

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF
March 3, 2020**

Present:

Denise Rhoads
Jim Condon
David Palen
Kris Kiefer
Michael Ciaccio – Absent
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk
Kim Benda, ZBA Clerk – Absent

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on April 14, 2020 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of February 4, 2020 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE, a motion was made by Member Palen and seconded by Vice Chair Condon to accept the February 4, 2020 minutes as submitted. The Board having been polled resulted in unanimous affirmation of said motion.

Record of Vote

Chair Denise Rhoads	Present [Yes]
Vice Chair Jim Condon	Present [Yes]
Member David Palen	Present [Yes]
Member Kris Kiefer	Present [Abstain]
Member Michael Ciaccio	Absent

Member hours for the present Board members were submitted for the month of February 2020. An email will be sent requesting the hours for Member Ciaccio.

Determination

Applicant: David Meunier/SSPP1 LLC
4545 Jordan Rd
Skaneateles, NY
Tax Map #018.-02-10.0

Present: Bob Eggleston, Architect
Romy Callahan, Realtor
Benjamin Garrett & Kaytlin Bell, Contractors

Chair Rhoads reviewed the remodel of an existing multi-family dwelling with the addition of off-street parking in front of the building on a pre-existing nonconforming lot in the hamlet district. Variances required are for density, 4 units/acre of buildable land is required whereas the request is for 8 dwelling units on 0.67 acres of buildable land, and 50% of the off-street parking is to be located in front of the building whereas the code requires the parking to be located to the side or rear of the principle building. The public hearing was opened at the January 7, 2020 ZBA meeting and continued to the February 4, 2020 meeting at which time the public hearing was closed. The Board had requested additional information from the Applicant before making a determination. Bob Eggleston, Architect, explained what

he thought had been a Phase I Environmental report Mr. Meunier had received at the time the property was purchased was actually an asbestos abatement report. Mr. Eggleston clarified there is not a Phase I report for the property at this time but the asbestos abatement report that was given to the Board is for both the woolen shed that sat in front of the condominiums before being demolished, as well as for the condominiums themselves. The report confirms all asbestos has been removed from the property.

Mr. Eggleston discussed the alternative proposal that was submitted to the Board, placing as many parking spaces behind the building as possible (12 total), while allowing room for the garbage dumpster and storage shed in back. The 4 remaining spaces in front of the building would be placed perpendicular to the driveway requiring as little additional pavement as possible, however a variance would still be required for the 4 spaces. Mr. Eggleston contacted Michael Baker, Fire Chief at the Mottville Fire Department, who reviewed both the original proposal and the alternative sketch from 2/4/2020. Mr. Baker preferred the original proposal because it allows full access to the building for fire apparatus on three full sides of the building, this was expressed in a letter he submitted to the Board.

Mr. Eggleston stated there has been continued collaboration with the neighbors effected by the septic improvements, Mr. Cotter (Parcel A) and Ms. Cowden (Parcel C). The Applicant has gone in front of the Town Board to initiate the process for the creation of a Waste-Water Disposal District to maintain the proposed shared septic system. Currently the shared septic system, which includes Parcels A, C, and E (the condominiums), is located on the Cowden property. The proposal is to create a new septic system located on Parcel E. A letter from Andy Watkins, dated Feb. 3, 2020, supports the possibility of a shared septic system on Parcel E with room for 100% expansion to accommodate all three properties if necessary. The Applicant is looking at giving each individual property their own new septic system located on their own lot, but is aware of the worst-case scenario where all three properties will have to share a septic system on Parcel E.

Mr. Eggleston reminded the Board of the email submitted by Mr. DeMarco regarding the property west adjacent to 4545 Jordan Rd. The Applicant contacted Mr. DeMarco about purchasing part of his property to increase the lot size from 0.67 acres to 2 acres, however Mr. DeMarco is not interested in selling any of his property at this time.

Mr. Eggleston pointed out Goal 3 of the Comprehensive Plan, calling for development in the northern hamlets with this proposal fulfilling multiple bullets in this section of Town goals. The proposal will achieve alternative housing in the hamlet area along Jordan Road, there is ample water available, a new septic solution is proposed, and the ultimate goal is to restore the townhouse style housing that existed on the property for over 100 years.

