ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, MARCH 21, 2016
7:00 P.M.
CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:01 P.M.

SALUTE TO THE FLAG:

PRESENT: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Gary Hasbrouck; Skip Carlson; James Helicke; Susan Steer; Cheryl Grey, alternate

ABSENT: Adam McNeill, Secretary

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:

#2759.1 ANW HOLDINGS RESIDENTIAL DEVELOPMENT, 27 Jumel Place, area variance to demolish existing structure and build seven-unit condominium project; seeking relief from the maximum principal building coverage, minimum front yard setback and maximum height for a residential fence requirement in the Urban Residential-3 District. Adjourned to April 11, 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. Adjourned to April 11, 2016.

#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 April 11, 2016.

NEW BUSINESS:

1. #2879 FARINA/WEXLER RESIDENCE, 179 Nelson Avenue, area variance to construct a rear porch addition to an Existing two-family residence; seeking relief from the maximum principal building coverage and the minimum rear yard setback requirements in the Urban Residential-3 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Maximum principal building coverage	30%	29.4%	31.3%	1.3% (4%)
Minimum rear yard setback	25 feet	16.5 ft.	9.4 ft.	15.6 ft. (62%)

Applicant: Jeff Farina & Karen Wexler

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated the existing porch and house have a preexisting nonconforming rear setback of approximately 16.5 feet. The existing rear porches encroach into the rear setback – the addition would result in greater nonconformity with the requirement. An addition to the porch or house along the south, left side would limit the use of the open side yard. An addition to the side of the house is not architecturally consistent with the existing home. An addition to the north is difficult due to roof lines. The porch addition will be barely seen from the street. The area on the first floor will be expanded to 96 square feet. The applicant is looking for an area to put a table and chair on. The shed on the property will be removed. A shed roof out the back is proposed on this addition. No trees will be removed for the porch expansion.

DISCLOSURE:

James Helicke stated he spoke to a neighbor yesterday while visiting the site.

Discussion ensued among the Board concerning the amount of relief requested.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:36 P.M.

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

Kurt Dooley owns a home to the north of this property. He is happy with the plan submitted. This will be less of an infringement on other property owners.

The Board has requested a visualization of this project be provided prior to the next meeting.

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, April 11, 2016.

2. #2882 BEYER SUBDIVISION, 199 West Circular Street, area variance to provide for a two-lot residential subdivision; seeking relief from the minimum lot area requirement in the Urban Residential-2 District.

SEQRA:

Action appears to be an unlisted action. A short EAF is required to be submitted by the applicant.

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum lot size: Lot 1	6,600 sq. ft.	5,700 sq. ft.	900 sq. ft. (14%)

Applicant: Jeff Beyer

Mr. Beyer stated he is applying for the variance to create a legal size lot that conforms to the minimum mean lot width and lot size requirements. The home which currently exists on Lot 1 meets the minimum mean lot width requirements.

The existing home is located in the extreme corner of the lot and would be 24.3' from the shared property line of the proposed lot 2. The lots could be more evenly split by a lot area at each 6,150 sq. ft., but that would create two substandard lots instead of one. The neighborhood is diverse with regard to size. The lot which would be created Lot 2 would meet the minimum lot requirements and should not require additional variances to build a single family residence on it. The access to the proposed lot 2 would be off the alley; therefore no additional curb cuts off of West Circular Street would be required. Lot 1 access is off of Hyde Street. This creates a 150 foot stretch of uninterrupted sidewalk along this area of the street. Mr. Beyer stated he is amenable to relocating his current garage.

Susan Steer requested a one block area of lot sizes surrounding this property.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:47 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. The applicant is required to appear before the Planning Board for an Advisory Opinion. Following the Advisory Opinion being obtained the applicant will return to the ZBA where a resolution will be prepared and presented.

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

-Per 8.4.6 City Planning Board Advisory Opinion is required.
-Planning Board subdivision approval is required.
-Lean-to and concrete pad to be removed and garage to be relocated as identified on the survey.

3. #2881 SARATOGA SPRINGS DENTISTRY, 286 Church Street, area variance to erect a freestanding sign; seeking relief from the maximum size for such sign in an Urban Residential-2 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum size freestanding sign:	4 sq. ft.	16 sq. ft.	12 sq. ft. (300%)

DISCLOSURE:

Keith Kaplan stated his family are patients at the Saratoga Springs Dentistry practice. No financial interest. No recusal, simply disclosure.

AGENT: Daniel Roicki, Adirondack Sign Company

Mr. Roicki stated the applicant is looking to erect a freestanding sign in the same location of the current sign. We are using the same hanging brackets which currently exist. It is close to the same size which exists. The size is decreased by one square foot.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:51P.M.

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

None heard.

