

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

September 5, 2017

Present:

Denise Rhoads
Jim Condon
Sherill Ketchum
David Palen
Mark Tucker
Michelle Jackson, Secretary
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk

Denise Rhoads opened the meeting at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on October 12, 2017. Board Business will be done at the end of the agenda.

The application for William and Jane Cummings, 2356 West Lake Road, proposal to construct a garage with additional driveway modifications is first on the agenda. A site visit was made with the applicants and Architect on August 12, 2017. At this time Bob Eggleston, Architect reviewed the application for variance. No changes from the original submission dated July 2017. The previous owner had applied for and received a variance for a garage project; however the previous owner never acted on the construction. Because this is a Ranch style house, the footprint by nature is large. The applicant is asking to increase the living space by 11.4% where 10% is allowed. The property is being kept under 10% impermeable coverage. Bob asked if there were additional questions. Chair Rhoads questioned the house area regarding the calculation for the porch enclosure. Bob explains that the garage addition was inclusive in the calculation. Member Ketchum questions whether there is a letter of approval for the ROW; Bob explains that this is in the applicant's deed. Member Palen questions the driveway and the material that will be used, Bob and the applicant explain that they do not wish to pave it and will use gravel. Bob explains that no changes will be made to the existing driveway, however the changes will be in the ROW. The Laxtons, owner of the ROW, have signed a note acknowledging and supporting the applicant's project. Member Tucker asked if the 12ft coming off the stairs is part of the garage, Bob explains that the stairs are within the garage not the kitchen extension. Chair Rhoads asked the board if there were any other questions. There were no further questions.

WHEREFORE, a motion was made by Member Ketchum and seconded by Vice Chair Condon to declare this application a Type II action not subject to SEQR review. On the basis that any and all requests for Area Variance are automatically a Type II action. The Board having been polled resulted in the unanimous affirmance of said motion.

Public Hearing, Chair Rhoads opened the Public Hearing for this application and asked if there was anyone in the audience that would like to speak in favor of this application. Chair Rhoads asked if there was anyone who would like to speak in opposition or had any other questions. Mr.

Eggleston had presented a signed document by neighbors in support of the application which has been added to the applicants file. Chair Rhoads asked for any other comments from the audience. There were no further public comments.

WHEREFORE, a motion was made to close the Public Hearing by Vice Chair Condon and seconded by Member Palen.

Applicant: Bill and Jane Cummings
2356 West Lake Rd.
Skaneateles, NY 13152

At this time, Chair Rhoads asked Attorney Scott Molnar to review with the Board the statutory criteria set forth in Town Code Section 148-12G (1) (a) [4] for an Area Variance. Counsel stated that in making their determination the Zoning Board of Appeals is required to consider certain factors, viewing all variances within each criteria, indicating any specific difference as it pertains to specific variances, which are:

Requirement for which Variance is Requested: The proposed expansion to this nonconforming structure exceeds the 25% expansion of total floor space and interior volume allowed by special permit. Site plan indicates a proposed 74.9% expansion to the floor space with the garage and connector addition. On nonconforming lots less than 40,000 SF and within 1,000' of the lake line, the total footprint and floor space of all principal and accessory buildings shall not exceed 6% and 10% of the lot area, respectively, whereas the site plan shows a proposed 897 SF addition to increase the existing 6.7% total footprint to 8.6%, and the existing total floor space of 9.0% to 11.4%.

Applicable Section of Town Zoning Code: 148-12C (4) Existing Nonconforming lots – Alteration, Section 148-12 G (1)(a)[7] [a][i]&[ii] Existing nonconforming lots.

