



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JUNE 20, 2016

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Keith Kaplan, Vice Chairman, called the meeting to order at 7:02 P.M.

SALUTE TO THE FLAG:

PRESENT: Keith Kaplan, Vice Chairman; Susan Steer; Adam McNeill, Secretary; Gary Hasbrouck; Skip Carlson, James Helicke; Cheryl Grey, alternate

ABSENT: Bill Moore, Chairman

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs
Steve Shaw, Zoning and Building Inspector
Tony Izzo, Assistant City Attorney – arrived at 7:38 P.M.
Mark Schachner, Special Counsel to the Land Use Boards - arrived at 8:35 P.M.

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:

#2786.1 RITE AID EXTENSION, 90 West Avenue/242 Washington Street, area variance extension for demolition and reconstruction of pharmacy/retail establishment in the Transect-5 District. Adjourned to July 11.

#2889 CDJT DEVELOPMENT MULTI-FAMILY, 124 Jefferson Street, use variance to convert an existing 6-unit senior housing development to multi-family residential including workforce housing; seeking relief from the permitted uses in the Urban Residential-2 District.

#2880 ARMER/DESORBO RESIENCE, 117 Middle Avenue, area variance for additions to an existing single-family residence; seeking relief from the minimum side and rear yard setbacks and maximum principal building requirements in the Urban Residential-4 District.

NEW BUSINESS:

1. **#2896 ICE HOUSE TENT**, 70 and 72 Putnam Street, area variance to erect a permanent tent; seeking relief from the minimum two-story, build-to-line and maximum frontage build-out requirements in the Transect-6 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
Minimum build out	80%	33.2%	46.8% (58.5%)
Minimum two-story	Two-story	One-story	One-story (100%)

Applicant: Shawn Lynch, owner

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated the applicant has had a temporary tent located on his property for several years. He would now like to make the tent permanent. We have received DRC approval for a permanent tent on the site. Improper application was made for a temporary tent and so now we are here to rectify the situation. The applicant is in need of several variances to allow the permanent tent structure as well as relief from the minimum two story requirement in this T-6 District. The permanent tent will be located in the exact location as the prior temporary tent; the tent is more of an accessory use is typically located away from a main road, the patio area along the front produces a buffer to the tent. Moving the tent forward would limit future building additions. A temporary tent has been in the proposed location for several years. The new permanent tent structure is the same size and will produce no change in the existing conditions. The proposed tent does not increase the impermeable area of the site. These are two parcels and we are in the process of joining them together. An existing easement on the property currently needs to be rectified legally.

NOTIFICATIONS /APPROVALS/CONDITIONS OF APPROVAL

- Saratoga County Planning Board referral required.
- DRC Architectural Review required.

Discussion ensued regarding the length of time the tent is up and if sound attenuation measures were considered.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 7:30 P.M.

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

Dave Gadomski, contractor, stated he is in favor of the application.

Keith Kaplan, Vice 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 July 11, 2016.

Tony Izzo, Assistant City Attorney arrived at 7:38 P.M.

Steve Shaw, Zoning and Building Inspector arrived at 7:38 P.M.

2. **#2898 HABITAT FOR HUMANITY TWO-FAMILY**, 26 Cherry Street, area variance for construction of a two-family residence; seeking relief from the minimum side yard setback (each side) and minimum total side yard setback requirements in the Urban Residential-4 District.

SEQRA:

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

Agent: Jeff Clark, Executive Director – Habitat for Humanity, Northern Saratoga, Warren, and Washington Counties

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum front yard setback	25 feet	10 feet	15 feet (60%)
Minimum side yard setback: west	20 feet	11 feet	9 feet (45%)
Minimum side yard setback: east	20 feet	5 feet	15 feet (75%)
Minimum total side yard setback:	45 feet	16 feet	29 feet (64%)
Maximum principal building coverage:	25%	+/-30%	5% (20%)

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

Mr. Clark stated this property was donated from the City to Habitat for Humanity, along with 195 Division Street. We are nearing completion on Division Street. In reviewing plans for this property we discovered this is zoned UR-4 and has been since 1880 which means it should have been 100 feet wide and it is 50 feet wide. We were asked to do a two family duplex unit. The lot is substandard with the minimum average lot width requirement and may necessitate some relief from the side yard requirements. The area variances are substantial, but are in an effort to provide very affordable housing in the City of Saratoga Springs. By permitting two residential units on this parcel, we are able to provide healthy, safe, affordable housing for two families in the City. The neighboring properties are occupied with a four unit apartment on one side and Allerdice Building Supply warehouse on the opposite side. The neighborhood is characterized by a mix of uses and types and locations of structures. The proposed front yard setback of 10 feet would not be inconsistent with the neighborhood. The proposed driveway is side by side creating an 18 foot wide curb cut. The neighborhood is in transition, with townhouses proposed for construction on neighboring properties keeping this project within the character of the neighborhood.

Discussion ensued regarding the size of the home and the number and amount of variances requested as well as a discussion of a possible parking resolution and possible variance.

Keith Kaplan, Vice Chairman stated there are several items the Board has requested of the applicant. The building coverage, the survey, some reconsideration on the parking as well as permeability calculation of the site.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 8:00 P.M.

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

None heard.

Keith Kaplan, Vice 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 July 11, 2016.

3. **#2899 SOUTH BROADWAY INN & SPA SIGN**, 120 South Broadway, area variance for a freestanding sign; seeking relief from the maximum size and height requirements in the Transect-5 District.

SEORA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum area freestanding sign:	12 sq. ft.	45 sq. ft.	33 sq. ft. (275%)
Maximum height freestanding sign:	12 ft.	12.5 ft.	.5 ft.

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

- Saratoga County Planning Board referral required.
- DRC Architectural Review required.

Applicant: Steve Ethier, owner

Agent: Rick Bult, Fast Signs

We originally proposed a layout to the DRC it was larger than allowed by the City. We have redesigned the signage to fit within the 12 foot dimensions and returned to the DRC. The DRC was not receptive of the proposed signage and noted it was not the type of sign they would like to see in the Gateway to the city. The DRC was in favor of the first sign proposed and suggested that the applicant go before the ZBA for a variance for size. We surveyed all the neighboring properties to obtain signage sizes. Washington Inn, Adirondack Trust, and the Hilton Garden Inn have large signage and are all neighboring to this spa property. The proposed signage is approximately 36 square feet and will be setback off of the road approximately 38 feet. Neighboring properties signage is approximately 20 feet off the road. Previous signage has been removed.

Adam McNeill, Secretary noted the application has been poorly completed.

It was the consensus of the Board that the application does need to be properly completed by the applicant. Minutes of Design Review Commission meeting were requested by the Board concerning this application. The Board also requested various size renditions of the proposed signage be supplied to the ZBA.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 8:14 P.M.

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

None heard.

Keith Kaplan, Vice Chairman stated the public hearing will remain open. The applicant will return before the Board at the next ZBA meeting scheduled for July 11, 2016.

4. **#2056.1 LESSARD WINDOW WELL**, 12 South Broadway, area variance for a freestanding sign; seeking relief from the maximum front yard setback requirement in the Urban Residential-1 District.

SEORA:

PARCEL HISTORY:

-Area variance to construct a solarium and wine cellar approved August 6, 2003.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum front yard setback: State Street	30 feet	24 feet	6 feet (20%)

Agent: George Slingerland; Dave Gadowski, Contractor

Mr. Slingerland stated during the proposed sale of this property it was discovered that the applicants would need a variance to accommodate an escape window. This property received a variance back in 2003 and the addition built at that time did not incorporate enough additional relief into either the modified variance or new variance. The escape window protrudes 3 feet and is now in violation of the varied setback on the property.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 8:18 P.M.

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

None heard.

Keith Kaplan, Vice Chairman closed the public hearing at 8:19 P.M.

Gary Hasbrouck presented the following resolution.

