

# Village of Skaneateles Zoning Board of Appeals Meeting December 22, 2015

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Public Hearing in the matter of the application of Roy & Ann McDonald to vary the strict application of Section 225-A5 Density Control Schedule for Front yard set-back; Side yard set-back, left; Side yard set-back, right; Both side yards combined; Rear yard; Percentage of open area; Percentage of structure width/lot width; Minimum lot area; and Section 225-69D Nonconforming Buildings, Structures and Uses, Extension or Expansion; and Section 225-14C(5)(a) Accessory Buildings, distance to lot lines or structures to construct an addition to the house at the property addressed as 5 West Austin Street in the Village of Skaneateles.

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Present: Craig Phinney, Chairman  
David Badami, Member  
Michael Balestra, Member  
Curt Coville, Member  
Larry Pardee, Member

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

William Murphy, Architect, on behalf of the applicant

Mark Dunn, 67 West Lake Street  
Kelly Dunn, 67 West Lake Street  
Bob Eggleston 1391 E Genesee St.

Chairman Phinney called the matter of Roy & Ann McDonald for 5 West Austin Street at 7:30 pm.

Murphy – Roy & Ann McDonald have lived at 5 West Austin Street since the mid-1970s. They have raised their 5 children there; those 5 children have now married and they just had their 11<sup>th</sup> grandchild. They love their small village home but when everybody comes in for holidays and things there's just not quite enough room to keep everybody kind of comfortable. There is no first floor bathroom in the structure; it's a small house on a small village lot, similar to many other homes in the village. What we are requesting to do here is to connect the house to the accessory structure. The main reason for that is you can't really add on to the house because we can't get within 10 feet of that garage without creating all sorts of fireproofing issues for us. So we'd rather connect the two structures as opposed to try to put two structures very very close together. We do require some variances but don't believe that we really are increasing the nonconformity of the structure at all. We did look at it with 225-70 just to keep that in mind, even though that may not be applicable here just to use a guideline – if this were a vacant lot

what would they be allowed to do. It would seem like we fall within those things. Understanding that we are not allowed to use the provisions of 225-70 and we have to stay within 225-69, the variances just get much bigger. So I don't know if there are any questions or perhaps you could tell me how best to present this to you.

Phinney – Actually you are increasing the amount of nonconformity by a couple of feet. But more for edification as you go on, we haven't seen you a whole lot of times in front of this particular Board, 225-69D is 99.9% of almost all the things we do because of almost every building in the village is a preexisting nonconforming. The only time we have ever literally applied 225-70, as I recall and I've been here 14 years, has been on empty lots. So just as you proceed; to make it easier on you as you proceed into the future, all of us pretty much look at the point; we agree pretty much with John's interpretation – just for future edification. You've got it right now, we're looking at it in that fashion. Sometimes it's convenient and sometimes it isn't...

Murphy – I understand...

Phinney – But to make it easier for you as we go on, that would be the way to prepare. I don't have a whole lot of questions other than that; I see where you're at. I do. You can certainly disagree with us on that but that's how it works.

Murphy – It's not as; I hear that's the way it is, I would just ask counsel – it doesn't state anything about that in the actual ordinance. 225-70 is just an existing undersized lot; it doesn't say existing undeveloped undersized lot.

Phinney – Understood, but 225-69D is fairly specific regarding anything that is already preexisting on a lot. As we move on...

Murphy – We are going to deal with it that way.

Pardee – My question is have the neighbors on either side come aboard? Are they OK with this?

Murphy – I know they have spoken with both of them and my understanding is the Chows have no issue and I do not believe the woman on the other side has an issue either, but I have not talked with the McDonalds...

Pardee – I know it was suggested by the Planning Board that they get something in writing from the neighbors.

Murphy – Yep, and Roy & Ann were here. I asked them but I can't...

Badami – Is that something that they might be willing to provide us? Personally speaking I am very cognizant of neighbors' approval or disapproval. I assume they are not here.

Murphy – No I do not believe they are here. I know that I have spoken with Steve and Steve and Ann actually if you read the Planning Board minutes. When Steve came in for his variance and Ann said; I think they are very neighborly and I believe that have a great relationship with their neighbors being that that have been there so long. I don't think they are trying to hide anything here. I have advised them to do that.

Badami – Would you be opposed if we wanted to see that; something in writing?

Murphy – I mean if it is absolutely required; I just, I mean there's not...

Badami – It's not that I don't believe you, I'd like something to rely upon...

Balestra – Something for the record...

Phinney – Yeah to have for the record you're saying.

Badami – To have for the record, exactly.

Balestra – It's a big ask on the issue of coverage the way that I see it. The addition makes sense to me; a lot of it is this patio which is pretty substantial.

Pardee – My big concern is the runoff. That's what I'm concerned about; the additional runoff you're going to get because it all slopes downhill from this property.

Murphy – Yeah, it's a permeable paver patio...

Pardee – It is permeable paver this thing now? Because Roy said he didn't think it was.

