

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

**September 3, 2019**

Present:

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

The meeting commenced at 7:00 p.m. at Town Hall. The next Zoning Board of Appeals meeting will be held on September 3, 2019 at 7:00 p.m. Previous distribution to the Board of the regular meeting minutes of August 15, 2019 was executed and all members present acknowledged receipt of those minutes.

**WHEREFORE** a motion to accept the August 15, 2019 minutes as submitted was postponed due to lack of quorum of members present during previous meeting.

<u>Record of Vote</u>				
Chair	Denise Rhoads	Present	[Abstain]	
Vice Chair	Jim Condon	Present	[Abstain]	
Member	David Palen	Present	[Abstain]	
Member	Kris Kiefer	Absent	[Abstain]	
Member	Michael Ciaccio	Present	[Abstain]	

Member hours for the present Board members were turned in for the month of August, 2019. An email was submitted by absent Member Kiefer stating hours for the month of August, 2019.

**Public Hearing**

Applicant:     Brendan & Danielle Spain  
                  4457 NW Townline Rd  
                  Marcellus, NY  
                  **Tax Map #021.-03-10.0**

Present:        Brendan Spain, Owner  
                  Danielle Spain, Owner

New construction of a detached garage requiring two front yard setbacks and a side yard setback. Danielle Spain, owner, submitted a letter of approval from neighbors Douglas and Laura Fuess. Ms. Spain presented the board with a drawing of the garage created by her and Mr. Spain. Member Palen stated he was not comfortable with the self-created drawings and asked the applicant to attain professional plans. Mr. Spain has researched what pole barns consist of and how they are built, stating they are typically 6 foot on center. Ms. Spain noted the drawings were based off recommendations from an acquaintance and agreed to have professional drawings printed to give to the Board. Member Palen suggested that could be a contingency if the variance were approved. Counsel Molnar stated the applicant would require an engineered drawing in order to obtain a building permit, that way it will show compliance with New York State Building Code. Vice Chair Condon asked if the applicant was buying a kit. Mr. Spain answered he would be buying the necessary material and he was aware of the rafters needing to

be stamped by an engineer. Counsel Molnar recommended the Board have an additional condition requiring the applicant to submit professionally engineered drawings if approval is rendered at the time of the Board determination. Ms. Spain stated the presented drawings included a list of materials but they would get professionally prepared drawings including a list of materials. Member Ciaccio asked for clarification that the ZBA was not requiring the professional drawings rather it is a requirement for getting a building permit. Member Palen said it could be a requirement as part of the approval. Counsel Molnar added they could be submitted to the Chair for review prior to obtaining the building permit.

Vice Chair Condon stated during the site visit the Board was told the barn would be built as a pole barn with rafters and trusses, not allowing any attic storage, use, or living space; this is part of the reason for the Board requiring professional drawings, to confirm there will be no added space above the garage. Vice Chair Condon then sought confirmation the garage would be built on a cement slab with electric being the only utility, there would be no gas, heating or plumbing source. The applicant was in agreement. Vice Chair Condon continued, while on site the Board discussed placement of the garage with the applicant on the north side of the property, however there are large trees, a septic system, a leech field, and a second road cut that would not make that feasible. In addition the layout of the house, as well as the entrances being on the south side of the home, makes the garage placement to the north difficult. Although there is more room on the north side of the home, it is most logical to request the variance for placing the garage on the south side of the home. The applicant agreed that was why they have put in an application with the ZBA.

Chair Rhoads asked if anyone would like the public notice to be read, no one wished to have the public hearing notice read. She stated a site visit was conducted by the Board on Saturday, August 24, 2019.

**WHEREFORE**, a motion was made by Member Palen and seconded by Vice Chair Condon 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 affirmance of said motion.

At this time, Chair Rhoads opened the public hearing. Chair Rhoads asked if there were any comments in favor of the application, stating there were two letters of support that had been submitted to the Board from Mary Shisler, 2000 Amnaste Lane, and Douglas Fuess, 1999 Amnaste Lane. No one spoke in favor of the application. Chair Rhoads asked if there was anyone who would like to speak in opposition of the application or had any other comments. No one spoke.

