

**Village of Skaneateles
Zoning Board of Appeals Public Hearing
July 23, 2013**

In the matter of the application of Barbara Stack to vary the strict application of Section 225-A5 Density Control Schedule for Percentage of open area; and Section 225-14(d) Swimming pools, 25ft distance to lot lines to construct a 15 X 26 foot swimming pool with steps at the property addressed as 32 Orchard Road in the Village of Skaneateles.

Present: Lisa Banuski, Chairman
John Crompton, Member
Craig Phinney, Member
Larry Pardee, Member

Riccardo Galbato, Attorney for the ZBA
Dennis Dundon, Clerk to the ZBA

Barbara Stack, Applicant

Robert Schoeneck, Skaneateles
Kathy O'Sullivan, Skaneateles
Bill Hanbury, Skaneateles
Valerie Hanbury, Skaneateles
Robert Kleckner, Skaneateles
Cathy Kleckner, Skaneateles
George Kocsis, Skaneateles
Dawn Kocsis, Skaneateles
Jane Teffar, Skaneateles
Tom Smallman, Skaneateles
Diane Weaver, Skaneateles
Alvin Poppen, Skaneateles
Carol Poppen, Skaneateles
Bob Eggleston, Skaneateles
Mary Sennett, Village Trustee
Adam D'Amico, CEO

Absent: Stephen Hartnett, Member

Chairman Banuski opened the Public Hearing at 7:40 pm announcing the application of Barbara Stack for 32 Orchard Road. Chairman Banuski said, "We appreciate that after the Planning Board asked you to get us pictures of the fence that you did that and got us pictures of the fence. Swimming pools present kind of a unique set of circumstances in the Village, especially where houses are very close together. So we look at all new applications for swimming pools really,

really closely. A couple of things that come to mind with any swimming pool is there can be a noise issue. Kids having fun is a wonderful thing but kids having fun and screaming and Marco Polo at 11:00 at night is maybe not so fun. Same thing with lights or music that tend to accompany the fun of a swimming pool. So we look at all that and the set-backs are pretty important to have that. And I know that you can't probably set your pool anyplace that it will not need a variance for set-backs. I don't necessarily think you need to go smaller with it, but it looks like the pool you have – if it were turned a little bit in the ground – would be lesser variances that you would need. So I just had a question whether there was a reason that you had it kind of across the property instead of lengthwise?" Ms. Stack, "Well it's kidney shaped and I have a feeling that the people that sold me the pool, that maybe they weren't artistic enough to get it right. Because they did outline it in the yard; and it looked to me like I had enough room on either side and didn't need a variance, but it seemed to lose its shape for some reason in design." Chairman Banuski, "I don't even think that you necessarily have to go smaller, but it looks like in my drawing if it was turned counter-clockwise a little bit, then both of those variances would be a little less." Ms. Stack, "We can do that."

Chairman Banuski, "I didn't know if it had to do with where the stairs were or the exit from your house or something like that." Ms. Stack, "No, because there is a patio that's attached to the house as you can see from the drawing, and I think that it wasn't quite settled or set in place for a very long period of time, creating some water issues. So all of that is going to be taken out and replaced with concrete. And there's going to be a skirt around the pool and the fence, just as the drawing shows." Chairman Banuski, "And the drawing does not show that there will be a sidewalk. So there's not going to be a grassy area between your porch, your patio and the concrete apron around the pool." Ms. Stack, "No there will not be. They will all be connected, because I'm taking into consideration my grandchildren." Chairman Banuski, "So there actually will be some additional coverage here then, with walkways, but not significantly." Ms. Stack "I will be there to let them know that it needs to be exactly as we discussed."

Chairman Banuski, "OK. That was the only question that I had, that I looked at just because we do look at swimming pools really closely. We are all elbow to elbow with our neighbors here. I am going to open this up for public comment: is there anyone here who would like to speak in favor of the application?" Member Phinney said, "I have a question about lights. What type of lighting have you thought about?" Ms. Stack, "I was actually going to have a light installed in the bottom of the pool, and then there's a light on the outside of the porch and a light on the garage. I just want to add a spotlight towards the back of the garage, where the end of the pool would be, so that there would be no issue with lighting and being able to see." Chairman Banuski said, "But you would not light it all night?" Ms. Stack, "Oh, goodness no. It would hit my bedroom. And believe me, I'm on the other side of the curve and I don't like noise at night either. I get my grandchildren; they are just down the street."

