

Town of Otsego Zoning Board of Appeals

Minutes – July 20, 2021

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

PUBLIC HEARING

21.08 – Brad Marcus (Susan Snell) – Area variance, addition of swimming pool, deck, and fence in hamlet residential district – 129 Schoolhouse Road (#114.05-1-22.00)

Chairman Crowell opened the Marcus public hearing at 7:01 PM. Secretary Deane read aloud from the June 15 ZBA minutes relevant to the Marcus application, and noted that a letter addressed to neighbor James Knodel was returned to sender as “not deliverable.” Crowell and Corinne Armstrong read aloud and filed letters in support of the application from neighbors Knodel (June 19), Carol Hanlon (June 23), and Craig & Tracy Lippitt (July 8).

Chairman Crowell asked if anyone from the public had questions or comments about the application. No one responded, and 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 7:06 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), and Corinne Armstrong (recently appointed by the Town Board to switch places with Mary Anne Whelan, Armstrong taking over Whelan’s term through 2024, and Whelan becoming an alternate member at her request). With Dean Robinson, Sal Furnari, and alternate member Tony Scalici absent, alternate members John Tedesco and Whelan joined the meeting table.

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 June 15, 2021, e-mailed to the members. Armstrong moved to approve the minutes as written. Tedesco seconded the motion and it was approved, 5-0.

Other than that read during the public hearing, there was no correspondence received since the last meeting. The Board moved on to applications.

APPLICATION

21.08 – Brad Marcus (Susan Snell) – Area variance, addition of swimming pool, deck, and fence in hamlet residential district – 129 Schoolhouse Road (#114.05-1-22.00)

Representative Susan Snell said the edge of the pool would be 20 feet from the rear property line. Chairman Crowell noted that the *Land Use Law* does not address in-ground pools, but that the Board would rather err on the side of caution in considering it a structure.

John Dewey moved to grant the following variances: on the north (rear) side, 30 feet for the fencing, ten feet for the pool, and five feet for the deck-stairs; and on the east and west sides, 20 feet for the fencing. Dewey 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, based on neighbor input; that the requested variance is not substantial, in view of the limited structures; 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, the project is reasonable and enhances the enjoyment of the property. Chairman Crowell seconded the motion and it was approved, 5-0.

21.09 – Leatherstocking Association Common Area (Vince Pyle, Jr., Chad Whitbeck) – Area variances, stairway & deck within 100 feet of Otsego Lake in RA1 district (revised plan) – 162 Browdy Mountain Road (#84.08-1-29.00)

Secretary Deane summarized previous activity on the Leatherstocking Association Common Area, from the ZBA's 2020 and 2021 minutes. Deane said that a previous iteration of this application had first come before the ZBA on December 15, 2020. A landowner had e-mailed a complaint to Zoning Enforcement Officer Lanza saying that, in October, someone from the Leatherstocking Association Common Area initiated construction of a stairway and deck on a 0.3-acre lot within 100 feet of Otsego Lake, evidently without approvals from the ZBA, Planning Board, or County Codes. Lanza confirmed this on November 18, took photos, and issued a "stop-work" order and notice of violation, advising the Association to submit a ZBA application. Vince Pyle did so on behalf of the Association, and contractor Chad Whitbeck represented Pyle before the ZBA.

The Association was formed in the 1970s, and consists of 13 shares owned by eight different landowners; Pyle owns one of the shares, or 7.7%. Other members said that Pyle doesn't have the right to represent the Association. Town Attorney Ryan Miosek opined that, "The ZBA does not have the authority to determine how this Association is going to conduct its business. If there is not an operating agreement or some other document memorializing how the Association is to conduct itself and what members have the authority to speak on behalf of the Association, the ZBA can't decide those questions for them. If the other Association members do not wish for Mr. Pyle to speak for them they should take the proper legal steps to enjoin Mr. Pyle from doing so. Failing that, if Mr. Pyle submits the documents and information that the ZBA requires, the ZBA must process his application and make a determination based on the documents and information before it."

The application ultimately was deemed complete, and a 31-minute public hearing held on April 20, 2021. Participants were in unanimous opposition to the project. The ZBA next received a May 4 letter from Whitbeck on behalf of Pyle, indicating that he was withdrawing his pending ZBA application #20.08, and would submit a revised application in the future. Application #21.09 is this revised application.

Whitbeck and Vince Pyle, Jr. were present on behalf of the new application. Pyle said that his father, the original applicant, had died four days earlier, and he plans to follow through on the application. Whitbeck showed a site plan on his phone. Chairman Crowell said the Board would need a paper copy of the plan, along with soil conservation/erosion control and landscaping plans, elevation plans, a sectioned view of the retaining wall, and setback measurements. He recommended greenery between the deck and Lake, and a fiber mat under the deck. Whitbeck and Pyle said they would return to the August 17 meeting with the requested items.

John Dewey asked why such a large deck would be needed. Pyle said that he was planning a smaller deck than originally proposed, now measuring about 11x16' including stairs. He said that the deck was for the entire Association's use, and would be replacing an area covered by poison ivy and debris.

Chairman Crowell explained the five criteria the Board would consider, from Section 9 of the *Land Use Law*. Secretary Deane said that, if the ZBA approved variances, Pyle would next have to go for site plan review before the Planning Board, which would want engineered plans.

Chairman Crowell moved to table the application until August 17. Corinne Armstrong seconded the motion and it was approved, 5-0.

21.10 – Joseph Stagliano (Barb Monroe) – Interpretation, 7/1/21 violation notice for two principal buildings on one lot – 6723 State Highway 80 (#69.68-1-10.00)

Secretary Deane summarized previous activity on the Stagliano property, from the ZBA's and Planning Board's 2018-19 minutes. Joseph Stagliano, represented by engineer Jon McManus, had first appeared before the ZBA on July 7, 2018. Per the minutes, "Stagliano wants to remove a deck within 100 feet of Otsego Lake,

replacing it with a 1½- to two-story structure for storage (no bathrooms or bedrooms).” McManus said that lake equipment, such as kayaks, would be stored upstairs, while the bottom floor would be a recreational area opening out to the Lake. A public hearing was held on August 21, with no negative comment. The ZBA granted a variance from *Land Use Law* 4.04, which prohibits new construction in the Lakeshore protection area, with the conditions that the building be within the existing deck footprint and no taller than 18½ feet, and that the existing pump-house be removed. On October 23, McManus said that Stagliano wants to dig out the bank within 100 feet of the Lake, and he wondered whether he would need ZBA intervention for that. Chairman Crowell said that, since there was no structure involved, he would not need a ZBA variance.

The application then moved to the Planning Board on September 4. On October 2, that Board deemed the application complete, waived a public hearing in lieu of the ZBA’s hearing result, and approved the site plan labeled “6/19/18 rev. 2” as submitted.

On December 4, McManus returned before the Board, saying Stagliano wanted to put in a well, requiring the excavation of a 22x22’ section of rock for the well drillers (Leatherstocking Drilling) to gain access. McManus said that the excavated area would be used for two parking spaces. On January 8, 2019, a public hearing was held with no negative comment, and the Board approved the application as submitted.

On July 1, 2021, Zoning Enforcement Officer Lanza issued a violation notice, due to the new structure having a kitchen and bathroom. This makes it a second principal building, violating Section 3.04 of the *Land Use Law*.

Barb Monroe was present, representing applicant Joseph Stagliano. She acknowledged that there is a kitchen sink and bathroom in the building, with sewage pumped up to the septic system across the road. She said the building is used for storage, has no bedrooms, and has never been rented out; as far as she knows, no one has spent the night there. Monroe maintained that it is not a second principal building, but is “accessory use” to the principal building.

Chairman Crowell asked whether the members had permission to visit the property. Monroe said she would check with Stagliano and get back to them. (After the meeting, she gave permission as long as members phoned Stagliano first.) Crowell said that a \$25 application fee would have to be paid. Monroe wrote a check for that amount and gave it to Secretary Deane, who in turn left it for the Town Clerk.

Chairman Crowell moved to deem the application complete and schedule a public hearing for August 17. John Dewey seconded the motion and it was approved, 5-0.

OTHER BUSINESS

Jess Lanza was absent, and there was no Zoning Enforcement Officer report. With no further business, at 8:15 Chairman Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Secretary