**WHEREFORE** a motion was made by Member Ciaccio and seconded by Vice Chair Condon to close the Public Hearing. The Board having been polled resulted in the unanimous affirmance of said motion.

Chair Rhoads asked Counsel Molnar to review the five criteria for area variance with the Board, requesting the three variances concerning applicable sections of Town Zoning Code; Section 148-12G(1)(a)[3] Nonconforming structures-Front Yard Setbacks, Section 148-12G(1)(a)[4] Existing nonconforming lots-Side Yard Setbacks, Section 148-11F(3) Setbacks for accessory structures and uses; be considered as one. Counsel Molnar agreed, stating he would review the three variances as a single variance but contemplating all three simultaneously, and because it is not within 200 feet of Skaneateles Lake the Board can avoid the presumption provisions in the questions. Counsel Molnar said, when considering the benefit to the applicant if the 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:**

Reasons: No. There will not be an undesirable change to the character of the neighborhood and the granting of the variance would not be a detriment to nearby properties. The property is surrounded by

mature trees which will screen the view of the garage. Neighboring properties in the rural neighborhood have similar front yard setbacks; many of the neighboring properties have garages. There are letters of support from two adjoining neighbors.

**2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance:**

Reasons: No. This is the most feasible location. North of the dwelling would not be feasible due to the location of the septic system, a second road cut would be required to add a driveway, and the entrances into the dwelling would be located on the opposite side of the home. The property is a pre-existing nonconforming lot consisting of 0.81 acres; therefore any proposed improvements would likely trigger a variance request.

**3. Whether the requested variance is substantial, this presumption is rebuttable:**

Reasons: Yes and No. The property is not within 200 feet of the lake, the corner lot is only at 10.4% of the allowed 15% impermeable surface coverage, the road frontage is at 170 feet whereas a minimum of 200 feet is required, rear yard setback is 178 feet whereas a 50 foot minimum is required, and open space is being reduced to 89.6 square feet which is under the 80% square feet minimum. Being that the lot is nonconforming on less than one acre the granting of the three variances significantly increases the lot's nonconformity. However, due to the location of the lot being in a rural area in the outlying country and a corner lot this variance is not substantial.

**RECORD OF VOTE**

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

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

Reasons: No. There would be a minimum disturbance on the environmental conditions of the neighborhood as there are no water courses near the property or septic, no storm water runoff concerns, minimum excavation for the 26'x32' garage, and the applicant will be adding onto an existing driveway that would extend up to the proposed garage. Open space and impermeable surface coverage would be in conformance should the variance be granted, and it will not cause physical or environmental concerns.

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

Reasons: 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 survey as dated 06/14/2019, prepared by Douglas R. Lehr, Licensed Land Surveyor, depicting the location of the detached 26’x32’ garage be followed in all respects, and shall always be complied with.
2. There will be no living space above the garage, no heat or plumbing to the garage will be permitted. There will also be no future expansion or modifications to the top of the garage to allow living space.
3. Minimal site disturbance is required, excessive soil runoff must be protected from the roads and from entering neighboring properties.
4. A foundation survey must be provided by the applicant, prior to vertical construction.

**Record of Vote**

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

**Public Hearing**

Applicant: Stephen Datz

Owner: Justin Marchuska  
866 Franklin St  
Skaneateles, NY  
**Tax Map #047.-01-18.0**

Present: Stephen Datz, Contractor

Construction of a two family dwelling on a 19,081 square foot lot where 4 acres are required. Stephen Datz, contractor, stated he understands this is a nonconforming lot and the applicant is asking for a variance to build a two-family dwelling. He submitted photographs for review of other multi-family dwellings as well as teale barn

dwelling in the style of the home being proposed. Mr. Datz stated the proposed septic design may be two separate systems for efficiency, it is not a necessity at this point, but he believes having two separate operating systems would perform better. It is understood the variance won't be issued unless the septic is approved. Based on Mr. Datz's research the two acre zoning has nothing to do with septic performance, the septic performance is based on design of the field and acceptance of the field by OCHD. Currently the applicant has OCHD approval of a septic for a three bedroom field this may change the design for efficiency and contour of the property.

