

Village of Skaneateles
Zoning Board of Appeals Meeting
July 26, 2016

Public Hearing in the matter of the Special Use Permit application of Town of Skaneateles to permit the use of the old Allyn Arena as a Day Nursery School at the property addressed as 1 East Austin Street in the Village of Skaneateles.

Present: Craig Phinney, Chairman
David Badami, Member **(recused)**
Michael Balestra, Member
Maureen Wopperer, Member
Kathleen Zapata, Member **(recused)**

Riccardo Galbato, Attorney for the ZBA
Dan Coon, Chief of Police
Dennis Dundon, Clerk to the Boards

Courtney Alexander, on behalf of the applicant
Jim Lanning, Town Supervisor, on behalf of the applicant
Gene LaForte, on behalf of the applicant
Sue Murphy, on behalf of the applicant
Ken Bush III, on behalf of the applicant

Laurie Winship, 8 East Austin Street
Walt Nyzio, 76 Jordan Street
Jerry Morrissey, 42 East Street

Chairman Phinney called the meeting to order at 7:30 pm, calling for the matter of Town of Skaneateles for 1 East Austin Street and noting that with 2 members recused, a unanimous vote in favor of a motion is required to carry it.

Alexander – I am the facility project manager for the Skaneateles Nursery School. We have been working with the Town and the Village preparing the building for safety and security for our school to be held there during school hours – September through June, Monday through Thursday, 9 am to 11:30 pm. Enrichment programs are offered from 12:30 to 3:00 pm and another enrichment program on Fridays from 9 to 11:30. We are seeking a special permit for those time; no other groups are utilizing the building at those times. We think it's a really great fit for our program.

There were no questions from the Board. Chairman Phinney asked for speakers in favor of the application,

Murphy – I am the Town parks person currently working with the Nursery School. There is currently nothing going on with the old Allyn Arena. Right now we have our Play Day program which is over 120 kids that we have in and out of the facility. So it seems like a natural flow.

Wopperer – I have a question. Have you had any security issues at all over there?

Murphy – No.

Wopperer – And how long have you been there?

Murphy – I've worked for the Town for 16 years.

Wopperer – And how long has that program been run in Allyn Arena, in Austin Park, rather?

Murphy -- It was run there and then it went to the Y and then it came back.

Wopperer – And how long has it been in the current place?

Murphy – 6 years.

Wopperer – 6 years, and no security issues

LaForte – Prior to that it was a skating rink for 30 years. It was full of young people. There were never any security problems. It has a large parking lot and no traffic problems. Parking is off the road, and on the other side is 11 acres of park - pretty well isolated from most everything that goes on.

Phinney – Plus you have locked doors.

LaForte – It's not like it is unsecured at any time.

Badami – I am also a member of the Town Board and this has come before us many times. The Town received no other applications for the space. The nursery school has agreed to share the space when needed with other organizations. There are not-for-profits that who have historically used the space without any incident that I am aware of.

Galbato – What's the status of the lease?

Alexander – We are in negotiations right now.

Galbato – So right now there is no signed lease?

Wopperer – And how long of a lease are you going for?

Alexander – We are shooting for 10 years.

[Multiple simultaneous conversations.]

Alexander – Our teachers and our programs have high safety standards. We are estimating enrollment at 45 – 55 children; probably with 38 – 40 children there each day. We always have 2 staff members in each class; so we have a great ratio of 5 kids to 1 adult.

Phinney – And in addition to the regular staff, there are volunteer parents, so additional adults who are there. Is there anyone who would like to speak in opposition?

Nyzio – I am the closest neighbor. The original bequeathment [*sic*] from the Austin family said that this will be kept perpetually as a public park. When you put a business in there it is no longer a public park. It is reserved space for doing business; it's not a park anymore. This is also directly across from my back door. So I believe this is going to hurt my property value, because there will be cars in and out across my driveway all day long. Frankly I don't believe that you can violate this bequeathment. When you are given this property, you take it with the agreement that you will follow the tenets that are in here if they are legal.

Balestra – Who is the grantor?

Winship – Charles Austin

Balestra – Is that an Austin family trust or something of that nature?

Nyzio – It was their will; it was in their will.

Balestra – So Counsel, wouldn't a representative of the Austin family or the estate have standing to challenge that? But certainly it's not a consideration that I'm familiar with in the code.

