

**Village of Skaneateles
Zoning Board of Appeals Meeting
January 3, 2018**

Area variance recommendation in the matter of the application of **Jim & Molly McNeil** to vary the strict application of Section 225-A5 Density Control Schedule for 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 Nonconforming Buildings, Structures and Uses, Extension or Expansion to construct a dining room addition on the east side of house, extend a porch and mudroom addition on the west side of house, and a second floor closet at the property addressed as **143 East Genesee Street** in the Village of Skaneateles.

Present: Michael Balestra, Chairman
Gerald Carroll, Member
Maureen Wopperer, Member
Kathleen Zapata, Member

Riccardo Galbato, Attorney for the ZBA
John Crompt, Code Enforcement Officer
Dennis Dundon, Clerk to the Boards

Bob Eggleston, Architect, on behalf of the applicant
Jim McNeil, applicant
Molly McNeil, applicant

Michael Fogel, Esq., Syracuse
Rick Parcels, 61 West Lake Street
Bill Stokes-Cawley, 21 Griffin Street
Matt Kerwin, Esq., Syracuse
Miki & Bill Mahood, 60 West Lake Street
Don Witter, 132 Orchard Road
Diane Buell, 105 Packwood Drive

Excused: David Badami, Member

At 7:32 pm, Chairman Balestra opened the public hearing in the matter of Jim & Molly McNeil for 143 East Genesee Street.

Eggleston – The McNeils are second generation owners of this house. It is a large house; they have a large family and use every bit of it. There's a few items that; they had me put together a master plan of a number of little projects they wanted to do over a period of time. Rather than keep coming back every year they wanted to group it all together.

1. The first and most important thing is that the house has a front porch that is kind of useless. The front entrance is way on the other side from the driveway; everyone uses the side entrance right next to the driveway where the door opens right into their dining/breakfast area. On a day like today it is not a pleasant place to enter. The plan is to convert the 8 foot by 8 foot porch into an enclosed mudroom, and then reproduce the porch out.
2. The second item is where to put a formal dining room? They have a back enclosed porch that got used as a room. It needs to be more habitable. They'd like to double the size of that to get a large dining room. It is I the back of the house and that doesn't make anything more nonconforming. They have right next to it a Bilco door that is flat and a water problem. The solution is to build a structure on top of it so you enter a door rather than open up a flap. This is now just a little side piece that will be the entrance to the basement from the outside.
3. The last item is Jim is tired of his 2 foot allotment of closet in the master bedroom. They want to put a second floor over this breakfast area for a little dressing alcove that expands the second floor.

We have kept the Queen Anne/Eastlake/Victorian style home. We have cantilevered this out to deal with logistics of where doors can go. Not unlike other elements of the house it steps out with brackets. It has a nice proportion piece centered on that with a little side piece for the extra dressing space.

This is actually a large lot, so the open area is still conforming at 87.3%. But existing side yards are nonconforming. Because of the cantilever we are doing up here, we actually decrease the left side yard from 13.5 feet to 12 feet, a slight decrease in side yards. The maximum width of a structure; because of the cantilever we were right at 65% and we jump to 66.6%. Those are the variances we are asking for. I know you like to like to limit the time, but this is anticipated to be 3 projects, 3 years. We thought it was better to bundle all the projects together.

Balestra – I don't have any questions; the three years of staged construction; is there any way to do it in a faster time than that?

M McNeil -- we may try to do two of them this spring and one next spring, but without having all the numbers in place, I can't guarantee that.

Balestra –How about two years. If you have to have more, you don't even have to file a new application to get the extension as long as you do it before it expires.

Eggleston – How about three years but no project takes over 6 months?

Zapata—That's a management problem.

Carroll – How would we track that?

Balestra – I would prefer to go two years. If we did two of the projects this spring and one in 2019 and we gave you until January 2020. In the worst case you might have to come back and get a small extension.

M McNeil – As long as we don't have to refile. We don't have a problem with that. It will put more pressure on Jim to get them done.

Balestra – I will note for the record that the Pittards, who would be most impacted by the left side yard variance have signed a letter that they support this application along with a flock of other neighbors.

Chairman Balestra opened the public comment portion of the meeting. There was no one desiring to be heard either for the application or against. **Chairman Balesta, “I move that we close the public hearing. Member Wopperer seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.**

Member Wopperer, “I move that we accept the area variance application of Jim & Molly McNeil to vary the strict application of Section 225-A5 Density Control Schedule for 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 Nonconforming Buildings, Structures and Uses, Extension or Expansion to construct a dining room addition on the east side of house, extend a porch and mudroom addition on the west side of house, and a second floor closet at the property addressed as 143 East Genesee Street in the Village of Skaneateles. This is a Type 2 action under SEQRA and approval is based on drawings dated 11.20.2017. Work is to be completed by January 3, 2020.” Member Carroll seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.

This matter was concluded at 7:42 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

**Village of Skaneateles
Zoning Board of Appeals Meeting
January 3, 2018**

Area variance recommendation in the matter of the application of William Stokes-Cawley to vary the strict application of Section 225-A5 Density Control Schedule for Percentage of open area; to construct a hot tub at the property addressed as 21 Griffin Street in the Village of Skaneateles.

