



# ZONING BOARD OF APPEALS

## MINUTES

MONDAY, FEBRUARY 8, 2016

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:02 P.M.

### SALUTE TO THE FLAG:

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

ABSENT: Skip Carlson

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs  
Tony Izzo, Assistant City Attorney  
Steve Shaw, Zoning and Building Inspector

### 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:

#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. Adjourned to February 22, 2016.

#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.

### NEW BUSINESS:

1. #2876 BENTON SUBDIVISION 58 Fifth Avenue, motion for an Advisory Opinion from the Planning Board for a two-lot residential subdivision; relief required from the minimum average lot width (both lots) requirements in the Urban Residential-2 District.

### RECUSAL:

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

### SEQRA:

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

### AREA VARIANCE CONSIDERATIONS:

|   | REQUIRED      | PROPOSED      | TOTAL RELIEF REQUESTED |
|---|---------------|---------------|------------------------|
| Minimum average lot width: Lot 1                                      | 100 feet      | 90.8 feet     | 9.2 feet (9%)          |
| Minimum total side yard setback: Lot 1                                | 12,500 sq. ft | 9,149 sq. ft. | 3,351 sq. ft. (27%)    |
| Minimum average lot width: Lot 2                                      | 100 feet      | 75.7 feet     | 24.3 feet (24%)        |
| Minimum total side yard setback: Existing house on proposed lot 1     | 30 feet       | 13.6 feet     | 16.4 feet (55%)        |
| Maximum principal building coverage: Existing house on proposed lot 1 | 20%           | 28.6%         | 8.6% (43%)             |

Applicant: Benton Family Trust

Agent: Michael Toohey, Attorney

Mr. Toohey stated the purpose of this meeting is merely to refer this for an advisory opinion. The Benton family has owned this property pre-zoning. These lots go back to the late 40's and 50's. We will make a more thorough presentation following the receipt of the advisory opinion from the Planning Board.

Adam McNeill, Secretary made a motion to request an Advisory Opinion from the Planning Board for the Benton Subdivision, 58 Fifth Avenue.

James Helicke seconded the motion.

Keith Kaplan, Vice Chairman asked if there was any further discussion.

None heard.

**VOTE:**

Keith Kaplan, Vice Chairman, in favor; Adam McNeill, Secretary in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; Cheryl Gray, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

Bill Moore, Chairman resumed the duties of the Chair.

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

2. **#2862.1 TRIFECTA DEVELOPMENT, LLC SUBDIVISION**, 136 Lincoln Avenue, area variance modification to provide for a two lot subdivision; seeking relief from the minimum average lot width (both lots) requirements in the Urban Residential-2 District.

**RECUSAL:**

Board member Susan Steer recused from this application.

Bill Moore, Chairman stated this was a previously granted variance. After the final survey the property square footage is slightly different.

**SEQRA:**

Negative Declaration issued for the original application.

**PARCEL HISTORY:**

Area variances to provide for a two-lot subdivision approved November 9, 2015.

**AREA VARIANCE – ORIGINAL ACTION:**

|  | REQUIRED     | PREVIOUSLY APPROVED | PROPOSED  | TOTAL RELIEF REQUESTED |
|--|--------------|---------------------|-----------|------------------------|
| Minimum average lot width: Lot 1       | 60 feet      | 52 feet             | 51.97     | 8.03 feet (13%)        |
| Minimum total side yard setback: Lot 1 | 20 ft.       | 18.8 ft.            | 18.9      | 1.1 ft. (5.5%)         |
| Minimum average lot width: Lot 2       | 60 ft.       | 48 ft.              | 48.03     | 11.97 feet (20%)       |
| Minimum lot size: Lot 2                | 6600 sq. ft. | 6100 sq. ft.        | No change | 500 sq. ft. (7.5%)     |

**NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:**

Planning Board subdivision approval required.

Applicants: Mike Lewis, Eric Brodwin

Mr. Lewis stated the surveyor noticed that the variance we received was for 52 feet and it should have been 51.97 and the other lot was 48 feet and should have been 48.03 feet. Our concern was when we went for financing the bank noticed the discrepancy.

Discussion ensued regarding issuing an amended resolution versus a new resolution. It was the consensus of the Board an amended resolution will be prepared and presented at the end of the meeting.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:16 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.

**OLD BUSINESS:**

Board Member Susan Steer resumed her position on the Board.

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 stated this application was heard on January 25, 2016 and adjourned. The public hearing was opened and remains open. The Board requested additional information from staff relating to prior precedent. Information was provided to 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.
- Other requirements of 6.4.3 home occupations are being met according to the application narrative.
- The applicant submitted an analysis of the surrounding neighborhood and corresponding section of the tax map identifying the area around this home as being 23% single-family; 40% commercial; 33% multi-family; and 3% vacant land. Approximately ¾ is commercial or multi-family housing.

**PUBLIC HEARING:**

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 St., adjacent neighbor. Mr. Brick reiterated a use variance is what is required here not an area variance. Mr. Brick read from the zoning ordinance that a home occupation must be conducted entirely within a dwelling. A dwelling is a residence having direct access from the outside of the building to a common hall and a complete kitchen facility. This is not a dwelling it is a garage. This is not allowed.

**Frank Capone**, 119 Grand Avenue. I am in support of this applicant's request. I want to clarify that the neighbor at 77 South Franklin Street was cited not by the Zoning Board but by Code Enforcement.

Keith Kaplan, Vice Chairman stated he would like to leave the public hearing open while the Board discusses the information received.

Discussion ensued among the Board regarding information provided by staff.

Tony Izzo, Deputy City Attorney discussed the definition of "home occupation", "habitable space" and also "dwelling unit". He feels the Board should focus on these definitions which are in the code. Does "habitable space" equate to "dwelling".

Steve Shaw, Building Inspector stated it is his interpretation in order for them to have a home occupation in an accessory structure that is an accessory use to the main building. This is not a business but falls under the category of home occupation. It meets all the criteria except one which is a spacial issue, so it is an area variance.

Cherie Gray stated she has reviewed the information on this application this evening, and she feels comfortable to vote on this application.

Adam McNeill, Secretary noted a letter dated February 2, 2016 written by the applicant and provided to the Board is available and reviewable on line at the City of Saratoga Springs website.

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

**Andy Brick**, attorney for Moto Holding, 77 South Franklin St., respectfully disagrees with the need for a use variance versus an area variance.

Keith Kaplan, Vice Chairman closed the public hearing at 7:41 P.M.

Keith Kaplan, Vice Chairman read the following resolution into the record.

**#2735.1**  
**IN THE MATTER OF THE APPEAL OF**  
 William Moore  
 75 South Franklin St.  
 Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 75 South Franklin St, in the City of Saratoga Springs, New York being tax parcel number 165.66-2-59 in the Inside District, on the Assessment Map of said City.

The appellant having applied for a modification of a previously approved area variance under the Zoning Ordinance of said City, to permit a home occupation in habitable space in an accessory structure in a UR-3 district and public notice having been duly given of a hearing on said application held on the 25<sup>th</sup> day of January and 8<sup>th</sup> day of February 2016. The previous variance, approved by the Zoning Board of Appeals on the 23<sup>rd</sup> day of November 2013, had permitted the construction of a single-family residence and a detached garage with habitable space on the second story as follows:

| TYPE OF REQUIREMENT                    | DISTRICT DIMENSIONAL REQUIREMENT | PROPOSED AND APPROVED               | AMOUNT OF RELIEF APPROVED |
|--|----------------------------------|-------------------------------------|---------------------------|
| TOTAL SIDE YARD SETBACK                | 12'                              | 8'                                  | 4' OR 33%                 |
| MAXIMUM ACCESSORY BUILDING COVERAGE    | 10%                              | 12%                                 | 2%, OR 20% RELIEF         |
| HABITABLE SPACE IN ACCESSORY STRUCTURE | NOT PERMITTED                    | HOME OFFICE / REC ROOM ABOVE GARAGE | 100%                      |

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 modification of the previously approved area variance for the following amount of relief:

| TYPE OF REQUIREMENT                                       | DISTRICT DIMENSIONAL REQUIREMENT             | PROPOSED                   | RELIEF REQUESTED |
|---|--|----------------------------|------------------|
| HOME OCCUPATION IN HABITABLE SPACE IN ACCESSORY STRUCTURE | NOT PERMITTED                                | ALLOW HOME OCCUPATION      | 100%             |
| HABITABLE SPACE CONDITIONS                                | PREVIOUS VARIANCE DISALLOWED BATH FACILITIES | ALLOW TOILET AND SINK ONLY | 100%             |

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

1. In addition to reviewing this modification in the context of the original request in the points that follow, the Board also notes that it has reviewed the requirements for home occupations under City zoning ordinance section 6.4.3, and has found that the information supplied by the applicant meets all conditions set forth in the section. These include:

- The activity shall be conducted entirely within the structure and shall occupy no more than 15% of the total floor area of the residential dwelling units. Per the applicant, the home occupation takes up 291 square feet, which equates to 10.6% of the total 2745 square feet.
- Only occupants of the residence and no more than one non-occupant may conduct the activity at any one time. The applicant notes that only one non-occupant is employed in this activity.
- The activity shall generate no more than ten visits to the property per day. Visits may not occur before 8:00 a.m. or after 9:00 p.m. The applicant has noted that client visits have been limited during the period of this home occupation, to three visits over the course of a year.
- Any need for additional parking generated by the activity shall be met onsite. The Board notes that this parking is in place.
- One non-illuminated, wall sign, not exceeding 1½ sq. ft. in area, is permitted in association with the activity. The Board notes no sign is in place on the exterior.
- No outdoor storage or display of products or equipment in association with the activity is permitted. The Board notes no outdoor storage.

Furthermore, the Board finds that the type of activity proposed, real estate appraisal, falls within the list of permitted activities in the ordinance, see section 6.4.3.B.1.

2. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. As noted in the original variance resolution, the inclusion of habitable space in the garage building was evaluated by the applicant for alternatives: the design of the house, since it is limited by the size and dimensions of the lot, did not have space feasible in the main portion of the house, while basement lighting and egress would have been insufficient for the purposes sought by the applicant. The applicant's conduct of a home occupation in this accessory space rather than in the principal structure falls under the same consideration of alternatives. The Board notes that the applicant stated his intentions to use the accessory space for his real estate appraisal business during the public hearings held on the original variance.
3. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. As noted on the original application, the majority of properties adjacent and close to the subject parcel are either commercial or multi family; the Board finds that this has not changed, and further finds that the inclusion of home occupation in the habitable space over the garage does not result in inconsistency with neighborhood character. Additionally, the Board had imposed conditions on the habitable space requested by the applicant to ensure no overnight stays, or kitchen or bath facilities. The neighborhood character consideration in place was to disallow overnight stays.

The proposed modification of the previous variance would continue to disallow overnight stays, kitchen and shower/bathing facilities. The Board finds that a toilet and sink included in the habitable space is consistent with a home occupation and is not impactful to neighborhood character.

Finally, the applicant notes that the accessory space has been used for the conduct of his business since February 2015. The Board notes that no evidence has been brought forward of detriment to the neighborhood. As noted by the applicant, client visits have been limited to three visits during the course of the year and employees are limited to one part-time staff member.

4. The substantiality of including a home occupation in the accessory structure is substantial in that it is a request for full relief. However, it is not a substantial modification to the original variance request for habitable space, particularly because it was made clear by the applicant in 2013 that this was to be a home-based office. It was found subsequently that a modification to the variance would be needed to allow this.

The Board further notes that the substantiality of the modification to allow a sink and toilet is also substantial because full relief is requested. However this is mitigated by the fact that having a sink and toilet are a reasonable part of the office space and that the number of office users is limited to the applicant and his part-

time assistant. Since it is a toilet and sink, and conditions will be in place to disallow a full set of bathroom facilities, the Board does not find undue risk of use as a separate dwelling from this modification.

5. This modified variance will not have significant adverse physical or environmental effect on the neighborhood or district. There is no change to dimensions, and as per Board review of the site and information provided by the applicant, the offsite parking requirement noted above has been met.

6. The alleged difficulty is self-created insofar as the applicant desires to engage in this home occupation, but this is not necessarily fatal to the application.

Conditions/Notes:

- No kitchen or shower/bathing facilities, or any overnight stays will be permitted in the finished space in the accessory structure.
- No signage or outdoor storage will be permitted.
- No expansion of area for this home occupation beyond the 291 square feet noted above.
- The applicant is required to obtain a permit for home occupation.
- Home occupation is limited to the real estate appraisal business.
- All provisions of the Board's previous decision of November 23, 2013 not specifically modified by this decision shall remain in full force and effect.

Gary Hasbrouck seconded the motion.

Keith Kaplan, Vice Chairman asked if there was any further discussion.

Discussion ensued regarding the resolution and perhaps conditioning the variance.

Susan Steer stated her biggest concern is what could be done with this property subsequently. I am not sure where I stand on this slippery slope.

Board recessed at 8:05 P.M.

Board reconvened at 8:07 P.M.

Keith Kaplan, Vice Chairman stated that staff reviewed the condition placed on the resolution with the applicant and the applicant has consented to the conditions placed on the resolution.

**VOTE:**

Keith Kaplan, Vice Chairman, in favor; Adam McNeill, Secretary in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, in favor

**MOTION PASSES: 6-0**

Bill Moore, Chairman resumed the duties of the Chair.

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

**4.2808.1 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 signs, placement of wall signs on an elevation without street frontage, placement of a wall sign above the first floor level of the building and maximum height of logo within the Transect-6 District.

This application was heard on January 25, 2016 and adjourned. The public hearing was opened and remains

open. The Board requested additional information which was received.

**PUBLIC HEARING:**

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 8:11 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

**IN THE MATTER OF THE APPEAL OF**  
DCG Development  
240 Clifton Corporate Parkway  
Clifton Park, NY 12065

from the determination of the Building Inspector involving the premises at 46 Congress St, in the City of Saratoga Springs, New York being tax parcel 165.-7-4 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 install a freestanding sign for an Embassy Suites hotel in a Transect-6 District and public notice having been duly given of a hearing on said application held on January 25 and February 8<sup>th</sup>, 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 requested area variance for the following relief:

| Type of relief                        | Required: | Proposed: | Total relief requested: |
|---------------------------------------|-----------|-----------|-------------------------|
| Freestanding sign maximum area        | 12 SF     | 30 SF     | 18 SF (150%)            |
| Freestanding sign maximum logo height | 18"       | 25"       | 7" (38.9%)              |

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

1. No other feasible means exist to achieve the desired benefit. The Board notes the configuration of the subject property is such that the entranceway faces a parking lot off of Congress St. In order to view that entranceway when approaching from Broadway, one has to make a left turn from Congress St. into the parking lot. A driver looking for the hotel therefore needs advance warning for safety and convenience; the applicant has requested the proposed sign sizing to adequately provide this advance warning to the hotel's guests.

The applicant presented the Board with a photo simulation of a sign at 25 SF, therefore requiring less relief. The Board concluded that such a sign would be hard to view from Congress St, and would still require a major amount of relief. The proposed sign size provides a greater degree of desired benefit, and promotes a greater degree of advance warning to people traveling to this hotel. It is clear that a sign

conforming to the 12 SF district requirement would be quite difficult for drivers travelling west on Congress St. to see and read.

2. This request will not produce an undesirable change in the neighborhood character or nearby properties. No detriment to nearby properties has been demonstrated or evidenced to this Board to provide this hotel with signage at this size and scale. The context of the surrounding area is predominantly commercial T-6. The Board finds that the district goals are not at odds with the inclusion of this proposed sized sign. Furthermore, the Board notes there is no evidence to support the logo height variance required within the sign to be detrimental to the surrounding neighborhood.
3. The variance is substantial relative to what is specifically allowed, however, the applicant notes that the signage is architecturally fitting to the scale of the building. The board finds this to mitigate the substantiality. The board also notes that the logo height, while also substantial, is to scale with the sign and is part of a corporate logo that cannot be altered.
4. The Board finds that this proposed sign represents no adverse environmental impact. It is the Board's view that the need for signage, due to the placement of the building on this property, is such that the impact of the dimension of the sign is beneficial.
5. The applicant's desire for signage is self-created, however this alone is not necessarily fatal to the application.

Notes:

- County Planning Board decision issued 12/18/15: "No significant County wide or Inter Community Impact."
- Design Review Commission Architectural Review required.

Gary Hasbrouck seconded the motion.

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

Cherie Grey stated she will abstain from voting on this application.

Bill Moore, Chairman stated he has reviewed the photographs provided. Questioned why the applicants need both the canopy and the proposed signage. Bill Moore, Chairman stated he is opposed to this signage application.

**VOTE:**

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

**MOTION PASSES: 4-2-1**

5. **#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.

This application was heard on January 25, 2016 and adjourned. The public hearing was opened and remains open. The Board requested additional information which was received.

Agent: Daniel Roicki

Mr. Roicki did provide the information the Board requested.

**PUBLIC HEARING:**

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 8:25 P.M.

Susan Steer presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
2 WEST BAR & GRILLE EXPRESS  
2 WEST AVENUE  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 2 West Avenue in the City of Saratoga Springs, NY, being tax parcel number 165.10-1-21 on the Assessment Map of said City.

The Applicant having applied for an area variance to erect a freestanding sign in the Transect-5 Zoning District and public notice having been duly given of a hearing on said application on January 25 and February 8, 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 |
|---------------------------|----------------------------------|-------------|------------------|
| Maximum Freestanding Sign | 12 sq. feet                      | 20 sq. feet | 8 sq. feet (67%) |

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 erect a sign to alert customers as to the location of the restaurant in the building and the building is oriented in such a way making visibility on West Avenue difficult. A larger sign would allow customers who are driving to safely locate and access the restaurant.
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 Applicant provided examples of other businesses' freestanding signs in the neighborhood that are of similar or larger size.
3. The request for relief may be considered substantial at 67%, however this is mitigated by the fact that the increased size is necessary so that customers will be able to safely locate and access the business.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The sign will be internally illuminated and according to the Applicant, "[materials and design present a positive aspect to the neighborhood.]"

5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

Notes:

DRC architectural review and approval required  
Saratoga County Planning Board approval received

Adam McNeill, Secretary seconded the motion.

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

James Helicke questioned the need for the freestanding sign.

**VOTE:**

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

**MOTION PASSES: 7-0**

6. **#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.

This application was heard on January 25, 2016 and adjourned. The public hearing was opened and remains open.

**PUBLIC HEARING:**

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 8:35 P.M.

James Helicke presented the following resolution.

**IN THE MATTER OF THE APPEAL OF**

*Jay and Alysia Arnold  
795 North Broadway  
Saratoga Springs NY 12866*

from the Building Inspector's determination involving the premises at 795 North Broadway, in the City of Saratoga Springs, New York, being Tax Parcel 152.84-1-2 in the Inside Tax District on the assessment map of said City.

The appellant having applied for a modification to a previously approved area variance granted on November 18, 2013 and July 14, 2014 under the Zoning Ordinance of said City for constructed changes to an attached garage to an existing single-family residence and maintenance of an A/C unit in a UR-1 District and public notice having been duly given of a hearing on said application held on January 25 and February 8, 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 variance modification for the following amount of relief:

| District Requirement:                | Original approval: | Modified approval: | Proposed: | Total relief requested: |
|--------------------------------------|--------------------|--------------------|-----------|-------------------------|
| Max principal building coverage: 20% | 21.6% (8%)         | 22.6% (13%)        | 22.96%    | 2.96% (15%)             |
| Min. side yard setback: 12'          | 9' (25%)           |                    | 8.4'      | 3.6' (30%)              |
| Min. side yard setback A/C unit: 5'  |                    |                    | .1'       | 4.9' (98%)              |

As per the revised plans submitted January 8, 2016 or lesser dimensions, be approved:

Whereas, the applicant's agent provided a letter indicating that the as-built survey "confirms that the actual setback dimension from the west property line is less than that approved by the original area variance dated 11/18/13".

Whereas, the applicant's agent further indicates that in reviewing the lot coverage figure, "It was found that the footprint of the garage addition, including the sunroom addition, exterior stairway and the south door canopy, is now at 1849 sf, bringing the total principal building footprint to 6888 sf, or 22.96% lot coverage".

Whereas, the applicant's agent identifies additional relief required to provide for a concrete pad, "The southern-most of these is 5' x 10', is 0.1' from the property line and contains an electric generator 2'-4" high, and an air conditioning condenser 4' high".

Therefore, the Board determines this request to be a minor modification of previous relief granted on November 18, 2013 and July 14, 2014.

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; Adam McNeill, Secretary in favor; Susan Steer, in favor; Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, in favor

**MOTION PASSES: 7-0**

The Board recessed at 8:40 P.M.

The Board reconvened at 8:45 P.M.

Bill Moore, Chairman stated we will present a resolution on the following application heard earlier this evening.

**#2862.1 TRIFECTA DEVELOPMENT, LLC SUBDIVISION**, 136 Lincoln Avenue, area variance modification to provide for a two lot subdivision; seeking relief from the minimum average lot width (both lots) requirements in the Urban Residential-2 District.

**RECUSAL:**

Susan Steer recused from this application.

**PUBLIC HEARING:**

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

None heard.

Bill Moore, Chairman presented the following resolution.

**IN THE MATTER OF THE APPEAL OF**  
*Trifecta Development*  
*136 Lincoln Ave.*  
*Saratoga Springs NY 12866*

The appellant having applied for a modification to a previously approved area variance granted on Nov. 9, 2015 under the Zoning Ordinance of said City to provide for a two-lot residential subdivision in a UR-2 District.

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 variance modification for the following amount of relief:

|  |                      |                                 |                    |  |
|--|----------------------|---------------------------------|--------------------|--|
| Minimum average lot width: Lot 1       | Required:<br>60 feet | Previously approved:<br>52 feet | Proposed:<br>51.97 | Total relief requested:<br>8.03 feet (13%) |
| Minimum total side yard setback: Lot 1 | 20 ft.               | 18.8 ft.                        | 18.9               | 1.1 ft. (5.5%)                             |
| Minimum average lot width: Lot 2       | 60 feet              | 48 feet                         | 48.03              | 11.97 feet (20%)                           |
| Minimum lot size: Lot 2                | 6600 sq. ft.         | 6100 sq. ft.                    | No change          | 500 sq. ft. (7.5%)                         |

As per the revised plans dated January 14, 2016 or lesser dimensions, be approved:

Whereas, the applicant's agent provided a letter stating, "the surveyor has pointed out that there is a very minor discrepancy between the approval and the survey map".

Therefore, the Board determines this request to be a minor modification of previous relief granted on Nov. 9, 2015

Keith Kaplan, Vice Chairman 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, Secretary in favor;  
Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, abstained

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

**APPROVAL OF MINUTES:**

Keith Kaplan, Vice Chairman made a motion to approve the minutes of the January 11, 2016 Zoning Board of Appeals meeting as amended.

Susan Steer seconded the motion.

**VOTE:**

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

**MOTION PASSES: 5-0-2**

James Helicke made a motion to approve the minutes of the January 25, 2016 Zoning Board of Appeals meeting as amended.

Gary Hasbrouck seconded the motion.

**VOTE:**

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

**MOTION PASSES: 6-0**

**MOTION TO ADJOURN:**

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 9:10 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary