

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

July 7, 2015

Present:

Denise Rhoads
Jim Condon
Steven Tucker
Sherill Ketchum
David Palen
Scott Molnar, Attorney
Karen Barkdull, Zoning Clerk

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on Tuesday, August 4, 2015. Member hours were turned in.

Initial Review

Applicant: Terrance and Diane Sherman
602 Stump Road
Skaneateles, NY 13152
Tax Map #018.-01-05.0

Present: Terrance and Diane Sherman

Chair Rhoads explained the applicant's proposal to construct a 22FTx30FT detached garage requiring a variance for front yard (22FT proposed whereas 30FT is required) and side yard (2FT proposed whereas 10FT is required) setbacks. Mr. and Mrs. Sherman reviewed their proposal before the board. The board had received a copy of the survey. Impermeable surface coverage is currently 28% whereas 50% is allowed in the Hamlet for this pre-existing non-conforming lot. Mr. Sherman pointed out the septic location as being behind the deck and the leach fields lying near the fence. Member Palen inquired about the driveway being extended. Vice Chair Condon noticed that the existing driveway will remain while a new extension to line up with the new garage entrance will be added at a size of approximately 2FT. Part of the new garage will be built over the existing driveway. The new garage will be placed in the only viable spot to avoid septic interference. Reception of a neighbor letter in support of the project was noted from Linda L. Miller and Robert N. Lowry, Jr. who occupy the property closest and most affected by the variance requests.

A second Zoning Board of Appeals site visit is scheduled for July 11th, 2015 at 9:00a.m..

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to schedule the public hearing on *Tuesday, August 4, 2015 at 7:10 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Public Hearing Continuance

Applicant: J&A Properties

John Pennisi
4435 Dolomite Drive
Syracuse, NY

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

Present: John and Linda Pennisi, Robert Eggleston, Architect

Chair Rhoads explained that the applicant's proposal is to demolish an existing structure and construct a new three bedroom dwelling with shoreline patio. The public hearing was opened in March 2015 and is continued from last month's meeting. The application was declared to be a Type II Action, not subject to SEQR review. The application was continued at the April 7th, 2015 meeting, whereas the applicant revised the proposed plans. The board re-inspected the site on April 11th, 2015. After board comments at the June 9th, 2015 meeting, a revised plan was presented on July 2nd, 2015. At this time, Chair Rhoads re-opened and continued the Public Hearing. Mr. Eggleston was asked to review the changes before the board.

Mr. Eggleston explained that the footprint has been reduced to 10% less than the allowable size per code, at 5.4%. A rectangular 52FTx28FT dwelling with lake yard setback matching the existing 77.2FT setback is now being proposed. A 55FT side yard setback is being maintained with no encroachment of the existing septic field. A 28.8FT separation on the northwest corner to the septic field is now being proposed. The construction type has been changed to slab on grade, which is fitting for Flood Plain dwellings. A grading plan was submitted showing that the building elevation is 869FT (FEMA requirement) whereas 867FT is the flood level. The grade around the house has been raised to 867FT, which is the actual flood level. The patio now shows a couple of steps and walkway access. The patio sits at 866.5FT above flood level and is not required to be above the flood level. 85 yards of fill will be brought in to achieve the patio placement and elevation. Regarding septic, Mr. Eggleston conveyed that Eric Murdick, design engineer for the current septic from the City of Syracuse, monitored the installation of said system and has said that a service of the system was performed for the previous owners of the property (the Carrolls). The construction is described as a peat moss filter with pump station and numerous drip lines closely put together and installed on fill above the flood level. The Pennisi have entered into a twice a year service agreement for the system. Minimal use of the property may prolong the need to replace the filters for a number of years. The City of Syracuse was concerned about the location of the driveway. Mr. Eggleston explained that the current driveway proposal is not clearly defined as of yet, but, will be positioned at 20FT off the property line while maintaining 78.5FT off the watercourse. A response from the City of Syracuse was received signing off from any concerns and deferring to the County. Jeff Till and Mr. Eggleston had a conversation regarding seasonal vs. year-round usage. The Pennisi's primary residence is in Syracuse and they are looking to keep the 1250 Minnow Cove property as a seasonal home using it for no more than 8 months out of any given year. The Pennisi's earliest monthly use of the property will be May and the latest December. Vice Chair Condon inquired about the possibility of the sale of the property in reference to usage. Mr. Eggleston stated that the property would be listed as a seasonal property in that event and noted as such usage in the tax assessment. Counsel Molnar stated that the Town's records would reflect seasonal usage as a zoning restriction vs. a need for any deed restriction. The final plan should also reflect seasonal