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

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

Bill Moore, Chairman stated the public hearing will remain open. The applicant is required to appear before the DRC for review and approval. A resolution will be prepared and presented at the next Zoning Board of Appeals Meeting scheduled for April 11, 2016.

4. #2689.1 REJUVENATION HOMES MODIFICATION, 30 Lafayette Street, area variance modification for constructed changes to a new single-family residence and detached garage; seeking additional relief from the minimum rear yard and minimum distance between principal and accessory buildings in the Urban Residential-2 District.

RECUSAL:

Board member Susan Steer recused from this application.

SEQRA:

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

PARCEL HISTORY:

Area variance approved on May 20, 2014 to permit the demolition of one existing building and a portion of a second existing building and the renovation and construction of an addition to a single-family residence and construction of a detached garage.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	ORIGINAL APPROVAL	PROPOSED MODIFICATION	TOTAL RELIEF REQUESTED
Minimum mean lot width	100'	65'	No change	
Minimum side yard	20'	7'	No change	
Minimum total side yard setback	45'	37'	36.3'	8' (18%) to 8.7' (19%)
Minimum rear yard setback:	25'	22'8"	18.3'	2.33' (9%) to 6.7' (27%)
Minimum separation principal and Accessory buildings:	10'	6'	5'	4' (40%) to 5' (50%)
Maximum principal building coverage	25%	26.2% (8%)	No change	

Applicant: Todd Levinson, Rejuvenation Home

Mr. Levinson stated after the project was built the final survey revealed that although the new addition was built to the exact dimensions that were originally approved, the lot is actually in the shape of a rhombus, rather than a rectangle, and both it and the home are not perfectly perpendicular to the fronting street. The fact that the house is at an angle has made the southeast rear corner protrude further towards the rear of the lot than was assumed for the initial variance application. Also, the estimate of where the new addition was to join together with the existing structure was off slightly as well. This too has caused the home to grow in length towards the rear of the lot.

Keith Kaplan, Vice Chairman requested the old application be retrieved from the files.

Discussion ensued concerning why the applicant did not return prior to the building of the home concerning the large amount of relief required.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 8:15 P.M.

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

Clifford Sableski, 77 Phila Street. Compliments to Mr. Levinson. What a pleasure to deal with this gentleman. I appreciate everything that he has done. He is very cooperative, nice and courteous.

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 scheduled for April 11, 2016.

Board Member Susan Steer resumed her position on the Board.

OLD BUSINESS:

1. #2877 DUGAS POOL HOUSE, 65 York Avenue, area variance to construct a pool house; seeking relief from the minimum side yard setback requirement for an accessory structure in the Urban Residential-3 District.

This application was heard at the March 7, 2016 meeting and adjourned to March 21, 2016. The public hearing was opened and remains open. The Board requested additional information with regard to proposed fence plans and details. This information was submitted and distributed to Board members.

SEQRA:

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

PARCEL HISTORY:

Notice of violation issued August 3, 2015,"No permit on file for pool house, do not use, stop work".

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.

None heard.

Bill Moore, Chairman closed the public hearing at 8:27 P.M.

Bill Moore, Chairman stated a resolution will be prepared and presented at the end of this meeting.

6. #2807.1 MURPHY LANE SINGLE-FAMILY RESIDENCE, 39 Murphy Lane, area variance modification for proposed changes to a previously approved barn conversion to single-family residence; seeking additional relief

from the minimum front yard and rear yard requirements in the Urban Residential-3 District.

This application was heard at the February 22, 2016 meeting and adjourned to March 7, 2016 and further adjourned to March 21, 2016 at the request of the applicant. The Board requested elevation drawings for both the original structure and the proposed structure, and heights of structures along the alley in this neighborhood. This information was received by staff and distributed to the Board members on March 14, 2016. A letter from the applicant was also received via email on March 11, 2016.

SEQRA:

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

PARCEL HISTORY:

-Area variances approved March 23, 2015 to permit the renovation and conversion of an existing barn structure.

AREA VARIANCES – ORIGINAL ACTION:

	REQUIRED	PREVIOUSLY APPROVED FOR RENOVATION/CONVERSION	PROPOSED FOR NEW CONSTRUCTION	TOTAL RELIEF REQUESTED
Minimum lot size:	6,600 sq. ft.	2,500 sq. ft.	No change	4,100 sq. ft. (62%)
Minimum average lot width	60 ft.	50 ft.	No change	10 ft. (17%)
Minimum front yard	10 ft.	3.1'	32.2'	6.8 ft. (68%)
Minimum total side yard:	12'	11.4'	12.3' (compliant)	No relief required
Minimum rear	25'	15.7'	11'	14 ft. (56%)
Maximum principal bldg. coverage:	30%	46.5%		16.5% (55%)
Minimum parking:	2	1	No change	1 (100%)

NEIGHBOR INPUT:

-Letter from Mandy Mittler, dated March 1, 2016.
-Document/statement submitted at meeting by Cynthia Behan, dated February 22, 2016.
-Email/letter from Paul and Maggie Moss-Tucker, received February 22, 2016.
-Email/from Stephen Mittler, dated February 22, 2016.
-Email from Linda and Tom Davis, 78 White Street, received February 7, 2016.
-Email from Loretta Martin, received February 1, 2016.
-Email from Mike Winn, received February 1, 2016.
-Letter from Susan and Brian Rodems, dated January 31, 2016.

