

**Town of Otsego Zoning Board of Appeals**  
Minutes (Unapproved) – January 17, 2017

**PUBLIC HEARINGS**

**16.10 – Donald Ossont (Daniel Cohen) – Area variances, replacement of residence within 100 feet of Canadarago Lake – 185 Marble Road (#52.08-1-25.00)**

Chairman Greg Crowell opened the Ossont public hearing at 7:05 PM, and asked if anyone from the public had comments or questions about the application. Representative Daniel Cohen described the proposed project for the benefit of the public.

Chairman Crowell read aloud a January 13 letter from Leighton Burns of Kernan & Kernan, representing neighbor Ruth Bond. She had questions and concerns about access of construction vehicles to the lot using the right-of-way on her property, the septic system, engineering plans, and the impact on her tenants, among other things. Cohen responded that the Wassons had given Ossont permission to use their land in accessing the property. He said the septic system would be a holding tank. Chairman Crowell noted that many of these questions would be dealt with by the Planning Board, if the ZBA variances were granted, and this letter would be filed for their reference.

Zoning Enforcement Officer Hobbie said that Jim and Polly Renckens had phoned him, saying they had no issue with the project. Hobbie said he would contact Ruth Bond with answers to her questions. Hobbie also advised Cohen what the Planning Board would need.

With no further comments or questions, Chairman Crowell closed the hearing.

**16.09 – Addison Bissell (Robert Panasci) – Use variance, principal buildings per lot – 6515 State Highway 80 (#84.12-1-6.00)**

Chairman Greg Crowell opened the Bissell public hearing at 7:24 PM. He asked that speakers sign in, that they address comments to the Board, and that they be civil and not interrupt each other or engage in character assassination.

Crowell and Dean Robinson read aloud correspondence (filed) related to the application:

- A letter from applicant Addison Bissell, authorizing his sister, Cheryl Bissell, to represent him.
- A January 17 letter from Barbara Margaritas, citing issues with the Bissells and their property use, and asking the Board to deny the application.
- A letter from Janis & Curtis Wilbur of 6498 State Highway 80, citing alleged previous violations by Bissell, and urging the Board not to allow further expansion.
- A November 17, 2016 letter from Addison Bissell, including an assessor's report which described the building in question as a "240 square foot cabin." Bissell believes the building thus should be considered an "accessory use" structure, not requiring a use variance.
- A note from John May, MD. His wife, Amanda May, said that Chairman Crowell did not need to read that, as she had a prepared statement to read.

Secretary Bill Deane noted that the public hearing notice addressed to Boyd Bissell had been returned to sender.

Chairman Crowell asked if anyone from the public had comments or questions about the application.

Amanda May of 42 Lakeshore Drive read aloud a statement (filed), citing previous disputes with and transgressions by Bissell.

Danny Lapin, environmental planner for the Otsego County Conservation Association, read aloud a statement (filed). It included language from New York State use variance requirements and court decisions. Lapin said the Bissell project doesn't meet any of the requirements, and should be denied. Lapin cited alleged violations, the cumulative impact of Bissell's projects, and the setting of a bad precedent.

Bruce Harnett submitted a statement about zoning rules, which Lapin had already addressed. Harnett said Bissell's hardship was self-created, as he should have gone through the proper channels before asking for permission.

Lauren Putnam cited Bissell's alleged disregard of proper procedures, unsafe practices, and impact on the neighborhood and environment.

Bryan Roy said that the building in question is more than just a cabin. He said the Lake is a special place and needs to be preserved.

Julia Roy of 6498 State Highway 80 read aloud from a January 17 statement (filed), saying that the Bissell's hardship is not unique and is self-created. She disputed the Board's negative declaration.

Joyce Putnam of 6498 State Highway 80 passed around photos to illustrate Julia Roy's points. Putnam described activity on the Bissell property over the past eight years, which she said endanger the environment and neighboring property values. She submitted a printout of Bissell's web-site, listing more accommodations than he has represented. Putnam asked the Board to enforce the laws and deny the application.

Attorney Doug Zamelis said that he represents the Roy and Margaritis families. He said that he still maintains that the application was untimely, but in any case is strongly opposed to it. Zamelis submitted a photo showing the building was newly-erected, not relocated, but said that, either way, the hardship is self-created. He said this situation is similar to the Hummel application which the Board denied, except that the standards for a use variance are much stricter. Zamelis said that a self-created hardship is fatal to a use variance application, but that in fact this application fails on all four criteria. He said that Bissell had the burden to prove that he meets the criteria, and he hasn't done so. He asked the Board to deny the application.

Chairman Crowell asked representative Cheryl Bissell whether she wanted to speak or respond to any of the comments. She said she did not.

With no further comments or questions, Chairman Crowell closed the hearing, and called for a brief recess. The meeting was resumed after nine minutes.

## **REGULAR MEETING**

The monthly Town of Otsego Zoning Board of Appeals (ZBA) meeting was held on this date at the Town Office Building in Fly Creek, NY. Chairman Greg Crowell called the meeting to order at 8:31 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, Tony Scalici (Vice-Chairman), John Tedesco, and Dean Robinson. Christopher Voulo was absent; Crowell noted that the Board no longer had alternate members. Town Attorney Michelle Kennedy and Zoning Enforcement Officer Ed Hobbie were also present.

The Board reviewed the minutes of December 20, 2016, e-mailed to the members. Tedesco moved to approve the minutes as written. Robinson seconded the motion and it was approved, 4-0.

The only correspondence received was related to public hearings, and already addressed. Deane distributed copies of the 2017 ZBA Directory to the members, and asked them to report any errors.

Chairman Crowell asked if anyone had a potential conflict with tonight's applicants. No one reported any conflict. The Board moved on to applications.

## **APPLICATIONS**

Tony Scalici moved to reverse the order of the Bissell and Ossont applications (listed on the agenda with Ossont first). John Tedesco seconded the motion and it was approved, 4-0.

### **16.09 – Addison Bissell (Robert Panasci) – Use variance, principal buildings per lot – 6515 State Highway 80 (#84.12-1-6.00)**

Bill Deane read aloud from the minutes of December 20, 2016 relevant to the Bissell application. The representative had left by this time.

Attorney Kennedy submitted a revised negative declaration/notice of determination of non-significance (filed). Tony Scalici clarified that the ZBA's negative declaration did not mean that the projects on this property had no negative impact to the environment, just that there was no significant impact as to their role in this particular application. Chairman Crowell agreed.

Attorney Kennedy responded to Addison Bissell's letter, read during the public hearing. She said the Bissell's own attorneys, Young & Sommers, had characterized the building as a second principal residence, and applied in order to attempt to come into conformance. Scalici noted that the applicant signed an application asking for a use variance

for a second principal building. Kennedy said that, regardless of whether it is considered a principal building or accessory use, it represents the expansion of a non-conforming use (pre-existing bed & breakfast), thus is not allowed without a use variance or special permit.

Attorney Kennedy noted that the applicant's counsel had not been present during recent meetings. She said that the burden is on the applicant to prove that he meets the criteria for a use variance, not the Board to prove that he does not.

After discussion, Tony Scalici moved to deny the application for a use variance. With input from the attorney and other members, Scalici said that:

There is no evidence that the applicant is unable to realize a reasonable return from the property, or will suffer unnecessary financial hardship, without a use variance allowing expansion of his existing business, and

The hardship is not unique, as all properties in the RA1 district are subject to the same laws, and the applicant has submitted nothing showing uniqueness of his situation; most of the properties he listed are either in other Towns or not comparable, and

The proposed project will alter the essential character of the neighborhood in a negative way, representing the expansion (albeit minimal) of a non-conforming use, and

The alleged hardship is totally self-created, as the structure was placed on the current location voluntarily, and whether it was moved or newly-built, or whether or not the applicant realized he was violating Town law, is immaterial.

Dean Robinson seconded the motion and it was approved, 4-0.

#### **16.10 – Donald Ossont (Daniel Cohen) – Area variances, replacement of residence within 100 feet of Canadarago Lake – 185 Marble Road (#52.08-1-25.00)**

Bill Deane read aloud from the minutes of December 20, 2016 relevant to the Ossont application. Applicant Donald Ossont and attorney Daniel Cohen had left by this time.

Attorney Kennedy noted that the applicant's disability (Parkinson's disease) could be a factor in allowing the variances. She suggested that the Board add a condition about the septic system (holding tank) being engineered. Zoning Enforcement Officer Hobbie noted that the setback variances should account for roof overhangs, and that he advised the applicant about this.

Upon Attorney Kennedy's advice, Dean Robinson moved to deem this a Type II action per State Environmental Quality Review Act 617.5(c)(13). John Tedesco seconded the motion and it was approved, 4-0.

Dean Robinson moved to approve the variances sought: a 19-foot variance on the north side, an 18-foot variance on the south side, and a variance from *Land Use Law* 4.04 (Lakeshore protection), with the conditions that the roof overhangs comply with the variances, that the septic system (holding tank) is engineered, and that silt barriers are in place before demolition. With input from other members, Robinson said that no undesirable change will be produced in the character of the neighborhood, nor detriment created to nearby properties, and in fact it will be a desirable change, moving the building farther from the Lake and improving neighbors' views; that the variances sought are not substantial, in view of the fact that the height of the building will be reduced from two stories to one; that the potential benefits outweigh any negligible detriments to the community; and that the situation is not self-created, due to the applicant's physical limitations.

Tony Scalici seconded the motion and it was approved, 4-0.

#### **OTHER BUSINESS**

The Board discussed the position of Vice-Chairman, currently held by Tony Scalici. John Tedesco moved to reappoint Scalici for 2017, and Dean Robinson seconded the motion. Scalici said he was willing to continue in that role. The motion was passed, 3-0, with Scalici abstaining.

Zoning Enforcement Officer Hobbie said he had no report.

Secretary Bill Deane asked if anyone had a problem with the date of the next scheduled meeting, February 21. Robinson said he would be traveling on that date. There is nothing on the agenda as of now, so there may not be a meeting anyway. The consensus was to leave the date as it is.

With no further business, at 9:13 Chairman Crowell adjourned the meeting.

Respectfully submitted,  
Bill Deane, Secretary