Mr. Datz stated he is not requesting a side or back yard setback variance, or a permeability variance; the only request is for a two-family dwelling to be allowed on a small lot. The proposed home would be in character with the teal barn style homes found within the community, at this time Mr. Datz presented the photos of these homes stating there is nothing more iconic than a teal barn in Skaneateles. Another photo Mr. Datz submitted to the Board was of a three family dwelling at 810 Franklin Street, situated about 10 houses north of the property under review. Mr. Datz stated 810 Franklin Street currently has three units and because it is coded as a multi-family dwelling, they could potentially add a fourth unit via Special Permit alone, not requiring a variance even though it is sitting on only 1.1 acres of land. Only a couple hundred yards from the proposed two-family dwelling, the existing multi-family dwelling operates so peacefully not many people know it is there. Mr. Datz acknowledged concerns about altering the character of the neighborhood can be addressed; however his proposal should not alter the character of the neighborhood as there is a multi-family dwelling operating without disturbing the existing neighborhood. Member Palen inquired about the square footage of the multi-family dwelling at 810 Franklin Street. Mr. Datz said the lot is 1.1 acres; he was unsure of the exact square footage of the home although it is a relatively large house.

Mr. Datz addressed the issue of traffic, stating it should be dismissed. If there is such an issue, then there should not be any more building period taking place on Franklin Street. The section of the code for two-family dwellings, Section 148-11K(3), is more restrictive for building a two-family than it is for a four-family dwelling, therefore the zoning is arbitrary.

Mr. Datz described the nature of the neighborhood as being part of an enclave where the Town municipality joins with the Village municipality, especially since Mirbeau has been annexed into the Village of Skaneateles. The surrounding properties have more of a Village feel rather than the rural Town feel, all of the lots in the neighborhood are nonconforming by today's standards. Mr. Datz is aware of it being an area reach due to one section of the zoning, but in the context of everything else this is a reasonable request. Mr. Datz stated he is taking all of the neighbors' concerns into consideration; he has collected their letters and will respond to those concerns after the neighbors have an opportunity to give their input to the Board.

Vice Chair Condon asked if there were any conceptual plans for the proposed dwelling. Mr. Datz answered it would be a teal barn 50'x40'. Vice Chair Condon then asked how many bedrooms and bathrooms would be in each unit. Mr. Datz said the plan would be a reverse and repeat plan based on the shape of the building, with two bedrooms and two bathrooms in each unit. The building will be two stories with a two car garage underneath, as well as two separate rec room areas in the basement. Vice Chair Condon described the proposed driveway as a narrow pathway that goes up to the two garages. Mr. Datz stated the proposal is 1.3% under the 15% ISC restriction. Vice Chair Condon asked if on-street parking is permitted on the road. Mr. Datz answered yes, but he was unaware of how often that occurs and doesn't believe anyone would want to do that on a regular basis. Vice Chair Condon then asked if the applicant had reached out for approval of any utilities, including road cut, gas and water. Mr. Datz stated both public water and gas are available, sewer is not, it has been indicated it will be no problem having those services connected on the property. Vice Chair Condon inquired whether or not a perk test has been performed on the lot. Mr. Datz answered yes, he has an approval for a two-bedroom septic or a three-bedroom septic from OCHD, and he will be seeking approval for two separate two-bedroom septic systems or a single four-bedroom septic system from OCHD. Mr. Datz has taken a class in septic design to ensure it is properly executed. Vice Chair Condon asked if the County will allow for a single septic system or if two will be required.

At this time Mr. Datz did not have an answer. Vice Chair Condon asked if the applicant intended on using an Eljen septic system, which is tailored for a small lot. Mr. Datz answered yes.

Vice Chair Condon then inquired about a concern with a swale failure behind the property as Mirbeau was responsible for the repair of the swale. Mr. Datz stated that is the runoff problem that is being discussed concerning this application, and the swale is not located on the property being reviewed. The Town of Skaneateles, Village of Skaneateles and Mirbeau are responsible for the repair of the failed swale, part of the repair has been executed but Mr. Datz is unsure whether the repair has been completed at this time. Vice Chair Condon noted that the runoff situation would not necessarily be affected by the proposed project as it is a result of a neighboring property.