FACTORS CONSIDERED:

1. Whether an undesirable change would be produced in character of neighborhood or a detriment to nearby properties: No. The Applicant is seeking approval for the addition of a 2 car attached garage with storage space; many neighboring homes are larger than the applicant's and have a garage and/or barn buildings. The garage will be constructed in keeping with the character of the dwelling and neighboring properties. The new garage will align with the neighboring properties on 41A, and the garage will provide storage in the winter months for this year round home.
2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No, The placement of the dwelling on the property and existing septic system significantly limit the area in which the proposed garage can be constructed. The subject is located off of Laxton Lane, a private ROW and the proposed garage will be no closer to the ROW than the existing dwelling and no closer to West Lake Road than the adjoining property's

dwelling. It is noted that the property was approved for the variances necessary to construct the garage in 2002 however; it was not built by the prior owners.

3. Whether the requested variance is substantial: No, This is not a substantial variance. The building footprint is proposed to increase by 2.1%, the floor area is proposed to increase by 2%, and the building cubic volume is proposed to increase by 46.2 cubic feet, which is not substantial. The property is approximately 1,000 feet from Skaneateles Lake and the impermeable surface coverage is maintained below 10%.

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood, or district: No, The variance would not have an adverse impact on the physical or environmental conditions in the neighborhood or district. The property is not located within 200 ft of Skaneateles Lake or within 100 feet of a watercourse. The septic is located on the other side of the property with plenty of room for expansion. The impermeable coverage is 9.9%, and will not have an impact on the surrounding neighborhood. The property is located within 1,000 feet of the lake, but the lake will be protected by a silt fence. The addition is located on a level area with a low impact, and the proposed addition is non-living space with little impact.

5. Whether the alleged difficulty was self-created: Yes, Due to the applicant wanting to develop the property.

WHEREAS, In review of the stated 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. This decision is based on all of the evidence presented in the record as well as the Board members' visit to the property.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Ketchum, with record of vote provided below, this Variance is granted with standard conditions and additional special conditions listed below. The Board having been polled resulted in the unanimous affirmance of said motion.

STANDARD CONDITIONS:

1. That the Applicant obtains 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 is to notify the Codes Enforcement Officer on completion of the footing of any project for which a variance has been obtained.

3. That the Applicant obtain a Certificate of Occupancy and/or Certificate of Compliance, as required, from the Codes Enforcement Officer.

ADDITIONAL CONDITIONS: The ZBA finds that the following additional conditions are necessary in order to minimize adverse impacts upon the neighborhood or community:

Z.B.A.09.05.2017

1. The Applicant obtains Planning Board approval, and conforms to all conditions imposed by the Planning Board.
2. That the Site Plan 1 of 1, dated 7/27/17, and the Narrative dated July 28, 2017, prepared by Robert O. Eggleston, Architect, be followed in all respects.

The Board, by motion of Vice Chair Jim Condon, duly seconded by Member Sherill Ketchum, and passed and adopted the above Resolution, via the record of vote as provided below.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Ketchum, with record of vote provided below, this Variance is granted with standard conditions and additional special conditions listed above. The Board having been polled resulted in the unanimous affirmance of said motion.

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

Applicant: Richard Moscarito
 2699 E. Lake Road
 Skaneateles, NY 13152
Tax Map #037.-01-04

Chair Rhoads explained the applicant’s proposal to construct a second floor addition with a deck, new septic, and rebuild the boat house with seawall repairs. The board has made a site visit with the applicants architect on July 29, 2017 and on August 12, 2017. This application was designated a Type II action, not subject to SEQR review in the August Meeting. There has been some changes to the plan since last month’s meeting.

Mr. Eggleston, Architect, reviewed the application and explained that the applicant has made additional changes to the plans since the last meeting. The leech field has shifted and the walkway has been shifted to the North side. The boat house structure will not be rebuilt however, a dock will be built in the lake and the stairs in kind will be repaired and placed in the same location. This will then shift the dock further from the North property line. The swale will be placed to divert any water and this will assist the water as it moves down the hill to alleviate the water flow and assist in erosion control. The other change is the addition of dormers instead of sky lights. The floor area will not increase, and will not result in changes to the variances. The variances requested are increasing the height of the building and the floor area which will only increase 276 feet. The dwelling will remain a 2 bedroom. After last month’s meeting the applicant intends to redevelop the property and then place it back on the market immediately. Mr. Eggleston asked if there were any questions from the board.

Scott Molnar asked for clarification regarding the sale of the property and how it relates to a rental use. Attorney Davis, representing the Applicant, clarified that the property will be a typical family dwelling and the end goal is to resell the property. Vice Chair Condon asked how the meeting with DOT, (regarding parking) went and Mr. Eggleston explained that they are looking at the situation and the parking issues in relation to this property and he will be meeting with DOT the following week. Vice Chair Condon clarified for the record, that the ZBA has reviewed the plans and the proposed changes and that the applicant has made necessary changes that addressed some of the concerns of the ZBA. The parking has been the same for this home, the flow of the water has continuously been an issue for this property and is flowing currently right into the lake. The new septic system that is being proposed will prevent any damage that the current septic is causing. The home has been neglected and the health, safety and welfare of the lake will be improved with the new applicants' proposed plan and changes. Some concerns of the ZBA have been addressed and/or modified. Member Tucker asked about the drainage and how it would be modified by the plan. Mr. Eggleston explains that depending on the final outcome of the DOT, the existing driveway will have a maintained ditch and there will be no change from what has been on the Rapasadi side of the property. The DOT will look at the proposed drainage plan. Member Ketchum asked about the parking plan and how the existing parking is legally acceptable and if parking isn't provided then the septic may be in danger. Mr. Eggleston explained that if the DOT doesn't approve the plan then the parking will be re-addressed. Vice Chair Condon explained that if it does get approved through DOT then there would need to be a barrier protecting the septic. Member Ketchum asked about the large rocks and how they plan to get them to the lakeshore area. Mr. Eggleston said there are several methods and the work would be done on a temporary road prior to the leech field and or by barge. Vice Chair Condon said that the Planning Board will address the actual process that is necessary.

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

Chair Rhoads explained that letters from the neighbors have been received and are being submitted into the record. She explains that comments relative to the variances will now be taken.

Lisa Ford, neighbor across the street, explains that she submitted several letters to the board. She explains that the comment regarding flipping the property does not alleviate the rental issue. She also is concerned with the DOT and the short term rentals as well as the septic system. In regard to the ROW, the state hasn't approved it at this time, and should approval be granted, the ROW is not a life time guarantee and could be revoked at any time. She read an excerpt from her letter regarding the septic and the approval, as well as the portion in relation to the parking and short-term rental usage. She asked if the board had time to read all of the letters that were submitted. The board answered in the affirmative.

Peter Babbles, neighbor across the street, commented about the current usage of the home as a summer home and how the usage hasn't been a year-round usage. He submitted a petition regarding the proposal and it has been signed by all the neighbors except for two who were not available to sign. He questioned the numbers on the plans and he is not clear on how the proposed plan does not reflect the correct footprint in his opinion. He is concerned with the

ROW and the septic as well as the impermeable surface calculations. He voices his concern with the fact that the square footage and how the number of bathrooms is large for this size home. The major concern is the driveway and the year-round usage. The lack of parking is an issue and the different renters will not be aware of the traffic pattern and how it will impact the neighbors. The water flow is a serious concern and he is wondering how this will impact their water source. He is concerned that the current state of the property has been allowed. He would like the board not to approve the variances.

Gary Ford, neighbor across the street, expressed his concern and discouragement that before the close of the PH, there is a board member that has made a decision.. He would like to add to that he is concerned with the fact that Bob Eggleston hasn't had the time to visit and discuss the parking issue with the DOT before the meeting. He is concerned that variances would be approved with conditions and he is of the opinion that the current plan will adversely impact the neighborhood. He is concerned that the applicant's attorney assumed that the neighbors do not understand variances and that the current plan is unreasonable. He has asked that a more reasonable plan be proposed. He is concerned with the septic, and how the variances would be approved without working through the concerns.