usage, memorializing it for future owners. Member Tucker clarified the need to obtain a special permit in the event the usage category would ever change from seasonal to year-round. The need for fencing and landscaping were addressed as a solution to protect the sensitive septic areas both during and after the construction phases.

Member Ketchum inquired about the construction of the patio being permeable pavers. Mr. Eggleston stated that permeable pavers would be used. Member Palen inquired about the current proposal for a patio as compared to the original deck. Mr. Eggleston stated “that, yeah, at one point it was a deck and it was attached; now it’s a detached patio, correct.”

Member Ketchum inquired about the permeability of different types of pavers. Mr. Eggleston referred to a 2009 definition of permeability per the zoning law. If it is less than 12 inches, it is installed per manufacturer requirement on a granular base. If it is over 12 inches, it has to be a 1 inch separation and if it is 2FT, it must have a 2 inch separation and so on and so forth.

The requested variances are for minimum lake yard setback, minimum setback to a watercourse to the proposed single-family dwelling and the proposed driveway. Although two variances exist, the variance for minimum setback to a watercourse pertains to both the dwelling and the driveway.

At this time Chair Rhoads asked if there were any questions for the applicants or Mr. Eggleston. Mr. Eggleston thanked the board for its careful consideration of the project. Again, at this time Chair Rhoads asked if there was any one in the audience wishing to comment or speak in favor of this application. No one spoke. Chair Rhoads asked if there was anyone wishing to speak in opposition or that had any further comments about this application. No one spoke. Having no comments a motion was entertained to close the public hearing.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Tucker 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, which are:

1. **Whether an undesirable change would be produced in the character of the neighborhood or a detriment to nearby properties:** No. The dwelling will be constructed to be in character of the neighborhood which is comprised of similar sized properties and the immediate neighbor has a substantial year-round dwelling as well. The proposed dwelling will be more aesthetically pleasing for the neighborhood than the existing dwelling.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. The unique characteristics of the property being by the lake and by a brook, a watercourse setback would be needed and because of the existing septic field the watercourse and lake yard setbacks would be required to build any new dwelling on this lot. The revision of June 26, 2015 was the most feasible design; the architect has spent many hours redeveloping the design to determine the best design for

the property working with the restrictions of the experimental septic system, watercourse, lake front and flood plain.

3. **Whether the requested variance is substantial:** Yes. Due to the increase in dwelling size from 1,235 square feet to 2,296 square feet, a potential living area increase of 53% within 100 feet of the lake on an environmentally sensitive site in a designated flood zone area. Though it is the most feasible site plan submitted, it is still substantial and requires two substantial variances.

4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** No. The dwelling will be raised two feet above the 100-year flood plain level that will be an improvement in the environmental conditions. The peat septic system that was installed in 2005 has been maintained by Onsite Service by a trained service provider and has been certified to be in good working order. This septic system was designed for a four bedroom year-round dwelling. The septic system is located 133 feet from the lake and appears to be working well in protecting the lake. The applicant has agreed to maintain the septic system and intends to use the dwelling for seasonal use only.