Vice Chair Condon asked how this structure would compare to those in the neighborhood, simply as a structure, disregarding the fact that it is a two-family dwelling. Mr. Datz stated the footprint of the proposed structure is the same, if not smaller, than the house to the north and it is not overbearing by the neighborhood standards. To the south and primarily to the north on the west side of the street it is a very eclectic neighborhood, including active farms, ranch style homes, large and small two-story homes, all within a mile. Member Palen asked if the application will be presented to the Planning Board. Clerk Barkdull answered yes, pending ZBA determination.

Vice Chair Condon asked how far away from this property are the Town Houses Mirbeau has proposed to build. Mr. Datz stated they are about 200 yards to the corner (south), so there will be construction ensuing there as well. He then asked if there was such a thing as "Suburban Skaneateles", this is not in the Village and being in the Town of Skaneateles is the neighborhood actually meant to have the feel of being in the Village due to the proximity of the property.

Vice Chair Condon stated, given your description of the structure and the property, unless an individual knew it was a two-family dwelling they would not be able to tell just by looking at it. Mr. Datz stated there will be two entrance doors on the front, but that is correct. Vice Chair Condon asked if the house would line up with the other houses along the road when considering front yard setback. Mr. Datz stated the house to the south is much closer to the road than the house to the north, so he is planning to put the proposed home as close to the plane of that as possible. The two decks off the back of the home will be as private as possible, the house to the south is only 12 feet from the property line which is somewhat invasive, but the proposed home for this property will meet all setback standards set by the zoning code.

Vice Chair Condon asked if the variance for a two-family house were to be denied, would the applicant then build a single family home approximately the same size. Mr. Datz was not willing to answer as he is not the owner of the property therefore it is not his decision to make. Vice Chair Condon restated his question, given the concerns of the septic, utilities, cars and traffic; those could all be the same with a single-family as a two-family. Mr. Datz answered yes, if the OCHD were to approve the septic for a four-bedroom dwelling it would allow him to build the two-family house with two bedrooms in each unit, or he could build a single family house of the same size with four bedrooms in it.

Member Palen asked about how the garages are incorporated in the front of the design of the home and whether or not there will be cars parking in the driveway. Mr. Datz answered yes; garages are in the basement with the entrance in the front. Like a teasel barn, it will be active on every level; there are ramps up to the barns or down to the underneath if there is lower storage, with cows or equipment on the main level, and hay on other various levels. The goal is to have the proposed home being utilized on every level. Mr. Datz has heard from multiple residents there is a lack of affordable rental properties in the community, the proposed home is intended to serve this need. The immediate neighbors are concerned with it causing a neighborhood distress however there has been no mention of the existing multi-family dwelling in the neighborhood creating such an issue. Mr. Datz is not

dismissing the concerns of the neighbors but he does not want his building process to be halted without due warrant.

Chair Rhoads asked if anyone would like to have the Public Hearing Notice read. Residents from the neighboring properties requested the Chair read the notice aloud. Chair Rhoads read the Public Hearing Notice on file. Chair Rhoads asked if Counsel Molnar would recommend that this be classified a Type II action under SEQR review. Counsel answered yes.

**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)(12) and not subject to SEQR review. The Board having been polled resulted in the unanimous affirmance of said motion.

Chair Rhoads stated a site visit was conducted by the Board on Saturday, August 24, 2019.

**WHEREFORE** a motion was made by Member Palen and seconded by Vice Chair Condon to open the Public Hearing. 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. No one spoke in support of the proposed application. Chair Rhoads asked if anyone would like to speak in opposition or make any other comments about the proposed application.