Murphy – Yeah it's permeable paver patio today that exists. It's not mortared in. It may have a lot of compaction over however many years the patio has been there. Maybe the water doesn't permeate as well as the new one will; but certainly the new patio and the foundation drains in the building when we do that work are all going to help alleviate some of that.

Pardee – That's my concern on that lot is the size of the; amount of coverage of the patio and the addition.

Murphy – We are asking for a slight increase in the impermeable; excuse me just coverage. And we are asking for an increase there but we don't think it is out of character with other lots that size in the Village. We think that we are not trying to be unneighborly or anything of that nature, We are just trying to get a little more useable space for the McDonalds on the property.

Balestra – When were they; I'm guessing they weren't planning on starting this in the next month?

Murphy – My understanding; they are in a little bit of a press. They have some circumstances in their family and they need some extra room. I don't want to get into their personal.

Balestra – That’s fine. It would be nice to have for the record something from the neighbors. That’s going to delay things for a month if we hold this over to the next meeting.

Galbato – I would advise against requiring the applicant to get something in writing. I don’t think there’s anything wrong, if you guys want to reflect on the application, adjourning it for a month and if the neighbors or anybody else shows up to speak in opposition...

Balestra – I think that would be helpful to us.

Galbato – The neighbors received direct mail and nothing came back undeliverable.

Badami – That’s a good point.

Galbato – I would recommend just to require an applicant to get something, or else, I would advise against that. But to continue the public hearing for another month in case they want to show up, by writing or email or in person, and also in that time to reflect on the application itself– there’s nothing wrong with that.

Murphy – It’s just hard to get people to do things. We did what we were supposed to do. I know that the McDonalds have talked to both of them and I have talked with Steve. He said next time I’m there he wants to make sure that I come over and have a glass of wine with him. I’m a friend of Steve’s; I play golf with Steve; I think that if Steve had a problem he’d be here.

Coville – Personally I am comfortable moving forward. Angry neighbors would have been here.

Phinney – That would not be a hold up with me.

Badami – The size of the patio. It is pretty large. Is there any way they’d consider scaling that back at all?

Murphy – I think we could talk to them about it. It’s very similar to the existing size patio; that’s what we kind of used as a gauge.

Pardee – Except that you have kind of added right over the top of the existing patio, basically.

Murphy – Yes. The existing patio today exists right here and we’ve moved that program back.

Badami – Is that kind of what the thought process was? Whatever was here you were going to slide back?

Murphy – That’s kind of what they asked.

Badami – So to alleviate this situation somewhat, would they consider scaling back the size? That’s my question.

Murphy – I think they'd be open to that, if that's an absolute requirement.

Phinney – Like back to the end of the garage or is that...

Murphy – I could go back...

Phinney – Is that not a reasonable distance back to here...

Badami – Yeah, that's what I was thinking, in line with the...

Phinney – Even it off in the back?

Badami – Maybe chop off 20% of this or so. Would you guess that's; if you went to the edge of the garage?

Murphy – Yeah; I would just say that they were hoping to be a little past the garage just so they didn't have to look at the side of the garage and get a little more enjoyment out of their back yard.

Badami – So in that aspect, would they consider extending the pathway?

Murphy – I think I could go back to them and ask them, or we could set a stipulation that the patio has to be reduced to a square footage that the Board is comfortable with. Right now I think it's about 268 SF. If you said you have to reduce that by 20% and we could deal with that as a modification, I think they'd be open to that.

Phinney – Sounds fair enough to me.

Badami – That sounds like a reasonable amount.

Phinney – In whatever configuration makes the most sense obviously architecturally to make that work.

Murphy – I think I like Dave's recommendation of maybe making the plantings here and increasing the path length a little bit. Something a little more like that rather than just cutting the patio back.

Phinney – Gotcha; yup, yup. That makes sense. OK. Cool. Anything else? I think that addresses anything I might have had. Michael?

Balestra – I think that's fine. It's really a coverage thing so if they're willing to scale back, I think that would help.

Phinney – Is there anyone in the audience to speak in favor of this particular application? [No one] Anyone opposed?

Eggleston – I'd just like to comment on the requirement of a neighbor signing off. I think that the process is that they are notified and I think to expect to get neighbors' permission is above and beyond what the law calls for. So I would hope that would not be a condition of this.

Badami – We're not requiring it.

**Chairman Phinney, "I move that we close the Public Hearing." Member Pardee seconded the motion.** Upon the unanimous vote of the members in favor of the motion, the public hearing was closed.

Balestra – I just want to clarify before a motion is made that we're approving a 20% reduction in the square footage of the patio. We don't have plans for exactly what that's going to look like yet. Does that not trouble anyone? It would be nice to have the plans.

Badami – I agree. I'd be comfortable with Mr. Murphy's assertion that he's going to do what we just discussed as far as pushing the pathway forward whatever distance that is that reduces the square footage by 20%.

Murphy – Is 20% the number? Is that what you are comfortable with?

Badami – I'm comfortable with that.

Phinney – I think he was saying something similar to that Mike, so they would have a longer walkway and shrub this in.

Balestra – Right, but my issue is we approve the application based on plans dated such and such date and we need to have the plans.

