

## **Town of Otsego Zoning Board of Appeals (ZBA)**

Minutes – August 16, 2022

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

### **PUBLIC HEARING**

#### **22.09 – Sarah Senchyshyn (Barb Monroe) – Area variance, division of five-acre lot into two parcels in RA2 district – 174 Cook Road (#113.00-1-74.21)**

Chairman Greg Crowell opened the Senchyshyn public hearing at 7:01 PM. Clerk Bill Deane read aloud the ZBA's minutes of June 21 and July 19 relevant to the application. Crowell asked if anyone from the public had questions or comments.

Tony Kroker of 150 Cook Road read aloud and submitted a petition, signed by 17 neighbors in opposition to the proposed variances. Kroker said approving them would set a bad precedent and alter the essential character of the neighborhood. He said the Senchyshyns had demonstrated no unnecessary hardship, that the variances sought were substantial, and that they would have an adverse impact on the neighborhood. Kroker said the Senchyshyns had been bad neighbors, leaving refuse in front of their property, parking their cars on the road, and shooting off fireworks in thick woods; adding another residence to the property could increase that effect. He showed photos and a video to illustrate this point.

Suzanne Summers of Stoller Hill Road said she was opposed to the proposed project, as it would further reduce the habitat of songbirds.

Chairman Crowell read aloud an August 11 e-mail from Dewey & Rochelle Senecal of 135 Cook Road, expressing strong objection to the project. They said the Senchyshyns had no hardship creating the need for variances, and approving them would alter the essential character of the neighborhood.

With no further speakers or correspondence, 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 7:17 PM and led the Pledge of Allegiance.

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

Chairman Crowell asked whether any Board members had an ethical or legal conflict with any of the applications. No one reported any conflict.

The Board reviewed the minutes of July 19, 2022, e-mailed to the members. Chairman Crowell clarified something he said during the meeting. He said he misspoke in saying the Stolarczyk would be grandfathered if the law were changed; that would be true only if the Town Board specified that with a "sunset provision" to the revised law. Crowell moved to approve the minutes as written. Dewey seconded the motion and it was approved, 4-0.

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

## **APPLICATIONS**

### **22.09 – Sarah Senchyshyn (Barb Monroe) – Area variance, division of five-acre lot into two parcels in RA2 district – 174 Cook Road (#113.00-1-74.21)**

Representative Barb Monroe was present. The Board reviewed the application, determining that the applicant would need variances of .13 acres on one proposed lot and .43 acres on the other.

Chairman Crowell said he agreed with much of what Tony Kroker said during the public hearing, including that granting the variances would set a bad precedent. It would create two non-conforming lots. While there are other nearby lots of under three acres, most of those were created by the “lot size averaging” clause of *Land Use Law* Section 2.11, so they are not relevant to this request. Crowell said the Senchyshyns had demonstrated no hardship nor compelling reason requiring a variance. Mary Anne Whelan agreed.

John Dewey said that this was just a family looking to pass on land to their children, not a developer looking to subvert the law, and the lots would not be much below the required minimum.

Chairman Crowell moved to deny the variances sought, saying the possible benefit to the applicant is outweighed by the possible detriment to the public. Crowell made the following resolution: Whereas, the three-acre minimum lot size for RA2 was enacted to preserve the rural character of neighborhoods such as this, and the proposed variance would create two substandard lots, one being .43 acres below the minimum, we find that: 1) an undesirable change will be created, and a dangerous precedent set throughout all Town districts if the variance(s) were granted; 2) While there appear to be no other means to achieve the benefit sought, the applicant has not demonstrated any undue hardship to merit the variances; 3) The variances sought are substantial, since two substandard lots would be created; 4) The location of this parcel, on the top of a hill, is not likely ideal for aquifer capacity or sewage disposal for residential uses; such a location is not suited for closely-spaced dwellings, and neighboring property could be negatively affected; 5) The need for a variance is self-created in this case, as the 5.44-acre parcel was created after the *Land Use Law* was enacted.

Corinne Armstrong seconded the motion and it was approved, 4-0.

### **22.10 – Luke Sittler – Area variance, construction of breezeway in hamlet residential district – 101 Hoke Road (#97.00-1-48.00)**

Les Sittler said his son, Luke, wants to add a breezeway connecting his existing garage and shed. It would be “right on the property line,” encroaching the side-yard setback as the existing buildings do. Sittler said the house was built in the 1950s along the former trolley line.

John Dewey said the Board would need a site plan sketch, showing the appearance and dimensions of the proposed breezeway, and its exact distance from the property line. Dewey moved to deem the application complete, contingent on such a sketch to be received by the Zoning Enforcement Officer by August 30, and to schedule a public hearing for September 20 with the same contingency. Corinne Armstrong seconded the motion and it was approved, 4-0.

### **22.11 – Brian Pyle (Barb Monroe) – Area variances, replacement of home within 100 feet of Otsego Lake in RA2 district – 6830 State Highway 80 (#69.44-1-36.00)**

Barb Monroe submitted a letter, authorizing her to represent applicant Brian Pyle. She said Pyle wants to replace his residence within 100 feet of Otsego Lake. It would be within the existing footprint, slightly rotated further from the Lake, and the deck/porch area would be converted into living space. She said Pyle would need a ten-foot variance on the front or State Highway 80 (west) side, along

with a variance from *Land Use Law* 4.04, which prohibits construction within 100 feet of Otsego Lake, specific to the project submitted.

Chairman Crowell said the Board could set a condition that the existing height cannot be exceeded. He asked members' permission to visit the property, and Monroe granted it.

Chairman Crowell said the Board would need a copy of a new site drawing, and the \$150 ZBA application fee. Crowell moved to deem the application complete, contingent on those items to be received by the Zoning Enforcement Officer by August 30, and to schedule a public hearing for September 20 with the same contingency. Corinne Armstrong seconded the motion and it was approved, 4-0.

**22.07 – James & Joan Marini (Sophia Gonzales/Redpoint Builders) – Area variance, construction of retaining wall & stairs within 100 feet of Otsego Lake in RA1 district – 6616 State Highway 80 (#84.08-1-34.02)**

This application was added to the agenda by agreement of the chairman. Zoning Enforcement Officer Phillips apologized, saying the application had been received in time for the agenda deadline, but he had overlooked it.

Clerk Bill Deane read aloud from the ZBA's minutes of June 21, and the Planning Board's minutes of July 5 and August 2 (not yet approved) relevant to the Marini project. Representative Sophia Gonzales said that the location of the proposed retaining wall had been changed, and now is 96'2" from Otsego Lake. It thus requires a variance from *Land Use Law* 4.04 (which prohibits construction within 100 feet of Otsego Lake, specific to the project submitted), before returning to the Planning Board. She submitted a check for \$150 for the ZBA application fee. Deane delivered this to the Town Clerk and gave a handwritten receipt to Gonzales.

Chairman Crowell moved to deem the application complete and schedule a public hearing for September 20. Corinne Armstrong seconded the motion and it was approved, 4-0.

**OTHER BUSINESS**

Zoning Enforcement Officer Wylie Phillips reported issuing permits for two new houses. He said he and Town Supervisor Ben Bauer were working on proposed revisions to the *Land Use Law*, and would e-mail them to ZBA and Planning Board members when ready. Phillips also gave an update on the Stolarczyk situation.

With no further business, at 8:09 Corinne Armstrong moved to adjourn the meeting. Mary Anne Whelan seconded the motion and it was approved, 4-0.

Respectfully submitted,  
Bill Deane, Clerk