

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

November 12, 2019

Present:

Denise Rhoads
Jim Condon
David Palen
Kris Kiefer
Michael Ciaccio
Scott Molnar, Attorney
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 December 3, 2019 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of October 8, 2019 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Ciaccio and seconded by Member Palen to accept the October 8, 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	Present	[Yes]
Member	David Palen	Present	[Yes]
Member	Kris Kiefer	Present	[Yes]
Member	Michael Ciaccio	Present	[Yes]

Member hours for the present Board members were turned in for the month of October, 2019.

Initial Review

Applicant: Rick Naro
935 Parker Lane
Skaneateles, NY
Tax Map#027.-01-30.5

Present: Rick Naro, Owner
Phil Muka, Renovus Solar Representative

Proposed is the construction of a 24.84 kW ground mount PV solar array to offset the energy consumption for this residence. The solar array requires a watercourse setback variance as it is 52 feet and 65 feet from a watercourse where 100 feet is required. Phil Muka, Sales Consultant, stated 6 of the 11 pile driven steel supports for the array are within the 100 foot setback. The supports will not create ground disturbance as they do not require a concrete base. Mr. Muka explained the location of the two array structures using the Site Plan SP-1, as it reflects the array being located north-west of the residence and east of the watercourse. This location is most optimal due to the location of the dwelling, septic system, geothermal heat system, watercourse, and solar resource. The structure is also set back a good distance from the road so it will not be obtrusive when driving by. Vice Chair Condon asked if there will have to be any trees removed to allow for construction. Rick Naro, owner, stated there may be one tree located west of the watercourse and south-west of the array structures which may need to be removed as the shade impacts efficiency of the panels 6-8%.

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Vice Chair Condon asked what the height of the structures will be. Mr. Muka stated the highest point will be 11 feet from the ground toward the back and the lowest point will be 3 feet from the ground. Vice Chair Condon inquired about the impact on runoff. Mr. Muka confirmed there will be none. Vice Chair Condon asked if the array will be similar to those depicted in the Data Sheet Index with standard elevations. Mr. Muka said yes, at a 30 degree angle.

Member Palen asked if there is anything within the solar array that could contaminate ground water or runoff if the panels were damaged. Mr. Muka stated there is not that he is aware of; as each panel is completely encapsulated in glass and if it were damaged the internal contents are 99% silicon, which is sand. Mr. Naro assured there are no cooling or liquid components.

Member Ciaccio inquired about the applicant contacting the neighbors. Mr. Naro stated he has contacted his neighbors on Parker Lane, but not those on Jordan Road as he is not familiar with them due to the wooded separation and having only moved in a year ago. Being that the home is an all-electric home with a geothermal heating system, Mr. Naro is looking to offset his carbon footprint by installing the solar array. Mr. Naro invited the neighbors along Parker Lane to the ZBA meeting; he received a text message from one neighbor giving their approval of the proposal and thus far no negative responses.

Vice Chair Condon inquired if the house was the first residence located on the right of Parker Lane when turning off of Jordan Road, and if the land was wooded. Mr. Naro described behind the house as park-like, mowed with matured hardwoods, to the west of the house it is open from the road north to the property line with a couple of trees. Vice Chair Condon asked if heavy equipment will be required for installation. Mr. Muka stated a pile driver will be required to put in the steel supports; it will be trailered in and drives on treads. Vice Chair Condon questioned if the project will be going on while the ground is frozen to minimize disturbance of the land with the tracks of the pile driver near the watercourse. Mr. Muka stated he is not the project manager and does not have an exact time frame; however as he understands the project will begin as soon as possible pending ZBA and Planning Board results. If timing allows the project could take place during the winter as the pile driver can perform in freezing conditions.

