

Village of Skaneateles
Zoning Board of Appeals Hearing
September 27, 2011

In the matter of the application submitted by Duane Wiedor regarding modifications to a Site Plan approved on 4-7-2011, to vary the strict application of Section 225-20E(5), Length of a temporary dock, and Section 225-20E(3)b, Side yard set-back for a temporary dock, and an interpretation of Section 225-20E(3)b, how to measure a lot line extending into the water, for the premises located at 2 Clift Lane in the Village of Skaneateles.

Present: Craig Phinney, Acting Chairman
Lee Buttolph, Member
Larry Pardee, Member
Stephen Hartnett, Member

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

Duane and Mrs. Wiedor, Applicants

B. Spalding, Skaneateles

Absent: Lisa Banuski, Chairman

Acting Chairman Phinney opened the hearing at 8:05pm announcing the application of Duane Wiedor for 2 Clift Lane.

Duane Wiedor, applicant gave a history of the project. He said, "I am the person who submitted the application for an interpretation of the Code for our lake front property. I have brought some photographs and I would like to just give you a little bit of the history of the project. In April of this year we went in front of the Planning Board and requested a permit to replace and repair a dock and a seawall at the lake property at our home. The property is 30 foot wide, by this photo. The area between the 2 fences is 30 feet and that's our property. This wall was creosote railroad tie prior. This wall was creosote railroad tie down to the water. Then there was multiple surfaces. There was poured concrete, flag stone and wood permanent dock that formed this 'L' shaped lake front patio. We replaced that. You probably have read or heard in the Planning Board meetings that there was some significant discussion with our neighbors to the north, the Mezzalinguas, in 2 subsequent Planning Board meetings. As of Tuesday, one week ago, Mr. Mezzalingua contacted us and said that he is satisfied, after his attorney presence at the last Planning Board meeting, that we have met the requirements, and that he is no longer pursuing and further review action on this part of the project.

To get Mr. Mezzalingua to feel better about the projects, one of the things that we did vary, and it's pertinent to tonight, this 'L' shaped extension that goes into the lake used to be 36 feet long out into the water. We have a deeded lake rights on this ten by thirty corner here for 2 homes above us, 104 East Lake Street and 1 Clift Lane. Those families share this ten by 30 area. What we were able to do to make it more comfortable for Mr. Mezzalingua, was pull that dock back 6 feet further towards the shoreline, after we were given permission to build it in the original shape. What Mr. Mezzalingua was seeking is more privacy onto his property. That people wouldn't be sitting far out into the water looking back in his property. So, that satisfied his concerns after the last Planning Board meeting. We built the project as you see it in the photograph. There's no other activity going on on that project. it is complete as you can see by the photo.

In the process of going through that project, Mr. Mezzalingua also asked us to get the ruling on what we can and can't do with our seasonal dock. This picture may be more germane standing at the cottage, this little yellow block building here, standing there and looking into the water. You can see that there is 2 docks out – Mr. Mezzalingua's and my own next to it. I used to take 50 feet, now it takes 56 because I shortened that dock by 6 more feet, since this original application request. Our dock and Mezzalingua's dock, the lake rights dock next to us, and private owner dock next – we are in a very shallow lakebed. We need to get out 60 feet in normal water height to get about 5 feet of water, which is about enough for a little swim platform and a boat propeller, when you drop the boat in. So, every year we've done that. We bought the house in 1998. This dock was built prior to 1950. We do have an aerial photo that shows the dock in 1984 before any property was developed on the north side. It shows the same configuration - 'L' shape dock, permanent dock with a seasonal dock in the water. The concern that we had after looking at the rules, and Bob Eggleston was our Architect on this, was is there is a side yard set-back rule that the Planning Board reviewed at the last meeting and said it applies to our seasonal dock as a structure. Therefore the set-back is 25 feet from the north and 25 feet from the south. It doesn't take long to do the math on a 30 foot property to realize that it means you can not have a dock in the Lake on any thing less than 50 feet plus the width of the dock.

So, we are first going to have to ask that the side yard set-back rules be waived for this property. It's a hardship property. I did not create it at 30 feet. I bought it that way with a dock on it. Sometime between 2001 and 2004, when the current set of rules were established, that set-back rule was put in place. I believe it is waived for the properties here in the Village, right in this long stretch of properties. I'm asking, can we waive that for this, and use the extensions. (pointing on the drawing/photo) here is the cottage, here is the permanent boat dock, here a seasonal. If we extend the property line into the Lake, can we waive the 25 foot set-back, use the property lines into the Lake as opposed to the perpendicular line into the Lake? The Code says you take either a perpendicular line for the water or an extension into the Lake and take the lesser of the 2 angles. If you did that, we would have this small little triangle right here (points) – we couldn't get 20 feet of dock out into that triangle. So, we are asking #1, can we waive the set-back and #2, can we waive the lesser of the 2 angles and stay within the property extensions into the Lake? The 3rd one is I ask for 50 feet because that's when we were going to build this dock longer. I'd like to ask the Board tonight if it's not a big change, can I ask for 60, because we had to take 6 more feet off? I'm not changing the end point. I just need to fill in 6 more feet to where we did the construction. It was a concession given to the Mezzalinguas.

An important document that I brought tonight is a letter to submit to you from Mr. Mezzalingua. He gave it to me Sunday night at 8:32pm. I'll read it. *Duane, as we discussed, we are in support of your variance as represented in the attached drawing. Please feel free to share this note with the Planning Board. Thanks, John* I'll provide a copy of that and the drawing... what Mr. Mezzalingua asked us to do, and I thought it was a pretty good idea, you can see by the photos today, the boat is to the south, this is north here, the boat is to the south of the dock. He asked to put the boat to the north. That gives more separation between his property and our property. And the boat acts like a fence in the summer season, when it's up in the dock, and provides more privacy. We thought that was a great compromise to do that. So, now that we have that in place, Mr. Mezzalingua is in support of our request.

Earlier, and it should be in the file, you have a signed letter from the owners of the property to the south. This property is owned by Mr. Sue Spalding. It's also used by 9 families on East Lake Street as a lake-rights property. I have signatures from my lake-rights owners, Mrs. Spalding, Jim Moore who is the lake-rights representative for that organization – all in support. It says the ability to put the seasonal dock in the Lake, and the same requirements that I've asked for."

Member Buttolph asked, "with this Mezzalingua letter here, per this drawing, this has 50 feet? and you want this going out 60?" Wiedor said, "same end point, but 6 more feet here. Technically, I can't buy at 6 foot segment. They are aluminum and come in tens. So, I'm asking, can we make it 6 segments. Mr. Mezzalingua is the same length as mine. You can count them. He has 8 foot segments. So he is 64 out. I'm asking for 60 and he's fine with that. We walked the property Sunday night."

Attorney Galbato asked, "Duane, your permanent dock is less than what was approved by the Planning Board?" Wiedor said, "at the last meeting is where we took it down to a 6 foot off. It is consistent to what that meeting was. This application was submitted July 13th, and that decision to pull that back was made after that date."

The Chairman read: *As witnessed by my signature below, I am either a direct neighboring property owner, or lake-rights owner of property immediately adjacent to the Wiedor lake property located at 2 Clift Lane. I/we are aware of the Wiedor request for Village approval to maintain a seasonal dock at their residence, specifically requesting the following variance of the Code. 1. the ability to have 50 feet of seasonal dock in the Lake during the boating season. 2. no side yard set-back applicable to the seasonal dock hoist installation. 3. ability to locate the seasonal dock hoist within the 30 feet between property lines as extended into the Lake in front of their property. We understand that Wiedor is requesting permission to continue installation of the seasonal dock in a similar manner in which it has been in the Lake for over 3 decades. I/we support the request made by the Wiedors. And we have 11 signatures of property owners or people who have access to the Lake have signed onto that.*

In addition, on September 26th to: *Zoning Board of Appeals – re: application by Duane Wiedor – Dear Board Members, I am the owner of 104 East Lake Road (Street) and have also access rights across the Wiedor property to the Lake shoreline. I support the request by Mr.*

Wiedor to allow is property a variance in order to have a dock extending more than 40 feet from the shoreline. This will improve the neighboring property's ability to enjoy the lakefront without damaging the physical or esthetic properties of the shoreline. Mr. Wiedor is an excellent neighbor and has continuously improved the appearance of the lakefront since taking ownership of the shoreline. His improvements have also contributed to the quality of the Lake by replacing or repairing decades old infrastructure while also being respectful of the other property owners on the Lake. Thank you consideration of this letter. Johan Visser, 104 East Lake Road (Street).

And the last one would be from Michael Williams from 106 East Lake Road (Street).
Dear Board members, I am the owner of 106 East Lake Road (Street) and a neighbor of the Wiedor family. I wish to lend my support to Mr. Wiedor's application for the extension of a temporary dock more than 40 feet from the water's edge. This extension will allow the Wiedor family and those with access rights to have the ability to enjoy the lakefront without hindrance to other property owners. Mr. Wiedor is an excellent caretaker of his property and interested in the physical and esthetic enjoyment of the Lake and the shoreline by not just himself, but by the other property owners as well. Dated the 26th of September.

The Acting Chairman opened the floor to anyone wishing to speak in favor of the application. Bill Spalding said, "I am really representing my mother who is the southern owner next door. I am also principal user since my house is up on East Lake Road (Street) at 110. We are in support, echoing really what the 2 gentlemen at 104 and 106 just wrote. Just to echo, there has been a dock there as long as I can remember. I'm pretty darn sure it was there when my grandfather was there. I know they has dock wars as who had better docks. I remember him telling me stories about that. That goes back to the thirties."

