

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF**

March 7, 2017

Present:

Denise Rhoads
Jim Condon-absent
Sherill Ketchum
David Palen
Mark Tucker
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on April 4, 2017 and there is no site visit scheduled this month. Previous distribution to the Board of the regular meeting minutes of February 7, 2017 was executed and all members present acknowledged receipt of those minutes. Approval of the minutes will be conducted at next month's meeting when there is a quorum of members who were present at the February 7, 2017 meeting in attendance to approve the minutes.

Discussion

The Cornell Cooperative Extension has an upcoming Conservation and Legacy Planning Workshop on Friday March 31, 2017 from 12:30-3:00 pm at the Skaneateles United Methodist Church.

Discussion

The Onondaga County Planning Federation held their annual planning symposium on March 2, 2017 which Member Tucker had attended. Discussion included the various options for the I-81 corridor including the Access Syracuse tunnel, community grid and revised elevated highway. All options will include some level of buildings that would be removed, with the tunnel needing buildings removed for the entrance and exit ramps. The community grid boulevard style would have approximately 11 stop lights though the city. Another topic was discussion of an open space plan and Skaneateles was used as the example of how it was completed with the assistance of the County.

Public Hearing Continuance

Applicant: Rick & Debbie Moscarito
120 Madison St
Chittenango, NY 13037

Property:
1813 Russells Landing
Skaneateles, NY 13152
Tax Map #063.-03-13.0

Present: Robert Eggleston, Architect; Corey Anerbach, Attorney

Mr. Eggleston began stating that this is an application that is substantially different from the prior applications from previous years. The house will be constructed on piers with only 35sf of actual disturbed area for putting in the piers. In the neighborhood there are a number of houses

built in the steep slopes area. The proposed house could have been placed 30ft from the north property line and increase the setback to the watercourse, however out of accommodation to Dick Tackley, it was placed further away. Runoff flowing on this lot flows down the slopes and does not reach the watercourse, making the setback to the watercourse a little less significant than if the site naturally drained to the watercourse.

With the proposed development of the property, a number of environmental issues will be corrected. There is quite a bit of runoff from Dick Tackley's driveway that has worn away over the years and pushed onto this lot causing erosion. A 200sf rain garden will be collecting the runoff and allow the water to percolate into the ground into a perforated underdrain that will release the rainwater into the watercourse. The 8 inch pipe will be below the frost line and it is always built for the most extreme of cases. The trench that will hold both the perforated pipe and solid pipe for the roof drainage will be as deep as the bedrock.

When the drainage project for the farm field was installed, they did armor the watercourse on their property but did not on this property. Proposed is a plan to improve the watercourse on this property with the addition of rock along the sides and check dams to slow down the velocity of the water. The proposed will control and improve the drainage, which has not happened in the last fifteen years. Mr. Camp has reviewed the proposed drainage plan.

The easements for the utilities and access to them are free and clear of any development of the lot including the septic system. The septic system is located more than 100 feet from the lake line and will be protected from vehicular traffic by a split rail fence. It would be cost prohibitive to relocate the easements on the property. The dwelling has been reduced in size and placed on piers to reduce disturbance of the land in comparison to prior approved dwellings that would have had basements. The pier holes will be drilled with an auger on a back hoe that will be located away from the steep slopes. A walkway will be provided to the deck that will lead to stairs similar to the stair tower the neighbors have next door, and then to a dock on the lake.

Member Palen inquired if the septic system was approved. Mr. Eggleston stated that the septic system was redesigned for the 2010 application and it had expired. OCDOH has provided an extension on the approval of the Elgin system that was proposed in the redesign. The Ross dwelling also uses the efficient Elgin septic system design.

Member Ketchum requested more information regarding where the mechanicals will be located. Mr. Eggleston stated that they will be on a suspended platform under the house and behind the lattice. The water heater and pressure tank would be located on the platform that can be insulated. Determination if it will be propane fuel or a heat pump has not been determined. The chimney for the gas fireplace is a direct vent, and does require the insulation of the dwelling per the State energy code.

