

Town of Otsego Zoning Board of Appeals
Minutes – November 19, 2013

PUBLIC HEARINGS

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)

Chairman Greg Crowell opened the first Galati public hearing at 7:01 PM and asked if anyone from the public had comments or questions. No one responded. Crowell closed the hearing at 7:06.

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)

Chairman Greg Crowell opened the second Galati public hearing at 7:02 PM and asked if anyone from the public had comments or questions. No one responded. Bill Deane noted that a neighbor letter addressed to the Robert Seaver Marital Trust had been returned to sender due to incorrect address. Crowell closed the hearing at 7:06. A neighbor, Charlotte Hall, arrived later in the meeting with questions, so Crowell reopened the public hearing at 7:26. Representative Jon McManus answered Hall's questions and she concluded she had "no problem" with the project. Crowell again closed the hearing at 7:29.

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 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 and Zoning Enforcement Officer Tavis Austin were also present.

Chairman Crowell asked if anyone had a potential conflict with tonight's applicant. No one reported any conflict.

The only correspondence received since the last meeting was the September/October 2013 issue of *Talk of the Towns&Topics*, copies of which were distributed. The Board moved on to applications.

APPLICATIONS

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)

Town Attorney Michelle Kennedy had responded to Bill Deane's e-mail referenced in the last meeting minutes. Kennedy wrote on November 13:

I have researched the issues presented in your e-mail of October 15th, 2013. Based upon my research, the ZBA's deliberations are premature.

Town Law Section 280-a has been interpreted by the Third Appellate Division Court to require that the Town Board first pass a resolution for an open development area before a building permit may be issued for a structure accessed by a private right of way or easement.

The Town Board in consideration of the resolution for open development is required under TL Section 280-a to seek the advice of the Planning Board and allow the Planning Board adequate time for review.

If the Town Board decides to pass the open development area resolution, then the matter is ripe to be heard by the ZBA regarding the request for an area variance from setback requirements.

Representative Jon McManus said that the neighbors had paid for a survey, which indicates that a corner of Harrison Hummel's building does encroach on the property line. Neighbors showed the survey, done by D. L. Mowers, to Board members.

McManus said that, in light of these developments, he was withdrawing the application.

Here followed a long discussion between the neighbors, McManus, and Zoning Enforcement Officer Austin regarding the Hummel situation and possible future actions. One neighbor asked the ZBA to make a recommendation to the Town Board, but after discussion the consensus was that the ZBA would

take no action related to a withdrawn application. Austin said he would seek direction from the Town Board and Attorney.

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)

The Board reviewed Joe Galati's application package, determining that Galati would need a 15-foot variance on the south side, an 18-foot variance on the north side, and a 29-foot variance on the east side, plus a variance from *Land Use Law #4.04* (lakeshore protection). Representative Jon McManus answered questions.

Chairman Crowell moved to grant the variances requested. Crowell said that no undesirable change will be produced in the character of the neighborhood nor detriment created to nearby properties; that the desired benefit cannot be achieved by any other feasible method; that there are nearby buildings similar in proximity to the Lake, thus that the proposed project is in keeping with the neighborhood; that the requested variance is minimal, in relationship to the existing building; and that there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood. Sam Hoskins seconded the motion and it was approved, 5-0.

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)

The Board reviewed Joe Galati's application package, determining that Galati would need a 34'6" variance on the east side. Representative Jon McManus answered questions and noted that the staircase would be only ten feet closer to the road .

Sam Hoskins moved to grant the requested variance. 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 (restoration of original staircase) cannot be achieved by any other feasible method; that, while the difficulty is self-created, the requested variance is minimal; that the proposed project is in keeping with neighboring properties, thus there will be no adverse effect or impact on the physical or environmental conditions in the neighborhood; 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.

OTHER BUSINESS

The Board discussed 2014 ZBA personnel. Chairman Crowell noted that Carina Franck was elected to the Town Board effective January 1, and will need replacement. Crowell moved to recommend to the Town Board that alternate member Christopher Voulo be appointed to complete Franck's term. Sam Hoskins seconded the motion and it was approved, 5-0.

Chairman Crowell moved to recommend to the Town Board that Bill Deane be reappointed as Secretary. Ed Hobbie seconded the motion and it was approved, 5-0.

Chairman Crowell asked if Ed Hobbie, whose term expires December 31, is interested in being reappointed. Hobbie said he was. Crowell moved to recommend to the Town Board that Hobbie be reappointed to another five-year term. Mike Pelcer seconded the motion and it was approved, 5-0, with Hobbie abstaining and Christopher Voulo voting in his stead.

Ed Hobbie moved to recommend to the Town Board that Greg Crowell be reappointed as ZBA Chairman. Sam Hoskins seconded the motion and it was approved, 5-0, with Crowell abstaining and Christopher Voulo voting in his stead.

Carina Franck thanked the other members, saying that she enjoyed her time on the ZBA. She was thanked and wished well by the other members.

With no further business, at 7:44 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Secretary