

Village of Skaneateles
Zoning Board of Appeals Public Hearing
November 22, 2011

In the matter of the application submitted by Stephen and Bev White to vary the strict application of Section 225-A5, Density Control Schedule, for Percentage of open area, Side yard set-back – left and Both side yards combined; and Section 225-69d, Non-conforming Buildings, Structures and Uses, Extension or Expansion to install a 15 ft. by 18 ft. patio with 6 foot height privacy fence and install a 4 foot high fence at the property addressed as 20 State Street in the Village of Skaneateles.

Present: Lisa Banuski, Chairman
 Lee Buttolph, Member
 Larry Pardee, Member
 Stephen Hartnett, Member

 Dennis Dundon, Clerk to the ZBA
 Riccardo Galbato, Attorney for the ZBA
 Eric Sell, Codes Enforcement Officer

 Stephen White, Applicant
 Rich Krenzer, office of Robert Eggleston, Architect representing the Applicant

 Bill Hennigan, Skaneateles

Absent: Craig Phinney, Member

Chairman Banuski opened the Public Hearing at 7:45 pm announcing the application of Stephen and Bev White for 20 State Street.

Mr. Krenzer, representing the applicant, introduced himself and presented, “Rich Krenzer, architect, from Bob Eggleston’s office here for Steve White, 20 State Street. Steve and Bev propose an 18 by 15 foot permeable patio just to the east of their house off the rear porch. Where 85% lot coverage is required, they have existing 75.6% and a proposed 72.5% with the new patio. They also, along the patio, propose a 6 ft. privacy fence. There once was a fence there and they are going to rebuild what was there, and then continue a 4 ft. fence along the north property line.”

Chairman Banuski stated, “This one I do have questions about. When I went and looked at it, from the street, it looks like the driveway goes back to the two car garage and has to get all the way back there, I understand, but there is space for four cars to park on that new driveway outside the garage. It’s huge; that paved area is...if this is a two car garage, when I looked it just seemed like the entire back yard is paved. That’s a huge expanse.” Mr. White replied, “It’s the same driveway that has been there since we bought the house.” The Chair continued, “It’s not

any bigger?" Mr. White responded, "No, it's actually smaller now. And there's not room for four; there's room for three small cars. Not bigger. Now you could park another car in front of them, you could park two more down the street, too, if you wanted." Chairman Banuski said, "Right, I'm not talking about minor parking." Mr. White continued, "There's only room for three. And it's the same driveway – it's actually smaller – because we reduced the size of it." The Chair asked, "Well where was it smaller? Because I did walk around it to see; I didn't see any evidence that there had been other paved areas that weren't paved any more." Mr. White replied, "It came closer to the house but they reseeded – the whole back yard has been reseeded. And it's also been pitched and plumbed where the basin in the middle of the driveway..." The Chair said, "I did see that, from a drainage standpoint." Mr. White continued, "And that runs all the way down to the storm drain right down the middle of the driveway. What's going to go in is pitched in that direction so it all comes to our direction." Chairman Banuski asked, "So even though we don't count driveways as covered area, this is more than a driveway that you have there – whether it's been there for a long time or not – it is a small parking lot. It is. So, the problem I have is when we don't count driveways toward coverage, I think we absolutely have to count the parking area of the driveway as coverage. So, since you can't use a patio before next year anyway, I'd like to see numbers that show what the density is, with this not counted as 'not coverage' when it is completely impermeable." Mr. Krenzer replied, "But that's not part of your zoning code. We have provided parking in the garage, we don't have parking outside. His driveway is there. There is no impermeable/permeable relative to the driveway." Chairman Bauski rebutted, "But that's like saying I could pave half my back yard and say it's part of my driveway, when to me, a driveway is what comes up to your garage." She continued, "And there are a lot of people, especially with a long yard driveway like this; I see the need to have a turn-around, because to back out of that onto busy State Street would be definitely problematic. So to have a turn-around – I get that too. So, I guess what I'm saying is that if that was always there, that was always there – I can't do anything about that – but if you want to put more coverage on there, I think I can take a look at total coverage on the lot. I think that this is just a ton of paving on a pretty small lot. And now we want to pave more. The amount of grass that's back there..." Mr. Krenzer interjected, "Except that driveways don't count as coverage, so..." Chairman Banuski continued, "Well, I guess what I'm saying is what's driveway is driveway and what's parking is parking." Attorney Galbato offered, "The area of two cars is coverage." Mr. Krenzer stated, "Two cars which would be in the garage; this is a two car garage, so the parking is in the garage." Attorney Galbato continued, "Historically, the Village has counted two cars per house for coverage purposes." Mr. Krenzer repeated, "And we've got that taken care of in the garage, and then what other coverage, as far as driveway do we need to count?" Attorney Galbato said, "So your dimensions do not include that because you are saying the cars' in the garage?" Mr. Krenzer replied, "Yes." Chairman Bauski stated, "I guess what I am saying is I think the area of the driveway that isn't actually driveway leading to the garage, in other words (if you want to come and look at this area), I think that all of this, should be counted as coverage on the lot." Mr. Krenzer replied, "Except that we don't do that." Chairman Banuski continued, "Yes we do it with patios, we do it with covered..." Mr. Krenzer, "But we don't do it with driveways." The Chair responded, "But that's what I'm saying, is that's not a driveway it's a parking area." Mr. Krenzer, "OK." The Chair continued, "That's different than a driveway, so I would like to see what the numbers are for coverage on the lot, because I think we are going to be looking at almost a really huge percentage. And we can't use a patio between now and next May or April, so I don't think it harms anything to take a closer look at our numbers on this. That's what I'm

