

# Zoning Board of Appeals June 16, 2021 Minutes

Quick links to applications within these minutes:

- [Z2021-03 Fink Area Variance](#)
- [Z2021-04 Garski Area Variance](#)

Chair Douglas Purcell opened the public hearing at 7:00pm.

Members of the public in attendance: Richard Fink, Lynn Garski.

Chair Douglas Purcell announced that the meeting would be recorded. He said the meeting is being conducted as a teleconference in compliance with NY Governor Andrew Cuomo's Executive Orders 202.1 and 202.15, and extended through July 5, 2021 with Executive Order 202.110.

Chair Douglas Purcell asked for a roll call.

Chair Douglas Purcell: Present.

Frank Malagisi: Present.

Kathleen Ellerby: Present.

John Byrnes: Present.

Kenneth Coirin: Present.

Quorum was established.

Chair Douglas Purcell said the meeting minutes of March 30, 2021 were published to the web previously. He asked if there were changes or corrections to the minutes from that meeting. Hearing none, he moved to waive the reading of the minutes and to

approve the March 30, 2021 minutes as published. Kenneth Coirin seconded the motion. All were in favor. None were opposed.

Chair Douglas Purcell said there were two applications before the board tonight. He said each would be addressed in two segments: a public session and a closed session. He said that during the public session the Board would hear first from the applicant, then from the public and any correspondence. He reminded those present that all comments should be addressed to the Board. He said that during the open portion, the Board would refrain from asking questions or making comments: The Board would do that during the closed session.

Chair Douglas Purcell said board would hear application [Z2021-03](#) by Richard Fink for the property located at 382 South Shore Trail and identified as parcel [52.18-1-29.11](#). He said the property owner proposes to square-off an existing deck with an additional 50 square feet of coverage, which lies within the shoreline setback. He said the new portion would begin 28 feet from the high water mark. He then asked Richard Fink to present the application and talk about the justification for the proposed project.

Richard Fink said the structure was rebuilt in 2010. He said the deck then proposed is as it is right now. He said part of the deck was installed with a diagonal across the front which happens to coincide with the porch ingress and egress on to the deck. He said that meant that a third of the deck could not be use because it is used for back and forth. He proposes to square the deck off for better use of the space. The view of the railings will not change from the front or the side. He said it was the most minor change he could propose to make it fully functional. He said the total change will be 49 square feet addition to the deck structure. He said it

would be no closer to the water or side lot line. He said there would be no impact on neighbors or view.

Chair Douglas Purcell asked if there if there was any public comment. There was none. He asked the clerk if there was any correspondence. There was none. He closed the open session at 7:05pm and went into closed session. He asked each Board member if they had any questions or concerns.

Kenneth Coirin said he was content that it wasn't going any closer to the high water mark.

John Byrnes said he had no concerns — no neighbor concerns.

Frank Malagisi said he visited the property and he had no questions or concerns.

Kathleen Ellerby asked why the deck wasn't squared off back in 2010.

Richard Fink said it was an issue with ZBA and APA back in 2009 and 2010 and was suggested by his architect.

Kathleen Ellerby said she had no problem with the application.

Chair Douglas Purcell asked if that was holding tank buried next to the camp.

Richard Fink said it was septic tank that was being installed and the pier would not interfere with the tank.

Chair Douglas Purcell said he was confused about the distance from high water mark.

Richard Fink said the original preexisting structure that existed in 2010 was 11 feet from the high water mark and the new 2010

proposed distance was 28 feet. He said that is where things are right now. He is not proposing to be any closer to the water. He said he felt this was the minimum change necessary to accommodate what they are trying to do. He said he is trying to keep the change as small as possible to minimize the impact to himself, the neighbors, and the community.

Chair Douglas Purcell said he thought the applicant did a great job with what was proposed. He said that in reviewing the Short Environmental Assessment Form, the SEQR determination would fall into a Type II action and he quoted from [N.Y. Comp. Codes R. & Regs. tit. 6 § 617.5\(c\)\(9\)](#):

construction or expansion of a primary or accessory/appurtenant, non-residential structure or facility involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and consistent with local land use controls, but not radio communication or microwave transmission facilities;

Chair Douglas Purcell said there being no additional questions or comments and with a no significant adverse determination by the Zoning Board of Appeals during the SEQR review, the Board will review the criteria for an area variance. He read from the [Zoning Ordinance Article 11, § II\(3\)\(a\)\(2\)\(ii\)](#).

In making its determination, on an area variance application the ZBA shall take into consideration 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 the ZBA shall also consider:

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;

Kenneth Coirin said no.

John Byrnes said no.

Frank Malagisi said no.

Kathleen Ellerby said no.

Chair Douglas Purcell agreed.

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;

Kenneth Coirin said no.

John Byrnes said no.

Frank Malagisi said no.

Kathleen Ellerby said no.

Chair Douglas Purcell agreed.

3. Whether the requested area variance is substantial;

Kenneth Coirin said no.

John Byrnes said no.

Frank Malagisi said no.

Kathleen Ellerby said no.

Chair Douglas Purcell agreed.

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

Kenneth Coirin said no.

John Byrnes said no.

Frank Malagisi said no.

Kathleen Ellerby said no.

Chair Douglas Purcell agreed.

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

Kenneth Coirin said no.

John Byrnes said no.

Frank Malagisi said no.

Kathleen Ellerby said no.

Chair Douglas Purcell agreed.

Chair Douglas Purcell quoted from the Zoning Ordinance.

The ZBA, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

Chair Douglas Purcell said he would entertain a motion.

Frank Malagisi moved to approve [Z2021-03](#).

Kenneth Coirin seconded the motion.

Roll call vote:

Chair Douglas Purcell: yes.

Frank Malagisi: yes.

John Byrnes: yes.

Kenneth Coirin: yes.

Kathleen Ellerby: yes [after some communication technical difficulties were resolved].

Chair Douglas Purcell said the variance has been granted and will be referred by the ZBA to the Adirondack Park Agency. He said the APA has 30 days after receiving a complete referral to reverse the variance and if it is not reversed by the APA, Code Enforcement will notify the applicant, at which time the building plans will be reviewed and a determination made as to whether to issue a building permit. He said the ZBA clerk would submit the package to the APA.

Chair Douglas Purcell said the ZBA would hear [Z2021-04](#) by Lynn Garski for the property located at 621 South Shore East Caroga Road and identified as parcel [83.13-7-5](#). He said the property owner proposes to build a 16 foot by 24 foot garage. He said the applicant is seeking relief on lot coverage and side yard setback. The proposed structure will exceed the allowed lot coverage of 1,127 square feet by 333 square feet and is 3 feet 4 inches within the allowed 13 feet 4 inch side yard setback.

Lynn Garski said she had applied to ZBA last year and received a permit for a 12 foot by 24 foot garage and received relief of 10 feet and APA did not reverse. She was unable to proceed due to COVID-19 disruption: she was unable to find contractors. She realized she had requested too narrow a structure. She wants 14 foot by 24 foot garage. She is asked for 10 foot side setback. She is looking for an additional 48 square feet over the variance granted previously. She reviewed the dimensions and coverage.

Chair Douglas Purcell noted there were no members of the public attending at this point. He asked the clerk if there was any correspondence.

The clerk said there was none, but the clerk noted at this time that neighbor notifications to Cory L French and to R Calvin Courtney were returned as undeliverable.

Chair Douglas Purcell closed the open session at 7:25pm. He asked when the building permit was issued.

Lynn Garski said she received a permit in October 2020.

Chair Douglas Purcell noted that the applicant still had a valid permit. He said the reason we are here meeting again is because



the prior application was for a smaller garage than what the application is for now.

Lynn Garski agreed. She said it was her preference for the garage to be two feet wider.

Chair Douglas Purcell said was confused because he thought he'd seen an email where Code Officer Jennifer DeRocker-Blowers has reported that the applicant had found wood prices had gone up to the point where it was going to price the applicant out of being able to afford the bigger garage.

Lynn Garski said no, the difference was that a pre-built garage over 14 feet wide costs a lot more to ship because of the extra escorts, so the vendor would have to build onsite.

John Byrnes asked Chair Douglas Purcell about the percent coverage differences.

Chair Douglas Purcell, in answering the question posed by John Byrnes, discussed with the applicant various dimensions, area calculations, and percentage calculations to determine that the percent coverage was 30% over, or equivalently 130% of, the allowed 10% area coverage.

John Byrnes concurred that arrived at the same percentages.

Chair Douglas Purcell reiterated to the applicant that 100% over would be double the allowed 10% area coverage. Thus, the applicant was asking for 30% over the allowed coverage for the property.

Lynn Garski said she already had 288 square feet approved previously.

Chair Douglas Purcell said he agreed. He said the ZBA was not questioning that. He said the ZBA was questioning what the applicant was asking for now.

Lynn Garski said OK.

Chair Douglas Purcell asked John Byrnes if he had any other questions.

John Byrnes said he did not.

Kathleen Ellerby wondered why the extra two feet.

Lynn Garski said 12 foot garage is less than 12 with the studs inside. She said she could not get everything into the 12 foot wide garage.

Kathleen Ellerby asked if the elevation drawing was what was being proposed.

Lynn Garski confirmed that it was.

Kathleen Ellerby said that was her only question.

Frank Malagisi asked if the garage was going on the right side when viewed from the road.

Lynn Garski said yes.

Frank Malagisi said that was all the questions he had.

Kenneth Coirin said he had no questions.

Chair Douglas Purcell said he had a concern that the drawing the applicant submitted doesn't show anything but the original 12 foot by 24 foot garage. He said the applicant had said that Code Officer

Jennifer DeRocker-Blowers had asked for a new drawing. He the asked for the status of a new drawing.

Lynn Garski said she herself had the new drawing. She asserted that what happened was that Code Officer Jennifer DeRocker-Blowers asked the surveyor Chris Foss to total up the number of square feet of the house and there was an issue with version control on the drawing files and that Chris Foss edited the older drawing with a 12 foot by 24 foot garage and submitted that instead. She looked through here files for a newer drawing.

The Clerk said he had only received a single Ferguson and Foss site plan.

Chair Douglas Purcell said he had a concern that if the ZBA proceeds with the existing site plan and send it to the APA with the wrong dimensions, they could have an issue with the site plan.

Lynn Garski said she lost communication when the battery was depleted on her Mac, while Chair Douglas Purcell was speaking.

Lynn Garski said she would get an updated map from surveyor Chris Foss.

Chair Douglas Purcell said that the original application is for 16 feet by 24 feet and the drawing has 12 feet by 24 feet. He said he was concerned about taking action on this application and submitting this to the Adirondack Park Agency and the APA will be thoroughly confused because nothing agrees.

Frank Malagisi moved to table [Z2021-04](#).

Kathleen Ellerby seconded the motion.

Chair Douglas Purcell said he was of the same opinion.

Clerk suggested the reopening date be specified.

The Board and applicant discussed a date for reopening.

Chair Douglas Purcell moved to amend the motion on the floor to include reopening on June 29 at 7:00pm.

Frank Malagisi accepted the amendment.

Kathleen Ellerby seconded the amendment.

Roll call vote:

Chair Douglas Purcell: yes.

Kathleen Ellerby: yes.

John Byrnes: yes.

Frank Malagisi: yes.

Kenneth Coirin: yes.

Chair Douglas Purcell stated that [Z2021-04](#) has been tabled until June 29 at 7:00pm. He said he would contact Code Officer Jennifer DeRocker-Blowers. He asked the applicant to contact surveyor Chris Foss to get a corrected drawing to the Code Office. He asked if there was any other business to be brought before the board.

There was none.

Kathleen Ellerby moved to adjourn.

Frank Malagisi seconded the motion.

All were in favor. None were opposed.

The meeting adjourned at 7:58pm.

Respectfully submitted

James McMartin Long

Town of Caroga Town Board Member,

Zoning Board of Appeals Clerk/Secretary