



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, JANUARY 25, 2016

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:04 P. M.

### SALUTE TO THE FLAG:

PRESENT: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Gary Hasbrouck;  
James Helicke; Susan Steer; Adam McNeill, Secretary

ABSENT: Skip Carlson

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs  
Tony Izzo, Deputy City Attorney

### ELECTION OF OFFICERS

Tony Izzo, Assistant City Attorney stated as an initial step this evening is the nomination and election of officers for the 2016 year. There are six members of the Board present tonight.

Tony Izzo, Assistant City Attorney conducted the annual elections for the year 2016.

The nomination for officers will be held in the order in which they appear on the letterhead.

Board Chair: A nomination of Bill Moore to continue as Chairman of the Zoning Board of Appeals was moved by Keith Kaplan, Vice Chairman. Motion was seconded by Adam McNeill, Secretary. No further nomination for the office of chair. James Helicke made a motion to close the nominations for the office of Chair. Gary Hasbrouck seconded the motion. All signify by saying aye. All in favor - Ayes all, nays none. Motion carries 6-0.

Board Vice-Chair: A nomination of Keith Kaplan for the office of Vice Chairman was moved by Adam McNeill, Secretary. Motion seconded by Bill Moore, Chairman. No further nominations for the office of Vice-Chair. Bill Moore, Chairman made a motion to close the nominations for the office of Vice Chair. Gary Hasbrouck seconded the motion. All signify by saying aye. All in favor - Ayes all, nays none. Motion carries 6-0.

Board Secretary: A nomination of Adam McNeill for the office of Secretary was moved by James Helicke. Motion seconded by Bill Moore, Chairman. No further nominations for the office of Secretary. Keith Kaplan, Vice Chairman made a motion to close the nominations for the office of chair. Bill Moore, Chairman seconded the motion. All signify by saying aye. All in favor Ayes all, nays none. Motion carries 6-0

Vote for Chair: Votes in favor of electing Bill Moore, Chairman were unanimous. 6-0.

Vote for Vice-Chair: Votes in favor of electing Keith Kaplan, Vice Chairman were unanimous. 6-0.

Vote for Secretary: Votes in favor of electing Adam McNeill, Secretary were unanimous. 6-0.

### ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

**ANNOUNCEMENT OF ADJOURNED APPLICATIONS:**

**#2856 MOORE HALL**, 28 Union Avenue/35 White Street, area variance to convert the existing building to a 53 unit Apartment building; seeking relief from the minimum lot size and minimum parking requirement in the Urban Residential-4 District.

**#2865 BOUGHTON GARAGE**, 1 Alger Street, area variance to construct an attached garage with second-story master suite addition to an existing single-family residence; seeking relief from the minimum front yard setback (Alger), minimum total side yard setback and maximum principal building coverage requirement in the Urban Residential-3 District.

Discussion ensued among the Board members concerning some procedural issues.

**NEW BUSINESS:**

1. **#2768.1 KAY-GRAHAM MULTI-FAMILY**, 109 Washington Street, area variance extension for a three-family Residence; relief granted (6/23/2014) from the minimum lot size and minimum parking requirement in the Urban Residential-4 District.

**DISCLOSURE:**

Adam McNeill, Secretary stated he read the minutes of the previous meeting and feels comfortable voting on all issues this evening.

Agent: Brett Balzer, Dennis McGowan, Balzer & Tuck Architecture

**PARCEL HISTORY:**

- Area variance to permit a three-family residence in a UR-4 district, granted on June 23, 2014.
- Planning Board site plan review approval granted July 10, 2014.
- DRC Architectural Review approval granted July 16, 2014 and extended to January 20, 2016.

**SEQRA:**

Action appears to be a Type II action, and therefore exempt from further SEQRA review. No further action is Required for an extension.

**AREA VARIANCE – ORIGINAL ACTION**

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum lot size: Three dwelling units	9,000 sq. ft.	5,931 sq. ft.	5,931 sq. ft.	3,069 sq. ft. (34%)
Minimum setback to parking:	25 feet	0 feet	0 feet	25 feet (100%)

Mr. Balzer stated that the circumstances upon which the original variance were granted have not changed. There has been no change to the site, design or intent of the project since the original variance was granted. We will be moving forward with the design we submitted to the three boards for approval. There is no change in this application. original approval expired on December 30, 2015. The original timeframe was not sufficient because following all the approvals from all three boards, we were asked to obtain a new survey of existing utilities. That survey revealed an existing city sanitary sewer line running through the site. This discovery required an easement to be drafted

which has caused the delay in filing for the permit. The applicant is requesting an 18 month extension to June 30, 2017.

**NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL**

Planning Board site plan review extension.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:11 P.M.

**Maureen Curtin** lives in this neighborhood. She has watched this home deteriorate over the last 4 years. It is a fire hazard and safety hazard as well. Looking forward to the renovation.

**Frank Capone**, 119 Grand Avenue. Concerning the status of the property, I support the fact that it is being renovated. The lawn and shrub maintenance is necessary, the shrubs currently are hanging over the fence.

**PUBLIC HEARING:**

Bill Moore, Chairman closed the public hearing at 7:17 P.M.

Adam McNeill, Secretary presented the following resolution.

IN THE MATTER OF THE APPLICATION OF  
VALERIE KAY AND BRUCE GRAHAM  
220 RIVERSIDE BLVD. #12J  
NEW YORK, NY 10069

Based upon submitted evidence that the application for an extension of a granted Area Variance does not significantly differ from the original application and approval, and that there have been no significant changes in the condition of the neighborhood warranting otherwise, the board moves that the application of Valerie Kay and Bruce Graham involving the premises at 109 Washington Street in the City of Saratoga Springs, and identified by tax parcel no. 165.66-2-12, originally granted on June 23, 2014 to permit a three-family residence in an UR-4 district be APPROVED, and that the variance approval be extended for 18 months from the date that such resolution would have expired if not extended, December 30, 2015, with the new expiration date to be June 30, 2017. The variance shall expire on June 30, 2017 unless the necessary building permit has been issued and actual construction begun as per Article 240-8.5.2 or otherwise further extended.

Gary Hasbrouck seconded the motion.

Bill Moore, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor;  
Adam McNeill, in favor; Gary Hasbrouck, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

2. **#2873 2 WEST BAR & GRILLE EXPRESS SIGNS**, 2 West Avenue, area variance for construction of a freestanding Sign, seeking relief from the maximum area for a freestanding sign within the Transect-5 District.

**SEQRA:**

Action appears to a Type II action, and therefore exempt from further SEQRA review.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum size freestanding sign:	12 sq. ft.	20 sq. ft.	8 (67%)

**NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL**

- Saratoga County referral required.
- DRC review and approval.

Agent: Daniel Roicki, Adirondack Sign Company

Mr. Roicki stated the applicant is proposing an increase in size of a proposed freestanding sign to 20 feet to pinpoint the entrance to the business. The increase is in line with neighboring freestanding signs and those along West Avenue. The site plan shows the sign approximately 8 feet from the front property line along West Avenue. The proposed sign will be internally illuminated. No wall signs are proposed.

Susan Steer requested the applicant's agent to sketch out what exactly the 12 foot conforming sign looks like for examples. Measurements of other signs would be appreciated, as well as additional views.

Discussion ensued regarding signage height.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:30 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Bill Moore, Chairman stated some requests have been made by the Board of the applicant's agent. The application will be placed on the agenda as soon as requested information is provided to staff.

3. **#2735.1 MOORE HOME OCCUPATION**, 75 South Franklin, area variance modification for a home occupation seeking relief to permit the accessory use within a previously approved (finished interior) detached garage in the Urban Residential-3 District.

**RECUSAL:**

Bill Moore, Chairman recused from this application.  
Keith Kaplan, Vice Chairman assumed the duties of the chair.

Keith Kaplan, Vice Chairman provided some background information on the original application for the new members of the Board.

**SEQRA:**

Action appears to be a Type II action, and therefore exempt from further SEQRA review.

**PARCEL HISTORY:**

-Area variance to permit the construction of a single-family residence and a detached garage with habitable space on the second story granted on November 23, 2013 with condition of "No kitchen or bath facilities, or any overnight stays will be permitted in the finished space in the accessory structure.

**AREA VARIANCE –ORIGINAL ACTION**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum total side yard setback:	12 feet	8 feet	4 feet (33%)
Maximum accessory building coverage	10%	12%	2% (20%)

Relief is required to permit habitable space in a residential accessory structure.

**AREA VARIANCE MODIFICATIONS CONSIDERATIONS:**

-To permit the previously approved finished habitable space in the detached garage to be used for a home occupation. Home occupations are permitted accessory uses with requirements including "the activity shall be conducted entirely within the principal structure".

Keith Kaplan, Vice Chairman read into the record the qualifications/criteria for a home occupancy business:

- The activity should be conducted entirely within the structure. It shall occupy no more than 15% of the total floor area of the residential dwelling unit.
- Only occupants of the residence and no more than one non occupant may conduct the activity at one time.
- The activity shall generate no more than ten visits to the property per day. Visits may not occur before 8 AM or after 9 PM.
- Any need for additional parking generated by this activity shall be met on site.
- One non-illuminated wall sign not exceeding 1½ sq. ft. in area is permitted associated with the activity.
- No outdoor storage or display of products or equipment in association with the activity is permitted.

Keith Kaplan, Vice Chairman read into the record the activities which can be performed:

- Business and Professional Office Facilities.
- Facilities for patient consultation.
- Instructional facilities.
- Workshop or studio facilities.

Discussion ensued concerning the home occupation business.

Keith Kaplan, Vice Chairman read the narrative provided by the applicant to the Board. Discussion ensued concerning reconditioning the original resolution with the stipulation adding to the home office in an accessory structure, no bathing facilities, no overnight stays, no kitchen facilities. A toilet and sink is permitted. A copy of the original resolution was provided to the Board highlighting the portion concerning the habitable space over the garage. A list of questions will be compiled and forwarded to the applicant.

Tony Izzo stated we do have a Board member who is an applicant. The procedure remains the same. Although no one has to give testimony, most people do. If the Board wants to formulate questions to be forwarded to the applicant and the answers to those questions read into the record, the public should have a chance to respond to those answers just the same as if the applicant was present at the meeting. The matter was the subject of an Article 78 lawsuit. It was implemented by a neighboring property owner and the petition was dismissed by the court. There was no appeal.

James Helicke questioned if this Board has seen other variances for home occupations in accessory structures.

Susan Barden, Senior Planner stated she has seen this once in the past and this information will be provided to the Board.

James Helicke questioned if the Board has rejected any applications for home occupations in the past.

Susan Barden, Senior Planner stated she will do a search and provide the necessary information to the Board.

**PUBLIC HEARING:**

Keith Kaplan, Vice Chairman opened the public hearing at 7:55 P.M.

Keith Kaplan, Vice Chairman asked if anyone in the audience wished to comment on this application.

**Andy Brick**, Attorney for Moto Holding, 77 South Franklin. Mr. Brick stated what is being requested should not be an area variance, but for a use variance. Mr. Brick read from the zoning ordinance that a home occupation must be conducted entirely within a dwelling. A dwelling is a space with a kitchen. This is not a dwelling it is a garage. This is not allowed.

**Maureen Curtin**, I am in support of the application. This District is 74% residential and 14% multi-family area; there was an error in the applicant's summarization of this area or district.

**Frank Capone**, 119 Grand Avenue. I am in support of this applicant's request. He has made an improvement in the area since he has built his home. The neighborhood is changing. It is ironic a complaint comes from the corporate neighbor, who is the worst neighbor anyone could have.

**Jack McKeever**, 120 Grand Avenue. I want to echo what Mr. Capone has just said. The corporate neighbors complaints are repellant to me.

**Mark Chappel**, 124 Grand Avenue. Spoke about 6.4.3 ordinance noting the area above the garage does not change the definition of dwelling units. I support this application.

Keith Kaplan, Vice Chairman stated the public hearing will remain open until February 8, 2016. All questions will be forwarded to the applicant.

**CORRESPONDENCE RECEIVED BY THE BOARD:**

Letter received 1/25/16 from Spa City Recycling.

Letter received 1/25/16 from James Riley, Herzog Law Firm.

Keith Kaplan, Vice Chairman asked if there were any questions to be forwarded to the applicant.

James Helicke questioned how can we be assured that this business is not going to expand further. What conditions would the applicant be amenable to.

Tony Izzo stated he would like to have an opportunity to review the application and the ordinance cited as well as a court decision in a lawsuit from several years ago in a similar situation where these questions were raised and answered by the court. I will get back to the Board via memorandum.

Bill Moore, Chairman resumed the duties of the Chair.

Keith Kaplan, Vice Chair resumed the duties of the Vice Chairman.

**4. #2733.1 ARNOLD GARAGE**, 795 North Broadway, area variance modification for constructed changes to an attached garage and maintenance of an A/C unit; additional relief required from the minimum side yard setback and maximum principal building coverage requirements and minimum rear yard setback requirement for the

accessory structure in the Urban Residential-1 District.

**SEQRA:**

Action appears to be a Type II action, and therefore exempt from further SEQRA review.

**PARCEL HISTORY:**

- Area variance approved November 18, 2013 for construction of a two-story attached garage.
- Area variance modification approved July 14, 2014 for construction of an addition to a previously approved garage.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	ORIGINAL APPROVAL	MODIFIED APPROVAL	PROPOSED	TOTAL RELIEF REQUESTED
Maximum principal building coverage:	20%	21.6% (8%)	22.6% (13%)	22.96%	2.95% (15%)
Minimum side yard setback:	12'	9' (25%)		8.4'	3.6' (30%)
Minimum side yard setback: A/C unit	5'			.1'	4.9' (98%)

Agent: Tom Frost, Frost Hurff Architects

Mr. Frost provided some background on this project, noting he designed a carriage house addition to the main structure. It is not a separate building, it is part of the principal building. The applicant has been before this Board several times. Mr. Frost reviewed the variances received, and the proposed modifications requested to be made to the variances. What was discovered when the as built survey was completed was the property was 7½ inches closer to the west property line with the roof overhang. We are here this evening to request modifications to the variance.

**PUBLIC HEARING:**

Bill Moore, Chairman, opened the public hearing at 8:35 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.

None heard.

**CORRESPONDENCE RECEIVED BY THE BOARD**

Correspondence received this date, from Mark Woodworth and Emma Dodge Hanson dated 01/19/16.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented in two weeks.

5. **#2874 REED RESIDENTIAL ADDITION**, 12 Clubhouse Drive, area variance for a residential addition to an existing single-family residence (attached townhouse); seeking relief from the minimum total side yard setback requirement in the Urban Residential-4 District.

**SEQRA:**

Action appears to be a Type II Action and therefore exempt from further SEQRA review.

**NOTIFICATION/APPROVALS/CONDITIONS OF APPROVAL:**

- Constructed rear deck to be considered at a later date – condition of approval that variance for deck

to be applied for prior to issuance of C.O. for addition.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum total side yard setback	45 feet	27.5 feet	20 feet	25 feet (55%)

Applicant: Pat Reed

Agent: Sue Davis, SD Atelier Architecture

Ms. Davis explained there was issue locating original filed plans for this property. Confusion as to where the plat was filed, etc. She stated the proposed design is intentionally located to be in an allowable building area on the north side. Any addition on the side would require a variance from the minimum total side yard setback. The addition would be moderately screened by a fence/hedge around it. The design will have similar rooflines and consistent materials to the existing townhouse. The project does have HOA approval. Copies of approval from the Homeowners Association provided to the Board. Permeability will exceed the minimum of 15% which is required. Also concern arose due to no building permit for the deck again the issues with the original filed plans.

Gary Hasbrouck recommended that the issue concerning the deck be resolved prior to the C.O. being issued.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 8:45 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.

None heard.

Bill Moore, Chairman closed the public hearing at 8:46 P.M.

Gary Hasbrouck presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
PAT REED  
12 CLUBHOUSE DRIVE  
SARATOGA SPRINGS, NY 12866

From the Building Inspector's determination for the same premises, identified as Tax Parcel no. 179.53-1-16, Inside District of the City of Saratoga Springs, NY.

Whereas, the appellant has applied for an area variance for relief from the City Zoning Ordinance for constructing an addition to an existing single-family residence in a UR-4 zoning district; and public notice having been duly given of a hearing on said application held on January 25, 2016.

Whereas, in consideration of the balance between benefit to the applicant with detriment to the health, safety and welfare of the community, the Board makes the following resolution that the requested area variance for the following relief or lesser dimensions be approved:

	Required	Existing	Proposed	Total Relief Requested
Minimum Total Side Yard Setback	45 feet	27.5'	20'	25' (55%)

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The application states, "The applicant cannot relocate the townhouse or purchase additional land. The proposed design is intentionally located to be in the allowable building area on the North side." It appears, based upon submitted plans, that pushing the addition further to the front of the home would require the relocation of the main gas service and interfere with an upstairs window.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The application states, "The addition will not be highly visible as it will have a fence/hedge around it. The design will have similar rooflines and consistent materials to the existing townhouse." The Board notes HOA approval granted.
3. The relief requested may be considered substantial at 55%. However, it should be noted that this is a townhouse development with shared interior walls meaning a zero setback already exists on one side. Any addition to this house would require a variance because the current house violates total side yard setbacks.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. It appears the project will exceed the minimum 15% permeability requirement.
5. The difficulty may be considered self-created. This, however, is not necessarily fatal to the application.

Condition: Variance for existing deck to be applied for prior to issuance of a C.O. for the addition.

Susan Steer seconded the motion.

Bill Moore, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

**OLD BUSINESS:**

1. **#2808.1 CONGRESS HOTEL, LLC SIGNS**, 46 Congress Street South, area variance for construction of wall and freestanding signs for Embassy Suites, seeking relief from the maximum number of wall signs, maximum area of wall and freestanding sign, placement of wall signs on an elevation without street frontage, placement of a wall signs above the first floor level of the building and maximum height of logo within the Transect-6 District.

This application was introduced at the December 14, 2015 meeting. The Board requested an advisory opinion from the DRC. The public hearing has not yet been opened.

**SEQRA:**

Action appears to be a Type II action, and therefore exempt from further SEQRA review.

**PARCEL HISTORY:**

-Area variance for wall sign; relief to permit sign on an elevation without street frontage, from Maximum height letter and logo and to permit internally illuminated channel letters approved February 15, 2015.

**NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL**

- County Planning Board referral required.
- DRC Architectural Review required.
- Removal/replacement of directional parking sign to be conforming 4 sq. ft.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PREVIOUSLY APPROVED	PROPOSED	TOTAL RELIEF REQUESTED
Installation of wall sign elevation without street frontage: East elevation (parking lot)	0	1	2	1 additional (100%)
Maximum number of wall signs permitted per street frontage	1		2	1 (100%)
Maximum area for wall signage: Two signs combined	100 sq.ft.		104.2 sq. ft.	4.2 sq. ft. (4.2%)
Maximum height logo: "E" on building	18"	24"	84"	66" (367%)
Placement above first floor level: "E"	Max 1 <sup>st</sup> floor placement		6 <sup>th</sup> floor placement	Above 1 <sup>st</sup> floor level of the building
Maximum height logo: "E" on freestanding	18"		28"	10" (55%)
Maximum area freestanding sign:	12 sq. ft.		35.5 sq. ft.	23.5 sq. ft. (195%)

Request for wall signs to be internally illuminated channel lit letters where only back-lighted opaque letters are permitted. (Halo lighted).

Agent: Tom Wheeler, AJ Signs

Applicant: Dan Foyer, General Manager Embassy Suites  
Donald McElroy, DCG Development

Mr. MacElroy stated what the applicant would like to request is in keeping with the results of the DRC meeting. The applicant would like to table the application for the "E" sign and move forward with the variance request for the monument sign.

Mr. Wheeler stated before the DRC the applicants originally requested a 35 square foot sign. The DRC reduced this signage to a 30 square foot sign. A rendering showing the 30 square foot signage was supplied to the Board. The signage fits between the pillars. We did put a base on it so it is raised somewhat to the top of the wrought iron railing. It will not obstruct anything and it does provide more visibility. It is an aluminum sign with the lettering cut into the sign. It is internally illuminated with LEDs. The lettering will light, not the entire box.

Discussion ensued regarding the size of the freestanding sign. It was the consensus of the Board that a 30 square foot sign will be appropriate.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 9:07 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next Zoning Board of Appeals Meeting on February 8, 2016.

2. **#2870 ORANGECAT PROPERTIES, LLC, TWO-FAMILY**, 78 South Franklin Street, area variance for demolition of an existing structure and construction of a new two-family residence; seeking relief from the minimum average lot width and lot area requirements and from the minimum front yard and rear yard setbacks for the new residence in the Urban Residential-3 District.

**RECUSAL:**

Bill Moore, Chairman recused from this application.  
Keith Kaplan, Vice Chairman assumed the duties of the chair.

This application was heard at the January 11, 2016 meeting and adjourned to January 25, 2016. The public hearing was opened and remains open. The applicant submitted a revised front elevation drawing and a proposed resolution to the identified presence of the sewer line traversing the property.

**PUBLIC HEARING:**

Keith Kaplan, Vice Chairman stated the public was opened and remains open.

Keith Kaplan, Vice Chairman asked if anyone in the audience like to speak regarding this application.

**Maureen Curtin**, I appreciate the project; it will be a great improvement to the neighborhood. I support the project, except for the lack of a front entrance and front steps. The neighborhood continues to improve. Front porches are used in the neighborhood.

Keith Kaplan, Vice Chairman stated we did have some concern regarding the sanitary sewer lines and easements. The Board is in receipt of communication from the applicant's agent addressing the above mentioned matters.

Keith Kaplan, Vice Chairman closed the public hearing at 9:10 P.M.

Gary Hasbrouck presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
JESSE GEORGE (ORANGECAT PROPERTIES, LLC)  
78 SOUTH FRANKLIN STREET  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 78 South Franklin Street in the City of Saratoga Springs, NY, being tax parcel number 165.66-2-31 on the Assessment Map of said City.

The Applicant having applied for an area variance for demolition of an existing structure and construction of a new two-family residence, seeking relief from the minimum average lot width and minimum lot size requirements for a two-family residence and from the minimum front and rear yard setback requirements for the residence in the Urban Residential – 3 District and public notice having been duly given of a hearing on said application on January 11 and 25, 2016.

In consideration of the balance between the benefit to the Applicant with detriment to the health, safety and welfare of the community, I move that the following variance for the following amount of relief:

Type of Requirement	District Dimensional Requirement	Proposed	Relief Requested

Front Yard Setback	10 feet	6 feet	4 feet (40%)
Rear Yard Setback	25 feet	15.5 feet	9.5 feet (38%)
Lot Size	8,000 sq. ft.	6,556 sq. ft.	1,444 sq. ft. (18%)
Lot Width	80 feet	66 feet	14 ft. (18%)

As per the submitted plans or lesser dimensions, BE APPROVED for the following reasons:

1. The Applicant has demonstrated this benefit cannot be achieved by other means feasible to the Applicant. The Applicant desires to demolish a severely dilapidated, nonconforming three-family and rebuild a two-family residence, a use permitted in the district. The residence is currently preexisting nonconforming with the zoning district's front yard setback requirements and encroaching into the City's ROW. The project will eliminate the encroachment and improve the existing nonconformity. As the application states, "The Applicant attempted to purchase 72 South Franklin Street to increase the available property, but the owner was unwilling to sell".
2. The Applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. The neighborhood is characterized by single, two and multi-family residences. The existing non-conforming three-family will be replaced by a conforming two-family residence. The revised plan showing an improved front yard setback and front door access to the first floor unit is characteristic of the neighborhood. The front yard setback is consistent with neighboring properties. As the application states, "The existing building is severely dilapidated, beyond the point of prudent repair...Replacing the existing structure with new construction will greatly improve the character of the neighborhood".
3. The request for relief may be substantial for the structure at 38% and 40% for rear and front yard setbacks, but the front yard setback request will eliminate an existing encroachment into the ROW. As the application states, "The 4' front setback variance allows for greater ease of parking at the rear, greater access and storage capacity for snow removal, and permits the construction of outdoor living space". The relief associated with the lot to permit a two-family residence is not considered substantial.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The proposed lot permeability at 27% exceeds the zoning district's requirement of 25%.
5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

Conditions/Notes:

As per Jan. 15, 2016 letter submitted by Jesse Boucher, Kodiak Construction, applicant will:

- Hire a plumbing service with electronic signal-type equipment to locate the sewer line from 112 Congress Street to the City's 8" sewer line at the Gideon Putnam Cemetery
- Hire Survey Associates to layout the sewer line on the boundary survey and plot plan
- Coordinate the above services with the neighbors at 112 Congress Street and 72 South Franklin Street
- Hire an attorney to prepare easement language to encompass the sewer line so that it is available to future servicing and remains a useable and purposeful sewer line
- Submit deed easement information for the City's records

Seconded by Susan Steer.

Keith Kaplan, Vice Chairman asked if there is any further discussion. None heard.

**VOTE:**

Bill Moore, Chairman, recused; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; James Helicke, in favor

**MOTION PASSES: 5-0-1**

Bill Moore, Chairman resumed the duties of the Chair.

Keith Kaplan, Vice Chairman resumed the duties of the Vice Chair.

3. **#2871 GROSECLOSE & POLNAC RESIDENCE**, 136 Circular Street, area variance for a new front porch addition to an existing single-family residence, seeking relief from the minimum front and side yard setback requirements within the Urban Residential-3 District.

This application was heard at the January 11, 2016 meeting and adjourned to January 25, 2016.

The public hearing was opened and remains open. The applicant submitted verification that a variance was not required from the maximum principal building coverage.

**PUBLIC HEARING:**

Bill Moore, Chairman stated the public hearing remains open.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.

None heard.

Bill Moore, Chairman closed the public hearing at 9:29 P.M.

James Helicke presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
STEVE GROSECLOSE AND JAEI POLNAC  
136 CIRCULAR STREET  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 136 Circular Street in the City of Saratoga Springs, NY, being tax parcel number 165.6-2-19 on the Assessment Map of said City.

The Applicant having applied for an area variance to construct a new front porch, seeking relief from the minimum front and side yard setback requirements in the Urban Residential – 3 District and public notice having been duly given of a hearing on said application on January 11 and 25, 2016

In consideration of the balance between the benefit to the Applicant with detriment to the health, safety and welfare of the community, I move that the following variance for the following amount of relief:

Type of Requirement	District Dimensional Requirement	Proposed	Relief Requested
Front Yard Setback	10 feet	0 feet	10 feet (100%)
Side Yard Setback	4 feet	2 ft. 5 ins.	1 ft. 7 ins. (40%)

As per the submitted plans or lesser dimensions, BE APPROVED for the following reasons:

1. The Applicant has demonstrated this benefit cannot be achieved by other means feasible to the Applicant. The Applicant desires to reconstruct a wraparound porch at the front of the home. The Applicant provided an historic photo depicting that the size, layout and design (of the new front porch) would be substantially identical to that which was original to the structure. The residence is currently preexisting nonconforming with the zoning district's front and side yard setback requirements. As the application states, "Restoration of the previously existing front porch cannot be achieved without an approved variance".
2. The Applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. Many of the residences in the neighborhood have front porches and this project would be similar in scale and location to those of neighboring homes. As the application states, "The addition of the formerly existing front porch will provide an architectural element common to the character of neighboring properties and very much in context with the prominent vernacular of Circular Street residences". DRC Historic Review is required and a letter of support was submitted by the Saratoga Springs Preservation Foundation on January 11, 2016.
3. The request for relief may be substantial at 40% and 100% but this is due to the fact that the residence is currently in nonconformance with the zoning district's existing front and side yard setback requirements. As the application indicates, "Does not propose an addition larger than that of the previously existing, nor that of surrounding residences with similar features".
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The proposed lot permeability at 54.7% exceeds the zoning district's requirement of 25%.
5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

Condition: DRC Historic Review is required

Adam McNeill seconded the motion.

Bill Moore, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

**#2872 SBDT VENTURES, LLC, SINGLE FAMILY**, 66 Franklin Street, area variance for a lot line adjustment and to

Construct a new single-family residence and detached garage; seeking relief from the minimum side yard (both sides) Setback, minimum total side yard setback and maximum principal building coverage requirements for the house and Minimum side yard and rear yard setback requirements for the garage in the Urban Residential-4 District.

This application was heard at the January 11, 2016 meeting and adjourned to January 25, 2016. The public hearing was opened and remains open.

**DISCLOSURE:**

Bill Moore, Chairman disclosed that the Bonacio's built his home. He has no financial interest in this application and can therefore render an impartial decision.

**SEQRA:**

Action appears to be an unlisted action. Applicant has submitted a short EAF.

**PARCEL HISTORY:**

Lot line adjustment approved administratively by the Planning Board Chair.  
Area variance for 60 Franklin, approved 7/27/15.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum average lot width:	100 feet	62 feet	38 feet (38%)
Minimum front yard setback:	25 feet	7.5 feet	17.5 feet (70%)
Minimum side yard setback:	20 feet	3 feet	17 feet (85%)
Minimum side yard setback:	20 feet	17 feet	3 feet (15%)
Minimum total side yard setback:	45 feet	20 feet	25 feet (56%)
Minimum rear yard setback: garage	5 feet	1.5 feet	3.5 feet (70%)
Minimum side yard setback: garage	5 feet	3 feet	2 feet (40%)

Applicant: Tony Bonacio, Bonacio Construction

Agent: Michael Toohey, Attorney; Bruce Sperano, Architect, Bonacio Construction

Mr. Toohey provided the Board with a new survey. New revised plans were submitted concerning this application. A visual presentation was provided to the Board. Mr. Toohey reviewed the area variance reductions/changes in consideration for the area variance request.

**SEQRA:**

- The Board reviewed the short EAF which was provided by the applicant.
- The Board reviewed Part II of the short EAF.
- No large or important areas of concern were identified.

Gary Hasbrouck made a motion in the matter of the application SBDT Ventures, LLC, 66 Franklin Street, for a SEQRA Negative Declaration.

Keith Kaplan, Vice Chairman seconded the motion.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, in favor;  
Susan Steer, in favor; Gary Hasbrouck, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

**PUBLIC HEARING:**

Bill Moore, Chairman stated the public hearing was opened and remains open.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.

Bill Moore, Chairman closed the public hearing at 9:45 P.M.

Adam McNeill, Secretary presented the following resolution.

**#2872**  
**IN THE MATTER OF THE APPEAL OF**  
SBDT Ventures, LLC 66 Franklin Street  
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 66 Franklin Street in the City of Saratoga Springs, New York being tax parcel number 165.59-1-52.1 in the Inside District, on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a single family residence and detached garage in a UR-4 district and public notice having been duly given of a hearing on said application held on the 11<sup>th</sup> and 25<sup>th</sup> of January, 2016.

In consideration of the balance between benefit to the applicant with detriment to the health, safety and welfare of the community, I move that the following area variances for the following amount of relief:

	Required:	Proposed:	Total relief requested:
Minimum average lot width:	100 feet	62 feet	38 feet (38%)
Minimum front yard setback:	25 ft.	7.5 ft.	17.5 ft. (70%)
Minimum side yard setback:	20 ft.	3 ft.	17 ft. (85%)
Minimum side yard setback:	20 ft.	17 ft.	3 ft. (15%)
Minimum total side yard setback:	45 ft.	20 ft.	25 ft. (56%)
Maximum principal building coverage:	25%	25.31%	.31% (1%)
Minimum rear yard setback: garage	5 ft.	2 ft.	3 ft. (60%)
Minimum side yard setback: garage	5 ft.	3.5 ft.	1.5 ft. (30%)

As per the submitted plans or lesser dimensions, be approved for the following reasons:

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant considered repositioning the garage; however this created a difficult entrance/exit to the garage given the limited space at the north end of the property.
2. The board notes that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The application states "A single family lot of this size is consistent with the neighboring property and the variance that was granted by the Zoning Board of Appeals for the lot [directly] to the south on July 27, 2015." Also, the application included a portion of the tax map which shows the majority of the

lots in the neighborhood are under the required 100' average lot width.

3. All areas of relief requested may be considered substantial; however, the existing parcel is pre-existing nonconforming and is similar to other lots in the neighborhood.
4. The board concludes this variance will not have significant adverse physical or environmental effect on the neighborhood or district. The amount of the site to remain permeable, as identified on the submitted survey, is 44%, which is in excess of the required minimum 15%.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed residence and garage, but this is not necessarily fatal to the application.

Keith Kaplan, Vice Chairman seconded the motion.

Bill Moore, Chairman asked if there was any further discussion.

James Helicke stated he will not be able to support this application.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; James Helicke, opposed

**MOTION PASSES: 5-1**

**APPROVAL OF MINUTES:**

The approval of meeting minutes was deferred to the February 8, 2016 meeting.

**MOTION TO ADJOURN:**

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 10:00 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 2/8/16