TOWN OF SKANEATELES ZONING BOARD OF APPEALS MEETING MINUTES OF June 1, 2021

Present:

Denise Rhoads David Palen Kris Kiefer Dave Lee Sherill Ketchum 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 July 6, 2021 at 7:00 p.m.

Public Hearing

Applicant: Jean Beeles 3903 State Street Rd Skaneateles, NY 13152 **Tax Map #045.-02-31.0**

Present: Donald Kasper, Representative

Chair Rhoads described the Applicant is requesting the variance to install a 10ft. x 12ft. shed outside of the lot's building envelope. The property is located in the Butters Farm development, which is a Conservation Subdivision with a minimum rear yard setback of 60ft., where Ms. Beeles is requesting a 15ft. setback. The Board has conducted a site visit of the property. The Board had no questions for Don Kasper, representative for the Applicant.

Chair Rhoads asked if there was anyone in the public who would like the public hearing notice read, no one spoke.

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair 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 affirmation of said motion.

At this time Chair Rhoads opened the public hearing asking if there was anyone who would like to speak in favor of, against or had any comments regarding the application.

Bob Eggleston, Architect, 1391 East Genesee St., commented when the Butters Farm subdivision was created it was the first and only Performance Subdivision created in the Town. Later the subdivision was designated an Open Space Subdivision. When the building envelopes were established, it was with the understanding they were for the primary structure, the developers were not aware they were locking themselves in to include accessory structures that are allowed to be closer to the property line. This has resulted in the ZBA reviewing multiple applications for accessory structures and sheds within the Butters Farm subdivision. The developers have since learned a lesson and created larger building envelopes in subdivisions that have been developed post-Butters Farm creation to allow accessory structures to be placed in reasonable locations. It is unfortunate this was not considered at the time Butters Farm

development was created and Mr. Eggleston asked the Board to consider leniency for the Applicant when granting this area variance.

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

Chair Rhoads asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code: Section 148-6-3-F Conservation Subdivision Setbacks. 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 will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: No. There will not be an undesirable change produced in the character of the neighborhood nor will there be a detriment to nearby properties. The proposed shed is small, 10ft. by 12ft., located in an area of the lot that is shielded by trees and shrubs especially from State Street Road, and the shed will have siding of a similar character to the existing house to be more suitable to the neighborhood. Neighboring homes within the subdivision have sheds of varying sizes on their properties.
- 2. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes. The Applicant could install a shed within the building envelope adjacent to the house to avoid an area variance, however it is a difficult property given the significant amount of road frontage surrounding the property and this would not be a desirable location for the shed. The location outside of the building envelope is most appropriate to shield the shed from view of neighboring properties.
- 3. Whether the requested variance is substantial: No. The variance for the proposed shed is not substantial, if the shed were to be located on any property outside of the Butters Farm subdivision it would be permissible.
- 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: No. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The shed is only 120sq.ft. and it will be built on a block and stone foundation. The property is not located near a watercourse or within the Lake Watershed Overlay District.
- 5. Whether the alleged difficulty was self-created: Yes.

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

WHEREFORE a motion was made by Vice Chair Palen and seconded by Chair Rhoads, 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, as prepared by the Applicant, and the drawings/elevations, dated January 19, 2021, as prepared by Martin Builders Enterprise LLC be followed and complied with in all respects.; and
- 2. The As-Built survey required by Standard Condition 5 above must recalculate the impermeable surface coverage of all structures and improvements on the Premises, including the reconstructed garage, and shall show an impermeable surface calculation not to exceed the maximum of 15% as required by Code.

RECORD OF VOTE

MEMBER NAME

Chair DENISE RHOADS Vice Chair DAVID PALEN Member KRIS KIEFER Member DAVE LEE Member SHERILL KETCHUM

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AYE NAY ABSTAIN

Continuation – Public Hearing

Applicant: Bruce & Lorraine Reid 3342 East Lake Rd. Skaneateles, NY 13152 **Tax Map #034.-04-24.0**

Present: Jeff Reid, Representative, Applicant's Son Bruce Reid, Applicant

Chair Rhoads described the proposal is for construction of a detached 24ft. x 28ft. one-story two-car garage on a preexisting nonconforming lot within the LWOD, with a request for an area variance for side yard setback for the location of the garage. A previous request for area variance for the increase in preexisting nonconforming impermeable surface coverage (ISC) has been referred to the PB. Counsel Molnar confirmed the ZBA will be reviewing the single area variance for the side yard setback and informed the Applicants' representatives for the Reid and Dwyer applications prior to the meeting, why the Board will be moving forward in this manner.

Counsel explained upon further review of the code regarding increase in ISC, Section 148-8-9-G, previously Section 148-12-G(7), in the change of the text of the new code it is the recommendation of Counsel the ZBA not take action on the applications for increase in ISC. The new law states "In no case shall the Applicant be permitted to increase nonconforming impermeable surface coverage on a lot, unless the Planning Board finds that such increase is necessary for public health or safety, or the health or safety of the occupants of the property.", this language is very clear applications to increase ISC should be reviewed by the PB for a finding. This is a significant change in the text of the code which previously stated an area variance was required from the ZBA to increase nonconforming ISC. Counsel Molnar recommended the ZBA authorize the preparation of a Memo to be submitted to the Town Board suggesting the text of the new law revert to the previous language used in the Code where a variance was efficiently administered by the ZBA. Counsel Molnar reviewed the previous text of the zoning code Section 148-12-G(7). Counsel explained the change was to permit flexibility for the PB when reviewing applications that came before them so they would not be required to send applicants before the ZBA obtaining an area variance before their applications could be reviewed by the PB, this was an unintended consequence of the update.

Vice Chair Palen asked what the final determination was for the location of the proposed garage. Jeff Reid, the Applicant's son, stated the original proposal of 8 ft. for the side yard setback will remain, the proposed garage will be located 13ft. to the west of the location reflected on the original plan in an effort to reduce the increase in ISC. Mr. Reid informed the Board he has been in contact with the architect, the drawings have been updated to reflect one large overhead door rather than the original plan of two separate overhead doors. He has also contacted the surveyor requesting the property be staked accommodating the request of the adjacent neighbor, as well as updating the proposed location of the garage 13ft. closer to the west property line on the survey, then verifying the proposed ISC on the property before the upcoming PB meeting.

Chair Rhoads sought confirmation the Board could move forward in reviewing the Five Criteria for the side yard setback with Additional Conditions requesting updated plans. Counsel Molnar confirmed the variance for an 8ft. side yard setback could be acted upon by the ZBA with the condition that the plans will be updated and subject to the approval of any agency or authority, including the PB, on the increase in ISC. Member Kiefer inquired what would happen if the new plans resulted in a setback different than the proposed 8ft. Counsel Molnar stated an Amendment would need to be requested of the ZBA if the setback is different than the proposed 8ft. according to the final plan.

Member Kiefer asked Clerk Barkdull to confirm it is true there is a minimum 8ft. side yard setback required if the lot is nonconforming with less than 20% of the lot width available. Clerk Barkdull stated that is correct, that section of code is referencing a lot that is very narrow and long with an inability to achieve 20% of the lot width for the setback, allowing for an 8ft. minimum side yard setback in the most severe of situations.

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

Chair Rhoads asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code: Section 148-8-9.A.1.d Nonconforming Lots - Minimum Side Yard Setback. 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 will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: No. There will not be an undesirable change produced in the character of the neighborhood nor will there be a detriment to nearby properties with the addition of a garage to this property. Most neighboring properties have a garage existing on site. The garage structure will be built in character with the existing dwelling. The property sits on the edge of the Village of Skaneateles with the proposed side yard construction adjacent to open farmland. The owner of Eastmere Farms, the adjacent farmland property, has submitted a letter in support of the construction, additional neighboring homeowners have expressed support as well.
- 2. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes. The Applicant could achieve the benefit sought by constructing the garage structure in a location further north/west, closer to the dwelling, to avoid or further minimize an area variance for side yard setback.
- 3. Whether the requested variance is substantial: No. The request for area variance is not substantial considering the adjacent property to the south and east is 87 acres of open farmland, and the owner of that property has submitted a letter in support of the proposal, along with support from additional neighbors. The minimum required setback for the smallest lot is 8 feet, this request does not exceed the minimum 8 feet.
- 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: No. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The construction of the garage within the Lake Watershed Overlay District will minimally impact the physical and environmental conditions of the neighborhood during the construction process. The proposed structure is located in an area of the property where the land slopes away from the road and lake, toward the open farmland, this should mitigate runoff and not affect the lake or neighboring homeowners.
- 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 Vice Chair Palen, 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.

5. That the Applicant provide an as-built survey to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project before a certificate of occupancy /certificate of compliance is issued.

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 be updated by the Applicant to show final location of the proposed garage, in no event closer than 8 feet to the south property line, and be complied with in all respects; and
- 2. The Zoning Board of Appeals approved variance stated herein is contingent upon a determination by the Planning Board under Code Section 148-8-9-G which approves the Applicant's request to increase the Impermeable Surface Coverage on this property; and
- 3. The Applicant will have the property surveyed and staked delineating property lines.

MEMBER NAME AYE NAY ABSTAIN Chair DENISE RHOADS Image: Chair DAVID PALEN Image: Chair DAVID PALEN

Continuation – Public Hearing

Applicant: Joseph & Linda Dwyer 867 Milford Dr. Skaneateles, NY 13152 Tax Map #047.-02-04.0

Present: Bob Eggleston, Architect Joseph Dwyer, Owner

Chair Rhoads described the proposal is for the construction of a 22ft. x 22ft. attached garage, enlargement of an existing porch to 8ft. x 20ft., and the addition of a 12ft. x 20ft. deck. The variance request being reviewed by the ZBA is for the Maximum Lot Coverage. The property is located in the RR District, outside of the LWOD. The Board has conducted a site visit of the property. The public hearing was opened at the May ZBA meeting, at which time public comment was put on the record, including 4 letters of No Objection, as well as determination of the application being a Type II action not subject to SEQRA review.

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair Palen to reopen the public hearing for Joseph and Linda Dwyer, 867 Milford Drive. The Board having been polled resulted in unanimous affirmation of said motion.

Bob Eggleston, Architect, stated the Applicant is aware of the request for an increase in ISC being referred to the PB and the ZBA will be reviewing the request for relief with Total Lot Coverage. Previously zoning allowed for a 15% increase in lot coverage on lots under 2 acres outside of the LWOD, with a permitted 10% permeable coverage. The new/current zoning does not allow for the proposed

24.4% coverage; therefore, the Applicant is not permitted the 25% coverage they would have been prior to January 1, 2021 resulting in the request for relief. Mr. Eggleston asked that the Board take that into consideration as well as all the mitigating factors of the project.

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

Chair Rhoads asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code: Section 148-4-3.C.1.b RR District Regulations – Maximum Lot Coverage. 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 will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: No. There will not be an undesirable change produced in the character of the neighborhood nor will there be a detriment to nearby properties with the addition of a garage to this property. The neighborhood consists of small to medium sized single-family homes located on relatively small lots. The design of the attached garaged is in character with single-story homes within the vicinity of the dwelling. The property is located close to the Village of Skaneateles border, homes in this neighborhood have more of a Village feel with smaller lots and a higher density of coverage. Letters in support of the proposal were submitted from four neighbors. Syracuse Onondaga County Planning Board provided a position of "No Comment" indicating no concerns with the application.
- 2. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: No. The expansion of the structure within the lot would trigger a variance, current lot coverage is above the maximum allowed 20% at 20.2% lot coverage with the proposal increasing to 24.4%. Given that the benefit sought by the Applicant is a single-story living space on the first floor as they enter retirement there is no way to achieve this goal by some other method, including adding a second story to the house.
- 3. Whether the requested variance is substantial: Yes. The request for area variance is substantial as the current lot coverage is nonconforming at 20.2%, increasing the lot coverage to 24.4% is substantial, however it should not negatively impact the determination of the findings of the area variance.
- 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: No, by a majority vote. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. The construction includes a proposed bioswale which will mitigate the potential water runoff from the garage structure as it will be directed into the existing road drainage ditch keeping runoff from the septic field on the property, as well as protecting the neighboring properties. A Board Member expressed concern there could be an adverse effect or impact on the physical or environmental conditions of the neighborhood as the proposed bioswale may not meet the needs for stormwater runoff mitigation for this property resulting in runoff directed to the neighboring Byrne property currently struggling with drainage issues.

RECORD OF VOTE

MEMBER NAME	YES	NO	ABSTAIN
Chair DENISE RHOADS		\boxtimes	
Vice Chair DAVID PALEN		\boxtimes	
Member KRIS KIEFER	\boxtimes		
Member DAVE LEE		\boxtimes	
Member SHERILL KETCHUM		\boxtimes	

5. Whether the alleged difficulty was self-created: Yes.

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

WHEREFORE a motion was made by Vice Chair Palen and seconded by Chair Rhoads, 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.

5. That the Applicant provide an as-built survey to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project before a certificate of occupancy /certificate of compliance is issued.

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 March 22, 2021, as prepared by Robert O. Eggleston, Licensed Architect be followed and complied with in all respects contingent upon approval from the Planning Board.; and
- 2. The Zoning Board of Appeals approved variance stated herein is contingent upon a determination by the Planning Board under Code Section 148-8-9-G which approves the Applicant's request to increase the Impermeable Surface Coverage on this property.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	\boxtimes		
Vice Chair DAVID PALEN	\boxtimes		
Member KRIS KIEFER		\boxtimes	
Member DAVE LEE	\boxtimes		
Member SHERILL KETCHUM	\boxtimes		

Minutes

Previous distribution to the Board of the regular meeting minutes of May 4, 2021 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member Ketchum to accept the May 4, 2021 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 David Palen	Present [Yes]
Member Kris Kiefer	Present [Yes]
Member Dave Lee	Present [Yes]
Member Sherill Ketchum	Present [Yes]

Member hours for the present Board members were requested and submitted for those who attended in the month of May 2021 via email.

Other Board Business

Chair Rhoads congratulated Clerk Barkdull for being the recipient of the 2021 NYPF Pomeroy Award for Zoning Achievement. The Board agreed it was well deserved.

Chair Roads reminded the Board to submit their hours to Clerk Benda and to include the extra time for the P&Z meeting where PUD's were discussed. Clerk Barkdull added updates to PUD information will be circulated prior to any future P&Z meeting.

Counsel Molnar recommended based on earlier discussions during the meeting regarding Zoning Code Section 148-8-9-G, a motion be made to task Counsel with the creation of a Memo to be submitted to the Town Board suggesting the language revert to the language of the prior code so the ZBA, which has historically administered area variance applications for increase in ISC, will be empowered to do so in the future without referring the Applicant to the PB for a finding that the increase is necessary for public welfare and safety. Chair Rhoads asked if the PB would be able to defer the Applicant back to the ZBA or if they are required to render a finding. Counsel clarified the PB must render a finding per the new language of the code.

WHERFORE, a motion was made by Vice Chair Palen and seconded by Member Kiefer to task Counsel Scott Molnar with the preparation of a Memorandum to be presented to the Town Board suggesting the language of Zoning Code Section 148-8-9-G revert to the language previously used before the adoption of the updated Zoning Code in January 2021. The Board having been polled resulted in unanimous affirmation of said motion. There being no further Board business, a motion was made by Member Ketchum and seconded by Vice Chair Palen to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:04 pm.

Respectfully Submitted, Kim Benda