Record of Vote

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Present	[No]
Member	Sherill Ketchum	Present	[No]
Member	Steven Tucker	Present	[Yes]
Member	David Palen	Present	[No]

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 Vice Chair Condon, 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 3 through 3 of 3 dated June 26, 2015, with the revised Narrative dated June 26, 2015, prepared by Robert O. Eggleston, Architect, be followed; and

2. Additional Condition No. 2: The applicant shall comply with all conditions imposed by the Town of Skaneateles Planning Board in connection with issuance of the Special Permit and/or site plan approval; and
3. Additional Condition No. 3: The property continued as a seasonal use only; and
4. Additional Condition No. 4: That the Applicant shall obtain all necessary permits and approvals from the OCDOH, and any other approval needed for the Application; and
5. Additional Condition No. 5: The applicant shall maintain the experimental septic system with an ongoing service plan; and
6. Additional Condition No. 6: That the leach field is protected during construction and landscaped after construction to prevent any vehicle access; and
7. Additional Condition No. 7: An as-built survey be submitted to the Codes Enforcement Officer with verification of conformance of completed project within (60) days of completion of the project.

Record of Vote

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

Initial Review

Applicant: Theodore P. Norman 8665 Duarte Road San Gabriel, CA 91775	Property: 1992 West Lake Road Skaneateles, NY 13152 Tax Map #058.-01-17.2
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Present: Robert Eggleston, Architect

Chair Rhoads explained the applicant’s proposal to demolish an existing single family dwelling and garage, construct a new single family home and garage, detached patio, septic and relocate the driveway. The proposed common driveway will be 10FT from the north property line at its closest point, whereas 20 feet is required from side and rear lot lines. Also, the proposed common driveway entrance will be located 64FT to the watercourse located at the south of the property whereas any principal structure or accessory structure 600SF or larger shall be located within 100FT of a wetland or watercourse. The variances requested are for side yard setback and setback to a water course.

Mr. Eggleston stated that the Norman property was part of an open space subdivision approved in 2010. Two dwellings on the property existed and were divided as 2 ½ acres on the original lot and 3 ½ acres located across the road which is now a permanently preserved conservation area. As a result, lot #1 and lot #2 had to be purchased together. Lot #1 currently has a house near the

road. At the time of subdivision there was a proposed building spec provided. A challenge of this property is that the existing driveway bisects right through the prime building area. It was anticipated that the driveway would be relocated so that the homeowners could have the best possible contiguous area for building a house in the future. Lot #1 and lot #2 will remain separate. Lot #1 property has all road frontages and the entire lake frontage. Lot #2 has a 1000SF house with shared driveway that cuts through the middle of the property with a parking lot. Lot #1 requires a shared driveway for the benefit of Lot#2. Placing a new driveway for Lot #2 would place it too close to the watercourse. In open space subdivisions, the Hamlet District guidelines are utilized for setbacks (ex., 10FT side yard), although it is located in the RF district. The new house proposal is positioned over the existing footprint to meet all of the 100FT required setbacks. The septic is in the front yard 50FT from the watercourse. An approved septic system and expansion area is being proposed at 100FT from the watercourse. Everything is conforming in regards to the redevelopment of the property except for the location of the driveway, per Mr. Eggleston. A 64FT setback is being proposed for the driveway from the watercourse. As the watercourse heads southeast and the driveway heads northwest, the setback increases. The driveway is 64FT from the watercourse only at one location.

Chair Rhoads inquired about the possibility of the existing house being habitable. Mr. Eggleston stated that for the Mahers, it was not, due to a mold problem. Member Tucker asked where the open space for the subdivision was. Mr. Eggleston pointed out the proximity of the subdivision. The conservation area is referred to as "Lot B" on the map containing 165,000SF.

Mr. Eggleston went on to explain the second variance request in regards to the shared driveway. A shared driveway has no side yard setback to the property line which it shares the driveway with, although there is obligation to have the 20FT side yard setback. The comment is that a shared driveway has no setback with the property which it shares the driveway with. The north property line does not share the driveway so it is required to have the 20FT setback. It is proposed to have a 10FT setback within the 30FT right-of-way which was anticipated at the time of the subdivision. Mr. Eggleston went on to explain that the sidewalk placement makes the most sense this way, not being shoved up against the house. A 10FT side yard setback is being requested.