Mr. Molnar explained that this point of the Public Hearing is to obtain information based on the statements by the parties in the audience and that it is not typically a question and answer session.

Mr. Ford continues to read from his questions that have been submitted into the record and to the board prior to this meeting. In summary, his major concerns are the rental, the septic and the current proposed plan.

Jean Babbles, neighbor across the street, would like to express her concerns with the proposed project and how it will impact her property and water. She does not think this is for the good of the community and will have an adverse impact on the neighbors. She expressed that this could be a beautiful one level property and that the proposed home would not be a good fit for the neighborhood.

Chair Rhoads asked if there were any other comments.

Mr. Rapasadi, neighbor to the south, expressed his concern with the parking issues that are present and the current parking in the ROW is not an actual parking space.

Catherine Murphy, neighbor, voices concern regarding the parking issues and expressed that the current parking is a hazard and if there are more than one vehicle parked in the ROW, there would be an added danger.

Lisa Ford, voices concern about the parking and how there would be a possible loss of parking. She is concerned with the septic overflow and how it does not comply with the state laws regarding septic overflow. She offers to provide the law should the board need her to.

Mr. Ford asked about the expansion field and where it would be located. He is also concerned about where the absorption field is located. He is awaiting a response from DOT and is prepared to contact any necessary authority.

Mr. Rapasadi asked how these concerns will be addressed.

Vice Chair Condon explained that this topic is a Planning Board issue and the variances in question are the only concern that the ZBA has.

Scott Molnar explains the process for an applicant and how the various boards are a part of the process. He clarifies that the ZBA reviews the plan but approvals are subject to the site plan in accordance with the applicant and that the applicant has many steps towards approval.

Mr. Ford, explained that during his conversations with Mike Ryan at the DOT, he is suspect of this plan and that he is concerned with the issues that are in relation to the septic and the parking.

Chair Rhoads explained that the concerns he has are actually Planning Board issues and that the ZBA will review their portion as it relates to the process. The ZBA is focused on the variances.

Susan Turner, expressed her concern that the plan is trying to fit a square peg in a round hole and that the plan should be modified to please the neighbors and the neighborhood. She is concerned with the repercussions that will be felt should this plan be approved as is. She would like the board to take their time prior to approval.

Zach Ford, expressed his concern with the parking and the traffic on this road. The traffic is a major concern and a lack of proper parking is an issue that should be addressed.

Mr. Rapasadi asked if there are zoning regulations that would limit the property from becoming as dilapidated at this point.

Scott Molnar, explains that the point of the hearing is to gather information and recommends that the board close the Public Hearing and that Bob Eggleston gather the additional requested information and provide submission to the board. He recommends that the board then take the opportunity to further review the information.

Bob Eggleston, made a rebuttal to the persons who spoke at the Public Hearing. The option is to do nothing and the property will continue to be used 'as is' or the property will be enhanced and improved per the plan. He responds to how the proposed plans fit into the neighborhood and provides photos of neighboring homes and how they are similar to the proposed plan. He goes on to say that the home is a typical home for this neighborhood. He responds to Mr. Babbles questioning his numbers. He explains that he has a certified survey that shows the lot and that as the definition of height is in line with the codes of Skaneateles. All numbers are accurate, he has officially stamped the drawings, and they are in line with the zoning laws and are all correct on the plans. The proposed water lines has been moved twice on the plans and is actually using approved methods for water treatment and are in keeping with the laws of Skaneateles.

Attorney Davis, representing the Applicant, clarifies that the variances in question are the only portion that this board should be addressing and he reviews the improvements that are not in relation to the variances.

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

Chair Rhoads explains that this application review will be continued at the October meeting. Chair Rhoads will be out of town and Member Tucker will recuse himself during the Teixeira vote. She asked for a change in the ZBA meeting date so that all members can be present. Chair Rhoads asked for a motion to change the October meeting date.