Galbato – They probably would have standing.

Balestra – But as for a legal consideration from this Board, I'm not sure that we can.

Nyzio – Well, when you accept that value, you accept the tenets that it's given to you. If you're not going to follow them then don't accept the property. What you are proposing is 'yes we accept the property; we will take this 90 acres and then we will say we don't care about what the donor said, we will use it as we feel fit'. I don't see that as fair or legal.

Balestra – Do you have a copy of the will? There is nothing in the record that I am familiar with. And for the record, it still will be a park.

Nyzio – It is going to be a school; it's not going to be a park.

Phinney – No, no. It is within Austin Park.

Nyzio – We are taking a section of it...

Phinney – We are taking a section of a building that happens to be within the park that has been used...

Nyzio – It is within the park, but...

Phinney – Excuse me, may I continue to talk? Or actually why don't you continue to talk. I would hate to interrupt you interrupting me. Go ahead please.

Nyzio – What I am saying is, you know, the size of this section is irrelevant. Suppose you wanted half the park for this? Just to say 'it's ok because it's a small size', again that's an empty argument. It's not whether, what the size is, it's what you are using it for. That section is no longer a park. I can't go in there and use it as a park. Only the people who enrolled in there in that school can use it.

Phinney – Did you play hockey?

Nyzio – Yes.

Phinney – So you were able to use the facility as a hockey facility which is no longer available to the community because it is no longer safe to have that happen. Do you have a suggestion as to how that particular property might be used if it cannot be used for something like educating children?

Serious question; serious question – because you are bringing up an objection to a facility that's been used by numerous people with more than quadruple the traffic that will ever happen from a nursery school. I guess I am wondering how you feel or what would be good for you to ever have that facility be used for.

Nyzio – For a park.

Phinney – A park. So the front of the hockey rink?

Nyzio – I would tear it down and make it part of the park.

Phinney – Thank you. Mr. Lanning, do you have a comment here?

Lanning -- I respect his opinion. I just want to point out that for years when it was a skating rink, Skaneateles Youth Hockey – which is another non-profit – utilized it for events and hockey tournaments and within that structure there was also a concession stand that sold hot dogs, hamburgers, hot chocolate. And that probably wasn't part of the bequest of the Clarence Austin estate, but the building challenges us. Do we tear it down or do we find other community uses for it. So I want to make it clear that the Town is restricting the use of this building to non-profit organizations. Owasco Marine had an event there years ago; sort of a commercial enterprise. This administration is gearing this towards non-profit community uses.

Phinney – Thank you very much. Anyone else?

Winship – I just have a couple of questions. I had written an email to Courtney regarding safety issues I had with Chris Roy's house, some of which at the present time have been resolved. There is no guarantee that that's going to stay that way, unfortunately. In the past we have seen things calm down and then they escalate. My concern was, having witnessed some of the domestic violence occurring in the front yard, how the nursery school would cope with that or even the adults or kids being exposed to it. It wasn't allegations against the woman living there, it was the proof of the domestic violence.

Phinney – My first thought would be that would be a horrible thing if any child had to be subject to witnessing something along that particular line. I have children, I have grandchildren; believe me ma'am I am an ex-EMT and I am very familiar. At the same time, one it's over 150 yards away from any entrance or any children will be, the children will always be with adults, they won't be out unsupervised in those situations. And as much as we would all like to have some resolution in this situation for what occurs in our neighborhoods, there has to be really true justifiable legal cause for something to take place. On the other part, it's within our bailiwick, but it truly isn't. It's actually a safety/police issue in contrast to a ZBA issue. Please understand that we would never think of condoning something that might put any children in those sorts of things. I am a grandfather as well as a father.

Winship – I certainly understand that but cars are going to be driving by that house. My other question relates to this whole process. Why is this only coming before the Board now, when construction is almost complete? Why wouldn't it come before the project ever started?

Galbato – The application by to Town to the Village is for the use as a nursery school. The work being done is pursuant to a building permit that did not require any type of special permit or any variance for the interior work being done. That's just pursuant to a building permit whether the town was doing it to reshuffle offices or whether the town was doing it in anticipation of possible approval by this Board of a special permit. It's also important to note that when we received the application we did try to accommodate the Town; the Planning Board scheduled a special meeting to keep this moving and to give a positive recommendation to the Board. We've had some difficulty because of the recusals, to make sure we had a majority of the Board to be able to hear the application. In addition, the Clerk has already sent administratively a referral to the County planning department under a 239 referral, because it is within a public park. And the County has already commented on that because when the Village Trustees approved a change in the zoning regarding uses on Public Lands, that also was referred to the County and the county already commented. It is likely that it will be a 'no comment' or a favorable type of referral back from the County in the coming weeks.

