

**Village of Skaneateles**  
**Zoning Board of Appeals**  
**June 22, 2010**

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In the matter of the application submitted by Timothy & Cynthia Lynn to vary the strict application of Section 225-A5, Density Control Schedule, for Percentage of open area and; Section 225-69d, Non-conforming Buildings, Structures and Uses, Extension or Expansion, to construct a 16 by 16ft. patio in the rear of the premises located at 50 Academy Street in the Village of Skaneateles

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Present: Lisa Banuski, Acting Chairman  
Larry Pardee, Member  
Craig Phinney, Member  
John Cramp, Member  
Lee Buttolph, Member

Jorge Batlle, Clerk for the Zoning Board of Appeals  
Riccardo Galbato, Attorney for the Zoning Board of Appeals

Tim Lynn, Applicant

Clifford Abrams, State Street  
Alan Dolmatch, Academy Street  
Jill Goldstein, Academy Street  
M/M Lantier, Academy Street  
Andrew Ramsgard, East Genesee Street

Chairman Banuski opened the public hearing at 7:45pm announcing the application of Timothy & Cynthia Lynn for 50 Academy Street.

Applicant Timothy Lynn presented photos to the Board. He said, "I have some pictures printed off so I can walk you through this...it's a 16 by 16 patio with an 8 by 4 foot, or so, piece that would go here between the garage doors and the edge of the house. That's the total layout of it." Chairman Banuski said, "it looks from this drawing that it will start about a foot or so, so it will come out here?" Lynn said, "it's a little bit in in order to lay out the 16 by 16 appropriately with the basement doors. The original plan was to do 16 by 16 but needing to come to you anyway, and the problems that we have with keeping that portion of the house looking neat and tidy, I decided to just add the 8 by 4 section and connect it to the house, and deal with all of the qualifications of coming to the Board."

Member Pardee asked, "do you want to correct your dimensions or are those the true dimensions? Because this and this and this doesn't make any sense, plus the 16 feet doesn't make any sense." Member Cramp asked, "what was that Larry? What doesn't make sense?"

Member Pardee said, "21.8 feet from the west side, 17 from the other side plus 16 feet is a lot more than 47." Member Phinney said, "54.8." The Chairman said, "the lot is 52 feet wide, it looks like." Member Phinney said, "it looks like the front of the lot is more narrow. My lot is like that." Lynn said, "it is hard to judge how wide the back is because of the diagonal line." Member Phinney said, "either way it is still within the numbers." Lynn said, "we know that's 14.8, and we know this is 24, that's 38 and then – I am trying to figure out how we have that 16 for that number." The Chairman said, "it looks like it a little wider here than it is at the street." We have the number from the house to the edge of the line is 16. It looks to me that it might be 15, or 14. I can't remember how we came up with the 16 I sat here with a ruler. This is a scale copy of the survey so that's how we came up with it. It might be off by a foot." The Chairman said, "it actually doesn't look to me that it's off. It looks like the lot gets wider at the back. It's a matter of about 2 feet." Member Crompt said, "fifty-two at the road and if you add everything across there it would be 54, almost 55. So, it's about 3 feet."

Chairman Banuski said, "if it's built in from the line of the house, it's certainly no closer to the property line." Lynn said, "it's a foot in from what exists." The Chairman said, "and you can see that it does widen out here... it's finite. It's limited to where the basement door is, because that's where your rear porch steps come." Lynn said, "it won't be as wide as the house by the time it gets out here." The Chairman said, "I think you'll find that if you are building a patio here you probably – I see that you have a stone there – you may find that you want to extend it so you can actually step on without walking into the grass (shows on supplied photo). I normally don't suggest that people make it bigger but I think you'll find that you want it to be something that you are not stepping across a little corner." Lynn said, "we are going to replace that concrete slab, it's cracked. We are going to patch it or create a new cap at the end of it. My wife and I kind of went back and forth about whether we would want anything. I agree with you it should be." The Chairman said, "if this is all you have is 6 inches that connects to the patio, to me it just makes more sense to just come out another foot or 2 there, and I don't think percentage wise it's not much." Lynn asked, "can we get that approved in this incase I can change her mind?" The Chairman said, "we can modify that. I just think – (holding the photo) – if this is where the patio comes, you have this tiny little – if this came out another foot it would be just easier and more practical for using the patio."