Vice Chair Condon asked Counsel Molnar if the lack of Phase I report has any effect on this application. Counsel Molnar answered the ZBA has determined this under SEQR as a Type II action in that its rehabilitation of the footprint will not change for more than three dwellings. The Planning Board is proceeding as Lead Agency under a coordinated review in any event to complete a full SEQR having classified the application as an Unlisted action. For these reasons Counsel Molnar stated the absence of a Phase I Environmental report will have no impact.

Vice Chair Condon asked if the Applicant would include plantings along the driveway to protect the proposed septic system from vehicles driving or parking on it. Mr. Eggleston stated that could be included in the proposal.

Chair Rhoads stated for the record in 2003 the property did receive variances and site plan approval; however, the variances were approved contingent upon the purchase of an adjoining piece of property

which is no longer a possibility. Mr. Eggleston responded that is correct, what the previous owner requested to purchase was the area along the road to fit 16 cars in the back with 4 cars parked in front of the building. At that time the proposal was for 10 units, which included handicap accessible units as the plan was for a multi-family dwelling rather than townhouses which do not require that accessibility.

At this time the Board reviewed the Five Criteria for the area variances as one variance concerning applicable sections of Town Zoning Code; Section 148-11K Supplementary dimensional regulations – Multi-family dwellings; and Section 148-32A(4)(a)[1] Off-street parking and loading – Design and layout. 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:

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

No by majority vote. The abandoned building is a multistoried structure that previously housed residential apartments. The renovation of a deteriorated building would improve the character of the neighborhood and would not be a detriment to nearby properties. As a result of the size of the structure on the 0.67acre lot, parking is limited both in front of and behind the building, whereas the parking in front of the building will have a 111’ setback to Jordan Road with landscaping to screen the parking. The Mottville Fire Department review of the site recommended the parking spaces be evenly divided between the front and back in order to preserve optimal access to the front and rear of the building and to allow for turn around space for firefighting equipment. The proposal to develop the existing eight-unit structure, currently located on a nonconforming lot of less than one acre is not objectionable, due to the inability of the applicant to acquire additional adjoining land. The proposal supports the Comprehensive Plan encouraging growth in the northern hamlets and adding a variety in housing types; as Goal 3 states “encourage the conversion of large older buildings, including barns and mill building, to apartments and small businesses.” Concern was expressed over a negative impact on the neighborhood regarding the number of occupants in the condominiums resulting in more noise in the hamlet neighborhood. A higher volume of traffic utilizing the easement roadway is also a concern, as the number of dwellings the access serves would increase from 4 to 12. Comment was also noted in the record that renovation of the project with fewer units than proposed would enhance the character of the neighborhood as the deteriorating structure is currently an eyesore and safety hazard to adjoining properties and the community. Granting a lesser variance would not be undesirable from a neighborhood character perspective.

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: No by majority vote. Due to the size of the existing structure and the relative size of the existing lot, there would be few feasible alternatives that would be viable both structurally and financially. The plans dated 2/4/2020 are most feasible for the applicant and most preferred by the

Mottville Fire Department. The variance requested for parking under §148-32A(4)(a)[i] allows access to the front and rear of the building, avoiding what could be a safety issue in the event of an emergency. The applicant tried to purchase an adjoining parcel of land to mitigate the lot size variance, however the current owner of that parcel is not willing to sell, therefore the only way to move forward with this proposal under current zoning laws is with the request for a variance for buildable lot size. There is an option to reduce the number of proposed condominium units, however it is not most feasible for the applicant to pursue, and it would still require a variance for a multifamily dwelling. Comment was also noted in the record that the applicant could have exhausted further alternatives to mitigate the variances such as reducing the number of condominiums proposed, in turn reducing the required number of parking spaces, reduction in the size of the building by removing a portion of the structure, or purchasing an adjoining parcel to increase the size of the buildable lot.