Balestra – In other words, the Town could finish construction and build it out as a nursery school. Were we to deny their application tonight, they could still finish their construction, they would just never be able to use it as a nursery school. They assumed the risk. Two separate applications.

Nyzio – Any time any construction has taken place around my house, I have been notified and asked for comment. Why didn't that happen this time?

Galbato – Because the building permit did not require any type of variances for setbacks or any other type of area variance that could be required for smaller lots than the large Austin Park.

Phinney – As a matter of fact, I live on East Genesee Street and they just tore down and razed the house next to me. Because of where they are placing the building as they come in they don't have to require any variances at all for where they are putting the place, so they don't have to come before the Planning Board or in front of the Zoning Board in order to build their house, all they have to do is get a building permit. But if they had been 5 feet closer to my property, they'd have had to go to the Planning Board and they would have had to come see us. So it depends totally as far as lot distances and other things in cases. I had no input to something taking place next door to me, because they followed all the guidelines.

Wopperer – For instance if I'm going to redecorate my kitchen, my kitchen is being used as a kitchen and I'm just renovating the inside of my kitchen, there's not a lot of aspects of it. However, this is a situation of where somebody doesn't like what I'm using my kitchen for. So that's another example.

Nyzio – One other question; the Village now maintains that parking lot. Is the school going to pay for that or is that going to come out of our taxes?

Phinney – I think Mr. Lanning; can you address that? This is Jim Lanning, Town Supervisor.

Lanning – The parkland alienation bill that transfers Austin Park from the Village to the Town has passed the New York Legislature and we're awaiting the Governor's signature. Upon that signature, that will be the property of the Town within the Village. But Austin Park will belong to the Town and we will have responsibility for plowing and all the maintenance that we currently do. We have a crew that takes very good care of the park and will assume responsibility for that.

Galbato – Or whatever the Town Board decides pursuant to the license agreement that you are working out.

Lanning – Yes, that will be part of the license agreement, and part of the license fee that they pay.

Winship – Is the Town going to own the whole park, or just the pavilion?

Lanning – The whole park.

Winship – Alright, so that brings up a rumor that's been going around—the houses on East Austin that are on the park are going to now be under the Town.

Balestra – We are getting really off track; let's stick to the application.

Winship – You said some kind of County approval is needed?

Balestra – Yes, the application is referred to the County Planning Agency for comments. It is not anticipated that the County Planning Agency will have anything negative to say about the application.

Winship – Why does it have to go to them?

Phinney – Procedural.

Dundon – Because Austin Park is within 500 feet of a state road it is required under Section 239 of the General Municipal Law.

Lanning – Just one more quick comment; what we are trying to find is public uses. We have a farmer's market that sells produce and things like that. The reason that we allow that and encourage that is that we feel that's good for the community; it's good for the local farmers. The community seems to enjoy having it. So this use of a public park for private enterprise, which I guess you could argue the vendors are, is done so because we feel it is in the community's best interest.

Winship – The use of a public park should be for the good of the people. I am very relieved that your intentions are only to allow non-profits.

Alexander – [unintelligible] the issue of Chris Roy is a separate issue and we are far enough away [unintelligible].

Chairman Phinney, “Anyone else who would like to speak at this point? Then I'd like to move that we close the public hearing.” Member Balestra seconded the motion. Upon the unanimous vote of the members voting in favor of the motion, it was carried 3 – 0.

Attorney Galbato, “Before the motion on the merits, we should do a SEQRA resolution.”

Member Balestra reviewed the criteria for issuing a Special use Permit:

Basis for determination. Before issuing a special use permit, the Zoning Board of Appeals shall consider the public health, safety, morals and welfare and shall make the following findings:

(1) There shall not be any unreasonable detrimental effect by the establishment of such conditional use on any other building, structure or use, actual or permitted, within the district.