Lynn said, "what I proposed to her – I think she was picturing that we were going to put a sidewalk or something out there. I'm picturing using 2 by 2 pavers. So, just two of those across there and that would be it." The Chairman said, "that would solve the problem. I would not object to having that accommodation in there." Member Phinney said, "I would not at all. That's more practical." Lynn asked, "if that could be a like a conditional item because my wife didn't like the idea?...just incase she changes her mind I agree that that's how I want it to be."

Member Pardee asked, "so drainage is not an issue to the south there?" Lynn said, "all drainage goes to the back." Member Pardee asked, "it's not an issue with other people's yards and lawns?" Lynn said, "behind me it's completely paved. Even tonight I went out and checked and all the flow at the front of the property goes towards the drainage thing in the road that is down across from your house. It all flows that way. And then as you see in the picture, you'll see that between me and the neighbor there's a significant drop-off next to this patio, so no flow can go that way." Member Pardee said, "I just wondered if water – your neighbors to the south have

water problems?” Lynn said, “I think that I would have heard from Mr. Stevens if he’s ever having a problem.” Member Buttolph said, “the Dolmatch household in which we got the letter on – that was actually one of the things that sort of shocked me – was how high their property is.” Lynn said, “if there is any run-off here, it’s from them to me.” Member Buttolph said, “I can’t see how it could be confused that water from this property to go anywhere else.” Lynn said, “my back yard is very dry, very hard. I even have a hard time keeping grass alive because I have no shade. So, my problem is the opposite. I have no shade in my yard. It’s like an oven.”

Chairman Bansuki asked, “do you have a contractor all ready for this?” Lynn said, “Cindy lined up a contractor and got it all priced out. I don’t have the...” “...the reason I’m thinking because it going to matter from a drainage standpoint for you that it be at such a level that it’s not canted toward your house – so that the water isn’t running toward your basement. The contractors will do that if you can just make sure...” said the Chairman. Lynn said, “the problem that I’m going to have is the opposite. The slope is right on the edge of being too much slope. It’s right on the edge. I had the table and chairs out there but the lawn mower guy didn’t like it.” The Chairman said, “so it would be almost impossible to direct the water to the east.” Lynn said, “the lawn mower guy didn’t like the table and chairs, but it is level enough that you could set on what’s there. I suspect that when he cuts into it, it’s going to flatten it a bit. No way will it ever make it back to my house. My basement is a dry as can be. It’s all stone.” The Chairman said, “lucky you.” Lynn said, “that’s one of the reasons I bought the house. After Patty’s experience at 45, I didn’t want that dirt floor and water.”

The Chairman asked the Board if they had any more questions. None were voiced. The Chairman said, “I will read the Dolmatch letter into the record.” Battle said, “he’s here.” The Chairman said, “If you would like to take the floor yourself, what ever you’d prefer. I need to open the public hearing.”

Alan Dolmatch at 52 Academy Street. I am the immediate abutter to the east of Tim and Cindy’s. I e-mailed this to the Board today. I had been notified last Friday, the notification came of the pending hearing. We had not had an opportunity to either talk with the Lynns or see the details of the proposal. So, yesterday I came in and pecked my way through (the) file. I saw some of the information that pertains to it. All that (the) file has but necessarily all that might exist. So there are some gaps in my understanding of specifically what’s being installed there. In that context that I write this note to the Board. To the Zoning Board of Appeals:

*My wife, Linda, and I own the property at 52 Academy Street which is the immediate abutter (to the east) of Tim and Cindy Lynn at 50 Academy Street. We share a common north-south property line and narrow side yard approximately 120 feet long and varying in width between the houses from about 25 to 35 feet. In the vicinity of the Lynn’s proposed patio our house is set-back only about 8 feet from that property line, our point of minimum side-yard setback. In the summer with windows open (we are not air conditioned) we would have full acoustic exposure to the new patio. There is some visual buffering at that point by shrubs. A canopy of sumac trees to the south of that point shade our minimal rear yard, keeping it damp and resistant to good grass growth.*

*I am writing to your Board neither in support of nor in opposition to the Lynn’s proposal but rather to provide certain facts that I believe are accurate and contradict some of the facts in the Lynns’ proposal. Whether these are material or not to your deliberations and decisions, I leave to you. Our basic position is that it seems like the patio would be a useful addition to their home but before we endorse it we would like to make sure it is neither unsightly (as a view) nor worsening to the dampness that persists in our side*

yard. The fact that we have not been given an opportunity to discuss their proposed patio with them and to understand the relevant details made it necessary for me to visit with Codes Enforcement Officer Batlle and review the file as currently compiled by him. In it I found information which I believe does not adequately characterize the extent of physically impermeable surface on the property. I believe it is necessary for these to be pointed out so that the ZBA can make its decision based on accurate information.

1. The property contains approximately 7,850 square feet (which excludes the Village-owned right-of way on Academy Street). Of that area, the footprint of the house (30.25' x 23.8'), porches, steps and bulkhead is about 950 square feet. The northern of the two adjacent garages (335 SF) brings the total to about 1,285 square feet. (I have assumed the southern garage is off their property) This is just over 16% of the parcel, making the uncovered (impermeable) area about 84% of the parcel. The driveway (10' x 135' + 15' x 6' = 1,440 SF) is macadam, not gravel as shown on the parcel plan and the front walk (not shown) is concrete (about 3' x 15') bringing the total of covered and hard surface area to about 2,765 square feet. So the site is about 35% covered and/or hard surfaced even though the technical definition of impermeable surface in the Zoning Code would calculate at about 16%.
2. The patio is proposed to be 16' x 16' plus a corner area of about 36 square feet, for a total of 292 square feet. That is about 3.6%, not 1.7% added hard surface as claimed. The property would then be 39% covered and/or hard surfaced.

The file I reviewed had no details of drainage patterns (i.e. patio slopes), dry wells or other dispersal or absorptive structures, materials (beyond "concrete pavers"), patterns, sizes, and colors and buffering landscaping (if any). Since these are part of our side-yard views they are of interest (if not concern) to us. Finally, we would like to see the dampness in our side yard bettered rather than worsened by the patio. This can be accomplished by draining the hard surface to the west (not the east) and reducing the sunlight restricting canopy of sumac trees growing along our shared property line. Neither the drainage pattern nor the landscaping was shown in the file. Respectfully submitted.

The point of all this basically is that we are not opposed to the patio. It's very possible that the devil being in the details, that it's a good devil not a bad devil. But, we would like to understand what the devil is. So, that was the purpose." Member Buttolph said, "I'll be honest, we talked about this before you came in. You quite a bit higher – your property, than his property. I'm wondering how you thought that the water is ever going to get to your property and how his property could reflect the dampness in your back yard." Dolmatch said, "we have a kind of shelf that's probably a foot and a half to 2 feet in that general area above the general level of the Lynn's yard." Member Buttolph said, "water is never going to go above that." Dolmatch said, "no, it's not going to come up but depending on whether the hard surface drains to us or away from us, it could drain toward us. We experienced –I'm not sure what the general ground water situation is there. I know we have damp, but not wet basements. There's probably a general ground water movement from the north to the south. Because of that, particularly because there are 2 houses with a narrow channel between them, what ever ground water is moving from Elizabeth Street down to the Lake, probably finds a concentration between the houses. If you put more water into that area, the ground will be more saturated. We are not going to shift more water but we will have it."

Member Buttolph said, "it looks like your property effects his property more than the other way. If you have water back there it's rolling down into his back yard." Dolmatch said, "that is perhaps true. Our property is generally flat or pitched to the south, except for that little – I don't know whether it's a natural drainage channel. But it seems to function that way." Member Buttolph said, "I just have a hard time believing that the water – anything from this project was

going to, even remotely, effect your back yard.” The Chairman said, “in general, the water does flow exactly as you are saying, from Leitch, Elizabeth, the schools and it comes down back behind.” Dolmatch said, “right. So, if you pave a large area and pitched it which ever way you pitched it...the surface water would run off into that channel.” The Chairman said, “you actually, you may have missed this part too, I mentioned that any pitch that you do here, from their point of view needs to be away from their house, otherwise it will all funnel into their basement. So we’ve had that discussion.” Dolmatch said, “right and it could be that it’s running to the south or that it’s running to the southwest, as opposed to the southeast.” The Chairman said, “luckily, to the south and to the southwest there is a lot of lawn and green area. Does water ever flow over the driveway back there by Steven’s?” Lynn said, “just water on the driveway. I don’t think it ever gets into Stevens’ parking lot there.”

Chairman Banuski said, “the other thing I just wanted to tell you about, this letter – I didn’t go and check the calculations but, I will say, we don’t calculate driveways and sidewalks in our coverage.” Dolmatch said, “I understand. That’s why I did not pursue that that was pertinent to the determination of the technical calculation.” The Chairman said, “it is something that we always think about, however.” Dolmatch said, “no. I understand that if a vehicle is parked on it however, then it becomes a parking area, which does count as opposed to a driveway, which doesn’t count. I understand that if you have steps and a walkway, that counts. So, the arcane of that complex calculations...” “...in any case he needs a variance for this – lot coverage,” said the Chairman. Dolmatch said, “right. And if he had – if his property was totally covered by the driveway, so that he had 100% of impermeable surface, he could still perhaps under today’s laws meet the 10% test. If it was all serpentine driveway, winding back and forth as opposed to being a place to station a vehicle or of walking or a patio. So, that wasn’t the point. The point was that in fact the whole property has a lot of coverage to it, and doesn’t have a tremendous amount of absorbative material on its surface. So, depending on where you push the water, there’s not a great deal of natural percolatable surface into which that water can go. We wanted to make sure that that water was being drained away from rather than toward our property.” Member Phinney said, “the other thing also in your calculation, we always calculate right to the street. We don’t take the Village’s right-of-way out of the calculation. We all pay taxes all the way to the street for the area of our property. We don’t pay it up to excluding the right-of-way.” Dolmatch asked, “to the centerline of the street?” Member Phinney said, “no, to the street. We don’t take out the right-of-way. When we all pay our taxes, go back and look how you pay your taxes, you paid all the way to the street for the size of your property, not excluding the Village’s right-of-way. So, when you do that percentage of coverage is not 84, it’s 86.1, which is less than.” Dolmatch asked, “not include the sidewalk as impermeable surface then?” Member Phinney said, “we don’t deal with impermeable surface in the Village. That’s a Town issue.”

Chairman Banuski said, “I know it seems almost impossible to believe, but that’s not in our Code.” Dolmatch said, “strange. Because when we had to come before the Planning Board and the Zoning Board, many years ago for our patio, in fact, all of these surface issues were interpreted contrary to what you are saying.” The Chairman said, “for a patio, we absolutely do.” Dolmatch said, “coverage – for our walkways.” The Chairman said, “for coverage, right.” Member Phinney said, “it’s not impermeable surface. Just coverage, it’s 2 different issues.” Dolmatch said, “I’m primarily focused on coverage. If it’s impermeable coverage regardless of

what it's called, if it's impermeable coverage I'm more worried about the physical effect that the nuisance of the Zoning code." The Chairman said, "it behooves him to direct the water south from the house. And south is where there is the most absorptive grass lawn material for that. He would be foolish to do it any other way than the best way for the drainage. He doesn't want to direct that water into his basement." Dolmatch said, "but he has the option to direct it also to the east." The Chairman said, "that's why I mentioned, maybe you heard me when I asked about the contractor, if there was one lined up, because that's something that could be said. As you are also directing it to the south, you can direct it to the west."

