

Town of Otsego Zoning Board of Appeals
Minutes – August 16, 2016

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 7:00 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, Christopher Voulo, John Tedesco, and Dean Robinson. With Tony Scalici (Vice-Chairman) and first alternate member Michael Pelcer absent, second alternate member Bruce Miller joined the meeting table. Zoning Enforcement Officer Barb Monroe was also present.

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

The Board reviewed the minutes of July 19, e-mailed to the members. Chairman Crowell reviewed e-mails from Scalici and from Town Attorney Michelle Kennedy, to be put in the record in the application portion of the meeting. Voulo moved to approve the minutes as written. Robinson seconded the motion and it was approved, 5-0.

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

APPLICATIONS

16.05 – Harrison Hummel – Area variances, revision of existing structures to bring within boundary lines – 110-114 Marble Road Extension, Richfield Springs (#52.00-2-15.00, -16.00, -17.01, & -17.02)

Secretary Bill Deane read aloud from the minutes of July 19 relevant to the Hummel application. Applicant Harrison Hummel was present, along with attorney Daniel Cohen. Neighbor Joe Corbett was also present. Chairman Crowell reminded him that this was not a public hearing.

Crowell discussed Cohen's statement at the last meeting, that Hummel plans to remove a four-foot portion of the garage to meet Town Attorney Michelle Kennedy's stipulation. Crowell said that the court agreement did not specify any measurements. Cohen said that that was how he understood the stipulation, based on his discussion with Kennedy.

Chairman Crowell also said that he had discussed the road question via e-mail with Attorney Kennedy. Crowell wrote, "We have always assumed that the 'road' could be public or private, as long as it was the primary means of access to the house. In the Hummels' situation it's private and is really more of a driveway than a road, co-owned by the Hummels and two neighbors. Are we correct in using the center of this private right-of-way as the basis for the front setback?" Kennedy responded, "Yes, I agree this is a plain reading of the law without a definition of the word 'road.'"

Chairman Crowell read aloud from the Supreme Court order, saying that he believes it gives the ZBA "tacit approval" to rule on the application, even though the case involves property owned by people other than Hummel.

Chairman Crowell said that the Board needs exact dimensions of variances requested. The Board again examined the April 17, 2014 survey done by Jennie Rasmussen, and determined that Hummel would need approximately a 27'10" variance on the southwest side of the property (covering both building additions), and a 34'11" variance on the southeast (Marble Road Extension) side. Hummel said that he has gone to court with his neighbors over differences of one or two inches. Secretary Deane suggested the Board and applicant round up the requested variances to 28 and 35 feet, respectively, to avoid such a scenario. Both parties agreed with that suggestion.

Hummel submitted photos showing property restrictions, and drawings showing the dimensions and locations of existing and proposed buildings. He said that the proposed building would be used for storage of a tractor, a mower, a snowmobile, a snow blower, and approximately 50 pieces of lawn furniture. Hummel said that, in lieu of a topographical map, he had no problem with members visiting the property to see the land for themselves. He said that members could phone him at [315-796-2447](tel:315-796-2447) (cell) or [315-866-3860, x-239](tel:315-866-3860) (work) if they want him present during site visits. Corbett said that members were also welcome to visit Canadarago Acres Homeowners' Association property, of which he is President.

Hummel said that he would be in Europe in September, and asked that a public hearing be scheduled for October so he could attend. Christopher Voulo moved to deem the application complete and schedule a public hearing for October 18. Dean Robinson seconded the motion and it was approved, 5-0.

Afterward, Deane noted that the hearing will be 63 days after the application was deemed complete, exceeding the 62-day limit for the Board to rule on the application. Via e-mail, Attorney Kennedy asked Cohen to "waive the 62-day window for holding a public hearing." Cohen responded on August 22, "I do, on behalf of Mr. Hummel, hereby consent to waiving the 62 (sic) notice requirement."

16.06 – Dennis & Elaine Connor – Area variance, expansion of existing deck within 100 feet of Canadarago Lake – 206 Bibik Road (#52.11-1-30.02)

No one appeared on behalf of this application. Zoning Enforcement Officer Monroe said that the applicant would be out of state until March, and had no one to represent him. The Board discussed whether they could entertain an application without an applicant present. The consensus was that they could, as long as the application was clear and complete.

The Board reviewed the application, and agreed that many answers were vague. The distances to lot lines were not specified; without these, the Board cannot determine what area variances are requested, other than the variance from *Land Use Law* Section 4.04.

Chairman Crowell asked Monroe to contact the applicant, advising him the Board will need an engineered site plan specifying the relevant dimensions.

OTHER BUSINESS

Zoning Enforcement Officer Monroe said she had no report to give.

Joe Corbett asked who would police Hummel's compliance with any ZBA and Planning Board decisions. Chairman Crowell said that the Zoning Enforcement Officer should make sure that applicants comply with the Board's decisions, and he has spoken to the Town Supervisor about this.

With no further business, at 7:51 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Secretary