Balestra – I don't see how there will be any detrimental effect even on the neighbors, quite frankly. This Austin Park and the pavilion has been used as a hockey arena, and for many, many various purposes which results in higher traffic for years and years. Based on the application that is in the record, the hours of operation and the months of operation, I see this as really a less impactful use than historically what it has been used for, especially in the winter months. I'd like to make a comment that the situation with Mr. Roy is really not relevant for this Board,

although we certainly understand and appreciate the concern. The issue is whether or not this use will have a detrimental impact on Mr. Roy's property, and not the other way around. Certainly I don't see that as the case and I am not aware of anything in the record that would permit us to find that. And finally, with regard to the grant of Austin Park which is in the will of Mr. Austin (and the will is not in the record), without something in the record or a representative with standing or personal knowledge, I don't see how we could act on that. Furthermore, I think that this use is not inconsistent with what we use parks for – it's for recreation, development particularly of children – which is exactly what the nursery school is proposed to do – and there have been not-for-profit groups that have used Austin Park and the pavilion for decades. This is just in furtherance of what's been done and I think it's consistent with the spirit (based on the comment) of the bequest in the first place. So with that my proposal would be to find that there is no unreasonable detrimental effect by the establishment of the use.
Phinney, Wopperer – I would agree.

(2) Such conditional use and site development plan are in harmony with and will not impede the orderly development of the district, and the location, nature and height of buildings, structures, walls, fences and parking areas will not discourage the appropriate development and use of the adjacent lands.

Balestra – To the extent that physical alterations to the property are being made, they are within the structure and are not material. I don't see that the development plan is not in harmony with the existing neighborhood or would impede the development of the district. As for the use being in harmony, once again I think that this use is akin to use as a park. It is very similar to youth hockey programs and other programs that have gone on in this specific piece of this parcel for years and years. So I would say that number 2 is not an issue.
Phinney, Wopperer – I would agree.

(3) The water supply, sewage disposal and surface drainage systems shall be adequate to serve the conditional use.

Balestra – There is nothing in the record to suggest that it would not be, and I think the existing uses of this building for as long as anyone can remember have been more impactful.
Phinney – I would think we would be using a lot less water than an ice rink.
Wopperer – Agree.

(4) The flow, control and safety of traffic in the district will not be adversely affected to an unreasonable degree by such conditional use.

Balestra – Again there is not a lot in the record about traffic; there is however in the application about the number of children that would use the nursery school and the times that they would be dropped off and picked up. Once again, given the historical use of his area, I would say it's less impactful than prior uses of the arena, particularly during the winter months when hockey and

skating is going on. Ice time is at a premium and it's being used all day. Certainly there is plenty of parking for the proposed use; there will be no on-street parking necessary.

Phinney, Wopperer – Agree.

(5) The plans for such conditional use provide that all structures, equipment and materials shall be reasonably accessible for police and fire protection.

Balestra -- There have been no alterations; the building is the building that has always been there.

Phinney, Wopperer – Yes.

(6) The plans for such conditional use contain reasonable provision for open spaces and recreational areas appropriate to such conditional use.

Balestra – The plans suggest a layout for a day nursery school. My assumption is that most of the time that the kids are there they will be inside, but they just happen to be located in a park with plenty of open space, so I don't see any issue with that.

Phinney, Wopperer – I don't either.

(7) The plans for such conditional use meet the prescribed requirements of this chapter, inclusive of the requirements for the district in which located and the following prescribed standards, and are not otherwise prohibited by law, ordinance, rule or regulation.

Balestra – I am not familiar with any part of this application that would violate consideration number 7.

Phinney, Wopperer – Agree.

Attorney Galbato, “The Town did submit a short environmental assessment form on June 14th. It is not the most current form that's being used now, but I think it is enough for us to move forward. We should complete Part 2 and then I would ask for a declaration that you are declaring yourselves lead agency, that this is an unlisted action receiving uncoordinated review and then a negative declaration assuming the answers are no. We do have to go through 11 questions under the short form. It is my position that it is an unlisted action under SEQRA, it is not a Type 1 action.

1. *Will the proposed action create a material conflict with an adopted land use plan or zoning regulation?*

RG—I would point out that the Zoning law was recently changed to allow this by special permit.

ZBA – No or small impact. The requested use is a conditional use subject to a special permit.

2. *Would the proposed action result in a change in the use or intensity of use in the land?*

ZBA – No or small impact.