Member Crompton asked, "So you are adding 2 outdoor lights?" Ms. Stack, "I have two outdoor lights now and I'm going to have them put one at the end of the garage which is adjacent to the pool. That will be the corner where the pump will be so it's not close to any of the houses, in case there is any noise. I did take that into consideration so there would not be any issue with the pump for the pool." Chairman Banuski said, "The pump doesn't show in my drawing, or am I missing it?" Ms. Stack, "Well it's right behind the garage. It's not; it'll be behind the garage

there.” Chairman Banuski, “Does that go on a concrete pad?” Ms. Stack, “Yes it does. In fact they already delivered the concrete pad.” Chairman Banuski, “They delivered the pad; they didn’t pour it?” Ms. Stack, “No there is a pad that goes right behind the garage and the pump is going to go on it. All the concrete that we’re going to pour is from the patio, up to the garage and around the pool. So there’s going to be minimal grass there. The grass will only be on the left-hand side as you are looking towards the end of the yard.”

Chairman Banuski asked, “There’s not going to be any grass between the swimming pool and the garage?” Ms. Stack, “No.” Chairman Banuski, “Our numbers for this project, then, are not correct for coverage. This is a lot of square footage of pavement then and so open area; the pool takes away from the open area, but we didn’t consider the walkway that you need to have as coverage and now. I assumed from this drawing that all of this on both sides of the pool, all around the pool, other than a small sidewalk area, a small apron was going to be grass. It looked on the drawings like this was going to be grass and this was going to be grass. Now what you are saying is that all of this, including this area is going to be paved. Correct?” Ms. Stack, “Yes. Let me look at the drawing; I don’t have my glasses with me.” Chairman Banuski, “You see what I’m saying, we’re looking at drawings and we calculated the coverage on the lot to just be the swimming pool. And now, I asked about a walkway, and I thought that’s pretty minimal. And then you said there’s going to be a concrete pad behind the garage and now you say this is all going to be paved.” Ms. Stack, “I was hoping to pave that because the fellow that mows my lawn wanted to make sure that I had enough access for him, in case I left grass there. So I said ‘well, I can pave that.’”

Chairman Banuski said, “The reality is when you come with an application then we would need to consider all of this paving as coverage on the lot. So it changes it from being a small percentage of a variance to being...” Ms. Stack, “Well why don’t I make it minimal and not have the concrete and make sure it’s all grass except for the apron and the patio?” Member Phinney said, “Well we almost need more information also, if we’re going to change the positioning of the pool so it’s not extending out to the sides – we almost need a whole new set of drawings to find out what the actual coverage is going to be after the repositioning of the pool, in addition to whatever the concrete would be. Obviously, it takes up the same square footage, but how close is it to the house now.” Ms. Stack, “It wouldn’t change from the house.” Member Phinney, “I guess what we’re saying is if we’re talking about changing the positioning of the kidney-shaped pool so that this end is now here rather than to the side.”

Chairman Banuski, “I was just considering that, I wasn’t going to really push; but this is a big deal. To pave from the swimming pool to the driveway makes it a different...” Ms. Stack, “OK then we won’t do that. I’ll make sure that we don’t do that.” Member Cromp, “So if the pool was to be turned as Lisa suggests, how much actual concrete are we pouring in there from the concrete block patio to the pool? We have got to know how much coverage that is.” Member Phinney, “Even if you don’t change it, we still need to know how much coverage there is.”

