

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF
November 10, 2020**

Present:

Denise Rhoads
Jim Condon
David Palen
Kris Kiefer
Michael Ciaccio
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk
Kim Benda, ZBA Clerk

The meeting commenced at 7:00 p.m. at Town Hall via Zoom. The next Zoning Board of Appeals meeting will be held on December 1, 2020 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of October 13, 2020 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE, a motion was made by Member Palen and seconded by Member Kiefer to accept the October 13, 2020 minutes as presented. 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]

Member hours for the present Board members were requested and submitted for the month of October 2020 via email.

Public Hearing

Applicant: Thomas Wingfield
2886 West Lake Road
Skaneateles, NY 13152
Tax Map #052.-01-10.0

Present: Thomas Wingfield, Owner

Chair Rhoads described the proposal for the replacement of a sidewalk, front porch, and rear patio on a pre-existing nonconforming lot, with a variance being requested for impermeable surface coverage. The application was reviewed at the October 13, 2020 meeting and all members of the ZBA have conducted a site visit with the owner. Chair Rhoads inquired if Mr. Wingfield has researched the use of permeable pavers since they were suggested at the previous ZBA meeting. Thomas Wingfield, Owner, mentioned the revised site plan and narrative he submitted October 30, 2020, reflecting the suggestions made during the site visit while maintaining the structural protection being sought. The revised site plan proposes the use of permeable pavers or a wooden deck to replace the rear patio with the inclusion of a protective 10"x6" concrete curb along the back side of the dwelling. This reduces the proposed ISC as either

replacement option is permeable. Mr. Wingfield's revision also proposes the front 3'x25' sidewalk be replaced with permeable pavers, further reducing the ISC. The proposed front porch is to remain concrete as it would extend the existing concrete porch. Mr. Wingfield sought clarification on the calculation of ISC if the roofline is over the porch, as the existing roofline would cover 46" of the proposed 48" extension on the front, and on the rear the proposed curb would not project further than the roofline of the house. If the ISC were based on the 13.9% at time of purchase, the revised proposal would reduce that amount to 13.4%. Clerk Barkdull clarified ISC is measured to the foundation of a building, therefore a roof can extend further than the building and not count toward ISC. Vice Chair Condon inquired if the permeable pavers were used for the 15'x32' rear patio, would that reduce the ISC to 13.4%, and with that reduction would a variance then be required. Member Palen asked which survey the variance is based off of since the original survey would reflect the 13.9% ISC eliminating the need for a variance, however the survey dated September 21, 2020 reflects an ISC of 12.9% triggering a variance for the proposed improvements. Mr. Wingfield explained the project was stopped by Codes Enforcement Officer Herrmann mid-project because the existing ISC was greater than the allowed 10% and the proposal was to further increase the ISC.

Member Palen asked Counsel Molnar if there is a need for an area variance if the Board bases their review off the survey at the time of purchase rather than the survey taken post demolition. Counsel Molnar stated the Town's files reflect a 12.9% ISC calculation on record, posing the question as to why the 13.9% ISC at time of acquisition is not reflected on record instead. If ISC is being reduced as a result of the repair and replace, the Board and the Applicant have worked out an acceptable solution that may not require a variance. Clerk Barkdull stated she was not certain who calculated the ISC on the old survey, but the Town reviews what is existing at the time of application versus what is proposed. Because this project began without a permit and a shed was installed without permits since the time of purchase, the Town does not know what was existing prior to the September 21, 2020 survey. Vice Chair Condon stated the survey from the time of purchase does in fact reflect the 13.9% ISC. Counsel Molnar inquired if that calculation included the shed. Vice Chair Condon stated no. Member Palen asked if the proposed ISC would be greater than 13.4% if the shed were included. Vice Chair Condon clarified the proposed 13.4% ISC does include the shed even though the shed was not included on the survey at the time of purchase. Member Kiefer noted the Certificate of Compliance that is on file for the shed and the fence. Clerk Barkdull clarified the certificate was obtained after the fact.

