

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

June 10, 2014

Present:

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

The meeting commenced at 7:00 p.m. at Town Hall. Chair Rhoads introduced and welcomed David Palen as the newest member of the Zoning Board of Appeals. There will be no site visits scheduled this month as there are no new applications. Previous distribution to the Board of the regular meeting minutes of May 6, 2014 were executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Ketchum and seconded by Member Tucker to accept the May 6, 2014 minutes as submitted. The Board having been polled resulted in favor of said motion. Member Palen abstained from the vote as he was not in attendance at the last meeting.

Public Hearing

Applicant: Five Fires LLC
4584 Bamerick Lane.
Jamesville, NY

Property:
3395 East Lake Road
Skaneateles, NY 13152
Tax Map #041.-01-21.0

Present: Mark Congel, Applicant

No one requested to have the public notice read. The Onondaga County Planning Board had determined that the project will have no significant adverse inter-community or county-wide implications in their resolution dated May 14, 2014. The City of Syracuse had no comments in the correspondence dated April 30, 2014. Members from the Board have visited the site on May 17, 2014.

Based on the site visit that was conducted on May 17th, there was a request of pictures prior to the removal of the trees to the north; the old 25' hedgerow on the north property line was cleaned up after the pictures were taken. Letters of support were submitted from the neighbor's to the north, east and south of the property. The property is the year-round residence for the applicant and the lights from the vehicles on the neighbor's property to the north shine on the residence

and outdoor deck. The proposed fence will block the lights from the vehicles as well as a privacy fence between the two cottages at the shoreline. A new site plan reflecting a proposed staggered 8' fence, sloping to 4' from the window of the cottage to the lake was submitted dated May 30, 2014. The proposed fence would be a solid fence for the entire length. Chair Rhoads inquired on the proposed height of the fence. Mr. Congel stated that he is amenable to a 6' tall fence as Mr. Bersani, neighbor to the north, had requested. Member Tucker stated that the letters of support from the neighbors are dated May 29, 2014 and they may not have seen the new plans as the site plan is dated May 30, 2014,

Mr. Congel stated that the main purpose of the solid fence is to block the lights from next door and to provide privacy between the two cottages at the shoreline. The garage will be relocated further east along the property line with the request for the relocation coming at a later date. There would be plantings in front of the proposed fence, with the last 95' being located behind the pine trees between their property and the Weldons.

Chair Rhoads stated that there was a lot of standing water and a pipe draining water in the area proposed for the fence. Mr. Congel stated that it is very wet between the dollhouse and the property line from the recent rains, however, had dried out form and grass is growing. Chair Rhoads inquired whether it was a wet area prior to their purchase of the property. Mr. Congel stated that it was in a corner that the prior owner left wild; however, they have cleared the area and now it is drier with grass growing. Member Condon inquired whether the fence would be placed at ground level or set off the ground to allow water to run though. Mr. Congel stated it will be installed in a typical manner. Member Tucker inquired whether the fence will follow the contours of the land. Mr. Congel stated it will follow the contours.

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Condon to declare this application to be a Type II action pursuant to sections 617.5(12)&(13) 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 and asked if there was anyone wishing to speak in favor of the application. Mr. Bersani, neighbor to the north, stated that he understands the reason for a four foot maximum height of a fence by the lake; however, in this case it is between two buildings so the fence would not be seen and block people's views. Member Ketchum inquired the length of the Bersani cottage. Mr. Congel stated that his lakeside cottage is approximately 40' long and that the Bersani cottage is approximately 60' in length, with six feet between the two cottages. Member Tucker commented that the site plan should be revised to reflect a standard starting point for the four foot taper. Mr. Congel suggested that the taper begin at the edge of the window so that the privacy will still be maintained with a 6' portion blocking the window. Member Condon inquired whether the fence will be kept natural or will it be stained. Mr. Congel stated that the fence will be kept natural to fade over time. 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. A letter of support for the neighbor to the north, Mr. Bersani was 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 revised proposal of a 6' solid fence that will taper to 4' at the window's edge to the lake would not be a detriments to the neighborhood. A significant portion of the fence will not be visible to the neighbors or from the lake as it will be located between the applicant's lakeside cottage and the neighbor's cottage.

2. **Whether the benefit sought by the applicant can be achieved by a feasible alternative to the variance:** Yes, there are other alternatives as a natural vegetative privacy hedge that could be installed instead of a fence, although the homeowner has agreed to a compromise of the original design proposed. The comprehensive plan does recommend landscape buffer to be used instead of fences.

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. The requested variance from a fence height of four feet to six feet is a 33% increase in the allowable height. The applicant is also requesting a staggered solid wood fence within 100' of the lake line which is substantial; however there are unique circumstances with the applicant's lakeside cottage and the neighbor's cottage being so close in proximity of less than 10' apart and the fence will provide privacy.

Record of Vote

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

4. **Would the variance had an adverse impact on the physical or environmental condition in the neighborhood; within 200 feet of Skaneateles Lake, any area variance than enlarges a building or enables it to encroach into a required lake yard shall be presume to have an adverse environmental impact because of the cumulative risk of degradation of the lake posed by granting individual variances. This presumption is rebuttable:** No. There will be no effect to the lake of environment

and there will be minimal soil disturbance for the installation of the natural wood fence. The proposed wood fence will be left natural and weather over time with plantings proposed in front of the fence. There will be no increase in stormwater runoff or impermeable surface coverage.

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 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 2 dated May 30, 2013, prepared by Robert Eggleston, Architect, be modified to reflect an intermittently staggered six feet in height solid wood fence that will taper to four feet from the lakeside cottage window to the lake line; and

Additional Condition No. 2. That no alteration is permitted to the grade of the property where the fence is to be located, if that alteration would increase the height of the fence greater than six feet; and

Additional Condition No. 3. That the fence line at the eastern end of the fence be staggered behind the line of existing trees on the property line.

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

Discussion

The Skaneateles Stakeholders Watershed meeting was held May 27, 2014 in Spafford. Counsel Molnar stated that there is a movement to propose legislation to allow the municipalities that border Skaneateles Lake to exert their jurisdiction over the lake from the high water mark down into the lake for the preservation and conservation of the lake. He has prepared a draft uniform code of regulations for shoreline structures below the high watermark for consideration by each of the municipalities. The challenge is to come to consensus for the uniform code of regulation amongst the municipalities. The Zoning Chair of Spafford in cooperation with Cornell's representative had created a draft comparison of the regulations by municipality on the lake for review. One of the difficulties is the municipalities that border two lakes such as Spafford.

Discussion

The Comprehensive Plan is in the final stages of preparation in anticipation of its reveal this month for the Planning Board. The ZBA will receive the draft plan in August to review.

There being no further business a motion was made by Member Condon and seconded by Member Tucker to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 7:45 p.m.

Respectfully Submitted,

Karen Barkdull

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