

**TOWN OF SKANEATELES  
ZONING BOARD OF APPEALS  
MEETING MINUTES OF  
July 5, 2022**

**Present:**

Denise Rhoads, Chair  
David Palen  
Kris Kiefer (7:54pm arrival)  
Dave Lee  
Sherill Ketchum  
Scott Molnar, Attorney  
Kim Benda, ZBA Clerk

**Absent:**

Karen Barkdull, P&Z Clerk

The meeting commenced at 7:00 p.m. at Town Hall via Zoom. The next Zoning Board of Appeals meeting will be held on August 2, 2022, at 7:00 p.m.

**Minutes**

Previous distribution to the Board of the special meeting minutes of May 31, 2022, and regular meeting minutes of June 7, 2022 was executed, and all members present acknowledged receipt of those minutes.

**WHEREFORE**, a motion was made by Vice Chair Palen and seconded by Member Lee to accept the May 31, 2022, minutes as presented. The Board having been polled resulted in unanimous affirmation of said motion.

**Record of Vote**

|            |                 |               |
|------------|-----------------|---------------|
| Chair      | Denise Rhoads   | Present [Yes] |
| Vice Chair | David Palen     | Present [Yes] |
| Member     | Kris Kiefer     | Absent        |
| Member     | Dave Lee        | Present [Yes] |
| Member     | Sherill Ketchum | Present [Yes] |

**WHEREFORE**, a motion was made by Member Lee and seconded by Vice Chair Palen to accept the June 7, 2022 minutes as presented. The Board having been polled resulted in unanimous affirmation of said motion.

**Record of Vote**

|            |                 |               |
|------------|-----------------|---------------|
| Chair      | Denise Rhoads   | Present [Yes] |
| Vice Chair | David Palen     | Present [Yes] |
| Member     | Kris Kiefer     | Absent        |
| Member     | Dave Lee        | Present [Yes] |
| Member     | Sherill Ketchum | Present [Yes] |

***Board Member Hours***

Member hours for all Board members were requested and submitted for the month of June 2022. Everyone was brought up to date and submitted hours via email.

**Public Hearing**

Applicant: Griffith Oil Co., Inc. (Superior Plus Propane)  
1376 East Genesee Street  
Skaneateles, NY 13152  
**Tax Map #042.-01-07.0**

Present: No Representative

The applicant is requesting a rear yard setback for a 450 square foot shed. A site visit was conducted on June 25, 2022 by the board although no representative was present, and the proposed site was not marked for viewing. At last month's meeting the board had requested an updated site plan that indicates the proposed location including setbacks. To date, none have been provided to the board. The Skaneateles fire department chief has received the proposed plan but has not yet commented on the proposal.

Counsel Molnar recommended that the board open the public hearing and continue it to the next meeting while the board is waiting for the requested additional materials to be submitted.

Chair Rhoads asked if anyone would like the public hearing notice read. No one requested the public hearing notice to be read into the record.

**WHEREFORE**, a motion was made by Vice Chair Palen and seconded by Member Lee to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmation of said motion.

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

At this time Chair Rhoads asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. No one spoke in favor, opposition or had any other comments.

**WHEREFORE**, a motion was made by Chair Rhoads and seconded by Member Lee to continue the public hearing on August 2, 2022 at 7:02 p.m. The Board having been polled resulted in unanimous affirmation of said motion.

**Public Hearing**

Applicant: Edinger Lakehouse LLC  
Sue Edinger  
2316 Thornton Grove S  
Skaneateles, NY 13152  
**Tax Map #056.-03-07.0**

Present: Sue Edinger, Applicant; Laura Molloy, SPACE Architectural

The camp has been used for many years by the extended family and they would like to do some modest improvements to the property. Proposed is a 130 square foot addition to the dwelling that would include a full bathroom and an area for laundry facilities. The existing porch would be replaced by a new porch with a similar footprint that will also accommodate the existing mechanical room. A variance from the Zoning Board of Appeals is required for a lake yard setback of 69.4 feet, whereas 100 feet is required for new construction. The property is also at 16.2% impermeable surface coverage and the applicant will be reducing this to 15.5% with the removal of some pavement. In addition, the applicant will be submitting a payment of \$15,742.87 to the DRA fund to compensate for the impermeable surface coverage over the maximum 10% allowed. The nonconforming impermeable surface coverage, although reduced, requires a special permit for the Planning Board. This is a preexisting nonconforming lot created prior to existing zoning code.

Member Ketchum commented that on the site plan there is a portion of the driveway on the east side near the retaining wall that states that it is to be removed; however, it should state that it will remain, and Ms. Molloy confirmed that it was stated incorrectly on the site plan and agreed with Member Ketchum's comment, and that a corrected plan will be submitted.

