

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

In the matter of the application of Bob & Cathy Kleckner to vary the strict application of Section 225-A5 Density Control Schedule for Percentage of open area, Side yard set-back left, Side yard set-back right, Both side yards combined, and Percentage of structure width/lot width; and Section 225-69D Non-conforming Buildings, Structures and Uses, Extension or Expansion; to construct a 6 ft privacy fence along the north boundary adjacent to a new 900 SF deck to be constructed on the north side of the house, construct a new deck and 6 ft privacy fence to be partially constructed over an existing concrete patio on the south side, and to construct a 42 in high picket fence around the rear yard at the property addressed as 8 Lakeview Circle in the Village of Skaneateles.

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

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

Robert Kleckner, Applicant
Cathy Kleckner, Applicant

George Kocsis, Skaneateles
Dawn Kocsis, Skaneateles
Alvin Poppen, Skaneateles
Carol Poppen, Skaneateles
Mary Sennett, Village Trustee
Adam D'Amico, CEO

Absent: Stephen Hartnett, Member

Chairman Banuski opened the Public Hearing at 8:35 pm announcing the application of Robert & Cathy Kleckner for 8 Lakeview Circle. Ms. Kleckner handed out copies of the survey for the members. Mr. Kleckner introduced himself and his wife and presented, "My wife Cathy and I own the property at 8 Lakeview Circle. This is an enlargement of the survey that Cathy just gave you a copy of. To get you oriented, this is Lakeview Circle road here, this is the house that we have. It is a one-story, a ranch house. North is that way. The property to the north of us is owned by George and Dawn Kocsis. They came tonight to offer their comments to the Board. The larger deck that's located on the north side of the property has a fence that you could see from the street. The house across the street from us is owned by Carol George and Al Poppen; they came tonight to offer their comments to the Board. There are two decks that we'd like to

build on the property. The bigger deck is along the north boundary of the property. It will have a privacy fence that runs from roughly the middle of our garage, about a foot in from the property line and parallel to the property line for about 66 feet. That will be a 6 foot fence with a gate that connects perpendicular to the fence and connecting to the garage. And like I said a minute ago, that gate faces the road, so you would see that from the roadway. The larger deck would cover an existing concrete porch; move parallel to the house and then kind of go out in this swoopy kind of a shape. It will go out around a very nice old red maple and then connect back up along the fence line and then back down to the porch. The deck itself is about 6 inches off grade. Our current porch is maybe 3 inches above grade, and we extend that deck to cover the porch. So maybe net of it all 6 inches off the grass.”

Mr. Kleckner continued, “The second deck is on the south side of the property. We plan to build it above an existing concrete porch. This is a huge slab of concrete that is as old as the house; it’s cracked in half and it is tilted. So rather than break it up and cart it all away, we’d just like to build a deck above it. That deck would be about a foot longer than the concrete patio on 3 of its sides. It would have another 6 foot high privacy fence. It runs along this edge, parallel to the street, so that would block the view in from the street -- and then along this edge and block the view from our neighbors’ house, Jane & Malcolm Downs – located south of us. It would be a couple of steps down over here and then it would go out toward the back yard.”

Chairman Banuski, “What you have there on the drawing; the brown decking you, in addition to that, will have steps. In addition to that space. How much will that be?” Mr. Kleckner, “Two steps.” Chairman Banuski, “And will they run the entire width? That has to be shown as coverage on your map.” Mr. Kleckner, “No, it would run probably half the width; that’s about 4 feet.” Chairman Banuski, “You still have to show the steps on your drawing; that has to be calculated as part of...” Mr. Kleckner, “They are on there. Do you want me to put it on the table?” Chairman Banuski, “I can see it from there but I can’t see that you have steps on the drawing.” CEO D’Amico, “That deck over there; we did calculate this out; it was many-fold conversations and many calculations. As Mr. Kleckner said, that’s over concrete pad, so that entire deck to the south was a very minimal amount. We didn’t figure that at the time. The increase is very slight.” Chairman Banuski, “I get that it’s already coverage.” Ms. Kleckner, “It was just extended for footings, so we could secure the deck.” Chairman Banuski, “Over the concrete pad.”