3. *Would the proposed use impair the character or quality of the existing community?*
ZBA – No or small impact.
4. *Would the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area?*
ZBA – No or small impact.
5. *Would the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?*
ZBA – No or small impact.
6. *Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?*
ZBA – No or small impact.
7. *Will the proposed action impact existing (a) public/private water supplies and (b) public/private wastewater treatment utilities?*
ZBA – No or small impact.
8. *Will the proposed action impair the character or quality of important historic archeological, architectural or esthetic resources?*
ZBA – No or small impact.
9. *Will the proposed action result in an adverse change to natural resources, for example wetlands, water bodies ground water, air quality, flora and fauna?*
ZBA – No or small impact.
10. *Will the proposed project result in an increase of the potential for erosion, flooding or drainage problems?*
ZBA – No or small impact.
11. *Will the proposed action create a hazard to environmental resources or human health?*
ZBA – No or small impact.

Given those answers, it would be my recommendation that the Board entertain the following motion – to declare themselves lead agency under SEQRA. No coordinated review and has already received input from the Planning Board. It is an unlisted action under SEQRA. Based on the answers to the SEAF, that the ZBA issues a negative declaration in that the proposed action as proposed will not result in any significant adverse environmental impacts, makes a negative declaration, and authorizes the Clerk to sign the SEAF as completed by the applicant and now Part 2 by the Zoning Board of Appeals.”

Member Balestra, “So moved.” Chairman Phinney seconded the motion. Upon the unanimous vote of the members voting in favor of the motion, it was carried 3 – 0.

Chairman Phinney, “Then I would move that, based on our findings, we accept the application of the Town of Skaneateles for the Special Use Permit required to permit the use of the old Allyn Arena as a day nursery school at the property address as 1 East Austin Street in the Village of Skaneateles. This approval is contingent upon receipt of a clean referral from the Onondaga County Planning Board.” Member Balestra seconded the motion. Upon the unanimous vote of the members voting in favor of the motion, it was carried 3 – 0. This matter was concluded at 8:04 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 26, 2016

Public Hearing in the matter of the Area Variance application of Jerry Morrissey to vary the strict application of Section 225-64B(2) for size of signage at the property addressed as 42 East Genesee Street in the Village of Skaneateles.

Present: Craig Phinney, Chairman
 David Badami, Member
 Michael Balestra, Member
 Maureen Wopperer, Member
 Kathleen Zapata, Member

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

 Jerry Morrissey, applicant

Chairman Phinney called for the matter of Jerry Morrissey for 42 East Genesee Street at 8:05 pm.

Balestra – Jerry, what prompted you to make this application in the first place?

Morrissey – Mr. Crompt did some research on overhauling their rules, regulations and variances and everything they can to figure out; making sure everything is right.

Balestra – So it originated with the Code Enforcement Officer. He said ‘you should make application for the variance.’

Badami – I read the Planning Board minutes on this and their recommendation was technically it is a sign, yes, but in the normal course of conducting business as a realty, it’s really displaying product *per se*. I agree with them.

Phinney – I do also.

Badami – I’ll just add right off the bat that I actually think it is somewhat ridiculous that you are in front of us right now. But here you are and it is what it is. That being said I just would reference the Planning Board’s recommendations to us. I embrace them wholeheartedly and believe that it succinctly expressed the spirit of what you’re trying to accomplish versus what amounts to me as a very old and needs rehabbing with regard to signage. I just wanted to state that for the rest of the Board; that’s my opinion on it.

Balestra – I agree. Off the bat, Jerry, it has been like this for a long time by my knowledge and nobody has complained about it. I'd add that this doesn't bother me. It is important that we take every application on an application by application basis. Certainly the realty business is distinct from other businesses where you wouldn't want them plastering their entire window with signs. You have kind of a unique situation here with the product that you sell. I otherwise would echo Dave's comments.

Phinney – Myself as well. It seems to be a normal practice with every realtor in town, and any other town.

Wopperer – I have read the information on this but I want to be clear. Did someone complain?

Phinney – John was doing whatever regular routine things that he does.

Wopperer – I got it. And therefore because your square footage was over the allowable ...

Phinney – But I think it also had to do with it being two inches from the window rather than 12.

Wopperer – I will concur with all three of you, however I am happy that we have enforcement people. We need it in certain areas and may not need it in others. I have no issues at all and I live very close by to there; I'm at 24 East Genesee. I'm out in the Village all the time and I see people looking at it.