The Normans have spoken to their three adjacent neighbors and two of the three signed off unconditionally. The third neighbor, Hamilton Fish and Fran Rotunno had a discussion regarding driveway placement with the Normans in which Mr. Eggleston did not participate. Mr. Eggleston will meet with Mr. Fish and Mrs. Rotunno on site to discuss options which may minimize the second variance from what is currently shown on the plans. One of the concerns is not bringing the driveway as close to the trees on the boundary line. The Normans operate a nursery and value the trees on the property. Member Tucker asked why the driveway could not be moved 10FT to the south. Mr. Eggleston responded that this would place it 3FT from the house and limit garage access. Options to reduce the size of the extension over footprint of the entire house or move the garage door location were discussed. Mr. Eggleston stated that this will be a year-round residence.

Member Tucker inquired about the proposed terrace not needing a setback variance. Mr. Eggleston stated that this requires only a 50FT setback to the watercourse which is achieved.

Per Counsel Molnar, Lot #2 still utilizes the driveway access and the footbridge across the watercourse and should be recognized by the board and taken into consideration due to the placement of the driveway being important not only in regards to side yard setback, but in that it serves another dwelling and cannot be cut off. The size of the parking area, owned by the applicant, should include one lane of traffic to reach the lower house, which is also owned by the applicant. Vice Chair Condon inquired about the possibility of selling Lot #1 or Lot #2. A shared driveway situation would be created in this case. Per Mr. Eggleston, an easement currently exists and each lot is capable of being sold at any time independent from one another. The right-of-way is deeded from the time of subdivision. A minimum of two parking spaces is required for Lot #2 per code according to Mr. Eggleston. Member Tucker, Member Ketchum and Vice Chair Condon noticed alternatives for driveway placement and garage access which would eliminate the side yard setback variance entirely or reduce it at the very minimum. Member Ketchum expressed remorse at having to encroach upon a neighbor's property line when there seems to be adequate space within the applicant's lot to do otherwise.

Member Tucker and Mr. Eggleston discussed driveway entrance location. The entrance is not being shifted as a remedy for line of sight. Mr. Eggleston stated that the DOT prefers perpendicular placement of a driveway to the road vs. how it currently exists coming in at an angle.

A second Zoning Board of Appeals site visit is scheduled for July 11th, 2015 at 9:40a.m..

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to schedule the public hearing on ***Tuesday, August 4, 2015 at 7:20 p.m.*** The Board having been polled resulted in the unanimous affirmation of said motion.

Other Board Business:

The initial review for Kerrin Hopkins has been postponed and withdrawn from tonight's agenda until the next meeting on August 4, 2015, per the request of the applicant.

Comprehensive Plan

Chair Rhoads explained that the request from the Town Board received at last month's meeting has been considered by the board. Comments will be presented to the Town Board as to the final draft of the Comprehensive Plan. It was decided that Counsel Molnar would draw up a draft highlighting the concerns. Chair Rhoads had submitted concerns previously to the Town Board. Member Tucker commented regarding the vagueness of the entire plan and the descriptions being open for interpretation. Zoning changes may be in peril depending upon who happens to be reviewing them at the time. Member Ketchum brought up form based zoning and the future for it as it might apply to the Town. Chair Rhoads mentioned a consultant being retained to review the existing code and to see how it compares to the new Comprehensive Plan. Clerk Barkdull said that it has not been determined as to what extent form based zoning may or may not be adopted. The appendices referencing form based zoning in the plan book leads one to think that interpretation is needed. Member Tucker stated that this plan is vaguer than others even as compared to the current plan in place for the Town. Member Tucker mentioned goal #2, to preserve rural and agrarian land. A description to widen spacing between driveways adding significant building setbacks would cause more of an open field to be used and this seems

to contradict protection of such land. Member Tucker discussed different conflicts between goals such as Smart Growth and Mixed Land Use in one area and not noting separate uses for goals in another area of the Plan. Clarification is needed. Goal #2 C1 and Goal #4 C5 are the noted sections. Taking agrarian land and using it vs. preserving it is also a conflict in more than one section.

