

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

May 3, 2016

Present:

Denise Rhoads
Jim Condon
Sherill Ketchum
David Palen
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, June 14, 2016. The altered meeting date is due to Grievance Day. Previous distribution to the Board of the regular meeting minutes of April 5, 2016 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Palen and seconded by Vice Chair Condon to accept the April 5, 2016 minutes with corrections. 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	Sherill Ketchum	Present	[Yes]
Member	David Palen	Present	[Yes]
Member	Curt Coville	Absent	

Other Board Business

- Member hours for the members present were turned in for the month of April, 2016. Chair Rhoads reminded Secretary Norstad to e-mail Member Coville for his April, 2016 hours.
- Joel Russell was in executive session with the Town Board today regarding the Article 78 with no outcome.
- Clerk Barkdull e-mailed training opportunities to the Zoning Board of Appeals and Chair Rhoads reminded the Board to take advantage of both the onsite and paper test opportunities.

- Chair Rhoads reminded the Board to please continue to make note of items to be presented to Joel Russell and Howard Brodsky for zoning code revisions. Current code, past applications or anything that is ambiguous or of concern that the Zoning Board of Appeals may want to be reviewed with the upcoming zoning code revisions. Secretary Norstad is collecting compiled lists to present to Supervisor Lanning and Joel Russell. Member Ketchum already has a list started. Counsel Molnar stated that all of the board recommendations to the town board for amendments or modifications have been advanced and that any requests to review modifications have not been received yet. Counsel Molnar says things are caught up and we appear very light on work. Clerk Barkdull stated that a couple of new applications are coming within the next week.

Public Hearing (Continuance)

Applicant: Mark Congel / 5 Fires LLC
3395 East Lake Road
Skaneateles, NY 13152
Tax Map #041.-01-21.0

Present: Wayne LaFrance,

Chair Rhoads described the proposal as the removal of an existing garage and relocation of a new attached two story garage and driveway. Variance requests before the board are for a rear yard setback and a driveway setback. The board has conducted two site visits to this property on March 18th and April 18th. The applicant and his architect, Wayne LaFrance, were present at both site visits. At last month's meeting, the notice of public hearing was read and the application was determined to be a Type II Action, not subject to SEQR Review. Several neighbors spoke in regards to the application and were present at last month's meeting. Before the public hearing was officially re-opened, Chair Rhoads asked Architect LaFrance to approach the board and review a recent revision to the plan and to answer any questions the board may have for him. Mr. LaFrance explained that the current plan is the same one that was presented at time of last site visit with the board. The current revision shows removal of tarvia that had been an original graphical error which was explained by Mr. LaFrance. Mr. LaFrance explained that the document is unchanged in any other way since time of last site visit. Vice Chair Condon asked if the tarvia had existed and was removed? Mr. LaFrance explained that the tarvia was never there, it was simply a mistake of the drawing not caught. Mr. John Langey, Land Use and Zoning Lawyer from Costello, Cooney and Fearon appeared before the board as representative for Mr. Congel. Mr. Langey believes that up until now everything that had been requested by the board has been submitted. Mr. Langey went over the items. Elevation drawings, water line questions of easement on the Congel property clarity and title search. Counsel Molnar received and reviewed the abstract of title to the property and believes there to be no issue – it begins with a vesting deed back in 1944 and tracks the progress of the property as it was sold from a portion of a larger parcel up until the parcel that it is today. It is a parcel which is together with an easement over the lane for utilities and water lines up to East Lake Road as the deed which was previously submitted with the application reflects. In addition his observation of the abstract of title is that the property is not subject to other easements such as a water line easement of any other ingress/egress drainage of any other easement in favor of any of the other upland properties or any other adjoining properties. The property enjoys an easement but is not subject to an

easement except in the 1950s, where the following are noted: #1 “that not more than four (4) building lots shall be sold and conveyed therefrom” and #2 “That the use of said 33 Foot right of way herein before referred to shall be granted only to purchasers of the lots or their heirs or assigns” and #3 “That any building erected on said premises shall be no nearer to the westerly line of said premises than the distance from the east side of the foundation wall of the residence on the premises herein conveyed is to said westerly line and any building erected thereon shall be no nearer to the north line of said 22 foot right of way than the southerly foundation wall of the residence on the premises herein conveyed is to said north side of said 33 foot right of way.”