Applicant: Jean D'Agostino

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated since the applicant's last appearance before the Board several modifications were made which the Board requested. The applicant did submit cross sections of the building prior to construction. We have reduced wall heights and we have reduced some wall pitches so you can see that overall we will be 15" taller at the ridge than the original barn. Foundation is still at the 24" out and we have a different floor height from grade than originally proposed. Measurements of area homes were provided to the Board. We have included in our packets what the residence will look like now. The old structure was at 27 feet. We have always proposed a portion of the barn be removed to provide a carport to park a vehicle which would have taken away from the mass of the barn. We do have a front door and two small windows on the second floor. We do have one center window where the barn doors are now. A small window on the left side is over the kitchen sink. We included a second elevation which includes different siding. Ms. Yasenchak reviewed the materials proposed for this project. We took some measurements of properties from the alley. We

measured all the way to Clark Street. The peak of this new residence appears to be 24" higher to the west of 22 Clark Street. The new residence is proposed to have a 6 inch foundation reveal along the front. We are taking the siding down over the foundation. You will not see 2 feet of foundation. We are using a trim board at the bottom. The peak of this home is 17" higher than the residence at 17 Stratton Street. A review of the elevations was provided. Windows in the basement are non-egress windows.

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.

Brian Rodems, 84 White Street stated that he and several other property owners have retained an attorney to represent our interests. Information was provided to the Board. We have provided some photographs as well. Ms. Miele, Attorney, letter was read into the record by Mr. Rodems citing new height of the first floor and the fact that the barn was torn down before construction was begun. Mr. Mittler who cannot be here this evening stated his privacy is being compromised with the first floor elevation looking over his fence into his backyard.

Rachel Dunn, 74 White Street. Ms. Dunn stated she is not a land use attorney. An applicant cannot build and ask for forgiveness. You must ask for permission first.

Blain Dunn, 74 White Street. Mr. Dunn spoke concerning the height of the proposed barn reconstruction. I have submitted a letter last week. The barn is gone. The variances granted to renovate the barn should also be gone.

Loretta Martin, 17 Stratton. Visual diagram provided to the Board on how many homes this effects.

Evan Williamson, 18 Clark Street. I am a concerned neighbor and community member.

Cynthia Behan, 70 White Street. Height is a concern in relation to Murphy Lane. Look at the streetscape elevation. The applicant is looking for a 1/3 size lot building to be taller to the two adjoining buildings which are two story buildings. The lot is much too small for a building this large. This is very different from what was originally submitted and very upsetting.

John Behan, 70 White Street. Our company is working with the City on the Unified Development Ordinance. This has nothing to do with this just a disclosure. This project should not be considered a modification of the previous application. The prior application the existing conditions exist no longer. This is not a modification this is a whole new application.

John Kaufman, 44 White Street. The applicant said they were going to do something, they did not and how do those two things fit together. Can they be held accountable.

Tony Izzo, Assistant City Attorney explained the area variance versus use variance for the public. It all comes down to impact on the neighborhood. A modification versus a new application gets a few breaks. You might not have to prove it is a unique property, you might not have to prove a reasonable return on the property, but impact on the neighborhood is always there and is central in a zoning application. It must stay within the building code and the zoning code.

Mickey Mahoney, 55 White Street. I am a concerned neighbor. What makes this neighborhood special is the number of old barns which exist.

Susan Barden, Senior Planner stated a question concerning a new application versus a modification has come up a lot. A building permit was issued; the extent of work was beyond what Mr. Shaw considered to be the intent of the resolution.

Specifically the resolution stated a renovation and conversion of an existing barn structure. The construction was beyond that. In addition to the dimensions that are on the denial, there is also consideration for the extent of demolition and reconstruction. Whether it was a modification or a new variance it is treated the same way. There is no potential to act on that existing approval the applicant has without modification or new variances.

Bill Moore, Chairman stated we need to get a final number on the principal building coverage.

Ms. Yasenchak stated we are asking for a revision in the number for the rear stoop, we were building with landscape blocks and backfill. This is considered part of the principal structure. Additional information is required from the applicant. We always did have on the plans that there would be windows on the second floor which would look into the additional lots. This is a building requirement to have egress windows in habitable spaces. Again, the original intent was to save this building. We are open to doing anything on the outside that will make it look like the barn.