Chairman Banuski, “The problem that we’re facing – I don’t want to tell you what you can do or not do. But with our point of view with looking at how much you are covering on your lot – that’s what we look at all the time, but we have pretty specific numbers. And so we really don’t have a specific plan here, unfortunately. And I know that in the middle of summer wanting to

put a swimming pool in, to set you back a month is hard to do. But I think we're going to have to do that, because we don't know how much coverage we're looking at. We don't know how many square feet this is going to be. You have a 12 foot patio you say you are going to remove and that's going to remain a 12 foot patio, except that it was going to come over to here." Ms. Stack, "Originally, yes. I wanted to have a connection because the pool is less than 3 feet away from the patio. And then I could just put a skirt around the pool and then a fence directly around the pool. And have the green on either side." Chairman Banuski, "The pool is 15 by 26, but is that the interior dimensions or does that include the 2 foot concrete skirt around." Ms. Stack, "No, that does not include the skirt around." CEO D'Amico said, "I did figure the skirt in the coverage. The extra concrete paving is news to me but when I spoke with a gentleman Jeff at Cannon Pools, we figured out the coverage since it's a kidney shaped pool. He had the square footage of the pool; he also had what the skirting would be." Chairman Banuski said, "OK, because it's on the drawing – it shows the skirting on the drawing." CEO D'Amico, "That's the percentage you got. The other paving is news to me tonight – the connection that you are talking about." Ms. Stack, "OK, if he's told you that then that's what he's going to do. I told him I just wanted it done, and I left it up to them to get the permit and do everything. Obviously, I was not aware of the process that it took to have pool approval. When I had my other pool, I don't even remember applying to the Town of Onondaga. I was unaware so I didn't know. He said he would take care of all of it. So if you have spoken to him..." CEO D'Amico, "I have spoken to him about the pool. Like I said the percentages that you all have in your packets includes the entire pool structure – the water, the basin and the skirting around it. The additional paving, I am just hearing for the first time. And the guy from Cannon Pools probably isn't your masonry contractor to put in that extra paving, I'm assuming." Ms. Stack, "Well he said he would get me the contractor for the paving; it must be just for the skirt. So if that's the case there won't be any additional paving."

Chairman Banuski, "I think I'm going to have a hard time saying that we can vote on this tonight, because we don't have specific information. I hate to do that to you if you thought you were going to have your pool by end of summer. But I would encourage you to think about what you do want as far as some paving. It may be that it is acceptable too, when we see what it actually is. If you can figure out exactly how much square footage the walkway is going to be, and whatever paving you would like around it..." Member Crompt, "Including the pad for the pump. That's also lot coverage. Anything you are covering your grass with is lot coverage, so you'll have to include that in the calculations." Chairman Banuski, "Anything that is not going to be grass or garden – anything that's going to be asphalt, pavement, deck all of that covers the property as well as the swimming pool is coverage on the property. So we're going to ask you to go back. We'll table this and let you come back with new drawings, if you don't object to doing this; if you can have him reorient and show that on the drawing too. I don't know if any of the neighbors are here tonight, or if they have any objections. But I'm sure that the closer we can get to not needing 10 feet variance for a side-yard set-back. This is 9 feet now. I'm pretty sure that you could turn it and both of these be 20-ish – which is much less of a variance." Ms. Stack, "OK."

Chairman Banuski opened the public comment portion of the hearing. Kathy O'Sullivan introduced herself and said, "I've actually only got the notice of the hearing yesterday, so I did a little research today. I'm not sure what her impermeable surface is now for the house and the

garage, based on what code is. I don't know what the set-backs; right now I think the garage is probably pretty close to the property line on the other side of the property. I'm at 34 Orchard. But what I don't understand, I didn't understand that this was one lot, but then the whole second lot behind it. So the set-backs are from this, to me imaginary, property line that separates what I thought was one contiguous space. If the pool were actually further from the house, there is less impact directly toward the house that I own and it's set back further from the houses."

Chairman Banuski, "Are these two lots or is this one lot?" Ms. Stack, "I purchased that as one house, one lot." Ms. O'Sullivan, "It's two lots; I was told this afternoon." Member Crompt asked, "Do you get two tax bills for it or one tax bill?" Ms. Stack, "One." Chairman Banuski said, "Then it's one lot." CEO D'Amico said, "It showed on the survey as two separate lots. Is it not?" Chairman Banuski said, "It shows on this as two separate lots." CEO D'Amico, "That was the survey that was provided to me. So I've always treated it as two separate lots." Ms. Stack, "I just had it re-surveyed." Chairman Banuski, "So was this..." CEO D'Amico, "Is that your most recent survey?" Ms. Stack, "I just had it re-surveyed last month, yes." Chairman Banuski, "6/13." CEO D'Amico, "And that's showing it as two separate lots." Chairman Banuski, "So did you do the coverage just based on this inner lot?" CEO D'Amico, "Yes." Chairman Banuski, "And that's how you should have done it. That's how I would have said it should be done. But you only have one tax bill?" Ms. Stack, "Well yeah, because it was purchased as one property." Ms. O'Sullivan, "The house that I own adjacent to that property has the same situation. Perhaps that is two lots as well. But I only get one bill."