Dundon – Can we do a concept?

Murphy – I think it is very similar to that; my issue is I don't know that you can say that's 20%...

Phinney – No, no, no, obviously.

Dundon – That's why I said concept. If you can sketch a concept of how he might modify the patio, then date it and sign it.

Murphy – My new iPad Pro – you can draw right on it. You probably end up with a rounded edge, just to soften it a little bit and to get a little more of that square footage. I guess I would rather not limit it to a percentage; but if I were to say take that shaded red area there and cut it like that and make that landscaping; is that significant enough?

Balestra – Just sign and date that 12/22...

Galbato – And mark that area in red to be landscaping or something.

Murphy – Let me just take a picture of that real fast. I'll send an addended site plan just for the files.

Phinney – Are you comfortable with that solution?

Murphy – I think it's a good solution. It will just formalize it, but that's the intent right there.

**Member Badami, "I will make a motion to approve the application of Roy & Ann McDonald to vary the strict application of Section 225-A5 Density Control Schedule for Front yard set-back; Side yard set-back, left; Side yard set-back, right; Both side yards combined; Rear yard; Percentage of open area; Percentage of structure width/lot width; Minimum lot area; and Section 225-69D Nonconforming Buildings, Structures and Uses, Extension or Expansion; and Section 225-14C(5)(a) Accessory Buildings, distance to lot lines or structures to construct an addition to the house at the property addressed as 5 West Austin Street in the Village of Skaneateles. This is a Type 2 action under SEQRA and approval is based on drawings dated 12/22/2015 as drawn and modified by architect William Murphy of Space Architectural Studio, PC who will submit a revised drawing to us in accordance with the hand written sketch provided tonight." Chairman Phinney "I would second that." Upon the unanimous vote of the members in favor of the motion, the motion was carried.**

Mr. Eggleston introduced himself and presented, "Mr. Ford recently purchased this property and would like to upgrade and improve it. This has been owned by the same family for quite a few years and it has fallen into disrepair. What they would like to do is put an appropriate front stop. Right now it just has a deck landing; they'd like to put a porch on there that's appropriate to the Greek revival style. When they put siding on this they actually did leave the existing Greek revival trim on it which we will maintain and enhance. We are going to take off the siding in front and we are going to put on cement board and put back wide corner boards, typical of the Greek revival. This front porch will be slightly larger than the existing stoop will be proportioned appropriately for the Greek revival style, not requiring a variance. The side porch; it's kind of confusing which is the front door; so they are going to take out the sidewalk, take out the steps and just put double-hung windows all the way around to make that an internal sunroom

kind of porch.” Member Pardee, “A 3 season room?” Mr. Eggleston, “3 season. It won’t be heated, it will be moderately insulated. And then on the back there’s this little nasty shed roof that comes off the back. What he would like to do is he sees this becoming a family room and putting sliding doors and a deck – taking off the porch. The square-footage of that is similar to what is there now with the patio. We did put an angle on it to maintain the 10.5 feet height – you have to be the height of the accessory structure away from the primary structure. So basically we have a 12 by 16 foot deck off the back with the French doors. We are existing nonconforming in 4 areas. The percent open area does not change, we maintain 72%. We create a nonconforming set back of 2.4 feet, but the existing house is 1.8 feet so we are less nonconforming. Are there any questions you have relative to these beautification improvements?”

Member Pardee, “My only comment is just to make sure that this is not going to be a short-term rental property.” Mr. Eggleston, “Absolutely not.” Member Pardee, “He’s going to reside , there?” Mr. Eggleston, “No I think he is planning on fixing it up and selling it.” Member Coville asked about the weird angle on the deck, which is there to maintain the required set-back. Chairman Phinney opened the public comment portion of the hearing. There was no one desiring to be heard in favor or in opposition to the application. Member Pardee moved to close the public hearing. The motion was seconded by Member Balestra. Upon the unanimous vote in favor of the motion the public hearing was closed.

**Member Coville, “I move that we accept the application by Dan Ford to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; Both side yards combined; Percentage of open area; Percentage of structure width/lot width; and Section 225-69D Nonconforming Buildings, Structures and Uses, Extension or Expansion; to replace front stoop with a 28 SF porch and to replace 170 SF patio/roof with deck at the property addressed as 26 State Street in the Village of Skaneateles. The approval is based on plans dated the 20<sup>th</sup> of August 2015. This is a type 2 transaction and applicant will have 1 year to complete.” Member Badami seconded the motion. Upon the unanimous vote in favor of the motion the motion was carried. Mr. Eggleston thanked the Board.**

Upon motion of Chairman Phinney seconded by Member Balestra the meeting was adjourned at 7:44 pm.

Respectfully submitted,  
Dennis Dundon, Clerk to the Boards

**Village of Skaneateles  
Zoning Board of Appeals Meeting  
December 22, 2015**

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Continuation of discussion in the matter of the application of Kirsten Ehrich to vary the strict application of Section 225-A5 Density Control Schedule for Front yard set-back; Side yard set-back, left; and Percentage of open area; and Section 225-69D Nonconforming Buildings, Structures and Uses, Extension or Expansion; and Section 225-14C(5)(a/b) Accessory Buildings, distance to lot lines or structures to construct an addition to the house, new garage with living space above and lake side accessory structures at the property addressed as 63 West Lake Street in the Village of Skaneateles.