Keith Kaplan, Vice Chairman stated he was speaking with staff Susan Barden, Senior Planner offered this as an alternative to the Board. The Board did approve a footprint. The height will go up approximately 15 inches. Let's hold them to that have the same dimensions which mean you lose the rear exit. You would essentially have the same dimensions as the barn had. You have the height limit of 28 1/2 inches no higher. Thirdly have the materials be as similar to the barn as possible with DRC approval. A roof that is not shingled perhaps tin or similar to that of the neighbors. We are at least not impacting things as badly as what is in front of us right now. Right now I will not approve what is in front of us. I did vote against this the last time. I am trying to be practical.

Discussion ensued regarding the above mentioned proposal, as well as the possibility of requesting a DRC approval.

Keith Kaplan, Vice Chairman made a motion to request an Advisory Opinion of the DRC on this application, specifically exterior materials, siding, mass and scale, height, roofing, doors, windows, and details.

John Behan, 40 White Street. This structure is 4 feet taller than originally presented. Nobody wanted to have the barn occupied because this gives the neighborhood a different feel.

John Kaufman, 44 White Street. Questioned the request to the DRC.

Blaine Dunn, 74 White Street. Questioned the difference between renovation versus new construction.

Steve Shaw, Building Inspector stated the plans that we received stated in many places that the applicant would retain many of the components as much as possible. That becomes difficult to quantify. The trigger that sent this back to you was less of that intent of the repair and renovation than the whole mass and scale argument. The fact that things had been raised so our preexisting nonconforming status was being increased. It is not unusual for us on "renovation" projects to find that as we go along we have to think on our feet. I will point out that we were there for footing, wall and backfill inspections, we have not yet received information requested right in the beginning which was a new plan on the foundation. We still do not have that. We recognized early that there was a deviation from the plan. It is very common that we will allow minor things to continue so we do not hold up construction. We generally consider this to be a minor request as a general rule. When it became clear in my opinion that that was going to contribute to the mass and scale problem that was when we referred this back to the Board.

Brian Rodems, 84 White Street. I have been in touch with Mr. Mittler and as he pointed out the first floor is 4 feet off the ground.

Rachel Dunn, 74 White Street. Questioned if the Board will vote tonight.

Discussion ensued among the Board concerning voting this evening or sending this to the DRC for an Advisory Opinion.

Gary Hasbrouck seconded the motion to send the application to DRC for an Advisory Opinion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, opposed; Cheryl Grey, opposed; Gary Hasbrouck, in favor; Skip Carlson, in favor; James Helicke, opposed

MOTION PASSES: 4-3

Susan Barden, Senior Planner reviewed the information which was requested from the DRC. 28 ½ foot height maximum, request mass and scale information generally, exterior materials, roofing, siding and openings for windows and doors.

Bill Moore, Chairman stated we will send the request to the DRC for an Advisory Opinion and the applicant will appear on the agenda following their appearance at the DRC.

10:20 P.M. The Board recessed.
10:45 P.M. The Board reconvened.

RESOLUTION ON AGENDA ITEM #1 – OLD BUSINESS

#2877 DUGAS POOL HOUSE, 65 York Avenue, area variance to construct a pool house; seeking relief from the minimum side yard setback requirement for an accessory structure in the Urban Residential-3 District.

Keith Kaplan, Vice Chairman presented the following resolution.

IN THE MATTER OF THE APPEAL OF
Mark Dugas
65 York Avenue
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 65 York Avenue in the City of Saratoga Springs, NY, being tax parcel number 166.45-2-71 on the Assessment Map of said City.

The Applicant having applied for an area variance to maintain a constructed pool house structure, seeking relief from the minimum side yard setback requirement in the Urban Residential – 3 District and public notice having been duly given of a hearing on said application on March 7 and 21, 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
Side Yard Setback	5 feet	2 feet	3 feet (60%)

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 pool house has been constructed on a slab that would be difficult to move to a conforming location.

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 pool house is located behind the house in the rear of the property on a 205' deep lot…as the application states (the pool house) "not very visible from the street and it is a small structure".

3. The request for relief associated with the pool house is substantial at 60%, but is mitigated by the depth of the lot at 205' and its location behind the house and not visible from the street.

4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. As the application states, "The chain link fence will be repaired". In addition, the site to remain permeable exceeds the minimum 25% in the district.

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

   Condition: New fence installed per submitted fence plan dated Mar. 10, 2016.

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; Cheryl Grey, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; James Helicke, in favor

MOTION PASSES: 7-0

APPROVAL OF MINUTES:

The approval of meeting minutes was deferred to the April 11, 2016 meeting of the Zoning Board of Appeals.

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 10:50 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 7/11/16