

Village of Skaneateles
Zoning Board of Appeals Hearing
September 28, 2010

In the matter of the application submitted by Robert Hamel to vary the strict application of Section 225-A5, Density Control Schedule, for percentage of open space, percentage of structure width, right side yard set-back, both side yards combined and Section 225-69d, Non-conforming buildings structures and uses extension or expansion and Section 225-14d, Swimming pools required set-backs for a deck and 24 ft above ground swimming pool at the rear of 172 East Genesee Street in the Village.

Present: Lisa Banuski, Chairman
John Crompt, Member
Lee Buttolph, Member
Craig Phinney, Member

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

Mr. & Mrs. Robert Hamel, Applicants

Robert Eggleston, Rickard Road
Michael Cogswell, East Lake Street
Pat Conole, 170 East Genesee Street
Gary Smith, 174 East Genesee Street

Absent: Larry Pardee, Member

Chairman Banuski opened the public hearing at 7:40pm announcing the application of Robert Hamel, for 172 East Genesee Street.

Robert Hamel, applicant said, "first we would like to submit these to the Board members. Mrs. Hamel said, "my husband and I have owned our home in Skaneateles for 12 years. If you would be so kind as to look at some of the pictures – when we first purchased our home, as to the renovations that we have made over the years to our home, you would really appreciate if you would look at them." Mr. Hamel said, "we present this only because we would never consider building anything or constructing anything that wasn't esthetically pleasing to the neighborhood. I'm sure, again, at least one of your Board members can certainly attest to that." Member Phinney said, "I'm only about 5 houses down, so it's not that far away."

Mrs. Hamel said, "we also realize that there was opposition to the pool and the deck apparently. We were not aware of the opposition until actually today. We would like to address

some of the issues of concern. We certainly don't want to have any animosity between our neighbors. They are very good neighbors, but we would like to present our case accordingly." The Chairman said, "ok, then you may proceed.:

Mrs. Hamel said, "what my husband and I would like to do – we do not have, as you know on Route 20, on East Genesee Street, the traffic is extremely heavy. We have a beautiful enclosed porch that we built. We do enjoy it. However, we have no access to our back yard. We have to actually walk down our basement stairs to go out into our back yard. What we would like to do – what our vision was – was to put a deck on the back of our house, and put an above ground pool with beautiful landscaping around it. I know there's a concern that possibly there would be a noise level. However, my husband is retired. I'm semi-retired. My grandchildren do not live in the area. They come possibly twice a year. My husband had had 2 heart attacks. I have a neurological disorder and it would be actually therapeutic for us to have the pool in the back yard. If the pool is opposed, we can understand that. We can understand that the neighbors may not want a pool there. As disappointing as that may be, and I'd still like the pool, certainly we would like the deck to be added in order to BBQ and enjoy our back yard."

Mr. Hamel said, "I'm going to add – I've added some pictures. I've taken pictures of all of our neighbors, with the exception of one, who by the way, plans on building a deck. All our neighbors going to the south, to the west and to the east. They all have decks. We are the only ones essentially in the whole neighborhood that do not have a deck. At the same time, we have really no access to our back yard what-so-ever. We would appreciate the quiet and solitude of our back yard, of which we plan on landscaping next year." Mrs. Hamel said, "right, and certainly if there is an issue with the distance between the homes, we can have our contractor reconfigure the plan. That's not a problem. We are not opposed to anything like that. As we said, we don't want any issues with our neighbors. They are good neighbors. They are wonderful people. We are very quiet. We don't have parties. We are just very quiet people, and we really just want this for our pleasure."

Chairman Banuski said, "I will say, I was kind of surprised, when I saw that the Planning Board had recommended approval of the swimming pool because the set-backs on that – it's a very large percentage variance that you are asking for. When we have granted variances for pools, they're really minimal percentage-wise. If you need a foot or 2 feet but to have both sides – the problem is the lot itself is just really not conducive in a neighborhood to put a pool in. You can fit one on there but, the people to the east of you, on their deck, will be looking right into your pool." Mrs. Hamel said, "can I just interject for one moment? We had thought of putting an in-ground pool. One of the reasons why we didn't approach the Board with an in-ground pool was because we thought that with an above ground pool it was a structure that if we decided to move, or sell our home, we could take it down." The Chairman said, "we actually see not too many pool applications come through. We do see some. We had one earlier this year that we turned down that was actually asking for a smaller percentage variance than you are asking for. One of the reasons we enforce the set-backs on those is because a pool really does have a noise level, a lighting level that is different than other types of enjoyment of a back yard. So, I was very surprised that the Planning Board had recommended approval of the pool. That was my first feeling when I looked. When I walked up there, the neighbors to your east – that's what they would see when they walked out onto their deck."

Mrs. Hamel said, "I think one of our issues and I'm sorry if I'm going to offend my neighbors, because I truly do respect them a great deal, when we had discussed this with them, they seemed to be on-board. Certainly my husband and I wouldn't have pursued this if there was opposition. We went ahead and we talked to our contractor, and we applied for the application. We really thought that it was going to be OK. I'm sorry if they are upset about this."

Chairman Banuski said, "one of the functions of this Board is – we definitely listen to what neighbors have to say because I live in a house that is – my lot is 50 feet wide. So, I have a very similar lot with neighbors extremely close on either side. And even in the case of earlier this Summer, when the neighbors said that they didn't have any problems with the pool, we have to speak for the next owner's of the house as well. We kind of represent the future interests of them."

Mrs. Hamel asked, "Ok, setting the pool aside, is there an issue with the deck?" The Chairman said, "my question would be, if the pool is not going to be something you do, would you do that same configuration of a deck, or would you do something else?" Mr. Hamel said, "yes, absolutely because the configuration essentially was for the configuration of the deck." The Chairman asked, "to accommodate the pool?" Mr. Hamel said, "no, not at all. Actually it wasn't. It was an add-on and addition to. Actually I designed the deck to fit the esthetics of the house. I did not want the deck to be a 'plop-on.' A lot of times – that looks just terrible where you see a deck just honked onto the back of the house. So, what I did is I designed so it would be again, I look for the esthetically pleasing and how it fits into the house. That's how we built the porch, which is too noisy. Route 20, you just can sit on a front porch on Route 20."

Mrs. Hamel said, "I think with the deck – what we thought originally was to put the deck out on the back and then if we were approved for the pool, then we would add on around." Member Phinney asked, "so the deck extension vs. the 'L' in the back of the house. So, if you were to do a deck only it would become the 'L' enclosing the back of the house." Mrs. Hamel said, "yes, and that would actually improve the esthetics of the house. If you take a look at the back of my house, on the picture that I gave you, you can see where it fits perfectly into it. As far as any privacy issues – we have large hedges to the neighbors to the west. Our deck, and if you take a look at the pictures of the other decks surrounding, they have more of a view of our neighbors' to the west deck in their back yard than we would with our deck." Mrs. Hamel said, "we just s a place where we can go out back and sit and BBQ and relax in the sun."

The Chairman said, "but if you can show me on this drawing, I just to make sure we are talking about the same thing because you are not talking about just this portion?" (Go to the table and using the drawings) Mr. Hamel said, "just this portion - this would be history." The Chairman asked, "where would stairs go down into the yard from there?" Mr. Hamel said, "now we would put the stairs here, so that we could have – because what we are planning on doing now is landscaping the back yard, as we have landscaped the front yard. There is a lot of things I want to do like a butterfly garden and stuff like that. They we would landscape it so we would be able to have access down into the yard. It would not go that way, it would go into the yard probably in a fashion – something like this. This would be the door right here. Then in a fashion something – go down sideways and then down. It just has to be for me, again, it has to be esthetically pleasing and actually correct to the house. Rather than, taking a picture here, if you

just plopped a deck on the back here – to me, that’s - this way you are folding it back and if you take a look at what we want to do, we want to match the back deck to the front porch.”

