

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

**June 9, 2015**

Present:

Denise Rhoads  
Steven Tucker  
Sherill Ketchum  
David Palen  
Scott Molnar, Attorney  
Karen Barkdull, Zoning Clerk  
Michele Norstad, Secretary

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on Tuesday, July 7, 2015. Previous distribution to the Board of the regular meeting minutes of May 5, 2015 were executed and all members present acknowledged receipt of those minutes.

**WHEREFORE** a motion was made by Member Palen and seconded by Member Ketchum to accept the May 5, 2015 minutes as corrected. The Board having been polled resulted in favor of said motion.

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

**Other Board Business 7:00-7:10:**

The initial review for Kerrin Hopkins has been postponed and removed from tonight's agenda until the next meeting on July 7, 2015, per the request of the applicant.

The 2015 Planning and Zoning Summer School programs through the New York Planning Federation were announced. Interested board members may contact Michele Norstad to be registered to attend at one of four locations.

July 13<sup>th</sup> will be the public hearing on the Comprehensive Plan sponsored by the Town and Village at the Fire House. The phase or period of the process has moved forward to the point that the next step should be additional comments for the purpose of plan edit from the Zoning Board of Appeals and other agencies. The Zoning Board will need to submit any comments before said meeting. Board member comments may be circulated to Mrs. Norstad or Counsel Molnar for compilation in a memo format to be presented. An advertised special meeting was discussed as a workshop; however, the Zoning Board of Appeals opted to discuss their collective

thoughts at the next regular meeting on July 7, 2015. At this point two initial reviews exist for next month's agenda and should allow for time needed.

**Public Hearing**

Applicant: Mike and Crystal Fraher  
810 Stump Road  
Skaneateles, NY 13152  
**Tax Map #018.-04-25.2**

Present: Mike and Crystal Fraher

Chair Rhoads explained the applicant's proposal to install a 27FT wide (55 inches high – with 48 inches above ground) above ground swimming pool exceeding a rear yard setback. Minimum required rear yard setback is 50' whereas the survey shows the proposed pool located 15FT from the property line. A site visit was conducted on May 9, 2015. The Onondaga County Planning Board commented per their May 27<sup>th</sup> meeting that should this application be approved, the new construction must not negatively affect the existing septic system servicing this property. Chair Rhoads asked if anyone wished to have the notice of public hearing read. No one responded. Mr. and Mrs. Fraher reviewed the project before the board and stated that a letter in favor of the proposal was submitted by Robert and Bonnie Brown. A lot line adjustment was attempted, but, due to a refinance the bank would not allow it. The Fraher's again tried for the lot line adjustment in March of 2015, but, the bank requested over \$1000 in fees to move forward. The pool project in itself will be around \$5000 total and this option did not seem wise.

At this time, a letter from Robert and Bonnie Brown in support of the project was read into the record. "We are aware that Michael and Crystal Fraher would like to install a 27FT above ground pool that will exceed their building set back on the back of their property line. We are also aware this meets our adjoining property line. We have no issues or concerns regarding the installation of this pool and approve of the variance they are requesting".

**WHEREFORE** a motion was made by Member Palen and seconded by Member Tucker to declare this application to be a Type II action 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 wishing to speak in favor or opposition of the application or that had any other comments. There was no one who wished to speak.

**WHEREFORE** a motion was made by Member Ketchum 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 be no undesirable change to the character of the neighborhood or a detriment to nearby properties. The above ground pool which will be connected to the applicant's deck is in character to the neighborhood and will not present a detriment to nearby properties. Located in a rural setting, surrounded by crop land, the pool will be hidden behind the home and not be visible from the road.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. While the adjacent property owners have offered to subdivide their land, the applicant will incur unnecessary financial expense in doing so. The location of the pool in any other part of the lot would be extremely inconvenient to the applicant and more intrusive to the neighborhood.
3. **Whether the requested variance is substantial:** Yes. The rear setback variance request is well over 60% of the current allowed setbacks.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. The pool location is well behind the house, surrounded entirely by grass with no impact on any surrounding streams, watercourses or the lake.
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 Chair Rhoads and seconded by Member Ketchum, that this application be **APPROVED** with standard conditions and additional special conditions:

**WHEREFORE** Member Tucker inquired regarding the expiration of this variance once granted if the above ground pool were to be removed. Counsel Molnar commented that a variance can't be abandoned. As the setback variance relates to the pool only in this case, it should be so reflected in the resolution. A circular pool, above ground in the circumference of 27FT (55 inches high – with 48 inches above ground) is the only referenced approved construction going forward in regards to this plan presented, anything different requires a modification or amendment.

