

**Town of Otsego Zoning Board of Appeals**  
Minutes – September 16, 2014

**PUBLIC HEARING**

**14.01 – John Caven (Jon McManus) – Area variance, enlargement of existing residence and addition of deck to within 100 feet of Otsego Lake – 6458 State Highway 80 (#84.12-1-12.01)**

Chairman Greg Crowell opened the Caven public hearing at 6:59 and noted that no one from the public was present. He closed the hearing at 7:00, saying that he would reopen it if necessary. At 7:10, neighbor Kevin Murray arrived. Crowell reopened the hearing and asked Murray if he had any comments. Murray, owner of Lark Haven, said he has been Caven's neighbor to the south since 1981. He is confident that if Caven is planning to do something, he will do it right. Murray concluded that he has "no problems" with the application. Crowell closed the hearing at 7:12.

**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 roll call was taken by Secretary Bill Deane. Board members present were Crowell, Sam Hoskins (vice-chairman), Christopher Voulo, and Meg Kiernan. With Michael Pelcer absent, alternate member Nicholas Weir joined the meeting table. Zoning Enforcement Officer Tavis Austin arrived at 7:28.

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

The Board reviewed the minutes of August 19, e-mailed to the members. Voulo moved to approve them as written. Hoskins seconded the motion and it was approved, 5-0.

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

**APPLICATION**

**14.01 – John Caven (Jon McManus) – Area variance, enlargement of existing residence and addition of deck to within 100 feet of Otsego Lake – 6458 State Highway 80 (#84.12-1-12.01)**

Representative Jon McManus was present. The Board reviewed the application.

Chairman Crowell noted that the proposed deck posts are very close to Otsego Lake, and asked if they would be cantilevered. McManus said they would be cantilevered by two feet, over the sea-wall but not in the Lake. In answer to other Board members' questions, McManus said that applicant John Caven has not decided whether the proposed addition will be one or two stories, and that they would not be removing any pine trees.

Christopher Voulo expressed concern about setting a precedent in allowing the deck to be built so close to the Lake. Nicholas Weir echoed that sentiment, saying that it was difficult to determine the history of other structures built close to the Lake, and asking, "Where do you draw the line?"

Bill Deane explained that the *Land Use Law*, enacted in 1987, does not allow building within 100 feet of the Lake, unless a variance is granted. Chairman Crowell said that the answer to Weir's question is a "gray area," in which the ZBA must weigh the potential benefits vs. the detriments of each application, under *Land Use Law* Rule 9.03.

McManus noted that, in recent years, the ZBA had granted similar variances to applicants Scarzafava and Galati. Chairman Crowell asked whether the applicant would be willing to consider a six-foot rather than an eight-foot deck, reducing the east variance from 11'6" to 9'6". McManus said he had no problem with that, but may need to return at a future date to request a larger variance. Christopher Voulo suggested the Board add a condition that the deck not extend beyond the vertical line of the sea-wall. McManus said that he is applying to the Department of Environmental Conservation and the Army Corps of Engineers to push the sea-wall out farther.

Chairman Crowell moved to grant the following variances: a 30' variance on the front (west side); a 9'6" variance on the rear (east, or Lake side); a 20' variance on the south side; and a variance allowing construction within 100 feet of the Lake. Crowell said that there will be no negative effects on the character of the neighborhood; the benefit sought cannot be achieved without the granting of setback variances, due to it being a pre-existing, non-confirming lot; the requested variances will not result in any substantial enlargement of the structure's footprint; there will be minimal discernable effects on the physical and environmental conditions; though the need for the variances is self-created, the house predates the *Land Use Law*; and the proposed improvements will enhance the quality of life for the occupants and increase the value of the property, giving great benefit for the property owner with little or no detriment to neighbors or the public.

Sam Hoskins seconded the motion and it was approved, 4-0, with Weir abstaining. Weir said that, as this was the first application he had encountered, he was not confident in making an informed decision.

With no further business, at 7:44 Chairman Crowell adjourned the meeting.

Respectfully submitted,  
Bill Deane, Secretary