Member Tucker inquired about the use of the perforated pipe and the potential for roots to clog the system. Mr. Eggleston commented that the location of the perforated pipe will be in the trench at the top of the bank. He continued stating that the 8 inch pipe that will run across from the rain garden to the watercourse, and there are no trees with aggressive roots such as willows

in the area. Member Tucker stated that he had problems in the past with soft maple trees and the perforated pipe.

Mr. Eggleston stated that Dick Tackley had provided support to the prior proposal when there was a proposed dwelling with walkout basement, and with this application had begun to raise questions. There is a letter dated February 6, 2017 in response to his concerns. If there is a desire for the lot to stay forever wild then the best way to assure that is to purchase the lot. The rain garden on this property is to resolve the drainage problems from the Tackley drainage and does not need to be installed if Mr. Tackley does not want it. The applicant has tried to work with Mr. Tackley with very few windows on the north side of the proposed dwelling and with the dwelling located further away from his house.

Member Ketchum inquired about remediation that may need to occur on the farmer's property. Mr. Eggleston explained that there was a tree that fell over in a wind storm and as a result it had compromised the swale on the farm property. The tree has now been cut down and the swale has now been fixed by the farmer.

Member Ketchum commented that the disturbance in steep slopes for the piers has been reduced to 35sf, however, it does not include the cutting of trees. Mr. Eggleston stated that the trees within ten feet of the foundation will be cut; however, they will not disturb the roots of the cut trees. There will be no grass in the steep slope area with myrtle or another ground cover used. Member Ketchum inquired if the Tackleys also have a stair tower to the lake. Mr. Eggleston confirmed that they do as well as other in that area.

WHEREFORE a motion was made by Member Palen and seconded by Member Ketchum to continue the Public Hearing. The Board having been polled resulted in the unanimous affirmance of said motion.

Chair Rhoads inquired if there was anyone who would like to speak in favor, in opposition or had any comments.

Corey Anerbach, from Barclay Damon and legal representative for the applicant, began by stating that his experience with working with the Association of Towns has given him the understanding and respect for what boards do and the analysis used for granting variances. What is before the Board is the detriment to the health, safety and welfare of the neighborhood as compared to a similar proposal that complies with all of the zoning code without the request for variances. The variance analysis is a balancing act with the variances on the one hand granted with the other side of the detriment to the general welfare of the community.

When you compare the proposed house to one that completely complies, the detriments are very small. Having a home with a deck a little bit closer to the lake or watercourse than would be permitted and the minimal amount of disturbance in the steep slope area, the detriment results are fairly small and the benefits to the applicant are tremendous. The issue with meeting the setback for the septic and the infeasibility of relocating the utilities, the applicant couldn't move forward with a feasible project without the variance requested.

In reviewing the five criteria, 1) Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties, there have been several attempts to build on this lot. This is the last vacant parcel on the lane, and there have been much larger homes built on this lane that received variance approval for being closer to the lake. The recent variance for a larger proposal was denied last year and part of the clear direction communicated by the Zoning Board of Appeals on what would be considered a more feasible project similar to the Ross project was provided as a model. Mr. Eggleston did a terrific job emulating a similar project with less variance required.

2) Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance. The applicant and his representative have done a tremendous job in paring down this proposal. The alternatives are not very feasible when you look at respecting the setbacks for the septic and, the cost prohibitive expense to move the utility lines. The only alternative is to buy additional land and that is not feasible here as well.

3) Whether the requested variance is substantial. The Board should not just apply a mathematical formula when applying this factor. You have to consider the magnitude of the variance in light of its impact. While we have reduced as far as we can, there really is no additional impact here so therefore the variances are not substantial.

4) Would the variance have an adverse impact on the physical or environmental condition in the neighborhood. The work that will be done will improve the physical and environmental conditions by way of the drainage and how they are going to control it from the current situation where there isn't control.

5) Whether the alleged difficulty was self-created. The applicant is a contract-vendee of this owner requiring certain approvals before purchase. If the Board determines that the difficulty is self-created then the area variance test states that that alone would not be the determinant, it is just one of the factors.

Mr. Anerbach concluded his statement saying that based up what was discussed, the benefit to the applicant as the variances have been reduced to the smallest possible level are tremendous and allow him to move forward with the proposal. The detriment of the proposed home as opposed to one that strictly complies with the zoning is very small and we ask for your approval.