Present: Michael Balestra, Chairman
Gerald Carroll, Member
Maureen Wopperer, Member
Kathleen Zapata, Member

Riccardo Galbato, Attorney for the ZBA
John Crompton, Code Enforcement Officer
Dennis Dundon, Clerk to the Boards

Bill Stokes-Cawley, applicant

Bob Eggleston, 1391 E Genesee St
Michael Fogel, Esq., Syracuse
Rick Parcells, 61 West Lake Street
Bill Stokes-Cawley, 21 Griffin Street
Matt Kerwin, Esq., Syracuse
Miki & Bill Mahood, 60 West Lake Street
Don Witter, 132 Orchard Road
Diane Buell, 105 Packwood Drive

Excused: David Badami, Member

At 7:43 pm, Chairman Balestra opened the public hearing in the matter of William Stokes-Cawley for 21 Griffin Street.

Stokes-Cawley – Just want to get approval to put a hot tub behind the garage. The survey is there. Just trying to put it right behind the house; directly behind the house to not impact the neighbors. Out of the way as much as possible.

Balestra – It looks like to only variance you need is for open area. You are already nonconforming at 5.8 and you are going to increase that to 6.2. So it's an additional 0.4% nonconforming. The hot tub behind the garage should not be bothering anyone, I shouldn't think.

Stokes-Cawley – No it's not visible from the neighbors from either side.

Carroll – John, are there fencing requirements around a hot tub?

Crompt – Not for a hot tub.

Stokes-Cawley – We actually do have a fence; I think it is 42 inches. Just a picket fence for the dog.

Chairman Balestra opened the public comment portion of the meeting. There was no one desiring to be heard either for the application or against. **Chairman Balestra, "I move that we close the public hearing. Member Zapata seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.**

Member Zapata, "I move that we grant the area variance application of William Stokes-Cawley to vary the strict application of Section 225-A5 Density Control Schedule for Percentage of open area; to construct a hot tub at the property addressed as 21 Griffin Street in the Village of Skaneateles. This is a Type 2 action under SEQRA and is based on an annotated survey dated 8/8/2014. The applicant shall have until July 1, 2018 to complete this work. Chairman Balestra seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.

This matter was concluded at 7:47 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

**Village of Skaneateles
Zoning Board of Appeals Meeting
January 3, 2018**

Area variance recommendation in the matter of the application of **Mark Aberi** to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; to mount an air conditioning compressor on an external pad on the north side of the house, at the property addressed as **130 Orchard Road** in the Village of Skaneateles.

Present: Michael Balestra, Chairman
Gerald Carroll, Member
Maureen Wopperer, Member
Kathleen Zapata, Member

Riccardo Galbato, Attorney for the ZBA
John Crompton, Code Enforcement Officer
Dennis Dundon, Clerk to the Boards

Bob Eggleston, Architect, on behalf of the applicant

Michael Fogel, Esq., Syracuse
Rick Parcells, 61 West Lake Street
Bill Stokes-Cawley, 21 Griffin Street
Matt Kerwin, Esq., Syracuse
Miki & Bill Mahood, 60 West Lake Street
Don Witter, 132 Orchard Road
Diane Buell, 105 Packwood Drive

Excused: David Badami, Member

At 7:47 pm, Chairman Balestra opened the public hearing in the matter of Mark Aberi for 130 Orchard Road.

Eggleston – The Balduccis currently own the property. In Orchard Road they have fairly strict architectural standards. They are required to have side load garages. As a result, on this 105 foot wide lot, they put the north side right at 10 feet, which is the required set-back for the building so they could have 30 feet to get reasonable access into the garage. In recent years there has been more rigorous enforcement of air conditioner pads to be in the side yard set-back. The actual legal definition of side yard set-back is from the building to the property line, so one could debate that. We are not going to debate that today. It was decided during construction that the location for the pad was better on the side; there are less windows and it's a little flatter compared to the back which begins to grade off a little bit. Also, the Witters who are to the north, their air conditioner pad is on that side. As a result, the option was to relocate the air

conditioner or to request the variance. It is 6.5 feet from the property line where 10 is required, so we are asking for a 3.5 foot variance for this air conditioner.

Chairman Balestra opened the public comment portion of the meeting.

Witter – I am Don Witter, the house to the north. I hope the Board will approve this variance because our new neighbors have been through a lot the last 3 or 4 months trying to get into their house. So, I don't want to stop that process. But I do have one question that you may or may not be able to answer. But I don't understand how this happened. The specs are pretty well known and pretty strict in the area out there, and how does a foundation get put at 10 feet 6 inches from the line when you are going to be putting another structure there. So, I'm just curious with how that happened.

Balestra – This is the first time that this Board has seen this property. I have no idea. You would have to ask the people that built it and planned it.

Wopperer – I actually have the same question.

Witter – Do you know where the air conditioner was on the original drawing?

Eggleston – I believe that on the original drawing it did show it behind, but I am not sure at that time they realized they had the opportunity for a walk-out basement which made the side slopes steeper and less practical for that air conditioner placement. There was no one desiring to be heard either for the application or against.

Wopperer – So between the new regulations that were put in place plus the fact that they wanted to add the downstairs basement...

Eggleston – It's a regulation that in my personal opinion is ambiguous and has just recently been more rigorously enforced.

Witter -- We are not going to have a problem with that.

Eggleston – I don't think it is 10 feet off the property line.

Witter -I actually went out and measured it. It is 10 feet, but just.

There was no one else seeking to speak on this matter.

Chairman Balesta, "I move that we close the public hearing. Member Carroll seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.

Balestra – I note that there was a recommendation from the Planning Board that an evergreen screen be placed so the unit cannot be seen from the front yard. I am not inclined to require that as a condition to the variance; it is a nice suggestion to improve the esthetics. I hope they would take that into consideration.

Zapata – Agreed.

Chairman Balestra, “I move that we grant the area variance application of Mark Aberi to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; to mount an air conditioning compressor on an external pad on the north side of the house, at the property addressed as 130 Orchard Road in the Village of Skaneateles. This is a Type 2 action under SEQRA and in accordance with plans and a restated survey dated November 30, 2017. This work has already been completed. Member Wopperer seconded the motion. Upon the unanimous vote of the members present, the motion was carried 4 – 0.

This matter was concluded at 7:54 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

**Village of Skaneateles
Zoning Board of Appeals Meeting
January 3, 2018**

Consideration of the area variance application of John Schram to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; Side yard set-back, right; Both side yards combined; Percentage of open area; and Percentage of structure width/lot width; and 225-15A(2) number of dwelling units on a lot; to construct an 1243 SF addition to an existing carriage house at the property addressed as 51 East Lake Street in the A-1 District of the Village of Skaneateles. In its meeting on October 5, the Planning Board expressed the sense of the board that the requested changes may be recommended by that board based on a detailed design which has not yet been completed. The Planning Board requested that the ZBA consider this application in a similar sense of the board manner, so that the applicant not be required to produce such a design if the ZBA concluded that it is likely to be opposed to the requested variances. Should both Boards be in conceptual agreement, the applicant will complete the remaining aspects of the application and required drawings and submit the complete application to the Planning Board for its recommendation prior to this Board's holding a public hearing on the matter.

Present: Michael Balestra, Chairman
Gerald Carroll, Member
Maureen Wopperer, Member
Kathleen Zapata, Member

Riccardo Galbato, Attorney for the ZBA
John Crompton, Code Enforcement Officer
Dennis Dundon, Clerk to the Boards

Bob Eggleston, 1391 E Genesee St
Michael Fogel, Esq., Syracuse
Rick Parcells, 61 West Lake Street
Bill Stokes-Cawley, 21 Griffin Street
Matt Kerwin, Esq., Syracuse
Miki & Bill Mahood, 60 West Lake Street
Don Witter, 132 Orchard Road
Diane Buell, 105 Packwood Drive

Excused: David Badami, Member

At 7:55 pm, Chairman Balestra opened the discussion in the matter of the hypothetical area variance application of John Schram for 51 East Lake Street, noting that this is the third month in which there was no one representing the applicant present. He further noted that this is not a

formal application before the ZBA, and continued that “ordinarily I would be strongly opposed to making any recommendation as to whether or not we are inclined to grant a variance, because it invites an applicant to act in reliance upon something that is not at all binding and for which we may completely change our minds. In this case it is an exception, because under my interpretation of the code, in Section 225-15A(2) which states that you may only have one dwelling unit on a lot; this would require a use variance, not an area variance, which would render consideration of all the other area variances moot.”

Members Zapata and Wopperer expressed their total agreement with Chairman Balestra’s analysis. Member Zapata said that she could appreciate the sentiment of the Planning Board to not require expensive plans.

Chairman Balestra, “I really don’t want to set precedent and start inviting people to first submit a fake application to us to get our feelings, before actually applying for variances. But this is a little different, because this never even gets off the ground, in my opinion. So, let the record reflect that it is the Board’s feeling that a use variance is required in addition to the area variances, in order to put a second dwelling unit on this lot in the A-1 District.”

Member Wopperer expressed a desire to see more plans. Attorney Galbato noted that there is no application to decide. Chairman Balestra agreed that the “prospective application is not appropriate, and that a use variance would be basically impossible to get under the legal standards of the code.”

This matter was concluded at 7:59 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

**Village of Skaneateles
Zoning Board of Appeals Meeting
January 3, 2018**

Continuation of the Public Hearing in the matter of the area variance application of Morgan Moss on behalf of 63 W L Holdings LLC to vary the strict application of Section 225-A5 Density Control Schedule for Rear yard set-back/boathouse and minimum floor area; Section 225-15A(9) for height of accessory building; and Section 225-69D Nonconforming Buildings, Structures and Uses, Extension or Expansion; to construct a 33 by 24 foot 2-car detached garage with attic storage and rec room in the basement; to construct a retaining wall and driveway; install drainage, repair boathouse foundation increasing its height; and replace cottage patio at the north property addressed as 63 West Lake Street in the Village of Skaneateles.

Present: Michael Balestra, Chairman
Gerald Carroll, Member
Maureen Wopperer, Member
Kathleen Zapata, Member

Riccardo Galbato, Attorney for the ZBA
John Crompton, Code Enforcement Officer
Dennis Dundon, Clerk to the Boards

Bob Eggleston, Architect, on behalf of the applicant
Matt Kerwin, Esq., on behalf of the applicant

Michael Fogel, Esq., Syracuse
Rick Parcells, 61 West Lake Street
Miki & Bill Mahood, 60 West Lake Street

Excused: David Badami, Member

At 7:59 pm, Chairman Balestra reopened the public hearing in the matter of 63 WL Holdings, LLC for area variances at 63 West Lake Street (north).

Eggleston – We had come before this earlier; there were some questions that were raised. The Code Enforcement Officer (“CEO”) took a further look at the application. So this time we have added to the variance the height issue – a seldom-used section of the zoning law states that while structures can be 35 feet high, accessory structures cannot be higher than the primary structure, and no higher than 25 feet. It has been determined by the Planning Board that the cottage, the residence, albeit small albeit nonconforming in size, is the primary structure; that the boathouse which is an historic structure that’s been there for quite a while and an icon in the Village is an accessory structure; and that the proposed garage with the gymnasium, bathroom and sauna is an accessory structure. It has been determined that that is not a dwelling unit. The Planning Board

has requested that there be filed a restrictive covenant just as extra protection. My client has no problem with that because he has no intention of using that as a dwelling unit. So the variances that we are asking for is the expansion of the nonconforming boathouse. While I disagree with the CEO that it is required to have a 35 foot rear yard, I am not arguing that; it is established as being a nonconforming structure. It is also nonconforming as to its height, which is 18.5 feet. To restore this structure – the foundation is cracked, it is leaned, it is out of plumb, out of square, it has been neglected for a number of years. The owner is interested in preserving it back to its original, appropriate state so it will be there for many years to come. We had a structural engineer look at the foundation, it is cracked, it's shifted. But we put sensors on it and it was determined over a year period that there isn't any movement to the stones; it has moved, it is not moving currently. So we decided to jack the structure up, pour a 12 inch reinforced concrete bond beam that basically works as a bridge to span over any deficiencies that may occur in the future. We will be leveling it, making it plumb. It will raise the height, so we are increasing the height from 18.5 to 19.5 feet. Where the concrete would have been exposed to the exterior, we will be putting in limestone to match so it will look historically correct. So that is the reason behind that variance. We are not expanding the cottage *per se*, we are doing repairs to it, putting some larger French doors on the lake side. They use it seasonally, it is a seasonal cottage. If I put a second floor addition on it and made it 1200 square feet, it would not be nonconforming and take away our height thing. On West Lake Street in this area, all the houses are up by the road; they are not down in the middle of the yard. I think it would be out of character to turn this into a more prominent structure to reduce the height variance. The perception is that the main houses along West Lake Street; a lot of them do have detached carriage houses, maybe more so on the west side than the east side. We have designed the carriage house to be a carriage house appearance. But also as the grading shows, the carriage house sits below the road almost a complete story, so it actually only 12 feet from the road surface to the peak of the roof. But is technically, by Zoning definition, a 19 foot structure and the primary structure is 11 feet.

Carroll – So the cottage is 11 feet?

Eggleston – The cottage is 11 feet high. That's what drives the height variances. The boathouse will go from 18.5 to 19.5 and the proposed carriage house/garage is going to be 19 feet high. Otherwise the front yard, rear yard, side yards all conform to the Zoning as an accessory structure, so there's no variances required for that.

Carroll – Let me stop you there. How do we deal with 225-14C(5)(a); residential A, residential B, a one or two car garage or similar accessory building, accessory to a dwelling on the same lot, may be erected not nearer than 3 feet to the side line of the lot.

Eggleston – We are 3 feet off.

Carroll – Right. But is it accessory to a dwelling on the same lot?

Eggleston – Yes. The cottage is on the same lot, and it is a dwelling.

Carroll – That's my question. Does it in fact have to be accessory to a dwelling on the same lot? Because in fact, isn't it accessory to a dwelling on a different lot?

Eggleston – No. No.

Carroll – Isn't it going to be used by the people who reside on the south lot?

Eggleston – The two adjacent properties have similar ownership, but they are a different ownership thing. They are friends, know each other, and LLC, 63 LLC this is their dwelling, their garage, this is Brulecreek's house and Brulecreek does not have a garage.

Carroll – Maybe you should answer, does this provision require that it be in fact accessory to a dwelling on the same lot? My understanding of the application is that we have a dwelling on the south lot and we are building a garage that is accessory to the dwelling on the north lot, in fact.

Kerwin – No. This application is specific to this tax parcel and the dwelling that exists on that tax parcel. The lot to the south is irrelevant for the purposes of this application. This garage, current structure, will be used by this tax parcel and the dwelling on this parcel itself. So if this property is sold this garage is going to run with the dwelling that is there currently.

Carroll – Right; but nobody is residing in the cottage.

Kerwin – It's a seasonal dwelling.

Eggleston – They live in Utah and they keep their cars here during the winter.

Wopperer – I have some questions. Do we have any idea of the height of the existing property that is to the north? Or the south property? How far away are those neighbors from this possible future accessory building? And also from a height standpoint? I am looking at the privacy for the neighbors.

Eggleston – The property to the north, the Parcell property, I believe it's a 20 foot set-back to the common property line. The Parcels have a 20.5 side yard set-back, we have a 3 foot side yard setback. But the actual distance, if you strung a line, is much more because the front of the proposed garage is behind the main portion of the Parcells' house and it is behind the house to the south as well.

Wopperer – Do we know what the south neighbor's setback is? Not so much from the garage but from the existing house now.

Eggleston – Point on the map.

Wopperer – You have this large south property. This garage is here. So what is the view going to be from this house?

Eggleston – From here, they're going to be able to see across their property and the Parcells' property.

Wopperer – So we don't have the other house here?

Eggleston – The other house is up front, it is quite a bit closer to the lake. They are obviously cut off by that house and they are looking across their property. This doesn't substantially; there's a deep hedgerow up here, so this corner will have a minimal effect of their view looking across the two properties to the south.

Wopperer – I have been to the lot, to the property numerous times. And what bothers me the most is where that flag is as far as where that property line is concerned and that garage could be much closer to that house; it's just so darn close. I see the pictures, Bob, and you make it look small...

Eggleston – I'm sorry; that was accurately done on a computer and transferred onto the photograph.

Balestra – It was previously stated, quite clearly I believe, that the proposed garage was to be used by the inhabitants of the south parcel.

Eggleston – That will be a high likelihood, yes. There is a relationship currently between the two owners.

Balestra – So why don't they combine the parcels and they wouldn't have to worry about this? They wouldn't need a height variance because it would be conforming.

Kerwin – They don't want to. This parcel was previously subdivided by the prior owner.

Balestra – They may reconsider. Here's my thought. The garage the way it looks from the road is set back from this house on the south parcel, which is irrelevant to our consideration as counsel notes. In terms of looking at the neighborhood as a whole, it is set back from that house. If it were on the same parcel, I'd say 'great that looks normal'. However, a 19 foot garage accessory to and in the front yard, which is fine, and accessory to an 11 foot dwelling unit seems grossly out of proportion. And its relatively close proximity to the neighbor's house to the north, gives me some concern. If these two lots are not combined, and as counsel notes one could be sold off or transferred to a family member or whatever; it's a very unusual situation because it's a very unusual parcel. And it's a very unusual application. I don't know what the future ownership of this parcel would look like, but we could potentially have a very miniscule cottage with a relatively large and much taller garage up near the road. All that's just a long-winded way of saying I think that's what actually is going to happen here is that these two parcels are going to be treated in fact as one. Why not simply combine them; because the reason; the biggest concern I have is not the next year, or two years or even five years. It's 25 years. What if this parcel gets sold off or transferred or whatever, and now it's very odd. Looking at it in a vacuum, forgetting about the south parcel for a moment, it is very strange to me. I think it is very much out of character with the neighborhood to have such an accessory building. It honestly gives me great pause. If it was one parcel, I don't think we'd even be talking about the garage. I think you could just go ahead and build it. I think the neighbors' concerns would be irrelevant. It can be 3 feet from the lot line, the height wouldn't be an issue, you could just go ahead and build it.

And my concern about the future of the property would be alleviated because it would be one property, not two.

Kerwin – When you say that you believe it is out of character, are you talking about with respect to the size of the dwelling that is there currently and the size of the lot? Or with respect to other similar structures in the neighborhood?

Balestra – I think that having an accessory building; an accessory garage that's 19 feet tall, that's accessory to – which is exactly why we have this law on the books, the variance for the height requirement – that's accessory to an 11 foot dwelling, is out of character with any property in the Village, not just along West Lake Street.

Zapata – I agree.

Balestra – Initially the fact that it was in the front yard of this gave me pause; I spoke with Mr. Eggleston, he pointed out, I am grateful for it, that this garage is not in the required front yard. Totally on-board; it's not. They can put it in their front yard. But if it is going to be accessory to this dwelling it is quite odd. It is very out of character with just about any property I have seen anywhere. I recognize that the owner, if they wanted to, could build a conforming structure down further on this parcel. It would be far more obstructive, in terms of the view for the neighbors to the north, but also to the neighbors to the south. I don't think they would do that, because they would be shooting themselves in the foot. What they could just do is combine those parcels and treat them as one. Which is how they are going to do it in fact.

Eggleston – To the second criteria, I think it addresses are there alternatives? And yes, there are other alternatives. But I don't think they are better alternatives. It is better to get the variance rather than build a two-story house on the footprint of the existing cottage.

Kerwin – You can talk about the height of the structure, 19 feet, it seems compared to the dwelling – out of character in your words – but when you look at the surroundings, the topography of the property itself, the view of the property from the street...

Eggleston – Is it a detriment...

Kerwin – A garage that's 12 feet from the street as opposed to 19 feet when you are looking at it from the water...

Zapata – The neighborhood also includes the neighbors and I think to place it here is detrimental to the neighbors.

Eggleston – In what respect?

Zapata – From where they are here and where it is here. I feel that it really encroaches on the... And I understand...

Eggleston – Which they don't; entitled to lake views across someone else's property.

Zapata -- I wasn't even discussing the views. I stood there, I looked at where it would go and it felt quite claustrophobic. I see more property here, or over here.

Eggleston -- Obviously, you could push it down here.

Balestra -- We acknowledge that there are other alternatives. There are. It's not my property, I wish it was. I wish both of them were. And if they were I would combine them.

Eggleston -- Have we gotten into a discussion that is more appropriate after the public has had a chance to speak?

Balestra -- We can open it up to the public. I don't have anything new to say; actually I do. I will say this. I don't have any issue with the boathouse. Does anyone on the Board have an issue with the boathouse? All members present answered "no" or "not at all". The boathouse is also a relatively taller structure but it is also very, very old and already there. So, it is somewhat exceptional in that regard. No one is suggesting that it be torn down. So, nobody has an issue with the boathouse. If anyone from the public has an issue with the boathouse let me know, but we are focused on the garage.

Chairman Balestra opened the public comment portion of the hearing. Is there anyone else to speak in favor of the application? [There was no one desiring to be heard.] Is there anyone to speak in opposition?

Fogel -- Good evening, Mr. Chairman and members of the Board. I am representing Camp Jolly, LLC, the owner of 61 West Lake Street, which is the property directly north of 63 West Lake Street. It is owned by the Parcels family and it has been in that family since the 1950s. We object to the area variance request for the garage, honestly for a lot of the same reasons that the Board has already recognized. We just simply do not think that the size structure that's being proposed in very, very close proximity to my client's property is appropriate, for a lot of reasons that I'm going to get into.

Balestra -- I'm sorry to interrupt you but this is going to devolve into a conversation anyway. Like I said, not my property, no skin in the game. Just trying to figure out the right thing to do here. Has your client considered that as we just discussed, if these parcels were combined and this garage were accessory to the house on the south parcel, they could put it 3 feet from the lot line. They wouldn't need a height variance; they could just stick it there? And if we were to deny the application, I would say one of two things is likely to happen. Exactly what I just said, or if they are intent on creating more square footage for themselves to enjoy this property, they could build it further to the east, which could potentially have a more detrimental impact on your client, the neighbors, if what they care about is the view. Has that been considered and do your clients care more about the view of the lake and how that impacts them?