saying. I would like to see what that is because I bet we are coming close to just unbelievable amounts of coverage on this lot.” Mr. Krenzer replied, “But just what do we count it as, what do we state it as – do we say that it’s parking, well the parking’s in the garage?” The Chairman replied, “But anybody then could come and pave half their yard, for instance, and have it a parking lot and say they don’t have to count it. That’s not how it works.” Attorney Galbato asked, “Do you want to count the whole driveway or just the equivalent of two parking spaces.” The Chairman responded, “I would not ever count the part that leads up to the garage, and I would also not begrudge, from a safety standpoint, what you would consider for a back-out L-shaped turn-around. A lot of people have them; this is a particularly problematic long, narrow driveway.”

Member Buttolph asked, “How is the paved coverage any different than a patio?” Chairman Banuski agreed, “That’s what I’m saying; with what’s there now you could put three tables, umbrellas, chaise lounges; I’m not being facetious; it’s a lot of coverage and I’d like to see what the numbers are.” Member Hartnett stated “To get close to the number, basically, that same dimension here would give you that. If you are saying that’s three cars; if that’s considered the two car parking space, if you were to lay that on top of there you would get the number you’re looking at. That’s the amount of developed space you want to take out. So we’ve kind of got that dimension to work from.” The Chair clarified, “I just would like to have us all be looking at numbers on a schedule – that I don’t think that this schedule reflects is here. So that when we look at percentages...” Mr. Krenzer interjected, “We don’t take coverage of driveways.” Member Buttolph stated, “But we do of patios.” Mr. Krenzer agreed, “We do of patios because it’s a structure.” Member Buttolph continued, “The question is how is this much different than a patio.”

Chairman Banuski said, “But we do regulate driveways, when we looked at Weitsman’s, as we did, and he had to put a driveway along his entire property line – along the road line – because he wanted a long driveway, and we insisted that he make it as minimal as possible, and we counted that when we were looking at the overall coverage of that. Since there’s time on this, I think it deserves another look.” Member Hartnett said, “Just so we can compare apples to apples here, for his numbers – if you want to take the dimension of the existing garage, because that will give you the two car space, out of that there’s a number you can use. You want to leave one car length for a turnaround, rather one width, pardon me.” Chairman Banuski said, “I’m not saying anything about leaving anything or taking anything out.” Member Hartnett said, “We’re asking for new numbers for something; I’m just trying get where the numbers come from.” Member Buttolph estimated, “It would be about 5%. If you removed a garage’s worth, as you were stating, it’s about 5%.” Mr. Krenzer asked, “5% of the coverage, of the structure coverage, where driveways are not counted as structures...” Member Buttolph said, “You would go from 27 to 32. So you’d be down to...” Mr. Krenzer interrupted saying, “Driveways don’t fit into that coverage calculation anywhere, parking does.” Attorney Galbato stated, “Parking space, per the code, is 400 SF.” Mr. Krenzer agreed, saying, “Yes, and we’ve got that in the garage.” Member Buttolph persisted, “What she’s saying is why is this not considered – a patio, for instance?” Mr. Krenzer replied, “Because it’s not considered a structure in your code; a driveway. Right? Patios are, decks are...” Member Parnell stated, “It looks like a little overkill on the turnaround – too big. It could be done with just one spot to back out of the garage from this nearest spot here, work that out.” Chairman Bunuski stated, “I wouldn’t say just take out

