

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

January 3, 2017

Present:

Denise Rhoads
Jim Condon
Sherill Ketchum
David Palen
Mark Tucker
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk

The meeting commenced at 7:00 p.m. at Town Hall. Chair Rhoads welcomed Mark Tucker to the Zoning Board and commended his year to date 23 years of service to the community. The next Zoning Board of Appeals meeting will be held on February 7, 2017 and there is no site visits scheduled this month. Previous distribution to the Board of the regular meeting minutes of December 6, 2016 was executed and all members present acknowledged receipt of those minutes.

WHEREFORE a motion was made by Member Palen and seconded by Member Condon to accept the December 6, 2016 as corrected. The Board having been polled resulted in unanimous affirmation of said motion. Member Tucker abstained from the vote.

Record of Vote

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

Initial Review

Applicant:	Rick & Debbie Moscarito	Property:
	120 Madison St	1813 Russells Landing
	Chittenango, NY 13037	Skaneateles, NY 13152
		Tax Map #063.-03-13.0

Present: Robert Eggleston, Architect; Jeff Davis, Attorney

Mr. Eggleston began by stating that after the denial of the variance last month, a new proposal was created with the dwelling decreased in size to 1840sf and constructed on piers. The prior approval had 240CY of soil leaving the site and the new proposal has 35sf of disturbed area within the steep slope area. The new proposal should be more environmentally friendly than the prior proposals.

The setback to the watercourse has increased from 41.0ft to 41.4ft, the lake line setback has increased from 51.5ft to 56.5ft and the floor space of the dwelling has been reduced from 2278sf to 1840sf. The dwelling will remain three bedrooms; however instead of the one-story dwelling with walk-out basement, the dwelling will be a two-story dwelling built on piers, increasing the height of the dwelling from 22ft to 27.4ft. The deck will reduce is size from 340sf to 120sf. The proposed impermeable surface coverage will decrease from 9.5% to 8.5%.

Member Condon inquired how the piers would be installed. Mr. Eggleston stated that there are two ways that would accomplish the task. An auger can be attached to a backhoe and then drilled down, or a hand auger could accomplish the task. The machines would rest on the top level area of this lot with no heavy machinery in the slopes. Trees within ten feet of the foundation of the dwelling will be cleared.

The December 22, 2016 letter from Jeffrey Davis of Barclay & Damon reflects a chart that shows the proposed changes to the proposal from the original proposal. The proposed dwelling is located in the same location as there are steep slopes to the north of the dwelling and shifting the dwelling further away from the watercourse would cause more disturbance in steep slope areas. No water from the proposed structure will drain to the watercourse; rather it will go down the hill and to the lake. Mr. Eggleston commented that the setback to the watercourse is less important than with other applications where drainage flows towards the watercourse.

Mr. Eggleston stated that the neighbors to the north, the Tackleys, are in favor of the 50ft setback from the proposed dwelling to property line as it affords them more privacy, and there are minimal windows on the north side of the proposed dwelling. Mr. Eggleston stated that Mr. Tackley has seen the revised plan and has signed a letter of support that is in the mail. Member Palen commented that the drainage from the roof of the dwelling will drain into the watercourse. Mr. Eggleston confirmed that it would be piped like in the prior proposal. He continued stating that they are employing the same environmental mitigation as with the prior proposal, including the drainage from the Tackley drive directed to the 200sf rain garden that will filter the water and then the water would be collected by an 8 inch pipe, with the water traveling horizontally in the flat area. The pipe would be laid two feet down with a secondary perforated pipe collecting stormwater from the french drain that will go on top of the two pipes to pick up any ground water, with the drainage directed to the watercourse.

The watercourse would be lined with filter fabric and rock with larger boulders in the center that will function as check dams to slow the water. Mr. Eggleston continued stating that if the lot were not developed there would be no compelling reason to fix the watercourse erosion. Member Condon inquired on the location of the french drain. Mr. Eggleston stated that it is proposed on the southwest side of the dwelling.

Member Condon inquired what materials will be utilized under the dwelling. Mr. Eggleston stated that it will be lined with filter fabric and stone and then vegetation, if it will grow. There will be lattice around the perimeter of the dwelling to dress it up.

On page 2 of 2 of the site plan dated December 14, 2016, the light grey section indicates the areas that have greater than 30% slopes, with about half of the proposed dwelling located in the slopes greater than 30%. The proposed stairs from the dwelling to the lake are the same as the prior proposal and allowed by right. The stairs to the lake just require site plan review.

The heavy red lines on the site plan reflect the 100 ft setback from the lake and watercourse. The site plan also reflects the electrical line, access easement for the telephone company and an abandoned road right of way. The original subdivision had the lots with a narrow road coming through that was changed so that the road was placed further west as it is today. The septic fields are more than 100ft from the lake and watercourse that will have a split rail fence to deter vehicles from the septic field. The parking is for two to three cars and the proposed shed is conforming to code.

Member Condon inquired if the dwelling would be seasonal use. Mr. Eggleston stated that the dwelling would be required to build it to insulation standards for a year round dwelling as there will be a fireplace in the dwelling.

The dwelling will be ten feet off the electrical conductor (wire) as required. Member Ketchum stated that she would like to re-address the comment that moving the electrical wires and pole would cost in excess of \$100,000. In re-reading the email correspondence with National Grid, the total estimated cost is \$40,000. She continued stating the Mr. Eggleston's memo talks about the FiOS line needing to be moved and the cost jumps to over \$100,000. No one has done the math to determine what the cost would be. Mr. Eggleston stated that the National Grid bill will be low in comparison to Verizon. The FiOS line utilizes a fiber optic line that cannot be bent or curved, causing the relocation to be more expensive. Mr. Eggleston stated that although the letter requesting information regarding the potential relocation of the phone line was sent several weeks ago, there has been no response from Verizon.