Zapata -- There's a tree line farther down the property towards the lake.

Parcels -- No, that was taken out.

Fogel – I understand what you are saying. Obviously, we are commenting on this particular application, which we don't think is appropriate. There has been a lot of conversation about what my clients may or may not be entitled to. And respectfully, one of the factors that this Board is supposed consider is the impact on the surrounding neighborhood and the neighbors. So, to just reject what we are entitled to out-of-hand is ridiculous. It is part of the standard. So whether or not they are entitled to it, or whether or not the applicant can make my client's life miserable doesn't support this application.

Zapata – I think we did acknowledge that the neighbors must be considered.

Fogel – But as to a future combination...

Balestra – I'm not presenting that to you as some kind of...

Fogel – No. I think one of the issues whether or not these lots are ever going to be combined, touches on one of the main concerns we have had since day 1; since I first appeared before this Board back in October. We don't even know the nature of the ownership of these properties. We know there's two LLCs; it has been danced around whether or not they are related, we know that somebody looked even before I got involved and realized that they both have the same address, PO Box something, in Utah. So, we don't even know who it is. That goes to the question of whether they could even combine the lots. Are they the same people?

Zapata – I have a hard time understanding the relevance of this, because I think we are supposed to look at this as the one application.

Carroll – Let me just jump in if I can. Are you familiar with the process to merge lots? Is there a public hearing involved? Do they get to be heard on that? I'm not at all familiar with the process. I don't want to spend all night on it; I am just asking for a quick summary. I can't imagine it can happen without notice.

Eggleston – In the Town of Skaneateles, it is simply writing a letter to the assessor. The two properties have to be in the same name. My experience in the Village is that they have required a subdivision process.

Galbato – It might need to be a resubdivision, and the Village would have to look at that.

Fogel – Just related to that; we are certainly not conceding that they would be able to build this as of right if the lots were combined. Quite frankly, I have not done that analysis. I am willing to be that if I looked, I'd have an argument that it wouldn't be of right.

Carroll – Have you looked into 225-14 which I cited earlier? Regarding an accessory; what troubles me is the specific language of the section – one or two car garage similar accessory building accessory to a dwelling on the same lot may be erected not nearer than 3 feet. I understood counsel's point, but have you looked at; is there any guidance around this as to whether in fact the accessory use has to occur on the same lot?

Fogel—I think it does, but it also goes to the nature of these lots and how they should be treated. The question of that specific interpretation is something that Mr. Cromp can decide, and then it can be appealed to the ZBA. That's the only way to really resolve it. If it is a lingering question then it's something that should be put forward,

Kerwin – It's not part of our application.

Balestra – Let me throw in my two-cents for what it's worth. The way I read it, it is a bit ambiguous. I know Jerry is concerned that while the cottage meets the legal definition of a dwelling, it is not actually; there's a question whether and to what extent it is actually being used as a dwelling. I believe the law is that ambiguities should be resolved in favor of the applicant and therefore there is a dwelling that meets the legal definition that is situated on the parcel and therefore it can be accessory to that dwelling.

Carroll – We are also not supposed to deem any language unnecessary or superfluous. If the language is there we have to deal with it. And I'm struggling to have someone explain the guidance behind it. And to your point, we sit as the CEO. When it is presented at this stage we have the power to do whatever we think the CEO should have done.

Balestra – I think it's a fair consideration.

Kerwin – I respectfully disagree with that; you have a power to [unintelligible] applications before you.

Carroll – Have a look; 225-75A.

Fogel – Since this is a public hearing may I continue my comments? Obviously we think the variance should be denied. I have a letter tonight that I am going to submit to the Board as well. We address each of the factors set forth in the Village code, as to whether or not an area variance should be granted. We think that any benefit to the applicant is far outweighed by the detriment to the neighborhood, the community, my client's property. This garage is going to be 19 feet tall, 800+ square feet, and is located 3 feet from my client's property. While the applicant did submit a few drawings and streetscapes, and I'm not going to question the accuracy of the garage, what's apparent is that there is not one of these that shows what the views would be from my client's property. These are just from the street. If anything it shows that the garage is going to block the views of the lake from the street. What's telling and what's absent is any indication of what this thing is going to look like from my client's property. There was some statements made, but no demonstrative evidence of what it is going to look like. And without that I don't think this Board can fully evaluate the detrimental impact on my client's property; which is one of the factors that needs to be evaluated by the Board. Also included with my submission is a letter from Harland Lavigne, a certified real estate appraiser, who took a look at this and determined that this size garage that's proposed, that's located this close to my client's property is undoubtedly going to devalue the Parcels' property. The second factor is whether there is going to be an undesirable change produced in the character of the neighborhood or a detriment to nearby properties. As I already touched upon, we think a garage of this size and such close

proximity would obviously have to create an undesirable change in the neighborhood and certainly cause a detriment to my client's property, not only visually but just having a structure that close is inappropriate. Also, the applicant hasn't demonstrated way the same benefits supplied by the garage can't be achieved through some other alternative method. They haven't addressed why the garage can't be located on the south parcel; that was actually something that was previously approved. That analysis just hasn't been done. That factor hasn't been satisfied and respectfully, the Board cannot approve the garage as proposed. The next factor is whether the requested area variance is substantial. The requested variance is for a 19 foot high garage. The limit, and regardless of how you get to the limit, is 11 feet on this property. So the request is nearly 75% greater than what is permitted without the variance. That's clearly substantial. There has been an effort to kind of dance around – it's 19 feet but it's not really that bad because look at the grade, look at the topography – but the reality is, it's a 19 foot tall garage.

Wopperer – Are you reading from the letter that's going to be submitted?

Fogel – In part.

Wopperer – Great.

Fogel – Obviously, the alleged difficulty is self-created. This is their proposal. They have determined to come to the Board with this size garage. It is obviously self-created. They have tried to dance around it a little bit. They certainly should get some points for creativity, but respectfully it does not satisfy that factor. And the other part, and we haven't really talked about this, the Board can only grant the minimum variance that it would deem necessary and adequate to preserve and protect the neighborhood. And what that means basically, is that this Board doesn't have to take the applicant's word for it that a 19 foot garage is required. It should require them to look at different alternatives which would be less in height than 19 feet. A few of those have been rejected out of hand – we'll make it 11 feet but it's going to be twice the footprint – again, the attitude that it could be worse, so you should be happy that it is only 19 feet high. We don't think that satisfies the standard. So, for all those reasons, we think that the ZBA should deny the requested variance. I do have copies of the letter that I would like to submit for the record. [One copy was received for the record.] I have also submitted prior letters. I think they should be considered as part of the record. They went to the Planning Board on October 31st, and then there is one from November 9th.

Wopperer – Does it have any additional information that's missing from here?

Fogel – I think it is all covered in there. Thank you.

Balestra – Mike, do you have anything to say about the boathouse.

Fogel – We don't have a position on the boathouse.

Balestra – OK. Great. Does anyone else want to speak in opposition?

M Mahood – I'm at 60 West Lake Street. My husband is here as well. I just have a question about something that hasn't been discussed here tonight. I don't know if it exists, is rumor or is hearsay. I understand that there may be some easement that runs with this property, and as a neighbor, could someone just address that issue so we understand what's going on? Chairman Balestra referred it to Mr. Galbato.

Galbato – I just want to look at the survey to refresh my recollection.

Eggleston – We recently added an easement on the south property for the driveway of the north that extends onto the south.

M Mahood – So there is no easement at all on the north property?

Balestra – The burdened property, as I understand it, is the south property. A driveway access is needed for the north property, and it's also necessary to encroach a bit on the south property – so that easement benefits the north property and burdens the south property in that respect for driveway access.

Zapata – It was on one of the past plans that's in our packet.

Eggleston – Earlier, there was an access easement between the two properties where the north could walk on the south and the south could walk on the north as it goes down to the lake. So there is a 20 foot right-of-way easement for the north to walk on the south down to the lake and there's a minimal easement to the south here.

Galbato – Here's the survey Mr. Chairman.

Eggleston – There's a 20 foot access easement that the north has on the south, and in exchange, there's a reciprocal agreement along here coming down. The two easements are between the two properties. There is also a sewer easement.

Balestra – The driveway easement would further unify these parcels, in every way but legally.

M Mahood – I'm not a real estate person, so I really don't understand what was just said. It's only an easement for the people who live on the south to use the north for the driveway of vice versa? There is no other easement for anyone else outside of those two properties?

Eggleston –Correct.

Balestra – Correct. It only affects those two parcels.

Galbato – With the exception of the public sanitary sewer easement to the Village of Skaneateles which just about all the parcels on the east side of West Lake Street connect to.'

M Mahood – That answers my question.

Balestra -- In light of Mr. Fogel's comments on the substantial nature of the variance; a 19 foot garage and an 11 foot dwelling is being substantial mathematically and substantial in that it is not like anything else that I have seen around. In looking at the north parcel in a vacuum, certainly out of character. I just wanted to touch on that quickly. I have a proposal for you; it is not part of your application, but honestly just trying to do the best that we can here -- not trying to be difficult for either side. Has there been any consideration of an attractive looking, not as tall, garage -- you're the architect, Bob, I don't have any suggestions -- up by the road, and an expansion of the cottage to provide a workout space, a sauna, with a nice view of the lake, perhaps one story. But it would seem to give the applicant the rec space they desire and the parking space that they desire, while also potentially minimizing the impact due to the height of the garage on the neighbors to the north? With that said, I note that such a diminutive garage may seem somewhat out of character with what's in the neighborhood, but if it was attractively...

Eggleston -- I understand; if Mr. Fogel thought I was creative already. He hasn't even begun to see how creative I am to minimize and avoid variances to make this very unattractive.

Balestra -- No one want this to be unattractive.

Eggleston -- One of the comments made was one of the purposes for the detached recreation spaces is that the occupant likes to work out at 4 in the morning. That would be not appropriate for someone who is trying to sleep in the dwelling, if it were attached to the dwelling. That's what makes this a more attractive option.

Zapata -- You understand so that somebody can work out at 4 in the morning, they are not inconveniencing their home, they are inconveniencing their neighbor, and devaluing their property potentially.

Eggleston -- Yeah, I don't; and I think also, you know that the issue is to merge the two properties now devalues this person's property.

Kerwin -- Can I just comment on a couple of comments Mr. Fogel made. He was talking about the substantial nature of the garage and the height and how it is going to obstruct views, and be an imposition on his clients' enjoyment of their property, so to speak. I personally don't see that given the renderings we provided. The top of the garage is at or below the top of the first floor of the house to the north. Look at the renderings. The peak of the garage is below, below; it's below the top of the first floor. And the same here on the property to the south. To suggest that it is going to be this huge expansive imposition on the enjoyment of someone's property when it's lower than the first floor of their own property I think is a stretch. Yes, it's 19 feet, we understand that, but this land also slopes down towards the lake. In this view you are looking at the full brunt of the garage itself, where you are seeing the basement and the peak of the garage. But again, from the road. And from the porch they are going to be looking over the top of the garage which will be at or below the top of their first story. They don't have the right to the view of the lake across our clients' property. It actually improves the view of the lake from their property.

Zapata – The view of the lake is not a concern to me, it is the view in general. It's all you are going to see, I think. I don't know if they see the lake from there; their lakeview is not something that popped into my head quite honestly. This structure is placed conveniently for the north property ownership, and it is most inconvenient for their neighbor to the north.

Balestra – I would respond by saying that I was there as recently as 4:45 tonight to look at this. The two-dimensional rendering while helpful, doesn't really give you the appreciation of the property as well as if you are standing there in 3 dimensions and you can actually see it. To Kathleen's point, lake view aside, it's close. I mean in some respect it's a detriment to the neighbor. You build anything on your property you can argue it's a detriment to the neighbor. It can be 3 feet from the lot line; there's no question about that. It does need a height variance so the fact of its existence and certainly the fact of the height variance presents an additional detriment to the neighbor. So your comments are well taken, but there is certainly a counter to it as well.

Eggleston – Again, lessons learned from the previous application by Brulecreek, the Bard asked us to push it back to fit the character of the neighborhood. We started out with this pushed back equal to where the other garage was. It's just on the north side of Brulecreek rather than the south side. As far as the character of the neighborhood, it is totally in keeping with the character of the neighborhood.

Balestra – I can't possibly disagree more. The issue with the south lot was wholly distinct from this. The neighbor to the north is much closer than the neighbor to the south of the south lot, which is also much closer to the lake. Two totally different applications. So, I disagree with that. And frankly, I think that the application to put the garage on the south lot, accessory to the house on the south lot, was a better one – if that's the way it is going to be used, but I am being told it is not, and that we should look at this north lot in isolation. Are there any other comments; it's still open; before we close it if anyone wants to speak one way or another.

Galbato – If the Board chooses to close the public hearing tonight, you will have 62 days from today to make a decision.

Carroll – What is the height of an average usable standard garage? Is 19 standard, a little high, what?

Eggleston – If you have a two-story, story and a half carriage house – a typical turn of the century or late 1800s carriage house, this is a very typical size, yes. Very much in keeping with that. You will find them all up and down West Lake Street and throughout the Village.

Carroll – I would like more time to consider the written submission.

Eggleston – Would it be appropriate to close the public hearing? I think we've heard quite a bit over the last couple of meetings.

Balestra – The import being... We can do this two ways. We can take a 5 minute break so everyone can read this and digest it. What I would prefer to do is to close the public hearing, so

we don't have to, worst case scenario, come back next month and do the whole thing again. I think everyone has said what they need to say.

Eggleston – Also, if you close the public hearing, are you going to put a restriction on any further written comment from the public?

Galbato – That's qualified closing of a public hearing then.

Mr. Eggleston then digressed to describe a situation in the Town of Skaneateles.

Balestra –I think if anyone had anything to say, they should have said it by now.

Kerwin – I am fine with closing the public hearing and putting the breaks on any further public comment. To the extent that the Board is inclined to delay the decision to next month, I would like the opportunity, as the applicant, to respond to whatever you receive.

Carroll – You read my mind. I was going to ask if did you want to submit anything?

Kerwin – I haven't seen this letter. I'd like a chance to review that and respond.

Eggleston – As the applicant, I think we still have the ability to submit information, correct?

Balestra – You are not exactly the public. So, we would accept comment from the applicant's representatives, the applicant. It's minus 80 outside so nobody is hurrying to break ground. But is there any benefit to the Board's acting on the boathouse variances?

Eggleston – It's a legal question. It doesn't because we're not going to break ground.

Carroll – Just to clarify real quick – Mr. Fogel, you're good? No more written submissions? Anything tonight that would cause you to want to send anything else in?

Fogel – I know you could end up in an endless loop on this, but I am going to want to review what the applicant submits, and comment on that.

Balestra – How about this. We'll give the applicant 15 days to submit a response to your letter that was submitted to us today. And we'll give you 5 days, preferably not the same stuff that's in the letter, but if there is additional material – you're an attorney, a replay to the response.

Fogel – So I don't have to FOIL it, Mr. Eggleston or Mr. Kerwin will copy me on the submission?

Balestra – Sure, we can make those rules.

Kerwin – We are not precluded from responding to his response? As the applicant, we should have the last word on what comes before the Board.

There was some informal discussion of the process.

Carroll – The more the better as far as I'm concerned. I just want to get it right. I would not mind hearing from Mr. Fogel again. It's got to stop somewhere, so the applicant can come in after that would be fine with me.

Wopperer – I would agree with Jerry. I want to get it right. It has been very complicated and there have been nuances throughout the whole process.

Zapata – I personally feel that the response from the applicant would be sufficient.

Balestra – given all the new material, someone from the public might want to comment. To Jerry's point, we do want to get this one right, so the more the merrier. So, if we don't close the public hearing, we will consider this and any responses to it.

Mr. Galbato, "Mr. Chairman you could consider adjourning the public hearing to your next meeting. It does not technically have to be in the paper again, because you have already properly noticed it. Or as we have done in the past, you could close the public hearing with the exception of allowing written submissions, up to the time of your next meeting."

Chairman Balestra, "I move that we adjourn the public hearing to the next meeting." Member Carroll seconded the motion. Upon the unanimous vote of the members present in favor of the motion, it was carried 4 – 0.

Upon motion of Chairman Balestra, seconded by Member Carroll, this matter was concluded and the meeting unanimously adjourned at 8:55 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards