

Statement of Purpose

The purpose of this hearing, as stated in the notice is: *Requesting a variance of the front yard setback as found in section 11- A of the Bolton Zoning Regulations. More specifically a 12 foot variance of the front yard setback to permit the reconstruction of what was formerly a one story home as a two story home with an 8' covered porch after a fire destroyed the home. Additionally we propose to construct an 18' X 12' addition and are requesting a 2' variance of the front yard setback to construct that addition.* Figure 1 shows in detail that of part of the Zoning Location Survey (the entirety of which is included in the application) which describes these setbacks.

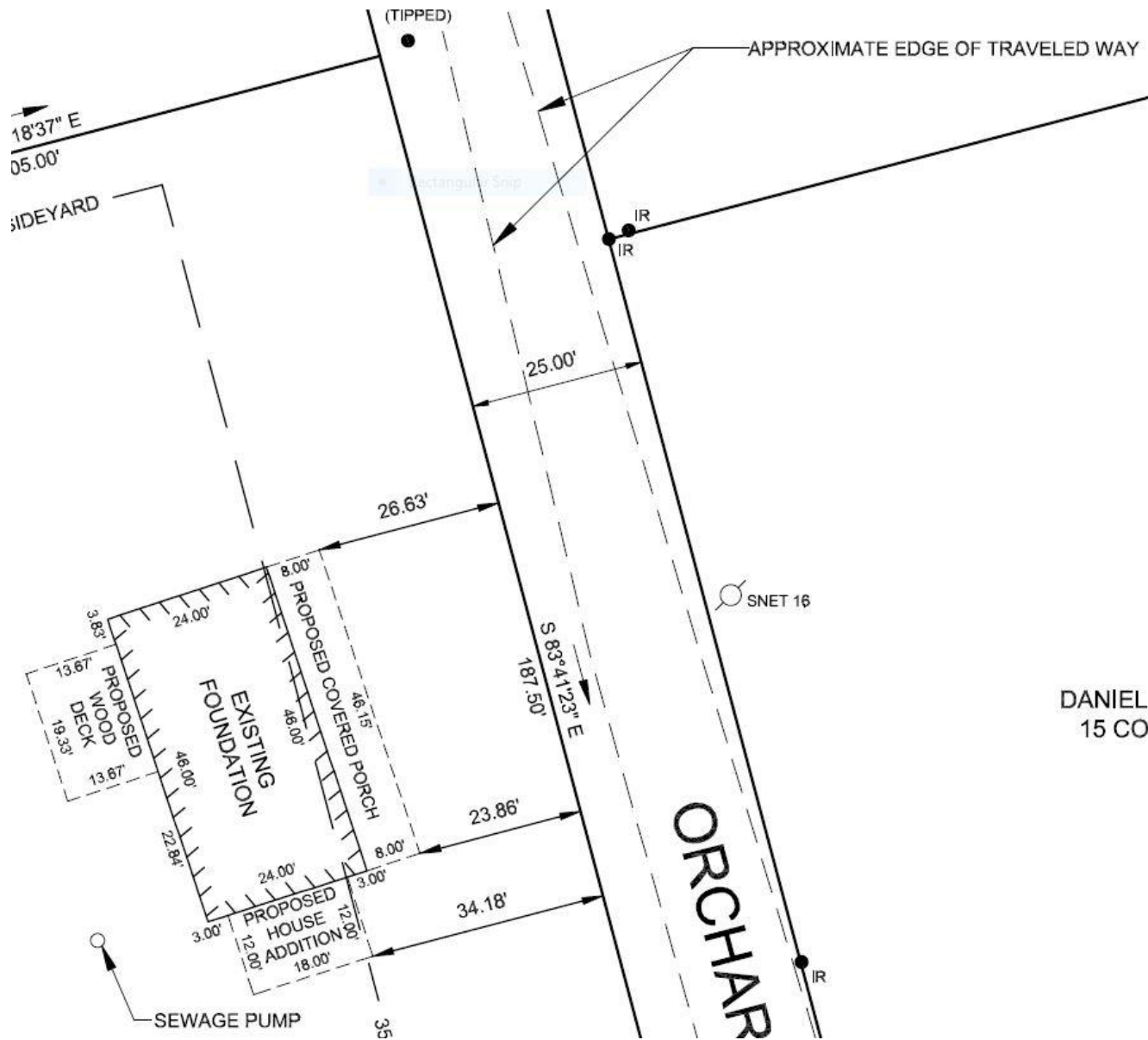


Figure 1
Setback Detail

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C. Peter Van Dine

The requested variance would allow the construction of a new residence on the existing foundation with several modest improvements. The reason for this reconstruction is as follows.

