

Town of Otsego Zoning Board of Appeals (ZBA)

Minutes – May 21, 2024

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

PUBLIC HEARING

24.04 – Ken Marx – Area variances, privacy fence & retaining wall within 100 feet of Otsego Lake in RA1 district – 6600 State Highway 80 (#84.08-1-32.00)

Chairman Greg Crowell opened the Marx public hearing at 7:05 PM and asked if anyone from the public had questions or comments about the application. No one responded.

Clerk Bill Deane read aloud an undated letter from Geoffrey & Christine Bell of Browdy Mountain Road, objecting to the proposed project, and saying the fence would block their views.

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 7:08 PM and led the Pledge of Allegiance.

Roll call was taken by clerk Bill Deane. Board members present were Crowell, Sal Furnari, and Corrinne Armstrong. With John Dewey (vice-chairman), Tony Scalici, and second alternate member Antoinette Kuzminski absent, first alternate member Mary Anne Whelan joined the meeting table. Deane reminded the Board that three votes were required to pass any motion. Town Zoning Enforcement Officer Wylie Phillips was also present.

The Board reviewed the minutes of April 16, e-mailed to the members. Armstrong moved to approve the minutes as written. Whelan seconded the motion and it was approved, 4-0.

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

Deane said that the only correspondence received since the last meeting was related to the Otsego Land Trust application, most of which had been forwarded to the members via e-mail, printed out for the file, and/or entered into the record during the May 7 Planning Board meeting. It included a five-page letter from Steve Talevi, reiterating previous points; an April 30 e-mail from Mandy Mahoney, expressing concerns; a letter from Otsego 2000, expressing support; and an e-mail from absent member John Dewey, expressing his thoughts about the project. Chairman Crowell read aloud an April 20 letter from Andy Rodd of Otsego Area Rowing, and an April 25 letter from Lang Keith, both in support of the project. In response to the latter, Furnari cited a state statute empowering the Board to impose conditions.

The Board moved on to the applications.

APPLICATIONS

24.02 – Otsego Land Trust – Area variances, addition of boardwalk within 100 feet of Otsego Lake in RA1 district – 6000 State Highway 80 (#99.00-1-32.01)

Otsego Land Trust Executive Director Gregory Farmer was present. Clerk Bill Deane read aloud from the minutes of April 16 relevant to the OLT application. A 20-minute public hearing was held on that date, with mostly positive comments but also some duly-noted concerns. The ZBA tabled the application to tonight.

Chairman Crowell said he did not think the proposed project was out of character with the neighborhood. He noted that OLT's web-site has five pages of rules and regulations for use of the property.

Farmer distributed photos and spoke from a written statement about the project, which he said represents the public's only free access to the Lake.

Neighbor Steve Talevi asked for the opportunity to respond to the applicant's statements. Farmer and Joe Homburger objected to this, saying the public hearing had already been held and closed. After allowing Talevi some latitude, Chairman Crowell said he would allow nothing further unless the Board had questions for Talevi.

Chairman Crowell moved to grant the variances requested, specific to the proposed project: a 35-foot variance on the east (rear or Lake side), and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake. Crowell said that, due to the layout of the wetlands, there is no more feasible way to achieve the benefit sought; that, with no evidence that the property's use will increase beyond the special permitted use granted by the Town Planning Board in 2015, and with the existence of numerous other docks in the area, no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; in fact, a raised wooden walk will better protect the wetlands and shore from degradation than a grade-level footpath, and relocation of the canoe and kayak launch will greatly reduce the congestion and safety issues involved with the current location next to the Sailing Club; that the requested variance is substantial, but installing a raised walk is the best solution for crossing the wetlands and providing dock access, especially for the handicapped; that, with stipulated conditions and proper oversight, 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, per *New York Town Law* 267-b, paragraph 3, that "shall not necessarily preclude the granting of the area variance"; furthermore, it is reasonable when weighing the great benefit to the applicant and the community served against the minimal detriment to adjacent properties. He added the following conditions: (1) Improved directional signage shall be installed by OLT, clearly directing motorists away from the Talevi property; (2) Maintenance of existing signs mandating dog leashing, with an additional such sign installed at the bridge; (3) If not already mandated, OLT must prohibit alcohol consumption, fires, cookouts, amplified music, or gatherings on the property to the north of the bridge, installing signage along the north property line designating "Private property, please be respectful"; (4) A removable bollard(s) shall be installed in front of the bridge to prevent unauthorized motor vehicles from crossing.

Discussion followed. Farmer asked to discuss the proposed conditions. Sal Furnari raised other possible concerns. Mary Anne Whelan said that Furnari was getting caught up in hypotheticals. Furnari impugned Whelan's judgment and attentiveness. Chairman Crowell censured Furnari.

Corrinne Armstrong seconded the motion and it was approved, 4-0. Farmer asked to be put on the June 4 Planning Board agenda.

24.04 – Ken Marx – Area variances, privacy fence & retaining wall within 100 feet of Otsego Lake in RA1 district – 6600 State Highway 80 (#84.08-1-32.00)

Clerk Bill Deane read aloud from the minutes of April 16 relevant to the Marx application. In response to the Bell letter, Chairman Crowell said he didn't see how the project would block anyone's views.

Crowell moved to grant the variances requested, specific to the proposed project: a 28-foot variance on the south side, a 15-foot variance on the east (rear or Lake side), and a variance from *Land Use Law* 4.04, which prohibits new construction within 100 feet of Otsego Lake. Crowell said that there is no other feasible way to achieve the benefit sought; that no undesirable change will be produced in the character of the neighborhood, nor detriment to nearby properties; that the requested variance is substantial, but based on the optimal location for the fence; that the project will have no adverse effect or impact on the physical or environmental conditions of the neighborhood, and in fact will have a positive effect by stabilizing the bank; and that, though the alleged difficulty is self-created, it is reasonable when weighing the benefit to the applicant against the lack of detriment to the public. Corrinne Armstrong seconded the motion and it was approved, 4-0.

Marx asked to be put on the June 4 Planning Board agenda.

OTHER BUSINESS

Zoning Enforcement Officer Phillips said he had nothing new to report. As of now, there are no pending ZBA applications.

Clerk Bill Deane said that, if the ZBA did have a meeting on June 18, it would be in the main Town room, due to an election being held in the meeting room that day. Sal Furnari said he would not be able to attend the June or July ZBA meetings.

With no further business, at 8:12 Chairman Crowell adjourned the meeting.

Respectfully submitted,
Bill Deane, Clerk