

**TOWN OF DAY ZONING BOARD OF APPEALS**  
**REGULAR MEETING MINUTES - Draft**  
**August 16, 2021**

**Pledge**

**Roll Call**

**Members Present:**

Dave Davidson  
Steve Edwards  
Harry Brennan  
Don Poe

**Members Absent:**

Al Graham

**Counsel:** Matt Fuller

**Others Present:** Nick Zeglen of Environmental Design Partnership, LLP, and Jim Zalewski Edmonds Drafting and Design.

Chairman Dave Davidson opened the meeting at 7:00PM

**Motion**, made by Don Poe and seconded by member Steve Edwards to approve the meeting minutes from the July 19, 2021 Regular Zoning Board of Appeals meeting.

**Ayes:** Dave Davidson, Harry Brennan, Don Poe, Steve Edwards

**Carried: 4-0**

**Old Business:** Variance Application Joseph and Jackie Kennedy (scheduled for tonight's Public Hearing). Chair Davidson noted that the drawings were updated and the letter of denial was revised by the Town of Day Code Enforcement Officer Ken Metzler with the new roof height adjustment.

**New Business: Public Hearing** Area Variance Application from Joseph and Jackie Kennedy, SBL 41.1-52.12

**Public Hearing** officially opened at 7:05pm.

Nick Zeglen who is representing Joseph and Jackie Kennedy came before the Board with the project designer Jim Zalewski of Edmonds Drafting Design. When Nick appeared before the ZBA on July 19, 2021, the Board requested that the drawings show the chimney and building height and more detailed measurements. Nick showed the Board that the revised plans are now more specific and detailed regarding building heights. Jim pointed out that the chimney height was in line with the main roof height. He also noted that the preliminary building height was previously 40 ft. and it has come down to 38' 6 ½".

Chair Davidson noted that they are requesting an 8 ft. 6 ½" variance, and if the variance is granted by the ZBA, and they were to exceed that height they would not be in compliance. That was understood by both parties.

Chair Davidson asked about the basement because on the application it was said to be a conventional two-story house. He sees it as a three-story house because of the walk-out basement. It is not underground. It was explained to Board Members by Jim that the lot is sloped and based on the steep site there were constraints to work around. Member Edwards said from the back of the house and the grade that it is only two stories.

Chair Davidson saw no other issues with the project. Member Poe motioned to close the public hearing, seconded by Member Brennan. Chair Davidson said that the ZBA will now determine if the height variance of 8' 6 1/2" will be granted based on the extreme slope of the lot. He read from the **New York Planning Federation, Summary of Area Variance Criteria** and asked the Zoning Board of Appeals members to consider the following criteria:

1. *Whether benefit can be achieved by other means feasible to applicant:* No -all Board Members were in agreement.
2. *undesirable change in neighborhood character or detriment to nearby properties;* No - all Board Members in agreement.
3. *whether request is substantial;* No - all Board Members were in agreement. *Dave feels it is substantial as it requires a variance request as does Don and Harry, but that this is due to the site constraints.*
4. *whether request will have adverse physical or environmental effects;* no - all Board Members were in agreement. However, Chair Davidson asked if run-off control was thought about for the driveway. Nick said that EDP did take that into consideration and has sloped the driveway properly for run-off.
5. *whether alleged difficulty is self-created (which is relevant, but not determinative);* no - all Board Members were in agreement.

Chair Davidson asked that the Board Members make a proposal. Member Edwards offered to grant the variance request. Member Poe motioned to accept the variance. All members polled to grant the variance:

**Polled:**

Chair Davidson, yes

Member Harry Brennan, yes

Member Steve Edwards, yes

Member Don Poe, yes

Chair Davidson noted that we will let the Kennedy's know that the ZBA's decision will be official once the Adirondack Park Agency (APA) approves the variance and ZBA writes the resolution. The APA was notified last week about the Kennedy's variance application however, it can take up to 30 days for APA approval. They will also receive a copy of these meeting minutes. If they agree we create the resolution to make the variance official. If the APA finds issue with the project that will be between the APA and the Kennedy's to resolve any issues prior to the ZBA's resolution.

**Motion** made by Member Brennan and seconded by Member Poe to accept the variance application as complete.

**Continuing Business:** None.

**Correspondence:** None

**Secretary's Report:** None

**Motion** made by Member Poe and seconded by Member Brennan to **adjourn** this regular meeting of the Town of Day Zoning Board of Appeals was made at 7:25 PM.

**Ayes:** Steve Edwards, Don Poe, Harry Brennan, Dave Davidson

**Carried 4-0**

Respectfully Submitted,  
Diana Edwards, Clerk