

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

April 7, 2015

Present:

Denise Rhoads
Jim Condon
Steven Tucker
Sherill Ketchum
David Palen
Scott Molnar, Attorney
Karen Barkdull, Zoning Clerk
Michele Norstad, Secretary

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on Tuesday, May 5, 2015. Previous distribution to the Board of the regular meeting minutes of March 3, 2015 were executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Palen and seconded by Member Ketchum to accept the March 3, 2015 minutes as corrected. The Board having been polled resulted in favor of said motion.

Record of Vote

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

Initial Review

Applicant: Steve Burdick
1105 Hencoop Road
Skaneateles, NY 13152
Tax Map #055.-03-22.0

Present: Ryan Starke, CEC Energy Applicant Authorized Representative

An overview of Mr. Burdick's request was given by Mr. Starke, CEC Energy Division Manager. Mr. Starke described the proposed Wind Energy Conversion System which is exceeding the allowable height of 150F. The tower itself is 140F with a blade length of 10F. The proposed total height from the ground to the top of the highest point of blade height (tip) as extended at its highest vertical blade point is 153.8F. The purpose is to generate electricity for the home with the use of a net meter. Setback is 1.5 times the actual tower height which is in compliance with Zoning Code. The machine is a 10KW Bergey with a permanent drive three phase motor. The tail boom is 10F long and 4F high with a passive furling system. The interconnection system is

an underground wire connecting to the home. Mr. Burdick is also applying for a second WECS on his adjoining property as an agricultural use energy source. This second application does not involve the ZBA. Member Tucker inquired as to what the projected annual rate of return may be. Mr. Starke explained that this unit is a lease through United Wind and is expected to produce 14,000KW hours per year with a 20 year guarantee. Section 148-35K (6) specifies WECS height of no more than 150F.

Member Ketchum and Chair Rhoads discussed the height variance overage of 3.8F. Mr. Starke explained that standard tower heights drop and rise in larger increments (20F) for this KW size machine range.

The Zoning Board of Appeals site visit is scheduled for April 11, 2015 at 9:10a.m.

WHEREFORE, a motion was made by Member Palen and seconded by Member Tucker to schedule a public hearing on *Tuesday, May 5, 2015 at 7:10 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Public Hearing Continuance

Applicant: J&A Properties
John Pennisi
4435 Dolomite Drive
Syracuse, NY

Property:
1250 Minnow Cove
Skaneateles, NY 13152
Tax Map #054.-01-14.0

Present: Robert Eggleston, Architect

Chair Rhoads explained that the applicant's proposal is to demolish the existing structure and construct a new three bedroom dwelling and shoreline patio. The public hearing was opened last month and the application was declared to be a type II action not subject to SEQR review. The board did receive some changes to the plans which were presented at last month's meeting. Those changes were received on Thursday, April 2nd in the evening. The requested variances are now for minimum lake yard setback and minimum setback to a water course. Chair Rhoads requested that Mr. Eggleston give an overview of said changes.

Mr. Eggleston explained that the footprint has been re-designed closer to the required setbacks. Said property redevelopment construction proposal of a 2,484SF, 3 bedroom home that has a 1,596SF (currently 1,235SF) footprint and will have 75.7FT (currently 77.2FT) lake yard and 55FT (currently 55FT) watercourse setback coming in from the south. The building has been pushed as close to the 20FT setback off the septic as is allowed. The building has become narrower whereas the original house was deeper. Said proposal includes a detached 448SF deck that will be 65.0FT from the lake whereas 50FT is required. The ISC will be 9.5% and the open space 86.8%. One variance has been eliminated (6% footprint), lake yard setback has been reduced and the lake front setback has been maintained.