this from that, I would say..." Member Buttolph interjected, "But as a rough estimate, if you took out that much space it's 5%. Member Pardee clarified, "It's about 400 SF; the garage is about 400 SF." Member Buttolph continued, "If you add 400 it's about 5%." Member Hartnett indicated, "I'm just trying to get a number to use. There you go." Chairman Banuski said "So if we could look at those numbers; maybe I'm all alone here with this and you guys think differently than I do, and that's fine. We are each five people with a vote, four people tonight with a vote." Member Buttolph said, "I get where you are going with it, it's a lot of pavement back there and they want to put more." The Chair said, "And I think that if we could take a second look and think of what you really need to have for vehicles and driving; I'd like to see it refined." Member Buttolph observed, "That's one of the biggest things we talk about is the coverage area." Chairman Banuski stated, "I would vote 'No' on it tonight if we made a motion and did a vote, just because it's an incredible amount of impermeable surface on a small lot – that I don't think needs to be there – it's hard to find the necessity for that much pavement in a back yard to me. I don't see a real need for it. If you guys want to proceed and do a vote, and you feel differently then, obviously, we can do that. Or we can have you go back a tweak it. I would give you the opportunity to decide what you want to do with it."

Mr. White asked, "Is it my turn to respond?" Chairman Banuski opened the comment portion of the hearing, stating, "I'll open it up for everybody, so would you like to speak in favor of this application?" Mr. White stated, "You evidently don't drive in the situation where you have to turn around and come out. That (a) is less driveway than has been there before and the reduction is from whatever is there now back toward the house. They took out about 5 or 6 ft. because there was more parking than we needed, I mean more space than we needed. However, I'm on the Fire Department, I drive a van, and it's a 120 inch wheelbase. I cannot turn around in any less than what's there. I would not be able to get out without that much space. I have been stuck in that driveway about 16 times so far, in 24 years because the plow didn't get there before I had to go out on a call. So, I'm going to have to have that space. If you're saying 'You can have your patio if you cut away the driveway' then I don't have a patio. [Rest unintelligible because of sidebar discussions]." Chairman Banuski said, "I don't know what they require for a parking space or whatever..." Mr. White responded, "Well, I would encourage you to go to the both the north side of me and to the south side of me because every single other place has that same thing." Member Hartnett said, "I'd be thinking of this differently if he was coming in asking to expand the driveway and do the patio at the same time. This was something that was already existing and he's not bringing the patio all the way up to the driveway. I absolutely see your point, and I absolutely would be thinking of this differently if he was coming in asking for a patio and an extension to the driveway to be used for additional parking. But it was a pre-existing area that he actually did reduce. It was existing there when he bought the property and, at this point, I think that we really are looking at just the addition of this patio. So I don't feel as strongly on this as you do." Mr. White and Mr. Krenzer pointed out the patio is a permeable design. Member Hartnett continued, "If it were a structure he was putting up then I'd be thinking about it differently also." Chairman Banuski said, "But this number then becomes 60-some per cent." Member Hartnett said, "I realize that; I walked it also." Chairman Banuski replied, "OK; that's why we're a Board." Mr. Krenzer offered, "And I think that number would reduce if we did not have parking within the garage. We have provided our parking coverage. And I see your point with the driveway. But we are comparing structures to driveways, and driveway is not a structure in the Village." Chairman Banuski retorted, "But that means anyone