3. Whether the requested variance is substantial:

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

No by majority vote. The existing building is not located in close proximity to the lake, therefore there will be no impact upon the lake. The variances being requested are substantial however when weighing the negative against the positive, granting the variances would benefit the Town, applicant and community. Approving the variance regarding §148-56 “in no case shall the density for multifamily dwellings exceed four dwelling units per acre of buildable land”, whereas the site plan reflects eight dwelling on 0.67 acres of buildable land, will not create a negative impact. It is a preexisting structure on a preexisting nonconforming lot. The variance request allowing 50% of the proposed parking to be in front of the principal building violates §148-32A(4)(a)[i] requiring parking located behind or to the side of the principal building. This would be acceptable if granted as it allows access to the building mitigating safety concerns. Regarding §148-45, the ZBA shall grant the minimum variance necessary and adequate to allow an economical benefit use of the property, while preserving and protecting the character, health and safety of the neighborhood. By granting the variances the ZBA accomplishes the tasks of §148-45. Comment was also noted for the record that the variances requested are substantial as the density requested is much greater than the minimum requirement of 1 acre per 4-units in a multifamily dwelling, as well as 50% of the proposed parking spaces are located in front of the principal building

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Yes by 2 votes and No by 2 votes. No votes were cast with rationale that the granting of the variances will not have a negative effect or impact upon the environmental conditions of the neighborhood because: the building is currently abandoned in a deteriorated condition; and any work to return the structure to a useful purpose will have a positive effect upon the neighborhood, district and Town, the proposed project advances the creation of a Town Wastewater Disposal District or expanded joint septic system and has the potential to improve the environmental conditions of the neighborhood, as it would bring the septic up to code with a new system being installed with the approval of the Town and Onondaga County Health Department; and the creation of a stormwater management system, with the inclusion of two bioswales will have a positive impact on the environment. Also, it was noted in the record that impermeable surface coverage is below the allowed 50%, at 46.7%. Yes votes were cast observing: although the ISC is under the allowed 50%, there is a significant increase in the amount of impermeable surface coverage with the additional parking spaces proposed; there will also be an increase in the amount of traffic to the neighborhood; and for these reasons there is a concern there could be an adverse impact on the physical and environmental conditions in the neighborhood.

5. Whether the alleged difficulty was self-created: Yes, by unanimous vote.

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 Palen and seconded by Vice Chair Condon, that this application be **APPROVED** with standard conditions and additional special conditions:

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 Robert O. Eggleston, Licensed Architect, dated February 4, 2020, and Narrative dated, February 21, 2020, submitted by the Applicant must be used for this project and approved by the Town of Skaneateles Planning Board, with respect to the application for Site Plan and Special Permit.
2. Fulfillment of any conditions of the Planning Board, including items such as an As-Built survey of the property to ensure the conformances of any granted variances has been achieved.
3. Approval of the Town Board with respect to creating a Wastewater Disposal District for the property and surrounding properties which currently use the septic on the property, with a copy of approving documents being provided to the ZBA.
4. Installation of 6' shrubbery and ballards is required along driveway and parking area to deter parking on the grass area protecting the septic system and leach field.

RECORD OF VOTE

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

Public Hearing

Applicant: Ronald & Bonnie Scott
 1420 Thornton Heights Rd
 Skaneateles, NY
Tax Map #057.-01-11.0

Present: Ronald & Bonnie Scott, Owners
 Bob Eggleston, Architect

Chair Rhoads reviewed the applicant proposes construction of a new one-bedroom house on a 12,106 sq. ft. lot. Bob Eggleston, Architect, stated the 12,106 sq. ft. property is located on the west side of Thornton Heights Rd., not directly on the lake. Additionally, Mr. & Mrs. Scott own a cottage across the right-of-way, which has a separate tax map number as the parcel is not connected physically therefore the two properties cannot be joined. Mr. Eggleston explained the Applicant is looking at retirement and trying to consolidate, however making the cottage a year-round residence presents a number of practical

difficulties, so the Applicant is proposing construction of a small one-bedroom house on the vacant lot. The proposed dwelling conforms to required setbacks and ISC, the only relief necessary is for the nonconforming lot as §148-12G requires an existing nonconforming lot to be a minimum 20,000sq. ft. where the property is only 12,106sq. ft. A bioswale is proposed to capture runoff then slowly release drainage along the side of the house. Onondaga County Health Department has given approval for a septic system to be placed on the far west end of the property away from the lake. Parking will be located directly in front of the building immediately off of Thornton Heights Rd. The Planning Board is reviewing an application for the property for Site Plan Review.

Vice Chair Condon inquired if the stairs along the south side of the dwelling will be timber and stone construction. Mr. Eggleston answered yes. Vice Chair Condon asked if the Applicant could include something at the bottom of the stairs to prevent water from running across the road into neighboring properties. Mr. Eggleston agreed to runoff mitigation. Vice Chair Condon then asked if the Applicant would agree to keeping the driveway gravel as a condition to further mitigate runoff across the road. Mr. Eggleston stated that is agreeable to the Applicant. Vice Chair Condon reminded the Applicant that the walkout basement is to remain uninhabitable, there will be no bathroom or rental property added to the dwelling at a later date. Mr. Eggleston stated the Applicant understood.

Member Palen inquired about the water source. Mr. Eggleston explained the water will come directly from the lake, the adjacent property across the right-of-way has been tied to the vacant property by the Health Department who has approved water to be sourced directly to the proposed dwelling and then back feed to the existing cottage across the right-of-way. This system allows the residence to have year-round water, as the Applicant is looking to live in the dwelling year-round, and the cottage will have seasonal water. Mr. Eggleston noted there are a number of year-round homes on Thornton Heights Rd., including the house at the very south end of the loop road.

Chair Rhoads asked if anyone in the audience would like to have the public hearing notice read. No one spoke. A site visit of the property was conducted by the ZBA on Saturday, February 22, 2020.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Palen to consider the proposed action as a Type II SEQR action as per section 617.5(c)(11) and 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, asking if there was anyone who would like to speak in favor of the application, to speak in opposition or give any other comments. No one spoke. Letters in favor of the application were submitted by Bruce & Carol Parker, 1422 Thornton Heights Rd., Jim & Mary Fox, 1431 Thornton Heights Rd., Allison Miller, 1416 Thornton Heights Rd., and Steven Markley, 2214 West Lake Rd.

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

At this time the Board reviewed the Five Criteria for an area variance concerning applicable section of Town Zoning Code; Section 148-12G(1)(a)[1] Existing nonconforming lots. 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:** No. There will not be an undesirable change in the character of the neighborhood nor a detriment to nearby properties by granting the variance to build the 1,190 square foot one-bedroom single-family dwelling on the vacant lot. The setback will be in line with the adjacent properties. The neighborhood consists of mostly seasonal summer-homes and some year-round residences. While the buildable lot is relatively small, the proposed structure is also relatively small with the design in keeping with the surrounding structures. Impermeable surface coverage is within the allowed requirements.
2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** No. Any improvements or development on the lot would require a variance due to the nonconforming lot size. The proposal reflected by the Site Plan and Narrative, both dated January 23, 2020, is the most feasible for the applicant to achieve.

3. **Whether the requested variance is substantial:**

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSENT
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE PALEN	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

No by majority vote. The ISC is within the allowable limit, the dwelling is greater than 200' from the lake, and the character is in keeping with the neighborhood, therefore the requested variance is not substantial. It was stated the development of a dwelling structure on an unimproved lot in the LWOD is a substantial variance, however the applicant has proposed a small dwelling consisting of 1 bedroom and 1.5 bathrooms. The variances requested are the minimum possible on this preexisting nonconforming lot, mitigating potential stormwater runoff with a proposed bioswale along the west side of the dwelling, erosion control methods will be maintained during the construction process.

4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood:** No. There will not be an adverse impact on the physical or environmental conditions in the neighborhood as the plans should enhance the property. The proposed septic is located over 400 feet from the lake. The impermeable surface coverage is proposed at 9.3% where 10% is allowed, with permeable walkways and a gravel driveway reflected in the proposal. A bioswale and stormwater management plan are proposed to mitigate stormwater runoff toward the lake as a result of the slope of the property.

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

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 Palen, that this application be **APPROVED** with standard conditions and additional special conditions:

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 and Narrative prepared by Robert O. Eggleston, Licensed Architect, dated January 23, 2020, submitted by the Applicant must be utilized for the project and approved by the Town of Skaneateles Planning Board, with the fulfillment of any conditions included by the Planning Board.
2. The Applicant will provide a Foundation Only survey to the Codes Enforcement Officer prior to any further construction of the dwelling.
3. Stormwater management plan must strictly be followed at the base of the stairs along the south side of the dwelling to prevent stormwater runoff into the road toward the Lake.
4. The gravel driveway will remain gravel, not paved.
5. The basement will remain inhabitable and be utilized for storage only.

RECORD OF VOTE

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

Public Hearing

Applicant: Kenan 2012 Family Trust
3406 West Lake Rd

Skaneateles, NY
Tax Map #049.-02-04.2

Present: Bruce Kenan, Owner
John Langey, Attorney

Chair Rhoads described the proposal for the re-subdivision of an existing nonconforming 1.87acre lot into two (2) nonconforming lots. John Langey, land use/zoning attorney, stated the applicant is looking to obtain multiple variances to allow for the reconfiguration of the existing lots. The subdivision of the Town parcel will allow the lots to be tied to the Village parcels which are immediately north adjacent, each containing a main house or a boathouse. Counsel Langey noted the legal letter, dated February 17, 2020, that was submitted to the Board addressing the Five Criteria. The submission of the Area Variance Feasibility Study, as dated February 10, 2020, was noted by Counsel Langey as well. Both submissions conclude there will be no negative impact to the neighborhood if the area variances are granted. SOCPA determined there will be no adverse implications resulting from the granting of the area variances and deemed the application eligible to be acted on solely by the referring board.

Counsel Molnar stated, he and Counsel Langey had been in correspondence regarding the method in which the applicant will continue and complete the intention to create two (2) lots out of three (3) by tying the to be newly created Town lots with the existing sister Village lots to which they are adjacent. Counsel Molnar continued this was being considered from a legal standpoint even though this could be a condition of ZBA approval. Granting this variance is a very large request, however it could be mitigated entirely if the newly created lots are to be attached to adjacent sister lots in the Village. This proposal effectively creates two (2) lots out of three (3) even though each parcel will belong to a neighboring municipality and have separate tax ID numbers. Counsel Molnar stated the deeds the Applicant has presented, with additional language, will effectively complete the intention to create two (2) lots each consisting of a Town lot that is connected to a Village lot. Counsel Molnar reviewed a previous experience where the Planning Board required language/a deed tying together parcels physically separated by a right-of-way. Counsel Langey asked if this would require approval from the Town. Counsel Molnar stated yes, because often times a variance with approved conditions is held on a municipal basis, not often reviewed by parties in interest of the property (such as a potential purchaser), to the extent that the property would exchange hands, this would prevent any confusion whatsoever that the two parcels are tied because it would be in the County Clerk's land records as opposed to simply in the municipal records of the ZBA and Planning Board. Counsel Langey asked if this is an issue that should be addressed by the Planning Board. Counsel Molnar answered this is an important factor for the ZBA to address in its deliberation. Mr. Kenan was in agreement with the process.

Member Kiefer reviewed the process the Applicant will have to follow if the variance is granted with conditions, asking what the timeline is for all documents to be filed in order to complete the process. Clerk Barkdull stated there are 180 days to submit a map and 62 days for the map to be signed. Counsel Langey clarified the lot configuration once the process is complete. Vice Chair Condon asked if there will be easements in place to access the east property. Counsel Langey answered yes, this is the way the property currently functions.

Vice Chair Condon asked if the applicant has contacted neighboring properties to acquire more land in order to mitigate the lot size variance. Counsel Langey explained that is not an option as there has been a transfer of ownership on neighboring properties and they are being developed/improved. Vice Chair Condon stated creating a 4.3acre lot and 1.7acre lot will not allow for development of the 1.7acre lot without the demolition of an existing structure in order to maintain ISC requirements. Member Palen asked if the smaller lot is the boathouse property, understanding that was recently renovated. Counsel Langey stated yes, and the Board is correct on their observation. Vice Chair Condon inquired about a

condition stating there is no further subdivision of the properties. Counsel Langey stated the Applicant would not agree to that with the possibility of future zoning changes, however they understand any future developments would require review by the Town and/or Village ZBA and/or Planning Board depending on the proposal. Mr. Kenan stated he would not agree to a subdivision condition as it may deter a potential buyer. Vice Chair Condon sought confirmation that any redevelopment of the property would require review by a Board. Counsel Molnar stated so long as the lots are unified in ownership and tied in perpetuity you have cured whatever issue results from the creation of a nonconforming lot in the extent to which in the future they would seek to alter it the Applicant would have to obtain some approval, and it is not necessary to make that a condition. Vice Chair Condon asked if the Applicant would be required to come before the Town if they proposed a project on the Village lot and if the Applicant would be required to go before the Village if they proposed a project on the Town lot. Counsel Molnar stated not necessarily. Counsel Langey explained it would depend on the Town's regulations relative to the request as well as the Village's regulations relative to the request. Counsel Molnar explained the lots will be under the same ownership even though they are in dual municipalities, and that will never be severed so the properties can't be sold off and redeveloped. There will be dual jurisdiction, which has been experienced in the Town before.

Member Kiefer asked how the Board would be able to refer to the "Green" and the "Blue" lots indicated on page 4 of the Kenan land chronology survey dated 1/21/2020, and could the language say once the lots are unified, they are conforming. Counsel Molnar explained technically they are not because they are separated by municipal lines and have separate tax map numbers but are effectively managed by one owner and the Town lot will be unified in title with the immediately adjacent Village lot. That is how the lots would be described. Member Kiefer asked if it would be fair to say they are effectively conforming, in an effort to distinguish this from subsequent applications before the ZBA. Counsel Molnar stated the description that the creation of two (2) parcels out of three (3) starts the ball rolling in that the intended perpetual connection between the Town lot and its immediately adjacent Village lot is a mitigating factor which permits you to consider and grant a variance to create two nonconforming lots out of one which is arguably currently conforming. Counsel Langey stated another factor that plays to what your question was it that because this borders the Village, the Village's regulations for lot area are substantially more relaxed than the Town. Clerk Barkdull assured the Board if the Applicant were to make any modifications they would have to come before the ZBA and Planning Board. She stated if both lots were entirely in the Town one would be an extension of conforming where the other would still remain equally nonconforming, but that is not how the Town would look at it if the variance is granted.

Counsel Langey noted each of the Five Criteria has been thoroughly addressed in the Narrative and the Expert's report from the 2/10/2020 Feasibility study.

Chair Rhoads asked if there was anyone who would like the public hearing notice read. No one requested the notice to be read. A site visit was conducted at the property. Counsel Molnar recommended the Board classify the application as an Unlisted action subject to SEQR review under the Short Environmental Assessment Form, as it is a subdivision that does not fit comfortably in the criteria in the regulations as a Type II action.

WHEREAS, a motion was made by Member Kiefer and seconded by Vice Chair Condon, the Zoning Board of Appeals classified this application as an Unlisted action pursuant to 6 NYCRR617.5 subject to further review under SEQR. The Board having been polled resulted in unanimous affirmation of said motion.

The ZBA reviewed the SEQR **Part 1 of the SEAF** that was submitted by the applicant and determined Part 1 reflects accurate information. The Board reviewed **Part 2 of the SEAF**:

1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? Yes No
2. Will the proposed action result in a change in the use or intensity of use of land? Yes No
3. Will the proposed action impair the character or quality of the existing community? Yes No
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)? Yes No
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing Infrastructure for mass transit, biking or walkway? Yes No
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities? Yes No
7. Will the proposed action impact existing:
 - a. public / private water supplies? Yes No
 - b. public / private wastewater treatment utilities? Yes No
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources? Yes No
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? Yes No
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Yes No
11. Will the proposed action create a hazard to environmental resources or human health? Yes No

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Kiefer, the Board reviewed this application as an Unlisted Action, and after review of the SEQR short environmental assessment form, determined that the proposed action will not result in any significant adverse environmental impacts. The Board having been polled resulted in unanimous affirmation of said motion.

Chair Rhoads opened the Public Hearing asking if anyone in the audience would like to speak in favor, opposition or had any other comments. No one spoke.

WHEREFORE, a motion was made by Member Palen and seconded by Member Kiefer to close the Public Hearing. The Board having been polled resulted in unanimous affirmation of said motion.

At this time the Board reviewed the Five Criteria for an area variance concerning applicable section of Town Zoning Code; Section 148-9E Dimensional Table I. 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:** No. There will not be an undesirable change in the character of the neighborhood nor a detriment to nearby properties by converting the equivalent of three (3) parcels (two Village lots and one Town lot) to two (2). The Town parcel to be subdivided contains a garage/carriage house, chicken coop, and driveway. The existing Village parcels (not being subdivided) contain the main house, boathouse, and

secondary dwellings including a garage. Should the area variance be granted it will allow the 1.87acre Town parcel to be subdivided into two (2) lots, which will each be legally bound to an adjacent Village parcel. Legally this will functionally form two (2) lots total, each containing a single-family dwelling. There are no proposed additional structures or improvements for the property(ies) currently.

2. **Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:** No. The proposed re-subdivision cannot be achieved by an alternative method due to the location of the existing homes on the property, as well as the size of the existing parcels. Should the area variance be granted it will allow the owner to sell one of the dwellings and retain the other, creating two (2) single-family properties.
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 and no. The area variance is substantial for a nonconforming 1.87acre lot, however a mitigating factor is there are no proposed improvements to the property. It was stated the area variance is not substantial because although proposed Lot 2 will be less than 2 acres at 1.78 acres it is still larger than the average lot size for existing lakefront properties. All the improvements are existing. Each parcel will contain one dwelling operating independently of one another with their respective utilities. The driveway will be shared via easement allowing access to the dwelling located on the east parcel. There will be no physical or operational modifications to the parcels. Legal unification of each new parcel with its adjacent sister Village parcel will create two (2) lots out of an existing three (3).
4. **Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood; 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 have an adverse impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** No. There will not be an adverse impact on the physical or environmental conditions in the neighborhood as there is no site work, construction or operational change proposed.
5. **Whether the alleged difficulty was self-created:** Yes.

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 Chair Rhoads and seconded by Member Palen, that this application be **APPROVED** with standard conditions and additional special conditions:

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:

- 6. That the Subdivision Map, prepared by Paul J. Olszewski and dated February 4, 2020, be used for the subdivision and creation of two (2) newly created Town lots from one (1) existing lot, and be strictly followed
- 7. Any and all conditions imposed by the Town of Skaneateles Planning Board will be complied with upon its approval.
- 8. The intended two (2) newly created Town lots must be perpetually joined in ownership with the immediately adjacent Village lots, respectively, by legal documentation. The legal documentation with covenant/restriction language to satisfy this special condition is to be reviewed and approved by the ZBA Chair and ZBA Counsel, with the covenant and/or conditions to be reflected in deeds to be recorded in the Onondaga County Clerk’s Office.
- 9. Proof of Recording of the approved deeds must be filed with the ZBA.

RECORD OF VOTE

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

Initial Review

Applicant: Bruce & Patricia Texeira
 2141 Terrace Ln
 Skaneateles, NY
Tax Map #057.-03-02.0

Present: Bill Murphy, Architect

Chair Rhoads described the application for the construction of a new deck and installation of a new shed. Bill Murphy, Architect, stated due to the conditions of the lot there are a number of variances required to do a minor improvement. The existing parcel is 16,320sq. ft., which is below the 20,000sq. ft. allowed by §148-12C. The proposal is to remove some existing impermeable concrete sidewalks on the site although the blacktop driveway will remain, and as a result of the Planning Board's site visit the Applicant is researching drainage alternatives to mitigate the sheet action drainage that comes down the lane into the property.

Vice Chair Condon asked if the proposed storage shed is new. Mr. Murphy stated yes, as the garage is too small to store the equipment required to maintain the property year-round and park vehicles inside simultaneously. The proposed shed is smaller than 80sq. ft. which is allowed by §148-11, however a variance is required for the location as there are two front yard setbacks, there is an existing hedge that will screen the shed from view of the lane. Vice Chair Condon inquired about the impermeability decreasing from 21.8% to 20.9%. Mr. Murphy explained the existing concrete walkway west of the dwelling is being removed and replaced by permeable pavers, existing stairs are being replaced by smaller stairs on the west side of the home and a deck on the east side of the home. It is not possible to remove part of the driveway as there is nowhere to push snow removal and the existing area isn't even large enough to turn a car around. Vice Chair Condon asked if the new shed would count toward impermeable surface coverage. Mr. Murphy stated code does not require a shed to be counted when calculating ISC. Clerk Barkdull stated according to code §148-11, nonconforming lots under 20,000 sq. ft. are allowed to have a shed by right, however it does not address ISC. Mr. Murphy stated the shed has been left out of the proposed calculations for ISC since the shed is allowable by right. Counsel Molnar explained usually a shed is included but §148-11 specifically permits them, so the question is, does this increase the ISC if the lot is entitled to the shed. Vice Chair Condon stated the ISC is still being increased whether the shed is allowed or not.

Vice Chair Condon asked why the driveway cannot be mitigated if the garage is offset toward the east side of the dwelling. Mr. Murphy explained due to the topography the configuration of the existing driveway is required to allow functionality. A bioswale is being proposed on the east side of the driveway to catch runoff that flows in from the road.

Counsel Molnar reviewed §148-12G(2) and §148-12G(2)(d), affirming the shed is permitted with no specification on the inclusion of the square footage when calculating ISC. Counsel Molnar stated there are other regulations in the code that do require the inclusion of the shed in the ISC calculation. Mr. Murphy agreed to recalculate the proposed ISC including the square footage of the shed. Vice Chair Condon reminded Mr. Murphy if that calculation increases the ISC above 21.8% the Applicant would have to request relief with an additional variance. Mr. Murphy quickly calculated proposed ISC including the shed for the Board and estimated it would still be less than the current 21.8% by 0.2%. Counsel Molnar and Clerk Barkdull agreed with the calculation.

Vice Chair Condon stated the Board would be able to understand the property better at the site visit. Mr. Murphy informed the ZBA during the Planning Board's site visit they discussed the possibility of using the fee the Applicant will be charged for being over the allowed ISC, for developing the infrastructure of the proposed bioswale on the property mitigating runoff in the neighborhood, rather than purchasing additional property for conservation in the watershed to offset. Mr. Murphy explained there has been a bank failure on the lane previously and by improving the drainage and including a bioswale with a slow release mechanism on the property it would greatly benefit the neighborhood. The fee of \$19,531.71+/- for the deck will increase by \$810 when the shed is included in ISC. Since Terrace Lane is a private road the Town does not have the jurisdiction or room to make any drainage improvements even though there has been a bank failure in the past 2 years, this allows an opportunity to mitigate drainage concerns during the improvement to the Applicant's property. Counsel Molnar stated this is an either/or proposition,

where the Applicant can choose A.) the use of mitigation measures, or B.) payment into the draft fund. The ZBA could grant a variance for relief regarding the square footage requirement for using mitigation measures rather than requiring the Applicant to pay over \$20,000 into the draft fund for the installation of a deck. The Board discussed various possibilities to grant the Applicant relief in this area and determined this will have to be discussed jointly with the Planning Board to maintain synchronicity. Mr. Murphy agreed to bring the modified application in front of the Planning Board given the new information, with the understanding the current variance application will have to be amended. Mr. Murphy discussed the Applicant's disadvantage with high ISC as the roadway runs through the property due to the grade of the land, even though the roadway is owned by the HOA the impermeable surface is counted in the calculation for Mr. Teixeira's property. Vice Chair Condon asked if the HOA has been contacted about including a bioswale to mitigate bank failure. Mr. Murphy stated his client has entertained the idea of requesting financial assistance with the development of stormwater runoff mitigation to help stabilize the bank, however the Applicant is aware of this being brought to light because they are proposing a new deck. Counsel Molnar suggested the Applicant go in front of the Planning Board with this new information and return to the ZBA asking for relief from §6A. Member Kiefer expressed the importance of this being very clear in the rationale as to why this type of variance is being requested and why this situation merits this particular variance given the implications to reduce the amount of mitigation that is required. Counsel Molnar explained a large factor would be the great amount of offsite water that would be captured, protecting adjacent properties and the lake. Mr. Murphy explained the Applicant has been skeptical of the process in trying to build a deck considering the potentially high cost, but they have also been diligent in trying to protect the lake for example providing a topography map when most deck installations don't require such documents.

A site visit was scheduled for *Saturday, March 14, 2020 at 9:00am.*

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Kiefer to change the date of the Tuesday, April 7, 2020 Zoning Board of Appeals meeting to ***Tuesday, April 14, 2020 at 7:00pm***, at which time a public hearing is scheduled for 7:02 pm. The Board having been polled resulted in unanimous affirmance of said motion.

Other Board Business

The Board discussed the application of James & Kimberly Tracy, they were in agreement the Initial Review of the application will be moved to the April 14, 2020 agenda, as there was no representation for the Applicant.

There being no further Board business, a motion was made by Member Palen and seconded by Member Kiefer to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:59 pm.

Respectfully Submitted,
Kim Benda