

Town of Otsego Zoning Board of Appeals
Minutes – October 15, 2013

PUBLIC HEARINGS

13.02 – William Rathbun – Area variance, addition of porch to existing residence – 212 County Highway 26 (#130.15-2-16.00)

Chairman Greg Crowell called the Rathbun public hearing to order at 7:00 PM. He explained that the public hearings represented the public's opportunity to speak about the applications under consideration. Crowell gave a brief explanation of the project, and asked if there were any comments or questions.

Russ Smith noted that there was a porch on the Rathbun house at one time, and says that he understands the desire for another one. With no further comments or questions, Crowell closed the hearing.

13.03 – Robert Sadekoski – Area variance, replacement of residence within 100 feet of Canadarago Lake – 2173 County Highway 22 (#38.20-1-9.00)

Chairman Greg Crowell called the Sadekoski public hearing to order at 7:02 PM. He asked for comments or questions, but no one responded. Crowell closed the hearing.

13.04 – Robert Faller (Jon McManus) – Area variance, construction of new home – Stone House Road (#98.00-1-44.03)

Chairman Greg Crowell called the Faller public hearing to order at 7:03 PM. He asked for comments or questions, but no one responded. Zoning Enforcement Officer Austin noted that he had received a phone call from Jennie Johanssen, expressing opposition to the project. Crowell closed the hearing.

13.05 – Harrison Hummel (Jon McManus) – Area variance, addition to existing residence within 500 feet of Canadarago Lake – 114 Marble Road Extension (#52.11-1-15.00 & -17.02)

Chairman Greg Crowell called the Hummel public hearing to order at 7:04 PM. He asked representative Jon McManus to describe the project. McManus did so, and acknowledged that there are discrepancies in the survey and elsewhere which need to be resolved before he or the Board can move forward on it. He said he would plan to return in November and give the ZBA what they need to make an informed decision; if the site plan were changed, he would request another public hearing. Clerk Bill Deane said that the 62-day "clock" on making a decision should be stopped, and at some point, the clock would either be restarted or the application withdrawn. Crowell said that would be addressed during the "applications" portion of the meeting, and asked for comments or questions from the public.

Lynn Smith noted that Hummel had already erected the building without any of the necessary permits.

Marilyn Urbiss said that Hummel has repeatedly ignored building laws, and needs to be "put in his place."

Tammy Graves, Secretary of the Canadarago Acres Homeowners' Association (CAHOA), spoke multiple times. She noted that tax map parcel #52.11-1-15.00 is non-existent. McManus said he was now aware of this, and would investigate. Graves also said that dimensions shown in the site plan are incorrect: the width of the building is 28 feet, not 20, and the current structure is two feet from the CAHOA property line, not ten. She submitted a list and pictures (filed) documenting alleged violations by Hummel. Graves noted that the revised site plan was not in the file when she came in to look for it. She urged the ZBA to get legal advice before making a decision.

Joe Corbett said that Hummel's existing structure went up around 2001, and he has since made non-compliant additions and changes, such as converting a three-car garage into a house. Hummel does whatever he wants to do, and the Town should stop him.

Brent Smith spoke several times. He said the Town had auctioned off Marble Road Extension and it was bought by the Hummels, Corbetts, and him as three owners of a private road to be used "free

of encumbrances” and “shared quietly by all parties.” Since neither he nor the Corbetts have given consent as required by *Land Use Law* 8.03, how can Hummel apply for a variance? Does the Board even have authority to rule on the request? If not, the building should be torn down and the property restored. Chairman Crowell said the Board would look into those questions. Smith also noted previous variances granted to Hummel, wondering how many variances can be granted to a single property? Smith said that there was no off-street parking on any of the three parcels, and Hummel has been parking on the road since 1995. Hummel has excavated land and installed lights, stairs, gates, and trees in creating a “sprawling mess.”

Smith said that the entire neighborhood and the integrity of the area were negatively affected by this project. He advised the members to visit the site (they said they had), and make a decision as soon as possible.