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Present:        Craig Phinney, Chairman  
                  David Badami, Member  
                  Michael Balestra, Member  
                  Curt Coville, Member  
                  Larry Pardee, Member

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

                  Robert Eggleston, Architect, on behalf of the applicant

                  Mark Dunn, 67 West Lake St.  
                  Kelly Dunn, 67 West Lake St.

Chairman Phinney called the matter of Kristen Ehrich for 63 West Lake Street at 7:52 pm.

Eggleston – Based on the comments from the last meeting, we have moved the garage back so that it in line with the back of the patio, back of the existing house, so now we are pushed back 61 feet from the street. The comment was that typically the detached barn/garages that we were referencing were behind the house so we put it back there. We have maintained the 8 foot set-back which was increased from 5 feet. We have maintained a conforming side yard set-back on the side. Nothing has changed on the house itself and the coverage remains the same. One of the things that I also did was; the alternatives which was brought up at the last meeting – could we build this without any set-back variances. We are required to have a minimum 25 foot side yard and 55 combined. So yes we could put the garage back here so that we have the required 25 and 30 foot set-back. That actually put it closer to the Dunn’s house; or we could even push it all the way back to 50 feet. So yes, there are alternatives. We feel those alternatives would present more negatives and be less in keeping with the village. So that’s why we chose to stay with the current layout where we are pushing it back to. You also asked if we could do a rendering to give an idea of what it would look like. To make sure we had it accurate, what I did was I went out with David Lee and we stood on the four corners; I’ve marked the 4 corners for you on the lot. We had 20 foot studs out there; these are all different poses as we walked around

the property. The top of the structure at the front is not actually 20 feet high; it's 2 feet lower than that, so we're about 2 feet down from here where the eave starts and comes up. That's pretty much how we came up with the rendering of the garage and how it would fit – choosing to take a shot for the rendering from the northwest corner of the property. Looking across here's the Dunn's house, there's the Dunn's garage. Of course the Dunn's house sits back quite a bit further, because it does sit back. But it does show the relationship. Actually the advantage of pushing it back a bit further gives them a little more room for guest parking. We have updated the narrative December 11 and highlighted any changes made to the narrative as you consider the variance. Are there any questions you have relative to this revised proposal pushing it back further?

Badami – On the alternates; it is clear that your understanding is that these two do not need any approvals, so this is going up one way or the other?

Eggleston – Correct. There will be a detached garage with the accessory living two bedrooms and a bathroom for guests above.

Badami – OK, I just wanted to be clear on that.

Eggleston – Naturally they would prefer to have it more in keeping with the context of the village that having it kind of; I think it begins to impose on the neighbors more the further we push it back. Yes this is a lake lot and keeping structures up closer to the street are more appropriate for what we are trying to do.

Coville – I know one of the concerns of neighbors was the seawall agreement. Now I know it is not part of our variance, but where are we at with that?

Eggleston – I sent out an email to Jim Messenger asking to set up a meeting. Actually we had some correspondence the last; this weekend; we're looking to set up something next week with Jim and Mark, David Lee and myself. David has looked at it and so we'll be looking to see what appropriate solutions and resolution we can come to.

Phinney – But that's not something we are dealing with.

Dunn – Just to update you on the seawall thing, from a permitting standpoint...

Eggleston – That required site plan review because it is work within the lake set-back zone. We were at the Planning Board and presented that too. We do ultimately have to get a DEC permit; we have held off on getting the DEC permit until we get a final resolution with yourself relative to how it goes in. We can't do the work until July; they're going to do the work in September of next year. We have a window from July 15th to October 1<sup>st</sup> to work in the water in these conditions. The likelihood is that some of the seawall will be in water. You can work on dry land after October 1<sup>st</sup>, but you can't work in the water after October 1<sup>st</sup>. So that's our window for doing the work – probably September – because we wouldn't do it until after Labor Day.

Balestra – Bob, I want to thank you for all the hard work you have done on this; you have come back several times with variations. We requested that you show us this and show us that and you went above and beyond. So thank you.

Phinney – I would second that as well.

Eggleston – And the Ehrichs want to be good community citizens and do the right thing, so they appreciate your input.

Phinney – Is there anyone here to speak in favor of this proposition? [No one] Anyone to speak opposed?

