrictions

A restriction of fertilizer and pesticide use on this property should be conditioned with this and all construction approvals. See Lake George Fact Sheets about the impacts of Fertilizer and Pesticide use.

Onsite wastewater treatment system (OWTS)

Wastewater details, pump station and site plan for a 3 bedroom system (dated 11/29/01) were submitted with the variance application. The 4" PVC Pipe labeled on the 2001 OWTS drawing exits from the main house only. Per the Town Assessor, all three 'cabins' are classified as seasonal, with two of the cabins having kitchens; the other (behind the main house) is reported as a 'good quality shed' with no kitchen and disabled plumbing (with an outhouse next to it). This is contrary to what the applicant stated at the June 15, 2010 ZBA meeting, when he indicated that there was an existing 'cabin' behind the main house. It should be determined what is currently serviced by the 2001 OWTS and what structures are required to be included in the OWTS on the property. Assessment of the total number of bedrooms in all structures on this parcel is necessary in order to properly evaluate the existing OWTS designed for 3 bedrooms.

The Adirondack Park Agency Shoreline Restrictions §575.5 (d) state *"Any proposed expansion of a non-conforming on-site wastewater treatment system designed to service an actual or potential increase in occupancy of the shoreline structure served must meet all existing standards for such systems, including the shoreline setback requirements. Otherwise, a variance will be required for the system expansion."*

Stormwater Management

Stormwater is the number one polluter to Lake George and every effort to minimize the effects of stormwater flowing into the lake should be made. Additional land between the proposed SFDs and the lake could more effectively infiltrate and treat stormwater runoff and protect Lake George.

Although this project is exempt from Bolton's stormwater regulations because of its indicated minimal disturbance and 'no additional impervious surfaces,' all structures built within the Critical Environmental Area of Lake George should provide stormwater management.

The proposed stormwater management plan is based on using gutters and grass swales to direct stormwater into a rain garden, but could more effectively manage stormwater if the 75 ft requirement for the shoreline setback in Bolton Zoning RM 1.3 was met.

Infiltration within 100 ft of the shoreline requires a variance if directed from a paved driveway. If the rain garden remains in its current location because of site limitations, a variance is required due to infiltration from paved surfaces within 100 ft of the lake.

In conclusion, the Lake George Waterkeeper recommends that the 1) Replacement of two structures on the site should comply with the Town of Bolton's Zoning for RM 1.3 (75 feet is required/16 feet is proposed); 2) Clearing limits should be accurately drawn on the site plan; 3) Planting of a shoreline buffer using native trees, shrubs and perennials should be required on the shoreline to protect water quality; 4) Use of fertilizers and pesticides should be prohibited; 5) The total number of bedrooms in all of the existing/proposed structures on this property should be determined in order to properly evaluate the existing OWTS (3 bedroom capacity); 6) Adhering to the required shoreline setback for the proposed SFDs could more effectively manage stormwater; 7) A variance is required for infiltration from paved surfaces within 100 ft of Lake George; 8) Approved variance applications must comply with APA restrictions for new structures on the shoreline (*APA Shoreline Restrictions*, effective December 31, 2008).

The Lake George Waterkeeper appreciates the comprehensive discussion by the Town of Bolton Zoning Board of Appeals when reviewing development within the Critical Environmental Area of Lake George. We look forward to continuing to work with the Board to defend the natural resources of Lake George and its watershed. Thank you for your consideration of these comments.

Sincerely,



Kathleen S Lindberg Bozony
Natural Resource Specialist / Lake George Waterkeeper

cc: Town of Bolton Zoning Board of Appeals Board Members
Ron Conover, Supervisor Town of Bolton
Brian Grisi, Adirondack Park Agency
Michael White, Lake George Park Commission