Member Phinney asked, “and the Macadam would go away, right?” Mr. Hamel said, “most of the Macadam goes away because we would like to put rose bushes in here. We have already been in touch with Dickman’s and they were going to do something. That’s how we would do it. Our deck would look very similar to our front porch because we want to make it consistent.”

The Chairman asked, “would this be a painted or would you be using materials that are...?” Mr. Hamel said, “it would be pressure treated. Then it would be painted. The deck platform itself would be Trex.” The Chairman said, “here’s what I see as maybe a little difficulty. When I was outlining my concerns with the pool, that was me speaking. I’m just guessing on how we have been in the past, that we are fairly consistent with that, Just say that there is no pool in this plan now. All of those numbers would need to be redone. The density as it would be a smaller variance for the density because you are doing substantially less coverage by the time you take the pool out and the rest of the deck.” Mr. Hamel said, “in the letter that I wrote, I am actually asking for a postponement.”

The Chairman said, “and that’s what we need to do. What we can do then at our October meeting is look at the numbers on this schedule that are the correct ones. One thing, if you could show on this, we have the public hearing open, so anyone here who has other concerns, we might as well address them now before we go further. But, this is 4 feet to the property line which may be problematic. But would you just show here where this goes to the nearest point on the other property?” Mr. Hamel said, “actually I’m going to change this, because we’ve modified it with our contractor to a certain degree. We have a tree here and it’s going to look more like that.” The Chairman said, “that’s pretty critical. That again from what’s required to what you are asking for is ...” ‘...in order to save the tree, we run this across ...’ Said Mr. Hamel. Member Phinney said, “scale would be good.” The Chairman said, “just make sure that we can see what those setbacks are.” More discussion of dimensions and distances to other buildings. The Chairman said, “really, until we can see what formal modified plans will be.” The Chairman opened the floor to anyone wishing to speak in favor of the application. She said that the hearing will continue and when we have new plans we will look at those as well.

The Chairman opened the floor to anyone wishing to speak in opposition stating that the plans have just been modified. Gary Smith said, “we are neighbors – directly to the east and my concern was with the pool. When Bob first approached me about the pool idea, I did tell him that I had no problem with it. Since then I have had a chance to think about it. The pool obviously would be pretty close to our property and my concern would be how it would negatively impact the value of my property and my ability to sell it in the future at some point. My concern was with the above ground pool, not with the deck what-so-ever.”

Michael Cogswell said, “I just would like to reiterate what you talked about. Again regard the attention to the Board that the provision of our Zoning Ordinance that calls for 25 foot, also has the same provision that allows a garage to be 3 foot. I think if you deduce from that, that the drafters of the this set that stringent 25 foot, recognizing that we had most of our

lots here are non-conforming lots, still require a substantial set-back. The logical conclusion is following down just exactly what you said and it's reiterating what this Board has taken. That is the legal under-basis for it."

Pat Conole said, "I too, when Bob first mentioned it to me I wasn't adamantly against it. But I really had not seen the plans at all. I didn't actually know the full scope of the Zoning qualifications. In reference to what Bob mentioned in his letter to me, while we love our front porch, it is so much quieter in the back. In reference to that, I would say that we love our back yard and want to preserve the quiet beauty of nature. An above ground pool made of synthetic material and surrounded with a deck, which is only 4 feet from our property greatly impinge on our privacy and comfort. An above ground pool, I just don't think it would fit well on that size lot and it would rise above our bushes and privet hedge, which presently affords us great privacy."

The Chairman asked, "other than the pool, and that's off the table, and the deck is reduced in size, does that address – is that where most of your concern was?" Canole said, "with the pool, yes. I would definitely not like a deck to be 4 feet either from our fence. I would like some separation from our property."

The Chairman asked, "anyone else here like to speak? **Then I move that we leave the public hearing open and table this application to our October 26th meeting.**"

Seconded by Member Crompt. The vote was 4-0 in favor of the motion. The meeting was closed at 7:59pm

email to: ZBA, Galbato