

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

**December 6, 2016**

Present:

Denise Rhoads  
Jim Condon  
Sherill Ketchum  
David Palen  
Curt Coville-Absent  
Scott Molnar, Attorney  
Karen Barkdull, P&Z Clerk

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on January 3, 2017. There will be no site visits conducted this month. Previous distribution to the Board of the regular meeting minutes of November 1, 2016 was executed and all members present acknowledged receipt of those minutes.

**WHEREFORE** a motion was made by Member Palen and seconded by Member Condon to accept the November 1, 2016 as submitted. The Board having been polled resulted in unanimous affirmation of said motion. Member Ketchum abstained from the vote due to her absence at last month's meeting.

**Record of Vote**

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

**Public Hearing**

Applicant: Rick & Debbie Moscarito  
120 Madison St  
Chittenango, NY 13037

Property:  
1813 Russells Landing  
Skaneateles, NY 13152

**Tax Map #063.-03-13.0**

Present: Rick & Debbie Moscarito, Applicants; Robert Eggleston, Architect

No one requested to have the public hearing notice read. The Onondaga County Planning Board's response of November 22, 2016 recommends a modification that all necessary conditions are met and updated approvals are obtained from the City of Syracuse Department of Water, the New York State Department of Environmental Conservation, and the US Army Corps of Engineers prior to approving the proposed application. The City of Syracuse Water Department commented that the septic tank and pump chamber located on the site plan is within utility right-of-way in their review dated October 27, 2016.

A site visit was conducted by the Board on November 19, 2016.

A revised plan dated November 30, 2016 was submitted after the site visit. Mr. Eggleston began stating that the red line on the plan reflects the area that has steep slopes greater than 30%, an area of 30-36% slopes. Contact has been made with Natural Grid and there is an estimate that exceeds \$100,000 to relocate the electric and telephone lines, which is not feasible based on the valuation of the property.

Drainage on the property was a concern with the steep slopes and development of the site. The state of the site today is undeveloped with water coming off the neighbor to the north driveway that flows onto this property and is causing erosion. To address the drainage is a proposed 200SF rain garden that will be 18 inches deep to have the capacity to hold 6 inches of rain water before it drains into an overflow. The rain garden would filter the stormwater in addition to any water that would percolate through the shale and filter it, then collect through an 8 inch pipe that would run through a ditch to the west of the dwelling and drain into the existing watercourse. The ditch would also contain a 4 inch perforated pipe to collect any ground water and redirect it to the watercourse to reduce erosion on the property. The roof drains would feed into the 8 inch solid pipe in this ditch draining into the existing watercourse. The watercourse will be supported with filter fabric and large rocks for erosion control to protect from further erosion of the creek. The roof gutter on the eastern side of the dwelling will be piped directly to the watercourse as well. This plan has been reviewed and approved by John Camp as a way to manage the stormwater runoff from the neighbor's driveway.

Mr. Eggleston continued stating there was some discussion of whether the dwelling should be built on piers versus the proposed foundation. When the foundation wall is built it is a temporary invasion of the slope. It will be a permanent retaining wall that will provide a permanent stable structure at the top of the bank as opposed to the piers where the water can still run across and under it. There would be twenty or so individual holes that would not be less disruptive than doing a clean cut of the area. The machine can sit on top in a level area and reach out to peel the weathered shale. Then a permanent retaining wall is constructed with the foundation securing that area, anchoring it into the ground. Unlike the earlier approved solution from 2010, where the removed soils would be used to regrade the area to the east of the dwelling to develop a patio and retaining wall, this plan would keep the area natural and build a deck at the lower area with a second deck above. All of the steep slope area that will be disturbed by the construction of the dwelling will be planted in vegetation with the only lawn planned over the level grass area and over the septic fields. The sloped areas will have the topsoil replaced, jute mesh, mulch and myrtle or ivy for a nice ground cover that would give roots to secure.

