

Shutesbury ZBA Meeting Minutes
October 14, 2020 Virtual Meeting Platform

Zoning Board members present: Chuck DiMare/Chair, Jeff Lacy, and Andy Berg

Zoning Board alternates present: Herb Gilmore

Staff present: Tessa Dowling/Land Use Clerk

Guests: Meaghen and Steve Mikolajcuk, David Holmes, Karen Keegan, Roy LaClaire, Toni Tygard, Glen Humphriss, Katie Cero, Corey Carvalho

DiMare calls the meeting to order at 7:01pm.

Statement relative to conducting virtual meetings following the Governor's restrictions on public meetings is read into the record by Dowling.

At 7:03pm, Gilmore moves and Berg seconds a motion to approve the 9.30.20 meeting minutes; the minutes are unanimously approved as presented.

Public Hearing Continuation for a Special Permit/Variance (Case 20-002): Application of Steven & Meaghen Mikolajczuk for Reconstruction of a house at 32 Lake Drive

At 7:04, DiMare opens the continued hearing for Special Permit Case 20-002 at 32 Lake Drive.

DiMare acknowledges that photos were taking by Gilmore and himself of the mock up of the project from 33 Lake Dr. at the invitation of the landowner, David Holmes.

Berg mentioned that while he did not take photos he did stop by outside 33 Lake Dr. to observe how the 32 Lake Dr. project would affect the neighbor's view of the lake.

The photos taken by Gilmore and DiMare are shared on the zoom video screen and Holmes confirms that they show the different views of the lake from his property at 33 Lake Dr.

It is confirmed that a land easement on a property across the street from 33 Lake Dr. protects the lake shoreline and that specific view of the lake (the view is shown in HG Photo 2 and CD Photo F). In CD Photos A and B the view is partly obstructed by the mock up. In CD Photos E, F, and G the view is not obstructed.

DiMare reads the letter submitted to the ZBA from Evan Jones, owner of 64 Lake Dr. DiMare corrects the error in the letter that states the maximum height allowed in the district is 26 ft. The maximum is 28 ft. Jones also submitted an aerial photo showing a series of lake houses along Lake Dr., which is shared on the zoom video screen. Mikolajcuk confirms that the house in the photo marked with a yellow arrow is 32 Lake Dr. DiMare comments that some of the houses neighboring 32 Lake Dr. are two stories tall. Holmes mentions that these houses do not have abutters across the street.

DiMare asks for comments from abutters in reference to the photos.

Humphriss and Tygard voice their support the project.

Holmes voices concern over having multiple shoreline properties expand to two stories that will affect the view across the street.

Tygard and Humphriss mentioned that the Mikolajcuk's plan to cut down a tree on their property that would open up the view and protect the neighborhood as it is dropping branches.

Per Cero, Holmes has lived on Lake Dr. for over 30 years and looking in one direction more than 50% of his lake view would be blocked by the project.

DiMare asks for comments from ZBA members.

Lacy expresses concern that more houses in that neighborhood would increase to two stories and could create a wall of houses that would block the view of the lake.

Cero asks the Mikolajcuks if there will be more windows facing 34 Lake Dr. The Mikolajcuks explain that there will be one additional window and the windows may increase in size. They are not planning to use skylights.

Cero asks for clarification concerning the porch. Per Mikolajcuk, the porch would be three-seasoned, enclosed in Plexiglas. The stairs would be gone. The porch would not extend much further than the current steps.

Mikolajcuks conducted research to learn what recently plans were approved, such as at 67 Shore Dr. where the abutter compromise was a height of 26 ft. when the district allows for 28ft.

Per Lacy, within the Lake Wyola District, if a property has a full sized lot then the house on the property can reach a maximum height of 28 feet as a matter of right (no special permit required).

DiMare asks for comment from members again.

Gilmore refers to bylaw related to this project section 6.3 (3) and the focus on the structure and use of the property. Berg does not think the project is substantially more detrimental to current structure and is in favor of the project.

Lacy references his concerns from the meeting of 9.30.2020.

Per DiMare, the ZBA needs to apply the regulations as they exist. There is a minor loss of view in this case. The ZBA could work with the planning board to change the maximum height for future special permit projects in the lake district. Per DiMare, the ZBA does not have to use the 9.3-2 bylaw criteria but the applicant does meet these criteria.

Discussion of what defines detriment to neighborhood. Loss of view could decrease property values across the street.

Lacy explains that his attorney friends Bob Ritchie and Joel Russell are visiting around November 6th. Lacy gets permission from Holmes to observe his view of the project with his friends. Members also mention the possibility of using town council for advice.

Cero and Holmes do not support the project.

Statute 40A Section 9: special permits require unanimous approval from a three-member board. At this point two members support the project and one is opposed.

Special Permit Hearing for Case 20-002 will be continued to November 23, 2020 at 7pm.

Motion, Discussion & Vote to increase application fees for Special Permits/Variations from \$300 to \$400 & Site Plan Review from \$100 to \$200 (tabled from the September 30, 2020 ZBA Meeting)

At 9:52pm, Gilmore moves and Berg seconds a motion to approve the increase in application fees from \$300 to \$400 for Special Permits/Variations and from \$100 to \$200 for Site Plan Review effective January 1, 2021; the motion is unanimously approved as presented.

Education/Guidance

No one came forward for education or guidance. Corey Carvalho attended the meeting as he has recently joined the Town of Goshen's Zoning Board of Appeals.

New Business

Lacy proposed that the ZBA assess the lake neighborhoods in regards characteristics such as lot size, nonconforming uses, and expanded structures. Per DiMare, the ZBA and planning board could discuss a change in the zoning bylaw that gives the lake new districts. Per Berg, the bylaw amendment could add more codes.

DiMare suggests setting up a visit of the lake neighborhoods with the planning board. The discussion will be a future agenda item.

At 10:01pm, Berg moves and Gilmore seconds a motion to adjourn the meeting; the motion passes unanimously.

Respectfully submitted,
Tessa Dowling
Land Use Clerk