Chair Rhoads asked if anyone would like the public hearing notice read. No one requested the public hearing notice to be read into the record. The Zoning Board of Appeals (ZBA) conducted a site visit of the property on June 25, 2022.

**WHEREFORE**, a motion was made by Member Ketchum and seconded by Vice Chair Palen to consider the proposed action as a Type II SEQR action as per section 617.5(c)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmation of said motion.

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

At this time Chair Rhoads asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. No one spoke in favor, opposition or had any other comments.

**WHEREFORE**, a motion was made by Member Lee and seconded by Member Ketchum to close the public hearing. The Board having been polled resulted in unanimous affirmation of said motion.

Chair Rhoads asked that Counsel Molnar take the Board through the Statutory Criteria set forth in Town Code for an area variance. At this time, the Board reviewed the Five Criteria for the area variance concerning the applicable section of Town Zoning Code: Section 148-8-9-A.1.f Nonconforming Lots – minimum lake yard. 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 will be produced in character of neighborhood or a detriment to nearby properties will be created by the granting of the area variance: Yes  No

Reasons: No. The proposed 130 square foot addition will not result in an undesirable change to the character of the neighborhood, nor will it produce a detriment to nearby properties. The proposed addition is located on the west side of the existing dwelling which is opposite of the lake side. The property is in a community of vacation and seasonal houses and the surrounding properties are similar in nature.

2. Whether the benefit sought by the Applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance: Yes  No

Reasons: No. There are no alternative options to the proposal, the structure is currently nonconforming and would require a variance for any construction as it is less than 100 feet from the lake line. The dwelling has existed within the setback prior to the creation of the zoning code. The Applicant's proposal is reasonable as it requests relief for the minimum variance possible. The only way the sought benefit can be achieved would be with the granting of an area variance.

3. Whether the requested variance is substantial: Yes  No

Reasons: No. The requested area variance is not substantial as it is a modest increase in the square footage of 130 square feet to the existing structure. The proposal is to reduce the existing driveway resulting in the reduction of the impermeable surface coverage to 15.5% from 16.2%, and total lot coverage to 16.1% from 16.7%. The inclusion of a bioswale with the proposal will be further improvement of the property as it will manage stormwater runoff.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: Yes  No

Reasons: No. The proposed variance will not have an adverse effect or impact on the physical or environmental conditions of the neighborhood or district. There are many structures similar to the existing dwelling in the neighborhood, the proposed addition will not change the physical conditions of the neighborhood in any way. The installation of the stormwater management system on the property will serve to assist in the mitigation of potential runoff from the west. Additionally, the shoreline has a small seawall at the lake line, along with copious native perennial plantings and trees on a steep slope that are doing an excellent job of keep erosion at bay. The proposed addition does include a bathroom; however, the existing septic system is positioned far enough from the lake side of the property to minimize any environmental impact. The reduction in impermeable surface coverage will be beneficial to the lake.

5. Whether the alleged difficulty was self-created: Yes  No

Reasons: Yes, however by current standards it is a hardship to not have a bathroom on the first floor.

**WHEREFORE**, The ZBA, after taking into consideration the above five factors, upon a motion made by Chair Denise Rhoads, duly seconded by Vice Chair David Palen and a unanimous affirmation of all Members present as recorded below, finds as follows:

- the Benefit to the Applicant DOES NOT outweigh the Detriment to the Neighborhood or Community and therefore the variance request is denied.  
 the Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community.

Reasons: In review of the stated 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. This decision is based on all the evidence presented in the Application, the Record, as well as the Board members' inspection of the property, and is conditioned as follows:

**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 the Planning Board and any agency or authority having jurisdiction over the Property or Application.

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; and

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 to minimize adverse impacts upon the neighborhood or community:

1. That the Site Plan dated May 20, 2022, prepared by Licensed Architect, Bill Murphy, be amended to correct the error reflecting additional driveway to be removed, and once amended be strictly complied with in all respects;
2. That the project Narrative dated April 21, 2022 be complied with in all respects;
3. That the Applicant obtain Town of Skaneateles Planning Board approval of the Site Plan and Narrative, and that the Planning Board issue its Special Permit, and that any conditions of the Special Permit be complied with in all respects.; and
4. The applicable payment as determined by the Town of Skaneateles Planning Board be made into the Development Rights Acquisition Fund.