could lay as much asphalt as they wanted in their yard and call it a driveway. That really is not the intent and that really is not how it works.” Member Buttolph said, “Think of it as just cutting it off to one small car and then the rest is the patio. That’s basically the way it looks like.’ The Chair stated, “It doesn’t matter whether it’s asphalt or flagstone; I get what you are saying, but any of us could get an asphalt truck in our yard then and say it’s a driveway – when it’s not a driveway anymore, when it’s a turnaround space.” Mr. Krenzer said, “But I struggle with how that driveway number fits into structure coverage.” Member Buttolph replied, “Because it’s essentially a patio. It’s a huge patio that you’ve got out there. It’s not a driveway, it’s a huge patio; that’s what she’s trying to say, is that don’t think of it as a driveway anymore. Once you started paving the whole back yard, it no longer – just because it’s made out of asphalt – it ceases to be a driveway. At a certain point you have to say, this is no longer a driveway this is a patio, which now counts for coverage. And I think Lisa’s right to raise the objection that this driveway has ceased to become a driveway at a certain point. Some of it, I don’t think anyone disagrees that they shouldn’t have some sort of turn-around, that they shouldn’t be allotted for that, that’s the worst street in the world to have to turn around or back out into and if they need the whole thing, well OK, but that doesn’t stop the argument that it’s a big, that’s a monster turn-around that you’ve got there. As Lisa has pointed out, at some point it has to cease becoming a driveway just because it is made out of asphalt. And I think it’s a valid point. I don’t know if I would vote against it necessarily, because of the situation – it is a permeable patio that you’re putting on – But the point is valid and should be put on the record somewhat, that we do think that a driveway, at a certain point no longer becomes a driveway.” Member Hartnett stated, “I absolutely agree with you with the exception that if he was coming in wanting to expand this to this size, strictly to use as a turn-around, then absolutely it’s a whole different ball game.” Member Buttolph stated, “Lisa’s point is not necessarily that, she may have more objection to it than I do, but before doing these nice little calculations they do down here, at what point do we stop and say ‘Wait a minute, we want it on the record that we are voting on it at 68% not at 72%’. As I said, I don’t think that I would necessarily vote against this, as it is. But I think, to Lisa’s point, that it’s not accurate. That 72% number is not necessarily accurate and are we voting on the right thing?” Member Hartnett stated, “I don’t have a problem with that at all – that’s why I was trying to say that we need to figure out how large of an area, what number do you want to use to get those numbers to be accurate. And that’s why I was coming up with about the size of the two cars which is going to be the 400 SF.” Member Buttolph indicted, “That would be about 5% added to the coverage. I agree with you that it’s pre-existing, he’s putting in a permeable patio; so I don’t know how much of a problem I have with it, but should we start to set some sort of precedent that a driveway ceases to become a driveway; at some point in time, it’s no longer a driveway.” Mr. White said, “Can I mention one more thing? This may sound funny to you, but because you are looking at brand new pavement, it looks worse that it is. It’s the same as every other driveway up and down the street – every single one of them is the same stuff. Only that’s brand new black paint and it looks huge, but it’s what I need to turn around and it’s less than I had before. I now have a little more of a struggle getting around coming out of there than I did before. But we also did the drainage so that it wouldn’t be dumping it on our neighbors. I spent ten grand extra so that it wouldn’t go into my neighbors, by putting the drainage down. But I certainly share your concern about the amount of permeable space. Member Buttolph said, “That’s certainly part of the point too, is that water is not leaching into the ground to make its way out – it’s more water that’s going into the storm drains because there’s so much there. I don’t know how much the patio is going to affect that since it is more of

a permeable flagstone patio. But I think your point Lisa is very valid and we should ask to have looked at or corrected or get another opinion on.”

Chairman Banuski asked, “Any other comments?” There was no one else desiring to speak in favor of the application. There was no one who desired to speak in opposition to the application. Chairman Banuski moved to close the Public Hearing. The motion was seconded by Member Pardee. The members present voted unanimously in favor of the motion to close the Public Hearing.

Member Pardee said, “I move that in the matter of the application submitted by Stephen and Bev White to vary the strict application of Section 225-A5, Density Control Schedule, for Percentage of open area, Side yard set-back – left and Both side yards combined; and Section 225-69d, Non-conforming Buildings, Structures and Uses, Extension or Expansion to install a 15 ft. by 18 ft. patio with 6 foot height privacy fence and install a 4 foot high fence at the property addressed as 20 State Street in the Village of Skaneateles that we grant the variances, noting that this is a Type 2 action under the SEQR regulations and that it is based on one page of drawings dated September 27, 2011. The Applicant will have 2 years to complete construction.”