Dunn – I am still opposed to putting a 2 bedroom apartment 8 foot off my property line. I understand the other drawings that are possible; what I don't understand from the architectural lines of the existing house is the fact that the neighbors have chosen not to put an attached garage on their house. It's their option; I get it. We have a house that was built 100 years ago; there's a whole lot of them around in the county, and an awful lot of them have 2 car garages that are architecturally attached that didn't seem to architecturally interfere with the lines of the house. And that bothers me. The fact that they can build a house down half-way to the water; that is their option, that is the law. But I just can't believe in today's day and time with the Airbnb and all the other issues out there – that we're going to build a 2 bedroom apartment and encroach it on my property. I know you can say that's not their intent; well that may not be their intent, but that's how it is going to end up. So we have codes; I still contend that if this lot had not been divided 30 years ago and he was here asking for the same thing it would not be allowed. But since he bought half of a lot, because it had been subdivided at some point, yet today we are considering a variance to allow a structure that wouldn't have been allowed on the original lot, at least I don't think it would be.

Pardee – So your only objection is the apartment; you are fine with the garage. Is that a fair statement?

Dunn – Yes. And I believe it's an apartment. As I said last meeting, it's 2 bedrooms, but next thing you know – because he has guests there – they're going to want coffee in the morning, and then they're going to want toast and there's going to be a 6 foot starter kitchen in there immediately. It's going to be a 2 bedroom; and then we're going to ask our Codes Officer to go and police that. That's an impossible job as we are finding out in the village right now.

Phinney – Understood, but I think there are a couple of things that we can address in that; we can make very specific codicils regarding that particular problem that you are anticipating and as of January 1<sup>st</sup> we have a full time code enforcement attorney that is specifically designed to be answering consumer complaints that go the CEO to enforce our Zoning code of laws. So once that occurs then if you find that you as a consumer or someone who has a specific complaint there are now legal means in which the code is going to be enforced regardless of what's taken place in the last 6 to 10 to 12 years. So if that can allay some of the apprehensions you may have, there are things that we are now going to be able to do and the Village as a village is intending to do is coming up in the future. So for whatever that may be I just wanted to make

sure that you are aware of that at this point. It's different than it was a month ago. It's different than it was a week ago.

Dunn – I still don't have a problem with the garage, but I should not have an apartment on my property line.

Badami – I just want to understand your concern; is your concern that the structure is close to your property line or close to your house, because when we met last month you talked about potentially seeing someone in a bedroom. So is your objection that it's close to your property line? Depending on your answer, I'll have another follow up question. Or that it's close to your house? That's my question.

Dunn – I'm not happy with either one. So I guess it would be both.

Badami – So OK. That begs the next question. In the alternative drawings that Mr. Eggleston has provided, if we back this house up on the top one, this structure is going to go in and be closer to your house.

Dunn – Correct.

Badami – So if the objection is that it is bothering you that it's close to your house, this would be preferable to you, all other things being equal; I'm sorry the original submission would be preferable because it is farther away from your house, Correct? Do you understand my question?

Dunn – I understand your question. Do I shoot myself in the left foot or the right foot?

Badami – That's neither here nor there. This; Mr. Eggleston has told us this structure is going up one way or another. So you have to accept that fact. Now it's going to go up one of 3 ways: this way; this way; or this way. Right? Do you agree with me?

Dunn – No.

Badami – No? Then I can't have a productive conversation with you if we're going to; I'm trying to get to a solution that's going to make everyone happy.

Dunn – I don't understand; we're trying to have a solution to make everybody happy. I'm not happy; I don't agree with some of the things that Mr. Eggleston said about the integrity of the architecture of the house and he can't put a 2 car on the house – we don't see that picture; that's not one of our choices.

Badami – That's his right.

Dunn – That's his client's right; they can do whatever they choose.

Badami – And they are going to do that.

Dunn – So we say.

Badami – So I am asking you...

Dunn – If they want to build a garage out behind their house between their house and the lake, you nor I have no say because it is within their rights.

Badami – Correct. So we are in agreement on that point. So what I'm saying to you is, is that preferable to you because that's going to happen one way or the other; or is the submission where the structure is closer to the house farther away from your house but closer to your property line. If you want to say am I asking you to shoot yourself in the left foot or the right foot – then I am. If that's your interpretation which pain pill do you want; which would you rather see? Because one of them is going to happen.

Pardee – One thing to remember is in the summertime all the greenery will be leafed out and it will be shrouded pretty much from your view. The lake side of the building may not be but at least the side you won't see that much because of all the greenery. And they are going to put up more shrubbery if I'm not mistaken, right Bob?

Eggleston – That's correct.

Badami – My view and I'm not trying to speak for you, is if I were in your shoes, I'd rather have this thing as far away from my house as possible. That's just my particular view. If I had these alternatives and I had to pick one, my personal view would be as far away from my house is more preferable and has less impact on me than the 8 feet off your property line. That would not exist with these two structures in the back yard, let's call it.

Mrs. Dunn – Do you really think they are going to put a garage between their view of the lake and their house?

Badami – From what I have seen they actually have a fine view of the lake where both of these are set; it's not blocking their view. There may be a partial obstruction of some percentage but they can certainly still view the lake.

Dunn – Lets go back to the choices; as soon as they do that, what happens to the permeable space?

Badami – As soon as they do what?

Dunn – As soon as you got to where they are going to put a driveway down to the garage in the middle of their lot, what happens to the impermeable space computation? Are we just going to allow that because they have to be able to drive down to it.