51.1FT is the current existing distance of the established building line on the south property side. A limitation of where the foundation of the building may be placed adds to the hardship for the project request, per Mr. Langey. Mr. Langey pulled together, in the context of the legal standard, pertinent information about the project for the granting of an area variance. Mr. Langey explained that there would be no undesirable change to the character of the neighborhood or any detriment to nearby properties created by the granting of the area variances. Mr. Langey further explained in regards to the garage being torn down and re-located, no identifiable, actual negative impacts on any neighboring properties in the area actually exists with regards to the variance for the garage or for the limited driveway turnaround area. The garage structure is an allowable use accessory structure to property owners within the district as pertains to the character of the neighborhood, per Mr. Langey. Approval of variance will actually facilitate removal of a non-conforming and non-compliant structure built directly on the northern property line. The new comparable structure will create an additional 12+ feet side yard setback to achieve a more compliant structure overall. Surface coverage has been removed to eliminate the need for other variances relevant to the original application. Additional movement of the driveway also contributed in the reduction of variance requests, per Mr. Langey. Mr. Langey believes that the applicant has a strong desire to maintain the current impermeable surface coverage. Project modifications have allowed for the boards considerations to be addressed such as concrete removal. The ZBA has made two site visits and it is the applicant’s position that the project is very similar to existing residential homes and in particular matching the lakefront properties in the area. The overall design is well thought out and achieves the goals of the Comprehensive Plan and is a thoughtful development along Skaneateles Lake and continues to protect the lake with reduced runoff, per Mr. Langey. The Congels will be able to accommodate today’s larger sized vehicles which will in turn grant indoor parking and repositions vehicles out of the lake yard. Mr. Langey reminded everyone that the Planning Board will review the project and some comments may be better received at that time and addressed in the setting of a Planning Board meeting. Views are not impacted as some screening exists. The removal of the current garage will actually create some net benefit to certain property owners. Mr. Langey, per the previous minutes, stated that technically there are no rights to lake views as found in Town Code, but there may or may not be lake rights for other property owners if they are private and after searching no restricted view rights pertaining to the applicant’s property have been found. Mr. Langey stated that Mr. Congel wishes to use the best construction and process methods to take care of run-off with silt fencing while taking into account neighbor concerns. The easements don’t create any type of an infringement nor would they be relevant to this particular variance. Detailed elevation drawings were submitted and Mr. Langey believes the Board will be able to conclude “no detriment” in their final decision for the removal of the existing garage and construction of the 24FT by 30FT attached garage. Mr. Langey spoke regarding feasibility by another method to achieve the project. The lot is somewhat unique and because of the existing structure at the top, there is only one area to place the attached garage to avoid septic and south easement. Regarding the variances being substantial or not, Mr. Langey explained that

by pulling the side yard setback away from the north property line, the garage structure is being made more compliant thus, this is not a substantial variance request. Removing cars off the current west driveway also contribute to less substantiality. Regarding any adverse effect or impact in the physical environment or the conditions in the neighborhood, besides putting appropriate drainage measures in place, to date there have been no identified impacts relating to air quality or ground water quality or noise levels, although there will be some temporary construction. There will be improvement to traffic pattern in terms of the site itself. Environmental issues are before the Planning Board. The existing septic system handles the current load and there will be no changes to usage. Mr. Langey went on to say that there is no identified impact regarding agricultural, archeological, historic or any other impacts on the site. None of the proposed construction is occurring within 200FT of the lake. Regarding a self-created hardship, which Mr. Langey answered that in some ways “yes” but in other ways “no” due to the existing deterioration of the current garage and trying to accommodate a larger family and guests. When all factors are balanced, Mr. Langey feels that the decision will be favorable for the applicant. Chair Rhoads asked if the board had any further questions for the applicant’s representatives. Member Palen was concerned with the upper portion of the driveway being placed on the property line at the north side. Member Ketchum and other members agreed. Removing the existing garage which sat on the property line was positive, however, the new driveway location would create the same property line issue. Mr. LaFrance and Member Palen discussed pulling back or removing a portion of the proposed north driveway extension. The removal of the turn-around apron was discussed as ample parking would already exist and asking for the turn-around directly on the property line seems rather excessive. Vice Chair Condon stated that minimum variance approval is the goal in the weighing of the entire project. It was decided that a reasonable request was to remove the north driveway apron; although the driveway variance would not be avoided as it would sit at less than 20FT from the property line, aligning with the attached garage footprint edge extending east. Mr. LaFrance thanked the board for coming out to the site on two occasions. Chair Rhoads asked if the board had any further questions.