Bob Coffin, 859 West Elizabeth Street (at Franklin Street), has been a resident at the property since 1978. Mr. Coffin stated there is an issue with traffic on Franklin Street as it is a short cut to Auburn, and he has complained about it for a number of years. The heavy truck traffic is constant, with Robinson/Vitale trucks especially, and the road is not that wide. While there may be a two car garage proposed, being a two-family dwelling there is a good probability there will be four cars. With the exceptional car being briefly parked on Franklin Street, leaving a car parked along Franklin Street for an extended length of time is inherently dangerous. Traffic concerns may not be Mr. Datz's issue but increasing the population density is a problem and it is unnecessary. The stewardship of the lot as it exists was bulldozed, excavated and left in such a way that any time there was a heavy rain a river of mud flowed down Franklin Street, up until a neighbor spoke to the Town about it. If this is how the lot is being maintained currently it is not reasonable to trust him to take care of the property. It is a scary road to walk down, people do it, but anyone you speak to who does would say traffic is an issue. Mr. Coffin acknowledged there is a multi-family dwelling existing however it is further up the road and it has been there for some time.

MaryBeth DiMarco, 870 Franklin Street, a letter of opposition was submitted prior to the public hearing. Ms. DiMarco was in agreement with Mr. Coffin regarding the traffic concern, population density, runoff from the lot, and the eyesore of the property.

Concetta Charles, 883 Franklin Street, a letter of opposition was submitted prior to the public hearing. Ms. Charles' concern is with the impermeable surface coverage when placing a two-family dwelling on such a small lot. How can you place that large of a structure and have room for people to get out and wait to get onto such a busy street. A one family dwelling would be feasible for the property, but a two family home is too large for the lot. The mud runoff collects in front of her home and has been clogging the street drain for over a year.

Laura Lee, 863 Franklin Street, has stared at a pile of mud and a port-a-potty sitting on a vacant lot with no use for months as she lives directly across the street from the property. The port-a-potty was recently removed. Ms. Lee is in disagreement with the statement that Mirbeau is only 200 yards down the street, as it is considerably further down the road. Franklin Street is incredibly busy, with trucks flying down it frequently, and cars using Ms. Lee's driveway as a turnaround every single day.

William Brownlee, 867 Franklin Street, submitted a letter to the Board prior to the meeting. Mr. Brownlee feels the idea of putting up a teal barn to live in within a residential area is a little off the wall. Mr. Brownlee has personally been scraping mud runoff from Franklin Street, as it settles right in front of his mailbox. The water rushes off of the property making the permeability of the lot a concern because Mr. Brown's property is below 866 Franklin Street.

Maria Redmond, 868 Franklin Street, owner and resident of the property directly north adjacent to the lot. Ms. Redmond expressed concern asking if there will be two separate septic systems on the property being the dwelling is a proposed two-family. Chair Rhoads answered that's what the conceptual plan shows. Ms. Redmond asked if it would be a big problem with two septic systems on the property. Chair Rhoads answered that would be for the County to determine. Counsel Molnar stated the Onondaga County Department of Health has exclusive jurisdiction over what type of system and what is required and may be installed on any given lot in order to meet the public health law and County requirements. Mr. Brownlee asked if the septic installation would count toward impermeable surface coverage. Counsel Molnar answered no, what is permeable and impermeable are hard structures, so a septic system in a yard is a permeable system as there is soil and grass growing upon it to recycle the water. Chair Rhoads added it does limit the building area because you cannot build on top of a septic system. Counsel Molnar supported Chair Rhoads saying area around the septic needs to be reserved for expansion and the like. Ms. Redmond stated she has lived in her house for 35 years and knows the drainage is not good as she has seen the water running down the hill to the property under review. She also made clear the Town and Village are two very different entities with the Village having use of a sewer system and the buildings being constructed by Mirbeau will likely be tied into the Village sewer system.

Mr. Coffin stated it is his understanding Mirbeau will be widening the road in front of their property to allow curbside parking. He is also under the impression but not certain Mirbeau will be adding sidewalks in front of the property as well.

Ms. Lee asked for some clarification, if the living space will be on two stories but the garage is in the basement wouldn't that then be considered a three story dwelling. Counsel Molnar answered the Town code limits the height of all structures to 35 feet, by right the owner of an approved lot can build a structure up to 35 feet high.

