

Town of Otsego Zoning Board of Appeals

Minutes – October 19, 2021

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

PUBLIC HEARINGS

21.09 – Leatherstocking Association Common Area (Vince Pyle, Jr., Chad Whitbeck) – Area variances, stairway & deck within 100 feet of Otsego Lake in RA1 district (revised plan) – 162

Chairman Greg Crowell opened the Leatherstocking Common Area public hearing at 7:00 PM, and asked if anyone from the public had questions or comments about the application.

Phil Holz of 111 Browdy Mountain Road noted that the application states the property is not on a steep slope. Holz said he calculated the slope at 48%, far in excess of the *Land Use Law* definition (15%) of steep slope.

Joan Hopkins of 165 Browdy Mountain Road said she thought this application had been settled already. She asked if all neighbors and shareholders had been asked about the project; otherwise, Vince Pyle should not be applying on the Association's behalf. Clerk Bill Deane responded that all shareholders, and all neighbors within 200 feet of the property lines, had been notified about the hearing. John Dewey said that the Town Attorney had affirmed Pyle's right to apply on behalf of the Association.

Chairman Crowell and Corinne Armstrong read aloud and filed correspondence received:

- An October 19 e-mail from Tracy & Tim Killian, saying this was a large project on a small lot, and that they think the majority of the Association's shareholders should approve it.
- An October 19 e-mail from "Concerned Citizens of Lake Otsego," saying the Board should uphold *Land Use Law* Section 4.04, prohibiting construction within 100 feet of the Lake.
- An October 19 e-mailed letter (21 pages, including attachments) from attorneys Young/Summer, on behalf of Bill Michaels, Holz, and the Killians. It noted that there was no consent of the other shareholders, and that the project was done without necessary permits. Moreover, it falls short of the *Land Use Law* Section 9.03 criteria: the variances sought are substantial and self-created, and produce undesirable change in the neighborhood.

Chairman Crowell invited Pyle to address the Young/Summer letter. Pyle said that the area was unusable as it was. He is producing something which is safer and more attractive, for the benefit of everyone in the Association, and he is paying for it. He said he had done everything the Board wanted him to do.

With no further comments or questions, Crowell closed the hearing.

21.10 – Mathew & Kathryn Barry (Brett Johnson) – Area variances, deck off existing structure within 100 feet of Canadarago Lake in RA2 district – 177 Marble Road (#52.08-1-27.01)

Chairman Crowell opened the Barry public hearing at 7:27 PM, and asked if anyone from the public had questions or comments about the application. No one responded, and Crowell closed the hearing.

(After the meeting, a letter was received from neighbor Charlotte Durse, expressing confusion about the public hearing notice. Clerk Bill Deane phoned her on October 22 and explained the notice and project. She said she had no concerns about it.)

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 7:28 PM and led the Pledge of Allegiance.

Roll call was taken by Secretary Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), Sal Furnari, and Corinne Armstrong. With Dean Robinson and third alternate member John Tedesco absent, first alternate member Tony Scalici joined the meeting table. Second alternate member Mary Anne Whelan, Town Supervisor Meg Kiernan, and Town Board member Carina Franck were also present.

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 21, 2021, e-mailed to the members. Furnari moved to approve the minutes as written. Armstrong seconded the motion and it was approved, 5-0.

Other than that addressed during the Leatherstocking Common Area public hearing, there was no correspondence received since the last meeting. The Board moved on to applications.

APPLICATIONS

21.09 – Leatherstocking Association Common Area (Vince Pyle, Jr., Chad Whitbeck) – Area variances, stairway & deck within 100 feet of Otsego Lake in RA1 district (revised plan) – 162 Browdy Mountain Road (#84.08-1-29.00)

Clerk Bill Deane read aloud from the September 21 ZBA minutes relevant to the Leatherstocking application. Applicant Vince Pyle, Jr. and representative Chad Whitbeck were present. Whitbeck said he thought the application was approved at the last meeting. John Dewey said the application was deemed complete, but not approved.

