



CITY OF SARATOGA SPRINGS

City Hall - 474 Broadway
Saratoga Springs, New York 12866
Tel: 518-587-3550 fax: 518-580-9480

[FOR OFFICE USE]

(Application #)
REC'D JUN 06 2016
(Date received)

APPLICATION FOR: APPEAL TO THE ZONING BOARD FOR AN INTERPRETATION, USE VARIANCE, AREA VARIANCE AND/OR VARIANCE EXTENSION

| | <u>APPLICANT(S)*</u> | <u>OWNER(S) (If not applicant)</u> | <u>ATTORNEY/AGENT</u> |
|---------|----------------------|------------------------------------|-----------------------|
| Name | Theresa Capozzola | Peter and Theresa Capozzola | |
| Address | [REDACTED] | | |
| Phone | [REDACTED] | / | / |
| Email | [REDACTED] | | |

* An applicant must be the property owner, lessee, or one with an option to lease or purchase the property in question.

Applicant's interest in the premises: Owner Lessee Under option to lease or purchase

PROPERTY INFORMATION

1. Property Address/Location: 57 Gilbert Road Tax Parcel No.: 166 - 3 - 14
(for example: 165.52 - 4 - 37)

2. Date acquired by current owner: 57 - 8/30/1993 3. Zoning District when purchased: RR-1

4. Present use of property: Residential 5. Current Zoning District: RR-1

6. Has a previous ZBA application/appeal been filed for this property?
 Yes (when? 6/6/16 - Current For what? side yard set back with 55 gilbert)
 No

7. Is property located within (check all that apply)? Historic District Architectural Review District
 500' of a State Park, city boundary, or county/state highway?

8. Brief description of proposed action: _____
 Area variance to allow home office in detached garage.

9. Is there a written violation for this parcel that is not the subject of this application? Yes No

10. Has the work, use or occupancy to which this appeal relates already begun? Yes No

11. Identify the type of appeal you are requesting (check all that apply):

INTERPRETATION (p. 2) VARIANCE EXTENSION (p. 2) USE VARIANCE (pp. 3-6) AREA VARIANCE (pp. 6-7)

FEES: Make checks payable to the "Commissioner of Finance". Fees are cumulative and required for each request below.

- Interpretation \$ 400
- Use variance \$1,000
- Area variance
- Residential use/property: \$ 150
- Non-residential use/property: \$ 500
- Extensions: \$ 150

INTERPRETATION – PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

1. Identify the section(s) of the Zoning Ordinance for which you are seeking an interpretation:

Section(s) _____

2. How do you request that this section be interpreted? _____

3. If interpretation is denied, do you wish to request alternative zoning relief? Yes No

4. If the answer to #3 is "yes," what alternative relief do you request? Use Variance Area Variance

EXTENSION OF A VARIANCE – PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

1. Date original variance was granted: _____ 2. Type of variance granted? Use Area

3. Date original variance expired: _____

5. Explain why the extension is necessary. Why wasn't the original timeframe sufficient?

When requesting an extension of time for an existing variance, the applicant must prove that the circumstances upon which the original variance was granted have not changed. Specifically demonstrate that there have been no significant changes on the site, in the neighborhood, or within the circumstances upon which the original variance was granted:

USE VARIANCE – PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

A use variance is requested to permit the following: _____

For the Zoning Board to grant a request for a use variance, an applicant must prove that the zoning regulations create an unnecessary hardship in relation to that property. In seeking a use variance, New York State law requires an applicant to prove all four of the following "tests".