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 opened the public comment period for this application. Chair Rhoads explained that anyone wishing to speak may raise their hand, be acknowledged by the board, state his or her name and address for the record.

Leonard and Marianne Rice of 3391 East Lake Road, Skaneateles, NY 13152 were called on by the board. Mr. Rice stated that they are contiguous property owners to the Congel property and are concerned with many issues, although all do not pertain to the variances. The new east driveway and turnaround placement which subsequently had just been removed as agreed upon by the Zoning Board and the applicant’s representatives. The driveway exists at 20FT to the east as part of the proposal including the previous turnaround. It was established with Mr. Rice that there is no driveway variance request to the east. Mr. Rice objects to moving the driveway from the lake side of the house to the east side of the house. The Rice’s deck is to the east of Congel’s house and they enjoy their back yard. The creation of traffic, fumes and headlights from the front of the Congel property to the back (east) will greatly affect their ability to enjoy their home. Mr. LaFrance commented that there have been extensive plantings on the

east property line of evergreens. Mr. Rice stated that they don't work. Mr. LaFrance offered to plant more and pointed out that there has been effort to mitigate this. Mr. Langey pointed out that most car owners do not idle in their driveways and therefore fumes should not be an issue. As for the lights, Mr. Langey stated that the cars would travel due north and should not have a direct impact to Mr. Rice or his property. Removal of the turnaround will benefit the Rice property. Mr. Rice feels that the driveway, even at 20FT away will crowd him along with the newly added height of the attached garage construction. Mr. Rice asked if drainage had been addressed. Chair Rhoads stated that drainage and many of Mr. Rices other concerns would be a Planning Board issue. Mr. Rice did not feel that a true hardship was being shown by the applicant or a reason why this project may not be completed in another way. Vice Chair Condon stated that other plans had been submitted and he believes that the current plan is the best plan. Mr. Rice asked the board to consider that they are his and the other neighbor's best line of defense to protect the neighborhood and Town by way of regulations. Vice Chair Condon stated that if no relief was given to the applicant, there exists a dilapidated structure that could cause further problems. Mr. Rice believes that Mr. Congel is not addressing water runoff. Mr. Langey briefly talked about the runoff plan approval directly coming from the Planning Board. Vice Chair Condon stated that even though that question does not have anything to do with the Zoning Board, issues such as those get asked as they pertain to the overall health, welfare and safety of the neighborhood as the entire project is considered. The Zoning Board is commissioned to grant the minimum variance depending upon many variables and factors. Many improvements have been made to this property through a couple different applicants. Mr. Rice understood that any runoff or drainage concerns should be addressed before the Planning Board.

Gail VanderLinde of 3415C East Lake Road, Skaneateles, NY 13152 wished to speak. Mrs. VanderLinde lives on Lane H, north of Lane I where the Congels live. Mrs. VanderLinde's property is not contiguous to the Congels, however, she supports her neighbors and asked to see a profile picture of the proposed dwelling. It was determined that the center roofline will remain as-is. Mrs. VanderLinde asked if it was ever considered to place the garage in the front (west) of the house as the current proposal poses detriment to Mr. Rice and his property. Mrs. VanderLinde believes that the huge yard is wonderful for Mr. Congel at the west side of his property, but, asked the board to consider helping the neighbors maintain what they have. She believes that based upon how much land Mr. Congel has to work with he is causing hardship for the neighbors, not himself (the applicant). She asked the board to consider what the definition of hardship is.

Sheila Wheldon of 3415D East Lake Road, Skaneateles, NY 13152 wished to speak. Mrs. Wheldon lives adjacent to the north side of the project property and believes she is greatly affected by this proposal. It was understood that the north driveway turn-around apron will now not be part of the project. Mrs. Wheldon spoke regarding hardship as it pertains to the current garage condition. Has the garage been thought to be rebuilt where it stands? Neighbors are used to this arrangement and it might seem a good alternative. The current driveway is in the front (west) side of the yard which no one objects to. An added family room has taken the place of the existing garage location. As far as impacted views, Mrs. Wheldon is 60FT away from the proposed addition. Mrs. Wheldon believes her view would be severely impacted. Mrs. Wheldon

purchased her home because of the view and location. Being a new two-story structure with a new roof, it disrupts a good portion of the Wheldon's view. A Real Estate agent has advised Mrs. Wheldon that her property value would be reduced by the Congel's project. The number of people who might want to potentially buy the Wheldon's property would also decrease as the size of the Congel structure is a new main source of view, per Mrs. Wheldon. Mrs. Wheldon went on to say that the car traffic and people traffic will cause headlights to shine into her bedroom on the west side. Mrs. Wheldon does not believe a hardship exists for the Congels. A driveway, garage and other options already exists therefore a request for two variances does not seem reasonable. The construction timeframe should be four to six months per Mr. LaFrance. Mrs. Wheldon then read a statement aloud conveying concerns about the responsible set zoning laws of Skaneateles which protect the community and neighbors which are being allowed to be broken. If hardship isn't proven, Mrs. Wheldon feels that the laws should be followed and that the Congel project does have other alternatives for modification eliminating the need for two variances. Keeping the current driveway position would eliminate one of the variances as well. Mrs. Wheldon believes that this project does not protect or preserve the character of the neighborhood or community. Other properties could follow similar suit and Mrs. Wheldon also opposes this project as her southwest views will be forever changed, reduce the value of her property, reduce the number of potential buyers for her home because they would not want to look at such a large home at only 60FT from her deck. Quiet enjoyment would be impacted for Mrs. Wheldon's property causing, fumes, dust, traffic and headlight projections. Flooding is also a concern with pooling water at her properties edge and around the Congel property with streams running underneath all of these areas properties. Mrs. Wheldon asked the architect about the grading of the driveway. Mr. LaFrance explained that the 609FT elevation is decreasing every 40FT. The average grade is 605.5FT and the garage slab will be at 606FT. Full drainage encircling the property is planned, per Mr. LaFrance. Mr. LaFrance also pointed out that had the existing family room been built upon to the allowable 35FT height, the outcome would have been far worse as an impact to neighbor views, for which there is no variance requirement. A low roof and garage have impacted the neighbor views far less. Mr. Rice disagreed. The existing garage currently stands in the way of the view, per Mr. LaFrance. Mr. Rice and Mrs. Wheldon disagreed.

Chair Rhoads reminded the audience that only one question at a time, please, may be addressed. Chair Rhoads asked Counsel Molar to confirm that views are not regulated by this board or by the zoning code. Counsel Molnar said that this was correct and that they can be regulated under the rural siting principals in connection with subdivision of land and a subdivision plan which proposes to place structures. The Planning Board regulates the placement of structures in that context but that is in the context of a subdivision and before the Planning Board. The Zoning Board of Appeals will look at the dimensional restrictions for the area variance requested and rule on them given their requirements, have a dialogue with the applicant which results in the minimum variance to be requested as opposed to a maximum and to follow the law which is both in the Town Code and state law to judge variance requested by considering the benefit to the applicant if the variance is granted as weighed against the detriment. The applicant's position is being created as well as all parties which may object and then the board weighs those facts in a determination for relief that's been requested by the applicant but the view shed really doesn't come into play, per Counsel Molnar. Prior applications both before the Zoning Board of Appeals and the Planning Board point out that the view is not owned unless it's an easement granted. The view is taken into consideration and the Comprehensive Plan and rural siting principals for placement of properties in a subdivision

