

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

January 14, 2014

Present:

Denise Rhoads
Jim Condon
Steven Tucker
Sherill Ketchum
Scott Molnar, Attorney
Karen Barkdull, Secretary
Dennis Dundon, Zoning Officer

The meeting commenced at 7:00 p.m. at Town Hall. Site visits for current applications will occur on Saturday January 18, 2014 beginning at 9 a.m. James Condon was nominated for the Vice Chair vacancy.

WHEREFORE a motion was made by Chair Rhoads and was seconded by Member Ketchum, to appoint James Condon as Vice Chair for the Zoning Board of Appeals. The board having been polled resulted in favor of said motion. Member Condon abstained from the vote.

The 2014 Zoning Board of Appeals Meeting Schedule was submitted for approval.

WHEREFORE a motion was made by Member Condon and was seconded by Member Tucker, to approve the 2014 schedule for the Zoning Board of Appeals. The board having been polled resulted in favor of said motion.

Initial Review

Applicant: Kevin & Michelle Swindell
312 2nd Street
Solvay, NY 13209

Property:
4880 NW Townline Road
Skaneateles, NY 13152
Tax Map #020.-03-03.1

Present: Kevin Swindell, Applicant

The applicant would like to construct a 24'x24' addition to an existing attached garage located 36.1' and 39'1' from Northwest Townline Road. The applicant is currently constructing an addition to the dwelling as he and his family has the intention to move into the dwelling to provide care for his father. The expansion of the garage, with separate access driveway would be for the applicants use. NYSDOT has conceptually approved the driveway access to the proposed addition in their correspondence dated November 12, 2013. A site visit will be conducted on January 18, 2014.

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Tucker to schedule a Public Hearing on *February 4, 2014 at 7:10 pm.* The Board being polled voted in favor of said motion.

Public Hearing

Applicant: Neal Houser
403 NW Briarcliff
Kansas City, MO 64114

Property:
2520 Wave Way
Skaneateles, NY 13152
Tax Map #054.-04-05.0 & 054.-05-08.2

Present: Robert Eggleston, Architect; Richard Lynch, Attorney

No one requested to have the public notice read. The City of Syracuse Water department had no comments in their correspondence dated November 26, 2013. Members from the Board have visited the site on December 14, 2013 and January 14, 2014.

The Houser two lot property is 44,791SF divided by Wave Way that had an existing boat house structure with a deck on the roof with an unregulated metal framed canvas temporary roofing for summer shading. A year ago a permanent roof structure was constructed and at that time the contractor had misinformed the applicant on the need for approvals and permits. The gazebo structure is 24SF smaller than the metal frame, reducing shoreline structures from 1474SF to 1450SF. The height of the gazebo is 20'7.5" above high water, with the prior metal frame 19' 1.5", and requires a variance over the 12' maximum height allowed. The project is classified as redevelopment for the impermeable surface coverage of 14.5%.

Member Condon commented that the variance requested is for 8' 7.5" and not 18" above the unregulated metal structure that was in place prior to the new wooden structure. Mr. Lynch stated that if the variance was granted the actualized roof height difference is only 18" higher than the metal structure it replaces.

Chair Rhoads commented that due to the applicant making this a gazebo; it triggered the requirement for a special permit for redevelopment. Mr. Eggleston commented that from the site visits of the two Boards, it was noted that the Cottrell survey did not accurately calculate the impermeable surface coverage for the lot with the exclusion of the slate walk and framed walk and steps. These areas are not properly spaced to allow permeable classification. With the granting of the variance approval these areas will be modified to comply with the permeable guidelines. Mr. Lynch stated that the approval of the gazebo will provide an attractive structure that will provide shelter from the elements for the applicant and not be a detriment to the neighborhood as it will not encroach further on the lake, it is not significantly larger, will not affect the water supply and there will be no subsurface leakage problem. Member Condon stated that comprehensive plan has to be considered for an area variance. 148-36D clearly states that the maximum height allowed for the proposed structure is 12' above the lake line. Mr. Lynch stated that the structure complies with all of the zoning code with the exception of the height of the structure. The gazebo structure is replacing the prior metal frame structure and the applicant is not introducing any new structure near the lake line.

Member Tucker stated that the proposed structure is 18” taller than the metal and canvas structure and now does block part of the neighbor’s lake view. Member Condon inquired whether the property was seasonal. Mr. Eggleston stated that the dwelling is year round however the applicant uses the property seasonally.

Member Ketchum stated that most applications that the Zoning Board of Appeals reviews are for proposed projects and the gazebo was constructed without a permit or approvals. When a project is proposed the Board can work with the applicant to reduce the variance request to the smallest variance feasible, and with the gazebo constructed already, it made it difficult to help to reduce the variance requested. Mr. Eggleston stated that the option to reduce the height of the existing gazebo is possible for this application. He continued stating that there are other options for the applicant to pursue including the removal of the plywood from the top of the structure and thereby changing the structure to a pergola that is not regulated. Chair Rhoads inquired if the roof structure could be reduced by 18 inches in height. Mr. Eggleston stated that the roof could be reduced in height by 6 inches and that it would still require redevelopment approval from the Planning Board. Member Tucker inquired the lowest possible height of the structure that would still allow it to be functional for the applicant. Mr. Eggleston stated that the roof structure could be placed at the lower deck area and could probably comply with the 12’ height limitation. Mr. Lynch stated that there is a bank on one side of the gazebo that shields most of the structure from view. Member Tucker stated that although Mr. Lynch stated in his letter to the Board that the structure fits within the character of the community, there are no other structures on top of boathouses in the neighborhood. He continued stating that there would be little for the Board to do if others began placing structures on top of their boathouses that exceed the height restriction if this variance was approved, and in so doing it would change the character of the neighborhood. Member Tucker stated that his biggest concern was impact the height of the existing structure on the community. Mr. Eggleston stated that the neighbors in the area are in approval of the project. Member Tucker inquired whether the roof structure could be lowered. Mr. Eggleston stated that it could be reduced in height 18” making it no higher than the temporary structure by reducing the pitch of the roof.

Counsel Molnar reminded the Board that each application rises and falls on its own merits and precedence is not always set when approving a variance. This application is also for a special permit for redevelopment and is likely that the applicant would be making a monetary contribution of the Town’s Land and Development Rights Acquisition Fund. Counsel Molnar also stated that Elaine Tucker, wife of Mark Tucker and mother of Steven Tucker, works for Mr. Lynch in an administrative capacity that does not influence case representation or decision, therefore any conflict of interest for Mr. Lynch, Mark Tucker, or Steven Tucker.

Mr. Eggleston stated that Mr. Houser is amenable to reduce the height of the structure by 18 inches. Mr. Lynch inquired whether this could be made a condition of approval. Counsel Molnar acknowledged that it could be made a condition of the approval. Member Condon inquired about the structural integrity as it was constructed without a permit. Mr. Eggleston stated that any structural deficiencies and approvals would be addressed at the time of a building permit.

WHEREFORE a motion was made by Member Condon and seconded by Member Ketchum to declare this application to be a Type II action 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. There was no one who wished to speak in favor of the application. 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. Letters of support from four of the neighbors were submitted.

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Tucker 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:** No. The homes in the neighborhood have similar lake frontage and shoreline structure that include docks, decks, and patios. The structure is nicely constructed and is more aesthetically pleasing than the prior metal frame and canvas roof, as modified to reduce the height by 18 inches. Although the structure does exceed section 148-36D(1)(d) the structure is similar to the temporary structure and tucked into the embankment allowing minimal impact to the view shed of the neighbors. Member Condon stated that he felt it was an undesirable change to the neighborhood as it exceeds the height limitation of 12' as outlined in 148-36D(1)(d).

Record of Vote

Chair	Denise Rhoads	Present	[No]
Vice Chair	Jim Condon	Present	[Yes]
Member	Sherill Ketchum	Present	[No]
Member	Steven Tucker	Present	[No]

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** Yes. There are more feasible options for the applicant including relocation of the gazebo at the lower level on the deck structure, although the benefit of providing shelter for the applicant at the current location would not be available.

Record of Vote

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Present	[Yes]
Member	Sherill Ketchum	Present	[Yes]
Member	Steven Tucker	Present	[Yes]

3. **Whether the requested variance is substantial** No. The gazebo exceeds the 12' height limitation as outlined in the code. It also encroaches the shoreline and could cause a risk of degradation of the lake as it is located within 200' of the lake line. Chair Rhoads stated that the height variance is minimal as the gazebo will be at the same height as the prior metal and canvas structure and the structure build with quality materials and to NUS building code.

Record of Vote

Chair	Denise Rhoads	Present	[No]
Vice Chair	Jim Condon	Present	[Yes]
Member	Sherill Ketchum	Present	[Yes]
Member	Steven Tucker	Present	[Yes]

4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood;** No. The project will not have an adverse effect on the physical or environmental condition in the neighborhood.
5. **Whether the alleged difficulty was self-created:** Yes. The shoreline gazebo was constructed without a building permit or appropriate inspections.

WHEREFORE, after deliberating upon the five factors and drawing the conclusions set forth above, and based on the Board Members' site visits, discussions before the Board at the public hearing, and review of Application materials in the Board's file, the Board entertained a motion by Chair Denise Rhoads and duly seconded by Member Steven Tucker, recommending approval of the Variance requested on the basis that the benefit to the Applicant outweighs the detriment to the neighborhood or community. Upon a vote of all Board Members, recorded below, said motion failed to achieve the affirmative vote of at least 3 Members, as required by the Town of Skaneateles Zoning Code. Accordingly, said motion to approve the variance failed, and the Applicant's request for a Variance to build a Gazebo on top of the existing decked boathouse with a height of 19' 1.5" is denied.

Record of Vote

Chair	Denise Rhoads	Present	[Yes]
Vice Chair	Jim Condon	Present	[No]
Member	Sherill Ketchum	Present	[No]
Member	Steven Tucker	Present	[Yes]

Member Condon stated that the applicant can re-apply with a different plan under a separate application.

Public Hearing

Applicant: John Scott
605 Atwood Drive
Downington, PA 19335

Property:
1423 Thornton Heights Rd
Skaneateles, NY 13152
Tax Map #057.-01-28.0

Present: Robert Eggleston, Architect

No one requested to have the public notice read. The City of Syracuse Department of Water deferred comment until the OCDOH has approved replacement of the onsite wastewater treatment system design in their correspondence dated November 27, 2013. Members from the Board have visited the site on December 14, 2013 and January 14, 2014.

The applicant recently acquired the seasonal two bedroom cottage on an 8644SF lot on Thornton Heights Road. The lot width is 50' and any development of the lot will require a variance for lot size and lake frontage under the minimum allowed in the lake watershed overlay district. The applicant is proposing removal of the two porches, reconfiguring the interior layout; the bathroom will be moved to the north in a nook area where the shed roof will be raised, and installation of a lakeside porch. The existing dwelling is located 69.4' from the lake line with the proposed porch located 61.8' with steps 59.8' from the lake line. The building footprint will increase from 13.6% to 13.65% of the lot area.

A new septic system for the two-bedroom cottage will be installed and has received OCDOH approval with a letter being sent shortly. Although the septic system size will remain the same, the applicant voluntarily is replacing the system. Impermeable surface coverage will be reduced to 13.7% from 17.1%, requiring a special permit for redevelopment from the Planning Board.

WHEREFORE a motion was made by Member Ketchum and seconded by Member Tucker to declare this application to be a Type II action 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. There was no one who wished to speak in favor of the application. 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. Letters of approval from two neighbors were submitted.

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:** No. the cottage will remain on the same footprint with the new layout more functional for the applicant. The cottage aligns with other home in the area that there are small dwellings on similar sized nonconforming lots. The renovations to the lot will improve the aesthetics and be more in keeping with the neighborhood.

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. The size of the lot would require a variance for any proposed improvement. The applicant and their design professional have designed a proposed dwelling with minimal variances needed as the side yard setback, building footprint and lot coverage are in compliance.
3. **Whether the requested variance is substantial** No. The lot is nonconforming and any modification would require a variance. The building size remains the same with the building footprint increasing by 4SF. Two nonconforming porches are being removed. The proposed lake side porch will encroach only 7.6' closer to the lake front than the existing dwelling.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood;** No. The proposed modifications will have minimal soil disturbance and the applicant will be increasing the open space from 75.7% to 76.9% while reducing the impermeable surface coverage from 17.1% to 13.7%. The septic system will be voluntarily replaced and located further from the lake line. The applicant is also improving the aesthetics of the property enhancing the neighborhood.
5. **Whether the alleged difficulty was self-created:** Yes. Every effort has been made to comply with the zoning law and in the most feasible way.

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

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

Additional Condition No. 1 That the Site Plan 1 of 3 through 3 of 3 dated November 14, 2013, and the revised Narrative dated November 21, 2013, prepared by Robert O. Eggleston, Architect, be followed; and

Additional Condition No. 2 Onondaga County Department of Health ("DOH") approval of the septic system be received prior to demolition of the existing cottage; and

Additional Condition No. 3 The applicant shall comply with all conditions imposed by the Town of Skaneateles Planning Board in connection with issuance of the Special Permit and/or site plan approval; and

Additional Condition No. 4 An as-built survey be submitted to the Codes Enforcement Officer

with verification of conformance of completed project within (60) days of completion of the project.

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

Initial Review

Applicant: Tracy & Nancy Nolan
8400 Canyon Crossing
Latanya, TX 75226

Property:
1390 Thornton Heights Road
Skaneateles, NY 13152
Tax Map #057.-01-15.1

Present: Robert Eggleston, Architect

The property is located in Thornton Heights that consists of a small dwelling on an 11,947SF lot. The existing deck is on the north side of the cottage and the applicant would like to construct a second story deck above an existing pavers patio facing the lake and connecting to the existing deck to the north. The two large windows will be replaced with sliders to access the deck. The northwest corner of the proposed 10'x37.2' deck would be 98.5' from the intermittent stream. The proposed second story deck will extend 1 ½' further west than the existing pergola that will be removed. Variances requested are for the lot under 20,000SF in the LWOD and the 98.5' setback to the watercourse whereas 100' is required for the proposed deck addition. The drainage from the parcel runs parallel to the watercourse and drains into a road drainage channel rather than draining directly into the watercourse. A site visit will be conducted on January 18, 2014.

WHEREFORE a motion was made by Member Ketchum and seconded by Member Tucker to schedule a Public Hearing on ***January 14, 2014 at 7:20 pm.*** The Board being polled voted in favor of said motion.

Initial Review

Applicant: Dennis & Tracey McCarthy
1 Sachem Drive
Skaneateles, New York

Property:
3241 East Lake Road
Skaneateles, NY 13152
Tax Map #040.-01-08.0

Present: Dennis & Tracey McCarthy, applicants; Andy Ramsgard, Architect; Andrea Fabian, Architect

The applicant proposed the demolition of the existing nonconforming dwelling on the nonconforming .6 acre lot with 67.5' of shoreline. The proposed three bedroom dwelling with detached two car garage will conform to all setbacks, footprint and floor space regulations. The proposed impermeable surface coverage is 10% with proposed open space at 84.5%. The shared driveway will be eliminated and a separate driveway for this lot will be developed. A new septic

system for the three bedroom dwelling is proposed and being reviewed by OCDOH. The variances requested are for the nonconforming lot size under 20,00SF and less than 75' of lake frontage required. A site visit will be conducted on January 18, 2014.

Counsel Molnar inquired if the neighbor to the north has separate access to their property if the shared driveway were to be removed. Mr. Ramsgard stated that fire lane S runs along all of the properties and is a grassy turnoff for each of the properties. The turnoff is not clearly defined and each neighbor can provide for their own driveway. There are no easements provided to the neighbor to the north for access on the shared driveway. Member Tucker commented that they would need to be some assurances that the neighbor would not continue to use the corner of the property for access otherwise it would need to be considered impermeable surface coverage. Mr. Ramsgard stated that the applicant will be reviewing the proposal with the neighbors as part of the application process.

WHEREFORE a motion was made by Member Tucker and seconded by Chair Rhoads to schedule a Public Hearing on ***January 14, 2014 at 7:30 pm.*** The Board being polled voted in favor of said motion.

Discussion

Applicant: Dwight Perry & Alexandra Doyle
1812 Webster Street
Philadelphia, PA

Property:
1698 Amerman Road
Skaneateles, NY 13152
Tax Map #063.-04-01.0

The property owner would like to modify their approved deck with the inclusion of a 10'x24' covered porch on the deck. An area variance amendment will be required for any modifications to the deck approval.

Discussion

Planning and Zoning Staff Meetings will be scheduled approximately three months at a time at various times and days to accommodate the varied schedules of all members.

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There being no further business a motion was made by Member Condon and seconded by Chair Rhoads to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:50 p.m.

Respectfully Submitted,

Karen Barkdull

Karen Barkdull