

Town of Otsego Zoning Board of Appeals
Minutes (Unapproved) – August 20, 2019

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 (there were no meetings in June or July, due to no agenda items). Chairman Greg Crowell called the meeting to order at 7:10 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, John Tedesco (Vice-Chairman), Dean Robinson, and John Dewey. Alternate member Mary Anne Whelan arrived at 7:16, after the first vote, and joined the meeting table. Wally Melnichenko and alternate member Tony Scalici were absent.

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

The Board reviewed the minutes of May 21, 2019, e-mailed to the members. Robinson moved to approve them as written. Tedesco seconded the motion and it was approved, 4-0.

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

APPLICATIONS

19.03 – Michelle Barry – Area variance, addition of garage within 100 feet of Otsego Lake – 6812 State Highway 80 (#69.52-1-8.00)

Applicant Michelle Barry wants to erect a 14x22' garage on her newly-bought property within 100 feet of Otsego Lake. She submitted an application package, including a hand-drawn site plan, photos, and letters of support from her neighbors (Zoning Enforcement Officer Ed Hobbie said they were from all neighbors within 200 feet of the property).

The Board examined the documents, and determined that Barry would need the following variances: a 34-foot variance on the west (Route 80) side; a 27-foot variance on the north side; and a variance from *Land Use Law* 4.04, which prohibits construction within 100 feet of the Lake. The dimensions may need to be adjusted, depending on roof overhangs. Chairman Crowell asked for Barry's permission to allow Board members to walk the property, and she granted it.

Chairman Crowell asked Barry to provide a completed ZBA application; Hobbie said he would help her with that. Crowell also asked for a basic building sketch. Since Barry has no plans to begin construction before next year, she was asked to bring those items to the September 17 meeting.

19.04 – Jonathan Svahn (Michelle Barry) – Area variance, addition of fence within 100 feet of Otsego Lake – 6765 State Highway 80 (#69.60-1-14.00)

Representative Michelle Barry said that applicant Jonathan Svahn wants to erect a border fence on his property within 100 feet of Otsego Lake. Zoning Enforcement Officer Ed Hobbie said that he anticipates trouble with a neighbor, and wasn't sure whether the fence would need a variance.

Dean Robinson noted that, in cases where the law is vague, the benefit of the doubt goes to the land-owner. Chairman Crowell said that a border fence is excluded from the *Land Use Law* definition of “structure,” thus would not require a variance from Section 4.04. However, he felt that it probably would require site plan review for construction within 100 feet of the Lake. Robinson moved to refer the application to the Planning Board. John Dewey seconded the motion and it was approved, 5-0.

OTHER BUSINESS

Zoning Enforcement Officer Ed Hobbie distributed copies of his latest report. He brought up the case of the Purple Star boutique, owned by Donabeth Kimmerer. Some have questioned the legality of her “open” banner, a long, narrow flag on a pole which is put up and removed each day. Hobbie had Kimmerer apply for a sign permit, but there still is question as to whether the banner meets sign definition or size limitations. The Board discussed whether such a sign would require a variance, and agreed that the *Land Use Law* is not clear on the issue. Chairman Crowell moved to request that the Town Board address the issue of temporary flag signs (particularly “open” or “closed”) for commercial uses in the *Land Use Law*. Dean Robinson seconded the motion and it was approved, 5-0.

Secretary Deane distributed copies of a sample ZBA resolution. He noted that, upon the Board’s granting of each variance, he prepares a written resolution 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. Chairman Crowell added that this is also important if someone issues a legal challenge to a ZBA decision.

With no further business, at 8:06 Chairman Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Secretary