Chairman Banuski said, "I'm looking on Orchard Road if you're facing Mrs. Deck's property which side of her house are you on?" Ms. O'Sullivan, "I'm closer to West Elizabeth." Member Crompt, "She's on the left. So it's two separate lots you say." CEO D'Amico, "That's what the survey shows. That's what I'm going by." Member Phinney, "Would you normally get two tax bills if you had two separate lots? But if you are only getting one tax bill, then it would be considered one entire lot, would that be right?" Ms. O'Sullivan, "One of my questions is, this approval goes with the lot. But then I'm thinking you could go many years from now and still develop that other lot that's behind. So now you have a really packed in piece of property..." Chairman Banuski, "I don't know what you mean by develop it, because we do have density schedules and density rules for all properties, whether it's the one behind this one or not. Currently there's nothing on it but a shed." Ms. O'Sullivan, "Where her house is, what's the density going to end up being with a house, a garage, a pool, a patio, a pad?" Chairman Banuski, "That's why; that's one of the reasons why she needs a variance." Ms. O'Sullivan, "Unless she merges the two lots and makes it one lot, in which case she doesn't have as much density issue." Chairman Banuski, "Then there probably wouldn't be any density issue, if they are one lot." Ms. O'Sullivan, "I'm bringing this up because perhaps she needs to merge the lots before she goes through this process." Chairman Banuski, "They may have been. If she bought it with one deed and whatever, and whoever did the survey is just using old survey numbers. So those are things that we need to find out before next month, because you may have the whole pavement thing – if it's one lot, then all of these coverages, including patio from swimming pool to garage, would be from the whole lot, not just half the lot. And then you might not need that variance. You would still need the side yard set-backs."

Chairman Banuski, "So if Adam knew that it was one contiguous property, one tax number for that whole thing, he would have calculated that completely differently. You would have still

needed a variance for the set-backs for the swimming pool, because you need 25 feet on either side of the swimming pool. But then you could probably do the paving that you want and the walkway that you want and it would not be an issue for a variance.” Member Crompt, “Adam’s got on here one tax map number and then after the square footage it looks like he calculated it as one and then found out it was two.” CEO D’Amico, “That’s the tax map number of 32 Orchard where this project is happening. So I didn’t even look at the other one. The survey that I was provided; it’s a recent survey is showing two lots. I guess ‘shame on me’, but I didn’t question it or dig deeper...” Chairman Banuski, “Why would you? You should contact your surveyor because it may just be that he was working off an old survey that showed it as two. He needs to show it as one lot. Otherwise Adam has no choice but to look at this as two lots.”

Ms. Stack, “OK, so I need to contact the surveyor, I need to contact the pool man...” Chairman Banuski, “Do that and then decide; if this is in fact one lot, then you should get the pool you want and what you want it to be. But if he can turn it, it sounds like you have a neighbor who it would be meaningful to have it removed a little bit more from the lot line, and probably on this side too, because the other one is a little bit smaller as well.” Member Crompt, “But when you come back with a new map make sure you show all that on there. Any kind of sidewalks that you put in there or pads; make sure that’s all shown on there and included in the calculations.” Ms. Stack, “OK.” Chairman Banuski, “So the drawing needs to be a little more specific as to what your plans are – any walkway, anything like that. And if he can draw it, and turn it so it’s a little bit further. While we are here, before we table this and go, if there are any other concerns here maybe we can get them so that we are working more productively next month. Are there any other comments or questions before I table the Public Hearing?”

Chairman Banuski said, “There being none, I move that we table this application until our August 27, 2013 meeting. Member Pardee seconded the motion. Upon the unanimous vote of the members present in favor of the motion, this matter was tabled at 8:02 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards