

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

January 5, 2016

Present:

Denise Rhoads
Jim Condon (Recused)
Sherill Ketchum
David Palen
Curt Coville
Scott Molnar, Attorney
Michele Norstad, ZBA Secretary
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 Tuesday, February 2, 2016. Member hours were turned in for December. Previous distribution to the Board of the regular meeting minutes of December 1, 2015 was 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 December 1, 2015 minutes with correction. The Board having been polled resulted in favor of said motion.

	<u>Record of Vote</u>		
Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Recused	
Member	Sherill Ketchum	Present	[Yes]
Member	David Palen	Present	[Yes]
Member	Curt Coville	Present	[Yes]

Other Board Business

New Member Curt Coville was introduced and welcomed to the Zoning Board of Appeals. Chair Rhoads explained that Member Coville was previously on the Village Zoning Board and is constructing a home in the Town of Skaneateles where he will be residing with his family.

A welcome and congratulations was given to the new Town Supervisor; Jim Lanning. Supervisor Lanning thanked the Zoning Board of Appeals for their immeasurable service and for protecting the Town's integrity. Supervisor Lanning also extended congratulations to Counsel Molnar who will receive endorsement on the 2016 Annual Resolution and continue as Planning and Zoning Attorney. Brody Smith has been retained as the Town Attorney. This was primarily because he was the applicant that had the most zoning experience, both with enforcement and

zoning code. As zoning changes are addressed in the coming year, the zoning board's recommendations for any needed zoning changes are welcomed. Supervisor Lanning would like the zoning board to be an informed part of the process. Any zoning changes will use professional guidance, with Attorney Smith facilitating and will be bid out rather than hand-selecting a single person to guide. Supervisor Lanning looks forward to an open communication process in his two year term.

Initial Review

Applicant: Paul & Jane Garrett
2160 West Lake Road
Skaneateles, NY 13152
Tax Map #057.-04-18.0

Present: Bob Eggleston, Architect

Chair Rhoads explained the applicant's request to relocate cottage, adding a full basement, deck and two sets of stairs. This property had previously received a variance in March of 2015 for a different proposal. The cottage could not be relocated as per the March 2015 plans and new plans have now been submitted. Mr. Eggleston explained that this cottage has been owned for many years by the Garretts and the idea to improve the cottage currently sitting on piers, was primarily to eliminate varmints. This is a non-conforming lot and structure located 55FT from the lake line and 10-15FT from the top of the bank. An idea to shift the cottage, making it less non-conforming, with a porch on the side was the variance approval received in 2015. The approval would have corrected the 19.5FT side yard setback (to 20FT conforming), increased lake yard setback from 55FT to 69FT and an extra driveway would have been eliminated reducing overall ISC to 10.0%. Location of the dry wells on the property became increasingly important in the re-positioning of the cottage. There was an amendment which was approved and then later rescinded in 2015 to the original March 2015 approval. Because of the location of the dry wells, the amended plan would not work out and this is why it was rescinded. The new proposal takes the existing cottage and shifts it into place after excavation. The cottage will be moved on steel beams, jacked up and the foundation underneath will be constructed. The new proposal eliminates the enclosed porch on the north side and creates a deck and stairs (projecting 4FT onto the required side yard setback) on the south side with lake view. There are also new stairs on the north side leading down the walking path to the lake. The cottage is proposed further back, 20FT off the dry wells. A 69FT lake yard setback from the deck is being requested on the southeast side of the property. Mr. Eggleston explained that the variances requested are not any different than what was previously approved, just the configuration of a deck vs. a porch. The basement will become a natural walk-out basement. The roof pitch will also be changed slightly on the proposed 21FT overall height building, where 35FT is allowed. Mr. Eggleston explained the options to the board at this point to either proceed with a vote or wait a month to look at it and reconsider. Mr. Eggleston pointed out that a public hearing is not required, but, is at the board's option whether they think it's necessary to have a public hearing or not. Mr. Eggleston further stated that Mr. Garrett has been in conversation with his neighbors, so they are aware of what is taking place and what the revisions are.

Vice Chair Condon inquired regarding existing septic placement on the plans. Mr. Eggleston explained that the location is now an "exact location" on the currently proposed plans. There exists a tank and a pump chamber which are gravity driven. The plans seemed to go from one to two tanks and it was asked if a pump is being installed. Mr. Eggleston said no and that he thinks everything is in place now. No changes are being made to the existing septic system which is all approved by the County per Mr. Eggleston. Any future bedrooms added to the dwelling would require septic reconfiguration and approval by the County. Vice Chair Condon felt that as a condition of any approval of this application, a stipulation should be inserted requiring that any change to bedrooms in this cottage be presented to the Zoning Board of Appeals for approval. Vice Chair Condon also inquired regarding the height of the proposed basement. Vice Chair Condon asked if it is not going to be livable, then why wasn't the interior basement height less than 7FT 6INCHES. Mr. Eggleston explained that it is potentially livable and that this is how the grades worked out. There is a high likely hood that the basement space will be finished off in the future. Mr. Eggleston relayed the intent of the homeowner that this cottage would remain a seasonal cottage only. 6.1% of the lot area as potential living space is being requested where 10.0% is allowable. Member Palen remembered the previous site visit in deep snow.

