

Town of Otsego Zoning Board of Appeals

Minutes – August 17, 2021

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

PUBLIC HEARING

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)

Chairman Crowell opened the Stagliano public hearing at 7:01 PM, and asked if anyone from the public had questions or comments about the application.

Wayne Bunn of 6739 State Highway 80 asked whether the height of the building was measured, and whether members had visited the property. Bunn said that he believes the building is being used as a camp, and that there are two double-beds and a refrigerator visible inside it. He said that makes it a second principal building, contrary to the *Land Use Law*. Bunn said allowing it would set a dangerous precedent. He wants the bathroom, kitchen, and beds removed, and the site subject to surprise inspections by the Zoning Enforcement Officer.

Gerry Welch said the building is essentially a house, and may hurt neighboring property values. He said, if this were a pinball game, Stagliano has pushed too far and hit “tilt.”

Crowell and John Dewey read aloud from an August 14 memo from Joe Galati. It said that “This has resulted in a windfall for all other land holders with property within 100’ feet of the lake as (it would) set a precedent that any deck, patio, or raised walkway can have a building built in its footprint.” Galati said that the building contains “a full bathroom, a kitchen and at least one bedroom.” He said it is in violation of *Land Use Law* Sections 3.04, 7.05, and 8.05. Galati cited various alleged violations and proposed remedies.

Joan Bunn read aloud a July 20 e-mail (filed) from Debra Creedon, making the same points as previous speakers and writers.

Secretary Deane noted that a letter addressed to neighbor Matthew Shea was returned to sender due to “no mail receptacle.” 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 7:24 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 Dean Robinson. With Sal Furnari, Corinne Armstrong, and alternate member Mary Anne Whelan absent, alternate members Tony Scalici and John Tedesco joined the meeting table. Zoning Enforcement Officer Jess Lanza arrived at 7:39.

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 July 20, 2021, e-mailed to the members. Dewey 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.

APPLICATIONS

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)

No one appeared on behalf of this application.

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 read aloud from the July 20 ZBA minutes relevant to the Stagliano application. Chairman Crowell read aloud the July 1 violation notice which the applicant is asking the Board to interpret. (Deane noted that the actual Planning Board approval date was 10/2/18, not 9/4/18, as cited in the notice.) Crowell also read aloud from *Land Use Law* Sections 3.04, 7.05(a), and 8.05(7).

Chairman Crowell said he had visited the site, observing a sewage line, sump pump, and electrical line. He said the 9/14/18 site plan approved by the Planning Board on 10/2/18 did not include a kitchen, bathroom, or utilities. Crowell read aloud from the ZBA's 7/17/18 minutes and the Planning Board's 10/2/18 minutes. He said there is a plan in the file dated 4/23/19 which includes the aforementioned items, but it was not stamped or reviewed by any Board.

John Dewey said he had also visited the site. He read aloud from 2018 e-mail exchanges between Redpoint Builders and former Zoning Enforcement Officer Ed Hobbie. Dewey noted that the site plan requirements in *Land Use Law* Section 8.04 include documentation of floor plans and utilities.

Representative Barb Monroe said there was nothing in the ZBA's resolution which addressed a bathroom or kitchen, and that to her knowledge, the building was not being used as a dwelling. Crowell said that if something is not in the approved site plan, then it is not approved.

Dean Robinson said that, if the Board upheld the violation notice, Stagliano theoretically could submit a new site plan application. Tony Scalici said that he thought it would require a use variance first.

Zoning Enforcement Officer Lanza said that Stagliano appeared willing to work with the Town. He received a certificate of compliance from the County, and the building met the Planning Board's height restriction.

With input from Scalici and Dewey, Chairman Crowell made a motion summarizing his findings and recommendations in the case:

I find that the approved site plan from October 2, 2018, for this storage structure at 6723 State Highway 80 (tax map #69.68-1-10.00) does not include a bathroom, kitchen, or bedrooms. There are no plumbing or drain lines on the approved plan. By the admission of the owner, Joseph Stagliano, to the Town Zoning Enforcement Officer, Jess Lanza, and the admission of the owner's representative, Barbara Monroe, to this Board, the "storage/recreation shed" has both bathroom and kitchen facilities. A vented sump pump and drain pipe, along with a water supply line and electrical cable, are visible attached to the structure on its north side. The lines are contained in a conduit which goes underground into the embankment under State Highway 80.

Section 7.05(A) of the Town of Otsego *Land Use Law* states, "Failure to adhere to the site plan approved by the Planning Board and/or the special conditions required by the Planning Board shall be a violation of this law." Section 8.05(7) reinforces this: "Failure to adhere to the site plan shall be a violation of this law."

The Planning Board minutes of September 4, 2018 show that Jon McManus, representing Mr. Stagliano, referred to this structure as “recreational use and storage (no bathrooms or bedrooms).” The ZBA minutes of August 21, 2018 show that, in reference to this structure, “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.” No mention of bathroom or kitchen facilities was made. The Zoning Board of Appeals minutes of July 17, 2018 state, “Stagliano wants to remove a deck within 100 feet of Otsego Lake, replacing it with a 1½ to 2 story structure for storage (no bathrooms or bedrooms).”

Based on the above findings, I move to uphold the Zoning Enforcement Officer’s findings and remedy: that this structure is in violation of the *Land Use Law*, by failing to adhere to the approved site plan as required in the aforementioned Sections 7.05(A) and 8.05(7). This is implicit in the violation notice issued on July 1, 2021, which states, “The structure was approved by the Town’s Planning Board (in) 2018 ‘for recreation use and storage (no bathrooms or bedrooms).’” I move to find that, as long as any bathroom or kitchen facilities, or fixed plumbing of any kind (i.e. toilets, sinks, showers, drain lines) are in this structure, it is in violation of the *Land Use Law* as these items were not on the approved site plan.

John Tedesco seconded the motion and it was approved, 5-0.

OTHER BUSINESS

There was a brief suspension of the meeting until Zoning Enforcement Officer Lanza returned to the room. Lanza said he had received four applications in July. Chairman Crowell moved to highly recommend the quality of Lanza’s work to the Town Board. Dean Robinson seconded the motion and it was approved, 5-0.

With no further business, at 8:41 Chairman Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Secretary