WHEREFORE, a motion was made by Member Ketchum and seconded by Vice Chair Condon to change the date of the October meeting to Thursday, October 12, 2017 at 7:00 p.m. The Board having been polled resulted in the unanimous affirmation of said motion.

Chair Rhoads moves on to the next item which is: **Initial Review – Brian Carvalho 0000 Port Way and a proposal to build a single family residence on a vacant lot in the RF WOD district.**

Mr. Carvalho is representing himself and is presenting his updated plans and project. Mr. Carvalho explains that he would like to request an area variance to build a single family home on Port Way. This lot is part of a subdivision created in 1924. He and his wife are under contract to purchase said lot and he explains that the lot has never been developed and is overgrown with shrubs and trees and would need to be cleared. He has hired a civil engineer to come up with an erosion control plan which would provide a silt fence on the southern and eastern border. Port Way is actually a paper road, and will be utilized to access his property.

The Home Owners Association has stopped maintaining the road and it requires clearing. The HOA has provided a letter of support for the applicant to utilize the road. Mr. Carvalho asked the board if there were any other questions regarding the road.

Mr. Carvalho explains that the residence is designed as a two story home with a walk out basement. There have been Perk Tests done and a preliminary design by the Civil Engineer. The choice of location was to take advantage of the passive and active solar. The Civil engineer has included swales to divert water away from driveway and the home, in addition there are two rain gardens one on the North side and another on the South side. The home has a long narrow footprint due to the setback requirements; the stream that is on the property is an intermittent stream and does not flow all the time.

The open area will be 91.14% and the impermeable coverage will be 7.3%, the home is designed so the Carvalho's are able to age in place and retire in this home. The design of the home is to remain in character with the neighborhood.

A Zoning Board of Appeals site visit is scheduled for September 23, 2017 at 9:00 a.m.

WHEREFORE, a motion was made by Member Ketchum and seconded by Member Palen to schedule the public hearing on Thursday, October 12, 2017 at 7:02 p.m. The Board having been polled resulted in the unanimous affirmation of said motion.

Member Tucker recuses himself due to the fact that he has a Right of Way on the Teixeira property.

Chair Rhoads moves on to the next item which is: **Initial Review – John Teixeira 2763 E. Lake Rd. Proposal to place a shed on the property.**

Mr. Teixeira is representing himself; he reviews the fact that he needs additional storage for tools, supplies and a mower. The property has two buildings on it and he would like to place a shed on his property and is aware that he is in need of a variance to be able to add this shed because he is over on the impermeable surface, as well as a non-conforming lot.

Vice Chair Condon asks if there is any way he could remove some impermeable surfaces that are already present. Member Palen asked about the bump out in the driveway and it is required to make the parking safer. Mr. Teixeira explains that he is in need of additional storage for his mower and other items that he uses for outside work.

Member Ketchum reviews the additional portion of the driveway that is utilized as a turn around. It was a requirement from a prior application.

Due to scheduling, the site visit will be earlier than the Carvalho site visit.

A Zoning Board of Appeals site visit is scheduled for September 23, 2017 at 8:00 a.m.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member Ketchum to schedule the public hearing on Thursday, October 12, 2017 at 7:10 p.m. The Board having been polled resulted in the unanimous affirmation of said motion.

Other Board Business:

The approval of the minutes will occur at the next meeting giving the Board time to review the changes that have been implemented.

The Planning and Zoning workshops relative to the Zoning Code draft changes are being well attended and there are several more scheduled for the next two Thursday evenings. Everyone is welcome to attend.

There being no further business, a motion was made by Member Palen and seconded by Vice Chair Condon to adjourn the meeting. The Board having been polled resulted in the unanimous affirmation of said motion. The Zoning Board of Appeals meeting adjourned at 9:00 p.m.

Respectfully Submitted,
Michelle Jackson