Counsel Molnar recommended the Board had thoroughly reviewed the application if the Board were to proceed with either calculation, it can review the five criteria for area variance and the Applicant's suggested solution to the repair and replace problem. The consideration for the variance will ultimately set the ISC at 13.4% at all points moving forward. Vice Chair Condon stated the Board would first have to agree the review is being based on the original 13.9% ISC. Counsel Molnar agreed that conclusion could be formed on the existing survey now with solid calculations with what the ISC is and what it will be once the repair and replace is done, this will solidify the record for the Town. Member Kiefer stated he was not aware of the discrepancy between the Town's record of 12.9% ISC and the 13.9% ISC reflected on the survey at the time of purchase. Mr. Wingfield clarified the 12.9% ISC calculation is reflected on the Paul Olszewski survey dated September 21, 2020, which was done post demolition. Member Kiefer was confused on whether the Clerk Barkdull stated the survey that was pre-demolition also reflected a 12.9% ISC. Clerk Barkdull clarified that was not what was stated. Member Kiefer asked if there was a survey of what was existing prior to the demolition other than the survey taken at the time of purchase. Clerk Barkdull stated no. Vice Chair Condon did some quick calculations, stating the 13.9% ISC looked accurate.

Chair Rhoads asked if the Board was in agreement that the request for variance should move forward based on the ISC at the time of purchase of 13.9%. The Board was in agreement.

Chair Rhoads asked if anyone would like the Public Hearing Notice read, no one spoke. The Board members have each conducted a site visit. Counsel Molnar recommended the application be classified as a Type II action under SEQR review, not subject to further review.

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 for the Wingfield application, it was noted a letter from Peter & Danette Davis, 2891 West Lake Rd., submitted a letter in support of the proposed project. Chair Rhoads then asked if there was anyone who would like to speak in favor, opposition or had any comment regarding the application. Vice Chair Condon asked Mr. Wingfield to clarify what portion of the front improvement will be concrete. Mr. Wingfield stated the front porch extension will be 4'x24.8' of concrete, the front sidewalk will be permeable pavers. Chair Rhoads asked if there were any other comments or questions. Member Kiefer asked that the record clarify the various ISC calculations. Chair Rhoads stated that could be addressed when reviewing the five criteria.

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 unanimous affirmance of said motion.

At this time the Board reviewed the Five Criteria for the area variance where the existing ISC is 13.9% and the resulting ISC will be 13.4%, concerning the applicable section of Town Zoning Code: Section 148-12G(7) Nonconforming Lots – Impermeable Surface Coverage. This review is based on the revised drawings dated October 30, 2020, as submitted by the Applicant. Counsel Molnar stated when considering the benefit to the Applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Zoning Board of Appeals is charged with answering these five questions:

- 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 with the renovation of the front concrete porch and sidewalk or rear patio. The replacement of the 53-year-old slate sidewalk will enhance the property and create a safer surface to walk on. The new structures will enhance the aesthetics of the property while correcting water issues that have resulted from the deteriorating structures. The proposed structures are like what was existing at the time the home was purchased. The rear property is a preserved area being the DEC Boat Launch, therefore having no adverse impact on the rear property.
- 2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** No. The proposed replacement of the pre-existing porch, sidewalk and patio is the most feasible to repair the deteriorated structures. The Applicant was not able to purchase the adjacent property as it is part of the DEC owned land, designated Forever Wild. Repairing the unsafe front walk and rear patio with permeable pavers, adding a new concrete foundation under the front porch extension, and the inclusion of proper drainage, this is the most feasible option for the Applicant. The property is a pre-existing nonconforming lot with the structures erected prior to the current zoning code, requiring a variance for most improvements to the property. The Applicant has collaborated with the ZBA in an effort to reduce the ISC to the minimum amount, below the pre-demolition pre-existing 13.9%, raising the question of whether a variance is necessary for the benefit being sought in this situation, but concluding

that a variance is applicable when considering that some of Applicant’s application calculations are based upon post-demolition figures reflecting ISC calculated at 12/9%.

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. The requested variance is not substantial as the pre-existing ISC of 13.9% is being reduced to 13.4% with the rear patio being replaced with permeable pavers and a further reduction to 13.2% when the front sidewalk is replaced with permeable pavers as well. The area of disturbance is approximately 9’x 26’ in the front and has been existing since 1966, drainage will be added, and a safer walking surface will be constructed. By updating the structures to the current zoning codes, it will improve the front and rear foundations that are being eroded by water, ice and frost.
4. **Would the variance have an adverse impact on the physical or environmental conditions 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 ISC is being reduced there will be minimal impact to the surrounding environment during the construction phase as ground disturbance will be limited to the porch, walkway and rear patio areas. New gutters and downspouts are being installed to improve water runoff, directing drainage away from the structures that have been compromised for many years by water deterioration. There is no water course on or nearby the property. The primary structure is greater than 1500’ from the shoreline of the lake. The proposed structures will not encroach upon the Forever Wild preserved property or the DEC property.
5. **Whether the alleged difficulty was self-created:** No by majority vote. Many years of neglect and prior erosion has been the catalyst for requiring the repairs to take place. The ISC is being reduced from what has previously existed on the property. It was stated by a Board Member, the difficulty is self-created, however not a major impediment to the final decision as any time a variance is applied for the situation is self-created.