Counsel Molnar recommended that the board collectively agree upon a letter back to the Town Board, which, for instance endorses the Comprehensive Plan and urges its approval by the Town Board and the Village Board enactment, yet cautioning the Town Board to review issues set forth by the ZBA which would be highlighted or to caution the Town Board to move promptly to engage a consultant to reconcile the Comprehensive Plan once approved, with the zoning code and to determine as soon as possible changes in the zoning code which reflect the objectives, priorities and goals of the Comprehensive Plan unless the board feels differently. Right now the Comprehensive Plan Board has presented the Comprehensive Plan to the Town and Village boards for review and approval and the process is moving. Extensive labor has led to a good solid Comprehensive Plan that most all of the interested parties (drafters, committee members) feel strongly about and that should be advanced. They're moving forward with SEQR so that the Town has positioned itself and determined that it will act as lead agency for further purposes of review. All interested agencies have been notified looking for comments and ultimately sign-off of such. Any objections need to be presented in a letter form. Because the Town Board is in fact the lead, in terms of advancing the Comprehensive Plan to passage, and ultimately adopts it jointly with the Village Board, Counsel recommends that the Zoning Board of Appeals agrees that Town Board should continue SEQR to conclusion.

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Tucker to declare the Town Board of Skaneateles to act as lead agency on SEQR review. The Board having been polled resulted in the unanimous affirmance of said motion.

Chair Rhoads pointed out that the Comprehensive Plan has not been reviewed collectively as a group, yet separately by each board member as individuals. A meeting to discuss individual comments and findings vs. Counsel Molnar drafting a collective letter was discussed. A letter from the Zoning Board of Appeals to the Town Board will capture agreed upon concerns brought up from tonight's meeting endorsing the plan as written. Vice Chair Condon questioned the word "endorsing". The list is as follows:

Town Zoning Board of Appeals

Draft Skaneateles, NY Joint Comprehensive Plan 2015 comments:

1. The comprehensive plan is perhaps too vague and open to interpretation, and would benefit from editing which solidifies clear objectives.
2. The comprehensive plan does not indicate how and to what degree form based zoning should be implemented. Appendices are included but there is no clear direction.
3. There is proposed experimentation in the plan rather than clear direction based on strategies that have worked in other communities.

4. Contradictions exist which should be corrected. Goal 2, Preserve and enhance the Town's largely rural and agrarian land, point 1e. Action: To preserve the rural character of the Town's rural roadways, develop regulations that require wide spacing between driveways or curb cuts along rural roads and that establish significant building setbacks from rural roads. Significant building setbacks, and locating with wide spacing between driveways, eat up more of a field, which is contradictory to protecting agrarian land.
5. The comprehensive plan should be reviewed for conflicts. As an example, Smart Growth (2. Vision for Skaneateles, c-i) encourages mixed uses and in other areas (4. Enabling actions c-v) clearly separate uses targeted at specific areas. This would be in conflict with form based zoning.
6. Another conflict is the goal of preserving agrarian land and taking actions that use more agrarian land.
7. Regarding building density, there is no direction on where the desired densities are located and what type of densities. As an example, goal 1 does not speak to the desired density, but a specific density will assist when we are revising the Code to match the adopted comprehensive plan.
8. It is recommended that the ZBA be consulted and involved with the experts to be engaged by the Town to review the Code and identify sections requiring amendment.

WHEREFORE a motion was made by Member Sherill Ketchum and seconded by Member David Palen, and approved unanimously by all Members present, that the town of Skaneateles Zoning Board of Appeals **RESOLVED** to recommend adoption of the Skaneateles, NY Joint Comprehensive Plan 2015, with consideration given to the attached comments from the Zoning Board of Appeals.

There being no further business, a motion was made by Member Tucker and seconded by Vice Chair Condon to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:55 p.m..

Respectfully Submitted,

Michele Norstad