context are mentioned, but a view shed is not owned by any neighbor or the community at large. It is encouraged to be protected in terms of open space subdivisions, conservation subdivision and other subdivisions of land that the Planning Board will administer. Right here and now, a view shed is not really a factor before the board for consideration unless set forth in an easement where particular rights are associated with a view. This summary on view sheds was given by Counsel Molnar.

Mr. Rice asked if the size of the house is considered for contiguous properties and the neighborhood. Building a wall seems to be the outcome of this project. The Congels have 1.5 acres to enhance their property to give them what they need. The Rices feel smothered. Their whole house is being brought up to the eastern border blocking out the sunset and lake and view from the deck is ruined, per Mr. Rice. The Rices now get a garage to look at. Noise, fumes, and headlights are what are being asked of the board to consider as the board is the public's first line of defense. Mr. Rice believes his hardship is being explained, yet the Congels have not explained theirs. Chair Rhoads thanked Mr. Rice and asked for any other comments from the audience.

Susan Byrne of 3415-B East Lake Road, Skaneateles, NY 13152 spoke. Ms. Byrne was looking for information and is concerned about an easement through her backyard that she believes goes all the way down the lane and through the Congel property. Ms. Byrne's water goes through this easement and wondered if the original Talcott waterline has been located. Ms. Byrne believes that the waterline has not been found and is concerned that interruption and/or disruption to the much depended upon waterline could occur during construction. If there were to be an issue, it could cause replacement and damage to Ms. Byrne's own parcel through the potential digging up of existing lines. The existing survey was examined by all. A pump house exists at the lake front from Fire Lane I that all neighbors have access to through an easement, per Mr. LaFrance. Mr. Langey asked Ms. Byrne if she may know where the line exists, and she replied that she didn't. Mr. Langey clarified that in terms of the granting of these variance requests, these issues would be addressed within any approvals. These are private issues that have nothing to do with the ZBA, per Mr. Langey. There is no public forum for private issues under the law. Mr. Rice described three different water systems that run up through the neighboring properties from the lakefront. Failed systems required new lines from the lake up between the Hubers and the Rices. Mr. LaFrance has confirmation of the placement of both the old and the new lines. Counsel Molnar stated that he recommends that the comments be directed to the Chair as conversation tended to go on between the audience members. In terms of the special condition, would the applicant consider as a special condition and agree to voluntarily, that if a water line is found diagonal across the property in the place where the new garage is to occupy that it would correctly relocate that line so that whomever is severed by that line continues to be served by that line without interruption? Mr. Langey stated that the line would need to be a used line. Mr. LaFrance felt that this was a reasonable request. Mr. LaFrance pointed out a member of the audience that wished to speak.

Carrie Sholz of 3415 East Lake Road, Skaneateles, NY 13152 spoke. Mrs. Sholz's property is at the top of Fire Lane I and she has lived in the home for 18yrs. and shared the water line with the current Congel property. Mr. Brillo was asked to give the best estimate of where that line actually sits but there are six houses serviced by that waterline and that is Ms. Sholz interest in the plan. Ms. Sholz thinks that Mr. Congel may not have been aware of the shared waterline from the start. There may have been a new water line installed within the past week

per Ms. Sholz. This has not been shared with neighbors. It is a big concern that the waterline provide continued water to the other five homes that depend on it. Chair Rhoads thanked Ms. Sholz for her comments and asked Mr. LaFrance if he knew anything about the shared waterline. Mr. LaFrance stated that he had already shared what he knew. This does not affect the variance requests, per Vice Chair Condon. Vice Chair Condon stated that the variances are for an a 12FT 9IN north rear side yard setback and a 12FT 9IN driveway setback, also at the north rear side yard, when questioned by Mr. Rice as to whom these type of waterline concerns should be brought before. Chair Rhoads asked if the board had any more questions. Member Ketchum asked about the previous garage with family room underneath and who lived in the home when the work was done. Mr. Rice offered to present drawings of the previous garage, but, Member Ketchum declined.

At this time, Chair Rhoads called for either a motion to close the public hearing or to continue the public hearing if more time was needed for consideration.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Palen to close the public hearing. The Board having been polled resulted in the unanimous 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 Molnar stated that in making their determination the Zoning Board of Appeals is required to consider certain factors, viewing each of the two variances (12FT 9IN rear yard setback and also 12FT 9IN driveway setback) within each criteria, for each and every one of the questions presented in reviewing the weight before the board and indicating any specific difference as it pertains to a specific variance, 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 detriment to nearby properties by granting these variances. An existing garage currently on the property line will now be moved south of the property line to 12 FT 9IN from the sideyard and will also be moved further away from the lake. This is an improvement of the nonconforming sideyard setback over what currently exists. The applicant is keeping the character of the dwelling by this renovation proposal. The current condition warrants renovation and avoids tearing the structure down and rebuilding it where located, which may not be in the character of the neighborhood. There may be a detriment to nearby properties as there will be a change of the traffic flow with the number of cars that will be parked in the driveway now to the east of the property and the headlights, etc., but the benefit will be that the driveway and the current garage will be moved back from the lake and will create a better environment with regards to the lake. The runoff will be mitigated with the new drainage. The removal of a circular driveway on the lakefront with all the cars parked on it is both an aesthetic and environmental improvement and contributes to the benefit outweighing the detriment of this decision. The design is an improvement and will fit in with the properties in the area.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. The current proposal is the most feasible plan. The benefit of tearing down the dilapidated garage, moving it further from the lake and side

yard and connecting to the house at the same end of the property that is currently a garage is the best alternative. The garage may never be built on the south side due to a deed restriction. While there were other options discussed with the applicant, this is a non-conforming lot so almost anything that the applicant would choose to do would require a variance. The applicant is also further limited in what he can do and where he can place improvements due to the current septic system and leach field locations. Further, the lakeyard setback further hinders development in any other area on the site as well. The current proposal is beneficial by not adding anything to the lake yard and the goal is to keep as much out of the lakeyard as possible. All agreed.

3. **Whether the requested variance is substantial:** No. The variance request is not substantial. As weighing out the entire project with side yard setbacks and moving things away from the lake, the variance is not substantial. The existing side yard setback is less than the requested side yard setback initially requested, and is not within 200FT of Skaneateles Lake.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. The applicant's request would not have an adverse impact on the physical or environmental conditions in the neighborhood or within 200FT of the lake. Impermeability has not increased and water runoff improvements on the property shall protect lake, with all normal construction protections employed during construction of this project.
5. **Whether the alleged difficulty was self-created:** Yes, this difficulty self-created by applicant in trying to improve the property, which has limitations. All agreed.

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

WHEREFORE a motion was made by Vice Chair Condon and seconded by Member Palen, 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 pages A200-A201 dated April 20, 2016, and page A002 dated April 5, 2016, with final submitted update to show removal of the entire north driveway apron/turnaround prepared by Lake Architectural, along with LEHR Survey dated October 29, 2012 be followed; and

2. Additional Condition No. 2 The applicant shall comply and fulfill 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 The applicant shall re-route any active utilities found during excavation of the garage and driveway, and applicant shall document utilities found/re-routed with drawings to be shared with the Code Enforcement Office and neighbors. Relocation of utilities will be done promptly so as to continue uninterrupted use by any party; and
4. Additional Condition No. 4 The applicant shall obtain a foundation inspection; and
5. Additional Condition No. 5 An as-built survey be submitted to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of same. The applicant shall obtain a final letter of approval from the Onondaga County Health Department after septic installation is complete; and
6. Additional Condition No. 6 The applicant shall obtain a final letter of approval from the Onondaga County Health Department after septic installation is complete.