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

1. Additional Condition No. 1 Additional Condition No. 1 That the revised Site Plan 1 of 1 dated June 9, 2015, prepared by Land Lines Surveying, P. C. of Jamesville, be followed; and
2. Additional Condition No. 2 That the Codes Enforcement Officer verifies with measurement the rear setback be in compliance with revised site plan as stated.

**WHEREFORE** Bob Eggleston, Architect, not representing the applicants, spoke from the audience requesting a clarification. Mr. Eggleston interjected that the applicant was showing just a round pool on their site plan and he assumed that said pool would at some point require decking to connect the pool for access. Mr. Eggleston went on to explain that there would be no platform for access in and out of the pool and should be allowed some sort of connection from the pool to existing decking and that the site plan would make it seem as if they had to jump 6inches to enter the pool. Mr. Eggleston thought that there should be allowed an 8FT connecting deck. Chair Rhoads explained that this question should have been brought up with other comments earlier in the meeting process and not interrupting the approval process mid-stream in a motion. Member Ketchum asked Counsel Molnar if she may ask what the applicant's intentions were while the motion was on the table. The Public Hearing had already been closed at this point without further comment one way or another in favor or against the proposal. Discussion of the specifics of the plan and its construction does not impact or jeopardize the Public Hearing or the record before the board. Member Tucker asked Counsel Molnar what the precedent was for accepting public comment after the Public Hearing had been closed. Counsel Molnar stated that in terms of clarification, it has no impact whether the applicant or others in attendance speak at this point. Member Ketchum asked the applicant what their intention was. Mr. Fraher stated that the least he would have to do to make the transition was to open the railings up on the current deck, placing the pool as close as possible to the current deck and Mr. Eggleston suggested that this could be accomplished within 8FT of width. Member Tucker stated that this connection is not represented in the current plan and would require additional drawing to make sure that the Codes Enforcement Officer is aware and can inspect. Mr. Fraher stated that he had had a prior conversation with Codes Officer Hall regarding obtaining a variance first and then applying for a deck building permit. The boards concern was that this variance would not include the additional decking which could potentially intrude upon the setbacks included in this variance request. Counsel Molnar recommended that two pie shaped pieces adjacent to the deck connecting to the drawn in pool edge be hand drawn in by the applicant onto the site plan and then applying for a permit of those deck pieces. Clerk Barkdull reminded the board that the existing deck had received a variance due to its encroachment upon the required 50FT setback. The pieces required to access the existing deck to the pool do not create new variance setback requirements. Discussion as to whether or not a ladder access to the pool vs. a deck continuation was commented on previously pursued. Chair Rhoads asked Clerk Barkdull her opinion and she stated that the site plan merely be modified with lines to show potential connection from the existing deck to the pool edge. Chair Rhoads asked that Mr. Fraher draw onto the existing site plan. Mr. Fraher drew what represents a 10Ft wide (5FT in either direction from the center or the pool line edge) connection with railing to the pool from the existing deck edge.

**WHEREAS** Chair Rhoads asked Clerk Norstad if she would poll the board of the motion on the floor:

**Record of Vote**

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Absent	
Member	Sherill Ketchum	Present	[Yes]
Member	Steven Tucker	Present	[Yes]
Member	David Palen	Present	[Yes]

**Public Hearing Continuance**

Applicant: J&A Properties

John Pennisi  
4435 Dolomite Drive  
Syracuse, NY

Property:  
1250 Minnow Cove  
Skaneateles, NY 13152  
**Tax Map #054.-01-14.0**

Present: Robert Eggleston, Architect

Chair Rhoads explained that the applicant’s proposal is to demolish the existing structure and construct a new three bedroom dwelling and shoreline patio. The public hearing was opened in March 2015 and the application was declared to be a type II action not subject to SEQR review. The requested variances are for minimum lake yard setback, minimum setback to a watercourse to the proposed single-family dwelling and the proposed driveway. Although two variances exist, the variance for minimum setback to a watercourse pertains to both the dwelling and the driveway.