- I. That the applicant cannot realize a reasonable financial return on initial investment for any currently permitted use on the property. "Dollars & cents" proof must be submitted as evidence. The property in question cannot yield a reasonable return for the following reasons:

A. Submit the following financial evidence relating to this property (attach additional evidence as needed):

1) Date of purchase: _____ Purchase amount: \$ _____

2) Indicate dates and costs of any improvements made to property after purchase:

| <u>Date</u> | <u>Improvement</u> | <u>Cost</u> |
|-------------|--------------------|-------------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

3) Annual maintenance expenses: \$ _____ 4) Annual taxes: \$ _____

5) Annual income generated from property: \$ _____

6) City assessed value: \$ _____ Equalization rate: _____ Estimated Market Value: \$ _____

7) Appraised Value: \$ _____ Appraiser: _____ Date: _____

Appraisal Assumptions: _____

B. Has property been listed for sale with the Multiple Listing Service (MLS)? Yes If "yes", for how long? _____ No

1) Original listing date(s): _____ Original listing price: \$ _____

If listing price was reduced, describe when and to what extent: _____

2) Has the property been advertised in the newspapers or other publications? Yes No

If yes, describe frequency and name of publications: _____

3) Has the property had a "For Sale" sign posted on it? Yes No

If yes, list dates when sign was posted: _____

4) How many times has the property been shown and with what results? _____

2. That the financial hardship relating to this property is unique and does not apply to a substantial portion of the neighborhood. Difficulties shared with numerous other properties in the same neighborhood or district would not satisfy this requirement. This previously identified financial hardship is unique for the following reasons:

AREA VARIANCE – PLEASE ANSWER THE FOLLOWING (add additional information as necessary):

6.4.3 B 1 and B 2.

The applicant requests relief from the following Zoning Ordinance article(s) _____

Dimensional Requirements

B. 1.

From

within structure

To

detached garage

15%

25%

B. 2

1 employee

1 1/2 employees

Other: _____

To grant an area variance, the ZBA must balance the benefits to the applicant and the health, safety, and welfare of the neighborhood and community, taking into consideration the following:

- 1. Whether the benefit sought by the applicant can be achieved by other feasible means. Identify what alternatives to the variance have been explored (alternative designs, attempts to purchase land, etc.) and why they are not feasible.

The garage could not be attached to the home on the north side as neighboring property (55 Gilbert) already violates side yard set backs.

The garage could not be attached to the home on the south side because the septic system and well and well pipes servicing the property were located on the south side of home. (Well is now abandoned)

The garage couldn't be located in the rear of the home due to location of leach field and would be too close to a stream.

At the time the garage was built, the zoning law allowed 30% of total floor area of the residence and did not specify "totally within structure" - see ATTACHED ordinance

The need for one and one-half employees is due to job sharing between employees.

- 2. Whether granting the variance will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. Granting the variance will not create a detriment to nearby properties or an undesirable change in the neighborhood character for the following reasons:

Garages and Home occupations are both allowable in the zone. The neighborhood now has garages and structures much larger than subject garage. Office use does not generate much additional traffic, office is located in garage which fits in with neighborhood. Addition of one 1/2 time employee does not create undesirable change n character of neighborhood as only impact is one extra trip to office, and we are well below our trips allowed per day per the existing zoning.

3. Whether the variance is substantial. The requested variance is not substantial for the following reasons:

The variance is not substantial. All other requirements for home occupation are met with the exception of office being in detached garage, and it impossible to have attached garage to home. Area which occupies office is based on a percentage of the size of the home. Since my home is relatively small, it makes any home office, even within the structure, potentially too small to be practical. In addition, when garage was built upon information and belief, the zoning law allowed 30% of total floor area of the

residence. If that was still the case, a variance on that issue would not be necessary. In addition, the prior zoning did not specify "totally within structure", therefore an interpretation could have allowed office in detached garage and again, would not have needed a variance.

The addition of one 1/2 time employee is not substantial and even with the addition of that one extra employee on some days, not all, we are below the amount of trips allowed to be generated per existing zoning.

4. Whether the variance will have adverse physical or environmental effects on neighborhood or district. The requested variance will not have an adverse physical or environmental effect on the neighborhood or district for the following reasons:

No change is being made to the neighborhood. The office is supplemental to and secondary to the use as a garage for our home. The garage is a two car garage. Newer structures in the neighborhood have been allowed that have much greater physical and environmental impact on the neighborhood including office buildings and convenience stores.

The use of the second floor of garage as a home office has a positive effect on environment as it reduces another car on the road traveling to an office.