Member Tucker asked why the new setback isn't 65F from the deck. Mr. Eggleston pointed out that the deck is detached and is allowed to be up to 600SF at a distance of 50F from the watercourse or the lake. By detaching the deck from the house, it is allowed to be an independent structure. Chair Rhoads inquired how one would get from the house to the deck. Mr. Eggleston said that there are some steps or a pathway that will connect the two. Member Tucker asked "if there are steps from the house to the deck, why is it considered detached?" Mr. Eggleston responded that the Codes Enforcement Officer would assess determination of detachment and that this does not need a variance. Clerk Barkdull explained that this is consistent with what has been done with other projects and is not physically connected to the dwelling. Member Tucker posed the question of whether or not this is considered detached to the board. Member Ketchum asked the distance from the deck to the house. Mr. Eggleston said that it is 4FT away from the house. Counsel Molnar explained that the Codes Enforcement Office makes the finding and an applicant seeks relief by coming before the ZBA. Detachment may be 4FT or up to 50FT by any measure. Prior procedure and policy dictates how applications are viewed until a new discussion between Planning and Zoning is initiated. Chair Rhoads expressed her concerns about the deck easily being connected to the house at some future point with no recourse. Counsel Molnar explained that this would be a violation to compliance. Some discussion of the definition of the word "detachment" pursued. The ZBA has never been presented with making this distinction before. Counsel Tucker noted that to be detached it would seem like you should have to go from the ground to the deck and Counsel Molnar informed him that this was not how the definition has been previously applied. Vice Chair Condon asked what the elevation from the deck to the ground was and why pavers could not be substituted for lumber. Mr. Eggleston said that the deck will be low to the ground with no railing and that the applicant prefers a deck surface and that this deck conforms. The exact details of deck construction will be shown to the Codes Enforcement Officer and it is then up to his interpretation for compliance. Counsel Molnar pointed out that at that point, an approved site plan will already be submitted to the Codes Enforcement Officer dictating where the deck structure is placed with the argument of meeting previous board requirements and approving resolutions. Chair Rhoads reminded the board that they may consider these issues, criteria and overall plans as they are proposed when approving variances.

Vice Chair Condon expressed concern for the timing of change submissions. The board appreciates the ten day window to review all cases. Once public hearing and public notices are uploaded, residents become aware and can follow any and all changes and continuances. The board feels that it needs more time to consider this proposal. Chair Rhoads asked if there was anyone wishing to speak or had any other comments. At this time, Jim Lanning of 12 Hannum Street inquired about the structure height and if it had always been a two-story home. Mr. Lanning asked if the deck was part of the original proposal and Mr. Eggleston stated that the original deck was attached to the building which required a variance, but, has since been detached to be removed from the main structure.

A second Zoning Board of Appeals site visit is scheduled for April 11, 2015.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Tucker to continue the public hearing on *Tuesday, May 5, 2015 at 7:20 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Public Hearing Continuance

Applicant: John & Catherine Kane
137 Park Way
Camillus, NY

Property:
2524 Lakefront Lane
Skaneateles, NY 13152
Tax Map #054.-03-06.1

Present: Robert Eggleston, Architect;

Chair Rhoads summarized the applicant's proposal for a 768SF addition and a 264SF deck on a non-conforming lot. This application had previously been declared a Type II action not subject to SEQR review. The two requested variances are minimum lake yard setback for the house (77.5FT) and for the deck (72.6FT).

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

Mr. Eggleston explained that this application is to add a 24' x 32' addition on the south side of the house that will be 77.5FT from the lake where it attaches to the existing cottage. A 12' x 22' deck will be 72.6FT from the lake where steps are allowed to encroach on the setbacks. The south side yard setback currently conforms and will continue to conform. The existing shed will be removed and a portion of the new basement will be non-habitable (6FT 7.5INCHES height) and used for storage. The house plans have been re-designed (March 19, 2015) so that the footprint has been reduced with the use of cantilevers. The storage portion of the basement has a different grade at its entrance than the rest of the basement entrances. The building footprint will be 6.0% and the potential living space is 9.9% (10% required) which includes 80% of the basement. The revised drawings were reviewed with Clerk Barkdull and Codes Enforcement Officer Hall so that the method of calculation for potential living space was agreed upon and correct.

Chair Rhoads inquired regarding finished vs. un-finished basement potential living space and asked if the calculations are different in each case. Clerk Barkdull explained that non-habitable space includes lower ceiling height basement areas per NYS building code and therefore is not counted as part of the overall space calculation nor are mechanical rooms. The non-habitable space is excluded from the 80% calculation. Mr. Eggleston believes that parts of the existing basement have been finished.

At this time Chair Rhoads asked if there were any other comments or questions on the application.

Gary Heyer of 2526 Lakewatch Lane spoke and asked for clarification between habitable and non-habitable living space. He then cited a finished living room, ornate stairway to the upstairs, laundry room, bedroom and full bath currently existing within the applicant's property basement. Mr. Heyer related these areas to the percentage of calculation for open living space/floor space. Chair Rhoads explained that 80% of the total basement space is used for the calculation of living space/floor area as defined by our code. Clerk Barkdull cited said code as section 7II 148 (G) 1a. 7i. and 7ii. and explained that the assumption is to use 20% of the basement space for mechanicals so we allow 80% of potentially habitable (which a section of this applicants proposal is non-habitable) as considered living space/floor space. This is applied uniformly whether the basement is finished or not. There were no other comments from the audience.

