

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
SPECIAL MEETING MINUTES OF
May 31, 2022**

Present:

Denise Rhoads, Chair
David Palen
Kris Kiefer
Dave Lee
Sherill Ketchum
Scott Molnar, Attorney
Kim Benda, ZBA Clerk

The meeting commenced at 6:00 p.m. at Town Hall via Zoom where Chair Rhoads opened the work session meeting for the Zoning Board of Appeals (ZBA). The Board met to discuss the proposed Introductory Local Law A 2022 - A Proposed Local Law Regarding Amending Chapter 148 of the Code of the Town of Skaneateles -148-7-1 Lake Watershed Overlay District and 148-12-2 Definitions of Terms, as it was referred to the ZBA by the Town Board (TB) on May 3, 2022.

The ZBA has reviewed the Draft Shoreline Structure legislation, as well as the comments submitted by the Planning Board (PB). Counsel Molnar reviewed the changes to Section 148-7-1.K.1.c.iii regarding offshore roofed/walled structures. He explained the comments from the PB seeking clarification on this section and possible suggested exceptions they made, in consideration of comments from a local design professional regarding steep slopes making onshore storage difficult on some sites.

Chair Rhoads stated the proposed zoning is quite detailed in the restrictions on what is considered a structure (ex: pilings, pump house), and this could create many variances. Vice Chair Palen sought confirmation that existing structures will be permitted to remain intact, that the legislation is prospective. Counsel Molnar stated this section does take into consideration all preexisting nonconforming legally placed structures which would continue to be permitted regardless of the proposed regulations that will control what is new or different.

Vice Chair Palen stated he did not find anything objectionable in the proposed shoreline structure regulations.

Counsel Molnar reviewed the Town has had a section on regulating shoreline structures even offshore since adoption in 1996. Through a series of court cases that jurisdiction was challenged and determined it was that of the State of New York. The Town and Village of Skaneateles received a delegation to have jurisdictional authority out to 1,500 ft offshore, regulating what structures are placed, in October 2021 after making application to the State, where after quite some time came in front of the Senate for review in January 2021. The proposed regulations are intended to update the code that is in place from 1996.

Member Ketchum asked if other municipalities will be changing their zoning as well. Counsel Molnar answered we do not know, the only delegations received were given to the Town and Village of Skaneateles. Any other municipalities (Spafford or Niles) would have had to make application requesting jurisdictional authority, the Town of Skaneateles is not aware of the actions taken by neighboring municipalities, the proposed regulations apply to only the Town of Skaneateles. The Village of Skaneateles is drafting legislation specific to Village properties. Office of General Services (OGS) which manages State property permitted many hard roofed/walled offshore structures prior to the delegation of

jurisdictional authority to the Town under the navigation law. Counsel Molnar stated this was a process initiated by the Town and it has taken 5 years to complete.

Member Kiefer asked if there are any applications that could be caught in the middle of the adoption process. Counsel Molnar answered yes, those applications are being processed according to the code in existence at the time of application, most particularly at the time of ZBA deliberations. The existing code permits what is proposed on these pending applications subject to conditions. It is possible the proposed amendments and definitions could be adopted by the TB prior to the determination of the pending applications as the PB and ZBA have no control over the timing, it is difficult to say what the effect would be on the applications. Member Kiefer then asked if there are any possible issues with the proposed language not following state law verbatim, referencing the language of “presumption” within two of the ZBA’s Five Criteria which was recently challenged and required to be removed. Counsel Molnar answered no, then explained the difference between the “presumption” finding and the proposed amendments.

Counsel Molnar asked the Board for any specific comments or modifications to submit to the TB. Vice Chair Palen confirmed he sees nothing objectionable; they seem well thought out and well written. Member Ketchum agreed, it is possible this may result in more variances which happens any time the code becomes stricter, however these regulations are needed to gain back control of what has been occurring on the lake.