Bruce Mang said that he had spoken to a surveyor who has agreed to do a survey of the road for the CAHOA. Graves said she would forward the new survey to the Zoning Enforcement Officer when available.

Sam Hoskins read aloud several letters (filed) supporting the project, from the following:

- Doug & Mary Hutchings (October 8), who praised the “superior quality” of the project.
- Richard J. Brady (October 8).
- Carol Daley (October 8), who said Hummel’s projects have been in good taste and added to the beautification of the neighborhood.
- Robert “Chuck” Doran (October 9), who said the project is well-thought-out and benefits the neighborhood.

Chairman Crowell read aloud two more letters (filed):

- Walt & Jean Koury (October 13), who said the steadily-enlarged structure encroaches and changes the character of the neighborhood. They asked the ZBA to deny the application.
- A copy of a letter from the CAHOA to the Town Zoning Enforcement Officer, noting the non-permitted projects begun in June and August, 2013; the 2010 pool installation, deviating from the approved site plan; alleged violations of *Land Use Law* 7.05; and failure to comply with the Planning Board and ZBA procedures. This was accompanied by photos, a map, and a 2009 site plan.

With no further comments or questions, Crowell closed the public hearing at 7:52.

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 7:53 PM and roll call was taken by Secretary Bill Deane. All Board members were present: Crowell, Sam Hoskins (vice-chairman), Ed Hobbie, Carina Franck, and Michael Pelcer. Alternate member Christopher Voulo, Zoning Enforcement Officer Tavis Austin, and Town Supervisor Anne Geddes-Atwell were also present.

Chairman Crowell asked if anyone had a potential conflict with tonight’s applicant. No one reported any conflict. Hobbie said that, since he had missed the last meeting, he felt Voulo was more familiar with tonight’s applications, and should fill in for him. No one objected.

The Board reviewed the minutes of September 17, e-mailed to the members. Hoskins moved to approve them as written. Voulo seconded the motion and it was approved, 5-0.

Correspondence (other than that referenced during the Hummel public hearing) consisted of the July/August issue of *Talk of the Towns & Topics*, copies of which were distributed. The Board moved on to the applications.

APPLICATIONS

13.02 – William Rathbun – Area variance, addition of porch to existing residence – 212 County Highway 26 (#130.15-2-16.00)

Applicant William Rathbun was present. Chairman Crowell expressed safety concerns about the proposed porch being so close to the road, noting the blind curve. He asked Rathbun if he had considered a smaller variance request. Christopher Voulo suggested a five- or six-foot-wide porch,

instead of the requested eight. Carina Franck asked whether Rathbun had considered building a porch on the side or rear of the house, instead of the front.

Rathbun said that he wanted to put the porch where it had been in the past. He said that it would not be in the Town right-of-way, and that several of his neighbors were also close to the road. He noted the 45 MPH speed limit. After discussion, he said he would be agreeable to a smaller porch.

Franck moved to grant a 32-foot variance on the southwest side (allowing for a five-foot porch). Franck said that no undesirable change will be produced in the character of the neighborhood nor detriment created to nearby properties; that the restoration of the original porch cannot be achieved by any other feasible method; that the requested variance, with the applicant's concession alleviating safety concerns, is reasonable and not substantial; that there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood; and that, while the difficulty is self-created, the project represents an improvement in the property and an overall positive effect, which the Board encourages. Sam Hoskins seconded the motion and it was approved, 5-0.

13.03 – Robert Sadekoski – Area variance, replacement of residence within 100 feet of Canadarago Lake – 2173 County Highway 22 (#38.20-1-9.00)

Applicant Robert Sadekoski was present. Chairman Crowell commented that his proposed project conforms with and is in keeping with neighboring properties. He said that the new septic system would represent an improvement to the environment.

Sam Hoskins moved to approve the variances sought: 20 feet on the north side, 17½ feet on the south side, plus a variance from *Land Use Law* #4.04 (lakeshore protection). Hoskins said that no undesirable change will be produced in the character of the neighborhood nor detriment created to nearby properties; that the benefit sought cannot be achieved by any other feasible method; that the requested variance is minimal; that there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood; and that, while the difficulty is self-created, the project represents an improvement in the property and an overall positive effect, which the Board encourages. Mike Pelcer seconded the motion and it was approved, 5-0.

13.04 – Robert Faller (Jon McManus) – Area variance, construction of new home – Stone House Road (#98.00-1-44.03)

Applicant Robert Faller Engineer was accompanied by representative Jon McManus. McManus noted that this is a pre-existing lot, and the proposed house location is the only area far enough from the road, flood plain, and power lines, allowing appropriate location of a well and septic system. Chairman Crowell said that he had visited the site and agrees that that is the best option; otherwise, the lot would be almost unbuildable.

Mike Pelcer moved to approve the variances sought: 15 feet on the east side and 13 feet on the west side. Pelcer said that no undesirable change will be produced in the character of the neighborhood nor detriment created to nearby properties; that the benefit sought cannot be achieved by any other feasible method; that the requested variance is minimal; that there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood; that the difficulty is not self-created, due to the location of the road, flood plain, and power lines; and that the project represents an improvement in the property and an overall positive effect, which the Board encourages. Carina Franck seconded the motion and it was approved, 5-0.

13.05 – Harrison Hummel (Jon McManus) – Area variance, addition to existing residence within 500 feet of Canadarago Lake – 114 Marble Road Extension (#52.11-1-17.02)

Engineer Jon McManus represented applicant Harrison Hummel. He asked to “stop the clock” on the 62-day time limit for the Board to make a decision, in light of the survey, tax map, and other issues brought up during the public hearing. Chairman Crowell moved to table the application and stop the 62-day clock. Christopher Voulo seconded the motion and it was approved, 5-0.

Ed Hobbie moved to request something in writing from the Town Attorney, clarifying the question of the common ownership situation, and the ZBA's jurisdiction to rule on the application.

Carina Franck seconded the motion and it was approved, 5-0 (Christopher Voulo did not vote). Bill Deane said he would e-mail Town Attorney Michelle Kennedy with these questions (done October 16).

13.06 – Joe Galati (Jon McManus) – Area variances, expansion of existing residence within 100 feet of Otsego Lake – 6718 State Highway 80 (#69.68-1-14.00)

Engineer Jon McManus represented applicant Joe Galati (October 11 authorization memo filed). McManus noted that Galati would be here, if not for the Town policy forbidding members of the Planning Board from representing themselves in the application process.

Galati wants to enlarge an existing residence within 100 feet of Otsego Lake, turning the deck into living space, and adding a six-foot-wide enclosed porch. The Board examined the application package, determining that Galati would need a 15-foot variance on the south side, an 18-foot variance on the north side, plus a variance from *Land Use Law* #4.04 (lakeshore protection).

Ed Hobbie moved to deem the application complete and schedule a public hearing for November 19. Mike Pelcer seconded the motion and it was approved, 5-0 (Christopher Voulo did not vote).

13.07 – Joe Galati (Jon McManus) – Area variances, addition of staircase to existing building within 100 feet of Otsego Lake – 6855 State Highway 80 (#69.44-1-5.00)

Engineer Jon McManus represented applicant Joe Galati (October 16 authorization memo filed). Galati wants to add a staircase, eight feet wide and ten feet long, to the former Hickory Grove Inn building now known as Blackbird Hollow. There had been a staircase there at one time. The new one would conform to current codes, and be 25'6" from the center of the road, thus requiring a 34'6" variance on the east side. The Board examined the application package.

Chairman Crowell moved to deem the application complete and schedule a public hearing for November 19. Carina Franck seconded the motion and it was approved, 5-0.

With no further business, at 8:53 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Secretary