Chairman Crowell noted inaccuracies on the application, which he corrected:

- The application says the property is not on a steep slope; Crowell said it is, as the slope drops approximately 22 feet vertically within 37 feet horizontally, a 59% slope.
- The application says the project is 389 square feet; Crowell said it is actually 521 square feet, including stairs, and accounting for the lopped-off corner.
- The application says the height is 36 inches above grade; Crowell said it is actually 11 feet.
- The application says the deck is 20 feet from the shoreline; Crowell said it is actually less than six feet.

Chairman Crowell reviewed the variances being requested: an 18'6" variance on the north side; a 29'3" variance on the east (Lake, or rear) side; a 14'4" variance on the west (front) side; and a variance from *Land Use Law* Section 4.04, which prohibits new construction in the Lakeshore protection area. Crowell also reviewed the five criteria from New York State statutes and *Land Use Law* Section 9.03.

Crowell noted his concerns about the project: “It is right on the water,” and there are no other nearby decks as close to the water, nor are they free-standing; it produces a negative visual impact from the Lake, with no room for screening; it is on a steep slope; it is a very large deck; and there are no plantings shown on the site plan, as the representative offered to help with erosion control and screening (Whitbeck had submitted documentation on potential plantings, but had not applied them to the plan itself).

Dewey said that if it was just stairs to the Lake, he would have no problem, but he cannot support such a large deck. He said he had asked the representative multiple times why the deck had to be so big, and had never received a satisfactory answer. Corinne Armstrong agreed, and said that there was a lack of communication between the applicant and representative.

Tony Scalici said the property is in violation, and by rights the Board should not consider the application while the pilings are in place. Scalici said the project is not in character with the neighborhood, and that there is no agreement about the project among the shareholders. Sal Furnari said removing the pilings entirely would be extreme, and it would be better for the Lake if they were cut off at ground level.

After weighing the potential benefits to the applicant vs. detriment to the neighborhood, and considering the input of other members, Chairman Crowell made a motion. He moved to deny the variances sought, requiring the applicant to remove (at ground level) the four concrete pilings closest to the Lake immediately, and the remaining pilings by April 30, 2022, unless a new ZBA application is submitted by that date. Crowell said that the benefit sought could be achieved with a smaller deck further from the shoreline; that an undesirable change will be produced in the character of the neighborhood, as the deck is too imposing vertically, and closer to the water’s edge than any nearby deck; that the requested variances are substantial; that the project will have an adverse effect or impact on the physical or environmental conditions of the neighborhood, with the steepness of the slope and the proximity to the Lake making runoff a concern, and with inadequate mitigation shown on the plan; and that the alleged difficulty is self-created, as no deck existed on this property before. John Dewey seconded the motion and it was approved, 5-0.

21.10 – Mathew & Kathryn Barry (Brett Johnson) – Area variances, deck off existing structure within 100 feet of Canadarago Lake in RA2 district – 177 Marble Road (#52.08-1-27.01)

Clerk Bill Deane read aloud from the September 21 ZBA minutes relevant to the Barry application. Representative Brett Johnson was present.

The members briefly reviewed the application. Chairman Crowell said that he thought it was a modest proposal, but that the Board should specify conditions.

John Dewey moved to approve the requested variances: a 15-foot variance on the north side; a 20-foot variance on the west (Lake, or rear) side; and a variance from *Land Use Law* Section 4.04, which prohibits new construction in the Lakeshore protection area. These are to allow construction of a simple deck which is not to be roofed or enclosed without a new application. Dewey said that the benefit sought cannot be achieved by any other feasible method; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that the requested variances are not substantial; 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 project is reasonable in view of the deck previously located on the property. Tony Scalici seconded the motion and it was approved, 5-0.

Johnson asked to be put on the November 9 Planning Board agenda. Clerk Bill Deane again recommended that Johnson prepare for that by consulting the *Land Use Law*, particularly Sections 4.04 and 8.04, and to work with Zoning Enforcement Officer Lanza.

21.12 – Mark Schruntek – Area variances, electric pedestal & deck within 100 feet of Canadarago Lake in RA2 district – 2263 County Highway 22 (#38.16-2-4.00)

Applicant Mark Schruntek was present, along with his electrician, Fred Bauer. Schruntek wants to erect an electric pedestal to service his pontoon boat on Canadarago Lake. He amended his application to clarify the location and need for the structure.

Chairman Crowell determined that the following variances would be needed: a 23-foot variance on the south side; a 25-foot variance on the west (Lake, or rear) side; and a variance from *Land Use Law* Section 4.04, which prohibits new construction in the Lakeshore protection area.

Chairman Crowell moved to deem the application complete and schedule a public hearing for November 16. Corinne Armstrong seconded the motion and it was approved, 5-0. Schruntek said he may not be available for that meeting, but that Bauer could represent him.

21.13 – Joe Galati – Interpretation, ZEO action and/or non-action re: Stagliano property – 6723 State Highway 80 (#69.68-1-10.00)

Applicant Joe Galati participated via Zoom. Galati said he was asking the Board's interpretation of Zoning Enforcement Officer Lanza's action or non-action involving the Stagliano property. Chairman Crowell read aloud from the guidelines for an interpretation, which allow the ZBA to overrule the ZEO.

Clerk Bill Deane read aloud from the Planning Board's minutes (not yet approved) of October 5. The Planning Board had rejected Stagliano's latest application, opining that the violations (cited in Lanza's July 1 notice and the ZBA's August 17 decision) had not been adequately corrected. (On October 22, ZEO Lanza issued a notice to Stagliano saying, "Per the determination of the Town of Otsego Planning Board, you must remove all non-site planned items from the structure within 60 Days before returning to the Planning Board for another site plan review.")

Galati said he had submitted a ZBA application, but had not yet paid the fee (\$150). He said the Stagliano property still is in violation of *Land Use Law* Sections 7.05(a) and 8.05(7). Chairman Crowell said he did not have an application in hand, only a September 27 memo from Galati. Crowell amended the memo with Galati's input. Crowell will ask Lanza to print Galati's application and make a file, and also ask Lanza to submit a written statement about the application. Crowell advised Galati that any additional documentation from him would be welcome.

Chairman Crowell moved to deem the application complete, contingent on the \$150 application fee to be submitted by November 2, and to schedule a public hearing for November 16. Corinne Armstrong seconded the motion and it was approved, 5-0. Galati asked for Zoom access to that meeting.

21.14 – Schaer Family Revocable Trust – Interpretation re: hamlet residential district – 272 Goose Street (#98.00-1-28.00)

Applicants Al & Mary Schaer explained the situation for which they are asking an interpretation. Their new neighbor to the east, Emily Stolarczyk, recently put up a fence along her property line, about 18 feet from the edge of Goose Street. Stolarczyk has had three horses in that area, causing some angst to the Schaers. Their understanding is that the property within 250 feet from the road is zoned “hamlet residential,” therefore horses should not be permitted there.

Clerk Bill Deane explained that there was a discrepancy between the zoning maps which hang in the Town building, and that which was on the Town’s web-site. The latter showed the property to be in the residential-agricultural district, so Zoning Enforcement Officer Lanza had advised Stolarczyk that she could have horses there. However, the wall maps confirm that the area within 250 feet of Goose Street is hamlet residential, and the RA district commences beyond that. The Town Board determined that the wall maps are correct, and the web-site has been or will be corrected.

After discussion, Tony Scalici moved to instruct the ZEO to apply the correct zoning map, and inform Stolarczyk that the horses are to be kept at least 250 feet from the road. Chairman Crowell seconded the motion and it was approved, 5-0.

With no further business, at 9:21 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Secretary