The Acting Chairman asked if there was anyone else. No one spoke. The Acting Chairman opened the floor to anyone wishing to speak in opposition. No one spoke. The Acting Chairman moved to close the public hearing. Seconded by Member Pardee. The vote was 4-0 in favor of the motion.

Attorney Galbato said, "I want to point out to the Board that the issues before you today is an issue of an interpretation, ask for a waiver, and the ultimate decision is the variance on the temporary dock as amended. We may want the applicant to modify that drawing before your vote. The modified Site Plan is before the ZBA in the sense that site plans under our Code get approved by the Planning Board. They approved a Site Plan in April. It was modified over the summer. The Planning Board had 2 meeting. At their last meeting approved the modified Site Plan, on September 8th."

Acting Chairman Phinney asked, "would it appropriate for me to read this into the record at this point.? I want to enter into the record the determinations on how we determine area variances to make sure we are totally up-front." Galbato said, "It appears that the variances needed for the temporary dock would be both sides yards and a well as both side yards combined, given the limited width of the lot."

Acting Chairman Phinney said, "The applicant requires the following:

1. A variance from 225:A5 Density Control Schedule for Left Side Yard set-back of approximately 21'; Right Side Yard set-back of approximately 19'; Both Side Yards Combined 45'

2.

AREA VARIANCES

Under section 225-75B(5)(b), the Board must balance the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination this Board shall consider and determine:

(1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

Finding: Board members have personally visited the property. The Board finds a minimal interference of additional blockage of views from neighboring properties. There will be no undesirable change in the character of the neighborhood due to the number of docks along the lake shore.

(2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

Finding: In the opinion of the Board the benefit sought by the applicant can not be achieved by some method, feasible for the applicant to pursue, other than using an area variance. The Board finds the request to be reasonable.

(3) Whether the requested area variance is substantial;

Finding: The lot dimensions along the lake is approximately 30 feet wide with approximately 36 feet of lake frontage. In the opinion of the Board, the proposed area variance would not be substantial given the existing width of the lake frontage.

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

Finding: On 9/8/11 the Planning Board when reviewing the Modified Site Plan and Temporary Dock declared itself Lead Agency, Unlisted Action with uncoordinated review and issued a Negative Declaration.

This property is a large lot in the Village but has a very narrow portion of lake frontage and it is very difficult to develop without decreasing the character of the neighborhood. However, in the opinion of the Board the proposed variance for a temporary/seasonal dock will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

Finding: The width of the property of the applicant along the lake shore is nonconforming. Self created but not sufficient reason to deny variance.

The Acting Chairman asked for comments or additions? The applicant revised the submitted drawing. The Acting Chairman asked for a motion.

Acting Chairman Phinney said, "I move that be it resolved **RESOLVED**, that the **Zoning Board of Appeals acknowledges the 9/8/11 Planning Board decision, when it reviewed the Modified Site Plan and Temporary Dock, declared itself Lead Agency, Unlisted Action with uncoordinated review and issued a Negative Declaration and therefore requiring no further SEQRA consideration; and FURTHER**

RESOLVED, that the applicant be granted a variance from 225-A5, Density Control Schedule, for Left Side Yard set-back of approximately 21'; Right Side Yard set-back of approximately 19'; Both Side Yards Combined 45'. Also to vary the strict application of Section 225-20E(5) Length of a temporary dock and in the interpretation of 225-20E(3), how to measure lot line extending into the water, for the premises located at 2 Clift Lane, per plans dated and modified on September 27, 2011."

Seconded by Member Buttolph..

Galbato said, "with regard to the motion, before you vote, or have any further discussion. Typically an area variance is a Type II under SEQR, which means no environmental review. In this case the Planning Board at my recommendation, acted at Lead Agency under SEQR, because we had a Site Plan review as well as a recommendation by the Planning Board to this Board on the issue of the area variance for the temporary dock. So, they did the SEQR review at that time. Technically, an area variance, in and of itself, is a Type II, but we don't like to segment a SEQR review. Do the entire project. You are not doing anything with regard to the modified Site Plan. The first 'resolved' paragraph is acknowledging the SEQR determination of the Planning Board.

Wiedor asked for a point of clarification? He asked, "I don't need to come back each year and ask for this again?" The Board said -no. Galbato said, "if you relocate it then that's a different issue. It could be different set-backs. Also, by way of the motion made it appears that if this motion is passed, that this Board is determining the set-backs based on extending the lot lines into the Lake at the same angles coming from the land." Member Hartnett said, "as per the notes from the Planning Board." Galbato said, "yes. I think that's consistent with their interpretation as well." Member Hartnett said, "we are also noting the change to the length." Galbato said, "yes, **on the modified plan dated tonight, by Duane.**"

The vote was 4-0 in favor. The motion was declared approved. The meeting was closed at 8:26pm.

email to: Galbato, Banuski, Eggleston, Ramsland.