Record of Vote

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

Public Hearing Continuance

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

Present: None

Chair Rhoads described the proposal to construct a new dwelling on nonconforming lot exceeding lake yard setback, setback to a watercourse or wetland and exceeding lot slope regulations. The Board made a site visit on January 16, 2016; the public hearing was opened on February 1, 2016 and continued to the March 1, 2016 meeting. The public hearing was re-opened March 1, 2016 and thus continued to this month's meeting. Information on the site regarding the existing watercourse, its drainage and the easement area were requested but have not yet been submitted by Ms. Hopkins to the Board. Ms. Hopkins has communicated with Secretary Norstad and asked for a continuance to the June 14th, 2016 meeting via e-mail.

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to open and continue the public hearing to ***Tuesday, June 14, 2016 at 7:10 p.m.*** The Board having been polled resulted in the unanimous affirmation of said motion.

Informal Discussion

Bradford Wirth
1382 Cherry Valley Tpke.
Skaneateles, NY 13152

Present: Bradford Wirth and Andrew Leja – Attorney with Barclay Damon

Chair Rhoads asked Mr. Leja to present before the board. Mr. Leja explained that Mr. Wirth currently operates an automotive repair business at the east end of town. Mr. Leja was thankful for the informal discussion opportunity. A copy of the submittal drawing was a two page letter which sketches the proposal. 1321 East Genesee Street is the current location with garage out front close to road. Mr. Wirth also purchased the former Bobbett property at 1382 East Genesee Street, further to the east, consisting of four pole barns which are located across Route 20 from the current garage location. The three barns on the west side of the entrance driveway are currently used for boat and vehicle storage. Nothing different is being proposed for these three barns. The fourth building currently houses Skaneateles Small Engine Repair in the first quarter of the building with equipment to fix such as lawnmowers, trimmers and what constitutes “small engines.” This is the same type of equipment, just on a smaller scale, per Mr. Leja. What is being proposed is an expansion of Mr. Wirth’s facility to the back two-thirds of the fourth pole barn property. The word “expansion” means more room to be able to work on Mr. Wirth’s cars with extra lifts and the ability to store items in the fourth pole barn that there isn’t enough room for in the current repair shop facility. The sketch shows the arrangement of items to be contained within the fourth pole barn as desired by Mr. Wirth, per Mr. Leja. Car lifts, office space and lube supply areas are some of the designated items on the drawing. The fourth barn consists of a concrete floor with a built in oil water separator (which takes floor water, separates and flows it into the municipal sewer system). No septic involved. Similarities between the two properties are that they are both highway commercial and governed by the lake watershed overlay district. Both facilities are within the Lake Watershed Overlay District (will be referred to as LWOD from this point forward). The watershed does cover a piece of the northern portion of Route 20, which is where Mr. Wirth’s existing shop lies. Those similarities are important as the analysis of what Mr. Wirth would need from the Town to be able to move his existing shop over to this fourth pole barn building. Once moved and transitioned, Mr. Wirth’s intent is to clear out of the 1321 building on the north side and remove it from auto service usage permanently with deed restriction where any future buyers of the property would be prohibited from operating an auto service of any kind. The LWOD has prohibited uses and its purpose is to preserve and safeguard the quality of the water of the lake. Mr. Leja went on to say that the purpose of prohibited uses is contamination. 148-21 D of the statute lists disposals of certain types of waste or production of certain types along with automotive service stations as being prohibited uses. Mr. Wirth does not dispute that he would be operating an automotive service station, even though he does not have above or underground gas tanks, does not sell or dispense gasoline and does not intend to do so at the other facility. Mr. Leja went on to explain that although service stations clearly aren’t allowed in the LWOD, the language of 148-21 D addresses those prohibited uses and says that automotive service usage when conducted at a scale larger than that of an ordinary household (which is not disputed), shall be prohibited in the LWOD district and that agricultural uses and existing facilities located within the LWOD district that engage in these activities may continue and expand provided that they comply with all applicable laws and regulations. It

doesn't say they may expand on a contiguous property only or in a contiguous building, it just says they may continue existing or may continue and expand provided they comply with applicable laws, per Mr. Leja. Mr. Leja believes that the language fits this situation in that Mr. Wirth's existing and proposed structures are both in the LWOD district, so he has clearly done an existing automotive service use in this district and has for many years. This proposal is an expansion because it does offer Mr. Wirth more interior room space to be able to work on the cars and is within the spirit and language of the law, per Mr. Leja. Utilizing the amenities of the building formerly used for large tractor repair such as lifts and overhead clearance make sense. The building has a history of this type of service to the community. The positive of this situation is that Mr. Wirth is willing to affix a condition to the 4 acre property across the street on the north side of RTE 20 that removes automotive service from allowed uses and becomes bound by the same list of prohibited uses as the south side of RTE 20. Also, this being the eastern gateway to the village – it could make a positive change aesthetically. Mr. Wirth's existing facility is located right next to the road with parking constraints, this building is located further back from the road behind other uses which will require signage. The location is less prominent than the existing facility. Member Ketchum asked about other businesses located there. Scrivens and Mark's Pizzeria are currently located in front of this 4th pole barn. Mr. Wirth isn't moving unless he sells his current building facility, per Mr. Wirth. This building could be converted into something acceptable in the Highway Commercial Zone. Vice Chair Condon advises that the two properties be kept separate, in his opinion. Mr. Leja believes that the properties are linked as to the idea of "expansion" of the old to the new facility coupled with the closure of the old. Vice Chair Condon asked what happens if the old property is torn down and if contamination is found. Mr. Wirth explained that he paid for contamination control after he purchased it and he knows that it is gone because he paid for it. There is not anything that went externally from the building which was closed off in 1999. The gas tanks were taken care of in 1999. Because Bobbett tractor repair is a newer facility, a grate runs through the middle of the concrete floor for the oil separator which drains to the municipal sewer system. Once separated it is gravity fed to the sewer system which travels to Chase Design only on the one side of the Route 20. Member Palen asks if variances would be sought for the new facilities. No variances needed, just a special permit from Planning Board for this use in a highway commercial zone. A use variance would not be required, per Clerk Barkdull and Counsel Molnar. 148-21 D will be followed and categorized as an expansion of an existing facility in the existing LWOD because both the old and new are in the LWOD. If one had been outside, this could not be achieved. The Zoning Board of Appeals may have to view this application for interpretation if the codes officer denies. The forthrightness, hopefully, will prevent having to request an interpretation, per Mr. Leja. The city of Syracuse would be involved through the special permit process. Chair Rhoads believes this is a better use at the alternate location than the current use at the current location. Mr. Wirth does not need both properties and believes that his needs would be better suited at the alternate location. The next step will be to apply with the codes office and go down the path of a special permit before the Planning Board. Mr. Leja plans to have the same discussion with the Codes Officer. If it kicks back to the Zoning Board of Appeals, Mr. Leja hopes to alleviate some difficulty by coming before the board initially with the idea.

Other Board Business (cont.)

- Town Supervisor Lanning explained that the hope of Joel Russell's visit was to be able to release a version of the Comprehensive Plan to the public next Wednesday, May 18th. Mr. Russell's redline version was generally well accepted. Chair Rhoads asked if the petitioners or litigants have seen the redlined version. Only the Town Board viewed it. A few minor changes needed to be made before it could be released. Once released the process will begin. The original Comprehensive Plan had no Village involvement, per Supervisor Lanning. A joint Town and Village Planning Board meeting is planned. There was some interest from the Village Planning Board, but, not from the Village Town Board. A series of public meetings will be forthcoming. The Village had some members on the Comprehensive Plan creation committee originally.

There being no further business, a motion was made by Member Ketchum and seconded by Member Rhoads to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 9:02 p.m.

Respectfully Submitted,

Michele Norstad

Michele Norstad