Battle said, "there's another letter in there." The Chairman asked, "is there anyone else who would like to speak about this?" Member Phinney said, "I did not get that." Dolmatch said, "she did sent it late. I think she sent it about 5 o'clock." Member Crompt read the following from Linda Goodman-Dolmatch:

*Tim, we did leave you a voice message at your home number yesterday to discuss the patio after receiving the notice in the mail. As I mentioned last night in my message, and in Alan's email, we are most concerned about the drainage into our yard with the additional hard surface coverage of a patio in your yard. Eliminating the sumac weed trees and a planting of a screen better suited to collecting / absorbing the ground water run off and possibly another method of capturing water to run to the back of the yard would be my preference.*

*I am out of town today and will not be able to attend the meeting, but would be happy to walk the yard to better understand your current plan when I return Wednesday night. Linda (Goodman/Dolmatch)*

The Chairman asked, "any other comments about this? It would appear that the planting of sumac is pretty far away from the planned patio." Dolmatch said, "it is. They are essentially along the property line. I'm not an arborist to know whether it is a high watering tree or a low watering tree – unlike a willow that will suck up water like crazy." Member Buttolph asked, "is there anything from stopping you on your property from putting in – if you've got the wet back yard, why not put in some vegetation that sucks it up on your property?" Dolmatch said, "we have some." Member Buttolph continued, "he's not claiming any problem in his backyard.>" Dolmatch said, "that's true." Member Buttolph said, "if it's a problem it's sounds like you've got the remedy to fix it."

Chairman Banuski said, "other than the drainage, I have a question. Do you currently have a table and chairs out there?" Lynn said, "we had at various times but the lawnmower guy wasn't good with moving them." The Chairman said, "I was just curious. You had mentioned something about the proximity of the patio and I was thinking, well, if you are eating on the patio, or if you are already eating at a picnic table in the back yard, I wasn't sure what the difference would be. That's why I asked that question." Dolmatch said, "no. Our issue is not particularly the activity on the patio but obviously the water. But also, the appearance of the patio, which we are unaware of other than it's outline. So, we don't know what material it is." The Chairman said, "concrete pavers which is slightly better than like a concrete pad." Dolmatch asked, "green, blue, white, tan?" The Chairman said, "probably stone colored." Lynn said, "stone colored." Dolmatch asked, "is that anywhere in the file?" Member Buttolph asked, "does it need to be?" Member Phinney said, "it doesn't matter." Dolmatch said, "it doesn't matter to the ZBA." Member Phinney said, "that's an issue you should have a one-on-one with Mr. Lynn or Mrs. Lynn, or whoever at that point versus here. This is the wrong forum." The Chairman said,

“I do think that a stone paver patio is probably what most people would do.” Dolmatch said, “it’s appropriate.” The Chairman said, “very appropriate, good words.” Member Crompt said, “there is nothing mentioned in the Planning Board minutes on color. It just said stone patio area.”

Member Phinney said, **“I move that we close the public hearing.”** Seconded by Chairman Banuski. The vote was 5-0 in favor of the motion.

Member Crompt said, **“I make a motion that we accept the application submitted by Timothy & Cynthia Lynn to vary the strict application of Section 225-A5, Density Control Schedule, for Percentage of open area and; Section 225-69d, Non-conforming Buildings, Structures and Uses, Extension or Expansion, to construct a 16 by 16ft. patio in the rear of the premises located at 50 Academy Street in the Village of Skaneateles. This is a Type II SEQR. Project to be completed within one year. Per drawings dated 6-22-2010. This will also include an 8 foot by 4 foot section and possibly a 2 foot by 3 foot section at the bottom of the stairs.”**

Seconded by Chairman Banuski. The vote was 5-0 in favor of the motion. Motion declared adopted. The meeting was closed at 8:14pm.

*email to: Lynn, Banuski, Galbato*