The differences in plans from a porch on the north side verses a deck and stairs on the southeast side constitute the need for this application to go to public hearing. Per Mr. Eggleston, the variances are the same; however, the building, footprint and location are different. Mr. Eggleston went on to say that the request isn't for a location any closer to the lake and everything else is still being maintained as conforming. Counsel Molnar recommended that if the board would like to review and refresh their memory with another site visit, and with no urgency of time, consider a public hearing because it is being treated as either a new variance or an amendment. This application is being looked at by the board as a request for amendment, however, the board will determine based on various and different aspects of the application now that the building is turned and the variance applies to a different protrusion into the lake yard if it should be treated as a new application.

Mr. Eggleston stated that the south property is a lake access only with no building on it and it is wooded. Vice Chair Condon was concerned that all of the proper steps be followed to prevent future problems. Clerk Barkdull pointed out certain graphics and calculations pertaining to the driveway turn-around and ISC that need to be corrected on the site plan.

Member Coville inquired regarding the configuration of the deck. Mr. Eggleston stated that deck placement avoids a view of the north neighbor, whereas there is no neighbor living on the south side. Also, a deck would be used more than a porch.

A Zoning Board of Appeals site visit is scheduled for January 16th, 2016 at 9:10a.m.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member Ketchum to schedule the public hearing on *Tuesday, February 2, 2016 at 7:10 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

**Member Coville leaves the meeting.

Public Hearing

Applicant: Emily S. Porter
3171 East Lake Road
Skaneateles, NY 13152
Tax Map #040.-01-22.0

Present: Andy Ramsgard, Architect

Chair Rhoads explained that the board made a site visit on November 14, 2015 and opened the public hearing at December's meeting, continuing it through tonight while waiting for the Syracuse-Onondaga County Planning Agency's approval. Mr. Ramsgard explained that this patio proposal is for a pre-existing, non-conforming lot. Placement of a proposed patio is in question. Part of the new patio will extend into the shoreline area and part will continue out from the house. The variance is being requested for a greater than 500 square foot addition. Only a portion of the patio requires variance, not the whole patio area.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Palen to re-open the public hearing. The Board having been polled resulted in the unanimous affirmation of said motion.

At this time Chair Rhoads asked if there was anyone wishing to speak in favor or opposition of the application or that had any other comments. There were no comments or discussion.

As per the December 1, 2015 meeting, a motion was previously made by Vice Chair Condon 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.

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 affirmation 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, viewing both variances as one, 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. Many of the homes within this neighborhood have decks and porches for viewing the lake. The proposed house patio addition is well designed, located at the rear of the dwelling and would not create a negative change in the neighborhood. The location of the patio is somewhat tucked into the building footprint and per the board's site visit does not appear to interfere with neighbors' views of the lake.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. As per the applicant's professional, the applicant could construct a shoreline structure as an alternative, however, that would be more intrusive to

neighboring views than the proposed patio addition. Any changes to this preexisting non-conforming lot in the lake watershed district would trigger a variance request.

3. **Whether the requested variance is substantial:** No. The variance request is not substantial as the requested patio is a permeable surface and will be constructed with very little disturbance to the site area and the lake.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. The proposed patio would not have an adverse effect on the physical or environmental conditions in the neighborhood. The patio is permeable and should not affect water flow. The applicant is allowed 600SF of lake shore structures, but, the proposed patio is only 311SF and is not directly on the waterfront.
5. **Whether the alleged difficulty was self-created:** Yes.

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

WHEREFORE a motion was made by Member Palen and seconded by Member Ketchum, 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 October 30, 2015 with the Narrative dated October 29, 2015, prepared by Andrew Ramsgard , 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 A verification of lake yard setback be submitted to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project.

Record of Vote

Chair Denise Rhoads	Present	[Yes]
Vice Chair Jim Condon	Recused	
Member Sherill Ketchum	Present	[Yes]
Member Curt Coville	Absent	
Member David Palen	Present	[Yes]

Initial Review

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

Present: Kerrin Hopkins, Kohl Davis, Katherine Shuler

Chair Rhoads explained the applicant's proposal to construct a new dwelling on a non-conforming lot, exceeding lake yard setback, setback to a watercourse or wetland and exceeding lot slope regulations. Chair Rhoads asked Kerrin Hopkins to approach the board and review her request for variance. Ms. Hopkins explained that she had been involved in a car accident and was unable to take advantage of her 2010 variance approval. Ms. Hopkins is asking for the same approval and conditions for her re-application. Chair Rhoads and Vice Chair Condon served on the board in 2010, however, the rest of the board is unfamiliar with this application. Clerk Barkdull was asked to help Ms. Hopkins explain her proposal. Clerk Barkdull explained that this is a non-conforming property in Russells Landing with many challenges. Electrical easements, steep slope, a stream and drop-off to the lake are a few of the challenges. In 2000 (approximate 2700 square foot house) and in 2010 house plans were proposed and approved. This application is for a home with 56 foot lake yard setback to the deck, 64 foot lake yard setback to the three bedroom house with a walk-out basement built into 36 % slopes. Ms. Hopkins stated that drainage from her proposed house would not impact the seasonal watercourse located 38 feet from the deck and 43 feet from the house.