A site visit was scheduled for *Saturday, November 16, 2019 at 9:00 am.*

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

Determination

Applicant: Stephen Datz

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

Present: Stephen Datz, Contractor

Chair Rhoads reviewed, proposed is the construction of a two-family dwelling on a 19,081 square foot lot where 4 acres are required. The public hearing was opened during the September 3, 2019 meeting and continued during the October 8, 2019 meeting, at which time the public hearing was closed. Public comments and emails have been

received and entered into the record. Mr. Datz has submitted conceptual drawings of the proposed dwelling per the Board's request to have an idea of what the house would look like on the nonconforming lot once constructed.

As the public hearing has been closed, Chair Rhoads sought confirmation on the Board's procedure to render a determination. Counsel Molnar recommended the Board allow Mr. Datz to make a statement regarding updated materials that have been submitted subsequent to the last meeting and closing of the public hearing. After the applicant's statement the Board can deliberate and make a determination if they are comfortable going through the criteria for the variance.

Mr. Datz reviewed he is only requesting a lot size variance, where all other aspects of the proposal are conforming. He has considered all concerns brought to light and has accommodated anything within his control, including esthetics, to make the design of the property as comfortable as possible. Mr. Datz introduced a larger survey of the neighborhood to illustrate that this is the last buildable property within the neighborhood; therefore it should not set precedence for rampant construction like this within the neighborhood. Because this is the last vacant lot in the area, it is pertinent in the transition from Village to Town, to be able to have a dwelling within the Town that is walkable to the Village for two families. The density of the current neighborhood, traffic, occupants of the dwelling 15 years from now, and whether or not a future homeowner converts the dwelling to a single-family; are all concerns which are out of the applicant's control. Mr. Datz stated he has tried to be sensitive to the neighbors' needs while achieving the applicant's goals.

Vice Chair Condon asked if there has been any improvement with water runoff on the property since Mirbeau has started construction on their property upgrading their storm-water management system. Mr. Datz answered there has not yet been a situation to see that improvement; however Mirbeau is legally obligated to improve the situation and it is a part of their larger project. Vice Chair Condon then asked if Onondaga County had given Mr. Datz an idea of where the potential septic system would be located on the parcel. Mr. Datz stated, Jeff Till of OCHD, confirmed allowing for one septic system versus two separate septic systems would not necessarily be more ideal either one would function adequately. Mr. Till has been invited to visit the property and advise Mr. Datz's engineer what location would be most appropriate for the septic system allowing for the most efficient system possible. Vice Chair Condon inquired about the slope of the property effecting the location of the septic system and if it would be close to the front of the property. Mr. Datz described the fields potentially being two wings, one on each side of the driveway as it is the most level part of the property, and it is not ideal to pump up hill and depend on a secondary system. Mr. Datz described the two fields being 40 feet off the center line of the road, with the water line and gas line being 10 feet in from each property, and the septic being 20 feet from the house. Vice Chair Condon stated Mr. Datz would have to protect the leech fields wherever they are located and recommended installing landscaping to do so if the variance is approved. Mr. Datz was in agreement, he explained it is an Eljin system which requires additional leveled filtered sand so the system is bio-active within the mat, in a conventional system there is no bio-assistance until the matter contacts the soil. With the Eljin system there is bio-assistance before the matter contacts the soil, therefore it is 50% filtered once matter reaches that point. Member Ciaccio asked for clarification on what additional measures the Board would request to ensure protection of the septic system. Vice Chair Condon recommended plantings such as shrubs and small trees as it would be close to the driveway and this would prevent vehicles from driving on the leech field or tanks. Mr. Datz stated he is looking to keep the septic system 10 feet from the driveway but he will include plantings with his design. Chair Rhoads asked where the proposed septic system was located when the lot had previously been approved for a single-family dwelling with three bedrooms. Mr. Datz explained the house had been offset in the north-west corner of the property at an angle, allowing ample space for the septic system to be placed in the south-east area of the property. The current proposal will allow for two fields in front of the house with space for back-up fields behind the house if necessary. Chair Rhoads asked if OCHD would require a hard copy of plans before giving a preliminary opinion on septic system approval. Counsel Molnar stated yes, OCHD will require stamped septic plans, which shows the entire scope of work, location, and material. Vice Chair Condon stated Onondaga County has requested the applicant submit a full site plan, as well as septic plans. Mr. Datz stated he

will obtain professional plans if the variance is granted. Member Kiefer stated if the variance is granted Mr. Datz would be required to get approval from Onondaga County for the septic system. Counsel Molnar recommended the Board consider a condition if the variance is granted, the approval of the Planning Board be achieved via site plan approval which will then dedicate the Planning Board and its Engineer to the overall location of the house and all of its dimensional limitations, small scale water treatment facility, and health department requirements, at which time the application can advance.

Chair Rhoads asked hypothetically if the proposed septic system were to fail would there be adequate space for an alternative system. Mr. Datz said yes. Member Palen stated he understood the recommendation was to have a single septic system in the event one was not being used for a length of time. Mr. Datz clarified, one opinion is more consistent bio-activity and a larger field is most successful, the other opinion is there could be a liability of tenant versus tenant. The county has given feedback on the septic stating they see no difference in one active system versus two active systems in functionality. Vice Chair Condon asked if Mr. Datz would be compliant with county recommendations if the variance is granted. Mr. Datz answered yes, that is why he would like Mr. Till to view the property and advise him on location of the proposed septic.

Chair Rhoads thanked Mr. Datz for his comments. The Board was in agreement they were prepared to render a determination and deliberate the criteria for the variance.

At this time the Board reviewed the five criteria for an area variance concerning applicable section of Town Zoning Code; Section 148-11K(1)(a) Two-Family Dwellings. Counsel Molnar stated when considering the benefit to the applicant if the area variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community, the Zoning Board of Appeals is charged with answering these five questions:

1. **Whether an undesirable change would be produced in character of neighborhood or a detriment to nearby properties:** Yes No

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair JIM CONDON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member MICHAEL CIACCIO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reasons: The current neighborhood consists of primarily single-family dwellings. Many properties on Franklin Street have homes similar in size to the one proposed on similar size lots. These existing homes, as well as the two nearby multi-family dwellings, were constructed prior to code requirements. The three-family dwelling at 810 Franklin Street is located on 1.1 acre and was built pre-zoning code. The Mirbeau construction referenced at the intersection of Franklin Street and West Genesee Street, does not justify the applicant’s proposal as it is part of a larger project. However, Mirbeau is an established commercial property immediately west adjacent to the lot with multiple short term rentals only 200-300’ south of this parcel. The current Mirbeau construction consists of five 900-1000 sq. ft. single-family homes each on 0.21 acre lots that will be 50’ wide and 150’ deep. The total Mirbeau addition will consist of 21 rentals. The small two-family home that is proposed will not increase traffic or congestion on this street; neither will it bring crime into the neighborhood. The discussion of the Village character meeting with the Town zoning code in the transitional area where this parcel is located is arguably not relevant to the application at this time and should be addressed in future updates to the existing code. In reviewing an orthoimagery map of the Town of Skaneateles the lot is located in a residential peninsula within the Town

while the homes reflect the character of the surrounding Village. The Village boundaries are directly west adjacent to the parcel, merely four houses south, with segments east across the street at the Highland intersection. The proposal is consistent with Goal 4 of the Comprehensive Plan, “Encourage gateway enhancements and the extension of higher density mixed use and walkable neighborhoods with a diversity of housing types to these areas immediately adjacent to the Village development patterns.” Goal 4 also states, “Encourage a diversity of housing types, especially those that serve the needs of young families and senior citizens.” This particular establishment with its single-family character and design will fulfill these needs. The proposed plan is consistent with Zoning Code: 148-1C(8) “To integrate different types of housing and different kinds of land uses in traditional village and hamlet centers in order to encourage social and economic interaction and pedestrian activity and to reduce unnecessary automobile traffic.” 148-1C(9) “To provide a range of affordable housing opportunities for all segments of the local population with due consideration for regional housing needs.” And 148-1C(16) “To provide a flexible system of land use regulation that enables the Town to grow, while preserving its most important natural, historic, architectural and cultural features.”. The proposed two-family dwelling will be an improvement to the neighborhood as a longtime vacant lot will be developed in keeping with the character of the area.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:

Yes No

Reasons: The lot is nonconforming in size to allow for a two-family home. The required lot size is 4.0 acres in the RR District, whereas the property consists of 0.44 acres. All other code requirements are in compliance including setbacks, ISC and Open Space. The applicant would not require a variance to build a single-family home, however due to the high cost of the property in the Town and the development of the lot, making this a small two-family dwelling is most feasible.

3. Whether the requested variance is substantial:

Yes No

Reasons: The variance requested is substantial as a 4.0 acre site area is required for a two-family dwelling to be constructed in the RR District. While this may be excessive, the site area for the proposed two-family dwelling is only 0.44 acres and an on-site septic system will be required as there is no access to public sewer. The applicant has referenced Zoning Code 148-11K(3) regarding multi-family dwellings, this portion of the code is not applicable as it pertains to major projects that entail multiple homes and required open space land. However the property is not within 200 feet of Skaneateles Lake, it is not within the watershed, nor is it located near a wetland or watercourse. This parcel is part of a residential peninsula that is immediately adjacent to the Village, where there are currently rental homes being constructed on a neighboring property. Code requirements for this property are being met; road frontage requires 150’ where plans show 150’, front yard setback requires 25’ where 30’ is reflected, side yard setback requires 30’ where 45’ is shown, rear yard setback requires 25’ where 28’ is proposed, maximum impermeable surface coverage is 15% where 13.7% is proposed, and 80% open space is required where plans reflect 84.7%. Onondaga County Planning Board requested the ZBA make contingencies for Site Plan Review and septic approval from OCHD if the variance is granted. The proposed two-family dwelling consists of 1,888 square feet, where a variance for a single-family home of the same size was previously approved in 2018 but not constructed. The home is designed for applicants looking to downsize and stay in the area or young families who need an affordable place to start out in the Town. There is a strong demand for this type of housing in the community and it would create a smooth transition between the Town and the Village. Any builder would construct a home of equal size on this lot and the dwelling will be an improvement from the current undeveloped vacant lot. This will not be a detriment to the community as the 4 acre requirement is not intended for the proposed use of this property. As per code sections 148-45A and 148-45H the ZBA “may,
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in conformity with the provisions of this chapter, reverse, affirm or modify, wholly or in part, the order, requirement, decision, interpretation or determination of the administrative official in accordance with the provisions of this chapter.”

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Yes No

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair JIM CONDON	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member MICHAEL CIACCIO	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Reasons: The topography of the property is difficult as it is located on a hillside with runoff coming from an immediately west adjacent property continuing down the substantial slope toward the road. Paving the proposed driveway could exacerbate the runoff issue. The property is not located within 200 feet of Skaneateles Lake, it is not within the Lake Watershed Overlay District, nor is it within close proximity to a watercourse or wetland area. Currently the overgrown empty lot creates muddy runoff as the runoff from the neighboring property owned by Mirbeau flows through the undeveloped lot. However a new storm-water management system is being implemented during the current construction of the Mirbeau property and the applicant will follow small scale storm-water management guidelines to improve the runoff from the property and eliminate flooding. New plumbing will make efficient use of water putting less stress on a septic system and the environment. The septic system is required to be in compliance with and approved by the Onondaga County Health Department, who has approved many similar septic systems for rental properties on small lots around the Lake with no known issues. There is no compelling evidence allowing a multi-family dwelling would introduce crime or bad neighbors into the community. There are currently several multi-family homes in the neighborhood, as well as near the elementary schools and there has been no record of increased crime in those areas as a result of the multi-family homes. A bad neighbor could purchase the home as easily as a bad renter could become a tenant in the home, therefore that argument does not have a place in these proceedings. In accordance with the Comprehensive Plan, “the goal is to provide for incremental growth through a logical extension of the Village’s traditional street and sidewalk network to neighboring parcels in the Town”, the proposed plan would accomplish said goal. The proposed plan will include a turnaround in the driveway to ensure traffic safety and the development of the vacant lot will enhance both the character of the neighborhood and the environment.

