

Town of Otsego Zoning Board of Appeals (ZBA)

Minutes – September 20, 2022

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

PUBLIC HEARINGS

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

Chairman Greg Crowell opened the Sittler public hearing at 7:02 PM, and asked if anyone from the public had questions or comments about it. Les Sittler said that neighbor Deb Ferrari has no problems with the proposed project. With no other speakers, Crowell closed the hearing.

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

Chairman Greg Crowell opened the Marini public hearing at 7:03 PM, and asked if anyone from the public had questions or comments about it. No one responded. Crowell closed the hearing.

22.11 – Brian Pyle (Barb Monroe) – Area variances, replacement of home within 100 feet of Otsego Lake in RA1 district (revised plan) – 6830 State Highway 80 (#69.44-1-36.00)

The Pyle hearing was cancelled due to the application being revised after being deemed complete; however, the hearing had already been advertised and notices mailed out. Clerk Bill Deane asked if anyone from the public had come for the hearing. Ron Scalise said he was there just to see what the project entailed. Deane invited him to remain for the regular meeting, and advised that another public hearing would be scheduled.

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 7:05 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), Sal Furnari, and Tony Scalici. With Corinne Armstrong and alternate members John Tedesco and Dean Robinson absent, alternate member Mary Anne Whelan joined the meeting table. 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 August 16, 2022, e-mailed to the members. Dewey moved to approve the minutes as written. Whelan seconded the motion and it was approved, 5-0.

The only correspondence received since the last meeting regarded an Article 78 lawsuit, which would be discussed during “other business.” The Board moved on to applications.

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APPLICATIONS

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

Clerk Bill Deane read aloud the ZBA’s minutes of August 16 relevant to the Sittler application. The Board examined the sketch submitted pursuant to their request at that meeting.

Chairman Crowell said the project was not substantial and would not increase the non-conformity. John Dewey said the project would be well-buffered from the neighbor on the west.

With input from Crowell, Tony Scalici moved to approve the variance sought: 20 feet on the west side, specific to the project submitted. Scalici said that there is no other feasible way to achieve the benefit sought; that, based on the public hearing, no undesirable change will be produced in the character of the neighborhood; that the requested variance is not substantial, in view of the existing structures; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood; and that, though the alleged difficulty is self-created, the garage and shed existed before enactment of the *Land Use Law*. Crowell seconded the motion and it was approved, 5-0.

22.11 – Brian Pyle (Barb Monroe) – Area variances, replacement of home within 100 feet of Otsego Lake in RA1 district (revised plan) – 6830 State Highway 80 (#69.44-1-36.00)

Clerk Bill Deane read aloud the ZBA's minutes of August 16 relevant to the Pyle application. Nick Drummond said he is the designer of the project and was representing the applicant. Deane said the Board would need a form signed by Pyle, authorizing Drummond to represent him. Representative Barb Monroe arrived moments later.

Drummond said the application is in process of being changed, and showed a preliminary plan. It indicated that Pyle wants to add a 20x24' garage within 100 feet of Otsego Lake, in addition to the residence replacement discussed at the August meeting.

Chairman Crowell said the Board would need a new application with supporting documents, including photos and elevation plans. Crowell said the Board theoretically could approve part of the plan and deny another part.

Deane advised Drummond that, if he brought a complete application to the October 18 meeting, a new public hearing would be scheduled for November. If a variance(s) were approved at that time, he then could proceed to the Planning Board in December.

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

Clerk Bill Deane read aloud the ZBA's minutes of August 16 relevant to the Marini application. Nick Drummond said he is the designer of the project and was representing the applicant. Deane said the Board would need a form signed by Marini, authorizing Drummond to represent him.

Board members reviewed and discussed the application documents. Zoning Enforcement Officer Phillips said the proposed stairway was no more than 42 inches wide, thus does not require a variance. Tony Scalici noted that the proposed retaining wall is about five feet high, more than the three feet allowed.

Greg Crowell moved to approve the variance sought: a variance from *Land Use Law* 4.04, which prohibits construction within 100 feet of Otsego Lake, specific to the project submitted. Crowell said that there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood; that the requested variance is not substantial, as the proposed project is less than four feet into the 100-foot Lakeshore protection area; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood, and in fact will have a positive effect by improving erosion control; and that, though the alleged difficulty is self-created, the slope of the property was pre-existing. Tony Scalici seconded the motion and it was approved, 5-0.

Drummond asked to be put on the October 4 Planning Board agenda.

22.12 – Jerry Miller – Use variance, residence in general business (GB2) district – 6651 State Highway 28 (#97.00-2-6.22)

Zoning Enforcement Officer Phillips said that applicant Jerry Miller is postponing his application until further notice. Phillips said Miller owns land in the GB2 district. He wants to build a residence there, but that is not permitted in the general business districts. Miller now plans to go before the Planning Board for a minor subdivision, and then figure out his next step.

Tony Scalici noted that an applicant has to prove that his property has no value without a use variance. Chairman Crowell suggested that Miller petition the Town Board to add “dwelling” as a special permitted use for the general business districts.

OTHER BUSINESS

Zoning Enforcement Officer Phillips reported that the Schaers had filed an Article 78 legal challenge to the ZBA’s July 19 decision on the Stolarczyk application, and Chairman Crowell passed around their attorneys’ filing package. Discussion followed. Phillips also said that he and Town Supervisor Bauer had drafted proposed changes to the *Land Use Law*, and e-mailed them to the ZBA members for input.

Tony Scalici said that a ZBA application should be complete before the Zoning Enforcement Officer passes it on to them and instructs clerk Bill Deane to put it on the agenda. The “To the applicant” section of the application describes the documents needed to make the application complete. Deane said incomplete applications often lead to public hearings being scheduled contingent on more information, which makes his job more difficult.

Deane said that he had invited Planning Board members to come to tonight’s ZBA meeting, to open communication between Boards. He said that, as Clerk for both Boards since 2004, he has often observed misunderstanding and criticism about each Board’s role and procedures, and envisioned this as an opportunity to open a respectful dialog between them. Deane introduced Planning Board members Antoinette Kuzminski and Chip Jennings. Wide-ranging conversation followed, including discussion about the Marini, Scarzafava, Stagliano, and Drenth cases. ZBA members said that they visit the sites of applications, and doing so would help Planning Board members understand the situations better. Kuzminski asked how the Planning Board can justify denying an application which the ZBA has approved; Chairman Crowell cited *Land Use Law* Section 8.05. Deane offered to add Planning Board members to the ZBA e-mailing list, so they can get a preview of cases which will be coming to them, and the ZBA’s discussion and decisions. Deane will also e-mail the Planning Board directory to the ZBA members and vice versa.

With no further business, at 8:46 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Clerk