**Town of Otsego Zoning Board of Appeals (ZBA)**

Minutes – June 17, 2025

(Will be approved with any necessary amendments at the next meeting)

**PUBLIC HEARINGS**

**25.04 – 112 Lake Shore Drive LLC (John & Robin Phelan) – Area variances, adding deck within 100 feet of Otsego Lake in RA1 district – 112 Lake Shore Drive (#69.44-1-26.00)**

Chairman Greg Crowell opened the 112 Lake Shore Drive public hearing at 7:03 PM, and asked if anyone from the public had questions or comments about the application. No one responded. Crowell closed the hearing.

**25.05 – Fly Creek Fire District – Area variance, electronic sign – 832 County Highway 26 (#114.05-1-46.00)**

Chairman Greg Crowell opened the Fly Creek Fire District public hearing at 7:04 PM, and asked if anyone from the public had questions or comments about the application. No one responded. Crowell closed the hearing.

**REGULAR MEETING**

The monthly Town of Otsego Zoning Board of Appeals (ZBA) meeting was held on this date at the Town Office Building in Fly Creek, N. Y. Chairman Greg Crowell called the meeting to order at 7:04 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell, John Dewey (vice-chairman), Tony Scalici, and Ken Marx. Sal Furnari was absent. Deane reminded the Board that three votes were required to pass any motion. Zoning Enforcement Officer Wylie Phillips was also present.

Chairman Crowell asked whether any Board members had an ethical or legal conflict with any of tonight’s applications. No one reported any conflict.

The Board reviewed the minutes of May 20, e-mailed to the members. Ken Marx said that the motion to approve the Fitzpatrick variances should include that they were from Section 2.01 of the *Land Use Law*. Marx moved to approve the minutes as amended. Chairman Crowell seconded the motion and it was approved, 4-0.

Deane said there was no correspondence received since the last meeting. The Board moved on to applications.

**APPLICATIONS**

**25.04 – 112 Lake Shore Drive LLC (John & Robin Phelan) – Area variances, adding deck within 100 feet of Otsego Lake in RA1 district – 112 Lake Shore Drive (#69.44-1-26.00)**

Clerk Bill Deane read aloud from the minutes of May 20 relevant to the 112 Lake Shore Drive application. Zoning Enforcement Officer Phillips said the ZBA application fee had been paid. Applicant John Phelan was present.

Chairman Crowell said he had visited the property, and noticed many decks in the neighborhood, most of them bigger than the one proposed. Expressing concern about water runoff, Crowell asked Phelan what the composition of the deck would be. Phelan said it would be spaced boards with tread, and that there would be no excavation except for the footers in front.

John Dewey asked why Phelan decided on a 15x18’ deck, rather than a smaller one. Phelan said it would cover a sloped section of property which was essentially unusable.

Ken Marx wondered whether there would need to be a variance on the north side of the property, in addition to the ones on the east and south sides already discussed. The Board reviewed the plans and determined that it would require a four-foot variance on the north side. Chairman Crowell added this to the application and Phelan initialed it.

Chairman Crowell moved to approve the variances requested: a 27-foot variance on the east (Lake) side; a 21-foot variance on the south side; a four-foot variance on the north side; plus a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake. Crowell said that that there is no more feasible way to achieve the benefit sought, other than a retaining wall with terrace, which would be more disruptive to the environment; that the proposed project will be in keeping with the neighborhood, which includes many decks; that the requested variance is substantial, but the deck is proportional to the size of the lot; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood; and that, though the alleged difficulty is self-created, it is reasonable when weighing the benefit to the applicant against any possible detriment to adjacent properties.

Tony Scalici seconded the motion and it was approved, 4-0. Phelan asked to be put on the July 1 Planning Board agenda.

**25.05 – Fly Creek Fire District – Area variance, electronic sign – 832 County Highway 26 (#114.05-1-46.00)**

Clerk Bill Deane read aloud from the minutes of May 20 relevant to the Fly Creek Fire District application. Zoning Enforcement Officer Phillips said the ZBA application fee had been paid. Representatives Sam Hoskins and Paul Kehoe were present.

