

Town of Otsego Zoning Board of Appeals (ZBA)

Minutes – October 17, 2023

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

PUBLIC HEARINGS

23.09 – Joseph Stagliano (Nick Drummond/Redpoint Builders) – Area variance, addition to camp within 500 feet of Otsego Lake in RA1 district – 6723 State Highway 80 (#69.68-1-10.00)

Chairman Crowell opened the public hearing at 7:08 PM, and had clerk Bill Deane read aloud from the minutes of September 19 relevant to the Stagliano application.

Crowell read aloud from a five-page October 13 letter from neighbor Joe Galati (also signed by Gail DeNicola, Dave DeNicola, and Gary Welsh), which had been forwarded to the members prior to the meeting. The letter opposes the project, citing past legal issues on the property, and claiming undesirable change, feasible alternatives, substantiality, self-creation, and adverse effects.

Chairman Crowell asked if anyone from the public had questions or comments about the application.

Dave and Gail DeNicola of 6719 State Highway 80 (adjoining neighbors on the south side) spoke at length. They said that they agreed with Galati's letter. Dave DeNicola said their structures are not shown on the site plan, so one cannot appreciate how close this project will be to their home, or how much it will affect them. It will add significant impervious surface to the Lakeshore protection area, and may increase the flooding problem in their garage. The DeNicolas invited Board members to view the building site from their property, to better see what they are talking about.

Deane noted that a hearing notice addressed to neighbor Matthew Shea was returned to sender due to "no mail receptacle." With no other speakers or correspondence, Crowell closed the hearing.

23.10 – Bernard Madden (Erik Wilson/Redpoint Builders) – Area variances, addition of porch and replacement of foundation within 100 feet of Otsego Lake in RA1 district – 6698 State Highway 80 (#69.76-1-3.00)

Chairman Crowell opened the Madden public hearing at 7:47 PM, gave a brief description of the application, and asked if anyone from the public had questions or comments about it. No one responded. Deane noted that hearing notices addressed to neighbors Lille Gossebo, LLC ("insufficient address"), James Sever ("insufficient address"), and Andrew Peterson ("attempted – not known") were returned to sender.

With no other speakers or correspondence, Crowell closed the 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, N. Y. Chairman Greg Crowell called the meeting to order at 7:49 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), Tony Scalici, and Sal Furnari. With Corinne Armstrong and alternate members Dean

Robinson and John Tedesco 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 tonight's application. No one reported any conflict.

The Board reviewed the minutes of September 19, e-mailed to the members. Dewey moved to approve the minutes as written. Whelan seconded the motion and it was approved, 5-0.

Besides that addressed during the public hearings, there was no correspondence received since the last meeting. The Board moved on to the applications.

APPLICATIONS

23.09 – Joseph Stagliano (Nick Drummond/Redpoint Builders) – Area variance, addition to camp within 500 feet of Otsego Lake in RA1 district – 6723 State Highway 80 (#69.68-1-10.00)

Representatives Nick Drummond of Redpoint Builders and Barb Monroe were present. In answer to questions from Chairman Crowell, Drummond said that:

- Redpoint had nothing to do with the previous illegal construction (installing plumbing, etc., to convert a shed into living space) done on the Stagliano property.
- The proposed construction is planned for autumn, 2024.
- Regarding run-off concerns, they have consulted Lamont Engineers about potential solutions. Drummond had submitted an October 17 letter from Brendan Becker of Lamont, containing suggestions.
- The “patio” referred to by the DeNicolas is actually lawn.
- He is not sure where the septic system and leech-field will be located, pending input from the Watershed Supervisory Committee and Department of Environmental Conservation.
- The living space (not including porches) is proposed to increase from 898 square feet to 1,760 (a 96% increase).

The Board had determined that Stagliano would need variances of 18 feet on the north side and 5'2” on the south side. Members reported on their site visits, and discussed concerns brought up during the public hearing. John Dewey read aloud an October 17 letter from Redpoint, responding to contentions made in Galati's letter.

Chairman Crowell said that there are other large houses in the neighborhood, most of them closer to State Highway 80 than Stagliano's. He said the architectural style would not clash. In his opinion, the view would not change for neighbors on the south side, only the north. However, Crowell said he was not comfortable making a decision without written plans to mitigate adverse effect of water run-off on a steep slope.

Dewey said that the County GIS shows several nearby residences larger than or nearly as large as Stagliano's proposed project. There have been many Lakeshore camps converted into year-round residences. Dewey agreed with Crowell's concerns about run-off.

Tony Scalici said he would prefer to see more information on the leech-field location, and on the need for such a significant expansion.

Dewey moved to table the application to November 21, asking the representative for documentation/detail on run-off plans. Chairman Crowell seconded the motion and it was approved, 5-0.

Clerk Bill Deane said that, having held the public hearing today, the Board had 62 days to make a decision, or by December 18 (the day before the scheduled December meeting).