Mr. Kleckner, “I talked with Jane and Malcolm and reviewed the plans with them. They are OK with it. Malcolm doesn’t hear well and Jane is not coming tonight and Malcolm is not coming tonight, but they were OK with it. Last item is a picket fence, 42 inches high. It would start at this corner of the house, down a foot in from the property line, back, across, back and then connect with the new privacy fence. Any questions or explanations?” Chairman Banuski, “A 6 foot fence on two sides of that concrete pad seems that would be really claustrophobic.” Mr. Kleckner, “Right now the concrete pad has a 6 foot fence. On the road side it already has a 6 foot fence.” Ms. Kleckner, “Like the wide plastic lattice panels.” Chairman Banuski, “But nothing to the south?” Mr. Kleckner, “Correct. I’ll be frank with you, if we put it up and it was claustrophobic, I have a feeling we’d be taking it down.” Member Crompt, “So you are not planning on having it solid like the piece towards the road.” Mr. Kleckner, “The piece that faces the road is plastic lattice. It would be something like that.”

Member Cromp said, "I'd like to hear if we have any comments from the neighbors." Chairman Banuski said, "I'll open this for public comment now. Is there anyone here who would like to speak in favor of this application?" Mr. Kocsis, "I'm the neighbor on the north. 100% in favor." Chairman Banuski, "Really this effects you; the fence, you're going to get a new fence along your property." Mr. Kocsis, "It could be an asset." Mr. Poppen, "Alvin Poppen from Lakeview Circle. You have a memo from me I believe." Chairman Banuski said, "I can read that into the record 'To the Zoning Board of Appeals from Alvin and Carol George Poppen. As neighbors who occupy the residence directly facing the Kleckners' home at 8 Lakeview Circle, we wish to register our support for their application to construct a new deck at the sides and rear of their home. Since taking possession of 8 Lakeview Circle, the Kleckners have continually improved the attractiveness of their property so that it now enhances the neighborhood. The addition of the proposed deck will continue this process, add to value and usefulness of their property and so increase the attractiveness of Lakeview Circle to the benefit of all of us who live there' Signed Alvin & Carol Poppen."

Chairman Banuski asked, "Any other comments?" Member Phinney asked, "It's really over 900 SF for the deck?" Mr. Kleckner, "Yes." Chairman Banuski, "It's huge. I have to tell you, I have a real problem with the size." Member Phinney, "Absolutely; I do too. Look at it in proportion to your house." Chairman Banuski, "Your neighbors don't have a problem with it because one neighbor is going to have a 6 foot high fence, and the neighbors across the street are going to have a 6 foot high fence. I don't see how you could say a 900 SF deck adds anything to the neighborhood. I really think that it is a deck that you would put on a great big massive house." Ms. Kleckner, "It's a modest house; it's a small house. It just felt like we'd have more living space by doing this." Mr. Kleckner, "Keep in mind too that there's; we don't have a neighbor living behind us. This is forest back here and even in the fall when there's no leaves on the trees, if you tried to look back and see another house – you can't see another house behind us. So whether it's exorbitant or not I think is a matter of judgment and how you execute the design. But it will be blocked by the fence from George's and Dawn's property and it will be blocked from street view by the fence here. So there's no way that our neighbors are going to observe the fence and there's no way that you'll see it from the street. And there's no one in the back that's going to see it. So it might be exorbitant in someone's opinion but no one can observe it."

Chairman Banuski said, "But the reality is that you are asking for a variance that is 17 percent more than what's required for open space in your neighborhood. I understand that we have all these non-conforming lots and we all have coverage issues and whatever else. But you don't need a variance of 17% if you are going to build something that's in line with the codes for your neighborhood. So it isn't just a matter of what you like, it's a matter of what coverage has been set as the best for our village." Mrs. Kleckner, "I think on Lakeview Circle, traditionally, the coverage has been over than the norm. The lots are small and there are some houses that seem to take up the whole lot. This one does not. This is a small modest house, so instead of the bigger house it's just adding space that way." Mr. Kocsis, "What makes this deck appear big is that it is going around the tree." Chairman Banuski, "No, it's a pretty big deck. We see a lot of decks."

CEO D'Amico asked "What is your house about?" Mr. Kleckner, "1,480-something – about 1,500 SF." CEO D'Amico, "This appears to be accurate at 900 SF. The house is not even twice the size of it, really." Member Phinney, "So now your coverage would be one-third porch and two-thirds house? That's a huge disproportionate balance." Chairman Banuski, "In the notes it said that you wanted to accommodate a place to sit out and eat, have a barbeque; I see decks with all of that and a hot tub that come in at half that size." Member Phinney, "Guess what. That is bigger than this room, the porch that you are proposing." Mr. Kleckner, "Yes, this portion here is 24 by 28 [feet]." Chairman Banuski, "I find it hard to; I could not vote for that size deck." Member Phinney said, "I have a problem with it also." Member Crompt, "You don't have a storage barn on that do you?" Mr. Kleckner, "Do not." Member Crompt, "So if you were to want to put some kind of storage barn at another time to store your tractor..." Mr. Kleckner, "Maybe, but then I'd be back again, right?" Ms. Poppen, "We live right across the street; I understand a little bit about the process cause we did this last year. Most of that deck, as I understand it, is going to be in this forested land. We're across the street. We're not going to see it. George and Dawn are on the other side of the fence – they are kind of moving back into the woods, so who cares? I mean we don't really."

Chairman Banuski said, "We do." Mr. Kocsis, "Why?" Chairman Banuski said, "The Village cares. You can't just; we wouldn't like to see anyone pave all but 25% of their property. There are reasons for it – drainage, runoff and neighborhoods and character of the Village." Member Phinney, "And people who are going to live in your houses after you are gone. So it's the property we're talking about; not just your property or your property – it is the property." Mr. Kleckner, "There's no drainage issue here, that's irrelevant. This is not going to affect the drainage at all. I think the issue here is simply – how does that change the character of Lakeview Circle? I want to see the Village want to retain its character. I really do. I don't want to see it changed by some sports complex or anything else that might change it. So it's not our intent to build something so enormous and gargantuan that we're going to change the character of Lakeview Circle. I like it there and I like my neighbors. They even came out tonight to get us through this thing with the Board. So I like it a lot. You've got to understand that. I think if you execute this with the right design you block the view from the street – so you're not looking at an auditorium stage. It's not going to appear that way. I think it would be perfectly in character with that circle. Keep in mind too that when you enter Lakeview Circle as you go on the right, there's a \$3 million house that's being built by one of the Allyn brothers – 3 million dollar house. That this is big – with a lap pool and a tennis court and all this other stuff." Chairman Banuski said, "And they didn't need a single variance."

Member Phinney, "What would be the problem with having you do a 24 by 18, in contrast to 24 by 28 – and square it off with the back of your house and porch. And have a normal-sized porch." Mr. Kleckner, "The thought was that we would have a planter that would run down the middle of our deck. That one side of the planter here would have chairs, like your normal deck chairs. And that this side of the planter would have a picnic table where the family could eat. The circle that's on the end here would have chairs that go around it and we'd have a fire pit. So we'd have a section of the deck that would be a fire pit section, there would be a section where you'd sit and there would be a planter there and it would be esthetically very appealing. And there would be a section where we would have a table set up and you could eat. So it's not as if it's as big as this room and just total big mass of wood. That's why I say if we can execute this

correctly, and there's no intention here to execute it poorly, we don't want that. I think that you can make a very tasteful deck that's in the character of the neighborhood."

Member Crompt, "If I could just say one thing. I have no problem with your design. I like your fence. I have no problem with a picket fence. The sticking point with us is a 17.7% coverage. Somebody else comes and says 'you gave them 17%, why can't you give me 17%'. That's the issue I think. At least that's on my mind." Member Phinney, "I think the porch is excessive. 900 SF is huge for any person's home regardless of the size of their house. Even if you stuck to 18 by 24, that's still over 425 SF, which is almost the size of this room again. So I don't see; I can't vote for it as it is." Ms. Kleckner, "The the other way is if you like you said made it smaller, then we could make our circle with a garden..." Mr. Poppen, "I want to speak to something that you commented on in my memo- how it will enhance the quality of the neighborhood. This is a very modest house. After the Kleckners have gotten there it has become quite elegant. They are people of taste. And by adding something like this, you come through that gate and that's the WOW factor. And it really is. Let them do it as they planned. And it will enhance the neighborhood and we'll all be proud of it. And I think the Village should be proud to have people like them doing this sort of thing."

Member Crompt, "The issue is not over whether it is going to be done tastefully, I am sure it will be, but it is the bulk of it, it's that percentage." Chairman Banuski, "I don't know if you were here earlier when we had another applicant in talking about how I wanted her to shift the angle where she wanted to lay out her pool, because she could lay it side-to-side. The pool isn't any bigger, the noise isn't any noisier, the lights aren't any brighter if she does it that way, but then she only has 8 feet of setback from either side and the requirement is 25. If she turns it that way it's less of a variance requirement. I understand that you want some outdoor living space. I could not possibly vote for that deck on that lot with that amount of coverage on the lot. A variance is to let you get the use out of your property that you can't get because of the Zoning. We understand that. Every neighborhood is unique. I live with neighbors 15 feet on either side - there's a house, a driveway, a house, a driveway -- so unique situations just like Lakeview Circle has unique situations. But it is too much of a variance for me to be able to vote for."

Mr. Kleckner, "What's the limit?" Mr. Phinney, "There is no limit. Every individual matter is different. What we are telling you is that your particular application we have a problem with." CEO D'Amico, "Were you asking what's conforming? It would be 10%, for your District. 10% coverage." Chairman Banuski said, "There's not a conforming lot to be had, other than the Allyn's. We laugh all the time that Skaneateles is the Native American word for variance. Many people need a variance to do what they want. I'm actually surprised that the Shadowlawn covenants don't speak to this. Even though they are not very strict, there are some in place." Mr. Kocsis, "There are no restrictions; none whatsoever. This is a real privacy thing for both our neighbors. Think about it." Chairman Banuski said, "None of is objecting to the fence; the privacy thing." CEO D'Amico, "Actually they are not applying for a variance for the fence; the fence is just on the same application." Chairman Banuski, "So the privacy is no issue. But for us to set a precedent of allowing massive coverage on lots in the Village - because a lot of us have small lots. We can vote on it tonight, if you'd like to or you can come back with a modification."

Ms. Poppen, "So what is your concern? Precedent setting?" Member Phinney, "No. The concern is the size, the excessive size of the porch because we feel it is inappropriate. The word precedent is not in application in this particular instance. Each individual's situation falls in on its own. Sometimes they are precedent sometimes they are not. In your particular area, every single property you have down there could be called a precedent, because none of them are in conformation other than the Allyn's. However each one comes in. In your case you are trying to make a non-conforming situation far worse in its conformity than what already exists. We feel that it is just excessive in the amount that wants to be changed in contrast to just the change itself."

Mr. Eggleston introduced himself, "To correct the record, there are covenants in the deed that speak to set-back requirements. I don't know if it includes decks or if it is only porches. I don't remember right off the bat what it is – I think it's 10 feet side yard set-back. Lakeview Circle was done in the 50s before Zoning, so Lakeview Circle set up a standard for uniformity that preceded Zoning. Zoning is way more conservative than what Lakeview Circle is. I also know from experience, having worked on probably half the properties, including this one, in Lakeview Circle that the typical open space is from 75% to 80%. That's the general expectation. I just did one at 16 Lakeview Circle..." Mr. Kleckner, "So 75 to 80 means 25 to 20 area coverage." Mr. Eggleston, "I just wanted to state, again I'm not expressing an opinion in favor or against. I just wanted to state that 75 to 80 percent open space is the typical working open space, and there are set-backs in the deed restrictions; I think they are 10 feet. I don't know if they apply to decks."

Chairman Banuski, "Actually we are not concerned with the set-backs." Mr. Kleckner, "If I understood what you said correctly, you are saying that the percent of the lot covered is probably 20 to 25 percent." Mr. Eggleston, "So if you're asking for a 17% variance, that means that you are asking for 73%. So you are on the tighter side than what the typical average..." Mr. Kleckner, "But I would not say grossly over." Mr. Eggleston, "If I were representing you at this point I'd be pointing out the fact that we were talking about a low structure, not a dense structure. A 75% open space where it is all building, is totally different than where it is half building, half deck, from a visual perspective. It's a deck, it's permeable, they could have other options where maybe they do more in landscaping, less in deck or something. Those are some of the facts that I can throw off the top of my head."

Chairman Banuski, "I'm going to stick with what I said with minimal variances for accomplishing a need. So we can proceed from here..." Mr. Kleckner, "So I want to know, if you can share it, what square footage should I come in with that you would approve. Otherwise, even if you table it tonight, it's just going to be me guessing what the right number is." Member Phinney, "What would be the difficulty in having a 450 SF deck which would be pretty much evening off the side of your house and the side of your porch, and evening off on the back. Would that be acceptable?" Mr. Kleckner, "That wouldn't be acceptable to me; that's why I did 900. What's acceptable to you." [Multiple conversations] Member Phinney, "I'm not sure that it is up to us to say that if you come with any specific number, that it is acceptable, because we won't give you that answer." Member Crompt, "I would think I would be more comfortable – as Mr. Eggleston said, in between that 75 and 80 percent." Chairman Banuski, "And let's look at the setbacks then too. That would be a quick way to address it. There are set-back requirements. If you didn't need a variance for that then all the variances would be mitigated as

well. The area variance would be mitigated and this would. The Planning Board recommended unanimously that we deny this.” Member Phinney, “I have done this 12 years. That’s the first one in 12 years, ever that’s been unanimously denied.” Chairman Banuski, “And their reason is the excessive size of the deck. My first thought when I looked at the drawings that I had, was wow, to have a place to put a picnic table and a place to have a seating area; it just doesn’t translate.” Ms. Kleckner, “We have a lot of family. We have four children and their spouses and grandchildren...” Chairman Banuski, “And I have five children and their spouses and grandchildren...” Ms. Kleckner “...don’t even fit in the house. The house is so small.” Mr. Kleckner, “But they don’t care. It’s irrelevant. It’s not that you don’t care. I am sure you care deeply.” Member Phinney, “We all have grandkids.”

Chairman Banuski, “You have neighbors now to the north of you who are wonderful supportive neighbors and they have no objection to this. But they may sell their house to someone who says ‘Oh my gosh – my next door neighbor’s deck comes right to the property line’. And we speak for the next neighbors as well.” Ms. Kleckner, “They wouldn’t see the deck, they’d see the fence.” [Multiple conversations] Chairman Banuski, “But the chairs are right next to the fence. That’s what I mean. It comes right next to...” Ms. Kleckner, “But they would only know that if they were invited in.” Chairman Banuski, “They could hear you. I’m just saying this is...” Ms. Kleckner interrupted, “I know. I hear you. I hear you. I hear you. And you’re on that side of the table, and I hear you.”

Mr. Kocsis asked, “I do have a question. You keep talking about set-backs. Is there a set-back problem here? Everything is 25 feet off the property line, isn’t it?” Chairman Banuski, “No, it goes right up to the property line.” Member Phinney, “It goes right to the property line on the north. Less than 1 foot.” Chairman Banuski, “Correct. It goes right to the property line. There’s no set-back at all.” Ms. Kleckner, “Well, a foot or two in, but yeah.” Mr. Kleckner, “Yeah, that’s the set-back they are talking about. Over there. By your property line.” Mr. Kocsis, “OK.”

Mr. Kleckner, “So I’ll take it back and I’ll work with my designer to come in at 75%?” Chairman Banuski, “You know what? It really isn’t a number. It is a project to accomplish what you need to live in your house.” Mr. Kleckner, “But just to quote you along the way, you did say that 900 SF is too big. So I’m just trying to get a sense how do I do this now – to come back so I’m not coming back again and again. That’s all I’m going for.” Chairman Banuski, “I know. But we don’t ever tell people what to build. And I can speak for one person, I can’t speak for the absent member, I can’t speak for anyone else.” Member Crompt, “You know what I would do. Bob Eggleston works with this Board all the time. I would think that if, as you’re walking out the door tonight, you say ‘what do you think?’ I’m sure he wouldn’t charge you [laughter]; I’m sure he would give you his opinion on what he would do if you were his client.”

Chairman Banuski said, “It is up to you. If you would like me to table this, I will. If you’d like me to put it to a vote, I will do that.” Mr. Kleckner, “Tabling it means that we would meet again in one month, and that would give us time to sort it out.” Chairman Banuski, “Correct.” Ms. Kleckner, “Would that involve another permit fee?” Member Pardee, “No.” Mr. Kleckner, “No, it means just iterate. And then maybe I can talk with Bob as well.” Member Phinney, “Another thing as you bop around town – there aren’t a whole lot of 900 SF porches anywhere in

our Village. 450 is huge for what we see in front of our Board in most instances. So 900, even as you go around on your own, please take some time to look and I think you'll have a very hard time finding any that are that large, regardless of the size of the property. Those are some other things to be considering as you look towards trying to come up with something." Mr. Kleckner, "With respect, I would disagree with you. I have canoed around the lake and I can probably take a picture of 5 or 6 of them by going just a mile down." Member Phinney, "On a house on the lake in the Village? We're talking in the Village not in the town?"

Mr. Kleckner, "If it's OK with you Cathy, table it. If it's OK with the Board, that's what we'd like to do."

Mr. Kocsis, "What's the difference if this were pavers or a wood deck?" Chairman Banuski, "No difference. We look at it as all coverage; it's all coverage. If he did it as pavement or as deck it would be coverage. If he did it as a swimming pool, it would be coverage."

Member Crompt said, I move that we table this matter until our next meeting on August 27, 2013. Member Phinney seconded the motion. Upon the unanimous vote of the members present in favor of the motion, this matter was tabled at 9:10 pm.

Respectfully submitted,

Dennis Dundon
Clerk to the Boards