

Village of Skaneateles
Zoning Board of Appeals Public Hearing
October 23, 2012

In the matter of the application submitted by **Francis Moran** to vary the strict application of Section 225-A5 Density Control Schedule for Front yard set-back, Side yard set-back, Right, Both side yards combined and Percentage of open area; and Section 225-14C (5) (a/b) Accessory Buildings, distance to lot lines or structures to construct a two story four bedroom dwelling with deck, 2 car garage and driveway at the property addressed as **62 Fennell Street** in the Village of Skaneateles.

Present: Lisa Banuski, Chairman
John Crompt, Member
Stephen Hartnett, Member
Larry Pardee, Member
Craig Phinney, Member

Riccardo Galbato, Attorney for the ZBA
Adam D'Amico, Code Enforcement Officer
Dennis Dundon, Clerk to the ZBA

Bob Eggleston, architect, representing the Applicant
Frank Moran, Applicant

Herbert Alexander, 19 West Austin St., Skaneateles
Bob Chapman, 60 Fennell St., Skaneateles
Patti Chapman, 60 Fennell St., Skaneateles
Mark Waite, 11 Day Lane, Skaneateles
Nancy Dezio, 48 West Genesee St., Skaneateles

Chairman Banuski opened the Public Hearing at 7:30 pm announcing the application of Francis Moran for 62 Fennell Street.

Mr. Eggleston introduced himself and presented, "Frank has owned this lot on the corner of Fennell and Austin for some time, anticipating that he may want to build on it." Mr. Moran said, "1976." Mr. Eggleston continued, "The lot is small; it is 7900 SF lot, but yet it is not the smallest lot in the neighborhood. It is on the corner. I have gone through the tables, because it is an existing non-conforming lot we do have Section 225-70 to work off – to give us percent lot widths to work with as opposed to the dimensional table. What we have designed is a 26 by 48 foot house. It has a small, little kitchen addition on the front with a porch. We have taken our cues from traditional village architecture to make it look like a traditional home that had been there for some time. We followed a lot of the standards that Parkside uses for trying to get village-quality homes -- for instance, the house is up 3 feet off grade instead of being just 2 steps

up. It is more traditional in that regard -- and in using more traditional fenestration, windows, that type of thing. What he wanted was to have a house that had living space and a bedroom on the first floor, plus some bedrooms on the second floor. So it is a 4 bedroom house. We have put in a detached garage. We chose to make it detached so that we actually had some yard that they would appreciate from the back of the house, looking into the yard before the garage.”

Mr. Eggleston continued, “It is a corner lot. The rear yard is this east line which is supposed to be 15 feet. We are proposing a 5 feet setback. We are required to have a 3 foot setback off the side yard. We have put in a 5 foot setback there. Yet this rear yard is in effect a side yard to the adjacent property, so it’s not out of character having a 5 foot setback on that east yard. The Variances that we are looking for is the percent of open area, that will be 71.6%, where 85% is required. 71% is not out of character with some of the smaller houses on this lot, especially once you come around the corner to Elizabeth Street. I think Green’s is more like 60% open space. The front yard on Fennell Street is conforming. We are allowed to have a 21.5 foot setback based on the street average – I have the calculations on how I came up with that here. But yet we wanted to put it visually in line with the house at 60. Because Austin and Fennell are not 90 degrees to each other, we made it parallel to Austin, so it does take a slight kick off from Fennell Street, so it does help with that transition around the corner. The right side yard will be 79 feet where 10.6 is required based on the 20% of the lot width. The left side yard that is actually the other front yard on Austin, we are proposing a 10 foot setback whereas the street average is about 17.9, once you go further up. We are at 17.3 on the adjacent house, so that will be just a little bit forward in the front there. Are there any questions that you have relative to the proposed project?”

Chairman Banuski said, “It seems like a really big house for a really small lot. I understand the desire to build on the lot, and to have it be useable and to have the detached garage. I think it is an elegant plan and a very attractive house, but it is so big.” Mr. Eggleston interrupted, “Is there a question there?” Chairman Banuski said, “No, there is not a question.” Mr. Eggleston said, “So that’s a comment. Were there any other questions?”

