

Town of Otsego Zoning Board of Appeals

Minutes – June 16, 2020

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

PUBLIC HEARING

20.02 – Matt Paoni – Area variances, construction of garage within 500 feet of Canadarago Lake in RA2 district– 2121 County Highway 22 (#38.20-1-20.00)

Chairman Greg Crowell opened the Paoni public hearing at 7:06 PM. Clerk Bill Deane read aloud the minutes of May 19 relevant to the application. Chairman Crowell asked if anyone from the public had comments or questions about the application; no one responded. Crowell closed the hearing at 7:22.

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 7:08 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. All regular Board members ultimately were present: Crowell, John Dewey (vice-chairman), Dean Robinson (who arrived at 7:17, during the Cathedral Farms application), Sal Furnari, and Mary Anne Whelan. Second alternate member Corinne Armstrong, Zoning Enforcement Officer Ed Hobbie, and Town Supervisor Meg Kiernan were also present. First alternate member Tony Scalici was absent.

Chairman Crowell asked if anyone had a potential conflict with any of tonight's applicants. No one reported any conflict.

The Board reviewed the minutes of May 19, 2020, e-mailed to the members. Armstrong moved to approve them as written. Whelan seconded the motion and it was approved, 5-0.

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

APPLICATIONS

20.04 – Cathedral Farms, Inc. (Jon McManus) – Installation of privacy fence within 100 feet of Otsego Lake in RA1 district – State Highway 80 (#84.12-1-14.00)

Cathedral Farms representative Jon McManus attended via Zoom. He said the applicant wants to construct a 12-foot-high boundary fence around his property within 100 feet of Otsego Lake. McManus said it would be a continuation of the existing fence along State Highway 80, similar in construction. Zoning Enforcement Officer Hobbie said that the *Land Use Law* does not limit the height of fences.

Chairman Crowell read aloud from Section 4.04 and definitions in the *Land Use Law*. Though the former says “no structure shall be newly erected within one hundred feet of the shoreline of Otsego or Canadarago Lakes,” the definition of “structure” specifically “excludes boundary fences.” McManus said he had gotten different direction in the past, and preferred that the Board schedule a public hearing and rule on the application. Clerk Bill Deane said that, if the

ZBA deferred on the application, it would go to the Planning Board for site plan review, and that Board would likely schedule a public hearing.

Chairman Crowell moved that this project does not require a variance based on the aforementioned *Land Use Law* passages, but does require site plan review by the Planning Board. John Dewey seconded the motion and it was approved, 5-0. McManus asked to be put on the July 7 Planning Board agenda.

20.02 – Matt Paoni – Area variances, construction of garage within 500 feet of Canadarago Lake in RA1 district – 2121 County Highway 22 (#38.20-1-20.00)

Applicant Matt Paoni was present. He wants to erect a 20x24' free-standing, single-story garage near his existing house, more than 100 feet but less than 500 feet from Canadarago Lake. The Board reexamined the documents and asked questions. Paoni said he wants a two-car rather than a one-car garage, and that water runoff will run toward County Highway 22.

Chairman Crowell said that he saw three garages within a quarter-mile of the property, and two more garages and a house within a half-mile, all similarly close to the road. Crowell said that he does not think the garage would be out of keeping with the neighborhood, nor that it would block anyone's view of the Lake. He read aloud from Section 9.03 of the *Land Use Law*, explaining the Board's responsibility to weigh benefits to the owner against detriments to the community.

With input from Chairman Crowell, Mary Anne Whelan moved to approve the variances sought: 40 feet on the east side (center of County Highway 22), 14 feet on the north side, and 16 feet on the south side. Whelan said that the benefit sought cannot be achieved by any other feasible method; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that though the requested variance is substantial, options are limited by the size of the lot; 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 preclusive to its being granted, and it produces an improvement in the property. John Dewey seconded the motion and it was approved, 5-0.

Clerk Bill Deane explained to Paoni that he would next have to go to the Planning Board for site plan review. Deane referred Paoni to Sections 4.04 and 8.04 of the *Land Use Law*, and suggested he work with Zoning Enforcement Officer Hobbie in preparing for that Board. Paoni asked to be put on their July 7 agenda.

20.03 – Brian Peters (Hans DeWaal) – Replacement of porch within 100 feet of Canadarago Lake in RA2 district – 147 Marble Road (#52.11-1-6.00)

Representative Hans DeWaal said that applicant Brian Peters wants to replace his existing porch within 100 feet of Canadarago Lake. Zoning Enforcement Officer Hobbie said that no setbacks would be encroached, and that the application fee had been paid. The Board examined the documents submitted.

Chairman Crowell said that, according to the plan, the porch would not be in the same footprint. There will be a slight change due to "squaring off" of the porch, adding six or eight inches; thus, it would need a variance from Section 4.04 of the *Land Use Law*, which prohibits new construction within 100 feet of the Lake. Crowell said the Board would need a completed

ZBA application; a site plan sketch showing dimensions (including overhangs) related to setbacks; and a list of property owners (with addresses) within 200 feet of the property lines.

DeWaal asked what would happen if the owner decided to replace the porch within the same footprint. Clerk Bill Deane said in that case, he would not need a variance, and could go directly to the Planning Board for site plan review. Deane asked DeWaal to let him know by June 23 if that is the way he decides to go, and he could put him on the July 7 Planning Board agenda.

Chairman Crowell moved to deem the application complete, contingent on the aforementioned items to be submitted to the Zoning Enforcement Officer by July 7, and to schedule a public hearing for July 21. Dean Robinson seconded the motion and it was approved, 5-0.

OTHER BUSINESS

Chairman Crowell reminded the members about their annual four-hour training requirements, and alerted them to on-line training opportunities on the New York Planning Federation web-site.

For the benefit of the newer members, Clerk Bill Deane gave guidance on making motions regarding variances. He noted that, upon the Board's granting of each variance, he prepares a written resolution (signed by the chairman) based on a ZBA member's motion, and that resolution goes to the applicant and remains part of the permanent record of the property. Deane stressed the importance of precise language, completely addressing Section 9, in making motions to approve (or deny) variances. This is also important if someone issues a legal challenge to a ZBA decision.

Ed Hobbie had no formal Zoning Enforcement Officer report, but wanted to go on record as saying that the Town's requirements on applications like Peters's are overbearing. He is improving his property and shouldn't have to jump through hoops to do so. Chairman Crowell said he agreed in principle, but that they are governed by the *Land Use Law*, and only the Town Board could revise it.

With no further business, at 7:56 Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Secretary