RECORD of VOTE

	MEMBER NAME	YES	NO	ABSTAIN
Chair	DENISE RHOADS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair	JIM CONDON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	MICHAEL CIACCIO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

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

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 dated October 30, 2020, and Narrative submitted October 2, 2020 in conjunction with the Narrative Amendment dated October 30, 2020 as prepared by Thomas Wingfield, Homeowner, be complied with in all respects; and
2. In lieu of the Applicant providing an As-built survey upon completion of the front porch extension and permeable paver sidewalk installation, as well as the rear permeable paver patio construction, the Codes Enforcement Officer must be satisfied that the intended structures are placed as required by the above- mentioned Site Plan, as a condition before issuance of a certificate of compliance.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair JIM CONDON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member MICHAEL CIACCIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Public Hearing

Applicant: Dawn Altmeyer
 2530 Wave Way
 Skaneateles, NY 13152
Tax Map #054.-04-07.0

Present: Dawn Altmeyer, Owner
 Bob Eggleston, Architect

Chair Rhoads described the proposal for the construction of a 2-story 2-car garage, requiring a variance for the total building footprint on a lot of less than 40,000sq.ft. The application was reviewed at the October meeting of the Zoning Board of Appeals, and the Board members have conducted a site visit with the owner and representative, Bob Eggleston. Bob Eggleston, Architect, stated this was a variance that was approved in 2018, at the time the Applicant decided not to proceed with it as there was a \$30,000 payment that would be required to be paid into the DRA Fund. Since the 2018 application, the residence has changed from seasonal to year-round as this is now Ms. Altmeyer’s permanent home so the need for a garage is much more apparent. Mr. Eggleston stated Ms. Altmeyer is seeking approval for a proposal that

is very similar to the application that was approved in 2018. The proposal is for the construction of a 22'x27' garage, it is in compliance with all required setbacks, the structure is under 600sq.ft. therefore it is allowed to be 50' from the watercourse where 50.7' is proposed, and the garage greater than 100' from the lake line. The lot is 5,000sq.ft. short of meeting the 40,000sq.ft. requirement, allowing the lot no more than 10% living area and no more than 6% footprint. Currently the floor space is 7.3%, well under the 10%, and the existing building footprint is nonconforming at 8.6%, due to the fact that this is a ranch house creating a large footprint which is more or less equal to the floor space. Mr. Eggleston explained the Applicant would like to increase her living space, even though Ms. Altmeyer could construct a second story on the existing dwelling it would be more efficient to incorporate that on the new garage structure. The proposal includes bonus space above the garage area, the Applicant intends to use the space for working or exercising, there is a bathroom in the bonus space for the convenience of spending any length of time above the garage. The total floor space proposed is 9.9% remaining in conformance. The proposed building footprint is 9.9%, increasing by 1.3% and triggering the only required variance. Mr. Eggleston reviewed considerations relative to the environment noting a large, paved area, existing ISC is 27.8%, that will be reduced to a total ISC of 18.1%; open space will increase from 65% to 74.2% reflecting an improvement. Mr. Eggleston stated the Applicant will install a new septic system, the current septic system is within 100' of the lake, where the new septic system will be located at the west end of the property and it was approved by Onondaga County in 2018, with a valid permit expiring in 2023. The approval is for septic tanks and a pump station to be installed to pump up to the west location. The original 2018 application was before the development of the Town's Small-Scale Stormwater Management strategies, at that time a rain garden was proposed at the east end of the driveway to mitigate stormwater runoff, since then Mr. Eggleston has engineered 2 bio-swales according to the standards for stormwater management. The bio-swales are between the house and the lake, it is split in two so the walk area from the deck to the lakefront isn't bisected by the bio-swale. The gutters on the south of the house will drain into the south bio-swale and the north bio-swale will receive the remaining water from the roof as well as the water collected from the driveway via a natural berm. The water will slowly permeate through the bio-swales to the under drain and after it is cleaned and slowed down, it is safely delivered down near the lakeshore.

Member Palen asked if the walkway area from the deck to the dock will be grass between the bio-swales. Mr. Eggleston answered yes, it will remain grass as it is now.

Mr. Eggleston stated the only variance being requested is that of the footprint and that is due to the nature of having a ranch house. The only way to get a garage would require removing existing building footprint structure which would be difficult to do, and it is hard to do a second-floor garage on the house. The Applicant feels this is the best proposal, it was worked and developed 2 years ago and is very similar to the 2018 proposal.

Vice Chair Condon asked if there were any comments from the County on the septic approval. Mr. Eggleston stated the City of Syracuse had no comments, Onondaga County gave the approval for the system. There was a question from neighbor, Brian Carvalho, about the relationship of the proposed septic system to his well. Mr. Eggleston submitted a plan to the Board earlier (this morning), laying out on the Site Plan Mr. Carvalho's property line. Mr. Eggleston obtained copies of Mr. Carvalho's septic and site plan reflecting the house 30' off the north property line and visually when driving down Wave Way, it is visible Mr. Carvalho's well is pretty much in line with the north side of his house. Mr. Eggleston reflected a 100' setback from the proposed septic on the site plan submitted to the Board earlier on the day of the meeting, and Mr. Carvalho's well is greater than 100' away from the proposed septic so there are no issues with the required separation.

Member Palen mentioned the neighbor's issue with his view being obstructed by the proposed garage, inquiring whether or not Mr. Eggleston's imposed garage drawing on the photo of the view submitted by

Mr. Carvalho was drawn accurately. Mr. Eggleston stated even if he were undersized on what he drew there is a pine tree on the lake side of the house and the car parked (in the Altmeyer driveway) in the photograph from the Carvalho deck is about in the garage area, and there is still lots of space. Mr. Eggleston felt the photo adequately demonstrated a 21' garage at the peak should not impair Mr. Carvalho's view of the lake itself in that there are trees behind it that are higher than that. Furthermore, there are trees in front that in 2012, Ms. Altmeyer had some older trees that were diseased cut down that would have blocked her house totally, she then planted replacement trees. Mr. Eggleston stated the Carvalho's view should be fairly intact and he wrote a letter, dated November 9, 2020, giving his opinion addressing Mr. Carvalho's concerns. Member Palen asked if the drawing would be considered to scale. Mr. Eggleston stated it is relatively to scale, even if it were 50% too small the garage still would not block the view.

Vice Chair Condon asked if Onondaga County Planning Board submitted their review of the application. Clerk Benda stated the resolution was forwarded November 5, 2020. Vice Chair Condon requested the comments be read. Clerk Benda read, "no significant adverse intercommunity or county wide complications and may consequently be acted on solely by the referring Board." Vice Chair Condon asked if there were any letters submitted by neighbors other than Mr. Carvalho. Clerk Benda confirmed there were none.

Member Kiefer asked if Mr. Eggleston could review the setback from the watercourse. Mr. Eggleston stated code currently allows structures less than 600sq.ft. to have a setback of 50' from a watercourse, proposed is a 50.7' setback so the garage is conforming in that regard. Mr. Eggleston explained Mr. Carvalho suggested in order to preserve his view, the garage could be pushed back roughly another 30' which would create a 20' setback from the watercourse, Mr. Carvalho felt that would be similar to the house watercourse setback. Mr. Eggleston did not have the exact measurement, based off review of the site plan he felt it would be closer to 30', requiring an additional variance. Additionally, as Mr. Eggleston stated in his response letter, pushing the garage back would be supported by the Applicant as it would result in her having a larger driveway allowing her to park a second row of cars in it. However, it would require having an additional 1,000sq.ft. of driveway, which would result in about \$10,000 more payment into the DRA Fund, as the reduction in ISC would not be as significant as it could be with the proposed plan.