Hearing none, Chairman Banuski said, “Then I’ll open it up for comments. Is there anyone here who would like to speak in favor of this application?” Mr. Moran said, “Well I could say a few words. I have talked to some of the neighbors; I showed them the blueprints and the pictures of the house. I talked to Dr. Maurillo and he signed a form saying that he was in favor of it. I also talked to the Chapmans, they are at 60 Fennell Street. I talked to them but I didn’t have the blueprints at the time, but then again I called them when I got the blueprints to set up an appointment. But they said they thought that maybe they could come to the Village and see the blueprints. I didn’t think they could do that.” Chairman Banuski said, “Yes, they can.” Mr. Moran continued, “And I haven’t heard back from them, like they say ‘no news is good news’. I can’t speak for them but I think that they would be in favor of it. They are close neighbors. I also talked to Stuart and Carol Cook, they are directly across from the house and they signed – both of them signed – that they would be in favor. I have been trying to get hold of some of the other people that are on Austin Street. I’ve been looking at the houses on Austin Street and I would say this is not out of character to at least half the houses on Austin Street. Most of them are colonials, two-story, and I think it would fit in very nicely.”

Chairman Bauski asked, "What is the height of the proposed house compared to the house next door on Fennell Street? Because that is a 2 story house, but it is very modest in height." Mr. Eggleston, "Well, our house is 26 ½ feet high as measured per Zoning requirement. I don't actually have a height for those houses up there. I think this first one is like a little more story-and-a-half, but then the next one after are all full 2 story houses. The O'Neil's and Cooper's are full 2 story houses as you're going up." Member Phinney said, "I have a question. I have a detached garage on my house on Genesee and I'm farther away than what your garage is, but I walk on macadam which is my driveway to get from my garage to my house. And here it looks as if, particularly in the winter, you are going to be walking across the middle of your yard to get in – or going out and having to use the public sidewalk access. Long term, do you have any thought of putting in a pathway of some sort or something to make it more convenient without having to go out on the road?" Mr. Moran, "Bob and I discussed this and I've taken a lot of pride in that lot. I've kept the grass cut; it's always looked nice, and I'll do the same with this property. I think it would be real nice to have a garden between the house and the garage. Now maybe you have got to walk along the sidewalk, but I don't think that's going to be a problem for me." Mr. Eggleston said, "Also, sidewalks don't count in the open space." Member Phinney said, "That really wasn't my point Bob, it was how do you like walking out of the garage and walking down the sidewalk every day with your stuff to get into the house in the winter. Or maybe long term it makes more sense to have something through the garden, which changes coverage again." Mr. Eggleston, "Actually, it doesn't change coverage and you wouldn't need a variance to do it. I know those details that you are inspired with once you get it in place." Member Phinney, "It's a curiosity question."

Chairman Banuski asked, "Is there anyone else who would like to speak in favor of this application? Is there anyone who would like to speak in opposition?" Mr. Chapman said, "I guess I would. My name is Bob Chapman and this is my wife Patti. We own the property at 60 Fennell. It has been in my wife's family for 80 years; three generations now. When my wife's dad bought the other family members out in 1987, he was told that that was a non-building lot next door. When we talked to Mr. Moran and got the notification from the Village, which we appreciate the process very much, and that's why we are here. But we do have some concerns. Our house is a 2 bedroom house. It sits next door; it was built in 1880. Even in today's zoning we are well in compliance to that. We are 17 feet to the property line to the north. The back of the house to the property line there's 77 feet. And to our neighbor to the right we are 45. And 27 feet to the sidewalk. I sort of like open space, but I understand there's zoning to permit houses to be built. In the case of houses that are already here, there is nothing you can do about that, or I could do about that. But we are concerned about the size of the house that's being erected. In your opening comment it seems like an awful large house for the lot – I'd have to agree with that. I have looked at it from every angle saying 'wow that's a lot of house' and I have tried to educate myself since the notification; I have been up here to see Adam a couple of times, I've been to my attorney – just trying to educate myself in codes so I don't waste this group's time."

Mr. Chapman continued, "I put down some thoughts so I wouldn't lose them. The variances requested again are for 3 sides of the property. The only one in compliance is Fennell Street, which I appreciate, since that does leave our view of Fennell Street. But looking at the north side, which is another street, it to me should have nice setback from the street of 17.9, using the

architect's numbers, requested 10 feet. Looking at the back side, where 15 feet is required, we are looking at 5. Our side – and I tried to understand the zoning density control schedule – if I looked at that and tried to put full zoning, so to speak, into effect – I could live with that. I'm looking at 15 feet from his building to our property line which gives a little air space; we have 17 now. I don't see where there was any consideration given to the adjacent neighbors in this build-out. I'm 150 feet of property to the north side, and I'm looking at the back of the house with 7.9. Even if you use the code for existing buildings, the minimum is 8 feet. I really like the zoning as it is at 15 feet from my property and Fennell Street. And we are the adjacent neighbors, so hopefully we have the opportunity to present our side to it. The north side is going from 17.9, which is the street average to requested 10 feet, which when I read the zoning code is the minimum you can go. The east side is looking to go from 15 to 5. The south side, using the percentage breakdown for modification, going from 10.6 to 7.9. And the two sides, using the density control, which says they have to be 35 feet – that's 17 feet short of that. Not even close in my opinion. It's definitely a concern about the size of the house to us, that's being built there, after being under the understanding that it couldn't be built there. And the open space going from 85 to 71 – there are a number of variances that are being asked for on this house. Three sides, and the open air space.”

Mr. Chapman continued, “When Mr. Moran first approached us we were working on our property next door, mowing the lawn. He told me he was looking to build a house there. We did get the notification from the Village and I guess in my mind I was looking probably for more of a retirement house than a 4 bedroom home. When I got the plans and started looking into it, I was surprised. As I dug deeper into the situation and looked at the factors for determining or granting a variance:

- Undesirable change in the neighborhood – I think so from the adjacent landowner.
- Alternatives to the variance – I think there are also. If a house can be built, build a smaller house. Too large to me are the 3 sides and the open space.
- Adverse effect or impact on the physical or environmental conditions -- I think so, but I think this one can be remedied. That lot floods in the spring, though I think that drainage can probably be fixed.
- The last one that I looked at was Self-created hardship – I read that to the best of my knowledge and I think that's also a situation where the property was bought at a certain point in time. The property hasn't shrunk since it was purchased; so whatever was purchased... If I was purchasing a piece of property, I would have done my due diligence if my intention were to build on it.

So as I see the plans as written, my wife Patti and I are opposed to it as it is on paper as the adjacent landowner. Hopefully I have stated my reasons.”

Mr. Chapman continued, “I do have a question or two if I may ask them.” Chairman Banuski, “Sure.” Mr. Chapman, “I guess, again I'm trying to understand what the zoning is for the front of the house if it is on a corner lot. The tax rolls have it identified as 62 Fennell. The front of the property in this case is going to face Austin Street, with the front door being there from what I can see from the plans and also the driveway. Do you have two fronts or do you have to pick a front?” Mr. Eggleston interjected, “Actually on a corner lot you have two front yards. You have a primary front yard and the secondary front yard actually is allowed 2/3 of the required front

yard setback, so you have some leniency for that. Because you have a primary front, then you have one rear yard, and then you have one side yard, because your other side yard is a front yard.” Mr. Chapman, “But the two side yards, according to zoning, have to equal 35 feet, is that correct?” Mr. Eggleston said, “Correct.” Mr. Chapman, “I don’t live on Austin but if I were, I’d be here saying ‘this house is awful close to the road versus the other ones’. Here again they aren’t here, we are.” Mr. Eggleston said, “And the confusion is that Section 225-70 doesn’t address both side yards, they address each side yard. So there could be a question as to whether the Both Side Yards part applies to the application or not.” Mr. Chapman, “Right, and whether the percentage you have used for the front yard on West Austin – that’s the way I interpreted 225-70 when I read it.” Chairman Banuski, “It is confusing, I will say. I still struggle with the whole corner lot; the primary and secondary front yards. So you have chosen to make Austin Street the front door. Will there be an address change for that?” Mr. Eggleston, “We don’t know. The legal address is Fennell Street. Obviously we looked at it both ways and we felt that it was better to present it as a Fennell Street front yard, because the side yard requirement was less than the rear yard requirement for that south side if we picked Austin. Actually we had 15% instead of 20% for a; so the 15% would make a smaller setback than the 10.6, except I think there is a minimum, no less than and that would have put us higher than the 10.6. So we did look at it both ways and we chose to do Fennell Street because Fennell Street was the legal address already assigned to it. We chose to put the front door on Austin just because it is a more residential street, where Fennell Street is a mixed commercial and residential street. So that’s why we chose to put it on that side. We could eliminate the porch, but I think porches is a very important part of the texture of the village. And that’s one of the standards – not that we’re obligated to them – in Parkside that you have to have a porch, not just a stoop on a house. So that’s why we chose to put a porch across a third or half of the house, and put it on the corner. I also wanted to just clarify – he’s making it sound like the house requires three setbacks on three sides. That’s not the case. It’s only two sides on the north side and the south side. The rear yard of the house is 50 or 60 feet. It’s the detached garage that needs a rear yard setback, and that’s a separate structure. So the garage requires one variance for side yard and the house only requires the south side and the north side.”

Chairman Banuski, “But the project requires three, I think is the point. The project requires three side setbacks, with variances.” Mr. Moran, “May I make one quick comment. I did a canvass of Austin Street. I believe that over half the homes on Austin Street are 2 story. So I don’t think it would be out of character. The other thing is I don’t know much about the real estate business, but when you build a real attractive home in a neighborhood, you really bring the value of the other homes with you. In other words, having that particular home there I think would do a lot for the neighborhood. I really do. I think John Maurillo, who lives directly across the street, and Stuart & Carol Cook who are directly across the street, and John Maurillo’s home is a 2 story – Maurillo’s is a 2 story, I believe Herb Alexander’s is a 2 story and there’s a couple more. In fact there’s been some work done on one property that the home on Austin Street would be a lot larger than that one. Chairman Banuski, “The 2 stories is really; it will make a difference. It is very high compared to 1 ½ story house. But a variance is given not for the height on this, so it’s not an issue that we’re considering.” Mr. Moran interrupted, “Sure, I understand. I’m just throwing out comments on my behalf. The other thing is I think it would be better on the tax rolls because it is going to be assessed a lot higher, that lot. So I think there’s benefits here that

will go with the house. I think that Bob's done a great job designing it, and I think it's going to be a nice property if it gets built."

Mr. Eggleston said, "I think one of the challenges the Zoning Board of Appeals has and has done a reasonable job with it, is that we all know that the Zoning law has no relationship with the character of Skaneateles. Probably 90% of the properties are non-conforming. None of them are 30,000 SF in the A2. Very few lots are 30,000 SF in the A2 district. It's unfortunate and the comprehensive plan the last two revisions has strongly suggested that the Village revise its Zoning law to reflect the character. They have, for whatever reason, decided not to. It is incumbent upon the Zoning Board of Appeals to look at it not so much as a percentage of the differences, because most properties have substantial percentage of differences from what the zoning requires to what the character is. Really it has been a function of trying to say 'is this in keeping with the village and is it out of character with the village and the neighborhood'. Obviously we are interested in hearing your comments and suggestions or things like that. Yes it's not going to be a 1 1/2 story little 1,000 SF bungalow. The house is only 2200, 2400 SF which is not an excessively large house. So we're interested in hearing what remedies or suggestions. Again, we could do an ugly box that fits the criteria closer, but we don't want to do that. We want to have porches on it. We want to have the architectural elements that meet -- that are appropriate for the village."

Mr. Chapman, "If that's the case where it doesn't fit the zoning, as an adjacent property owner I don't understand why they have [unintelligible]... if the rules that are put in place by the village are not going to be followed. I'm taking the flip of this if I may. I live next door, we own the property next door, so to me, I'm looking at the density control saying at one point in time, regulations that were put in place to protect the village and the adjacent owners and hopefully common sense. To me those are three criteria and if I didn't live next to and I didn't own the property and I lived a mile away from there, I wouldn't even be here. But I'm the adjacent owner, the most affected by 150 feet. I'd rather see the smaller box and the zoning enforced. That's my position."

Mr. Alexander said, "I'm Herbert Alexander and I'm the other adjacent owner. I reside at 19 West Austin, which is to the rear of the house. I agree with Mr. Chapman on all of his points. With the garage being so close and being big, will take all the sunlight from my side yard and my gardens and the stuff on my side will have to go away. And I object to that size house being built on that small of a property. And there again, when I bought my place about 13 years ago, maybe 14, I was told also that that was not a buildable lot, and that factored into my decision to purchase the property."

Chairman Banuski said, "Well it is a buildable lot. I don't know where that information came from. But the Zoning code does specifically address undersized lots. When you talk about a 2 story house and the setbacks, this is, I agree, a 2200 SF house is not a big, giant house. But it is a big, giant house on that lot. And the 2 stories that we don't have the authority to dictate the height or regulate the height -- that are all within the guidelines. But it is so close to the property line, that it does become a factor for the adjacent neighbors. So the neighbors that signed off on it -- the Maurillos are across the street, and they will look at a big house from 50 feet away. The

neighbors across the street the other way, will be the same thing. So we have two neighbors that actually will be the most affected by it.”

Mr. Alexander said, “The other thing I’d like to interject is I wasn’t notified about this project until I got the notice from the Village. No one contacted me.” Chairman Banuski said, “No one is required to. The Village is required to.” Mr. Alexander, “I understand. But it appears that every other neighbor in the neighborhood has been contacted. Now I have been restricted to my home because I got a torn ligament in my foot. I’ve been restricted to my home for the last 3 months. It was only until today that I was able to start getting out. I was always home.” Mr. Moran, “Herb, I did go up on your porch and ring your bell. I went up on your porch on two different occasions, two different days, and I assumed that maybe you and your wife were on vacation. Personally, I don’t see where this; the house is going to be pretty far from your property in relation to the whole design. The garage might be a problem, but I don’t think you’re going to lose your garden. I don’t think that it’s going to crowd you out at all. I just think that maybe, if you’d like, maybe we could move the garage closer to the house. I’m willing to cooperate. The other thing, I’ll be honest with you, I don’t remember when I bought this house, but I could find the deed – but I think I bought it just about the time that zoning came into the Village.” Mr. Chapman, “The property was deeded in 1981.” Mr. Moran, “My property I’m talking about.” Mr. Chapman, “Yours was deeded in 1981.” Mr. Moran, “I don’t – maybe it was, maybe it was. It could have been in that area. I thought around ’76, but it is so long ago...” Mr. Eggleston, “And the zoning changed in 1986, creating about half of these variances. The open space was increased. The side yards used to be 10 foot side yards; that was increased to 15 feet. So there were a number of – and I remember very distinctly the time, that was about the time Ellstein project was being proposed and everyone wanted two acre zoning in the Village. It was the sense of what was going on – everyone was afraid that we were going to look like a village and not like suburbia.”

Chairman Banuski said, “I think that you can design and build a great house and garage on this property that doesn’t adversely impact the neighbors so much, and also that doesn’t require the setback variances that you are looking at. That’s my opinion. I think this house is too big for this lot. We have a code in place to deal with a situation like this, and I think it is too much house for the lot.” Mr. Eggleston said, “Can I take two minutes to consult with my client?” Chairman Banuski said, “Sure.” [Off the record] [Back on the record] Member Hartnett, “Are we back?” Mr. Eggleston, “We are back. I do want to comment that I have been working with Frank on this for quite a while, and he has obviously taken the time to try to make it right – and also I think he has gone way out of his way to try to talk to neighbors. Unfortunately when you have neighbors that don’t live next door who own the property it’s hard to contact them. He did try contacting Mr. Alexander from the east side several times, but was not successful. So obviously we do have some additional information that we hadn’t had before. What we would like to do is to table this and have us re-look at the footprint to see if there are ways to make it less non-conforming. I know and you know, that it would be virtually very challenging to have it conforming to everything in the Zoning law, just because of the nature of the Zoning law and its lack of reflection of the neighborhood. But we’ll see if we can reduce several of the variances to make it a little more palatable to the Board and also to the neighbors.”

Chairman Banuski said, “Then I will move that we table action on this application and continue the public hearing to our November 27, 2012 meeting.” Member Crompt said, “I’ll second that.” Upon the unanimous vote of the Members present in favor of the motion, the motion was declared passed. Mr. Eggleston thanked the Board.

The Chairman closed this proceeding at 8:04 pm.