Member Palen inquired if the septic system is the same system that was planned over sixteen years ago. Mr. Eggleston stated that the original septic system plan was designed as a conventional septic system by Ron Linderman, and that his office had redesigned it as an Elgin system which is a more efficient system. The Ross property to the north also utilized an Elgin system for their septic system.

Member Condon inquired if the Board has to determine now if the dwelling is for seasonal use. Counsel Molnar stated that it has to be designed by building code requirement to be a year-round home. The use would determine whether it is seasonal or not. What is relevant for the Board is whether the application is factually distinguishable from the prior application. There are certain requirements in order to keep the existing application open for a new determination based upon variances requested. A synopsis of Section 267-a of the NYS Town code is that the Zoning Board of Appeals is authorized to, by statute, to hold a rehearing to review any order, decision, or determination of the Board. In order for a rehearing to be granted, all of the Zoning Board members present at a meeting must unanimously vote to grant a rehearing. It is a rehearing of an existing application. Any such rehearing is subject to the notice provisions of the original hearing. At such a rehearing the Zoning Board is authorized to reverse, modify or otherwise

annul its original order, decision or determination, provided that the vote of all Board members present is unanimous. The Board is not required to rehear an application for a variance unless the petitioner can demonstrate a substantial change in circumstances from the initial application for the variance or that the requested variances are factually distinguishable from the proposal of the previous application. A refusal by the Zoning Board to rehear an application when there has been a substantial change in circumstances or where the requested variances are factually distinguishable from the previous application, will be found to be arbitrary and capricious. The second department has ruled that an application with a factually distinguishable variance does not trigger the unanimity requirement of the enabling acts. As a result, where this application is factually distinguishable from the prior variance request which was thoroughly reviewed but denied, the Board can consider this still the same application moving forward with a factually distinguishable submission, so that it is essentially rehearing this new set of factually distinguishable facts. It can give this application a thorough review and if acceptable to the Board, can proceed to a notice for public hearing and proceed in the ordinary course. Counsel Molnar recommended to the Board that this should be the case with this application. With the table that has been submitted with the factually distinguishable components, it would be well within the Board's right to handle this as a continuation of an application. The Board does not have to hold a vote of unanimity to rehear the application; however, it is with an abundance of caution the Board could entertain a motion to that effect.

WHEREFORE, a motion was made by Member Condon and seconded by Member Palen that the new submission materials are factually distinguishable (as shown on page of the correspondence prepared by Jeffrey Davis dated December 22, 2016) from the prior variance that was denied and that the Board will proceed to provide a thorough review of the variances requested according to its ordinary procedures. The Board having been polled resulted in the unanimous affirmation of said motion.

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

Mr. Eggleston stated that the chart regarding the properties that are ten north and ten south has been updated to include additional information. Floor space calculations and steep slope comments have been added. Member Ketchum commented that the Board does not have the percentage of the homes located in the steep slopes in the neighborhood shown on the chart. Member Condon stated that the information is good; however, every lot is different including the topography and location of power lines. Mr. Eggleston stated that one of the questions is if the proposal is in character of the neighborhood. At the last hearing, the Ross property was referenced, and when a comparison is done it should be noted that the lot is 58% smaller with only 71.6ft of lake frontage, the dwelling is similar in location to the lake as this proposal, and the impermeable surface coverage is at 9.9% whereas this proposal will be at 8.5%. The Ross property had three variances, lake yard setback, lot size and lake frontage, and this application

also is requesting three variances, lake yard setback, watercourse setback and construction in steep slopes, on a larger lot.

The City of Syracuse submitted a letter of no objections to the proposal dated December 29, 2016. The Onondaga County Planning Board will be reviewing this application. Chair Rhoads inquired whether the applicant intends to occupy the dwelling or rent it out. Mr. Eggleston stated that they intend to use it part of the time and may rent it part of the time. This property is the property they will use to access the lake. It was determined that a site visit would not be conducted as they have seen the property recently. Member Ketchum inquired if the neighbor's house is at a higher elevation. Mr. Eggleston stated that the Tackley house has the garage at grade level, with their house at about the same elevation as the first floor of the proposed dwelling. The Tackley house is a two story house with a walk out basement on the lakeside. Their deck is located to the northeast side of the dwelling. Member Ketchum commented that she wondered if the Tackleys would be looking at the proposed cliff deck from their deck. Mr. Eggleston commented that the Tackley deck faces northeast away from this property. Member Condon commented that most of the trees would be left on the applicant's property.

WHEREFORE, a motion was made by Member Palen and seconded by Member Ketchum to schedule a public hearing on *Tuesday, February 7, 2017 at 7:10 p.m.* The Board having been polled resulted in the unanimous affirmation of said motion.

Discussion

The Town Board has changed their meeting days to the first and third Monday of each month.

Discussion

The Board expressed their disappointment in being notified of the Board changes by the Town Board, after they had been in the local paper and on Facebook.

Discussion

The open space committee will be meeting on January 16, 2017 at 7 pm at Town Hall.

There being no further business, a motion was made by Member Ketchum and seconded by Member Tucker to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 7:47 p.m.

Respectfully Submitted,
Karen Barkdull