

**TOWN OF SKANEATELES
ZONING BOARD OF APPEALS
MEETING MINUTES OF
December 3, 2024**

Present:

Denise Rhoads, Chair
David Palen, Vice Chair (Present via Zoom)
Kris Kiefer
David Lee
Scott Molnar, Attorney
Karen Barkdull, P&Z Clerk
Aimie Case, ZBA Clerk

Chair Rhoads opened the Zoning Board of Appeals meeting at 7:15 pm. Vice Chair Palen was present via Zoom. Member Ketchum was not present.

Minutes

Previous distribution to the Board of the regular meeting minutes of October 8, 2024, and November 12, 2024, was executed, and all Members present acknowledged receipt of those minutes

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Kiefer to accept the October 8, 2024, minutes as submitted. The Board having been polled resulted in unanimous affirmation of said motion.

	<u>Record of Vote</u>	
Chair	Denise Rhoads	Present [Yes]
Vice Chair	David Palen	Present [Yes] (Via Zoom)
Member	Kris Kiefer	Present [Yes]
Member	Dave Lee	Present [Yes]
Member	Sherill Ketchum	Absent

WHEREFORE, a motion was made by Vice Chair Palen and seconded by Member Lee to accept the November 12, 2024, minutes as corrected. The Board having been polled resulted in unanimous affirmation of said motion.

	<u>Record of Vote</u>	
Chair	Denise Rhoads	Present [Yes]
Vice Chair	David Palen	Present [Yes] (Via Zoom)
Member	Kris Kiefer	Present [Yes]
Member	Dave Lee	Present [Yes]
Member	Sherill Ketchum	Absent

Public Hearing

Applicant: David & Judy Fennessy
883 Franklin Street
Skaneateles, NY 13152

Property: 883 Franklin Street
Skaneateles, NY 13152
Tax Map #047.-04-02.2

Present: Bill Murphy, Jr., SPACE Architectural Studio, PC

This application is for a proposed single-story primary suite addition to a dwelling on an existing nonconforming lot, as well as a patio and screened area added to an existing deck. Mr. Murphy said that they are waiting to hear from the Town Engineer as to whether the waterway should be treated as a watercourse. Chair Rhoads commented that at the site visit it appeared to be a man-made structure taking stormwater from across the street, and not a natural watercourse. Chair Rhoads inquired if they may proceed, and Counsel Molnar recommended that the Town Engineer weigh in on the determination of the watercourse.

Chair Rhoads asked for clarification of the size of the addition, and Mr. Murphy said that it is 574 square feet and that they will also be adding 31 square feet from the garage for the primary suite.

At this time Chair Rhoads asked if there was anyone who 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 Member Lee and seconded by Member Kiefer 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 then asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. No comments were made.

WHEREFORE, a motion was made by Member Lee and seconded by Member Kiefer to continue the public hearing on January 7, 2025, at 7:02 p.m. 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] (Via Zoom)
Member	Kris Kiefer	Present [Yes]
Member	Dave Lee	Present [Yes]
Member	Sherill Ketchum	Absent

Public Hearing

Applicant: James & Mary Fox
1431 Thornton Heights Road
Skaneateles, NY 13152

Property: 1430/1431 Thornton Hgts Rd
Skaneateles, NY 13152
Tax Map #057.-01-26.0/057.-01-25.0

Present: Robert Eggleston, Eggleston & Krenzer Architects, PC
Jim Fox, Applicant

This application is for the proposed construction of a detached two-car garage, with attic storage on the second floor and exterior stairs. Applicant, Jim Fox, and his Design Professional, Robert Eggleston, PC, were in attendance.

Mr. Eggleston stated that the property consists of two separate tax parcels which were essentially combined out of necessity. There are two separate tax map numbers, street numbers, but one owner utilizes them as a single residence. The lots are split by Thornton Heights Road. They are treating the lots as one property for the purpose of zoning.

The lot is 22,000 SF with 87.7 feet of lake frontage. The only variance being requested is for the increase in potential living space because garages are considered potential living space. The proposed living space will increase to 12% whereas a maximum of 10% of the lot area is allowed. The building footprint will go from 1,316 square feet to 1,904 square feet, over the maximum 6% of the lot area allowed. Impermeable surface coverage and total lot coverage are compliant.

The site plan has been revised to modify the stairs to the second floor attic storage area with a landing proposed instead of a deck. There are similar structures along the road with detached garages with storage space above. The structure will be built into the bank to reduce the visual appearance of bulk and size. There is a pair of double doors on the back of the proposed garage for access of larger items. Vice Chair Palen asked what the impact to the coverage is for the reduction of the size of the stair structure and Mr. Eggleston replied saying that it would improve the total lot coverage from 16.3% to 16%.

Member Lee asked if the two lots are combined and Mr. Eggleston explained that the two lots cannot be combined into one lot due to the road bisecting them; however, the two lots are linked together as the septic is behind the garage. Mr. Fox said that when the septic system went in they agreed to tie the two lots together. Counsel Molnar said that the Board can make that a condition of approval of the application that both lots must forever remain in common ownership by one entity, trust, or individuals, as the two lots together comprise one residential lot.

At this time Chair Rhoads asked if there was anyone who 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 Member Kiefer 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 Kiefer 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 then asked if there was anyone who would like to speak in favor of, against or had any comments regarding the application. No comments were made.

WHEREFORE, a motion was made by Member Kiefer and seconded by Member Lee 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 148-4-2-C.1.b.E District Regulations- Residential Side Yard Setback. 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:

FACTORS CONSIDERED IN CONTEMPLATING THE AREA VARIANCES:

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 granting of the variance requested, as amended, will not produce an undesirable change to the neighborhood. Homes in the neighborhood are comprised of a mix of seasonal and year-round homes with private road access. Many of these properties contain two parcels separated by Thornton Height Road with the homes on the east side and a parcel of land on the west side of the road. There have been similar garages added to some of these parcels. The property owners are planning to occupy the house year-round and adding a garage is reasonable considering the weather in the area. The proposal will increase the relative density of the lots in comparison to the other lots in the area, as the other lots are composed of combined 50-foot lots, making them 100 feet in width.

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. This is a nonconforming lot within 1000 feet of Lakeline, which also encroaches into the required front yard setback. Consequently, any additional floorspace or change in height would require a variance. The property is comprised of two tax parcels separated by Thornton Heights Road. The garage structure will be built on the west side of the road, While building footprint and building floorspace exceed the allowable area, the impermeable surface coverage, side yard setbacks, and total lot coverage remain in compliance with the zoning code.

3. Whether the requested variance is substantial: Yes No

Reasons: Yes, as reflected in the Record of Vote below. The ZBA found that the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood. Increasing the building footprint and floorspace from conforming to 8.6% and 12% respectively, considering the size and location of the lot, the variance is substantial; however, the total lot coverage, impermeable surface coverage and minimum lake yard setback remain in conforming ranges. The percentage increase over building floorspace of 2% and 2.6% over building footprint is substantial.

QUESTION 3 RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM (absent)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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, as reflected in the Record of Vote below. The ZBA determined that it is seeing areas that were once open that provide a barrier for runoff being eliminated in the area, but the proposal will not have a major effect on the lake . It is a garage and storage area that will not provide additional living space. In other cases, we have seen that what was originally a garage is quickly turned into living space for additional people. The more structures around the lake with more people around the lake will have an adverse effect upon the environment conditions of the lake in the long term, but the proposed structure will not encroach on the existing septic area; during construction the erosion control methods will be utilized, and a bioswale will be constructed on site to manage stormwater.

QUESTION 4 RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM (absent)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Reasons: Yes, based upon the foregoing listed deliberation factors.

DETERMINATION OF ZBA BASED ON THE ABOVE FACTORS:

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 upon a unanimous (4-0) affirmation of all Members present as recorded below, approves the variances requested, and 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 Revised Site Plan 1 of 3 through 3 of 3 dated November 20, 2024, and Narrative dated October 31, 2024, prepared by Robert O. Eggleston of Eggleston and Krenzer Architects, Licensed Architect, be complied with in all respects; and
2. The two lots to which these variances apply, Tax Map Numbers 057.-01-26.0 and 057.-01-25.0, must forever remain in common ownership by one entity, trust, or individuals, as the two lots together comprise one residential lot.

RECORD OF VOTE

MEMBER NAME	AYE	NAY	ABSTAIN
Chair DENISE RHOADS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vice Chair DAVID PALEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member KRIS KIEFER	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member DAVE LEE	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Member SHERILL KETCHUM (Absent)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Initial Review

Applicant:	James & Emily Johnson 1781 Russells Landing Skaneateles, NY 13152	Property:	1781 Russells Landing Skaneateles, NY 13152 Tax Map #063.-03-06.0
------------	---	-----------	--

Present: James & Emily Johnson, Applicants
Whitney Johnson, Applicant’s daughter (Via Zoom)

This application is a request for the variances necessary to make a previously constructed shoreline staircase compliant. The Applicants, James & Emily Johnson were present. The Johnson’s were represented by their daughter, Whitney Johnson, who was present via Zoom. Ms. Johnson stated that the Applicants have owned the property for over 29 years and approximately 15 years ago an independent appraiser stated that this lot is the most dangerous lake frontage in Skaneateles, due to the severity of the cliff. There have been annual rock falls of the cliff coming down, with three events that have been particularly severe. The most recent rock degradation occurred in February of 2023. The one rockslide took out the bottom six steps of the existing spiral staircase and physically moved the only pole that they had to allow them to traverse to the lake frontage.

The Johnson’s hired Lake Country Construction in 2023 and had asked if a permit would be required. This is reflected in the 2023 email correspondence between Johnson’s and Lake Country Construction and has been added into the record. Ms. Johnson continued saying that in May of 2024 they asked the Codes Officer about the permits before work began and stated that he said no permits would be required. When the contractor came out, they had an incredibly difficult time finding a safe location for a staircase due to the continuous rockslides and the steepness of the waterfront. They chose the best location for the staircase. Mr. Johnson added that there is a lot of steep cliffs and that theirs is all shale, with fractures throughout the shale.

Mr. Johnson said that after a few days of work the contractor determined that they were having a difficult time finding a stable section of substrate to secure the posts in, and their suggested workaround was to resize the landings. They were able to attach to the end of some of the trees.

Vice Chair Palen said that it was obvious that you needed to do this, but it was difficult to accept that you thought this could be constructed without a permit. Mr. Johnson said that they were misled by the contractor as shown in the email from November 2023, saying that it was not necessary. Mr. Johnson said that they never had to deal with anything like this, but as an aside, when they put the

stairs and deck in, they cabled the old stuff in. They put four cables into the new decking and staircase to stabilize it at no charge. Member Lee said that there is scarcely enough information with the submitted application, as the Board would need to see the construction drawings and based on the location and the cost of the construction, would require engineered drawings. He continued saying that the Board cannot move forward without the appropriate drawings and engineering that show what has been done. The bank is also unstable, and he wondered what will happen when the next chunk comes down.

Mrs. Johnson said that they submitted five copies of the as-built survey as that is what the Codes Officer said was needed. She continued saying that they do not have a copy of the set of construction drawings. Counsel Molnar said that the Board will need the engineering designs for the structure that would make the application whole, and they would need to be reviewed by the Town Engineer. Additionally, a building permit and a special permit from the Planning Board would be required. Mr. Johnson said that they hired Lake Country because we were told that they would help with the permits. Member Lee recommended that a site visit should be conducted after they have received all of the required submissions.

Chair Rhoads recapped the three variances needed; shoreline side yard setback of 1.9 feet, total lot coverage, and total onshore structures. Vice Chair Palen inquired whether the wooden deck is new construction. Mr. Johnson said that the original plan called for landings, and the contractor came back saying that they needed to enlarge the landings after they found out that they were having a hard time securing the structure. Vice Chair Palen asked if there was a deck there before and Mr. Johnson said that it is new. Mrs. Johnson said that she would dispute the surveyor showing the setback of 1.9 ft as there is a peninsula there and the lake comes in during the summer when the water is higher.

Vice Chair Palen said that there is a permanent dock and a long deck, so most of the shoreline is taken up with structures. Mrs. Johnson reiterated that the independent appraiser stated that they have the worst waterfront, and he did his visit by boat. Member Lee commented that there was another property in the neighborhood that had a long spiral staircase that the Board reviewed.

Ms. Johnson said that they would procure the required engineered drawings. Counsel Molnar said that the documents need to be submitted because in the absence of variances and a special permit to legitimize what has been constructed, the Codes Enforcement Officer could issue an order to remedy, to return it to its natural state prior to the construction. He continued saying that he encourages the Applicant to produce the engineering drawings and the full application. They may also want to consider retaining a professional that understands the process in Skaneateles. Member Kiefer added that the value of providing this is that the Board is tasked with going through five criteria as to whether to grant these variances, and ultimately the minimum variance required to achieve the benefit the property owner is looking to achieve of safe and stable access to the waterfront.

Continued Review

Applicant: SUNN 1017, LLC
700 West Metro Park
Rochester, NY 14623

Property: Jordan Rd. / Vinegar Hill Rd.
Skaneateles Falls, NY 13153
Tax Map A #018.-04-31.1
Tax Map B #018.-04-29.1

Present: Andrew VanDoorn, President, Abundant Solar Inc.
Matt McGregor, Sr. Director, Abundant Solar Inc.
Rebecca Minas, Sr. Engineer, Barton & Loguidice, D.P.C.

This application is for a proposed solar redevelopment project, to span across two contiguous lots on Jordan Road and Vinegar Hill Road. The first lot in question is the former site of the Stauffer Chemical Company with the rear lot being an undisturbed lot also owned by the Stauffer Chemical Company.

Andrew VanDoorn, President of Abundant Solar Power; Matt McGregor, Senior Director, Abundant Solar Power; and Rebecca Minas, Senior Engineer, Barton & Loguidice D.P.C. were present.

Ms. Minas stated that the revised site plan reflects a subdivision request for the parcels for the three solar projects. To be considered a community solar project, there is a maximum of 5MW per lot allowed, so they are proposing a subdivision so that lot 1 would be 59.3 acres with a 5 MW solar array system, lot 2 would be 42.3 acres with a 5 MW solar array system, and lot 3 would be 15.8 acres that would have a 1.6 MW solar array system. There is a change in the lot coverage for each of the parcels. The other variances are for the rear lot setbacks for lot 1 and 2. The interior setbacks would not impact the community. Counsel Molnar inquired if the property is habitable as remediated, as his concern is when the proposed subdivision creates a non-buildable lot. The proposed subdivision is located on the back lot which is clean land. Mr. VanDoorn stated that under the new Sun Community solar program, you can only have one 5 MW project on a parcel, and that is why they are obliged to break it up into three pieces with the proposal for 11.6 MW. Counsel Molnar said that the existing conditions support two 5 MW projects and for the sake of adding the megawatts, the project would require multiple variances and a subdivision of a reclaimed parcel.

Member Lee asked what the intent was in limiting a community solar array system to 5 MW per parcel. Mr. VanDoorn said that it was determined by the Public Service Commission, and he does not know why it was limited to 5 MW per lot. He continued saying they may have determined that limitation to fit into a community rather than it turning into an industrial site. It was what Public Service Commission had determined to be the most reasonable and the threshold was not too small and not too big. Mr. McGregor stated that the Public Service Commission ruled on that back when they issued the order establishing the compensation mechanism and limiting that interconnection to 5 MW. Counsel Molnar recommended that the Board consult with John Camp, C&S Engineering, who is well versed in these requirements.

Member Kiefer inquired about the lot coverage maximum that is 50% in the IRO district, the solar law says it is 25% maximum, and proposed lot 1 would be at 31%. Counsel Molnar said that the solar requirements limit it to 25% lot coverage in our solar code section of the zoning code that would prevail.

Chair Rhoads asked if the Planning Board application had been submitted to the Town. It has been submitted to the Planning Board and will appear on their December agenda. Additionally, the Zoning Board of Appeals denial will be revised based on the information submitted in the last two days; it does appear that instead of two variances, the revised plan will require six variances. Chair Rhoads asked if the Planning Board will be scheduling a site visit this month and Counsel Molnar replied that they generally do while waiting for additional information to be submitted. Chair Rhoads commented

that it would be beneficial for both Boards to do the site visit together and that they would want to go on the property. Member Lee suggested that the Applicant provide any necessary PPE to wear at the site visit if they are required by the property owner, and Mr. VanDoorn agreed although there is nothing to worry about at the site.

Member Kiefer reminded that Applicant that the Board is charged with granting the minimum variances required and there are now six variances being requested. The application is unique but he is mindful of the variances being requested. To what extent are there opportunities to reduce the number of variances and the extent of the variances that are being sought in order to still achieve the benefit of what the Applicant is trying to accomplish. The next step will be to schedule the application to the January meeting for continued review and to set the site visit to coincide with the Planning Board site visit when they also have engineering available.

Discussion

- The next ZBA Meeting will be held on January 7, 2025, at 7:00 pm.
- The next P&Z Staff Meeting will be held on January 16, 2025, at 6:30 pm.
- The next Shoreline Committee Meeting will be held on November 4, 2024.
- The Board discussed the draft Shoreline Guidelines. Comments attached.

Attorney Advice Session

WHEREFORE a motion was made by Chair Rhoads and seconded by Member Lee to enter an attorney advice session. The Board having been polled resulted in favor of said motion.

WHEREFORE a motion was made by Member Lee and seconded by Member Kiefer to return from attorney advice session. The Board having been polled resulted in favor of said motion.

The Board returned at 9:06 pm.

There being no further Board business, a motion was made by Vice Chair Palen and seconded by Member Lee to adjourn the meeting. The Zoning Board of Appeals meeting adjourned at 9:06 pm.

Respectfully Submitted,

Aimie Case
ZBA Clerk

Meeting Attendees:

Bob Eggleston, Eggleston & Krenzer Architects
Bill Murphy, Jr., SPACE Architectural Studio
Jim Fox, Applicant
Emily Johnson, Applicant
Jim Johnson, Applicant

Andrew VanDoorn, Abundant Solar Inc.
Matt McGregor, Abundant Solar Inc.
Rebecca Minas, Barton & Loguidice, D.P.C.
Quinn Cheney

Meeting Attendees Via Zoom:

David Palen, Vice Chair
Whitney Johnson

917-620-3864 (Richard & Marie Garlock)
James Facer

Zoning Board of Appeals Discussion 12.03.2024 – Draft Shoreline Guidelines

The text is meant to help implement the zoning code with the major goals to consolidate the structures as much as possible to reduce the impact of view from the lake. The Board’s comments should be submitted to the Town for the committee to consider.

Chair Rhoads stated that she disagrees with the inclusion of stakeholders. By giving preferential treatment, we open everything up for them to work around the code instead of being a partner with us to help protect the lake. Their inclusion allows them to find loopholes in the code. We should wait until guidelines go public and get their comments at that time so as to not allow them influence over the product delivered.

Member Lee stated that it cuts both ways as the stakeholders can be of great deal of help and can bring different viewpoints to proceedings.