Chairman Crowell said his only concern was possible use of the sign for commercial purposes; public service messages or advertisement of non-profit ventures (e.g., Fly Creek Area Historical Society events) would be acceptable.

With Crowell’s input, John Dewey moved to approve the area variance from *Land Use Law* Section 5.03 (4), allowing an electronic sign, with the condition that the sign not be used for commercial purposes. Dewey said that there is no more feasible way to achieve the benefit sought; that the proposed project will produce no undesirable change in the neighborhood; that the requested variance is not substantial; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood; and that, though the alleged difficulty is self-created, it will produce an improvement, and is reasonable when weighing the benefit to the applicant and public against any possible detriment to adjacent properties.

Tony Scalici seconded the motion and it was approved, 4-0.

**25.06 – Robert Nixon – Area variances, addition to existing building within 100 feet of Canadarago Lake in RA2 District – 204 Bibik Road (#52.11-1-30.01)**

Applicant Robert Nixon said he wants to add a 13x15’ bedroom on the Bibik Road side of his existing camp; the addition would be about 75-80 feet from Canadarago Lake. Nixon submitted a check for $75 (delivered to the Town Clerk) for the ZBA application fee.

Allowing for one-foot roof overhangs, the Board determined that the following variances would be needed: a seven-foot variance on the north side; a ten-foot variance on the south side; plus a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Canadarago Lake. Chairman Crowell asked permission for Board members to visit the property; Nixon granted it.

Chairman Crowell moved to deem the application complete and schedule a public hearing for July 15. John Dewey seconded the motion and it was approved, 4-0.

Responding to Nixon’s questions, Clerk Bill Deane explained the process and timeline involving potential approvals by the ZBA and Planning Board. Deane advised Nixon to work with Zoning Enforcement Officer Phillips in preparing for the Planning Board.

**OTHER BUSINESS**

Chairman Crowell said that neighbors Henry Knoop and Jessica Gorman were appealing the Henrici area variance granted by the Board on May 20. In a letter dated June 3, they claim the decision inadequately considered that the applicant did not demonstrate any hardship, and that the alleged difficulty was self-created. Crowell read aloud *Land Use Law* Section 9.02 (D), which allows the Board to review its decision in such a case.

Chairman Crowell said that, by statute, the applicant is not required to demonstrate hardship for an area variance (only a use variance), and that being self-created is not determinative in the decision. Crowell said the minutes recorded that the Board had addressed self-creation and considered the unique circumstances of the property. He said he did not see any purpose in a re-hearing of the case.

Knoop and Gorman noted that a 1993 ZBA variance (copy in file) on the property referenced applicant Mercedes Gotwald “offering a deed restriction to have no further development on the parcel,” among other restrictions. Clerk Bill Deane noted that these restrictions were apparently not put in the deed for this property, and that deed restrictions are not normally under the purview of the Planning Board or ZBA. Deane said that Planning Board Attorney Jill Poulson is supposed to look into this and hopefully will have some answers during the July 1 Planning Board meeting. Chairman Crowell said he also wanted to contact Town Attorney Will Green for legal advice about the matter.

Chairman Crowell moved to table the matter until July 15. John Dewey seconded the motion and it was approved, 4-0.

Zoning Enforcement Officer Phillips said the Cornfield Hall is for sale, and prospective buyers may want to use it for more events than it is currently used for. Phillips wondered whether this would constitute an increase of non-conformity in a pre-existing, non-conforming property. Chairman Crowell said he would look into this.

Clerk Bill Deane said he did not feel it was appropriate to amend the minutes with something that wasn’t said during the meeting in question. The minutes are a record of what happened during each meeting, not what should have happened. Chairman Crowell said that additional information could be put on the record during the next meeting, rather than as a correction to the previous minutes.

With no further business, at 8:37 Chairman Crowell adjourned the meeting.

Respectfully submitted,

Bill Deane, Clerk