Member Ciaccio asked if the photograph with the panned in proposed garage is the same photograph that was sent in by Brian Carvalho. Mr. Eggleston answered yes. Member Ciaccio asked why they looked so different. Mr. Eggleston explained that was the photo he had received from Clerk Barkdull around 4:00pm before the meeting. Member Ciaccio stated he was looking at the 2 side-by-side on his computer and couldn't figure out why the Altmeyer's house looked a good 100 yards further away in Mr. Eggleston's photo than Mr. Carvalho's photo. Mr. Eggleston stated he did not know what happened in the digital transmission what Member Ciaccio was looking at on his computer screen, he took the photo that was received at 4:00pm and quickly sketched in the approximate size and location of the proposed garage. Member Ciaccio stated he wasn't suggesting anything, rather he was trying to figure out why it looked so different. Mr. Eggleston wondered if it is the perspective of having another structure in front of the home, maybe it gives it a different depth perception. Member Ciaccio asked if it looked different to anyone else on their screens. Vice Chair Condon answered no. Mr. Eggleston stated he was looking at the 2 photos side-by-side and the panned in garage breaks up the very long roof, the original photograph that does not have the garage there is a very long plane of roof because it's a very low pitched ranch roof, so what this (the panned in garage) does is puts a physical structure that breaks up that long roof and that might be the optical illusion that Member Ciaccio was experiencing that makes the house look further away, but it is the exact same photograph. Member Ciaccio requested Clerk Benda to pull up the 2 photographs side-by-side. Clerk Benda presented the 2 photographs side by side explaining the difference between the digital photo from Mr. Carvalho and the photo from Mr. Eggleston reflecting a white border around the photo as

it had been scanned in. Member Ciaccio stated it must be his screen because on his computer the photograph from Mr. Carvalho looks much different than Mr. Eggleston's. Mr. Eggleston replied you are looking at a digital photograph versus a scan of a photograph, so the scale is different in that regard. Member Ciaccio stated if he could share what he was looking at he would, if not, then move on. Member Palen stated he saw a slight difference in the perspective, but it looked like basically the same picture. Member Ciaccio stated the one he was looking at was more than a slight difference, it must be his computer. Clerk Benda confirmed she did not rescale either photo, they were being presented as the files were opened on the computer. Mr. Eggleston stated because he printed both his look identical as his is not looking at an on-screen version versus a printed, scanned and re-sent version, he is not clever enough to photoshop the drawings. Member Ciaccio reiterated he was not suggesting anything, he was trying to figure something out, however if Mr. Eggleston continued being defensive, he would become suspicious. Member Ciaccio then asked if Mr. Carvalho had any response to the photo with the penna in garage, it does not seem to be obstructing any view and if he has commented. Mr. Eggleston stated Mr. Carvalho hadn't had an opportunity to respond yet, he was in attendance of the meeting but was waiting for the public hearing to be opened. Chair Rhoads confirmed when the public hearing is opened Mr. Carvalho will be given an opportunity to speak.

Chair Rhoads asked Mr. Eggleston about the driveway extension along the north side of the property as some is being removed and replaced with grass, is it necessary to have the whole extension on the north side. Mr. Eggleston stated he thought that had been reviewed, as the Applicant had parked her car there during the site visit. Mr. Eggleston explained Ms. Altmeyer wanted to get the car close enough so there could be an accessible ramp area to the deck for access into the house for her aging mother. It could be smaller, the walkway would then have to be longer, that had been reduced a few times back in 2018 to get to the point where it was approved.

Member Kiefer reviewed the Altmeyer's prior application with a proposal for a 2-story garage including storage above was approved by the ZBA, the difference here being that this particular proposal includes a bathroom, bonus room area and minor adjustments to the rain garden area, these are the differences between the two. Mr. Eggleston confirmed yes, the bathroom is a new addition, the finished bonus room on the second floor was always part of the proposal. If there is not a shower included in the bathroom is not a deal breaker for the Applicant, she simply desired the convenience of the bathroom if she is on the second floor working all day. Mr. Eggleston continued; the rain garden has been engineered into the bio-swale using John Camp's (the Town Engineer) engineering standards. Member Kiefer confirmed the application is basically the same that had previously been approved, with the two adjustments and resulting in approximately a 10% reduction in ISC for the area. Mr. Eggleston stated that is correct.

Chair Rhoads asked if anyone would like the Public Hearing Notice read, no one spoke. The Board members have each conducted a site visit. Counsel Molnar recommended the application be classified as a Type II action under SEQR review, not subject to further review.

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair 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 for the Altmeyer application, asking if there was anyone who would like to speak in favor of the application, no one spoke. Chair asked if anyone would like to speak in opposition of or had any comment regarding the application. Brian Carvalho, 1292 Port Way, stated he appreciates the Board reviewing the letter that was sent outlining two concerns regarding this application. Mr. Carvalho recently purchased the lot across the street from the Altmeyer's to build a new home. One of the great features of the lot was the view of the lake, it is a limited view in there are a

number of trees but there is a narrow corridor with a lake view over the Altmeyer house. The Altmeyer house is a single-story home at a significantly lower elevation than the proposed two-story garage. Mr. Carvalho submitted a version of the Altmeyer site plan dated September 25, 2020, illustrating the existing trees and the view corridor of the lake from his property. Mr. Carvalho mentioned the photo he had sent the Board that Mr. Eggleston had drawn in the proposed garage, this is the first time Mr. Carvalho had seen this version of the picture, so he had no comment prepared. He did not feel the drawn in garage was properly located or to scale. Mr. Carvalho stated if reviewing where the garage is from the north end of the house, it is only slightly south of the north end of the house, where the sharpie drawing reflects the garage significantly south of that location. The other concern is with the septic, which Mr. Eggleston did somewhat address that concern by locating Mr. Carvalho's well, but he did ask for dimensions and is still unsure of those as the septic is simply reflected with a rectangle that may or may not be based off the approved plans without setbacks given to the property line. The septic could be built anywhere in the front yard, Mr. Carvalho feels it should be given dimensions on the site plan. Another question Mr. Carvalho had, is did the 2018 approval include the new bathroom going into the new garage, that would be another bedroom/bath that would have to be taken into consideration with the septic design. Mr. Carvalho understands it could be said as a neighbor he should not expect a neighbor to take his view into consideration in their construction plans. However, when Mr. Carvalho purchased his property it was with reasonable expectations that there would be no further development of the Altmeyer property as it is currently a nonconforming in building footprint, ISC, open space, and lake front structures. Mr. Carvalho has proposed an alternate location he feels will alleviate his concerns; with the understanding it would require an additional variance moving the garage toward the stream. He feels in reviewing the criteria for the area variance this proposed project does not pass. Reviewing question 1 of the five criteria, Mr. Carvalho feels granting the area variance as proposed in this location is a detriment to his property both in enjoyment of use and decrease in value. If the ZBA is agreeable to moving the location (of the garage) the Mr. Carvalho's concerns would go away. He is aware that a variance was granted in 2018 and he did own the property across the road at the time and had gone before the ZBA Fall of 2017 to get approval for development of his property. Unfortunately, the notice for the project must have been sent to the previous owner and the Carvalho's were not notified of the 2018 proposal and unable to have any input at that time, since that approval has expired and this application is under review again Mr. Carvalho is taking the opportunity to give his input. Chair Rhoads stated the letter submitted by Mr. Carvalho is on record with the application.

Chair Rhoads asked if there was anyone else who would like to make a comment at this time. Mr. Eggleston asked if the Chair would like him to respond at this time or after the public hearing was closed. Chair Rhoads said Mr. Eggleston could respond presently. Mr. Eggleston stated he did put together a letter that was submitted the morning of the meeting so the Board would have a chance to review it. He reminded the Board the current proposal requests one variance, where the alternative would require two variances and result in less of a reduction in ISC and create a watercourse setback issue which he knows the ZBA takes very seriously. Mr. Eggleston is totally satisfied that the proposed septic, which was taken from the septic plan submitted to the Health Department by Eric Book, will be further than 100' from Mr. Carvalho's well. Mr. Eggleston referred to an aerial photo taken in 2014 that was submitted with the original application, showing the matured pine trees in approximately the same location where they were replaced between the driveway and the septic system, that would have significantly reduced Mr. Carvalho's view. It just happened that the Altmeyer's cut down the mature trees the same year the Carvalho's were looking at the lot across the street, opening up more of a view than the neighboring lot had seen in years. There is no zoning prohibition on trees, when Winding Way was first developed everyone had a lakeview because it was a farm field but now most people do not except for the few who live on the lake. Mr. Eggleston feels there is no guarantee that you have lake views unless you have ownership of the land between the viewpoint and the lake. The trees had blocked that (the Carvalho's) for years, they just happened to be cut down in 2017, about the time the Carvalho's arrived. Especially with the photograph (submitted by Mr. Carvalho), even if Mr. Eggleston does not have the garage as big as it