During the night of October 16-17, 2019 a severe wind and rain storm passed through the area causing damage to the electrical service wiring. The next morning the tenants, my granddaughter Katherine Clement, her husband Chris, and my great-grandson Elliot left for work and school. Their dog, Jack, remained in the house. Later that morning the wires across Llynwood Drive serving the house were observed to be burning (Figure 2).



Figure 2
Burning Electrical Wires

Shortly thereafter the house was seen in flames as the electrical surge reached the house, exploded the main circuit panel through the exterior wall, and extended the fire into the attic (Figure 3).



Figure 3
Location of Start of Fire

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Fortunately, the first responders were able to rescue Jack (Figure 4), but on inspection the structure was ordered demolished in part because internal electrical wiring had been damaged by the surge.



Figure 4
Jack After Rescue

Zoning Hardship

While the loss of a home and much of its contents is certainly a hardship the request for a variance from the zoning regulations requires a “hardship” which is inherent in the property itself and not caused by the owners. In this instance that “hardship” is the location of the house to be rebuilt being on Orchard Lane itself and having frontage on no other access. Orchard Lane is what is called a “paper road” which has never been accepted by the Town of Bolton. It was laid out by the Holl family as part of the Rosedale development before Bolton adopted zoning. It has been abandoned by the heirs to the Holl estate and now has no accepted ownership and no one pays taxes on it. However, it is the only access to the property in question, and the portion of Orchard Lane used to access this property is maintained by the owners and their tenants. Passage through the length of Orchard Lane is impeded both by the debris left by the snow plowing and more specifically by a chain placed across it by a neighbor. The town has on several occasions refused to ask for removal of this chain. In practice, Orchard Lane is not a fronting roadway but rather an unowned driveway. Figures 5 – 8 document these conditions.



Figure 5
View of Chain Across Orchard Lane
Facing East

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Figure 6

Orchard Lane Showing Blockage and Condition Before Owners Maintenance

Also Note Garage on Left Hand Side Facing Residence to be Rebuilt

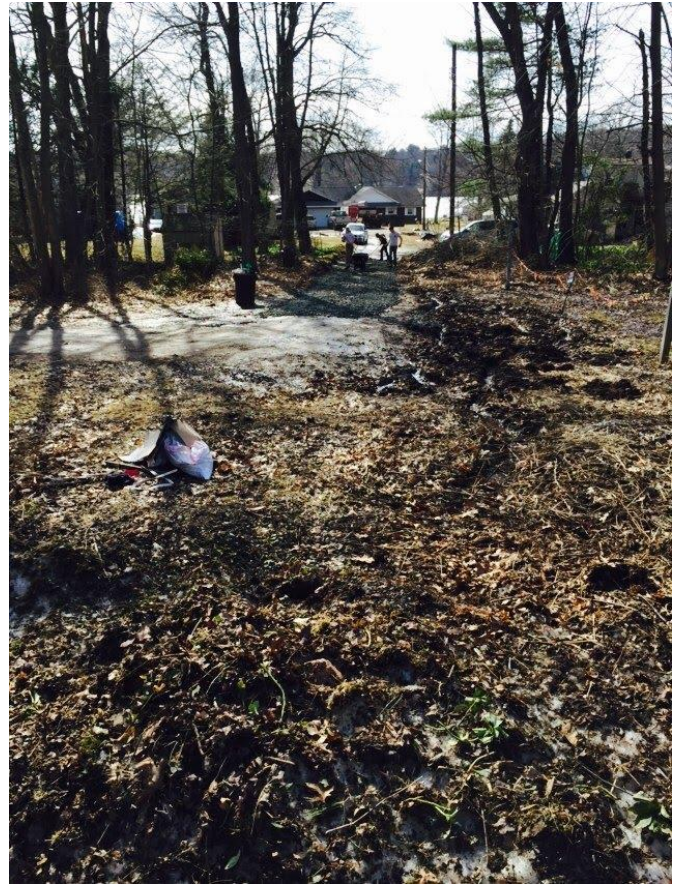


Figure 7

Debris Blockage and Owner Maintenance Under Way

The electrical and water service to the property do follow Orchard Lane. Those utilities have been in place for some time and their rights-of-way were most likely established when the Holl family still controlled the development and the house in question was built in 1953. However, when the Bolton Lake Regional Water Pollution Control Authority (BLRWPCA) sewers were recently installed a separate right-of-way through properties of known ownership was established to service 9 Orchard Lane (see Figure 10). Also, the Town requested that the sign for this hearing be erected at the intersection of Orchard Lane and Llynwood Drive (Figure 9) in order that the public might be able to view it.

