Village of Skaneateles
Zoning Board of Appeals Meeting
July 31, 2019

Public hearing in the matter of the area variance application of Audrey Kissel to vary the strict application of Section 225-A5 Density Control Schedule for Minimum open area; to construct a play fort/tree house in the rear yard at the property addressed as 62 Fennell Street in the Village of Skaneateles.

Present: Michael Kowalski, Member
Michael Stanczyk, Acting Chairman
Maureen Wopperer, Member

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

Bob Eggleston, architect, on behalf of the applicant
Audrey Kissel, Applicant

Gregg Eriksen, Village Trustee
Brenda Kayn, 2 W Lake St
R. David Gregg, 2 W Lake St
Bill Kay, 100 State St
Dave Mosher, 100 State St
Dominick Giacona, Auburn
Audrey Van Vode, 62 Fennell St
Carol Ann Cook, 24 W Austin St
Ralph Pollock, 4 W Lake St
Johan Visser, 9 Ashwood La
Chris Richards, 22 W Austin St
Mary Price, 66 E Elizabeth St

Excused: Michael Balestra, Chairman
Gerald Carroll, Member

At 8:23 pm, Chairman Stanczyk opened the discussion in the Kissel matter for 62 Fennell Street.

Mr. Eggleston said that the applicant wanted a tree house but the tree is on the property line. So, it is now to be a free-standing raised fort with a rope ladder for entrance. There will be 79.7% open area, which is not out of character with the neighborhood. The applicant has previously

erected a 6 foot high privacy fence. The new structure will be an accessory building requiring a 3 foot side yard (4 foot proposed) and an 15 foot rear yard (22 feet proposed). Member Wopperer asked about the second story deck? Are there safety concerns? Mr. Eggleston said not.

Chairman Stanczyk opened the public comment portion of the hearing. Carol Ann Cook, a neighbor, spoke in favor saying she thought it was "wonderful" that a kid would play outside. She praised Ms. Kissel for making his happen. Ms. Kissel said her son is always in the trees. There was no one present who desired to speak in opposition to the application. **Chairman Stanczyk, "I move to close the public hearing." Member Wopperer seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.**

The Board had no further questions or comments. **Member Kowalski, "I move that the ZBA grant the application of Audrey Kissel to vary the strict application of Section 225-A5 Density Control Schedule for Minimum open area; to construct a play fort/tree house in the rear yard at the property addressed as 62 Fennell Street in the Village of Skaneateles. The project is set forth in plans dated 6.12.19. This is a Type 2 action under SEQRA. Applicant shall have until December 31, 2020 to complete." Member Wopperer seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.**

This matter was concluded at 8:28 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 31, 2019

Public hearing in the matter of the area variance application of James & Kathleen Byers to vary the strict application of Section 225-A5 Density Control Schedule for Minimum open area; to partially demolish and to reconstruct a four bedroom house at the property addressed as 6 Gale Road in the Village of Skaneateles.

Present: Michael Kowalski, Member
Michael Stanczyk, Acting Chairman
Maureen Wopperer, Member

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

Bob Eggleston, architect, on behalf of the applicant

Gregg Eriksen, Village Trustee
Brenda Kayn, 2 W Lake St
R. David Gregg, 2 W Lake St
Bill Kay, 100 State St
Dave Mosher, 100 State St
Dominick Giacona, Auburn
Audrey Van Vode, 62 Fennell St
Carol Ann Cook, 24 W Austin St
Ralph Pollock, 4 W Lake St
Johan Visser, 9 Ashwood La
Chris Richards, 22 W Austin St
Mary Price, 66 E Elizabeth St

Excused: Michael Balestra, Chairman
Gerald Carroll, Member

At 8:29 pm, Chairman Stanczyk opened the discussion in the Byers matter for 6 Gayle Road.

Mr. Eggleston said that the applicant is proposing the redevelopment of a 1950s house to a transitional home by putting an addition on the front and adding a front porch. The applicant has received site plan approval and site plan review for demolition from the Planning Board. There is a letter in the file from Visser/Williams regarding drainage. Mr. Eggleston said he appreciates

their concern. The applicant plans to tie all roof gutters into the storm sewer; if for good reason that is not possible in every location, they will be routed to a dry well. Member Wopperer asked what that is? Mr. Eggleston said it is a hole in the ground, lined with gravel, which stores the water and allows it to leach naturally into the soil over time.

Member Wopperer asked if this were a tear-down? Mr. Eggleston said they are leaving the basement and the first floor deck, and are proposing to expand the basement. The increase in footprint is shown in yellow on the site plan. He called it expansion of a nonconforming structure. Member Wopperer noted that erosion control measures are to be used.

Chairman Stanczyk opened the public comment portion of the hearing. Johan Visser, a neighbor, spoke in favor saying he considered the routing of the gutters to be an appropriate measure to mitigate his drainage concerns. There was no one present who desired to speak in opposition to the application. **Chairman Stanczyk, "I move to close the public hearing." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.**

Mr. Eggleston said that the applicants are asking for the variance now in anticipation of going forward next year, and are requesting two years to complete. Member Wopperer asked why they are here now? Mr. Eggleston said they want to know if the project is approved before they go to the expense of preparing construction and working drawings and soliciting bids for the work. It will take some time to get a contractor.

Chairman Stanczyk, "I move that the ZBA grant the variance for minimum open area as proposed in the application and plans dated 6.13.19. This is a Type 2 action under SEQRA. Applicant shall have 2 years from today's date to complete." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.

This matter was concluded at 8:39 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 31, 2019

Public hearing in the matter of the Special Use Permit (recreational vehicle parking) and area variance applications of William Kay to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; Both side yards combined; and Minimum open area; to demolish an existing garage and to extend the driveway, construct a new garage, deck and concrete pad at the property addressed as 100 State Street in the Village of Skaneateles.

Present: Michael Kowalski, Member
Michael Stanczyk, Acting Chairman
Maureen Wopperer, Member

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

Dave Mosher, architect, on behalf of the applicant
Bill Kay, applicant

Gregg Eriksen, Village Trustee
Brenda Kayn, 2 W Lake St
R. David Gregg, 2 W Lake St
Dominick Giacona, Auburn
Audrey Van Vode, 62 Fennell St
Ralph Pollock, 4 W Lake St
Chris Richards, 22 W Austin St
Mary Price, 66 E Elizabeth St

Excused: Michael Balestra, Chairman
Gerald Carroll, Member

At 8:40 pm, Chairman Stanczyk opened the discussion in the Kay matter for 100 State Street.

Mr. Mosher said that the applicant is proposing the construction of a new 32 by 28 foot detached garage in the rear of his lot, with the driveway to be extended to it. He also would like to add a 10 by 17 foot deck on the back of the existing house, and plans to demolish the existing concrete deck and detached garage. He is also requesting a Special Use Permit for the temporary parking of his Class C recreational vehicle (RV). The existing open area of 84.42% will be reduced by 0.52%. Mr. Kay said that the RV will be parked roughly 4 weeks out of the year.

Chairman Stanczyk observed that the new garage should completely block it from the street view. Mr. Kay agreed. To the south and east is all school property.

Chairman Stanczyk opened the public comment portion of the hearing. There was no one present who desired to speak either in favor of or in opposition to the application. **Chairman Stanczyk, "I move to close the public hearing." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.**

Member Kowalski asked CEO Cromp to verify the requirement for a Special Use Permit. CEO Cromp said the applicant had proceeded according to the Village code. Member Wopperer observed that the proposed garage seems to be bigger than the house. She asked the size of the house? Mr. Kay said that he is a new resident and that the house is 900 SF. He is applying for the garage as step 1, with step 2 potentially addressing the house, at some point. Chairman Stanczyk asked what is the height of the garage? Mr. Mosher said it is under 25 feet high.

Chairman Stanczyk, "I move that the ZBA grant the area variance application of William Kay to vary the strict application of Section 225-A5 Density Control Schedule for Side yard set-back, left; Both side yards combined; and Minimum open area; to demolish an existing garage and to extend the driveway, construct a new garage, deck and concrete pad at the property addressed as 100 State Street in the Village of Skaneateles. The variances are proposed in the application dated 5.7.19 and plans dated 6.13.19. This is a Type 2 action under SEQRA. Applicant shall have one year from today's date to complete. Further that the ZBA grants the Special Use Permit required pursuant to Sections 225-10B(1) and 225-11B(2) for seasonal temporary storage of RV in the rear yard, to be enforced by the CEO in his discretion." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.

This matter was concluded at 8:50 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 31, 2019

Public hearing in the matter of the application of R. David Gregg to appeal the Code Enforcement Officer's determinations of the Zoning Code made April 25, 2019 and May 16, 2019 (to be able to advertise availability of 4 bedrooms – to now include the Attic/Loft Suite – and to be permitted to rent 2 out of 4 bedrooms rather than the previous 3 advertised bedrooms) in the matter of the continued operation of a grandfathered Bed & Breakfast Homestay at the property addressed as 2 West Lake Street in the Village of Skaneateles.

Present: Michael Kowalski, Member
Michael Stanczyk, Acting Chairman
Maureen Wopperer, Member

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

Dominick Giacona, Esq. on behalf of the applicant
R. David Gregg, applicant
Brenda Kayn, on behalf of the applicant

Gregg Eriksen, Village Trustee
Ralph Pollock, 4 W Lake St
Mary Price, 66 E Elizabeth St

Excused: Michael Balestra, Chairman
Gerald Carroll, Member

At 8:51 pm, Chairman Stanczyk opened the discussion in the Gregg appeal for 2 West Lake Street.

Mr. Giacona stated that the Planning Board made the decision that the applicant could be licensed to advertise 3 rooms. Applicant appeals the need to designate to the CEO in advance. Applicant also appeals the restriction on use of the 3rd floor loft space. Our position is that there is no designation on the number of rooms that can be advertised. The first page of the August 1995 meeting minutes makes it clear that there are 4 bedrooms. Attorney Smith had said that the permit application contained a diagram of the 3 rooms, but that also showed a small room back here [gesturing] with stairs that lead up to the loft suite. The only difference from today is that the bed has now been relocated to the third floor. Attorney Giacona asserted that the code only

says that rooms may not be added through a physical change. Chairman Stanczyk asked if the third floor area can be accessed only from that room? He was told yes. Attorney Giacona said that the applicant made it clear that there are 4 rooms. In 1996, the ZBA became aware of rental activity involving more than 2 rooms. In the minutes from 9.24.1996 the question was whether the owner could advertise more than 2 rooms? On page 3 Attorney Liegel said "the use complies but the brochure does not." The 4th page of the 1996 minutes makes it clear that the owner is restricted to only renting two rooms. The board then felt that the mere fact of advertising more than 2 rooms is fine so long as there is a disclaimer that they can only rent 2. That discussion forms the basis that they can advertise more than 2 but are limited to only renting 2 at any on time. Member Wopperer asked why it is important? Attorney Giacona replied that their clientele has varying interests; some prefer bigger rooms, more amenities, less noise, and the loft suite is the most expensive. Having a variety is important to the applicant. Attorney Giacona represented that the loft suite has been rented over the past 2 years, under the consent of the CEO. It only became an issue when the Village decided to enforce the licensing regulation that had been in place for 2 years without being enforced.

Member Wopperer asked why advertise 3 rooms if you can only rent 2? Mr. Gregg says it allows the property to appeal to a broader group of potential renters. The loft suite has a significantly higher price. Variation can involve amenities, private room, quiet, and view. Member Wopperer mentioned that the loft is not accessible under NYS law? Attorney Giacona said that recently came out at the 7.11.19 Planning Board meeting, that NYS building code prevents B&B from renting 3rd floor rooms. He stated that there is a process for gaining variances is available and suggested that the Board should grant conditional approval subject to the applicant's obtaining the necessary variance to the state building code. He requested that the applicant be permitted to advertise the loft suite and rent it only after receiving the variance from the building code prohibition.

Member Kowalski noted that the request in May for licensing was to advertise 3 rooms, but this appeal in July is to advertise 4 rooms. Attorney Giacona said that there was a criminal action at the time for allegedly renting more than 2 rooms; and the CEO said no more than 2 rooms were to be advertised. When you look at the prior Zoning minutes, there was never a requirement that they identify the specific rooms to be rented or advertised or that the specific number was limited.

Chairman Stanczyk asked if it is their position that they may advertise any number of rooms, without an upper limit? Attorney Giacona said that they cannot change the architectural integrity of the building such that you increase the number of rooms. His client and the previous owner have never done that, so they should be able to advertise any so long as there is a disclaimer that you can only rent two. Mr. Gregg said there were four rooms; there are still four rooms. All they did was to move the bed up to the 3rd floor. Chairman Stanczyk asked isn't that a change in the arrangement of the rooms, since the code says a change in the arrangement? Attorney Giacona said that the applicant's position is that restriction applies only when the number of guest rooms is changed due to architectural changes. There are still the same four that have always been there.

Chairman Stanczyk said that he had gone on the web site himself and it seems like the smallest room is always occupied. Attorney Giacona said that the applicant had acquired and implemented specialized software that prohibits more than 2 rooms from being rented. Mr. Gregg said that as of 5.9.19 they had taken the loft suite off the web site so the smallest room is always blocked. That leaves only the two higher priced rooms available.

Attorney Giacona then said that they had the permission of the Code Enforcement Officer to rent the 3rd floor. In prior fire inspections it was stated "3rd floor shall be taken off web site and the door locked." When Mr. Gregg asked CEO Cromp, he was told to get a sprinkler system for the 3rd floor. CEO Cromp coordinated with the contractor and, in effect, approval to rent was given by the CEO.

Member Wopperer asked if the owners live in the house? Mr. Gregg said yes; the majority of time in the library on the first floor. Prior to their purchase, the former owner occupied the loft suite. Attorney Giacona noted that they never pled guilty to renting more than 2 rooms.

CEO Cromp provided clarification. He never "coordinated" with the contractor for the sprinkler system. If asked a question, he answered it. He explained that you cannot have habitable space on the 3rd floor without a sprinkler system. The building code does not permit sleeping rooms on the 3rd floor for a B&B. "By doing a fire inspection, I do not give permissions." Attorney Giacona said that if the issue were habitability, the applicant would have taken a different approach. He has emails to support his position.

Attorney Smith said that he is representing the Village Codes Office. He handed the Board an outline of his presentation and documents that he intended to refer to. This is a nonconforming use in the A-1 District. He said that this B&B operates under a Special Use Permit issued by this Board. He said the code precludes changing the architectural integrity or the arrangement of rooms and does not allow for adding more rooms. He said that this Board is provided a drawing – if you want to change it, it requires amendment of the Special Use Permit (SUP). He then went on to review his exhibits.

The letter being appealed from has determinations and rose out of (1) not being in compliance with the SUP because more than 2 rooms were being advertised and rented. This issue has since been mooted by the licensing decision, where the Planning Board concluded that in past approvals it was established that advertising 3 rooms to rent 2 rooms was OK; (2) The bedroom on the 3rd floor is being advertised as available for rent as a guest room. The SUP says may rent more than two rooms on the second floor. Also, there was never a drawing of the third floor submitted; and (3) converted the third floor to living quarters without a permit. Since this was issued the cooking facilities have been disabled and the fire inspections conducted, so this point is moot. The remaining issue is #2.

Attorney Smith continued that in 1995 the application and floor plan were submitted and showed two guest rooms on the second floor designated as B&B rooms. He said he has read through the material and does not believe the third floor was covered. You don't even have an application for the use of the 3rd floor. In September of 1995, the ZBA approved the SUP and imposed a periodic review requirement. The Board also added conditions that interior design standards

remain the same, that the applicant can't add rooms, and that applicant can't change the arrangement. In 1996 the ZBA agreed to allow the advertising of 3 rooms subject to specific disclaimer language regarding the limitation on only renting two rooms at any one time, and specifically said that the applicant could advertise 3 rooms, but only rent 2 rooms. The requirement was that a disclaimer make it clear that only two rooms could be rented. In their claim of 4 bedrooms being known, the applicant is describing the house, not discussing the business plan.

In a 2008 review session with the ZBA, the owner was asked and the owner specifically stated that the 3rd floor is not used for guests; never rented for guests. Further, there is a license condition allowing the advertising of 3 rooms but restricting rental to 2 rooms.

He directed the Board to Section 225-40B regarding changes and said that this language is in the code and in the SUP. If there had ever been an application to use the 3rd floor as a sleeping room, the NYS building code restriction would have come up. Attorney Smith said he does not think the ZBA should amend the SUP to permit a sleeping room on the 3rd floor. The number of rooms should be 3 advertised and 2 rented. The 3rd floor should not be one of those rooms. For the Board to approve that arrangement now – and then the State to react -- is backward.

Chairman Stanczyk asked if the code violations and criminal action resulted in conviction? Attorney Smith said no conviction, and added that he is not aware of any convictions of the previous owner. He elaborated for the Board, saying that the Village had an investigator go into the property who observed more that 2 rooms being rented. While it had been pursued in court, in light of the licensing proceeding and this appeal, action before the Planning Board and ZBA seemed a better route to pursue, so he withdrew the ticket without conviction.

Member Kowalski asked that given the second floor layout, would the 4th bedroom have been available to be designated a possible sleeping room? Attorney Smith said yes. CEO Cromp said at the time, the second floor was a bedroom and the 3rd floor portion was a sitting room. This applicant has changed the arrangement. The State building code prohibits 3rd floor sleeping rooms for transient use, which is the current configuration.