Morrissey – We try to keep it as clean and pretty as possible. It was designed by our interior designer – it was his idea of bringing those cords in and making the clear transparency so you can see out, you can see in. I appreciate all your comments; we try to keep it sharp and attractive.

There being no one present to speak about the application when asked, Chairman Phinney, "I move that we close the public hearing." Member Balestra seconded the motion. Upon the unanimous vote of the members voting in favor of the motion, it was carried 5 – 0.

Chairman Phinney, "Then I would move that we accept the Area Variance application of Jerry Morrissey to vary the strict application of Section 225-64B(2) for size of signage at the property addressed as 42 East Genesee Street in the Village of Skaneateles, with the condition that the amount of coverage not be increased beyond what it is at present." Member Balestra, "I just want to add that I don't see any issue under 225-75 B (5) with this. It's been like that for 6 years. People, especially window shoppers, like walking around, looking in the window, seeing what's in the market. It might even help draw attention to other places further down Genesee Street that want that foot traffic. This particular variance in my opinion is not substantial given the nature of the business and the fact that other businesses in town do the exact same thing. So having considered those factors, I don't see any issues. I'm fine with it and second the motion." Upon the unanimous vote of the members voting in favor of the motion, it was carried 5 – 0.

This matter was concluded at 8:13 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 26, 2016

Revisit conditions of approval in the matter of the Application of William Lynn to vary the strict application of Section 225-A5 Density Control Schedule for Percentage of structure width/lot width; and Section 225-14C(5)(a/b) Accessory Buildings, distance to lot lines or structures; to construct a 73.3 SF concrete planter and wood pergola for outdoor seating and to install a 48.6 SF storage shed with relocated parking stalls at the property addressed as 22 Jordan Street in the Village of Skaneateles. The requested Variances were granted by the Zoning Board of Appeals at its meeting of April 26, 2016.

Present: Craig Phinney, Chairman
 David Badami, Member
 Michael Balestra, Member
 Maureen Wopperer, Member
 Kathleen Zapata, Member **(recused)**

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

Chairman Phinney called for the matter of William Lynn for 22 Jordan Street at 8:14 pm, noting that no one was present for the Lynn matter. Chairman Phinney announced that Mr. Lynn's attorney has requested that the matter be postponed until the August meeting. **Chairman Phinney, "I would like to make a motion that we adjourn this matter to the ZBA's meeting on August 23, 2016 at 7:30 pm. Member Balestra seconded the motion. Upon the unanimous vote of the members voting in favor of the motion, it was carried 4 – 0.**

This matter was concluded at 8:15 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 26, 2016

Consideration of comments to the Town Board regarding its referral of proposed revisions to the Joint Comprehensive Plan.

Present: Craig Phinney, Chairman
 David Badami, Member **(recused)**
 Michael Balestra, Member **(recused)**
 Maureen Wopperer, Member
 Kathleen Zapata, Member

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

Chairman Phinney called for the matter of the Joint Comprehensive Plan at 8:16 pm, stating that he personally has no comments to make. Members Wopperer and Zapata said that likewise, they had no comments to make.

Chairman Phinney requested that the Town Board be informed that the Village of Skaneateles Zoning Board of Appeals has no comments on the revisions to the Joint Comprehensive Plan.

Attorney Galbato stated that the Planning Board probably would be forwarding comments. This matter was concluded at 8:17 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 26, 2016

Discussion of survey anomaly at 151 East Genesee Street.

Present: Craig Phinney, Chairman
 David Badami, Member
 Michael Balestra, Member
 Maureen Wopperer, Member
 Kathleen Zapata, Member

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

Chairman Phinney introduced the matter of an anomaly in a survey submitted for the former Gottschalk property at 151 East Genesee Street at 8:17 pm.

Phinney – This is a totally separate issue and it has to do with surveys. I have been doing this going on 15 years and when an architect comes in and presents a survey to me I never question the survey. I look at the certification from the surveyor and boom, bam, gone, perfect. It happens that the Gottschalk property which is right next to mine at 151 East Genesee Street was sold. The people are wonderful, the house that's going to go in is going to be a great thing. When the surveyor came in and did his survey, he located the west property line 4.5 feet farther east than it has been for 150 years. I am on the north side of Genesee Street across from the Athenaeum. It moved my property line 4.5 feet into what has always been the Gottschalk's property. They had work done on their house 10 years ago, property line is the same as it's always been. House is sold next to me within the last 10 years, property line has all been established. Now my property only goes 66 feet, wherever it starts from. Now we have a new survey that totally discombobbles every single survey that's existed for 150 years. In this instance it also precluded them having to come in for a variance.

