

## Town of Otsego Zoning Board of Appeals

Minutes (Unapproved) – October 17, 2017

### **PUBLIC HEARING**

#### **17.06 – Tony & Deb Dianich – Area variance, removal & replacement of residence with larger footprint within 500 feet of Otsego Lake – 6711 State Highway 80 (#69.68-1-17.00)**

Chairman Greg Crowell called the Dianich public hearing to order at 7:02 PM, and asked if anyone from the public had questions or comments.

Neighbors Michael and Kathleen Faddis asked for an explanation of the project, which was given by Chairman Crowell and applicant Deb Dianich. The Faddises said they had no objections to the project, but had concerns about what the Dianiches would be doing with the land bank. Dianich described minimal proposed change to the bank. Crowell explained that, if this Board granted the requested variances, the Dianiches would have to go before the Planning Board for site plan review, with a possible additional hearing. The Faddises expressed satisfaction with the answers they were given, with Michael saying “We’re good.”

Secretary Bill Deane noted that one hearing notice (filed), addressed to Matthew Shea, had been returned to sender due to no mail receptacle.

With no further comments or questions, Chairman Crowell closed the public 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 7:09 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, Tony Scalici (Vice-Chairman), John Tedesco, and Dean Robinson. With Christopher Voulo absent, first alternate member John Dewey joined the meeting table. Second alternate member Bill Michaels was absent.

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 September 19, e-mailed to the members. Scalici moved to approve them as written. Robinson seconded the motion and it was approved, 5-0.

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

### **APPLICATIONS**

#### **17.06 – Tony & Deb Dianich – Area variance, removal & replacement of residence with larger footprint within 500 feet of Otsego Lake – 6711 State Highway 80 (#69.68-1-17.00)**

Secretary Deane read the minutes of September 19 relevant to the Dianich application. He noted that the residence is within 500 feet of Otsego Lake, but not within 100 feet, as printed on the agenda.

Members reported on their visits to the site. Chairman Crowell and Tony Scalici said the new building will not stand out in relation to neighboring structures. John Dewey said that the back yards in the area are mostly unusable, and a four-foot extension will not affect anyone’s view.

The Board had previously determined that the Dianiches would require an eight-foot variance on the south side, and a 13-foot variance on the north side (or more, depending on building overhangs). Chairman Crowell asked how far the overhangs would extend. Applicant Deb Dianich said she was not sure. Zoning Enforcement Officer Hobbie suggested that the Board add 18-24 inches on each side, to make sure the overhangs are accommodated.

Tony Scalici moved to grant variances of ten feet on the south side and 15 feet on the north side. Scalici said that no undesirable change will be produced in the character of the neighborhood, aesthetically or otherwise; that the requested variance is not substantial, and is the minimum required to accommodate a staircase; and that the proposed project represents an improvement to the property, which the Board encourages. John Tedesco seconded the motion and it was approved, 5-0.

Deane advised Dianich that the application deadline for the next Planning Board agenda is October 31.

**17.08 – Matthew & Linda Lionetti – Area variance, road frontage for minor subdivision in RA2/HR Districts – 768 County Highway 26 (#114.00-1-46.01)**

Applicant Matthew Lionetti submitted a September 28, 2017 survey prepared by Brian Carso. He and his wife propose to split (subdivide) 3.2 acres from their 7+-acre lot, which they bought in 2003. Part of the property is in the hamlet residential district (which requires one acre and 75 feet of road frontage), and part is in the RA-2 district (which requires three acres and 150 feet of road frontage, per *Land Use Law* Section 2.03). The proposed split shows 75 feet of frontage on the new lot, and well over 150 feet on the remaining one; both lots meet acreage requirements regardless of district. Chairman Crowell said he had checked with Town Attorney Michelle Kennedy, who advised that the more-restrictive road frontage minimum would apply in a case like this; i.e., each lot would have to have at least 150 feet of frontage. Thus, the Lionettis would need a 75-foot variance on the new lot.

The ZBA members examined the file. Tony Scalici said that the Lionettis need to address traffic safety. He suggested that they submit written evidence, explaining why they cannot accommodate more than 75 feet of road frontage on the new lot. Dean Robinson asked if they could incorporate a right-of-way for highway access. Lionetti said that would not be practical, and would hurt the value of his property. He invited Board members to visit the property.

Chairman Crowell said that the application appeared to be complete, except for a list of neighbors (with addresses) within 200 feet of the property boundaries. John Dewey moved to deem the application complete, contingent on the aforementioned list to be submitted by November 7, and to schedule a public hearing for November 21. Dean Robinson seconded the motion and it was approved, 5-0. Secretary Deane explained that Lionetti is responsible for this list, and if it is not received in time, the hearing will not be scheduled.

Lionetti asked what would happen if a neighbor complained during the public hearing – would that kill the application? Members said they take neighbor comments into consideration, but ultimately go by the Town's Comprehensive Plan and the criteria in *Land Use Law* Section 9.03.

Dean Robinson noted that the line dividing the two districts was drawn somewhat arbitrarily 30 years ago, and applicants usually are given the benefit of doubt when there is a discrepancy in the laws. Lionetti asked if the line could be redrawn. Chairman Crowell advised him that only the Town Board could do that, or alternately, they could adopt a law clarifying the situation when one lot is in more than one land district.

**17.09 – Marty & Annie Hansen – Area variances, replacement of summer camp within 100 feet of Canadarago Lake – 2117 County Highway 22 (#38.20-1-22.00)**

This application was added to the agenda by request of Zoning Enforcement Officer Hobbie and agreement of Chairman Crowell. Hobbie explained the situation.

Applicant Marty Hansen owns a summer camp within 100 feet of the east side of Canadarago Lake. He wants to raze and replace it, making it ten feet longer, with the extension toward County Highway 22. The existing building is already within the side-yard setbacks, and the extension would increase the non-conformity. Hansen said he wants to enlarge the building to

accommodate family visits. He said he would also be removing a garage and shed and not replacing them.

The Board examined the application package, including drawings and photos. They determined that Hansen would need a 24'6" variance on the south side, a 15-foot variance on the north side, and a variance from *Land Use Law* 4.04 (Lakeshore protection), which prohibits new construction within 100 feet of Canadarago Lake.

Chairman Crowell said that the application appeared to be complete, except for a list of neighbors (with addresses) within 200 feet of the property boundaries. Dean Robinson moved to deem the application complete, contingent on the aforementioned list to be submitted by November 7, and to schedule a public hearing for November 21. Tony Scalici seconded the motion and it was approved, 5-0. Secretary Deane explained that Hansen is responsible for this list, and if it is not received in time, the hearing will not be scheduled.

Scalici suggested that Hansen bring in more photos, showing that the proposed camp will not be out of proportion to neighboring residences. Hansen gave permission to Board members to visit the property.

#### **OTHER BUSINESS**

Ed Hobbie had no formal Zoning Enforcement Officer report, but discussed two cases of interest involving Jean Scarzafava and Cheryl Bissell.

With no further business, at 8:31 Chairman Crowell adjourned the meeting.

Respectfully submitted,  
Bill Deane, Secretary