

Town of Otsego Zoning Board of Appeals (ZBA)

Minutes – April 18, 2023

(Will be approved with any necessary amendments at the next meeting)

PUBLIC HEARING

23.02 – Peter Kapsales – Area variances, replacement of shed & deck within 100 feet of Otsego Lake in RA1 district – 6447 State Highway 80 (#84.00-1-17.02)

Chairman Greg Crowell opened the Kapsales public hearing at 7:05 PM, briefly described the proposed project, and asked if anyone from the public had questions or comments about it.

Kevin Murray of 6453 State Highway 80 agreed that the shed needs replacement, and that it would not obstruct his view in any way. He expressed concern about possible power/lighting added to it, which would be a substantial change. Applicant Peter Kapsales said that he has no plans to hook up power to the shed at this time. Chairman Crowell noted that lighting is not included in the site plan, therefore not something that the ZBA or Planning Board would be approving; if Kapsales wanted to add power later, he would have to reapply to the Planning Board. Murray said that, in that case, he had no objections to the project.

Carina Franck of 6461 State Highway 80 agreed that the shed needs replacement, but said that the proposal represents a substantial increase. She has no objections to a shed and deck, but would not want to see the building converted into living space, as has happened with other “sheds” along the Lake.

Clerk Bill Deane noted that a hearing notice addressed to Judge & Vero Enterprises, Inc., had been returned to sender as “not deliverable as addressed.”

With no further speakers or correspondence, Chairman Crowell closed the hearing.

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 7:22 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell and Tony Scalici. With John Dewey (vice-chairman), Sal Furnari, Corinne Armstrong, and alternate member Dean Robinson absent, alternate members John Tedesco and Mary Anne Whelan joined the meeting table. Also present was Town Zoning Enforcement Officer Wylie Phillips.

Chairman Crowell asked whether any Board members had an ethical or legal conflict with tonight’s application. No one reported any conflict.

The Board reviewed the minutes of March 21, 2023, e-mailed to the members. Chairman Crowell said that the Kapsales footprint increase is on the north side of the property, not the south, and that the current shed measures 14’4” in length, rather than 14’6”. Crowell moved to approve the minutes as amended. Tedesco seconded the motion and it was approved, 4-0.

There was no correspondence received since the last meeting. The Board moved on to the application.

APPLICATION

23.02 – Peter Kapsales – Area variances, replacement of shed & deck within 100 feet of Otsego Lake in RA1 district – 6447 State Highway 80 (#84.00-1-17.02)

Applicant Peter Kapsales was present. Clerk Bill Deane read aloud from the March 21 minutes relevant to his application.

Chairman Crowell said he had visited the site. He noticed a canoe kept under a tarp; it does not fit in the current shed, but would in the proposed one. Crowell said the ramp or deck would replace a dangerous walkway. He thinks the proposed project is reasonable. John Tedesco agreed.

Tony Scalici noted that any setback variances granted would include overhangs; in other words, they would be measured to the nearest point of the buildings to the property lines. Kapsales said he understood that.

Chairman Crowell moved to approve the variances sought, specific to the proposed project, and with the conditions that the building be used only as a storage shed with no indoor plumbing, and be no more than 13'5" in height: a 35-foot variance on the east or Lake side; a 9-foot variance on the south side; a 36-foot variance on the west or State Highway 80 side; and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake. Crowell said that there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that the requested variance is substantial, but moderate with regard to the increase in non-conformity; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood; and that, though the alleged difficulty is self-created, that is not determinative to the decision. Tony Scalici seconded the motion and it was approved, 4-0.

Kapsales asked to be put on the May 2 Planning Board agenda.

OTHER BUSINESS

Zoning Enforcement Officer Phillips discussed a few items of interest:

- Bill Michaels wants to do work on his house (more than 500 feet from Otsego Lake) which is wrapped around on three sides by Browdy Mountain Road. Phillips was not sure how to define "front-yard," "side-yard," and "rear-yard" on this property with regard to setbacks. He read aloud from Section 3.12 (4) of the *Land Use Law*. Phillips said he was inclined to designate two "fronts," both of which meet setback requirements, and let the property owner designate the others as side- or rear-yards, as he chose. Chairman Crowell agreed.
- Phillips is working with Town Supervisor Ben Bauer in drafting proposed legislation on solar panels. Phillips will share the draft with the ZBA members when it is complete.
- Phillips had asked the Board last month about the Mary Alyce Peterson application which they approved in 2022, saying that Peterson now wants to change the roof from flat to gabled, making it about two feet higher than proposed. The consensus of the Board was that this particular situation would not require another variance. Peterson's builder Nick Drummond then went to the Planning Board, saying that the roof would actually be about eight feet higher. Phillips said he believes Drummond is mistaken; the plans show the roof being increased from 30 feet high to 32'9".

With no further business, at 7:59 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Clerk