When the person did the survey, I have posts and concrete that have been for over 100 years in a straight line showing the property line that the guy obviously didn't pay attention to. So what does that mean? Does that mean that theoretically my property is now 4.5 feet farther east, and the people to the west of me own half my driveway? Does that mean that John Crompt has half his driveway on Dennis' property? What becomes the official spot from which surveys can take place? The front of their property is still 70, the front of mine is 66.5.

Badami – Do you have a metes & bounds description? In your deed the measurement of your lot is recorded. It's there, I'll tell you.

Balestra – Or it may have precise coordinates.

Badami – I feel that it will reference that mark, that's been set in stone.

Phinney – But what happens now? Because theoretically this person has now done it on GPS which theoretically is more accurate. They are now setting to the same degree coordinates that the survey...

Badami –[unintelligible]

Phinney – That's huge. 4.5 feet to the east in front and 4.5 feet too far to the west in the back.

Zapata – I don't understand why after all these surveys have been established for 150 years why [unintelligible]

Phinney – Because Eggleston ran it through and his legal counsel said that he could accept and run with the survey, which the surveyor that he had ran with. I may own 4.5 feet of his property but did I just lose my driveway? I never questioned any survey that I've seen in front of me. And now it affected me directly and it also affected whether someone had to come in front of our Board.

So I wanted to make sure that it was at least out here so as we look at these things. But I was mostly disappointed very much by Bob Eggleston totally blowing me off. He had no regard at all for existing surveys, where they were at – I sent him photographic evidence, I measured things out – things that are totally in conflict with what his surveyor said. He said 'tough luck, my counsel says I can do it.'

Balestra – So what trumps? The coordinates that the GPS goes by to find a point on the ground or the actual point in the ground which is described . If I'm writing a deed description 100 years ago and I said 'starting at a point in the ground by the big oak tree and then running so many feet in this direction' Again, what trumps? I'd say a post in the ground.

Galbato – The posts are part of the evidence that a surveyor uses when they are out on site. A lot of times the descriptions may say deed measurement and may include an actual measurement notation. Many times in Cayuga County if there's an older description, we may ask the surveyor to write up a more modern description.

Phinney – I also discovered that he put down false numbers on how far my house was to the property line. He said 'I just guessed it was 20 feet' when it was 14.

Zapata – Was this a new survey when your new neighbors bought the home?

Galbato – It doesn't matter because in Onondaga County it is not common to attach the survey to the deed, where it is much more common in Cayuga County. I want to point out that this Board always has the right, and I encourage it, when you have people proposing structures very close to a property line, this Board has the right to say we are not going to approve it until we see a survey, not a site plan from an architect based on a survey from 20 years ago. Or say we'll

approve it conditioned on an accurate survey being produced. But I would say don't act on it until you have that survey. So the Planning Board has that right and the ZBA has that right. That is a reasonable condition.

Phinney – But this was a different condition – Bob's survey allowed him to bypass the Planning Board and the Zoning Board whereas using every survey for the last 150 years he would have had to come in front of both. I just wanted you to be aware of those things that I never even thought about.

Zapata –How would you catch it? We wouldn't even be able to.

Galbato – It is very rare for a surveyor to be required to stake in Onondaga County. It might be required in a construction project.

Phinney – thank you for your tolerance. I did want to get that out, and I would like the Planning Board people to be aware that this is going on as they look at property.

Wopperer – I'm really glad you brought it up, but how do we as a Village protect ourselves?

Phinney – No idea.

Badami – When you see a stamp on the survey ...

Galbato – You protect yourselves and the Village when you are acting as the ZBA if you don't feel that there's enough information on a site plan and survey in front of you to say 'we're not sure this is exactly 4 feet. We want a current survey.

Dundon – The Town often asks for an 'as-built' survey to validate dimensions after construction.

Galbato – That's a reasonable condition.

On motion of Chairman Phinney, seconded by Member Wopperer, this matter was concluded and the meeting was adjourned at 8:28 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards