

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

July 10, 2018

Present:

Denise Rhoads
Jim Condon
David Palen
Kris Kiefer
Michael Ciaccio
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 August 7, 2018 and a site visit is scheduled for July 17, 2018.

Previous distribution to the Board of the regular meeting minutes of May 1, 2018 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Palen and seconded by Vice Chair Condon to accept the May 1, 2018 minutes as submitted. The Board having been polled resulted in unanimous affirmation of said motion. Member Ciaccio abstained from the vote due to his absence at the May 1, 2018 meeting.

| <u>Record of Vote</u> | | | | |
|-----------------------|-----------------|---------|--|-----------|
| Chair | Denise Rhoads | Present | | [Yes] |
| Vice Chair | Jim Condon | Present | | [Yes] |
| Member | David Palen | Present | | [Yes] |
| Member | Kris Kiefer | Present | | [Yes] |
| Member | Michael Ciaccio | Present | | [Abstain] |

Public Hearing

Applicant: Kenneth Osmun
3436 East Lake Road
Skaneateles, NY 13152
Tax Map #042.-05-04.0

Present: Kenneth Osmun Applicant

No one wished to have the public notice read. A site visit has been conducted by the Board on May 7, 2018. The Onondaga County Planning Board stated that the application will have no significant adverse impactions in their resolution dated May 2, 2018.

The property was built out to 10% impermeable surface and is located on East Lake Road where the allowable speed limit is 40mph. Just past the property the speed limit is reduced to 30mph as you enter the Village The property has no driveway turnaround and therefore requires backing onto Route 41 or driving on the grass to turnaround a vehicle before pulling out onto the road. Acquiring additional land from the neighbors proved fruitless. Proposed is a 440SF driveway turnaround to allow vehicles the ability to safely turnaround and pull out of the driveway.

Member Palen inquired whether the driveway turnaround could be decreased in size as 22 feet is larger than what would be needed. Mr. Osmun commented that he determined the size based on the angles for

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backing up with their existing vehicles. He had designed it for two spots in case a guest vehicle was there; and the area does slope and it could not be much narrower than fifteen feet. Mr. Osmun commented that he could get down to 300 square feet if it so pleases the board. Vice Chair Condon inquired if the applicant would still consider permeable pavers. Mr. Osmun commented that the pavers are four times the cost of tarvia. Vice Chair Condon commented that the pavers are a better option since it would assist with drainage and suggested that a swale also be placed to control any stormwater from the area. Member Kiefer commented that the turnaround would provide more safety for the applicant; however, expressed his concern that a future owner may use the space for a basketball court with the potential for a ball going into the road and creating a safety hazard. Counsel Molnar stated that the board has discretion to add additional conditions to any approval that may be granted to protect changes in the future. The first reasonable condition could be imposed is that it is a pavers surface so that the surface is not smooth. A second condition could be that it is not utilized as a basketball court, although enforcement could be problematic. Member Ciaccio inquired on the number of vehicles that applicant has. Mr. Osmun commented three, with a 3-car garage and two garage doors. He continued saying that the intent for the turnaround is just that and not to park in the area.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Palen to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmance of said motion.

At this time, Chair Rhoads opened the Public Hearing and asked if there was anyone in favor of the project. Mr. Eggleston, 1391 East Genesee St, stated that he was the architect that designed the dwelling. He continued saying that the garage is an oversized two car garage where one could put a third car in but not on a regular basis. The original owner was not concerned about the parking space and that should not be held against the current owner of the property. It is a safety hazard and a concern, and although he appreciates the concept of 10% impervious coverage, the board needs to consider situations like this and keeping a property safe. There should be some relief and he was not sure if the board had contemplated paying into the DRA fund. Also if a vehicle is in a garage, a turnaround is ineffective until after 15 feet. The safety is a serious consideration that exists with many of the properties and he hoped that the board takes this into consideration. Chair Rhoads inquired if there was anyone who would like to speak in favor, in opposition or had any comments. No one spoke in opposition to the project.

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

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 There will not be an undesirable change or detriment to the character of the neighborhood or detriment to the nearby properties by granting this variance. The location of the permeable pavers will connect to the existing blacktop driveway and will blend in. Many homes in the neighborhood have driveways with parking and turnaround areas. It is being proposed at a minimum functional size considering the driveway placement, driveway placement, and distance from State Route 41 The size, location, nature of the request will have

no detriment to the neighborhood.

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. the applicant has explored other options including removing impermeable surface structures on the property to help decrease current impervious coverage; however, there was nothing reasonable to remove. The applicant tried to purchase additional property from the neighbors and this option was rejected by the neighbor. The most feasible option would be to make the turnaround out of blacktop; however, the best option in keeping with protection of the lake would be permeable pavers. The property is a pre-existing nonconforming lot with existing impermeable coverage of 10% and any increase on this property would require a variance.
3. **Whether the requested variance is substantial:** Yes, the requested variance is substantial within the lake watershed. Town of Skaneateles code section 148-12G(7) reads that in no case shall the applicant be permitted to increase the surface coverage of the lot, and this lot has existing 10% coverage with a request to increase it to 11.3%. This request to increase the impermeability is very rare in the Town of Skaneateles. The board is required to protect the detriment to the health, safety and welfare of the neighborhood and community. In this application, after reviewing several neighboring driveways and the site visit by the board members, the request is substantial. However, the requested variance would create a safer situation for the applicant to turn around in the driveway before entering Route 41. Extenuating circumstances are; steep driveway, no room in the existing driveway to turn around, speed limit is 40mph at the driveway and decreases north of the driveway to 30mph, heading south it increases from 30mph to 40mph and the natural instinct would be for drivers to speed up just before the applicant's driveway, this is a high traffic zone with many tractor trailers and people sight-seeing, and glare off the road at certain times of the day. Since the board recognizes the increase to the impermeable coverage within the lake watershed is a top priority in protecting Skaneateles Lake, the permeable pavers option at the added turnaround is the best option if this variance is approved. Since automobiles will not be parked on the permeable pavers and only used as a safe turnaround, then the lake watershed would still be protected. After the site visit the applicant also stated they will keep the natural slope as it is the area of the pavers. This would minimize any disturbance of the land to install the pavers. The applicant also stated that they will add proper drainage if needed. As a result, while the increase in impermeable surface coverage is significant, it does not outweigh the fact that the turnaround will provide safe egress onto Route 41, and is mitigated by the factors referenced. The property is located on a state highway with grading and drainage swales which aid in typical runoff from the property to the highway.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. the points discussed above will limit any environmental impact to the lake. Although the applicant is persuasive in the desire to improve safe egress from the property, the proposed turnaround is excessive in size and represents more of a parking area unless a more modest sized turnaround is agreed to, which would have a lesser environmental impact. The board does not want to discourage the applicant from resolving the safety concern of backing out onto Route 41 with the cost of permeable pavers estimated at four times the cost of traditional tarvia. The safety concern is a high priority which can be resolved with little environmental impact.

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

Vice Chair Condon inquired if the applicant would consider a reduction in the size of the proposed turnaround area. Mr. Osmun commented that he is concerned that a reduced design would need to include the appropriate turn areas so that the autos would stay on the pavement rather than driving on landscaping. Mr. Eggleston commented that he typically uses a fifteen foot turning radius off of the garage would put the turnaround in a useable area. Anything closer than that 15 foot radius is less effective. Vice Chair Condon said that his concern is that the lot slopes and moving the turnaround closer to the road could be a sliding concern in inclement weather. Member Palen suggested a reduction to 15 feet by 20 feet. Mr. Eggleston suggested that the reduced size could be no greater than 300 square feet, with the design submitted with the building permit application.

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 Vice Chair Condon and seconded by Member Ciaccio, that this application be **APPROVED** with standard conditions and additional special conditions:

ZBA STANDARD CONDITIONS:

1. That the applicant obtain any necessary permit(s) from the Codes Enforcement Officer or otherwise commence the use within one (1) year from the filing of the variance decision. Any application for zoning/building permit(s) shall terminate and become void if the project is not completed within the eighteen (18) months from the issuance of the permit(s).

2. That the Applicant shall obtain all necessary permits and approvals from the Planning Board and any agency or authority having jurisdiction over the Property or Application.

3. That the applicant shall notify the Codes Enforcement Officer on completion of the footing of any project for which a variance has been obtained.

4. That the applicant obtain a Certificate of Occupancy and/or Certificate of Compliance, as required, from the Codes Enforcement Officer.

ADDITIONAL CONDITIONS: The ZBA finds that the following additional conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

1. That the proposed turnaround be reduced in size to not exceed 300 square feet and that the Site Plan 1 of 1 dated April 10, 2018 prepared by Kenneth Osmun (collectively "Site Plan") be modified to reflect the final dimensions and be strictly followed in all respects; and

2. That the utilization of permeable pavers will be employed for the proposed turnaround; and
3. That the pavers turnaround will not be used for recreational purposes; and
4. That the Applicant request a final inspection prior to expiration of the building permit.

Record of Vote

| | | | |
|------------|-----------------|---------|-------|
| Chair | Denise Rhoads | Present | [Yes] |
| Vice Chair | Jim Condon | Present | [Yes] |
| Member | David Palen | Present | [Yes] |
| Member | Kris Kiefer | Present | [Yes] |
| Member | Michael Ciaccio | Present | [Yes] |

Initial Review

Applicant: Bruce Parker

Parker Family Limited Partnership
 5891 Bennett's Corner
 Camillus, New York

Property:
 1427 Thornton Heights Rd
 Skaneateles, New York
Tax Map # 057.-01-10.2

Present: Bruce Parker, Applicant;

The applicant is requesting to exceed 10% impervious coverage for a turnaround on the second driveway on the property. The existing lot is at 8.8% impermeable surface coverage and the applicant is requesting to increase it to 12% for the secondary driveway and turnaround. Mr. Parker commented that the property is fairly steep and would be difficult to back up on the driveway.

Vice Chair Condon commented that in 2013 the board had reviewed the application in order to grant variances, and the intended use of the building was for a garage on the first level and for law care equipment storage on the second level. The back door of the garage was adjusted to fit the lawnmower. He inquired why there is a need for a second driveway when there is a garage and driveway in front of the garage. Mr. Parker commented that it is a steep drive with an entrance at the back of the building which you would need to drive to. Mr. Parker continued saying that he had obtained approval to convert the second floor to an apartment from the Planning Board. The Planning Board had approved the accessory apartment without a secondary driveway according to the submitted plan. Mr. Parker commented that their approval was conditioned upon receiving septic approval for the secondary septic field proposed that would serve only the accessory apartment. He continued saying that the plan was submitted to OCDOH where it was rejected as the plan did not have a driveway. Mr. Parker presented the board with a copy of the ODCPH septic letter. Vice Chair Condon noted that the OCDOH letter stated that the driveway location was to be shown on the plan and not that a driveway was required.

Mr. Parker stated that the property has the septic system for the dwelling by the lake as well as the septic system for the accessory apartment. He continued saying that OCDOH probably wanted to keep vehicles off of the existing and proposed septic system. Vice Chair Condon said that the second driveway is not a safety issue to back out as the road is a private road and not a state highway. Mr. Parker said that the driveway could be put in place that would take the property to 10% impermeable surface coverage, and that the turnaround is what takes it over 10%.

Chair Rhoads inquired if the driveway is already in place. Mr. Parker said yes, that the driveway is a gravel driveway with grass coming up through it and a gravel turnaround at the top of the driveway. Vice

Chair Condon inquired if the applicant had obtained a building permit to install the driveway. Mr. Parker commented no, that the driveway was installed so that trucks could access the area to install the septic system for the accessory apartment, and that he had not planned on having a secondary driveway. He continued saying the septic system installer insisted that the driveway be installed as per the OCDOH plans, and the driveway was installed without a building permit being obtained from the town.

Vice Chair Condon inquired as to why a driveway is needed to go to the back of the building when a permeable walkway could be installed. Mr. Parker commented that the area is steep and a long distance to carry groceries, a TV or mattresses. Member Ciaccio inquired what the use is for the converted second floor of the garage. Mr. Parker said that it is a seasonal use one bedroom apartment that is for family or seasonal rental. Member Ciaccio commented that the turnaround at the top of the second driveway would be used for parking. Mr. Parker commented that the turnaround would be used by whoever was using the apartment. Member Kiefer commented that renters could park in the driveway and walk up to the apartments, which would keep the coverage under 10% impermeable surface coverage. Vice Chair Condon expressed his concern with adding more impermeable surface coverage so close to the lake with the stormwater velocity being increased by the secondary driveway. Mr. Parker said that he has not experienced stormwater running down the property and sending silt into the lake with the storms that occurred last year.

Chair Rhoads inquired what the Planning Board had approved for parking with the conversion of the accessory apartment. Counsel Molnar commented that their approval was based on the plans that were submitted with the application that did not reflect a driveway on the property. Mr. Parker inquired if permeable pavers were used in the turnaround if it would be permeable. Member Kiefer commented that the prior application the pavers were used as a mitigating factor due to the safety hazard that exists with their driveway backing out onto a state road at 40mph, where this property is on a private road. Member Ciaccio commented that the board needs to do a site visit to gain a better understanding of the property. A site visit was scheduled for Tuesday, July 17, 2018 at 7 pm. Mr. Parker submitted signed letters of approval from neighbors for the proposal.

