

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF
January 5, 2021**

Present:

Denise Rhoads
David Palen
Kris Kiefer
Dave Lee
Sherill Ketchum
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk
Kim Benda, ZBA Clerk

The meeting commenced at 7:00 p.m. at Town Hall via Zoom. The next Zoning Board of Appeals meeting will be held on February 2, 2021 at 7:00 p.m.

New Board Members

Chair Rhoads and the Board welcomed new ZBA Members Dave Lee and Sherrill Ketchum, Member Ketchum has served the ZBA before. Member Lee and Member Ketchum were appointed to the ZBA in December 2020.

Minutes

Previous distribution to the Board of the regular meeting minutes of December 1, 2020 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 December 1, 2020 minutes as amended per Member Keifer's request. The Board having been polled resulted in unanimous affirmation of said motion. Member Lee and Member Ketchum were recused from the vote.

Record of Vote

Chair Denise Rhoads	Present [Yes]
Member David Palen	Present [Yes]
Member Kris Kiefer	Present [Yes]
Member Dave Lee	Present [Abstain]
Member Sherrill Ketchum	Present [Abstain]

Member hours for the present Board members were requested and submitted for those who attended in the month of December 2020 via email.

Board Business

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member Kiefer to appoint ZBA Member David Palen as Vice Chair of the Zoning Board of Appeals for the year 2021. The Board having been polled resulted in unanimous affirmation of said motion.

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Ketchum to retain Attorney F. Scott Molnar as legal counsel for the Zoning Board of Appeals for the year 2021. The Board having been polled resulted in unanimous affirmation of said motion.

Public Hearing

Applicant: Edward & Christine Szemis
1682 Amerman Rd
Skaneateles, NY 13152
Tax Map #063.-04-05.0

Present: Bob Eggleston, Architect
Chris Szemis, Owner

Chair Rhoads described the proposal for the removal of an existing cottage and shed, then construction of a new seasonal 2-bedroom cottage on a preexisting nonconforming lot within the LWOD. Variances requested are for minimum lot size and minimum lake yard setback. Bob Eggleston, Architect, stated the Szemis family has owned the existing seasonal cottage for a number of years, it is on an 11,542sq.ft. lot with 100ft. of width. Most of the lot has a 20% slope, there is a 32ft. cliff at the east end. Existing is a 963sq.ft. 2-bedroom cottage, plus the deck. Currently there are 6 total nonconforming aspects to the property:

1. The lot is under 20,000 sq. ft. triggering a variance for anything other than a shed or small deck installation, as the lot is 11,542sq.ft.
2. The existing cottage has a lake yard setback of 38ft. where 60ft. is required.
3. The north side yard setback is 6ft. where 20ft. is required as it is 20% of the 100ft. lot width.
4. The ISC is 24.2% where 10% is required.
5. The open space is 64.7% where 80% was required, now this is considered total surface coverage which is 35.2% whereas 20% is allowed.
6. The building footprint is 6.7% where 6% is allowed.

Mr. Eggleston stated the existing cottage has a very nice paint job as the Szemis's have maintained the property well, however the cottage has soft spots and holes in the floor and requires major work to maintain itself. The Applicant and Mr. Eggleston debated repairing the cottage to extend its life another 20 years versus rebuilding to make a durable structure that is more appropriate for a longer period of time. Mr. Eggleston explained the 2-bedroom seasonal cottage is currently served by a holding tank, which is an undesirable situation as it requires frequent pumping. Mr. Eggleston determined it made the most sense to redevelop placing a conforming cottage in the south east corner of the property as the new location will allow for compliance with the south side yard setback requirement of 20ft. The proposal will maintain the required 25ft. roadway setback from Amerman Rd. The deck is allowed to encroach up to 8ft. where 4ft. is proposed on the south side of the dwelling, it then wraps around the west side and becomes a 10ft. deck toward the lake on the north side. The proposed living space is under the allowed 10% at 9.5%, which is an increase from the existing 8.3%. Allowed is 1,152sq.ft. of living space where 1,100sq.ft. is proposed. The preexisting nonconforming footprint of 6.7% will become conforming at 5.9%. An existing shed will be eliminated. The preexisting cottage has a lake yard setback of 38ft. where 60ft. is required, this application requires a lake yard setback is 100ft., the site plan reflects a deck 50.6ft. off the lake line at the closest point and the house itself will be over 60ft. from the lake line. The ISC will be reduced from 24.2% to a conforming 10%. Mr. Eggleston reviewed the site plan reflecting the areas that are to be converted into permeable surfaces from impermeable. The addition of a 6' x 15' bioswale is another environmental improvement to the property that will be engineered according to the Town's small scale stormwater management requirements. The bioswale will collect runoff water from the roof and parking area before filtering into the lake at the bottom of the cliff. The Applicant is working with Eric Buck, septic design professional, who is working with the County Health Department to install an engineered septic system. Mr. Eggleston reviewed the proposed location for the future septic system and noted the letter of pre-approval from Eric Buck/the County for a temporary 2,000-gallon tank that will become the pump chamber connecting to the leach fields once the existing cottage is removed.

Mr. Eggleston explained it is virtually impossible to meet the lake yard setback requirements because if the 100ft. lake yard setback were compliant while the 25ft. roadway setback was met, there would only be 5ft. of buildable conforming area left.

Member Palen asked where the holding tank would be located. Mr. Eggleston indicated where the holding tank would be located to the left of the deck on the site plan, noting the tank will be conforming in setback at more than 50ft. from the lake line. Mr. Palen inquired about the tentative approval from the County for the proposed septic plan. Mr. Eggleston verified, yes, the letter was on file.

Member Kiefer asked for clarification on the number of nonconformities Mr. Eggleston discussed during the meeting versus the Narrative that was provided in the application. Member Kiefer listed 4 nonconformities, 3 becoming conforming and 1 being improved provided in the Narrative. Mr. Eggleston stated the open space was 64.7% where 80% was required, the proposal is for, what is now referred to as total lot coverage as of January 1, 2021, to become conforming at 19.9% where 20% is allowed, and apologized for overlooking that in the Narrative. The other nonconformity that was not included in the Narrative is regarding lot size in that it is less than 20,000sq.ft. Member Kiefer asked if any variances would be required to rehabilitate the existing cottage. Mr. Eggleston stated he understood there would not be any variances required to rehabilitate the existing cottage and he questioned if a site plan review would be required. Mr. Eggleston listed the number of environmental improvements that would not be completed if the redevelopment did not take place as there would be no incentive. Member Kiefer reviewed that aside from the lot size variance, 4 out of 5 nonconformities are being brought into conformance, and the remaining nonconformity requiring a variance is being improved with substantial mitigation. Mr. Eggleston confirmed that is correct.

Chair Rhoads asked if there was anyone who would like to have the Public Hearing Notice read. No one spoke. The Board Members have conducted a site visit to the property. Counsel Molnar recommended the application be classified as a Type II action under SEQR review, not subject to further review.

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Kiefer 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 affirmation of said motion.

At this time Chair Rhoads asked for a motion to open the Public Hearing.

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

Chair Rhoads opened the public hearing giving the public an opportunity to make comment. John & Elizabeth Formoza, 1678 Amerman Rd., residents who have lived at this property for over 40 years. Mr. Formoza stated he sent a letter in opposition to the proposal December 23, 2020 and remains in opposition of the changes to the immediately adjacent property. The Formoza's believe excavating based on the location with a 20ft. setback to their property line where 30ft. is required will impact their property. The existing structure is grandfathered so they are opposed to any change in location for the structure as the runoff would change and be redirected in an unwanted direction. Excavating near the cliff will change the structural and geological integrity of the cliff which consists of shale. Clerk Benda read the letter dated December 23, 2020 from the Formoza's to the Board for the record, it is on file with the application.

Chair Rhoads asked if anyone else would like to speak at this time. No one spoke. Member Ketchum stated at this time she would recuse herself from voting on the determination of this application. Chair Rhoads asked if Member Lee would prefer to recuse himself from voting on this application as well. Member Lee stated he had studied the application and conducted a site visit, he felt he understood the proposed project and would feel comfortable voting.

Mr. Eggleston requested the opportunity to address the Formoza's comments. Chair Rhoads gave permission to do so at this time. Mr. Eggleston appreciated the Formoza's taking the time to submit a letter. He stated relative to the encroachment on their property, a 30ft. setback is the requirement for a conforming lot that is 2 acres, he referenced former §148-12G which allows a nonconforming lot to have a side yard setback of 20% of the lot width which is 100ft. on this property. The proposed 20ft. setback is conforming and does eliminate an existing nonconforming side yard setback of 6ft. Mr. Eggleston addressed the Formoza's second concern regarding drainage and constructing the foundation, and although this is more of a Planning Board concern the ZBA has been provided with information breaking down the construction sequence and erosion control plan. The City of Syracuse has reviewed the construction sequence and erosion control plan as they are very protective of the lake when a project is proposed in the LWOD, the City had no comment regarding the application. With the installation of the bioswale, it will greatly improve a situation where there is currently no control of the water runoff/drainage. In the construction sequence, pg. 2 of the Narrative, the first step is putting up sediment logs and a silt fence in 3 different areas. The second step in the construction sequence is the installation of the bioswale. John Camp, Town Engineer, prefers this happens early in the construction process so any stormwater coming in during construction can be directed to the bioswale to filter and clean the runoff before depositing the water to the bottom of the cliff to eliminate erosion. These steps are taken prior to excavation, during construction there is an 8-step sequence that will be followed to control erosion during construction.

Mr. Formoza voiced concern with the bioswale being so close to the property line, once the construction is complete, he is concerned the water will be diverted to his property even though a bioswale will be installed. He stated he is experienced with water, understands water diversion, and has a grave concern based on the slope and history of the property that water will run onto his property.

Mr. Eggleston addressed this concern and directed everyone to review pg. 2 of 4, the grading plan on the site plan, depicting the proposed bioswale. The grading plan supports the fact that the grading will not direct water to run toward the Formoza property, it will direct water to the bioswale and away from their property. Bioswales have been used per the Town for the past couple of years, the PB and Engineer Camp have been satisfied with their ability to treat stormwater runoff. Mr. Formoza questioned the erosion of the bioswale, resulting in the deposit of silt in runoff and ponding of water. Mr. Eggleston referenced the proposed bioswale in the site plan and stated the review would fall in the per view of the PB, unless the ZBA had questions about the engineered grading plans before them. Chair Rhoads asked if this proposal had been reviewed by Howard Brodsky, Town Planner. Clerk Barkdull stated she was not certain but would look for his review, Engineer Camp had reviewed this proposal to date. Vice Chair Palen asked if these are questions the Formoza's could take to the PB. Mr. Eggleston answered yes, then reviewed comments he had received from Howard Brodsky. Vice Chair Palen asked if the PB had done a site visit in addition to the Initial Review. Mr. Eggleston stated the PB had conducted individual site visits of the property and will be meeting again in 2 weeks. Member Kiefer sought confirmation that this matter would be addressed during the PB meeting in 2 weeks. Counsel Molnar confirmed that to be correct.

Member Kiefer asked the Formoza's to elaborate on the past water/drainage issues they had referenced, asking if this is an issue where the water comes from the Szemis property onto the Formoza property. Mr. Formoza stated during large rain events they have experienced water flowing onto their property from adjacent properties. He continued, the proposed structure will direct water to his property, the bioswale

will erode, and where the drainage is proposed will become part of the Formoza property within 10 years. Mrs. Formoza stated she is strongly opposed to the application and is very concerned, there should be water direction studies done regarding this application. Mr. Formoza questioned if an environmental impact study had taken place for this application. Mrs. Formoza stated the area is shale and when shale is disturbed it becomes unstable so there is no guarantee what will happen as they have witnessed parts of the cliff fall off. Mr. Formoza stated the Applicant can build on the existing foundation as it is grandfathered in, any changes to the Applicant's property would result in changes to his property and impact them long term.

Mr. Eggleston stated he respects the opinion of the Formoza's however they did not provide any contradictory engineering reports. Mr. Eggleston noted the undeveloped farm property across the road acknowledging the amount of water that comes from that property across the road. He stated, when there is an issue with water coming from the road, neighbors get together to make a plan to mitigate the issue as all the properties experience water coming from the road. Currently the topography supports the fact that minimal water, if any, flows from the Szemis property onto the Formoza property.

Chair Rhoads polled the Board to see if they would like to proceed in reviewing the five criteria or continue the public hearing to the February meeting. Member Ketchum recused herself from the vote this month with the potential to vote at the February meeting if the hearing is continued. Vice Chair Palen stated he had no problem moving forward. Member Lee asked the Formoza's if the trees along the property line were primarily on their property or the Szemis property. Mr. Formoza stated he believed they were on the Formoza property as his wife's mother planted them more than forty years ago. Member Kiefer inquired about the various neighboring properties with construction underway, asking whether or not there was any issue on those properties with impact on the shale, cliff, water drainage, bioswales, or anything related to that. Clerk Barkdull confirmed all the neighboring properties undergoing new construction have a requirement for a bioswale, that is consistent on anything the PB has reviewed. Clerk Barkdull stated there have not been any comments on the shale, heavy drainage issues, or anything on that order that was brought to the attention of the PB. Vice Chair Palen sought confirmation there was no need for variances in the area. Clerk Barkdull stated that is correct, sometimes the Applicant can design without the requirement of a variance even though the PB reviews the application, and drainage is a serious consideration which is why the development of the bioswales is so important. Member Kiefer stated he was prepared to move forward.

Chair Rhoads stated in light of one member recusing themselves from the vote this month, the Board will continue the determination to the February ZBA meeting. Counsel Molnar reminded the Board if they are to close the public hearing at this meeting, they are allowed 62 days to reach a determination, if the Board chooses to keep the public hearing open, they will be required to re-open the hearing at the February meeting and accept additional comments at that time. Counsel Molnar suggested the Board reach out to John Camp, Town Engineer, between this meeting and the February meeting to directly obtain his analysis and conclusions after reviewing the application materials from the Applicant. Chair Rhoads stated it would be helpful to receive information from the Town Engineer prior to proceeding with the five criteria.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Member Kiefer to continue the public hearing on *Tuesday, February 2, 2021 at 7:02 pm*. The Board having been polled resulted in unanimous affirmation of said motion.

Chair Rhoads asked that the Board review the analyses provided by John Camp and Howard Brodsky before the February ZBA meeting. Mr. Eggleston asked that the Board request a written review from John Camp relative to drainage and erosion control. Counsel Molnar stated Engineer Camp has not submitted a written review as his current analysis is verbally on the record from the PB meeting, if a written summary

is preferred it would need to be requested or ask him to attend the next ZBA meeting to provide comments via Zoom. Vice Chair Palen stated written or in person review is acceptable. Member Kiefer would prefer a written review.

WHEREFORE, a motion was made by Member Kiefer and seconded by Vice Chair Palen to request a written evaluation of the water drainage and erosion control plan for the Szemis application from Town Engineer, John Camp. The Board having been polled resulted in unanimous affirmation of said motion.

Member Ketchum and Mr. Eggleston agreed to schedule a site visit of the property at their convenience to prepare for the February ZBA meeting.

Other Board Business

Counsel Molnar suggested the Board address an email from Architect Bob Eggleston requesting the extension of an active area variance for David Meunier/SSPP1 LLC, at 4545 Jordan Rd, prior to entering an attorney advice session. Chair Rhoads asked if this was the extension the Board was made aware of in the afternoon the day of the meeting. Counsel Molnar confirmed yes, the actual variance does not expire until March 2021, it would make sense to place this on the Agenda for the February meeting, so between this meeting and the next if a more formal request is required it can be submitted for review by the Board and they can entertain the extension request at the next ZBA meeting. Vice Chair Palen asked which particular variance the extension is being requested for. Mr. Eggleston explained it is the 8 brick townhouse units located in Skaneateles Falls that were abandoned, a variance was granted to begin redevelopment. When the application came before the PB there was a delay with a question about the condominium nature to the units as opposed to a multiple family apartment. There have been a few PB issues to deal with, including the joint septic system with neighboring properties. It was to be discussed with the involved property owners and has been delayed as a result of COVID-19 as they have not been able to make contact with the owners to resolve the situation. Clerk Barkdull made the Applicant aware of the need to obtain a building permit within a year of the variance being granted, however the application is still in progress with the PB and not able to obtain a building permit before the variance expires. Vice Chair Palen recalled the application, and thanked Mr. Eggleston for his review.

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Ketchum to schedule a variance extension review for the David Meunier/SSPP1 LLC variance at 4545 Jordan Rd. Skaneateles Falls, NY *Tuesday, February 2, 2021 at 7:10 pm*. The Board having been polled resulted in unanimous affirmation of said motion.

WHEREFORE, a motion was made by Chair Rhoads and seconded by Vice Chair Palen to enter an Executive Session to receive attorney advice at 7:59 pm. The Board having been polled resulted in unanimous affirmation of said motion.

The Board returned from Executive Session at 8:30 pm.

Chair Rhoads reminded the Board to submit the hours Members log reviewing applications and attending meetings to Clerk Benda monthly. She also reminded the Board they are required to complete 4 hours of training annually and to submit verification of attendance to Clerk Benda.

There being no further Board business, a motion was made by Member Ketchum and seconded by Member Kiefer to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:34 pm.

Respectfully Submitted,
Kim Benda