Mr. Eggleston explained that the footprint has been re-designed closer to the required setbacks. Said property redevelopment construction proposal of a 2,484SF, 3 bedroom home that has a 1,596SF (currently 1,235SF) footprint and will have 75.7FT (currently 77.2FT) lake yard, 55FT (currently 55FT) watercourse setback coming in from the south to the proposed dwelling and 88.5FT (currently 78.5FT) watercourse setback to the driveway. The building has been pushed as close to the 20FT setback off the septic as is allowed. The building has become narrower whereas the original house was deeper. Said proposal includes a detached 448SF deck that will be 65.0FT from the lake whereas 50FT is required. The ISC will be 9.5% and the open space 86.8%. One variance has been eliminated (6% footprint), lake yard setback has been reduced and the lake front setback has been maintained. Mr. Eggleston stated that in regards to the previous request for the Onondaga County Health Department to approve and comment on their approval of the septic system installed in 2005 that was designed especially for these flood plain situations. The same septic system has been in use by the Riefenstiens (next door) and on the Groves property. Mr. Eggleston has sent this application to The City of Syracuse and Onondaga County. Jeff Till of The City of Syracuse is working on it, per Mr. Eggleston, but no correspondence had come through as of yet. Mr. Eggleston met with Dan Abbott, the inspector for the Onondaga County Health Department on-site two and half weeks ago. Mr. Abbott thought that the system was working properly. There were some e-mail communications and phone calls to Jeff Till. One comment that Mr. Till had was that the 10FT section coming out not be over the lines of the system. The 2005 map showed the septic tank, filter bed and pump chamber going northward but the survey shows the septic tank, filter bed and pump chamber

going west. Mr. Eggleston said that this may mean lines would need to be moved. Mr. Eggleston anticipates approval coming from Onondaga County. Member Tucker asked which plan was correct – the as-built or the septic. Mr. Eggleston stated that the septic was not built as laid out in the original plan and that the components were placed with a configuration change.

Chair Rhoads noted that this septic system was built as part of a Skaneateles Lake demonstration project study report in which the property owners were responsible for maintaining a service contract with the maintenance provider approved by the Department of Water determined by the equipment manufacturer vendor to be qualified to perform all necessary maintenance activities. The maintenance contract will be kept current for the duration of the useful life and treatment of the system. Homeowners will provide copies of all service contract renewals to the Department of Water. Chair Rhoads inquired if the property owners have been submitting the required service contracts as evidence that the system is operating properly according to the agreement from the date it was installed. Mr. Eggleston asked if this information could have been requested at last month's meeting. Chair Rhoads stated that the septic information for year-round-use had been requested at last month's meeting and that additional information about the requirements of these systems is easily accessible on-line. Member Tucker stated that the experimental nature of this system makes it questionable as to year-round vs. seasonal usage. Mr. Eggleston pointed out that the system had been originally approved for use by a three bedroom year-round dwelling. 330 gallons per day was the approved usage whether or not it was seasonal or year-round per Mr. Eggleston. Member Ketchum stated that the requested information from last meeting was expected at this meeting. Clerk Barkdull stated that the Groves use this same system as a year-round system.

The board has concerns regarding the overall general size of the dwelling. The dwelling footprint size proposed vs. the existing home to be demolished differ too much from each other especially this close to the Lake. Patios and decks also add to the overall size. Member Palen stated that his number one concern is the septic system.

At this time Chair Rhoads opened the public hearing and asked if there was anyone wishing to speak in favor of the application. There was no one who wished to speak in opposition or had any other comments.

**WHEREFORE**, a motion was made by Member Tucker and seconded by Member Ketchum to continue the public hearing on ***Tuesday, July 7, 2015 at 7:10 p.m.*** The Board having been polled resulted in the unanimous affirmation of said motion.

**Public Hearing**

Applicant: Robert and Kathleen Delventhal  
4090 Jordan Road  
Skaneateles, NY 13152  
**Tax Map #027.-03-16**

Present: Robert Delventhal, Robert Eggleston, Architect

Chair Rhoads explained the applicant's proposal to construct a 24FT x 24FT detached two-car garage exceeding minimum rear yard setback for. Chair Rhoads asked if there was anyone wishing to have the notice of Public Hearing read. Having no one respond, Chair Rhoads noted the site visit to the property on Saturday, May 9<sup>th</sup>, 2015.

Mr. Eggleston reviewed the application per Chair Rhoads request. Mr. Eggleston stated that the application is for placing a 576SF two-car garage on the Delventhal's property. A 20FT rear yard setback is being requested whereas 25FT is required. Tree preservation and a historic look were considerations in the placement of the garage. Some spruce trees will be removed and some new evergreen spruce trees planted along the property line to provide an appropriate screening of the parking and garage area. The property owner to the east was approached, but, it has not been successful to purchase additional land and an existing carriage house. The property will become the applicant's year-round primary residence.

Member Tucker noticed how close the neighbor's carriage house is and asked if this neighbor has been contacted regarding the project. A letter was sent regarding the Public Hearing and attempts have been made to connect by phone unsuccessfully to this direct neighbor, Amy Baker. Member Tucker asked if it would have been possible to push the garage to the North totally behind the house. This would create an attached garage and increase impermeable coverage rather than decreasing it. On the South side there is a shared driveway. Mr. Eggleston and Mr. Delventhal thought that the distance to the neighbor's carriage house was approximately 60FT. An aerial view of the property was displayed showing proximity of the neighbor's carriage house to the applicant's property. After viewing the photograph proximity of 30FT to 40FT was suggested by Mr. Eggleston.

**WHEREFORE** a motion was made by Member Tucker and seconded by Member Ketchum to declare this application to be a Type II action 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 wishing to speak in favor of the application. There was no one who wished to speak in opposition or had any other comments.

**WHEREFORE** a motion was made by Member Palen and seconded by Member Tucker 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. The proposed detached garage will not produce an undesirable change. The design of the garage will be aesthetically pleasing and fit nicely with the home and its historic nature. Plantings and maintenance of large trees will enhance the dwelling. Reduction in overall impermeable surface

coverage will also be an enhancement. The changes will improve the character of the neighborhood.

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. The best visual and aesthetic solution, given the nature of the lot, exists within the current proposal. This is the best practical and viable option. The large open area in the north side of the lot contains the septic system, eliminating it as a consideration for placement. There is also no entry to the house from the north side. Mature trees and landscaping are being maintained.
3. **Whether the requested variance is substantial:** No. The structure is not within 200FT of the lake and poses no risk of degradation to the lake. The impermeable surface coverage will be reduced slightly overall.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. The changes sought by the property owner will not have an adverse effect upon physical or environmental conditions. The property owner is going to great lengths to make sure that the modifications to the property are visually and aesthetically appealing and will preserve its historic nature. There will be removal of existing driveway and reduction of overall ISC.
5. **Whether the alleged difficulty was self-created:** Yes.

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

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

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

1. Additional Condition No. 1 That the Site Plan 1 of 2 through 2 of 2 dated April 24, 2015 with the Narrative dated April 27, 2015, prepared by Robert O. Eggleston, Architect, be followed; and
2. Additional Condition No. 2 The applicant shall comply with all conditions imposed by the Town of Skaneateles Planning Board in connection with issuance of the Special Permit and/or site plan approval; and

3. Additional Condition No. 3 An as-built survey be submitted to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project.
4. Additional Condition No. 4 The Applicant shall obtain all necessary permits and approvals from the New York State Department of Transportation and the Onondaga County Department of Health.

**Record of Vote**

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Absent	
Member	Sherill Ketchum	Present	[Yes]
Member	Steven Tucker	Present	[Yes]
Member	David Palen	Present	[Yes]

There being no further business, a motion was made by Member Ketchum and seconded by Member Tucker to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:17 p.m..

Respectfully Submitted,

Michele Norstad