The second 1/2 employee does not create an adverse effect as our activity already generates less trips than allowed by the zoning.

5. Whether the alleged difficulty was self-created (although this does not necessarily preclude the granting of an area variance). Explain whether the alleged difficulty was or was not self-created:

Although the office use was self created, the necessity that the garage be detached was not self created given the only location available for the well and septic system.

The use of the garage space as an office may have been allowed without a variance under zoning code in effect at the time

garage was built as the zoning law allowed 30% of total floor area of the residence and did not specify "totally within structure". Please see attached pages from prior zoning.

DISCLOSURE

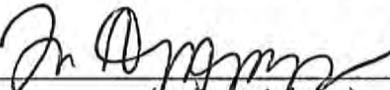
Does any City officer, employee, or family member thereof have a financial interest (as defined by General Municipal Law Section 809) in this application? No Yes If "yes", a statement disclosing the name, residence and nature and extent of this interest must be filed with this application.

APPLICANT CERTIFICATION

I/we, the property owner(s), or purchaser(s)/lessee(s) under contract, of the land in question, hereby request an appearance before the Zoning Board of Appeals.

By the signature(s) attached hereto, I/we certify that the information provided within this application and accompanying documentation is, to the best of my/our knowledge, true and accurate. I/we further understand that intentionally providing false or misleading information is grounds for immediate denial of this application.

Furthermore, I/we hereby authorize the members of the Zoning Board of Appeals and designated City staff to enter the property associated with this application for purposes of conducting any necessary site inspections relating to this appeal.



(applicant signature)

Date: 6/6/16.

(applicant signature)

Date: _____

If applicant is not the currently the owner of the property, the current owner must also sign.

Owner Signature: _____

Date: _____

Owner Signature: _____

Date: _____

**ZONING AND BUILDING INSPECTOR DENIAL
OF APPLICATION FOR LAND USE AND/OR BUILDING**

APPLICANT: _____ TAX PARCEL No.: _____ - _____ - _____

PROPERTY ADDRESS: _____ ZONING DISTRICT: _____

This applicant has applied to use the identified property within the City of Saratoga Springs for the following:

This application is hereby denied upon the grounds that such use of the property would violate the City Zoning Ordinance article(s)

_____. As such, the following relief would be required to proceed:

Extension of existing variance Interpretation

Use Variance to permit the following: _____

Area Variance seeking the following relief:

| <u>Dimensional Requirements</u> | <u>From</u> | <u>To</u> |
|---------------------------------|-------------|-----------|
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |
| _____ | _____ | _____ |