**Record of Vote**

|            |                 |               |
|------------|-----------------|---------------|
| Chair      | Denise Rhoads   | Present [Yes] |
| Vice Chair | David Palen     | Present [Yes] |
| Member     | Kris Kiefer     | Absent        |
| Member     | Dave Lee        | Present [Yes] |
| Member     | Sherill Ketchum | Present [Yes] |

**Initial Review**

Applicant: Habermaass Corp., 1220  
4407 Jordan Road  
Skaneateles, NY 13152  
**Tax Map #023.-01-09.0**

Present: Hugh Reed, HABA Representative; Michael Palmieri, Architect

Earlier in the spring the applicant had received Planning Board approval for expansion of the warehouse. Since the approval in March 2022, the owners and Mr. Palmieri were investigating ways to maximize the storage space without increasing the footprint of the building. The approved addition is 20,448 square feet, and there are a couple of toilet rooms that are incorporated into the space with the rest of the space used as warehouse with an overhead door on the west side, and a passenger door connecting to the existing facility. To maximize the storage capacity they would like to raise the height of the structure to 42 feet to accommodate emergent technology for racking and forklifts.

The existing original building was about 22 feet in height, and then there was an addition that was added later that is 16 feet in height. Proposed is a height of 42 feet above finish floor for the new addition that has not been constructed. In the elevations, it shows a step in the building that is required due to snowdrifts and the inclement weather in the winter. The existing building has office space in the southeast corner, and there is 1,350 square feet of retail space, averaging 3-4 customer visits daily.

Vice Chair Palen inquired if the footprint will be changed, and Mr. Palmieri confirmed that the footprint will not change from the approval granted by the Planning Board. The addition will still be a steel structure but with a flat roof.

Counsel Molnar explained that this application for the new warehouse addition was reviewed and approved by the Planning Board in March 2022. Since that point in time it is the applicant's election to increase the height from what was previously approved to exceeding 35 feet code limitation and taking it up to 42 feet. The Planning Board will need to approve this as an amendment to their March approval provided that the Zoning Board of Appeals approves the height variance. The board will conduct individual site visits prior to the next meeting.

**WHEREFORE**, a motion was made by Member Lee and seconded by Vice Chair Palen to schedule the public hearing for this application at the *Tuesday, August 2, 2022 at 7:05 pm*. The Board having been polled resulted in unanimous affirmation of said motion.

### **Other Board Business**

#### Local Law Referral-Local Law 2022-B Establishing Zoning Requirements for Cannabis Retail Dispensaries

Chair Rhoads inquired about the how the minimum 2.65 acre requirement was determined, and Counsel Molnar commented that the law was drafted by the Town Board and Town Counsel. A rationale was not provided as to the desire for a larger lot size in the HC district. It was based on experience from other communities that the dispensaries may need a great deal of parking area. Chair Rhoads asked if the board had a couple of properties in mind as 2.65 acres is an exact size; were there specific areas the board had decided for the location of dispensaries. Counsel Molnar said that it is his assumption is that there was some thought given to parking.

**WHEREFORE**, a motion was made by Vice Chair Palen and seconded by Member Lee that the board had no comments to the Town Board regarding Local Law 2022 B, reserving to the Town Board the obligation to complete SEQR review as required. The Board having been polled resulted in unanimous affirmation of said motion.

#### MWB Family LLC Zone Change Request

Chair Rhoads inquired about the PDD discussions that occurred last year and Counsel Molnar stated that the Planned Development District (PDD) draft legislation was in response to a request by the prior owner. The draft PDD regulations were tabled when the prior owner's tenant moved. The current applicant acquired the building at the end of last year, considered what they would like to do with the building and made application to the Town Board for a zone change from the RR district to the HC district to accommodate their preferred use of the building. He continued saying that he should recuse himself if the board feels it need counsel on the matter given the proximity of his property to the building itself. If the board needs counsel he recommended Brody Smith or another attorney to represent the board on the matter so that there is no implication that his counsel would bring about a detriment to the applicant or anyone else.

This is a referral from the Town Board regarding the proposal, and this board can easily, just as the Planning Board did, summarize comments in writing to the Town Board. The applicant is looking to change the zoning from RR to HC to gain additional potential uses including retail. Member Lee inquired about the fact that it used to be commercial zoning and then it was changed to RR. Counsel Molnar stated that the

building and use predates zoning. The history indicates it was changed to RR based on the neighborhood uses that are residential.

Chair Rhoads commented that if retail became a use in the building then the traffic patterns would change and include evenings and weekends. The last tenant had used it as an office use that had defined hours that were typically Monday through Friday during the day. Member Lee commented that if the zone change were to occur then any type of retail could occur there that would not be compatible with the surrounding community. The office use does not seem to be offensive to the people in the area. Member Ketchum said that there is a myriad of choices if the zone change occurred including restaurant and that would be a little concerning. The discussion will continue at next month's meeting.

Clerk Kim Benda-The board expressed their thanks for her support and work during her tenure as the Zoning Board of Appeals clerk.

There being no further Board business, a motion was made by Member Lee and seconded by Member Ketchum to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:05 pm.

Respectfully Submitted,

Karen Barkdull  
P&Z Clerk