WHEREFORE a motion was made by Member Ketchum and seconded by Member Palen to close the public hearing. The Board having been polled resulted in the following vote tally and the closing of the public hearing:

<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]
Member	David Palen	Present	[Yes]

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. There will not be an undesirable change to the character of the neighborhood. The size of the dwelling with a proposed addition will be similar to several properties within that neighborhood which are also year round dwellings. The addition will be constructed in keeping with the design and architecture of the current dwelling.
2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** No. Alternatives were discussed to the requested variance including a second story; however that was deemed not feasible by the applicant's professional due to current design of the existing structure. Also discussed was placement of the addition which is further restricted by the placement of the septic system and therefore although these alternatives were discussed, this present plan is the most feasible to the variance. Almost any addition to this house would require a lake yard setback.

<u>Record of Vote</u>			
Chair	Denise Rhoads	Present	[No]
Vice Chair	Jim Condon	Present	[No]

Member	Sherill Ketchum	Present	[No]
Member	Steven Tucker	Present	[No]
Member	David Palen	Present	[No]

3. **Whether the requested variance is substantial:** No. Based on the curve of the shoreline, this is not substantial. The set back is further than pre-existing non-conforming conditions.
4. **Would the variance have an adverse impact on the physical or environmental condition in the neighborhood:** Yes. When a dwelling is converted from seasonal to year-round usage, there is a potential for environmental impact to the lake with no substantial improvement to the environmental quality control of this property with the removal of some bushes from a fairly steep slope. One enhancement, however, is that portions of the existing driveway and walkway will be removed to reduce some impermeable surface coverage, although minimal compared to a year round dwelling conversion.
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 Chair Rhoads and seconded by Vice Chair Condon that this application be **APPROVED** with standard conditions and additional special conditions:

ADDITIONAL CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

1. That the revised Site Plan and Narrative, dated March 19, 2015 prepared by Robert O. Eggleston be followed in all respects; and
2. 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
3. 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.

Record of Vote

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

Initial Review

Applicant:	Robert Leiss	Property:
	Mary Sennett	1411 Thornton Heights Road
	19 Goodspeed Place	Skaneateles, NY 13152
	Skaneateles, NY 13152	Tax Map #057.-01-32.0

Present: Mary Sennett, Robert Eggleston, Architect;

Chair Rhoads explained that this application is to demolish the existing 8FT (144SF) wide enclosed porch on a seasonal one story cottage and construct a new 12FT x 22FT (requested 264SF) enclosed porch exceeding footprint (increase existing 6.7% to 7.5%), lake yard (requested 76.5FT) and side yard (requested 11FT) setbacks on an existing nonconforming lot. Mary Sennett is the Town Supervisor which shall have no bearing on a decision per Mr. Eggleston. After investigating alternatives, the current proposal worked the best to accomplish the goal of accommodating family at gatherings and having the mildest impact on variance requests. Adjacent neighbors have an 11.5FT side yard setback and this seems to be consistent with the neighborhood per Mr. Eggleston. Total living space would become 991SF. The newly constructed enclosed porch would be built on piers with no basement. The parking for this lot is across the street.

Mrs. Sennett explained that this home’s porch has been repaired due to its sinking foundation in previous years. The windows hinging at the top require attachment to the inside roof to expose the screens. This is a cumbersome chore. The convenience and efficiency of a new window system and a wider dining area would better accomplish the homeowner’s needs. Vice Chair Condon noticed adjoining neighbor camps in a picture and it seemed as if this addition would not hinder the neighbors view or yard. This lot is also wider than some.

Chair Rhoads asked if there were any other questions or comments regarding this application. Member Tucker asked if it had been considered to move the enclosed porch to the side of the cottage where the deck currently exists. Mr. Eggleston explained that this would involve much more disruption and the removal of a good deck. This would also result in the loss of a lake view. The board appreciates a broad overview of options discussed with clients prior to or along with site plan submissions.

The Zoning Board of Appeals site visit is scheduled for April 11, 2015.

WHEREFORE, a motion was made by Member Ketchum and seconded by Vice Chair Condon to schedule a public hearing on *Tuesday, May 5, 2015 at 7:30 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Initial Review

Applicant:	Benedict Tarantino	Property:
	6616 Chevy Chase Avenue	2490 Wave Way
	Dallas, TX 75225	Skaneateles, NY 13152
		Tax Map #056.-02-44.0

Present: Robert Eggleston, Architect, Chris Foote, Contractor;

Chair Rhoads reviewed the applicant's proposal to construct a shoreline structure with new deck and deck railing. The large 72,574SF lot with 214FT of shoreline requests approval to construct a detached 352SF (16FT x 24FT cut at an angle on one corner) deck built around a tree adding timber and pea stone steps down to the shoreline following the grade. Two area variances are required for the shoreline structure - dimensional limits and height restriction. The total shoreline structure will increase from 1,594SF to 1,835SF where 800SF is allowed. The removal of several sheds, ramp, accessory structures and pavement to decrease impermeable coverage so the ISC will be 9.9% and open area 86.3% which are both conforming. The new deck is level with the top of the bank so the railing will be 15.9FT above the lake line whereas 12FT is allowed. In the past, shoreline improvements were performed such as a gabion seawall and a retaining wall to help secure the bank. The applicant is hoping to use the deck under the shade of the tree as a place to congregate at the shoreline and sit near the lake. The deck will sit on the top of the existing retaining wall making it a walk in from grade. New plantings and mulch are planned.

Member Tucker inquired regarding changes to the "average grade" definition for shoreline structures in the code. New legislation is pending and not in effect. Member Ketchum noticed a proposed patio which does not require a variance. Vice Chair Condon made certain that the color of the deck railing would blend in to the scenery. Stairs are included in the definition of shoreline structures. Chair Rhoads asked if there were any other questions or comments and no one spoke.

The Zoning Board of Appeals site visit is scheduled for April 11, 2015 at 9:25a.m..

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to schedule a public hearing on *Tuesday, May 5, 2015 at 7:40 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Mirbeau Gateway Annexation

The Town Board of Skaneateles has requested to be the lead agency on SEQR Review. Counsel Molnar reviewed the proposal for annexation of the gateway parcel which is under review by jointly, The Town of Skaneateles and The Village of Skaneateles and in so far as this parcel is currently a Town parcel, which is proposed to be annexed into the Village, the Skaneateles Town Board accepted the request that it act as lead agency for purposes of SEQR Review of the annexation. As a result, the Skaneateles Town Board circulated notice to all interested agencies including the Zoning Board of Appeals, reflecting that it is inclined to accept lead agency status and undertake the SEQR examination. It is intending to do so and is waiting upon comment from interested agencies and has asked the Zoning Board of Appeals to weigh in and give its thoughts. The Skaneateles Town Board has also asked the Planning Board to assist with the SEQR evaluation because of the Planning Boards experience in doing so at other times with complex projects. The Planning Board has agreed and will assist by way of looking at the SEQR application; the long form EAF and other materials presented by the applicant. The Planning Board intends to meet on Thursday to take a look at the information and provide comment. The Zoning Board of Appeals must decide if they wish to become lead agency or to render any objections to the Skaneateles Town Board becoming lead agency.

Member Ketchum and Chair Rhoads discussed previous annexations and the history of land ownership with the Town, including Village sewer hook-ups of the property. The gateway project involves both land owned by the Village and the Towns of Skaneateles.

Chair Rhoads accepted a comment from the audience by a Village of Skaneateles Trustee; Jim Lanning. Mr. Lanning conveyed that the DEC recommends the Town be lead agency on SEQR Review for annexation. The Village, having its own municipal electric and its own sewer system makes this a unique case. The Village planning board disagreed with this idea and felt that they should be the lead agency and voiced some opinions to that, however, the general consensus was that they would let the Town be the lead agency. As much input from as many sources as possible is welcomed. A 90 day time frame including traffic studies, electric studies, sewer studies, water drainage issues and a lot of things that has to happen before a decision can be made regarding the project as a whole in an objective way. The applicant has supplied a good amount of information, but, more objective input is desired outside of the applicant's opinion according to Mr. Lanning.

WHEREFORE, a motion was made by Vice Chair Condon and seconded by Member Palen to render no objection to The Town Board of Skaneateles becoming lead agency. The Board having been polled resulted in the unanimous affirmation of said motion.

Other Business

Vice Chair Condon expressed concern for the need to abide by the 10 day before a meeting submission requirement for all applications, revisions and any changes to agenda scheduled cases. Clerk Barkdull reminded the board that at times, leniency is granted when a site visit takes place within a few days of the meeting. Flexibility vs. more stringent enforcement of the 10 day rule was discussed. Consideration for the board members schedules and time should be a priority. Mr. Eggleston spoke and conveyed a desire for leniency and accepted full responsibility for a late revised narrative submission on April 2nd. Last minute presentations can still benefit and aid the process. Mr. Eggleston very much appreciates the professionalism of this Zoning Board of Appeals. Public Hearing continuances can be a better way to keep the public informed of changes to active applications.

Clerk Barkdull mentioned a form based zoning seminar May 11th that will be announced with specific times.

There being no further business a motion was made by Member Tucker and seconded by Member Ketchum to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 9:05 p.m.

Respectfully Submitted,

Michele Norstad