The steps are designed to follow the slope of the land consisting of timber steps with pea stone. The utility line that will come down to provide electricity down to the dock and water to come up from the lake will be located to the side of the proposed steps and will be planted over in the same fashion with myrtle. The deck at the bottom will be cantilevered with a support post at four feet from the edge of the cliff. The DEC will be reviewing the permanent dock and stair tower that is proposed for the property. The cantilevered deck would connect to the bridge and stair tower. The prior approval had a step of stairs that was constructed into the cliff that would require bolting into the cliff. The proposed location of the access is in a more stable location as there was some cliff erosion further south on the property and the area at the far north end of the

lakefront is the next potentially vulnerable section. The proposed one story dwelling with walkout basement is proposed as a second floor that would look out onto the utility lines.

Member Condon commented that the proposed dwelling is larger compared to lot sizes than the neighboring houses. Mr. Eggleston reviewed the properties on Russell's Landing with the Board and determined that seven of the properties going north had dwellings larger than proposed on lots of similar size. The smaller seasonal dwellings are located on smaller lots, and going south is Amerman Road which is a different neighborhood that has to be accessed by a road that is 3-4 miles down the road.

Member Ketchum inquired on how the equipment will be able to reach over and construct the dwelling. Mr. Eggleston commented that the only trees being removed on the steep slopes are the ones within ten feet of the construction. On the flat area there are not many large trees and the right of way has been cleared out due to National Grid wanting access to their lines. He continued stating that the truck can be brought over using the utility right of way at the west and south of the lot. With the truck sitting on top it will be able to pull up soil and swing around placing the removed soils into trucks. National Grid will sleeve the electrical wires to protect the wires and the construction crew.

Member Condon stated that the trees within ten feet of the foundation will be cut. Mr. Eggleston stated that any mature trees within ten feet of the foundation will be cut down and removed. The other trees will be kept but will be trimmed. Member Ketchum commented that they will be limbed up. Member Condon commented that the removal of trees for the dwelling adds to the variance because the code reads no disturbance including cutting or vegetation or construction of a driveway shall be permitted on any slope of 30% or greater. The proposed home is partially located in slopes greater than 30%. Mr. Eggleston stated that it doesn't require a variance but it does require site plan review, with this application also requesting site plan review from the Planning Board. Member Condon reiterated that in his eyes it is a variance because you are compromising the vegetation within that slope. Mr. Eggleston stated that it may be a consideration of the variance but it is not a variance.

Chair Rhoads inquired how the utilities will access the lines if the lot is developed. Mr. Eggleston stated that the telephone company has an access easement that is along the west and south of the lot to access. From a practical standpoint the utilities will park in the Tackley driveway as they always have, and access the lines accordingly.

Member Ketchum inquired the distance of the walkway to the dwelling. Mr. Eggleston stated that the walkway is four feet wide and the space is about four feet from the dwelling, with a total of eight feet. Mr. Eggleston stated that the walkway would be within the ten foot area as you cannot have living tree roots within ten feet of a foundation. Member Ketchum inquired about the deck depth. Mr. Eggleston stated that there is no need to be ten feet from the deck itself and the deck is within the ten feet from the foundation. The major trees, eight inch at breast height, were identified and none of those trees are being removed, however, the underbrush may be cleaned out a little bit. Member Ketchum stated that it is also about the erosion control with the removal of all of the tree root systems. If the roots are killed then the erosion control is gone. Mr.

Eggleston stated that the erosion problem is alleviated with the foundation of the structure. Member Ketchum stated that with the state of the climate, rain events are getting stronger. The watercourse was running pretty heavily when we saw it in January. Mr. Eggleston stated that right now the watercourse is un-protected and will remain unprotected if the lot is not developed.

**WHEREFORE** a motion was made by Chair Rhoads and seconded by Member Palen to declare this application to be a Type II action per section 617.5(c) (13) 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 wishing to speak in favor of the application. Joan & Richard Tackley, neighbor to the north, signed a letter of support dated November 8, 2016. Chair Rhoads asked if there was anyone wishing to speak in opposition, or had any other comments. There was no one who wished to speak in opposition or had any other comments. Mr. Eggleston addressed an earlier concern about the removal of trees, commenting that the same trees would need to be removed if the dwelling was constructed on piers.

**WHEREFORE** a motion was made by Member Condon and seconded by Member Ketchum to close the Public Hearing. The Board having been polled resulted in the unanimous affirmance 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:** Yes. There would be a detriment to the property, Skaneateles Lake, and the nearby properties if the variances were granted. The applicant should consider a more appropriate proposal for a small seasonal cottage, which would be more in the character of the neighborhood than the proposed structure. The living space of the proposed house is 2,278SF on a .59 acre lot, which is bigger than other lots due to the buildability of the lot. The buildable area for the lot is influenced by power lines, above and underground, other utilities, location of the septic system, and easements. These issues are not the same issues of the neighboring lots. The proposed dwelling itself would not be undesirable; however, the site has many physical challenges that with the proposed development of the lot, would produce a detriment to nearby properties and the lake by increasing runoff and soil erosion. The existing farm to the west and the property to the north naturally drain to this property already. This lot has already suffered a detriment from nearby properties and the proposal would further increase that detriment. A large cantilever deck leading to a bridge to a greater than 30 foot stair tower to access the lake would change the character of the lake front.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** Yes. The applicant should try to achieve a more feasible method other than area variances. Referencing the updated site plan dated November 30, 2016, the Board suggested a smaller structure from the applicant requiring less variance.

148-29(B)- No disturbance, including cutting of vegetation or construction of driveways, shall be permitted on any slope of 30% or greater, where the proposed home is within slopes of 36%. 148-1C(2)-To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as the shoreline and watershed of Skaneateles Lake, the higher elevations, scenic view sheds, steep slopes, erodible soils, stream corridors, wetlands, floodplains and active farmlands, this lot has steep slopes erodible soils, and a watercourse. The minimum setback for a watercourse is 100 feet, with this application requesting 41 feet for the proposed home. In prior discussion the Board had stated that the site might be more suitable to a seasonal dwelling rather than a year round dwelling.

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 property is located within the lake watershed district and the request is therefore considered substantial. Due to the physical conditions of the site, there are three variances required to construct the proposed dwelling including watercourse setback, lake yard setback, and steep slope maximum exceeding 30%. There is also a utility easement that impacts the site. The number of variances required on this site may indicate that the proposed plan may not be best suited for this property. One variance may be able to be mitigated by an applicant; however, this plan has three variances on a nonconforming lot of .59 acres. The septic system and leach field are located within the utility easement further limiting placement of dwelling improvements. If the utility easement holders need to access the lines with trucks and equipment, there is potential for damage to the septic system. The area of substantial impact is the 793 square feet of the proposed dwelling that will be located in slopes greater than 30%, and does not meet any of the criteria to be an exception to that. 148-1C is “To protect and promote public health, safety, comfort, convenience, economy, natural, agricultural and cultural resources, aesthetics and the general welfare”; building a large home on this particular site does not follow that code.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood; within 200 feet of Skaneateles Lake, any area variance than enlarges a building or enables it to encroach into a required lake yard shall be presumed to have an adverse environmental impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** Yes. The requested variance will have an adverse impact on the visual and environmental conditions of the neighborhood, the lake, and to the watercourse. The minimum lake yard setback is 100 feet, with the variance request of 51.5 feet to the deck and 61.5 feet to the proposed dwelling. The required watercourse setback is 100 feet and the proposed site plan reflects 41 feet to the dwelling. The steep slope regulation restricts development within slopes greater than 30% and the proposed plan reflects construction of a portion of the dwelling in 36% slopes. The variances requested for the proposed structure, a one story 2,278 square foot year round home, will

have an adverse impact upon the immediate environmental conditions in the neighborhood and will increase the risk of degradation of the lake. The size of the structure is not commensurate with the size and physical conditions of the property. Proximity to the lake and watercourse, slope, bisection utility easements and power lines suggest either the property remain undeveloped or developed to include a much more modest, seasonal use structure. While the architect has put forth plans that appear to ameliorate a number of the immediate concerns for development of the property, in the longer term, construction and the increased use associated with a year-round structure will have an adverse impact upon the environment and the lake.