Mr. Eggleston stated that at last month's meeting the neighbor commented that one section of the cliff seems to have major calving of rock that falls into the lake. That has happened in the fifteen years he has been associated with the parcel and the reason is that it is an undeveloped lot where drainage is unchecked. All of the other lots have controlled the drainage. The lot has been taxed as a developable piece of property, but the owner has no financial ability to develop the property herself. The applicant has the financial ability to do the necessary drainage remediation and develop the property. Member Tucker commented that as he had brought up at the last meeting, the remediation on Terrace Lane with the french drain at the top of the bank helped to control the drainage to prevent further bank calving. When lots are left without anyone taking care of them, drainage problems can develop.

WHEREFORE a motion was made by Member Ketchum and seconded by Member Tucker to close the Public Hearing. The Board having been polled resulted in the unanimous affirmance of said motion.

Counsel Molnar commented that Member Condon could not be available for the meeting tonight, however, had submitted his thoughts and opinion in a letter dated February 27, 2017 that he wanted read into the record. Counsel Molnar began:

Dear Chairwoman, Denise Rhoads,

Since I was unable to attend tonight's meeting I would like to address my thoughts in this letter about the property at 1813 Russell's Landing. I have spent a lot of time on this application and I think is important that this letter be read aloud at the appropriate time at tonight's meeting.

In reviewing all the applicant's documents, the site visits and the public hearings, I believe the applicant and his professional have proposed a very well thought out plan for this property. They have scaled this back as asked to do by the ZBA to as much as feasibly possible in my opinion. They have addressed all the ZBA's concerns. This plan stays within the character of the neighborhood. This is a very environmentally thought out application, especially on this very sensitive environmental lot. I believe the applicant will fix up this property and maintain it, to the standards that everyone in the community would benefit from. If this property was to be left as forever wild as suggested by some, I think it would deteriorate a lot quicker.

In my opinion when doing the balancing of all the concerns of this property as weighed against all the good of this application, the good would outweigh the bad. The home being built on piers would have the least ground disturbance, the proposed rain garden, swales, underground storm piping running to the watercourse, the gutters from the home running to the watercourse and the rebuilding of the watercourse, would greatly improve and protect this property for a long time. It would also benefit the property and the lake if the farmer's pond could be completed and piped correctly to the watercourse as well as all surrounding neighbors improving their water runoff to the lake. The idea of the new septic system being protected by a fence is a good idea as well. I really think the applicant should have the septic system maintained and inspected more regularly if this is to be a rental property.

Lastly it is my opinion the benefit to the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood or the community lies in favor of the applicant. This is the best proposal this board has seen with the many renditions of applications over the years.

Member Tucker commented that he and Scott Winkelman were at an agricultural land protection board meeting with the County, and they had discussed this lot. Mr. Winkelman's comment was that the lot has been taxed as a building lot and that it would be beneficial to have someone there to help manage and care for the lot and its issues.

At this time Counsel Molnar reviewed with the Board the statutory criteria set forth in Town Code Section 148-45D (a-e) for an Area Variance. Counsel stated that in making their determination the Zoning Board of Appeals is required to consider certain factors, which are:

1. **Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties:** No. The modification of the structure as proposed by the architect does not produce an undesirable change in the character of the neighborhood, nor will its presence be a detriment to nearby properties. The two-story approximately 1,840 square foot house is similar to other structures nearby in terms of appearance and alignment. The neighboring property to the north will benefit from modified water flow and drainage through the proposed alteration and enhancements to the watercourse that will potentially reduce erosion.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. Because of the nature of the property, terrain, lake frontage, setbacks, slopes greater than 30%, watercourse presence within proximity of the propose structure, and utility easements, construction within the proposed area would require a variance. The site plan has been revised several times. Alternate options were discussed with the owner and his architect throughout this process. As a result changes from the original plan by reducing the variances somewhat have been made. Relocation of the existing utility easements is not a feasible option due to the significant expense.
3. **Whether the requested variance is substantial; within 200 feet of Skaneateles Lake, any area variance that enlarges a building or enables it to encroach into a required lake yard shall be presumed to be substantial because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** Qualified No. Because of the physical nature of this vacant lot and its proximity to the lake, any construction or development might be considered substantial and raise concerns for potential cumulative risk of lake degradation. However, the development plan as now presented by the architect and the prospective homeowner address a number of the concerns expressed by this Board and is persuasive in concluding that the requested area variances are not substantial. There has been a reduction in the amount of disturbance in the slopes greater than 30% down to 35 square feet and cutting of trees within ten feet of the structure.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood; within 200 feet of Skaneateles Lake, any area variance than enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse environmental impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** No. After the consideration of the testimony provided by the architect, physical observation of the property, and discussion before this Board, the Board is persuaded that the variance requested for the proposed modified structure, a two-story 1,840 square foot year round home, will not have an adverse impact upon the immediate environmental conditions in the neighborhood and will not increase the risk of