Eggleston – Right now impermeable coverage is not part of the Zoning law. It's open area and not driveway.

Phinney – It's coverage and it's a huge property so it doesn't appear to be an issue.

Eggleston – Driveway is not part of coverage, only required parking.

Balestra – This would not be the first property on West Lake Street with a long driveway.

Phinney – What do you think gentlemen?

Balestra – If there is no more public comment, I'd like to have a discussion with the Board about it. I have heard plenty; got some thoughts and we need to consider the criteria in the code as to whether or not we grant these variances.

**Chairman Phinney, "I move we close the public hearing." Member Balestra seconded the motion.** Upon the unanimous vote of the members in favor of the motion, the public hearing was closed.

Member Balestra, "For the record in making our determination we need to take into consideration the benefit to the applicant if the variance is granted weighed against the detriment to the health safety and welfare of the neighborhood or community by such granting. We need to discuss the five criteria that we have to consider before making a decision." The Board then reviewed the criteria and commented as follows:

*[1] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;*

Balestra – I will share with you my thoughts on that and I have thought about it considerably and gone to the property many many times. Bob, once again for the record, I appreciate your efforts in showing us everything you have shown us. I completely understand the property owner's desire not to obstruct their view of the lake or to do so as little as possible. But as I think I said last meeting I have had a really bad feeling in my gut about putting this garage – and I have no problem with the garage itself, but I have trouble putting it so close to the road. I think that some of these photos show how large it would be. Again carriage houses are nothing new in this community. Frankly I prefer the orientation that's on this; the top drawing of the alternates showing two different options. It does have a slightly longer driveway, it gives the applicant what they want in terms of their garage and carriage house. It is not quite as close to the house for them, but it is much further away from the road.

Coville – Bob have you presented your clients with these other two options?

Eggleston – They have seen that as an alternative that could be possible to build, and they would prefer not to build there. They would prefer the plan that's here.

Galbato – Page 1 of 1 dated 12/11/15.

Balestra – In my opinion in weighing the benefit to the applicant in preserving their view of the lake and putting it where they want it versus preserving the character of the neighborhood as you

go down West Lake Street, frankly I think this is going to look a heck of a lot better. It's going to be more in keeping with the character of the village where you usually see these carriage houses a lot further back, away from the road and away from the primary structure. So in my opinion I do have an issue with this first criterion in that quite frankly I think it might create an undesirable change. Once you build it, in 3D it's going to be pretty big.

Badami – Which one are you talking about, the original submission?

Balestra – I am talking about the original submission. I think that sticking it further back here more in the middle of the lot, in my opinion that's the better way to go. It's closer to the neighbor's house but frankly it conforms to the code. The neighbor still has a view to the lake, the applicant still has a view of the lake. The applicant gets everything they want except for the exact location.

Eggleston – Actually the applicant doesn't control the view of the lake, because this is another property over here. That's not their property.

Balestra – That's true. They've got it from their deck here which they want to, you know...

Eggleston – Their view is really this way right here. So yes, this would be in their view. As Mark Dunn put it he'll suffer pain but the Ehrichs would suffer pain as well.

Coville – Michael, could you come here for a second?

Balestra – Sure. Believe me the 'my pain versus their pain' thing isn't...

Pardee – While they're... [Multiple conversations ensued among the Board and the architect about hypothetical alternative locations and set-backs for different site location designs]

Balestra – To me it is less about side yard set-backs than the distance from the street. That's what I am really the most concerned about. We are voting on the application as it is today...

Eggleston – Sure.

Balestra – And where that building sits, I think it's really right up there in your face. I am very deeply concerned that we live to regret this one, on a very iconic street in the village. So that is my concern; the proximity to the road – it's right up there in your face rather than being further back on the lot.

Coville – Would you be OK with it if it was an additional 20 feet which puts it 4 feet past the deck addition?

Balestra – Potentially, but that's not what we are voting on.

Phinney – So are you suggesting that they bring in another plan?

Eggleston – I can sketch this like Billy Murphy.

Balestra – What authority do you have from your clients? And I ask that with 100% sincerity?

Eggleston – And also you do have 60 days to render a decision. The Ehrichs look at this as a family compound for future generations. They too don't want to make a mistake because they are not going to sell it in 10 years when they get tired of it and move on to something else. So they do want to make it right. Yes, it would be appropriate to pass it by them and if we were to push it back say that 20 feet and if we were to bring it 12 over or something like that to get that in there; David Lee just happens to have 20 foot studs sitting two properties away, I'll take some more pictures for you.

Phinney – So you're saying double the distance it is from the south property line and then back 4 feet from the addition?

Eggleston – Yeah. And I guess the question about 16 feet is that overkill or not – that is a standard in the code under section 225-70. Whether they say 16, 12, where they are they would; and having been to the property, it is; the line of sight; there's a heavy hedgerow right here, they have no control over these trees here. And it is; their view is really in their control is from this line over here to this line here. So sitting out here that is their view.

Phinney – So I guess my question would be this. Can we now talk about perhaps a reasonable solution being 4 feet back from the end of the addition and 16 feet from the southern property line and having the building still have the existing dimensions that it now has and the tarmac coming in and however it may happen to be? So basically moving that to here with this still maintaining whatever it's going to be up here...

Eggleston -- Well, yeah; at 16 feet I can't get a car in there. I'd have to come this way, so now the drive is right next to the house.

Phinney – Aaah, OK.

Eggleston – See 30 feet is tight. And that's where I made this 25 and that 30, to get in there.

Phinney – And that also changes everything because from where it's gotta come in there.

Pardee – And now there's no turn-around off the garage.

Eggleston – I think I would rather still work in having heard that the side yard is less of a concern than the size of the building in relation to the front street. Quite honestly in doing the sketch I was surprised it was a little bigger than I thought.

Phinney – What distance then are we now starting to talk about? Are we agreed that 4 feet back from the back of the addition is enough ‘back’; or is there a magic number.

Balestra – We’re not talking about this; we’re not talking about being so close to the house right?

Eggleston – I would rather it not be so [unintelligible]...

Balestra – My personal preference would still be to see it a little further back. Not necessarily there but still a little further back.

Eggleston – Is 8 the right number? 8 gives you lots of breathing room; otherwise you start getting useless areas that other people...

Coville – Bob, if you did this 12 feet over and came back and did 4 feet past the deck addition, can you save that tree. Not that I’m a tree-hugger, but it might soften the carriage house.

Eggleston – Obviously and sure they’d love to keep this tree; if I can get around that tree; I think I could. I’d probably want to be in the 8 to 10 foot range, OK, and I could get around there.

Coville – A tree there might make you feel better about the carriage house...

Balestra – Anything we can save an old tree that’s a good thing.

Coville -- I would much prefer to see this...

Eggleston – I think the closer we can keep it to the side yard the better it is. And I love Elizabeth Street where the house is 3 feet off the property line and the barn is 3 feet off the other property line...

Coville – You’re not going to get 3 Bob.

Eggleston – so you’ve got a wide space by the house on the one side and you’ve got a wide space by the garage on the other, and you actually have a back yard. As the village looks at the comprehensive plan and redefining of zoning, I hope it looks at the character of Griffin Street like Notre Dame did and say how do we legislate good zoning instead of Euclidean suburban sprawl.

Phinney – Can we send a specific recommendation to Bob for having him get back to us for a vote next month? Is that kind of where we are heading.

Eggleston – I'd like to go through the 5 criteria.

Balestra – Yeah, I'm fine with that.

***[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;***

Balestra – Frankly, that's clearly been established that the answer is "Yes." Whether that's the best scenario or option to preserve the character of the neighborhood rather than granting a variance I'm not sure. I think the answer though is yes, we could do this without the need for a variance.

Eggleston – I want to also remind you that there's the garage, but there's also the addition. The addition is just extending existing that obviously has no other option because it's an existing nonconforming structure that needs a variance for anything done to it.

Badami – Does anyone have a problem with that portion of it; because I don't?

Phinney – The addition.

Balestra – I don't

Galbato – Whatever is proposed would require some variances.

Eggleston – Yes.

Balestra – Yes.

***[3] Whether the requested area variance is substantial;***

Balestra – That's obviously very subjective. I am really directing my attention toward the garage, because that's what we've talked about. I have no objection to the addition to the house or the deck or that sort of thing. As the application stands today, I think I would say it is substantial. I think it becomes less; I cannot unwind this from the first criterion. It ties in directly to the character of the neighborhood, the street, everything else. Because you push it further back on the lot it becomes more secondary to the primary structure and the variances requested, even the side yard variance becomes less substantial as you do so. But really cramming it up in there between the neighbor's driveway and the house does make it substantial in my mind. How do you guys feel about that?

Phinney – Gentlemen?

Pardee – I guess I would agree with what Mike just said.

Badami – As it stands now I would agree with Mike on that as well. It is substantial.

***[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and***

Balestra – Again, I think my answer to this is no. Frankly I'd appreciate it if counsel wants to offer a little interpretation of this criterion. Since we have already considered the character of the neighborhood and everything, I think that 4 is talking about something a little different and maybe a little more literal. I don't see any adverse environmental impact to this. As to the physical conditions in the neighborhood, I suppose we are removing a large tree, but we're also planting a bunch of trees on the side yard, so I'm not totally troubled by that.

Badami – Last meeting I had asked about the runoff which is not a concern either.

Balestra – So number 4, I would say that it will not have an adverse impact on the environmental conditions of this village.

***[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.***

Balestra – This is not dispositive in any way and does not preclude us from granting a variance. Most of these are self-created; they do not have to do what they are doing. By their very nature, basically all of them are. Anyone want to say anything more about any of the 5 that we have discussed?

Phinney – I don't necessarily disagree.

Balestra – Mr. Dunn discussed the issue of having an apartment above this garage and everything. That's not something that; supplemental apartments is something that's very common in our village. This is a carriage house – that's something that's very common in our village. That doesn't really concern me. This is; we can certainly impose it as a condition if we want to although the law does just fine in my opinion from already precluding these people, the applicant, from using it as a short term rental or anything like that.