5. Whether the alleged difficulty was self-created: Yes No

Reasons: Due to the need to make this investment feasible.

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

WHEREFORE a motion was made by Vice Chair Condon 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 prepared by Janice Miller, Licensed Architect, dated August 17, 2018, submitted by the Applicant must be approved by the Town of Skaneateles Planning Board, depicting the location of the two-family dwelling, and that the Site Plan be followed in all respects, and shall always be complied with.
2. The Applicant provide septic system plans approved by the Onondaga County Health Department, to be followed in all respects.
3. The Applicant will follow Small Scale Storm-water Management Guidelines as provided by the Town of Skaneateles.
4. The Applicant will include landscaping and a planting plan along the driveway to protect the septic system and leech fields, ensuring there will be no vehicular traffic on the septic system.

<u>Record of Vote</u>			
Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Present	[Yes]
Member	David Palen	Present	[No]
Member	Kris Kiefer	Present	[Yes]
Member	Michael Ciaccio	Present	[Yes]

Other Board Business

Member Kiefer asked for clarification with regard to the upcoming site visit, after reviewing section 148-29D wetland and watercourse setbacks, the code references no principle or accessory structures within the 100 foot setback. However in the definitions there are various definitions for solar structures, would the solar structures fall within the principle or accessory structure category. Clerk Barkdull stated the solar array is considered an accessory structure and because it is larger than 600 square feet the variance is required, if the structure were 599 square feet no variance would be required. Vice Chair Condon asked if the footprint is simply considered the 11 steel posts. Clerk Barkdull clarified the panels are included when considering the structure even though they are not on the ground, and there is no roof, giving the like example of a car port.

Member Kiefer asked if there was a way to request an analysis the structure would not adversely affect the watercourse. Clerk Barkdull referenced the recent approval for the Gump variance which was the exact same rule, and stated within the past 10 years the request for watercourse setbacks have been some of the most popular granted and it seems as though a 50 foot setback is typically approved. Vice Chair Condon asked if it would be possible to ask the applicant for the MSDS for the product, listing any kind of hazardous materials. Clerk Barkdull answered yes, that could be easily found. Member Kiefer reminded, the Gump variance was for side yard and rear yard setbacks, stating his concern was about the safety for the watercourse which was considered for the Drake application with the runoff from the driveway extension. Clerk Barkdull, supported by Counsel Molnar, stated the solar array is a structure as our code defines a structure as anything man made affixed to land. Counsel continued there is a policy statement specific to what structures are or are not (playsets and pergolas) required to be reviewed. Chair Rhoads asked for clarification that the setback for this application is for a watercourse and not a Federal wetland. Clerk Barkdull confirmed yes. She then informed the Board four months ago the Planning Board approved the construction of a new home on the 9 acre parcel north adjacent of the applicant's property, describing the layout of the proposed home with the entrance located on O'Neil Lane.

Vice Chair Condon asked about the status of the Town's plans for installing solar panels at the Transfer Station. Member Ciaccio stated the plans have been altered because the numbers weren't lining up. Clerk Barkdull confirmed what Member Ciaccio said, adding the Town has downsized the plan as there was an issue with accessing power through National Grid. Counsel Molnar explained it was going to be very expensive to convert the power being generated and put it back into the grid, currently the infrastructure to support that is not accessible nearby. Clerk Barkdull said the project has been approved but there are not dates for the progression.

There being no further Board business, a motion was made by Vice Chair Condon and seconded by Member Palen to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 7:58 p.m.

Respectfully Submitted,
Kim Benda