really is and it were expanded it would have very little impact on the lakeview itself, in fact it breaks up the long extended roof of the existing house. Mr. Eggleston stated there's a significant reduction of the pavement comparing the existing driveway to a Wal Mart parking lot, as there is an extremely huge parking area that was existing when the Altmeyer's bought the property 16-20 years ago. This would be a great improvement to the neighborhood reducing the amount of driveway making it more consistent with acceptable standards for today's driveways. So, the Carvalho's really have no guarantee of lakeview, and Mr. Eggleston has not witnessed any appraisals that have experts saying there's a significant reduction in value, that's just a presumption. The bottom line is the zoning laws are not put in place to protect individual interests or preferences, but rather to protect the health, safety and welfare of the neighborhood and community. Mr. Eggleston feels the Applicant has done the best she can to mitigate the environmental issues on her property by substantially reducing the ISC, providing stormwater mitigation in 2 bio-swales and by installing the new septic system as far back from the lake as possible. The application has kept her requested variances to the minimum, the application is not presumed to be substantial in that the requested variance does not allow the structure to encroach into the required lake yard, and the location of the proposed garage conforms with all of the required setbacks for both the lake and that watercourse. Mr. Eggleston stated his appreciation for the ZBA taking all of these factors into consideration when reviewing this application.

Chair Rhoads asked if anyone had any other comments at this time. Mr. Carvalho requested a chance to respond to Mr. Eggleston. Chair Rhoads gave Mr. Carvalho the opportunity to speak. Mr. Carvalho stated he understood the mature trees were cut down and there is no zoning that protects him from trees being in his way, certainly there is zoning that protects from the over building on a lot. The fact that this project requires a variance to build it, and it is going to negatively impact the Carvalho's, he feels that is the way the zoning law should be protecting them. Mr. Eggleston stated the Carvalho's benefited from an area variance for the watercourse when they requested to build their house, their house should have been built smaller and could have been built without a variance. Mr. Eggleston explained to expect variances shouldn't be issued wouldn't be in keeping with the benefit the Carvalho's have experienced themselves.

Member Keifer sought clarification on the year the Carvalho's purchased the property across from the Altmeyer's. Mr. Carvalho stated it was 2017, after the trees were cut down.

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

At this time the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code: Section 148-12G (1)(a)[7][a][i] Existing Nonconforming Lots - Footprint. Counsel Molnar stated when considering the benefit to the Applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Zoning Board of Appeals is charged with answering these five questions:

- 1. Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties:** Yes, by majority vote, which concluded there will be an undesirable change or detriment to the character of the neighborhood, as there is an increase in the footprint with the addition of the 2-story garage with living space and the existing footprint exceeds the 6% limit by 2.6%, and the impermeable surface coverage (ISC) exceeds the allowable 10% by 17.8%. The property is located in the Lake Watershed Overlay District (LWOD) on a lot that slopes toward the lake, consisting of a frame house, 2 sheds, a large blacktop area, impermeable driveways, deck on the rear of the house, boathouse, deck as well as a concrete ramp at the boathouse, a fire pit, and a lakeshore patio. Even though some of those items will be removed the

stand-alone garage structure will be out of character for this neighborhood. Board Members voting in the minority concluded there will potentially not be an adverse effect on the neighborhood as the ZBA had previously reviewed the request for a seasonal garage in 2018, other homes in the area have a garage, the second floor does not run a foul with the types of properties that are in the neighborhood, and there would be a benefit in the 10% reduction in ISC and improvement in the installation of a new septic located further from the lake than it currently exists. The minority Board Members also observed the existing large blacktop area is not in keeping with the character of the neighborhood, if the garage were constructed the environmental improvements would be a benefit, so long as they were unobtrusive.

RECORD of VOTE

MEMBER NAME		YES	NO	ABSTAIN
Chair	DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair	JIM CONDON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	MICHAEL CIACCIO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** No. The Board was in agreement there is no feasible alternative to requesting an area variance to achieve the benefit sought by the Applicant. The property is a pre-existing nonconforming lot in the LWOD, requiring a variance for any improvements to the property. It was stated by a Board Member, the property has been a seasonal residence adding the proposed garage structure to make the property a year-round residence would not be feasible on this lot. The primary structure and a number of accessory structures exist on the lot currently, even with the reduction in ISC it is 8.1% over the allowed 10%, and the footprint will remain over the allowable 6%. The Applicant could reduce the number of existing structures, remove part of the driveway, add the new septic and bioswales to improve the environmental impact without constructing the garage structure to make the proposal more feasible.
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 Board concluded that the requested variance is substantial, as the structure is within 200 feet of the lake line and the footprint allowed by code on a pre-existing nonconforming lot is 6%, where the proposed footprint is to be increased from 8.6% to 9.9%, this is an increase of 40% over what is allowed, and is 14% higher than what is present. The Board also pointed observed that, by code, the allowable ISC for a nonconforming lot is 10%, currently the lot is 27.8% which is 65% over what is allowed by code, and the proposed reduction to 18.1% is still 45% over what is allowed by code, and by granting the area variance it would make the small lakefront lot substantially nonconforming. According to §148-45D(3) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it deems necessary and adequate, while preserving and protecting the character of the neighborhood and the health, safety and welfare of the community, it is the opinion of a majority of Board Members that granting the area variance would be wrong on this lot. The Board was in agreement with the previous statements (3-2). Other Board Members stated the variance is presumed to be substantial as the proposal is for the enlargement of a building increasing

the floorspace to 9.9% within 200' of the lake, and that the Applicant has not overcome the presumption. The Board was in agreement of this statement (2-3).

- 4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood; within 200 feet of Skanateles 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:** Yes, by majority vote. The Board concluded there would be an adverse impact on the physical or environmental conditions of the neighborhood by granting the area variance to increase the building footprint 1.3%, and by not reducing the ISC closer to the 10% that is allowed by code, based upon the facts that is a pre-existing nonconforming lot, it is very heavily developed, even with the reduction of blacktop, improvements of a new septic system and addition of 2 bio-swales there should be no additional structures on the nonconforming lot. The lot slopes toward the lake, as well as the neighbor to the north, and in the event of a large storm the bio-swales would not be sufficient to capture stormwater runoff as it is evident there are existing runoff issues. The Board observed that if the Applicant were to remove the blacktop and not build a garage that would improve the impact on the environment. Living in this residence year-round would add stress to the existing septic system, as well as the lake given salt and plowing would be used for snow and ice removal, where the property was previously a seasonal home, which lead the Board to conclude, overall, there will be a negative impact on the lake and community. The Board also observed that any construction on this lot would pose a substantial risk to the lake as it is in close proximity to the lake with a watercourse running through the south of the property directly into the lake. Commendations were extended to the Architect regarding the attempt to ameliorate these issues, however given the number of structures existing on the property the addition of another structure would have an adverse impact on the condition of the neighborhood and the lake. A minority of Board members observed that the Applicant was able to rebut the presumption that the granting of the area variance would have an adverse impact on the physical or environmental conditions of the neighborhood being within 200' of the lake, because extensive efforts have been take to reduce the ISC, with the installation of a new septic system, and the addition of 2 bio-swales, all which will not occur if the area variance is not granted.

RECORD of VOTE

	MEMBER NAME	YES	NO	ABSTAIN
Chair	DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair	JIM CONDON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	MICHAEL CIACCIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member	KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member	DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

While reviewing Criteria 4, Counsel Molnar reminded the Board there is a single area variance being requested for Existing Nonconforming Footprint, that is the only reason set forth in the Town's letter of September 29, 2020, denying the application in so far as it requires a single variance on Section 148-12G (1)(a)[7][a][i]. Counsel Molnar wanted to ensure all of the Board's comments focused on a single area variance. Chair Rhoads experienced technical difficulties, all review was halted until Chair Rhoads was able to return to the Zoom meeting. Counsel Molnar briefly reviewed where the meeting had left off. The Board agreed to address the request as that for a single area variance and continued reviewing the criteria for the area variance.

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, does not lie 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 does not outweigh the detriment to the community and will 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 **DENIED**.

Member Kiefer asked for clarification that an affirmative vote is to deny the application. Counsel Molnar stated that is correct.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair JIM CONDON	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member MICHAEL CIACCIO	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Mr. Eggleston stated that he will acknowledge that the ZBA has denied the variance, he finds it rather disappointing because what will happen is the ISC will not be reduced, the septic will not be moved, the bio-swales will not be moved, the Applicant has the right to add 500sq.ft. to the second floor of the house so the lakeview can be further obscured. He stated he was rather disappointed, but will acknowledge that is the Board's decision.

Other Board Business

Member Palen inquired how to submit the certificates for training hours for the ZBA. Clerk Benda confirmed it is the honor system and if ZBA Members send an email including the name of the training attended as well as the hours, they will be filed on the record.

There being no further Board business, a motion was made by Vice Chair Condon and seconded by Member Palen to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:35 pm.

Respectfully Submitted,
Kim Benda