Chairman Stanczyk opened the public comment portion of the hearing asking for anyone who wished to speak in favor of the application. Mr. Pollock said he has owned his house on West Lake Street since 2005. He said he is not aware of any complaints and he has no problem with the operation. Mr. Gregg explained that he did his investigation before he purchased the house. He was told that the meeting minutes are the SUP. He said there are no neighbor complaints. He never saw any designated rooms or the like. He said that at the May 9 Planning Board meeting he found out that he can't use the 3rd floor. Mr. Gregg stated that had rearranged the Loft Suite rooms by moving the bedroom to the 3rd floor and the sitting area to the 2nd floor. He described the view down the lake from the third floor, and showed the Board photos of its current arrangement. He spoke with state building codes people who have told him that he can apply for a variance. At all times, he believed he was in compliance.

Attorney Giacona said in the 1995 meeting minutes there was no discussion about the number of rooms that are there – just said you can rent two rooms. If this were not a B&B they could

occupy the third floor. He suggested that they should not get building code approval before getting permission to use the room and suggested that the Board condition its approval on the applicant obtaining the variance.

There was no one else who wished to speak in favor of or in opposition to the application.

Chairman Stanczyk asked if Mr. Giacona could clearly state what you are applying for? Attorney Giacona said they are looking for an interpretation that the applicant can advertise the rooms under their license and for the loft suite, so that they can advertise and rent it subject to a state code variance.

Member Kowalski asked if the applicant is capped at advertising 3 rooms? Attorney Smith said yes, pursuant to the license. Attorney Giacona said that the motion of the 1995 meeting did not explicitly state the rooms to be used. Attorney Smith said they had an application. Attorney Giacona said it did not restrict. Attorney Smith said that was not correct; the Board assumed that 2 rooms only would be advertised. The Loft was never part of the application and it should not be interpreted into it.

Chairman Stanczyk again asked the applicant to clarify what it is you are asking for; what you are asking the Board to act on. Also provide a timeline for the state building code variance approval. He said he was inclined to see the matter continue to next month in anticipation of all members being present. Attorney Giacona said the information could be provided in two weeks' time.

Chairman Stanczyk, "I move that the ZBA continue and adjourn the public hearing to the Board's next meeting scheduled for August 28, 2019 at 7:30 pm." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.

This matter was concluded at 10:01 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards

Village of Skaneateles
Zoning Board of Appeals Meeting
July 31, 2019

Discussion in the matter allowing an extension of time-to-complete for the area variance application of Mary Price, MD to vary the strict application of Section 225-A5 Density Control Schedule for Minimum open area; and Percentage of structure width/lot width; to construct 20 by 34 foot swimming pool with 3 foot surround at the property addressed as 66 East Elizabeth Street in the Village of Skaneateles. *These variances were granted by the Board at its meeting on October 24, 2018 with a time to complete of July 31, 2019.*

Present: Michael Kowalski, Member
Michael Stanczyk, Acting Chairman
Maureen Wopperer, Member

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

Mary Price, applicant
Mike Nelligan, on behalf of the applicant

Gregg Eriksen, Village Trustee

Excused: Michael Balestra, Chairman
Gerald Carroll, Member

At 10:02 pm, Chairman Stanczyk opened the discussion in the Price request for extension of time for 66 East Elizabeth Street.

CEO Cromp said that the applicant is asking for an extension for variances that expire at midnight tonight. The variances were for putting in a pool and a 3 foot surround. Now that the work is progressing, they would like to expand the scope.

Mr. Nelligan said that the upper brick paver patio is a replacement in kind. Rather than fence the entire yard, the plan is to protect just the pool area. The desired net change is an additional 730 SF of coverage. Mr. Nelligan said that he can truncate the patio design to work with whatever amount of additional coverage the Board is comfortable with.

Attorney Galbato said that there are 2 requests – one for extension and the second for modification. CEO Cromp said the original open area was 85.47%. After the pool and surround,

it dropped to 81.88%. The additional patio requested tonight probably represents another 3% reduction.

Chairman Stanczyk said that he was inclined to view the changes as not substantial. Both Members Kowalski and Wopperer agreed. **Chairman Stanczyk, "I move that the ZBA extend completion for these variances to November 1, 2019 and grants a modification to its original approval to match what was submitted this evening." Member Kowalski seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 3 – 0.**

This matter was concluded and on motion of Chairman Stanczyk, seconded by Member Kowalski, the meeting was adjourned at 10:12 pm.

Respectfully submitted,

Dennis Dundon, Clerk to the Boards