Other: _____

Note: _____

Advisory Opinion required from Saratoga County Planning Board

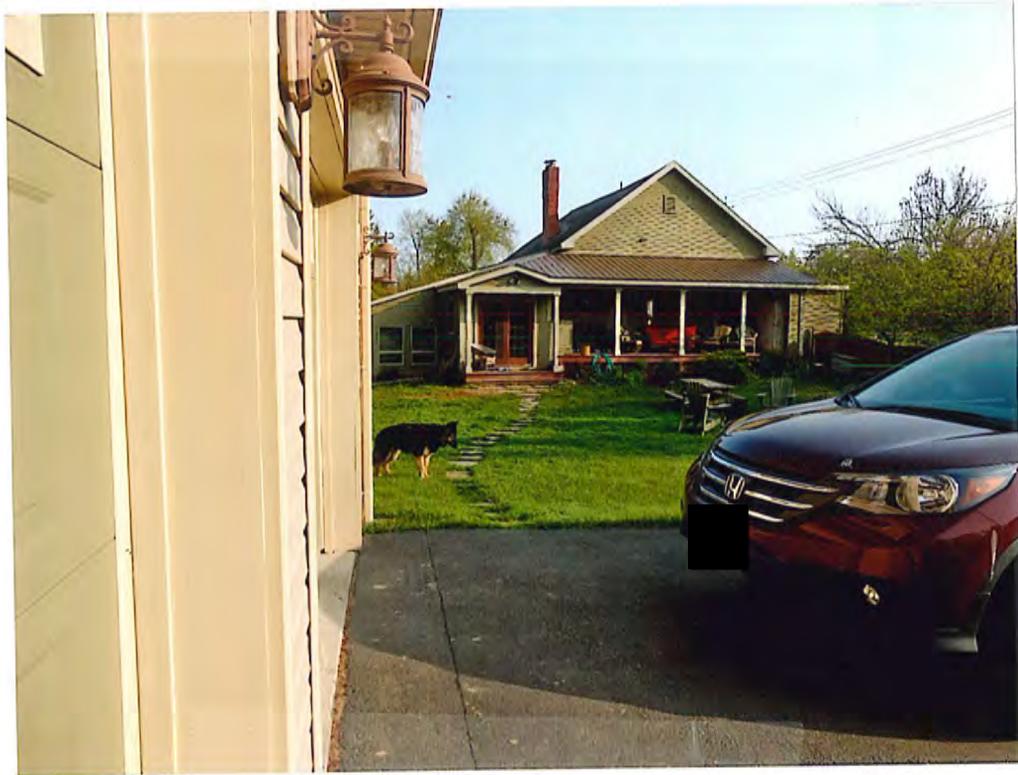
ZONING AND BUILDING INSPECTOR

DATE

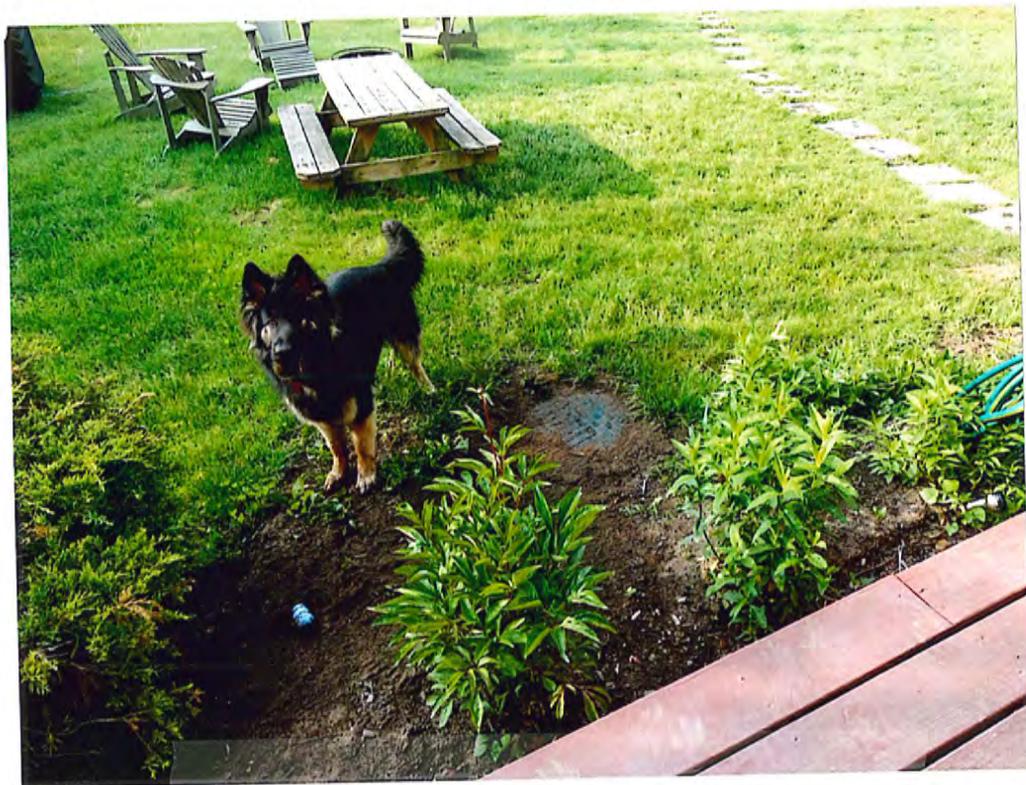


Structure part of residential garage
No change to character of neighborhood





VIEW OF HOUSE FROM GARAGE



Location of septic on garage
side of house.