Since 2010 our zoning code has changed in regards to the calculation of floor space. Originally, 50% of basements were calculated as potential living space and now the 80%. Therefore, 11.05% floor space is now an additional variance being requested, whereas 10% is allowed.

Vice Chair Condon asked if neighbor letters were ever received. Ms. Hopkins stated that her only neighbor, Mr. Tackley, did not object to the house construction but asked that no windows face his property. Vice Chair Condon reminded Ms. Hopkins that no basement bedrooms would be allowed. The proximity to the creek and impact on the septic system require that the number of bedrooms remain the same in this proposed house. Runoff from the farmer's fields was evident at the previous site visit in 2010.

Regarding the easements by National Grid, Ms. Hopkins conveyed that the current power lines are unused and have been abandoned. Counsel Molnar asked if the existing easement might be released. The cost of relocating the power lines would be approximately \$50,000 to Ms. Hopkins. Clerk Barkdull stated that this would make the placement of the house in relation to the steep slopes and watercourse more flexible.

A Zoning Board of Appeals site visit is scheduled for January 16th, 2016 at 9:20a.m.

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to schedule the public hearing on *Tuesday, February 2, 2016 at 7:20 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Abandonment Law

Counsel Molnar recalled that the Town Board had asked the Zoning and Planning Boards to review a draft of revised abandonment sections to the town code. This law would limit an applicant's ability to continue the application process if not advanced and if it became stale before both boards. Code sections have been bounced around in various stages of edit and ultimately with other business and other priorities, the abandonment section was shelved for a period of time. Then, in approximately September or October, the town board asked to renew the discussion and have both the planning and zoning boards look at the law in its last state to make suggested edits and hopefully endorse an abandonment section back to the town board and the town board would take it through the normal process of creating the law or amending the law based upon input and endorsement from the planning board and zoning board of appeals. In November, the abandonment law was circulated to the planning board for consideration on its December agenda. The planning board has approved it as written and has asked Counsel Molnar to report as much back to the town board. Counsel Molnar respectfully requests comments from this board so that consensus can be given as a whole to the town board. Copies were distributed showing red lines and the results of prior conversations as they impacted the wording in the code. The wording "has not been advanced" being replaced with "remains inactive" is one of the changes. Points in time were identified for time frames to begin and end as applied to the six month inactive period where an applicant has not advanced their application on a minor project and 12 months if a major project from the last regular or special meeting at which the application had been reviewed. This helped to identify a point in time when the application clock begins to tick for the six or twelve months. The wording "shall be closed" is a stand-alone phrase not referencing a board or individual and would now be a statutory completion achieved automatically, with any future action requiring a new application subject to all rules in effect. This is in an effort to prevent applicants from "holding" applications under certain code agreement. The planning board may in its discretion waive subsequent filing fees, but, may not waive the application from any new rules or regulations subsequent to filing. The Comprehensive Plan has been advanced and approved jointly by the Town and the Village, putting recommendations for changes to our code that will mesh with the goals and objectives of the Comprehensive Plan. Those are meaningful actions which may result in a change to the code. Chair Rhoads expressed that the zoning board is concerned with the wording "remains inactive" and who would define inactivity. Some issues may be beyond the applicant's control. Is that open to interpretation? Per Counsel Molnar, activity is defined as the last special meeting in which an application is reviewed; however, completely defining "activity" may result in a request for an interpretation from the ZBA. Does a letter classify as activity? Vice Chair Condon expressed that activity could be a simple letter, agenda listing, and an e-mail vs. nothing. Clerk Barkdull is researching major planning board projects from the past 10 years and there is no rhyme or reason why a certain project may remain quiet for 9 or 15 months which does not seem uncommon. So long as there is communication, activity is perceived. To define communication as it pertains to activity must be in the form of a call, letter or e-mail. It is important that new applicants know of this section and their obligation to advance within the required timeframe as set by the code and should be boldly displayed on the common application paperwork. Small or large projects are defined in code and the inserts are specific depending on which type of application is being submitted.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Palen to instruct Counsel Molnar to forward the Abandonment Law, endorsed by the Zoning Board of Appeals, to the Town Board of Skaneateles with suggested revisions. The Board having been polled resulted in the unanimous affirmation of said motion.

Attorney Advice

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Palen and with unanimous affirmation of the Board, the meeting was adjourned to Attorney Advice at 8:20p.m. and reconvened at 8:30p.m.

There being no further business, a motion was made by Member Palen and seconded by Member Ketchum to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:32p.m.

Respectfully Submitted,

Michele Norstad

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