

# Village of Skaneateles

## Zoning Board of Appeals Hearing

### August 23, 2011

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In the matter of the application submitted by Tim McNally representing Mark Allyn regarding a lot line adjustment subdivision of two undersized lots, 8A and 8B Gayle Road in the A-1 residential district in the Village of Skaneateles.

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Present: Lisa Banuski, Chairman  
Craig Phinney, Member  
Steven Hartnett, Member  
Lee Buttolph, Member  
Larry Pardee, Member

Elaine DuBois, Clerk to the Zoning Board of Appeals  
Riccardo Galbato, Attorney for the Zoning Board of Appeals

Tim McNally - representative for the applicant.

Chairman Banuski opened the public hearing at 8:45pm.

Mr. McNally introduced himself and gave a presentation. He said, "As you can see lots A & B or lot 1 and lot 2. This is the area in question. The existing lot line comes straight down. Mark would like to move it at an angle like that. Its 23 ft. from this point to this point (pointing to survey) along the concrete dock line. It then goes back approximately 43 ft. or something like that. The reason is he now shares the south boat slip with lot 2 or 8A, the Gregory's property. Mark is buying this property and he would like to have the complete boathouse on 8B. Cleaning up all the shared right of ways and what not."

Chairman Banuski said, "So he is going to buy the property. He wants to sell part of one lot to himself for the other lot and then sell the lot that has been reduced?"

Mr. McNally said, "He doesn't know what he wants to do with that, whether he sells it or keeps it. I don't know the answer to that question but that is one scenario that could play out."

Chairman Banuski said, "To tell you the truth, this is maybe only the second subdivision that has come before us without a recommendation from the Planning Board. This is the first time we have done it kind of the other way around, with a variance. We don't get into the subdivision business very much on this Board. So pardon me if I seem less educated than I should."

Mr. Galbato stated, "The reason it was referred to this Board, even though it is a subdivision, it's a lot line adjustment which is a subdivision. They are not creating a lot but they are moving a lot line. The reason it was referred to the ZBA is that I felt that before the Planning Board could consider a final subdivision approval that the application had to be referred to this Board on the issue of the variance because the lot line adjustment will create one lot that is more non-conforming, the other lot less non-conforming but the bottom line is both lots will still be non-conforming. If this Board chooses to grant the conditional variance it conditioned, it's not final, in the sense it still has to go back to the Planning Board for them to consider all the requirements

they have to consider for a subdivision. The map can't be filed after tonight, nothing like that. It goes back to the Planning Board because there was a granting of a variance conditioned upon final subdivision approval. That is why it is before this Board."

Chairman Banuski said, "It's been my understanding there has been a pretty strict history against making lots more non-conforming in the Village. This is a pretty rare thing that we make a lot more non-conforming. I don't think we have done in the 10 years that I have been doing this. So that's why I'm taking this so seriously. Then the flip side of me says, he owns both properties, he wants to move some, and I know that the boat house is an issue with where the lot line is and sharing a boathouse. The shared barns we have in the Village, the shared driveways all of that can create a lot of problems. The Athenaeum is a case in point of why you don't want to have those shared properties. But I'm going slowly because my instinct is there is a reason why we don't do this too often."

Mr. McNally said, "Yes, and that's what he is trying to avoid."

Mr. Buttolph said, "I'd just like to make a quick statement. While I am friends with the Allyn family I do not plan on recusing myself on this. I think I can be fair and impartial. I'd like to make that statement ahead of time here. I've been to the property and my take is we've seen a couple cases, there are all kinds of weird stuff that goes on at this lake with joint ownership of property, or 10 ft then it's... It's crazy all the stuff that goes on and this is one of the craziest where a line of property goes right through the middle of a boathouse. It's the slip but it's not the top part and the maintenance issues that come along with that. I think it's a rare opportunity we get, where you have one person who owns 2 properties to just clean it up. This only leads to problems down the road. I think it's a unique opportunity to clean it up. It's not like he is cutting it half to make it more non-conforming it's a small sliver to clean up an ugly situation that it just never should have been there in the first place."

Mr. Phinney said, "It seems to me to be a logical solution to an existing problem that has been a problem forever."

Chairman Banuski stated, "Yes, but here's my problem with it and Elaine will be able to tell you and Rick too that this is not an insignificant issue in our Village. Is that if you reduce the lot line on that, the waterfront area that the property has, the lot that is having its water frontage reduced, it is subject to restrictions on whether they can build boathouses, docks, lakeside accoutrements. We have some issues in the Village right now with that very thing. Granted the next owner would buy it knowing it was smaller, so I get that. But I also wonder if it isn't really robbing this property of its future development rights to be able to use the lake as they might want to with its own boat slips, boathouse."

Mr. Buttolph said, "But the next person buying that they are going to be buying it at a probably significantly reduced, the price will be adequately reflected in future marketability to do what you would like on that property. That's what I think is a unique opportunity, is that we don't have to, it's not like the owner of the 2<sup>nd</sup> house is sitting here and we kind of have to say well they wrote a letter saying they didn't mind, but wait a minute, lets actually speak for them because they aren't here. We have one owner who owns both and is saying, this is what I want to do. I think that is a unique opportunity."

Mr. Hartnett said, "I have to agree that I think if we are splitting this and leaving a sliver worth of waterfront or leaving a 10 ft access to the waterfront. I'd absolutely be overly concerned that somebody was giving away all the positive aspects of that lot. But this appears that they are simply trying to clear an impending issue."

Mr. McNally said, "We took the minimum line. This is the concrete dock line here and we just continued that line as the minimum we could take and keep it clean. Then came to a point as soon as possible and brought it over. So we impacted this lot (A) as minimally as possible. Still leaving 60 ft. of lakefront"

Chairman Banuski asked, "Can you dock on this side of the concrete pier?"

Mr. McNally said, "Yes."

Chairman Banuski continues, "But not these people anymore. The Allyn's could then dock in front of their property. I just think it's not as simple as when I first looked. I'm glad that everyone has these questions and comments. I think that is what our job is tonight, to present these things."

Mr. Galbato said, "I'd wanted to raise a couple of things. One thought is, do you want the applicant to present to Elaine for her verification, if the subdivision is granted as proposed, does it meet the setbacks because you have a boathouse now, you are creating a subdivision, a new line. Are the setbacks met, number one. Number two, the open area for the 50 foot lake line, maybe we should be aware of the open area within the 50 ft. setback zone of the lake line because if area variances are needed because of the subdivision. So those are a couple issues. I also wanted to point out, that it appears the Gregory's also own this big parcel."

Mr. McNally stated, "It's owned by the Ida Gregory Trust, but I'm not sure who that is though. This is William Gregory and this is the Ida Gregory Trust I believe. So, does Bill Gregory have an interest in that I have no clue."

Chairman Banuski said, "I thought Mark owned both of them?"

Mr. McNally said, "It's closing tomorrow."

Mr. Galbato said, "If it's the same basic owner could... (not finished)"

Chairman Banuski said, "In addition to making one lot more undersized and more non-conforming are we creating more non-conforming waterfront over zones for those properties when we do that? With the shared boathouse there, you have to have 100ft. of shoreline to build a boathouse. So then neither one of them has that. It was a shared boathouse before so you could count both property lines, right?"

Mr. Buttolph asked, "Was it one property at one point?"

Mr. McNally said, "It was one property when the boat house was built then the property was subdivided making two non-conforming lots. The Gregory's were going to, before they sold to Mark and Nicole, they were going to move into the camp and renovate it and sell the house that are now selling to Mark. With that idea they wanted the southern slip to go with the house. They felt at that time that's what they wanted to do but they never followed through with that. They sold the house to Mark and Nicole and subsequently they developed it with their new house and basically wound up sharing the boathouse. It's worked well with the Gregory's but Mark is so concerned about it he bought it."

Mr. Buttolph said, "If you were to walk to that property without ever seeing a tax map or anything, this is where you would think the properties end. This is the logical spot."

Mr. McNally said, "There is actually concrete cut that's on that line, property lines are what they are. That one happens to be right here."

Chairman Banuski said, "But it's not permissible to build a boathouse on a lot line in the Village."

Mr. Buttolph said, "Well how about in the middle of one?"

Chairman Banuski said, "Right, so it's not just un-dividing the boat house it's creating a lot that now is more undersized and a lot that has a boathouse that we would never permit to be built. I know it's there, I get the history of it, I get all that, but it's just not quite as easy as that."

Mr. Buttolph said, "They never should have let it be subdivided that way in the first place."

Chairman Banuski said, "That's the answer."

Mr. Phinney said, "This is at least the third time this property has been in front of us since I've been here, at least the third time if not more."

Chairman Banuski said, "Me as well, but I've never been asked to approve a subdivision or an additional undersized lot, or to make it more non-conforming, and in more ways than one. Not just undersized but with all of our other zoning restrictions. So, I'm confused. You guys may not be as confused as I am. What do you think? Do you want to vote?"

Mr. Hartnett said, "Again, this would not be the final on this. This is just sending it back to the Planning Board for them to approve or disapprove. If they approve it then it would go through. So there is one more shot through the Planning Board. The one part that I missed on this, that you brought up is they could park a big huge boat, or 2 boats in front of the neighbors property."

Mr. McNally said, "It's fairly shallow there, I don't know if they could."

Mr. Buttolph said, "I don't think they could put a boat there, on that side. The Allyn's, on this side of the concrete dock."

Mr. McNally said, "What you're talking about now is the point that the Gregory property is now sold to a third party, in the future, and the Allyn's would park a boat on the south side of the concrete dock."

Chairman Banuski said, "That's kind of our job, is to look at contingencies for the future."

Mr. Buttolph said, "I have another friend who is going through dock issues. From my understanding he wanted to put a hoist that went 2 ft into his neighbor's property and he was not allowed to do that. He has come to an agreement with his neighbor to allow him to do that. He had 10 ft. of lake frontage and that's where his stuff was allowed to go. My interpretation of this concrete dock on this side is one inch off that dock is the neighbor's property. He wouldn't be allowed to park boats. That shore line is off his neighbors."

Mr. McNally said, "That line projects straight out into the lake. So if Allyn's put their boat there, he's in the neighbors, its trespassing."

Mr. Buttolph said, "The knot from the rope is on his property but the actual boat is not on his property. He has to be on this side of the lot line to put boats or whatever it may be. That's my understanding of my friend that went through a similar situation."

"I thought the property lines stopped at the water's edge?"

Mr. Galbato said, "It stops at the high water mark but you have riparian rights into the water that extend at the same angle as the property line. This Gregory property as proposed is not going to have much technical riparian rights because the angle on the south line comes pretty far north. If you look at it might have 60ft on the lake but the way it is angled in."

Mr. McNally asked, "Would that have changed much with the existing line? Well, the concrete is there. If the water rights continued on at this angle, the only thing that is there is the boat slip, and that what he's buying. So other than the boat slip the riparian line was useless because the concrete dock."

Chairman Banuski said, "Yes, actually, you have this triangle now, verses that. In some deeds don't the rights go out 100 ft.? On some of the old, some say 60ft, some say 100 ft. I don't see many of them"

DuBois said, "This also goes to the County Planning Board too, correct?"

Mr. Galbato said, "Yes, the subdivision would."

Chairman Banuski asked, "Does anyone else have any comments while we are discussing this? Is there anyone here who would like to speak in favor or in opposition to this?" No one spoke. She then said, "Then I move that we close the public hearing."

Mr. Phinney seconded the motion. The vote was all in favor.

Chairman Banuski said, "Does someone want to make a motion?"

Mr. Pardee said, "Or do we need to think about this for a month?"

Chairman Banuski said, "Then you can move that."

Mr. Phinney said, "In this particular instance, though it is a sticky-wicket and certainly if this property is sold from the Allyn's to someone else, they are going to have a heck of time trying to figure out how they are going to dock their boats. But that's also buyer beware, at that particular point in time and I'm not sure whether, if it's already nonconforming and what we are talking about, this concrete dock is already here, is just this little sliver, especially with riparian rights and stuff going on. I don't have a problem to approve it tonight."

Chairman Banuski said, "Well, why don't you make a motion and we will see what shakes out in a vote."

Mr. Phinney said, **"I move that we accept the application submitted by Tim McNally representing Mark Allyn regarding a lot line adjustment subdivision of two undersized lots, 8A and 8B Gayle Road in the A-1 residential district in the Village of Skaneateles with plans based on one page dated August 10, 2011, conditional upon final subdivision approval by the Planning Board."**

It was seconded by Mr. Harnett. The vote taken was 4 to 1 in favor of the motion. Mr. Pardee cast a no vote. The motion was declared passed and the meeting closed at 9:05pm.