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23.10 – Bernard Madden (Erik Wilson/Redpoint Builders) – Area variances, addition of porch and replacement of foundation within 100 feet of Otsego Lake in RA1 district – 6698 State Highway 80 (#69.76-1-3.00)

Clerk Bill Deane read aloud from the minutes of September 19 relevant to the Madden application. The Board briefly discussed it.

Chairman Crowell moved to approve the requested variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake, specific to the proposed project (no future conversion to indoor/living space). Crowell said there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that the requested variance is not substantial; 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; and that, though the alleged difficulty is self-created, it is a reasonable project. Sal Furnari seconded the motion and it was approved, 5-0.

Madden asked to be put on the November 14 Planning Board agenda.

23.11 – Heather & David Drenth (Tim Yerdon) -- Area variances, addition to residence within 100 feet of Canadarago Lake in RA2 district – 173 Marble Road (#52.08-1-27.02)

Contractor Tim Yerdon represented applicants Heather & David Drenth. He said the Drenths want to add a front porch to their existing residence within 100 feet of Canadarago Lake, beyond the expansion of the residence which the ZBA had approved in 2022. There is no urgency to the project, but Yerdon hopes to be able to “cap” the work area before winter.

Clerk Bill Deane read aloud from the minutes of June 21 and July 19, 2022 relevant to the previous Drenth application. The Board had held a public hearing with no comments, and approved a variance from *Land Use Law* 4.04, specific to that project.

The Board reviewed the current application. Allowing for a roof overhang, they determined that the following variances would be needed: a nine-foot variance on the front (east) side, and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Canadarago Lake.

The Board noted that the application form had not been completed; specifically the section asking for an explanation of the need for variances, responding to *Land Use Law* Section 9.03 criteria. Zoning Enforcement Officer Phillips said the \$150 application fee had not yet been paid.

John Dewey moved to deem the application complete, contingent on a complete application form and application fee to be delivered to Phillips by November 7, and schedule a public hearing for November 21 with the same contingencies. Chairman Crowell seconded the motion and it was approved, 5-0.

Deane said it did not make sense for the Board to deem an application complete contingent on a complete application. Either an application form is complete or it is not; this puts the onus on Phillips and Deane to guess whether the revised form is complete to the Board's satisfaction. Deane said that, in his opinion, without this section being completed, Phillips should not have allowed this application on the agenda in the first place.

23.12 – Bart Brush – Area variance, rebuilding of garage in HR district – 100 Cemetery Road (#113.00-1-28.00)

Applicant Bart Brush said he wants to erect a garage next to his existing house. It would be only 28 feet from the south property boundary, thus require a 32-foot variance on that side. Brush said there had been a smaller garage located there in the past, but it was torn down more than seven years ago; he wants to use the remaining slab. Zoning Enforcement Officer Phillips said the \$150 application fee had not yet been paid.

The Board reviewed the application. Chairman Crowell moved to deem the application complete, contingent on the application fee to be delivered to Phillips by November 7, and schedule a public hearing for November 21 with the same contingency. Tony Scalici seconded the motion and it was approved, 5-0.

23.13 – Josh Edmonds – Area variance, expansion of Simple Integrity headquarters in GB2 district – 6106 State Highway 28 (#114.00-1-7.31)

Clerk Bill Deane read aloud from the Planning Board minutes of October 3 relevant to the Edmonds application. Simple Integrity proprietor Josh Edmonds owns the former Cooperstown Bat Company property and buildings on State Highway 28. They have used it as SI's headquarters since 2020, and now want to expand two of the buildings to increase storage space. The complex is approved for "light construction" by a Planned Development Unit (PDU) issued prior to the *Land Use Law's* special permitted use requirement. Per *Land Use Law* Section 2.07, Special Requirement #2, "Buildings cannot exceed 5,000 square feet (building footprint) on a single lot in the GB-2 District." Chairman Tom Huntsman said he thought that this limit refers to the sum of all buildings, not each building. Edmonds had said he was not sure of the total existing or proposed square footage, but was sure it would exceed 5,000 square feet. Huntsman said that, in that case, Edmonds would need a variance from the ZBA but, in his opinion, would not need Planning Board review if approved by the ZBA.

Edmonds said the current building measure 5,480 square feet, and the proposed addition would add 5,840 more square feet, for a total of 11,320. The lot measures 5.9 acres, and there will be no setback issues. Zoning Enforcement Officer Phillips said that Edmonds had paid a \$150 application fee for the Planning Board but, since they had said it did not need their review, Phillips would accept the \$150 as the ZBA application fee. He said he still needs to print out the completed application form for the file.

The Board reviewed the application. Sal Furnari noted that "light construction" is not among the special permitted uses listed for the GB2 district.

Chairman Crowell moved to deem the application complete and schedule a public hearing for November 21. John Dewey seconded the motion and it was approved, 5-0.

OTHER BUSINESS

Zoning Enforcement Officer Phillips said that the last enforcement action (Groom) on his docket had been resolved. He discussed the current application form, saying he thought it was up to the Board to decide if an application is complete. He does not want to delay applicants' projects by a month due to missing information. Town Supervisor Ben Bauer is working on revising the application form.

With no further business, at 9:25 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Clerk