Short Environmental Assessment Form

Part 1 - Project Information

Instructions for Completing

Part 1 - Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

| Part 1 - Project and Sponsor Information | | | |
|--|--|-------------------------------------|--------------------------|
| Name of Action or Project: Theresa Capozzola Area Variance | | | |
| Project Location (describe, and attach a location map): 57 Gilbert Road | | | |
| Brief Description of Proposed Action: Seeking Area Variance for Home Office in Detached Garage | | | |
| Name of Applicant or Sponsor: Theresa A. Capozzola | | Telephone: [REDACTED] | |
| | | E-Mail: [REDACTED] | |
| Address: [REDACTED] | | | |
| City/PO: [REDACTED] | | State: [REDACTED] | Zip Code: [REDACTED] |
| 1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2. | | NO | YES |
| | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 2. Does the proposed action require a permit, approval or funding from any other governmental Agency? If Yes, list agency(s) name and permit or approval: | | NO | YES |
| | | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| 3.a. Total acreage of the site of the proposed action? _____ 0 acres | | | |
| b. Total acreage to be physically disturbed? _____ 0 acres | | | |
| c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor? _____ 10.484 acres | | | |
| 4. Check all land uses that occur on, adjoining and near the proposed action. | | | |
| <input type="checkbox"/> Urban <input checked="" type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input type="checkbox"/> Residential (suburban) | | | |
| <input type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input type="checkbox"/> Aquatic <input type="checkbox"/> Other (specify): _____ | | | |
| <input type="checkbox"/> Parkland | | | |

| | | |
|--|---|---|
| <p>18. Does the proposed action include construction or other activities that result in the impoundment of water or other liquids (e.g. retention pond, waste lagoon, dam)? If Yes, explain purpose and size: _____ _____ _____</p> | <p>NO</p> <p><input checked="" type="checkbox"/></p> | <p>YES</p> <p><input type="checkbox"/></p> |
| <p>19. Has the site of the proposed action or an adjoining property been the location of an active or closed solid waste management facility? If Yes, describe: _____ _____ _____</p> | <p>NO</p> <p><input checked="" type="checkbox"/></p> | <p>YES</p> <p><input type="checkbox"/></p> |
| <p>20. Has the site of the proposed action or an adjoining property been the subject of remediation (ongoing or completed) for hazardous waste? If Yes, describe: _____ _____ _____</p> | <p>NO</p> <p><input checked="" type="checkbox"/></p> | <p>YES</p> <p><input type="checkbox"/></p> |
| <p>I AFFIRM THAT THE INFORMATION PROVIDED ABOVE IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE</p> <p>Applicant/sponsor name: <u>Theresa A Capozzola</u> Date: <u>4/6/16</u></p> <p>Signature: <u>[Signature]</u></p> | | |

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CITY OF SARATOGA SPRINGS ZONING ORDINANCE
ARTICLE XII – SUPPLEMENTAL REGULATIONS AND EXCEPTIONS

ARTICLE XII - SUPPLEMENTAL REGULATIONS AND EXCEPTIONS

240-12.1 INTENT

The provisions of this chapter shall be subject to the exceptions, prohibitions, requirements and/or limitations as hereinafter provided.

240-12.2 NUMBER OF PRINCIPAL BUILDINGS (amended 6/7/93, 4/15/97, 5/15/01, 6/15/04)

- A. Only one principal building may be established on any one lot. This shall not apply to a lot in an approved clustered or conservation subdivision. The following exceptions are permitted provided that each principal building is sited so as to meet the minimum area, width and yard requirements of that district:
- (1) The Building Inspector shall grant an exception to permit more than one principal building for additional single family homes on any lot in the Rural Residential-1 district.
 - (2) The Building Inspector shall grant an exception to permit more than one principal building for one and two-family uses on any lot in the Urban Residential-4 and Urban Residential-5 districts.
 - (3) The Planning Board may grant an exception to permit more than one principal building on any lot in any other multifamily residential district, any commercial or business district and any institutional or industrial district.
- B. When siting multiple warehouse or storage structures (including self-storage) on any one lot, the minimum area, width and yard requirements that relate to each structure shall be 50 percent of that normally required by the district. However, the front, rear and one side yard requirements that relate to the parcel's perimeter shall not be reduced from the normal requirements.

240-12.3 SPECIAL FRONT YARD REQUIREMENTS

(amended 5/15/95, 4/15/97, 8/3/99)

The minimum front yard setback requirement in an UR-1, UR-2 or UR-3 district shall be altered as follows from the requirements set forth in Articles III thru XXI: If there are existing principal structures on both parcels of land immediately adjacent to the said property and if both the adjacent structures fail to meet the existing minimum front yard requirements, then the minimum front yard requirement for said property shall be no closer to the street right-of-way line than the average distance of the existing setback for the adjacent structures.

240-12.4 HOME OCCUPATION

(amended 11/18/91, 9/8/92, 6/7/93, 6/19/95, 4/15/97, 5/15/01, 3/1/05)

A. IN GENERAL

- (1) The activity shall not alter the primary use of the premises as a residence and the non-residential use shall be limited to no more than 30% of the

CITY OF SARATOGA SPRINGS ZONING ORDINANCE
ARTICLE XII – SUPPLEMENTAL REGULATIONS AND EXCEPTIONS

total floor area of the residence.

- (2) In no way shall the appearance of the structure be altered nor shall the activity within the residence be conducted in a manner that would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of noises, odors, or vibration.
- (3) This chapter shall not prevent individuals, owners, lessees or purchasers under contract from conducting a business, trade, or profession specified below in their homes or residences, provided that they meet the standards set forth by these regulations.

B. HOME OCCUPATIONS shall be permitted as an accessory use where permitted as set forth in district use schedules in Article II. The following standards shall apply to such activities:

- (1) Only the occupants of the residence and one non-occupant of the residence may conduct the activity. The addition of a second or third non-occupant of the residence employee requires the issuance of a special use permit.
- (2) The average weekday vehicle trip ends generated by the home occupation use shall not exceed 20 trip ends, and any need for parking generated by the home occupation shall be met onsite and not in the required front yard.
- (3) Patrons or clients of the home occupation may not visit the premise after 9:00 p.m. or before 8:00 a.m. daily.
- (4) Only one non-illuminated, 1½ sq. ft. wall sign is permitted.
- (5) Exterior storage or display of stock, equipment or products is prohibited.

C. PERMITTED HOME OCCUPATIONS. Home occupations include, but are not limited to, the following:

- (1) Office facilities for accountants, architects, brokers, engineers, land surveyors, landscape architects, lawyers, insurance agents, realtors, and members of similar professions.
- (2) Emergency treatment by a doctor or a dentist, but not the general practice of such profession.
- (3) Office facility of a salesperson, sales representative or manufacturer's representative provided that no retail or wholesale transactions are made on the premises.
- (4) Office facilities for ministers, priests and rabbis.
- (5) Home crafts such as model making, rug weaving, and lapidary work.

CITY OF SARATOGA SPRINGS ZONING ORDINANCE
ARTICLE XII – SUPPLEMENTAL REGULATIONS AND EXCEPTIONS

- (6) Workshop or studio for an artist, photographer, craftsman, writer, composer, dress maker, tailor or computer programmer.
- (7) Facilities for instruction to not more than 3 pupils at any given time such as in music or dance.
- (8) Homebound employment of a physically or mentally handicapped person who is unable to work away from home by reason of disability.
- (9) Appointments and consultations by a psychiatrist, psychologist, psychotherapist or social worker.

F. PROHIBITED HOME OCCUPATIONS.

- (1) Nursing homes, medical offices, clinics, or hospitals
- (2) Antique or furniture shops
- (3) Barbershops, hair stylists or beauty salons
- (4) Funeral homes, mortuaries or embalming establishments
- (5) Restaurants
- (6) Private clubs or lodges
- (7) Stables, kennels or animal clinics
- (8) Adult entertainment
- (9) Corridor Bed and Breakfast
- (10) Corridor Rooming House
- (10) Neighborhood Bed and Breakfast
- (11) Neighborhood Rooming House
- (12) Inn

240-12.5 JUNKYARDS

No junkyards shall be established in any district on or after the effective date of this chapter.

240-12.6 DRIVE IN MOVIES

No drive in movies shall be established in any district on or after the effective date of this chapter.

240-12.7 WALLS AND FENCES (amended 6/15/04, 5/3/05, 6/15/04)

- A. All fences and walls shall be measured from the ground level at the base of the side directed toward the abutting property. All such fences and walls constructed after June 15, 2004 shall have the finished face of the fence or wall directed toward the abutting property. The property owner on whose land the fence or

THOMPSON FLEMING
LAND SURVEYORS, P.C.

12 Lake Avenue Saratoga Springs NY 12866
Voice: (518) 587-5665 Fax: (518) 587-5772



Deed References:

1. Theresa A. Capozzola and Susan A. Pfau dated Sept. 10, 2004 in Liber 1898 of Deeds, page 549.
2. Peter M. and Theresa A. Capozzola dated August 30, 1993 in Liber 1376 of Deeds, page 284.

Map Reference:

See filed Saratoga County "Plan of Survey for Eleanor Riemish" prepared by Andrew Stine L.S. dated August 1961 and shown in Liber 709 of Deeds, page 471.

Note:

55 Gilbert Road shall have access to the existing septic system it is currently using on 57 Gilbert Road.

Map Legend

- 5/8" steel rod set with a tag
- o marker found, labeled
- o utility pole
- o lamp post
- o water valve
- o overhead wires
- wood fence

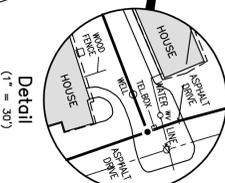
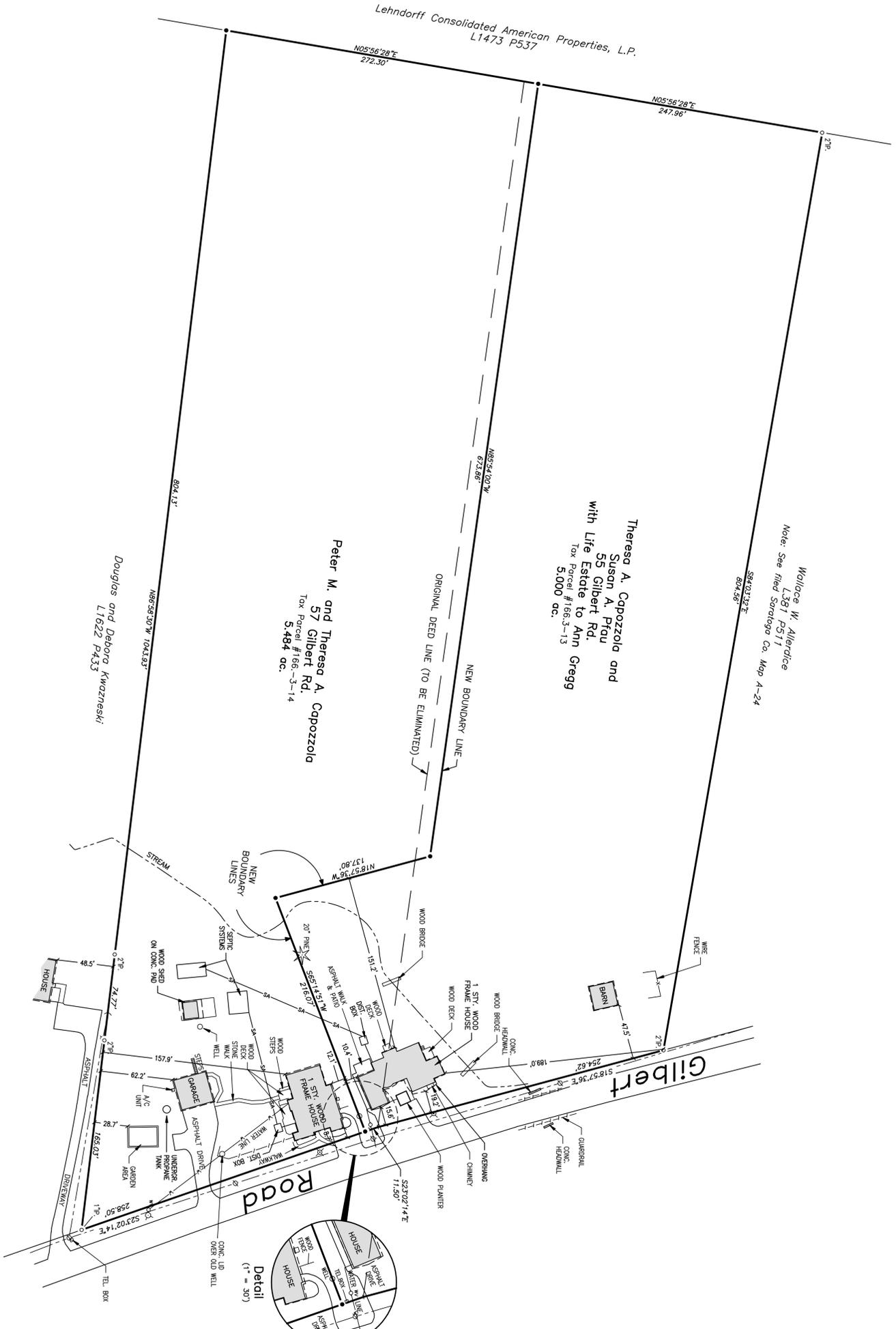
Site Statistics

| 55 Gilbert | Required | Proposed |
|--------------------------|----------|-----------|
| Min. Lot Size | 2 AC. | 5,000 AC. |
| Mean Width | 200' | 248.7' |
| Min. Front Yard | 60' | 15.6' |
| Min. Rear Yard | 100' | 151.2' |
| Min. Side Yard | 30' | 10.4' |
| Min. One Side Total Side | 100' | 199.4' |

| 57 Gilbert | Required | Proposed |
|--------------------------|----------|-----------|
| Min. Lot Size | 2 AC. | 5,484 AC. |
| Mean Width | 200' | 263.6' |
| Min. Front Yard | 60' | 8.7' |
| Min. Rear Yard | 100' | 100' |
| Min. Side Yard | 30' | 12.1' |
| Min. One Side Total Side | 100' | 170' |

Approved under authority of the Chairman of the Planning Board of the City of Saratoga Springs per the Subdivision Regulations, Article V.

Chairperson _____ Date Signed _____



Zoning Schedule: RR Rural Residential

| Zoning District | Minimum Lot Size (Acs) | Minimum Mean Width (Ft.) | Maximum Lot Coverage | | | Min. Setback Dimensions (Feet) | | | | Principal Buildings | Minimum Distance to Accessory Building (Feet) | | | Minimum % to Remain Permeable | |
|-----------------|------------------------|--------------------------|----------------------|---------------|-------|--------------------------------|-----------|------------|-----------------------------|---------------------|---|--------------------|----------------|-------------------------------|---------------|
| | | | Principal Bldg. | Access. Bldg. | Front | Rear | Each Side | Total Side | Minimum 1st Floor Area (SF) | | Max. Height (Feet) | Principal Building | Front Lot Line | | Side Lot Line |
| RR | 2 acres | 200 | 15 | 5 | 60 | 100 | 30 | 100 | n/a | 35 | 5 | 60 | 30 | 50 | 90 |

Unauthorized alteration or addition to a survey map bearing a Licensed Land Surveyor's Seal is prohibited. The New York State Education Law, Section 1405-a(3)(b) requires that the name of the Licensed Land Surveyor be printed on the survey. No abstract of title was recorded.