

**BOLTON BOARD OF APPEALS**  
**Minutes**  
**January 12, 2010**  
**Bolton Town Hall**

**Present:** Gerard Ahearn, Kay Stoner, Brad Reed, Andy Kischitz, Jacqueline Smith and Town Planner, Jennifer Atwood Burney

**Not Present:** n/a

**HEARING**

**7:30 p.m. –Continued from December 22, 2009 Variance for property located at 27 Millbrook Lane, Bolton Ma, Assessor Map 3C, Parcel 62.**

Applicant: Jeffrey Bursaw

The Applicant is seeking:

A Variance for relief from a provision of the Bolton Zoning Bylaws, Section 2.3.5.2 which requires a side yard set back of fifty (50) feet for a backland lot. The proposed addition is thirty eight feet (38') from the side yard set back.

Members present were Gerard Ahearn, Brad Reed, Alexander Kischitz and Jacqueline Smith (Kay Stoner recused herself since she was not present at the December 22, 2009 hearing date).

**FINDINGS**

A. General

1. The subject property is located on 27 Millbrook Lane, (Assessor Map 3C, Parcel 62) and is currently owned by Jeffrey W. Bursaw (deed reference Book 40136, Page 31). The property is a backland lot and consists of 4.52 acres and is zoned residential.
2. The Applicant submitted a complete application in accordance with the Board's Rules and Regulations.

Because the Board had additional questions in regards to the application the hearing was continued to January 12, 2010 at 7:30pm. The Board wanted more information in regards to the structure and would like to review architectural plans, the board is questioned why the addition can't be reduced to 16 x 24 to meet the set back requirements and the board would like clarification of why the addition can't be added on to the front of the house.

The Applicant was present along with Stan Dillis from Ducharme and Dillis. The Applicant submitted a set of architectural plans and a copy of the septic plan showing the reserve system. The Applicant stated that the addition could not be located on the front of the house due to the

location of the reserve septic system. There was also no other location on the property that the reserve system could be located to. The Applicant stated that the addition would be one floor with a full walkout basement. The Board reviewed the architectural plans submitted and pictures to determine if the addition could be reduced by 12' to eliminate the need of a variance.

### Specific Findings

1. There are circumstances that exist relating to the soil conditions and topography that uniquely affect such land but do not affect generally the zoning district in which such land is located. The house was constructed in the 1990's at the time when no building envelop was in place for backland lots. Since this time the bylaw has been revised. The addition can't be placed on the rear of the house due to a conservation restriction that is placed on the parcel for endangered species. The addition can't be located on the left side of the house due to the garage and can't be located in the front of the house due to the reserve septic system.
2. Literal enforcement of the provision of Section 2.3.5.2 would involve substantial financial hardship to the applicant if the applicant had to relocate the reserve septic to allow an addition. The Applicant also would have to relocate the interior stairway in the house in order to expand the existing rooms. Neither is feasible.
3. The desired relief from the documented provision of Section 2.3.5.2 may be granted without substantial detriment to the public good. There was no abutter opposition or comments from any of the boards or committees. The Police Chief's only comment was that he has no issues with the request. The house is located 200' feet from the nearest abutting house and the addition is not out of scale with the neighborhood.
4. The Board found that the intent and purpose of the Bolton Zoning Bylaw was not being nullified or substantially derogated from.

In view of the foregoing, the Board of Appeals hereby decides that the application meets all requisite criteria under MGL Chapter 40A Section 10.

***A motion was made by Brad Reed, seconded by Jackie Smith to approve the request for a variance to allow a 24 x 24 single story with walk out basement and fireplace at 27 Millbrook Lane.***

***4/0/0***

This Variance is granted in accordance with the terms and conditions stated below.

- 1) Approve Variance to allow a 24 foot by 24 foot single story addition with a walkout basement that includes a fire place.
- 2) The addition must be in substantial conformance with the plans submitted by Ducharme and Dillis with the Variance Application. The addition cannot exceed a 38' side yard set

back.

## **GENERAL BUSINESS**

### **8:15 pm. The Regency – Main Street**

Applicant: Toll Brothers

Present: Attorney Mark Kablack, Greg Roy from Ducharme and Dillis and Shawn Nuckolls  
Project Manager for the Regency.

The Applicant is requesting to modify the Comprehensive Permit to allow town house style units instead of the approved 8-plex garden style units.

The applicant stated that there was no market for garden style units. There was no elevator and parking was detached. 2 units are affordable units, #53 & #59. Received approval from the current homeowners. Will have to amend the Regulatory Agreement and Comprehensive Permit. Brad Reed asked if the impervious surface would increase. Grey Roy replied that the calculations are the same. No variances are required since the structures will meet current set backs. Will provide a lot of landscaping between the units and the street. Trees and a fence will be installed which will be out of the sight line. The Board discussed whether or not a peer review would be required. They will decide this at the next meeting.

***A motion was made by Andy Kischitz seconded by Brad Reed that the requested changes are substantial and would require a public hearing.***

*5/0/0*

### **Next Meeting**

TBA

Meeting adjourned at 9:30 pm

*Minutes submitted by Jennifer Atwood Burney, Town Planner*