

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

August 15, 2019

Present:

Denise Rhoads
Jim Condon – Absent
David Palen
Kris Kiefer
Michael Ciaccio – Absent
Scott Molnar, Attorney – Absent
Karen Barkdull, P&Z Clerk
Kim Benda, ZBA Clerk

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on September 3, 2019 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of July 2, 2019 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Palen and seconded by Member Kiefer to accept the July 2, 2019 minutes as submitted. The Board having been polled resulted in unanimous affirmation of said motion.

<u>Record of Vote</u>				
Chair	Denise Rhoads	Present	[Yes]	
Vice Chair	Jim Condon	Absent	[Abstain]	
Member	David Palen	Present	[Yes]	
Member	Kris Kiefer	Present	[Yes]	
Member	Michael Ciaccio	Absent	[Abstain]	

Member hours for the present Board members were turned in for the month of July, 2019. An email will be sent to absent members Vice Chair Condon and Member Ciaccio requesting hours for the month of July, 2019.

Public Hearing

Applicant: 3285 Lake LLC/Patrick & Jessica Danial
3285 East Lake Rd
Skaneateles, NY
Tax Map #041.-01-47.1

Present: Bruce King, Architect

The proposal allows the new construction of a permeable patio and pergola requiring a lake yard setback. Architect Bruce King, stood in for Architect Leif Kallquist representing the applicant. Mr. King stated the variance is related to the lake yard setback, the existing house was built to the pre-2001 60 foot setback requirement which runs along the existing terrace. Proposed is the enclosure of an existing screen porch and creation of a new dining terrace with a pergola, allowing an 80 foot side yard setback to the north which is conforming and a nonconforming lake yard setback of 69 feet 4 inches, as the new construction is post January 1, 2001. As part of the process the existing remaining terrace will be replaced with permeable pavers reducing the impermeable surface coverage. Construction will consist of stone to match the existing walls, permeable pavers, as well as perma-cast columns and wood/wood substitute roofing to be utilized for the pergola.

Chair Rhoads stated a site visit was made Saturday, July 13, 2019, at which time Mr. Kallquist explained the proposal. Chair Rhoads then asked if the Board had any questions or comments for Mr. King. Member Kiefer stated for the record, impermeable surface coverage is being reduced from 9.06% to 8.7%. Member Kiefer then explained the reasoning for the location of the project and its proximity to the lake, there was consideration for moving it back however the location of the electrical utilities and septic prevent the project from being moved in any direction other than the proposed location. Mr. King added the interior layout of the dwelling prohibits the proposed construction from moving as well, since it would be less functional.

Chair Rhoads asked if anyone would like the public notice to be read, no one wished to have the public hearing notice read. She stated a site visit was conducted by the Board on Saturday, July 13, 2019.

WHEREFORE, a motion was made by Member Kiefer and seconded by Member 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 affirmance of said motion.

At this time, Chair Rhoads opened the public hearing and asked if there was anyone in favor of the project. There was no one who spoke in favor of the area variance application. Chair Rhoads asked if there had been any letters in favor of the project submitted by neighbors, no letters were submitted for the record. Chair Rhoads inquired if there was anyone who would like to speak in opposition or had any comments. There was no one who spoke in opposition of the application.

WHEREFORE a motion was made by Member Kiefer and seconded by Member Palen to close the Public Hearing. The Board having been polled resulted in the unanimous affirmance of said motion.

At this time the Board reviewed the five criteria for an area variance concerning applicable section of Town Zoning Code; Section 148-12G1(a)[6] Nonconforming structures-Minimum Lake Yard. Clerk Barkdull 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 character of neighborhood or a detriment to nearby properties:** No, the construction as proposed is well designed and will not be an undesirable change to the neighborhood nor will it be a detriment to the nearby properties. The side yard setback will be reduced from 102 feet to 80 feet, which is greater than the minimum requirement of 30 feet. The lake yard setback will be reduced to 69.3 feet, whereas the minimum requirement is 100 feet. The proposed construction will be built in character with the existing dwelling and landscape. With the existing vegetation, there will not be significant view differences for neighboring adjacent properties or those along East Lake Road.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No, the proposed changes to the structure necessitate an area variance as they protrude into the lake yard setback at a minimum. There is no other way to achieve the benefit other than the method proposed due to the location of the septic and electrical utilities. The existing layout of the dwelling, driveway and topography of the property also make the variance the most feasible method for development.
3. **Whether the requested variance is substantial, within 200 feet of Skaneateles Lake, any area variance that enlarges a building or enables it to encroach into a required lake yard shall be presumed to be substantial because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** Yes, the proposed changes enlarge the structure extending it further into the lake yard setback presuming the requested variance to be

substantial. However modifications to the structure will not increase the risk of degradation of the lake as the site plan reflects a reduction of impermeable surface coverage from 9.06% to 8.7% through the use of a permeable paver system.

4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood; within 200 feet of Skaneateles Lake, any area variance that enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** No, the proposed variance will not have an adverse impact upon the physical or environmental conditions of the neighborhood or district. The City of Syracuse Water Department has reviewed the application and has no comment regarding the proposed construction. Onondaga County Planning Board has reviewed the application expressing concern with the proposed structure extending into the 100-year floodplain. The applicant is accommodating the impact on impermeable surface coverage using permeable pavers.
5. **Whether the alleged difficulty was self-created:** Yes.

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

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

ZBA 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 as dated June 14, 2019, prepared by Leif Kallquist, Architect, depicting the location of the terrace and patio addition be followed in all respects, and shall always be complied with.
2. That the applicant receives acceptance/approval from Onondaga County Health Department's Bureau of Public Health for any existing or proposed septic system to service this property.

Record of Vote

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Absent	
Member	David Palen	Present	[Yes]
Member	Kris Kiefer	Present	[Yes]
Member	Michael Ciaccio	Absent	

Public Hearing

Applicant: Dr. Brooks Gump
 2621 Rickard Road
 Skaneateles, NY
Tax Map #036.-01-40.0

Present: Taylor Kimball, Apex Solar Power representative

Taylor Kimball, of Apex Solar Power, reviewed the proposed application for the installation of a residential ground mounted solar array, requiring an 8 foot side yard setback to the north and 12 foot rear yard setback to the west. Mr. Kimball stated one reason for the setback is production purposes, the array will be oriented to the south. The second reason for the setback is aesthetic, the solar panels will remain on the property for a number of years so the owner would like the ground mounted array as far out of sight as possible.

Chair Rhoads stated the Board made a site visit on Saturday, July 13, 2019 and Dr. Gump reviewed the proposed location of the solar array with the Board. During the site visit the Board was able to view the hedgerow along the property line which would screen the view of the adjacent neighbor; the topography of the property was also noted with the existing trees and the location of the dwelling. The Board was able to get a clear understanding of the proposed location for the solar array.

Chair Rhoads asked if anyone would like the public notice to be read, no one wished to have the public hearing notice read. She stated a site visit was conducted by the Board on Saturday, July 13, 2019.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member 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 affirmance of said motion.

Chair Rhoads asked the record reflect the submission of two letters in favor of the proposed solar array installation from Dr. Kevin Murphy, 2672 Rickard Rd, and Dr. Aran Laing, 2631 Rickard Rd.

At this time, Chair Rhoads opened the public hearing and asked if there was anyone in favor of the project. There was no one who spoke in favor of the area variance application. Chair Rhoads inquired if there was anyone who would like to speak in opposition or had any comments. There was no one who spoke in opposition of the application.

WHEREFORE a motion was made by Member Palen and seconded by Member Kiefer to close the Public Hearing. The Board having been polled resulted in the unanimous affirmance of said motion.

At this time the Board reviewed the five criteria for an area variance concerning applicable section of Town Zoning Code; Section 148-9E Dimensional Table I – Minimum side yard setback and minimum rear yard setback. Clerk Barkdull 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 character of neighborhood or a detriment to nearby properties:** No, there will not be a detrimental impact on the neighborhood or nearby properties, as it is a rural area comprised of homes, many of which are on more than 1 acre, as well as actively farmed parcels surrounding this property. The applicant has made every effort to place the solar array in a location that would allow for appropriate power production while limiting sight lines. The Board has received letters from two neighbors stating they are not opposed to the proposed solar panel installation.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** Yes, the solar array could be positioned within the property to avoid an area variance; however by following the zoning guidelines the solar array would be more obtrusive to the neighborhood and according to estimates provided by the applicant could potentially reduce collection of energy.
3. **Whether the requested variance is substantial, this presumption is rebuttable:** No, the property is not within 200 feet of Skaneateles Lake and there is no existing watercourse on site. It is a static structure and the construction of it should not have any impact on the environment.
4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:** No, it will not have an adverse impact on the physical or environmental conditions of the neighborhood. The solar array could potentially have a beneficial impact on the environmental conditions of the neighborhood by using solar power to produce energy for the home. Onondaga County Planning Board stated there would be no significant adverse inter-community or county-wide implications.
5. **Whether the alleged difficulty was self-created:** Yes.

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

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

ZBA 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 as revised on 3/18/19, the construction details 1 of 3 through 3 of 3 as dated 6/3/2019, prepared by Apex Solar Power, depicting the location of the 84 panel solar array be followed in all respects, and shall always be complied with.

Record of Vote

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Absent	
Member	David Palen	Present	[Yes]
Member	Kris Kiefer	Present	[Yes]
Member	Michael Ciaccio	Absent	

Initial Review

Applicant: Brendan & Danielle Spain
4457 NW Townline Rd
Marcellus, NY
Tax Map #021.-03-10.0

Present: Brendan Spain, Owner
Danielle Spain, Owner

New construction of a detached garage requiring two front yard setbacks and a side yard setback. Brendan Spain, owner, stated this would be a personal garage in a residential setting; he has already received a letter of approval from west adjacent neighbor Mary Shisler. Chair Rhoads asked if the driveway indicated in front of the proposed garage is also being proposed. Danielle Spain, owner, answered, yes; the existing driveway would be extended slightly to access the proposed garage. The existing driveway is gravel with two curb cuts one from NW Townline Rd and the other entrance on Amnaste Lane, allowing the proposed driveway extension to be paved up to the entrance of the garage. Chair Rhoads asked why the garage was not proposed as attached to the house. Ms. Spain

informed the Board the layout of the home wouldn't allow it. In addition the inside of the home was remodeled within the past year, and in order to attach a garage the applicant would have to undo the recent renovations. Ms. Spain stated the septic is directly behind the home not allowing for an attached garage addition on the north side to the rear, and the only entrances to the home are on the east and south sides. In order to access the garage if it were located in the rear of the dwelling a new driveway and curb cut would be required. The applicant would then have to walk from the back of the home around to the front. Chair Rhoads inquired about placing the garage on the east side of the home. Clerk Barkdull explained that would also require a setback variance as the home sits on a corner lot and has two front yards requiring a setback of 120 feet rather than 60 feet. Ms. Spain explained her west adjacent neighbor has already given written consent for the proposed garage and the neighbor is the one who suggested the proposed placement so close to the dividing property line.

Member Palen asked how large the size of the lot was, Ms. Spain answered just over an acre. Mr. Spain added there are many black walnut trees within the property behind the home and when they fruit they can be destructive, especially to the metal roof of a garage.

A site visit was scheduled for *Saturday, August 24, 2019 at 9:00 am.*

WHEREFORE a motion was made by Member Palen and seconded by Member Kiefer to schedule a public hearing *Tuesday, September 3, 2019 at 7:02 pm.* The Board having been polled resulted in unanimous affirmation of said motion.

Initial Review

Applicant: Stephen Datz

Owner: Justin Marchuska
866 Franklin St
Skaneateles, NY
Tax Map #047.-01-18.0

Present: Stephen Datz, Contractor

Construction of a two family dwelling on a 19,081 square foot lot where 4 acres is required. Contractor Stephen Datz reminded the Board this application was proposed over a year ago; however the property has since changed ownership being purchased by Justin Marchuska, who owns various properties in the Town of Skaneateles. During the process of the property being purchased Mr. Datz explained to Mr. Marchuska the plan for a two-family dwelling being built on the property that had been proposed. The first thought was to place a three bedroom dwelling on the property; Mr. Datz has received approval from OCDOH for a three bedroom septic permit. If the ZBA approves the variance application Mr. Datz will then pursue approval from OCDOH for a two-family dwelling septic permit, he stated he cannot build until he has an approved septic plan but does not want to pay for a new septic plan until the ZBA grants their approval as the process is expensive. Mr. Datz would prefer to use two septic systems for the two-family dwelling with two separate fields and two smaller back up fields; as he believes this would be better for the landscaping, the property and any problems with building function in the future.

Mr. Datz described the style of the home to mimic a teasel barn, which would fit the local character of the neighborhood. The interior layout would be a reverse and repeat, with two bedrooms upstairs, open plan downstairs, and a basement with utilities, garage, and a room as well. The building is proposed in the center of the property with equal setbacks on both sides and minimum setback to the rear allowing the septic fields to be in front of the dwelling. Mr. Datz knows the area variance is a significant request but due to the property's proximity to the village, especially since the annexation of Mirbeau into the Village of Skaneateles, it won't affect

neighborhood density. Mr. Datz mentioned new Mirbeau townhouses that were originally proposed to include duplexes, as well as existing multi-family homes on the other side of the street about a quarter mile down, in considering these it is not messing with the local character or aesthetics. Mr. Datz also stated he would like to be known for his sustainable and proper septic and water systems.

Mr. Datz feels as though there is a need in the community for rental properties at an affordable price, as rent would certainly be less in the proposed dwelling than the Mirbeau rentals.

Member Kiefer then asked for clarification on the septic approval procedure. Mr. Datz explained if the ZBA were to approve the variance it would be with the contingency of the approved septic permit from OCDOH, he would then go forward with an application to the OCDOH for the septic but it is an expensive process and he does not want to spend that money unnecessarily. Once the OCDOH approves the septic, he can then apply for a building permit. The current septic approval is for a single-family, three bedroom dwelling, whereas proposed is a single building with two family units and this would require a new application. Mr. Datz added there is public water to the property, as well as a natural gas line.

A site visit was scheduled for *Saturday, August 24, 2019 at 9:30 am.*

WHEREFORE a motion was made by Member Kiefer and seconded by Member Palen to schedule a public hearing *Tuesday, September 3, 2019 at 7:07 pm.* The Board having been polled resulted in unanimous affirmation of said motion.

There being no further Board business, a motion was made by Member Palen and seconded by Member Kiefer to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 7:41 p.m.

Respectfully Submitted,
Kim Benda