Bob Eggleston, architect, stated he had comments neither in support nor against the proposed project. As far as the septic is concerned it is the County's Health Department who will determine what to do. It is Mr. Eggleston's experience the OCDH may prefer one four bedroom system. In past experience when building multi-family homes or other projects the County has preferred one system that is used all of the time rather than two systems where only one may be in use at a given time. Mr. Eggleston's second comment is a concern for the site plan, by code you are required to allow for up to four cars, although the garage is intended to accommodate two cars, there could be up to two more cars parked outside. It doesn't look as though the site plan shows enough driveway space to park a vehicle and then navigate around it. Mr. Eggleston does appreciate that each dwelling unit may have tandem parking and they would then be responsible for shuffling cars for that unit. Another concern however is the lack of space for turning the vehicles around on site to exit the site facing the road. Franklin Street is too busy to back a car on from a driveway. Although Mr. Datz is currently under his 15% ISC, he will need to be mindful of that when making the driveway modification. The third comment Mr. Eggleston had for the Board was after five years of going through five years of getting zoning approval for the Gateway project for Mirbeau, is one of the biggest concerns was drainage. Mirbeau and Gary Dower took on the responsibility to fix the Town's drainage problem where the Town has water coming from the school bus and Town Highway garage. The five houses and three lodging facilities Mirbeau will be building will drain into a sophisticated storm-water system. The existing system may not have worked well, but corrections are being made. The problem at the bottom of the property down where Mirbeau's detention pond is located is the bottleneck in the drainage system for the west side of Franklin Street, causing flooding of the road. Mirbeau can only control the water that comes through the Mirbeau property, but there is uncontrolled water that comes down West Genesee Street and Franklin Street. Franklin



Street has been overdeveloped; many of the houses that have been built along the road over that past 40 years have not had any on site storm-water management system. The Town now has small site storm-water management which is often used in the watershed. Serious consideration needs to be taken into account that this property includes a bio-swale when it becomes developed, to absorb the storm-water and leech it out.

Mr. Brownlee commented the water flows down the street then onto Highland Street and through some of the neighboring property's yards. One neighbor had a bridge in their yard that has become more of a dock due to erosion, this is indicative of a drainage issue in this area of the Town.

At this time Chair Rhoads asked if there were any other comments, no one spoke. Chair Rhoads asked if Mr. Datz would like to address any of the comments made by the public. Mr. Datz thanked Mr. Eggleston for his comments, stating he would take them into consideration as well as the comments of the rest of the public. There is a drainage culvert between Ms. Redmond's property and the 866 lot, which could be explored as a way to direct runoff from the lot. Mr. Datz has been in contact with Allan Wellington, Town of Skaneateles Highway Supervisor, regarding the runoff from the property. Not to contradict anyone as the property has likely caused inconveniences, Mr. Datz acknowledged the property has gone through a number of phases that have delayed the process by the owner. It was his understanding after speaking with Mr. Wellington the runoff issue discussed by Mr. Datz and Mr. Brownlee was a one-time occurrence. Mr. Datz stated he is aware that the runoff issue was not a one-time occurrence and has attempted to address the problem while the current situation is temporary, and has appreciated Mr. Brownlee's assistance in pointing out the issue.

Mr. Datz addressed the concern about permeable surface, stating if he wanted he could currently build a single-family home of the same proposed square footage on this particular lot. Mr. Brownlee was allowed to park in a mowed area on the 866 lot for a number of years. Mr. Datz hears the concern for visibility pulling out of the driveway and will apply the remaining 1.3% impermeable surface coverage he is allowed to modifying the driveway. Mr. Datz is open to objective criticisms where the design of the property can be improved, as this is a necessary item for the community. He is not able to control the traffic on Franklin Street and even if a single-family dwelling were placed on the lot, that family could potentially be six or more people with four or more cars. If septic is approved on this small lot, there are no serious conflicts involving the environment or the community even when taking neighbors' concerns into consideration.

At this time the Board discussed changing the date of the October 2019 meeting from Tuesday, October 1, 2019 at 7:00 pm to Tuesday, October 8, 2019 at 7:00 pm to ensure a quorum.

**WHEREFORE** a motion was made by Vice Chair Condon and seconded by Member Ciaccio to change the date of the Tuesday, October 1, 2019 meeting to ***Tuesday, October 8, 2019 at 7:00 pm***. The Board having been polled resulted in unanimous affirmation of said motion.

**WHEREFORE** a motion was made by Member Palen and seconded by Member Ciaccio to continue the public hearing ***Tuesday, October 8, 2019 at 7:02 pm***. The Board having been polled resulted in unanimous affirmation of said motion.

**Initial Review**

Applicant: Normans Cay Holdings LLC/Michael & Kristen Drake  
697 W. Genesee Street  
Skaneateles, NY 13152  
**Tax Map #047.-01-36.0**

Present: Michael & Kristen Drake, Owners  
Bob Eggleston, Architect

Proposed is a driveway extension of an existing driveway within a wetland setback. Bob Eggleston, Architect, explained to the Board there are two adjacent properties with two separate applications in front of the Planning Board for review. The first application is for the neighboring property where the owners will redevelop an existing mini golf course not requiring any variances. There are five existing culverts and four driveways collectively between the two properties, which will be consolidated. The 687 W. Genesee St., mini golf, property will maintain the western most driveway while eliminating the eastern driveway on that property, while merging the parking lot entrance with the driveway that has the proposed extension on the neighboring property. 697 W. Genesee St. consists of a single family home with two driveways and an unused culvert, where the unused culvert will be removed and the western most driveway on that property will be extended north. This work could easily be done without a variance however there is a watercourse running north along the western edge of the mini golf course and continues onto the property under ZBA review. The applicant had the property reviewed by a wetland delineator and determined there is a federal wetland on both properties surrounding the watercourse, which triggers the variance. A DEC wetland concerns, flora, fauna, protecting species, and drainage, whereas Federal wetlands are primarily concerned with drainage. State wetlands have a 100 foot buffer, which is why the zoning code requires a 100 foot setback to wetlands. Where 20 feet was once allowed as a driveway setback to a wetland, there was a zoning modification in the early 2000's stating a 100 foot minimum setback to a watercourse or wetland is required. Being a federal wetland, there is no required buffer by the Federal Army Corps of Engineers.

The goal for the property is to create an agri-business, including greenhouses and relocating a current business out on Route 5 to 697 W. Genesee St., consolidating the businesses. One greenhouse would allow bedding plants and landscape materials, a planting bed/nursery stock as well, with a long term goal of building a barn to sell nursery stock grown on site. Future agri-business could include a corn maze and/or a pumpkin patch on the remaining 6 acres of the property, which would tie in with the family entertainment mini golf business. The existing single-family dwelling on the property is a rental and that will remain in its current state. There is a septic system for the dwelling north east of the structure, due to the wetland setback, the applicant is proposing a new septic for the mini golf with an easement located just east of the dwelling's existing septic system.

Mr. Eggleston informed the Board there is no way to advance the development of this property unless there is access to it. It would be intrusive and dangerous to place the access for an agri-business east of the single-family dwelling, as there is only 29.7 feet between the structure and property line. The other concern for placing the driveway east of the home is the visibility for pulling out of the driveway due to the hill on the road. The sight line for the current driveway location is significantly better as a result of the extra 100 foot distance from the hill. As it stands there is an application in to the DOT for the existing driveway to make it a joint commercial drive for the mini golf and future development of 697 W. Genesee St. From a logistical standpoint this is the best location for the 20 foot driveway placement, if the applicant were to use the existing driveway right along the house the garage that has been recently rebuilt after a fire would have to be torn down, and the existing septic would also be an obstacle. During the Board's site visit it will be easier to understand the proximity of the wetland, which is completely different than the DEC wetlands the Board is accustomed to. Because of the soil types and some of the plant species, the area has been determined a Federal wetland.

Member Palen asked if the red line on the site plan indicated the location of the wetland and if the driveway extension was within the wetland itself. Mr. Eggleston answered the dotted red line on the site plan indicates the 100 foot zoning setback to the wetland; the proposed driveway does not go through the wetland itself. The area of the driveway highlighted in yellow on the site plan indicates the section of driveway requiring the variance as it is within the 100 foot wetland setback.