The owners and their legal counsel believe that applying frontage setback regulations with respect to Orchard Lane has little or no basis in law due to the manner this “paper road” is treated by the Town. However, we understand that it is not responsibility of the Zoning Board of Appeals to make legal determinations. Rather it is duty of the ZBA to determine whether a “hardship” inherent in the property exists, and whether granting a variance on the basis of that “hardship” will do no harm to the neighborhood and the community.



Figure 8
Late Winter Blockage



Figure 9
ZBA Hearing Sign in Place
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Current Development on Orchard Lane

The 9 Orchard Lane lot is one of the largest lots in the Rosedale area. At 24,688 square feet (see the Zoning Location Survey) it clearly meets the 22,500 square foot requirement of the R-3 Zone. Figure 10 shows the GIS mapping of the Orchard Lane neighborhood with the shaded lot being number 9. Two rights-of-way are labeled “Orchard Ln.” The one going from Llynwood Dr only to 9 Orchard is for the BLRWPCA sewer. There are only 3 lots on the South side of the Lane: A corner lot with a residence facing Llynwood, The subject lot, and a Connecticut Water Company well field. A small deviation from the front setback to Orchard Lane is not going to cause any visual disruption. With regard to public safety the fire crews used both rights-of-way to the property and were able to knock down the fire in short order. The North side of the Lane contains 5 lots: A corner lot with a residence facing Llynwood, An undeveloped lot owned by Mary E. Van Dine, the co-owner of 9 Orchard, which is partially directly across the Lane from the subject lot, A lot containing garages which is part of a residential lot facing Colonial Road, and two more undeveloped lots. One of the garages can be seen in Figure 6. The three undeveloped lots are smaller than the R-3 Zone size requirement and would require variances to be developed. The chain blocking Orchard Lane lies between the Water Co. property and one of the undeveloped lots. There would be no undesirable or unsafe conditions created by the requested variance.



Figure 10
GIS Map of Orchard Lane Neighborhood

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Rosedale Neighborhood Standards

The Rosedale section of Bolton, next to the Vernon Town Line and bordering Lower Bolton Lake, is a very pleasant place to live. The residents enjoy deeded lake access through the Rosedale Beach Association and low traffic density due to its separation from any through travel. It is a quiet, safe, and enjoyable location to either raise a family or retire. Its only drawback is that it was designed and mostly developed before the establishment of zoning in Bolton. Because of this fact it contains many small residences on small lots. Recently, and especially since the sewer construction, there has been a significant number of newer homes being built to replace the older, less desirable structures on these small lots. Granting this variance will not endanger anyone or any property in the neighborhood. Nor will the rebuilding of this home with the modest expansion asked for obstruct or impede anyone from enjoying a view of the lake or the fruits of the neighborhood. Rather granting this variance will allow a family who were burned out of their home through no fault of their own to return to living on one of the nicer parcels in Rosedale. We believe that granting this variance to rebuild a fire damaged residence is in keeping with the overall improvement of the neighborhood. We find no benefit to the Town or the neighborhood in denying this variance. Rather we find that the desirability of Rosedale will be improved. Connecticut courts have upheld the validity of variances granted for such purpose.

Conclusion

In granting the requested variance the ZBA will allow this residence to be rebuilt according to the owners' plan. The new residence being newer and somewhat larger would be a significant addition to the neighborhood and the Towns' Grand List. You are empowered to take this action on the basis of the hardship without making any conclusion as to whether or not Orchard Lane is a legitimate passage way from which the Town of Bolton should or should not apply front lot setback regulation. However, if you deny the requested variance you are accepting that the Town of Bolton should apply front lot setback regulations from Orchard Lane and therefore make the Orchard Lane passage way part of Bolton's road system. Such a denial would put the ZBA on record as supporting that Bolton assume all the responsibilities of maintaining Orchard Lane as a passable and open roadway. Simply speaking, denial of this variance amounts to the ZBA going on record in favor of Bolton accepting Orchard Lane as a town road.

With that I rest my case in favor of this variance. I would be pleased to answer any questions that members of the Board may have, and I reserve the right to speak in rebuttal to anyone who has reason to object to this variance at this hearing.

Submitted by,



May 7, 2020