Attorney Galbato indicated that he would hold his comment pending a second to the motion. Member Buttolph asked, “My question for you is do we need to have the drawings redone? I don’t necessarily want to vote for or against – as I said I would probably vote for it but I also wouldn’t mind having...” Member Hartnett interjected, “Having the numbers Corrected?” Chairman Banuski stated, “Now we have a motion so we need to act on the motion.” Member Buttolph observed, “It hasn’t been seconded yet.” The Chair agreed. Member Hartnett asked the attorney to comment. Attorney Galbato said, “A couple of things. One is, that if the Board chooses to, you have the power to issue reasonable conditions to an application in granting area variances. So if this board felt they wanted to put as a condition to the proposed approval that the driveway as shown on the site plan would not be enlarged in any way without coming back to the Village Planning and ZBA for approval, that certainly is a reasonable condition given the discussion that has taken place at the Public Hearing...” Member Pardee interjected, “Even considering he just did all that? How long ago did you do the driveway Steve? Within the last couple or three months?” Mr. White replied, “Just finished it a couple of weeks ago.” Member Buttolph stated, “But by redoing the drawings, that guarantees that they can, because now they are saying, we’ve gotten them to say, that this is not driveway. That’s not to say that Bob is not going to come screaming and yelling down here next month to say this isn’t right...” Attorney Galbato said, “A driveway, technically speaking, is a structure under the definition of structure in our code, but historically Mr. Battle did not count a driveway for coverage, with the exception, that for single-family homes, he would count the equivalent of two parking spaces for coverage. So it would be, in our code, considered as a parking space 400 SF. So I added 800 SF to the calculations if you wanted to amend the calculations before any vote, Lee, you could do that.” Member Hartnett clarified, “So we would vote based on that drawing with the corrected numbers.” Attorney Galbato said, “You just have to do the variance percentage; I didn’t subtract that out. We could have the representative double check those numbers.” Member Hartnett added, “And with the restriction that it would not be expanded.” To which Mr. White responded, “I can’t afford to expand it anymore.” Attorney Galbato clarified, “But it wouldn’t just be you, it

would be whoever buys your property that would be bound by the decision of this Board.” Attorney Galbato offered Mr. Krenzer the opportunity to double check his calculations. There was a sidebar discussion on how many square feet were representative of the two parking spaces. All agreed that the appropriate number should be 400 SF to be added to the coverage calculation in addition to the parking space provided within the garage. The Chair stated, “I definitely think the motion should reflect the new numbers, the new percentages, and that should be in our file, because that’s what we are voting on.” Member Buttolph indicated, “That’s what I would prefer to vote on.” Member Pardee stated, “The proposed coverage area goes to 36.72%.” It was noted that the open space would be the reciprocal of that number or 63.28%. Attorney Galbato sought to clarify, by saying, “So what we have done is we have added 800 SF, taking into account two parking spaces, 400 SF each, adding it to the lot coverage as it exists and the lot coverage as proposed.” The Board members observed that the addition should be 400 SF. Mr. Krenzer said, “You have it written right, right here. We always took parking spaces as 10 by 20 in the Village or 200 SF per.” Members Buttolph and Pardee corrected the coverage calculations on the one page drawing dated September 27, 2011 to reflect coverage of 32% and open area of 68%, by adding 400 SF to the coverage.

Member Pardee amended his motion, “I move that in the matter of the application application submitted by Stephen and Bev White to vary the strict application of Section 225-A5, Density Control Schedule, for Percentage of open area, Side yard set-back – left and Both side yards combined; and Section 225-69d, Non-conforming Buildings, Structures and Uses, Extension or Expansion to install a 15 ft. by 18 ft. patio with 6 foot height privacy fence and install a 4 foot high fence at the property addressed as 20 State Street in the Village of Skaneateles that we grant the variances, noting that this is a Type 2 action under the SEQR regulations and that it is based on one page of drawings dated September 27, 2011. The Applicant will have 2 years to complete construction. As a condition of this approval, the driveway, turn-around and parking areas, as shown on said drawings, are not to be expanded or enlarged in any way without coming back to the Village Planning and ZBA for approval.”

The Zoning Board of Appeals voted as follows:

- Voting yes: Members Hartnett, Pardee and Buttolph
- Voting no: Chairman Banuski
- Absent: Member Phinney

The Chairman declared “The motion is passed.” The Chairman closed the Public Hearing at 8:18 pm.