Vice Chair Condon asked if the applicant knew how the road would be built. Mr. Eggleston stated it would be built standard with crusher run base, filter fabric and a raised grade. This is a very involved project requiring a SPDES (State Pollutant Discharge Elimination System) Permit for a storm water management plan, not just a bio-

swale. The one thing holding up any further development is the approval of the driveway extension. Vice Chair Condon inquired about the drainage situation with the driveway being raised, if it will include a swale on the west of the driveway within the buffer and a drainage pipe on the east side of the driveway. Mr. Eggleston stated that is correct, the road would drain into water BMP (Best Management Practice) with a retention pond including a forebay and an afbay. Any new drainage is required to control water runoff before being released back into the wetland or watercourse. Currently Mr. Eggleston does not have details but the design will be created by a professional engineering firm if the variance is granted. There will likely be ditches and the bio-swale is permitted within the 100 foot wetland setback. Federal wetlands are allowed to be utilized for drainage purposes. Vice Chair Condon asked if the 100 foot buffer zone the driveway is proposed in is considered a 100 year flood plain. Mr. Eggleston answered no it is a 0 year flood plain, as it is a buffer to a wetland that is not required by the Army Corps of Engineers but it is required by Town zoning. If the wetland were DEC, the driveway would not be permitted without the creation of new buffers or wetlands.

Member Palen asked if the number spots on the site plan north of the driveway extension were parking spaces for the future business. Mr. Eggleston stated yes, this is a rational plan of development. Vice Chair Condon stated normally you would request a variance on a buffer, where here you are looking to go right through the buffer. Mr. Eggleston responded no, the application is requesting a variance for a 27 foot setback to the wetland where 100 feet is required. This is just like any other area variance because the applicant is required to be 100 feet away whereas the driveway will be 27.2 feet away from the wetland at the closest point. Vice Chair Condon asked why the applicant wouldn't bring the driveway up closer to the existing garage to limit the variance. Mr. Eggleston answered this is the best approach to bring it in and keep the buildings high, maintaining as much agricultural land as possible, allowing for a bio-swale and detention pond in the most strategic areas. Another reason for this proposal is because of the commercial nature of the driveway, it is best to keep it as far away from the rental house as possible. Mr. Eggleston stated the setback could be increased if the driveway were curved around, however it would increase the ISC and the applicant is currently close to the 10% limitation. Vice Chair Condon stated the ZBA looks to grant the minimum variance required, if the applicant were to move the driveway over slightly it would reduce the variance request. Mr. Eggleston explained from a practical standpoint coming in straight makes more sense for efficiency and impermeable surface. Vice Chair Condon said hypothetically if the garage wasn't there and you put the road over outside of the buffer where would you put the septic. Mr. Eggleston state the applicant would have to find a new area for the septic systems then remove and replace an existing septic. Vice Chair Condon reviewed the applicant is redeveloping the properties in a positive way, and you're asking for a variance within a buffer or else remove a small garage. Mr. Eggleston reminded a brand new small garage. Vice Chair Condon stated in the big picture, removing the garage could be minimal, as you could move the parking area for the future barn location. Mr. Eggleston agreed one could look at it that way. Vice Chair Condon stated the ZBA must explore and consider all other alternative options. Mr. Eggleston understood and explained the grading of the land would not be ideal for that particular layout the Board would have a better understanding of that and the wetland during the site visit.

Chair Rhoads complimented it is nice to see the land being redeveloped and back to mini golf. Mr. Eggleston agreed, as the applicant has already received very positive feedback about the project from people in the community.

A site visit was scheduled for *Monday, September 9, 2019 at 6:00 pm.*

**WHEREFORE** a motion was made by Chair Rhoads and seconded by Vice Chair Condon to schedule a public hearing *Tuesday, October 8, 2019 at 7:10 pm.* The Board having been polled resulted in unanimous affirmation of said motion.

Gretchen Messer, 2935 West Lake Road, expressed her concern with a comment about the wetland. Ms. Messer stated just because it is phragmites the wetland still provides all of the functions of a stereotypical wetland. Chair Rhoads thanked Ms. Messer for her comment.

There being no further Board business, a motion was made by Member Palen and seconded by Vice Chair Condon to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 8:19 p.m.

Respectfully Submitted,  
Kim Benda