

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

**November 13, 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 December 4, 2018 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of October 9, 2018 was executed and all members present acknowledged receipt of those minutes.

**WHEREFORE** a motion was made by Member Palen and seconded by Member Condon to accept the October 9, 2018 minutes as submitted. The Board having been polled resulted in unanimous affirmation of said motion.

**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]

**Public Hearing**

Applicant: Steven & Kelly Scheinman  
3189A East Lake Rd  
Skaneateles, NY  
**Tax Map #040.-01-18.0**

Present: Robert Eggleston, Architect

No one wished to have the public notice read. A site visit has been conducted by the Board on October 27, 2018.

The existing dwelling with attached garage that is built on a crawl space, two to three feet deep for storage. The applicant is proposing a second floor addition over the existing garage and master bedroom to provide space for an exercise room and a bonus room. The existing footprint of the structures is 8.1% of the lot area which will not change; however it is over the 6% allowed for the nonconforming lot. The existing nonconforming floor space is 11.6% of the lot area with a proposal to increase the floor space to 15.9%; however, exceeding that maximum allowed of 10% of the lot area.

In reviewing the existing landscape it was discovered that landscape stone was used instead of mulch around trees that were recently removed. The stone was included in the impermeable surface coverage calculations and will be removed as part of the proposal reducing the impermeable surface coverage. The existing septic system was re-done in 2012 including an aerobic septic tank. No objections letters were submitted from the contiguous neighbors to the project. Member Condon stated that there should be no

living space above the garage and that it should be used for storage only. There are no plans for a storage shed on the property.

**WHEREFORE**, a motion was made by Member Palen and seconded by Member Condon 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. There was no one who spoke in favor of the application. 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 Member Condon and seconded by Member Ciaccio 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 and there is no increase in the footprint of the structure. The addition above the garage will be sided to match the existing structures, and the pitch of the roof addition will match the existing pitch of the two-story section of the dwelling. The height of the garage will be similar to the height of the existing dwelling. Many homes within the neighborhood have similar structures and areas above the garage, with the proposal in keeping with the neighborhood.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No, the proposed addition is the most feasible to add storage to the structure as there is no basement and only a crawl space available, and there will be no additional structures. The property is a pre-existing nonconforming lot, requiring a variance for any improvements to the property. By expanding the floor area above the garage, there will be no increase in building footprint or in impermeable surface coverage. Neighboring views will not be affected should the variances be approved by the Zoning Board of Appeals.
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:** Yes, the requested variance is substantial as the structure is within 200 feet of the lake line and although the footprint remains the same, the addition of 604 square feet exceeds the 500 square feet of allowable expansion and the dwelling is 30.4 feet from the lake line. The mitigating factors are that the proposed second floor addition will have no effect on the lake in that there will be little disturbance of the site area, and that the footprint of the structure will

remain the same.

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 that enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse impact because of the cumulative risk of degradation of the lake posed by granting individual variances; This presumption is rebuttable:** No. since the footprint remains the same and there will be minimal impact to the surrounding environment during the construction phase, the proposed addition will not have an adverse impact on the condition of the lake. The 2012 updated septic system is located more than 100 feet from the lake line and at the site visit the applicant volunteered to remove the excess stone located to the right of the driveway, and replace with topsoil and grass. The addition above the garage will not increase the footprint, require heavy equipment, and not disturb the structure. There will be no work on the lakefront, there is no watercourse located on the property and there will be no increase in the impermeable surface coverage on the property.
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 Vice Chair Condon and seconded by Member Ciaccio, that this application be **APPROVED** with standard conditions and additional special conditions:  
**ZBA STANDARD CONDITIONS:**

**STANDARD CONDITIONS:**

1. That the applicant obtains 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 any agency or authority having jurisdiction over the Property or Application; and
3. 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 Site Plan 1 of 1 dated September 10, 2018, Alteration Phase II plan 1 of 3 through 3 of 3 dated September 10, 2018, and Narrative dated September 28, 2018 and prepared by Robert O. Eggleston, Licensed Architect, be followed in all respects; and

2. That the bonus room created above the garage is not converted to an additional bedroom.

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

**Public Hearing**

Applicant: Eileen Murphy  
3259 East Lake Rd  
Skaneateles, NY  
**Tax Map #040.-01-03.0**

Present: JoAnne Gagliano, EDR; Joe Falco, EDR.

No one wished to have the public notice read. A site visit has been conducted by the Board on October 27, 2018. The Onondaga County Planning Board recommended modification to the proposed action so that all conditions are met and approvals are obtained from the City of Syracuse Water Department prior to approving the proposed application; it discourages such significant exceedances of impermeable surface coverage limits in the sensitive Skaneateles Lake drinking watershed and that the applicant must modify the proposed site plan to further reduce impermeable surface coverage to better meet local regulations; and commented that it discourages the inclusion of nonessential impermeable surface coverage and encourage the applicant to consider a smaller building footprint and using permeable building materials wherever possible especially for the proposed tennis court and driveway; that appropriate access agreements are in place for the shared driveway on East Lake Road; and that minimal exposure to damage from natural hazards and uphold local flood ordinance requirements in their resolution dated October 17, 2018.

Since the site visit and the application presented to the Planning Board, there are a few changes to the project. The existing summer cottage is proposed to be demolished and rebuilt in a different location that requires a variance for the garage setback of eight feet to the north property line, an eight foot setback for the proposed permeable tennis court and a variance for 604 square feet of shoreline structures exceeding the 400 square feet maximum allowed for this lot.

The existing detached garage is located two feet from the north property line. The proposed setback for the garage is eight feet with a minimum required setback of 17 feet 10 inches; however the proposed eight foot setback is an improvement to the existing setback. The proposed location of the dwelling and garage has been limited by the existing slope to the south on the narrow lot and the required 100 foot setback from the lake line. There is also a utility line that runs through the lot where no structures can be located underneath.

The proposed dwelling is in keeping to the neighborhood as it is a 1 ½ story cottage. The proposed tennis court has been modified to be porous asphalt and the Planning Board is considering the use of the material

for the accessory structure that would reduce the impermeable surface coverage down from 25% to 15.2% including the shared driveway.

The shoreline structure size of the porous patio is a function of the naturally disturbed area caused by storm damage. If the area were to be re-landscaped, it would probably suffer erosion. The existing condition should be addressed soon to protect from further erosion and silt into the lake.

Comments from SOCPA discuss the use of permeable materials for the shared driveway; however, the town does not consider any driveway permeable. The property will have small scale stormwater management guidelines applied to the property as part of the redevelopment.

Member Condon inquired about the use of permeable materials for the tennis court. Ms. Gagliano stated that it will be porous asphalt pavement and that all areas where permeable materials could be used have been proposed as permeable materials, with the exception of the 74 square feet of stone treads for the steps to the patio are considered impermeable with grass in between them. Member Condon said that permeable materials for the driveway would benefit the lake although the town does not acknowledge it in the calculations.

Member Condon inquired about the shoreline work and NYSDEC permit. Ms. Gagliano stated that they have a NYSDEC permit for the seawall and the patio behind it. Member Condon inquired if the applicant plans on doing the project this winter. Ms. Gagliano stated that the applicant cannot begin the work without variance approval for the shoreline structures. Counsel Molnar commented that the applicant also needs Planning Board approval prior to commencement of the work. Member Condon said that it would be beneficial to complete the work as soon as possible to prevent further erosion. Ms. Gagliano stated that they would like to construct it as soon as possible. The seawall will be a serpentine style that the NYSDEC approved, and will tie into the neighboring walls.

Member Condon inquired if there are floor plans available. Ms. Gagliano stated that the dwelling plans are being drawn by Leif Kalquist and that they are based on the applicant's preference for a 1½ story cottage with a large porch. Member Palen said that the proposed structure will be 1000 square feet larger than the existing structure. Member Condon inquired if the permeable pavement has been approved by the Planning Board. The Planning Board has not approved the permeable pavement and will be seeing examples at their meeting next week. Member Condon asked if there was consideration given to reduce the size of the dwelling or garage in an effort to reduce impermeable surface coverage as the Planning Board may not approve the tennis court proposed with permeable asphalt. Ms. Gagliano said that the dwelling could be designed taller although it is not in character of what the applicant would prefer. Member Condon suggested that the design could go back to a detached garage and stay with the footprint of the existing house. Ms. Gagliano stated that it would cover the area where they had intended to place a small scale stormwater system.

Member Palen said that he has a concern with the tennis court as it is a seasonal accessory structure with play for a limited time during the year. Ms. Gagliano commented that the applicant is an avid tennis player and would shovel the snow off the court in the winter to play. Member Palen stated that the lot is 88 feet wide and proposed is a 50 foot wide tennis court that will be paved. It would be 5000 square feet of pavement on a sloped property. Ms. Gagliano said that the existing tennis court could remain as is. She continued saying that they could reduce the existing court and rebuild the dwelling on the same footprint, although it would be better for the lake to make improvements and have a permeable pavement that can absorb the stormwater.

Member Condon said that it would be difficult for the Zoning Board to approve the variance for the tennis court when it has not been determined whether the porous asphalt will be accepted by the Planning Board. Counsel Molnar commented that the Planning Board cannot act on the application until the application has been approved by the Zoning Board of Appeals, including whether they would consider the use of permeable pavement for the tennis court in an effort to reduce impermeable surface coverage. Counsel Molnar continued saying that the Zoning Board of Appeals could condition an approval upon the Planning Board's acceptance of the permeable asphalt as a permeable pavement in this application. Member Condon stated that this would be too large of a decision to leave as a condition. Member Kiefer commented that he has a concern that this would be a large condition and that it could set a precedent. He would like to have more information on the porous pavement.

The applicant withdrew that variance request for the setbacks for the dwelling and tennis court and would like the application solely reviewed for the shoreline structures only. They would submit an updated plan to only include the shoreline structures portion of the project. Member Kiefer recused himself from the application as he had not participated in the site visit. Member Ciaccio recused himself from the application.

**WHEREFORE**, a motion was made by Member 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. No one spoke in favor of the application. 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 Member Palen and seconded by Member Condon 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. The replacement of the collapsed existing seawall and associated erosion with a new serpentine seawall will connect with the adjacent neighboring seawalls to continuously protect the shoreline. The changes are necessary to stabilize the seawall that would result in a more aesthetic shoreline for the applicant and the neighboring properties.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. the proposed shoreline stabilization is the most feasible option with detailed drawings including the grading and sediment control plans dated September 4, 2018, that will be revised to reflect the shoreline remediation only. The benefit cannot be achieved with an alternate method.
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:** No, although anything within 200 feet of the lake is presumed substantial, the 530 square foot permeable patio will replace the existing eroded land thereby not exacerbating the deterioration of the shoreline. The proposal is a necessary improvement to stabilize the shoreline that is significantly eroding and provide a positive benefit to the lake.

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 that enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse impact because of the cumulative risk of degradation of the lake posed by granting individual variances; This presumption is rebuttable:** No. the proposed variance will not have an adverse effect on the physical or environmental conditions of the lake or the district. The proposal will have a positive effect as these improvements are necessary to stabilize the shoreline and prevent further erosion of the property, and it will be done in keeping with environmentally safe practices. The applicant is being a steward of the lake by reducing the proposed project to the shoreline remediation only in order the address the shoreline remediation forward for completion this winter.
5. **Whether the alleged difficulty was self-created:** No. The shoreline and seawall suffered damage from unforeseen storm events.

**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:**

**STANDARD CONDITIONS:**

1. That the applicant obtains 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 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 Site Plan SPR-101 dated October 16, 2018, SPR-102 Grading Plan dated September 18, 2018. SPR-102 Erosion Control Details dated September 4, 2018 and Narrative dated November 12, 2018 and prepared by Environmental Design & Research, be revised and submitted to the town to include the shoreline site plan including erosion control only, and followed in all respects, and
2. The Applicant commence construction of the shoreline remediation as soon as practicable and within NYSDEC timelines; and
3. The Applicant is required to obtain an as-built survey and submit same to the Code Enforcement Office with verification of conformance of completed project within sixty (60) days of completion of the project.

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

**Attorney Advice Session**

**WHEREFORE** a motion was made by Member Palen and seconded by Member Kiefer to enter an attorney advice session. The Board having been polled resulted in favor of said motion.

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

The Board returned at 8:37 pm.

There being no further business, a motion was made by Member Ciaccio and seconded by Member Palen to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:37 p.m.

Respectfully Submitted,  
Karen Barkdull