WHEREFORE, a motion was made by Member Palen and seconded by Member Ciaccio to schedule a public hearing on ***Tuesday, August 7, 2018 at 7:02 p.m.*** The Board having been polled resulted in the unanimous affirmation of said motion.

Extension Request

Applicant: Christopher Graham
4331 Jordan Road
Skaneateles, NY 13152

Property:
4331 Jordan Road
Skaneateles, NY 13152
Tax Map #024.-02-01.1 and 024.-02-01.2

Present: Robert Eggleston, Architect

The applicant's approval from 2017 expired on June 13, 2018 and the applicant would like request an extension of six months in order to finalize the requested zone change before finalizing the building plans for the structure. Based on the zone change the office/storage building may be designed smaller than what was originally approved in 2017.

WHEREFORE, a motion was made by Member Palen and seconded by Member Ciaccio to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmance of said motion.

Whereas, the Skaneateles Zoning Board of Appeals reviewed the original approved Site Plan, dated May 16, 2017; which the Applicant advised will remain unchanged, and after due consideration, unanimously adopted the following resolution.

WHEREFORE, a motion was made by Member Michael Ciaccio and seconded by Member Dave Palen, and duly adopted by unanimous vote, the Board approved the Applicant’s request to extend the Approving Resolution for a period of six (6) months from July 10, 2018, subject to all other conditions set forth in the Approving Resolution, which remain in full force and effect.

| <u>Record of Vote</u> | | | |
|------------------------------|-----------------|---------|-------|
| Chair | Denise Rhoads | Present | [Yes] |
| Vice Chair | Jim Condon | Present | [Yes] |
| Member | David Palen | Present | [Yes] |
| Member | Kris Kiefer | Present | [Yes] |
| Member | Michael Ciaccio | Present | [Yes] |

Town Board Referral Zone Change

Applicant: Christopher Graham
4331 Jordan Road
Skaneateles, NY 13152

Property:
4331 Jordan Road
Skaneateles, NY 13152

Tax Map #024.-02-01.1 and 024.-02-01.2

Present: Robert Eggleston, Architect

At the request of the Town Board, the Zoning Board of Appeals (“ZBA”) reviewed the Zone Change request of Christopher Graham/Trillium Homes Inc. regarding the aforementioned parcels (the “Property”) to change applicable zoning of the Property from the Rural Residential (RR) district to the Hamlet (HM) district. After thorough review the ZBA adopted the following:

WHEREFORE a motion was made by Member Ciaccio and seconded by Member Palen, and after an affirmative vote of all members present, the Town of Skaneateles Zoning Board of Appeals has concluded it has no objection to the zone change request of Christopher Graham/Trillium Homes Inc. submitted to the Town Board for consideration, and that the Zoning Board of Appeals encourages the Town of Skaneateles to exercise its discretion to approve the zone change request. The Board having been polled resulted in the unanimous affirmance of said motion.

| <u>Record of Vote</u> | | | |
|------------------------------|-----------------|---------|-------|
| Chair | Denise Rhoads | Present | [Yes] |
| Vice Chair | Jim Condon | Present | [Yes] |
| Member | David Palen | Present | [Yes] |
| Member | Kris Kiefer | Present | [Yes] |
| Member | Michael Ciaccio | Present | [Yes] |

Discussion

Counsel Molnar summarized the revised nine lot subdivision proposed by the applicant and owner, Donald Spear/ Emerald Estates Properties, L.P., and the Planning Board’s request to be lead agency for SEQRA review on the application. The Zoning Board of Appeals adopted the following resolution regarding the proposed Planning Board Lead Agency request for the revised SEQRA Review-Hidden Estates Lot 3 Re-Subdivision:

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair Condon to endorse the designation of the Planning Board of the Town of Skaneateles as lead agency for SEQRA determination. The Board having been polled resulted in the unanimous affirmation of said motion.

| <u>Record of Vote</u> | | | |
|------------------------------|-----------------|---------|-------|
| Chair | Denise Rhoads | Present | [Yes] |
| Vice Chair | Jim Condon | Present | [Yes] |
| Member | David Palen | Present | [Yes] |
| Member | Kris Kiefer | Present | [Yes] |
| Member | Michael Ciaccio | Present | [Yes] |

Attorney Advice Session

WHEREFORE a motion was made by Chair Rhoads and seconded by Vice Chair Condon to enter an attorney advice session. The Board having been polled resulted in favor of said motion.

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

The Board returned at 8:57 pm.

There being no further business, a motion was made by Member Kiefer and seconded by Member Ciaccio to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:57 p.m.

Respectfully Submitted,
Karen Barkdull