degradation of the lake. The architect and prospective homeowners have made a good faith effort to adapt their proposal to the suggested guidelines made by this Board in prior hearings. Reducing the size of the structure and utilizing pier construction rather than a full basement will significantly decrease footprint and soil disturbance especially in sloped areas. Utilization of a rain garden and other water diversion methods, including improvements to the southern watercourse will also significantly reduce soil erosion and potential degradation of the lake. To be clear the overall nature of the lot, proximity to the lake and watercourses, slopes, and bisecting utility easements and power lines offers a great many challenges to any potential construction or development. However, the architect and the homeowner have made a substantive attempt to ameliorate the concerns expressed in prior hearings before this board.

5. **Whether the alleged difficulty was self-created:** Yes.

WHEREAS, in review of the above findings of the Zoning Board of Appeals, the benefit to the applicant, as weighed against the detriment to the health, safety and welfare of the neighborhood, or community, lies in favor of the applicant. Based on the Board members' site visits and discussions before the Board at the public hearing the benefit to the applicant outweighs the detriment to the community and will not have significant adverse impacts on the character of the neighborhood or the physical or environmental conditions of the property.

WHEREFORE a motion was made by Member Palen and seconded by Member Tucker, that this application be **APPROVED** with standard conditions and additional special conditions:

Additional Condition No. 1 That the Site Plan 1 of 2 through 2 of 2 dated December 14, 2016, New Home 1 of 3 dated December 14, 2016, and site section 2 of 3 and 3 of 3 dated January 31, 2017, with the Construction Sequence dated December 14, 2016, prepared by Robert O. Eggleston, Licensed Architect, be followed; and

Additional Condition No. 2 The applicant shall comply with all conditions imposed by the Town of Skaneateles Planning Board in connection with issuance of the Special Permit and/or site plan approval; and

Additional Condition No. 2 The applicant shall comply with all conditions and regulations imposed by the Onondaga County Department of Health in connection with the proposed septic system; and

Additional Condition No.7 An as-built survey be submitted to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project.

<u>Record of Vote</u>			
Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Absent	
Member	Sherill Ketchum	Present	[Yes]
Member	David Palen	Present	[Yes]
Member	Mark Tucker	Present	[Yes]

Executive Session

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Ketchum to enter an executive session to discuss a personnel matter. The Board having been polled resulted in favor of said motion.

WHEREFORE a motion was made by Member Palen and seconded by Member Ketchum to return from the executive session. The Board having been polled resulted in favor of said motion.

The Board returned at 8:05 pm.

Discussion

Analysis of Zoning Code was submitted by Mr. Brodsky, which has been reviewed by both boards. Mr. Brodsky and Mr. Russell have recommended that the zoning code needs to be restructured. Member Ketchum suggested that the ability to do a word search of the code on the website would be helpful. Joel Russell had questions regarding the sections for signs, solar regulations, affordable housing, short term rentals, and backyard rentals. Backyard rentals have not been an issue with the Town, although the use could be managed through licensing. Affordable housing usually involves tax credits and driven by Federal and State programs and it would mean a large project would need to be developed for the feasible equity creation for the developer. The Village Board does not agree with the proposed changes to the comprehensive plan. The Town of Lysander and Van Buren moved forward with their comprehensive plan without the Village of Baldwinsville.

There being no further business, a motion was made by Member Tucker and seconded by Member Ketchum to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:30 p.m.

Respectfully Submitted,
Karen Barkdull