Badami – I agree; and just because the possibility of it being used for an illegal use exists does not influence me at all in this decision, because we do have remedy at law available despite what Mr. Dunn said. As far as policing it, to me that's a non-starter.

Galbato – If this were approved, would it be approved as a supplemental apartment?

Balestra – No. it's not even a; it's just two bedrooms and a bathroom.

Phinney – Two bedrooms and a bath

Eggleston – Two bedrooms and a bathroom. And we don't mind having a condition that it is only accessory space to the residence and it is not an independent dwelling unit.

Pardee – Then I would put that in the resolution.

Galbato – The reason I asked was Supplemental Apartment specifically says commercial use is prohibited right in the definition of supplemental apartment.

Pardee – There's no kitchen.

Eggleston – And even the supplemental apartment requires a minimum of 30 days stay.

Balestra – Absolutely; but there's no kitchen, no cooking facilities.

Eggleston – You can have a supplemental apartment, but you would need a variance for supplemental apartment because we have an undersized lot. You would need a few more feet of frontage. But we are not asking for a supplemental apartment.

Balestra – It's just an accessory structure. So that whole issue is a non-issue to me.

Phinney – So what are we suggesting to Mr. Eggleston to have this work for he and his client?

Badami – Well we need to decode are we going to allow him to modify per our drawing, do we want to see a new drawing with the exact specs set out, which would be my preference, but I'm not.

Balestra – What's the deadline with the 62 days?

[Multiple conversations]

Galbato – We continued the hearing; we did not close it last meeting. We checked the minutes.

Eggleston – They have kind of lost a fall start. Especially this year we could have had foundations if we hit it the first time. We respect that. We would probably be looking for a early March start. If snow's off the ground it's a good time to go with frost in the ground 'cause you're not into mud season. They would like to have this completed for the summer of course. I think it's prudent to get it right and to have you see it for us to understand. Quite honestly I appreciate this opportunity to discuss the merits of the issue so we can get the right solution. I would like to propose a 10 foot side yard. I would like to propose that we go 20 feet further back from where we are, which is about 16+4. That helps to keep it away from the house; I think keeping the separation from the house is important.

Badami – That measurement is kind of critical. I don't want to make this into an exercise where you are giving us 10; but I'm thinking 12 feet is better than 10 feet.

Eggleston – Of course it's better, but what happens, it pushes it closer to the house.

Badami – I understand. That's why I'd like to see it; where does it line up?

Eggleston – I don't mind emailing you some of these options sooner rather than later, if you don't mind giving me some constructive comment back, understanding it's your own personal opinion and we have the Board to satisfy. I think that would make for a better working relationship.

Badami – I would be comfortable telling you – if I got something that showed whatever it is – where 12 feet lies, where 10 feet, 11, I don't know. But a drawing that shows where this lays out, just like this. And then we can see. Or perhaps we all go down and you lay it out on the property.

Balestra – A picture's worth a thousand words. Just throwing a number out there...

Eggleston – No, I appreciate it. Quite honestly I have no problem giving you a drawing, setting up the stakes so you can see it. You can go look there; the Ehrichs aren't there, it's no problem for you to go on the site of course. Obviously, I'd like to do it sooner rather than later because our luck is going to run out with snow. It didn't take too much to get 4 - 20 foot studs there, we'll put them up, I'll take a picture, I'll do a rendering.

[Multiple conversations]

Galbato – Just for the record, how many have gone on site? So everybody has. So the record reflects there have been on-site visits by every member of the Board.

Balestra – I've been there many times.

Phinney – Multiple.

Badami – Several times.

Balestra – So we're going to work on this some more; we're not going to vote on this tonight. Bob, again, I sincerely thank you, I hope you'll communicate to your clients that we want them to be able to enjoy their property. We do want to get this right. They have to know that it's a lot on a very iconic street, and we want to make sure that we get it right. We appreciate their patience and willingness to compromise.

Coville – Can I ask a question of the Board?

Galbato – It would be a motion then to adjourn the application.

Coville – Because we have put Bob and his clients through so many meetings , but it's very important that we get this right and follow the letter of the law, would anyone object to the possibility of having an earlier meeting; a special meeting just so we can make a decision on this particular issue?

[After some discussion, the Board agreed to convene a special meeting on Monday, January 11 at 7:00 pm. Member Badami confirmed that it was his intention to remain as a member of the Board. Attorney Galbato expressed his desire that notice of this meeting be published in the newspaper.]

**Member Balestra, “I make a motion to adjourn this matter to January 11, 2016 at 7 pm.” Chairman Phinney seconded the motion.** Upon the unanimous vote of the members this matter was adjourned.

[Mr. Eggleston described the Town's method of handling the expiration of approvals, in which they impose a standard condition that the building permit must be pulled within one year of approval.]

**Chairman Phinney, “I move that we adjourn.” Member Balestra seconded the motion.** Upon the unanimous vote of the members, the meeting was adjourned at 8:47 pm.

Respectfully submitted,  
Dennis Dundon, Clerk to the Boards