Member Lee felt as though the temporary 300sq.ft. dock will be an issue for the ZBA. There are areas where you cannot get adequate depth of water for your boat with 300sq.ft. of dock. It seems odd to grant variances that permanently go with the land for temporary structures. Counsel Molnar explained it is possible an applicant could request 300sq.ft. of seasonal docking based on a permit alone, anything beyond 300sq.ft. would be reviewed by the PB within the shoreline criteria for maximum square footage offshore subject to site plan approval, anything beyond the allowed maximum square footage would require a variance. Just like any other variance, all structures are fairly permanent but a lot of them get removed over time. The Committee was hopeful the elongated process as described would permit relief to any party located in a shallow area of the lake. Member Ketchum asked if an applicant could add a seasonal dock of 300sq.ft. or less to a permanent structure. Counsel Molnar stated yes, a seasonal dock could be added to a permanent structure in a mix and match situation so long as the limitations in the Structure Footprint table are complied with.

Member Kiefer sought clarification on what could be a broad interpretation of items that are “placed” seasonally and will anyone who has a dock that is slightly larger than 300sq.ft. currently being seasonally placed require Site Plan Review. Counsel Molnar stated this regulatory responsibility will fall on the Codes Enforcement Department. The Board discussed various scenarios where properties may have obtained permits previously through either the Town or OGS, and they may have legal agreements in place with neighboring properties, will they need to come in for review to gain approvals from the Town under the new code, what will this look like going forward. Counsel Molnar explained if something were arguably permitted as a seasonal item not regulated, or if it were permitted by OGS or the Town on a previous occasion, the property owner has a legitimate claim that the item in question is preexisting nonconforming legally placed and may continue in perpetuity unless it is changed. Member Kiefer noted the way the proposed regulations read there needs to be clarification in the Non-Conformities section under Offshore Structures that docks and other seasonal items are included, the way it reads currently could be understood to apply to permanent structures only.

Member Lee asked what category a property like the Sailing Club would fall into, a shared lakefront, or is it an outlier, how would they be regulated. Counsel Molnar answered it is an outlier for a number of

reasons. It is not a shared lakefront as one non-profit owns the entirety of the realty, with members belonging to the non-profit. The Sailing Club has obtained OGS approval for the existing mooring field along with everything else they have done to date, making the property a preexisting nonconforming legally placed marina for years with approvals are for seasonal structures rather than permanent. If the Sailing Club were to come in seeking Town approval for modifications the preexisting nonconformities could be entirely legitimized like the Skaneateles Marina was when they applied for and were granted an amendment approval.

Member Kiefer stated an underappreciated aspect of the proposed regulations is the moorings, are they considered a permanent structure since the mooring cake stays at the bottom of the lake during the winter making it a preexisting nonconforming structure. Or because the ball is removed so it doesn't get caught in the ice float, does it make this a placement issue where only 1 mooring is allowed per property even if permission was granted to a neighbor for the placement of the mooring with the assistance of the Sheriff's Department.

Member Kiefer asked when the proposed regulations would take effect. Counsel Molnar explained the TB would like to see this happen as soon as possible, there is a public hearing scheduled for Monday, June 6th. Member Lee asked where the proposed regulations are online. Clerk Benda stated the Introductory Local Law is on the Town of Skaneateles website homepage under "News & Information", it was also placed on the Town calendar after the public hearing date was set by the TB. Chair Rhoads asked Counsel Molnar if it would be possible to submit ZBA comments to the TB after their June 6th public hearing so the ZBA could gather and organize their thoughts during the June 7th ZBA meeting. Counsel Molnar stated the ZBA should not have an issue collecting their thoughts and submitting a letter after the public hearing as the TB would likely give the courtesy of waiting for their response to the referral and will likely open the public hearing on June 6th and invite written comments at that time, leaving the hearing open for a certain length of time to receive well written comments. Counsel recommended the Board send a letter to the TB before the public hearing requesting more time to submit comments regarding the proposed legislation. The Board agreed Chair Rhoads would compose a letter to the TB requesting more time to compile the thoughts of the ZBA to submit a letter of comment to the TB regarding the proposed shoreline structure regulations.

There being no further Board business, a motion was made by Vice Chair Palen and seconded by Member Kiefer to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 7:10 pm.

Respectfully Submitted,
Kim Benda