

Village of Skaneateles
Zoning Board of Appeals Meeting
October 25, 2023
Village Hall

Public Hearing in the matter of the application of **Daniel & Candice Bennett** to vary the strict application of Section 225-A5 Density Control Schedule for Front yard setback; Side yard setback, left; Side yard setback, right; Both side yards combined; Minimum open area; Percentage of structure width/lot width; and Minimum lot area; and Section 225-69(D) Non-conforming Buildings, Structures and Uses, Extension or Expansion; to construct an addition with finished basement on the western side of the existing single family dwelling, to construct a mudroom and to construct a rear patio at the property addressed as **62 West Elizabeth Street** in the Village of Skaneateles.

Present: Gerald Carroll, Chairman
Joshua Kemp, Member
Jean Miles, Member
Walter Nyzio, Member
Michael Stanczyk, Member

Riccardo Galbato, Special Counsel
John Crompton, Code Enforcement Officer
Ian Carroll, Municipal Planning and Development Coordinator
Beth O'Sullivan, Deputy Zoning Inspector
Dennis Dundon, Clerk to the Boards

Bill Murphy, Architect, on behalf of the applicants
Candice Bennett, applicant
Dan Bennett, applicant

Tyde Richards, Village Trustee
Lisa & Jeff White, 107 Weathervane Way, Syracuse
Amy Roller, 72 W Elizabeth St
Ron Butchart, 72 W Elizabeth St
April Shatraw, 15 E Lake St
Jeff Moro, 53 W Elizabeth St
Peter Babbles, 2704 E Lake Rd

At 7:15 pm Chairman Carroll opened the public hearing for the Bennett matter at 62 West Elizabeth Street.

Mr. Murphy submitted letters from neighbors supporting the Bennetts' proposal for the record. Mr. Murphy represented that there have been no changes to the proposal from the proposal that was previously before the Board and that was withdrawn by the applicants. The Bennetts now wish to continue with the proposed changes. Mr. Murphy said that he has brought his model so he can show the Board views from all around. He asserted that the open area decreases to 74.1% from the existing 82.1% as a result of required parking spaces.

Mr. Murphy noted that the proposed application requires area variances. To present a more acceptable proposal, the applicants removed a garage, left the shed, put the addition on the west side of the house, and removed the proposed porch. Though the lot lines are not perpendicular to the street, there is lots of room to the west between the houses. Mr. Murphy argued that the patio and trellis do not impact open area the same way that a solid wall does, yet they are counted the same. These two coverage elements, the patio and trellis, do not seem like enclosed spaces. A guest bedroom has been provided in the lower level; it is important for guest/family visits. There is a small addition off the back for a laundry and mudroom. Completion of these improvements will allow them to stay in the home and the neighborhood.

Member Miles asked if the numbers are the same? Mr. Murphy asserted that the numbers are the same as when the application was here previously. Member Stanczyk asked what the original application was? Mr. Murphy stated that there was a garage proposed where the shed is now, and there was a two-story addition. Member Stanczyk noted that this is a tough lot since it is on an angle. Mr. Murphy repeated that there is a lot of distance to the neighbor's house. Member Stanczyk asked if the basement is dry? Mr. Bennett asserted that it is dry, but low. Mr. Bennett is 6 foot three and he has a 1-inch clearance. Chairman Carroll asked if the proposed open area is 70.27%? Mr. Murphy said Yes, down from 79.63% existing. Member Miles asked about the combined side yards? Mr. Murphy asserted it is 24.8 feet, which is a 10.2% variance that is being requested.

There were no further questions from the Board and Chairman Carroll asked for public comment. Ms. Roller said that she lives down the street and supports their plan. They need green space and more house. Ms. Shatraw said that she had met Ms. Bennett at the playground. They are a fantastic family that needs more space. **Chairman Carroll, "I move to close the public hearing." Member Stanczyk seconded the motion. Upon the unanimous vote of the members present in favor of the motion, the motion was carried 5 – 0.**

Chairman Carroll said here's the problem. The Code requires 85% open area. While elected public officials can change that requirement, they have not. The open area requirement is a hurdle. Nor have elected officials amended the code to provide any guidance as to the acceptable magnitude of variances such as '...85%, but in no case less than 70%'. We consistently see lovely families and growing families. But until the Code changes, there is no limiting principle to the magnitude of a variance.

Member Kemp said that when he looks at this application, he does not see 70%. It is open and well-designed.

Member Stanczyk said the Code is the Code. It is tough in the Village with small and oddly shaped houses.. When the Board faces an acute issue, it has the discretion to grant variances where needed. Also, the decision to build downward, minimizes variances from the first application.

Member Kemp believes that the Board can find ways to handle such situations on a case-by-case basis.

Member Miles said that the Board is charged with granting the minimal variance—and this is a big variance.

Member Nyzio stated that open area is a hot button. He feels that the parking square footage requirement is ridiculous. The Board grants variances for most conditions. The Board grants sizable variances in some conditions. Open Area is not more important. But there is no guidance as to what number should take precedence.

Member Kemp noted that the Board members are all volunteers who are giving back to the community. Member Stanczyk said that the granting of variances is a balancing test. Member Nyzio asked at what level does a variance become substantial?

Chairman Carroll said that the Board needs to look at the character of the neighborhood if it gets down to 70%. Member Kemp asserted that granting such a variance is not precedent-setting. Chairman Carroll reminded the Board that the test a court would apply is whether the Board's decision was arbitrary and capricious – so numbers do matter.

Mr. Murphy argued that this is an extremely small and oddly shaped lot. He asserted that the Code's requirement of 600 SF for parking is wrong. He argued that a parking space is 9 by 20 feet or 180 SF. So, two spaces would be 360 SF. If the 600 SF were reduced to 360 SF, he asserted that the two larger spaces take him from 77% open area to 70%. Further, the patio is open.

Member Stanczyk, "I move that the Board approves the area variance application of Daniel & Candice Bennett to vary the strict application of Section 225-A5 Density Control Schedule for Front yard setback; Side yard setback, left; Side yard setback, right; Both side yards combined; Minimum open area; Percentage of structure width/lot width; and Minimum lot area; and Section 225-69(D) Non-conforming Buildings, Structures and Uses, Extension or Expansion; to construct an addition with finished basement on the western side of the existing single family dwelling, to construct a mudroom and to construct a rear patio at the property addressed as 62 West Elizabeth Street in the Village of Skaneateles pursuant to drawings dated 09.14.2023. This is a Type 2 action under SEQRA and as a condition of approval, the applicant shall have until 06.01.2025 to complete. As a further condition of approval, the back patio is to remain open air with no siding, no cover and no wall." Member Kemp seconded the motion. Upon the votes of Members Kemp, Nyzio and Stanczyk in favor of the motion, with Chairman Carroll and Member Miles voting No, the motion was carried 3 – 2.

This matter was concluded at 7:43 pm.

Respectfully submitted,
Dennis Dundon, Clerk to the Boards