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

**WHEREAS**, in review of the five criteria above, the public hearing, the site visit by the ZBA members, the Town Planner, the Town Engineer, and the ZBA attorney, the benefit to the applicant weighed against the detriment to the health, safety and welfare of the neighborhood or community lies against the applicant. This application would have an adverse negative impact to the character of the neighborhood and the physical and environmental conditions of the property. This decision is based upon all of the evidence in the record as well as Board site visits to the property, and the Board's deliberation of the questions presented above, after which a motion was made by Jim Condon, seconded by Denise Rhoads, that the application be disapproved. The Board being polled voted in agreement of the motion for the application to be denied.

<b><u>Record of Vote</u></b>			
Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Present	[Yes]
Member	Sherill Ketchum	Present	[Yes]
Member	David Palen	Present	[Yes]
Member	Curt Coville	Absent	

**Discussion**

The Zoning Board of Appeals discussed the OCIDA lead agency request for the Welch Allyn/Hill-Rom expansion.

**WHEREAS**, the Zoning Board of Appeals reviewed the Lead Agency SEQR Review – Welch Allyn proposed expansion; and

**AND WHEREFORE**, a motion was made by Member Ketchum and seconded by Member Condon to endorse the designation of OCIDA as lead agency for SEQR determination on the proposed Welch Allyn expansion. The Board having been polled resulted in the affirmance of said motion.

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

**Discussion**

There is material available on line regarding the recent solar training Denise had attended. There will be a Skaneateles Lake Watershed meeting tomorrow at the Skaneateles Library regarding climate change from 6-8 pm. The recent Skaneateles Lake Watershed meeting held on November 30<sup>th</sup> with Scott Kishbaugh, Chief of the Lake Monitoring and Assessment Section of the New York State Department of Environmental Conservation was very informative. Included in the discussion was the impact of silt and erosion in combination with the timing of hydro seeding to prevent silt buildup and erosion in ditches.

**Discussion**

Each year a member of the Board is up for renewal for their five year term. The Town Board reaches out each year to the community for any interested individuals who may want to participate on the Board in addition to consideration of existing members who submit their continued interest in participation on the Board. The deadline for submission this year is December 9, 2016.

**Discussion**

A discussion was held regarding the change of meeting date for the ZBA from the first Tuesday of each month to another day. The Town Board is considering a change in their day for meetings from the first and third Thursday to the first and third Monday for their meetings. Member Condon commented that he prefers the meetings on the first Tuesday nights as it has been for the last ten years. Member Ketchum stated that historically, the first Tuesday of each month worked for this Board. Member Palen commented that the first Tuesday works for him as well. Member Ketchum commented that she travels a lot with her husband, and Thursdays tend to be the travel days for them. Member Condon commented that people know that the first Tuesday of each month is historically the meeting date. Counsel Molnar commented that whatever the day that is chosen will work for him. The Board determined that they would like to maintain the first Tuesday of each month rather than change to an alternate day.

**Discussion**

Twelve bids were received in regards to the solar fields for the transfer station. The location of the solar arrays will obtain southern exposure and will not be visible from the roads. The draft solar legislation needs to be reviewed by the ZBA and Planning Board before referral to the Town Board for adoption.

There being no further business, a motion was made by Member Condon and seconded by Member Palen to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:10 p.m.

Respectfully Submitted,  
Karen Barkdull