#2056.1
IN THE MATTER OF THE APPEAL OF
Mark & Lisa Lessard
12 Third Street
Saratoga Springs, New York 12866

from the Building Inspector's determination for the same premises, identified as Tax Parcel Section 165.28-1-1, Inside District of the City of Saratoga Springs, New York

WHEREAS, the appellant has applied for an AREA VARIANCE for relief from the current City Zoning Ordinance for Minimum Front Yard Setback on State Street in a UR-1 zoning district; and public notice having been duly given of a hearing on said application held on June 20th, 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	Proposed	Total Relief Requested
Minimum Front Yard Setback: State Street	30'	24'	6' (20%)

- 1) The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant notes the window well is required for habitable basement space according to code. The application also indicates the improvement has been there for over a decade. The application states, "...the only alternate option is the removal of the escape window well. This removal is cost prohibitive and will violate the City Code requirement for escape window wells."
- 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, "Since the improvement has existed for over a decade, it will produce no change to the existing character of the neighborhood."
- 3) The relief requested is not substantial. The 20% variance may not be considered substantial in this case since most of the structure is at or below grade.
- 4) The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. The Board notes no request for a variance for permeability and that the window well is relatively small.
- 5) The difficulty may be considered self-created.. The application states, "The current violation in this case was done outside the homeowner's/applicant's knowledge. They reasonably relied on the work/process of their contractor." The Board finds the homeowner is exclusively responsible for the actions of any and all contractors

who work on their home and is responsible for securing permits, variances and certificates of occupancy even though they may rely on agents for this process. This self creation is not necessarily fatal to the application.

Skip Carlson seconded the motion.

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

None heard.

VOTE:

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

MOTION PASSES: 7-0

NOTE: The agenda was heard out of order awaiting arrival of Land Use Board Attorney – Mark Schachner.

6. **#2900 MAPLE SHADE CORNERS, LLC OFFICE,** 34 Marion Avenue, use variance for a medical office; seeking relief from the permitted uses in an Urban Residential-2 District.

SEQRA:

Action appears to be Unlisted. A short EAF was submitted.

PARCEL HISTORY:

-Use variance denied 1987.

USE VARIANCE CONSIDERATIONS:

- UR-2 permits single-family residences.
- UR-2 permits principal permitted uses/structures by issuance of a Special Use Permit, and Site Plan Review Private schools, religious institutions, neighborhood B&B, neighborhood rooming house, senior housing, senior assisted care facility, cemeteries.
- The maximum total density for the 18,730 sq. ft. lot would be a two lot residential subdivision (two single-families on each lot).
- The applicant is requesting a medical office use.

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL

- Planning Board site plan review required.
- County Planning Board referral required.

NOTE: Mark Schachner, Land Use Board Counsel arrived at 8:35 P.M.

Applicant: Maple Shade Corners, LLC

Agent: Stephanie Ferradino, Tuszynski, Cavalier and Gilchrist; John Primo, Architect; Jay Vero, Real Estate Agent

Ms. Ferradino presented a visual presentation of the existing site. The property is located in a UR-2 District. The current owners have been trying to market and sell this property for 11 years. There has been no return on their

investment since there is no use for this property as it is currently zoned. The applicant is a local dentist and is requesting a Use Variance for a part time satellite office. It will not be a highly intense use.

Ms. Ferradino reviewed the standards for a Use Variance.

Mr. Jay Vero, real estate agent provided a history of the parcel along with the property comparables in the area. Mr. Vero spoke about residential use versus commercial use in this area.

Mr. John Primo, Architect for over 19 years reviewed the property and provided information concerning all the permitted uses currently for this property, information concerning building square footage, and limited parking in this area. The type of use proposed is a perfect fit for this parcel.

Ms. Ferradino reviewed the financial hardship. When the property was purchased this area was predominately residential roadways that did not have the high traffic volume. Marion Ave. (Route 9) is now classified as Urban Minor Arterial with daily traffic volumes of 12,586 cars on a daily basis. The amount of development along this corridor in the last decade has increased dramatically, changing its nature from residential to commercial. There is an expectation of continued growth in this corridor. The character of this neighborhood is currently a mix of commercial and residential uses. The use proposed will be significantly less intense than the other commercial uses across Maple Dell including doctors, therapists, convenience and liquor stores. The applicant anticipates using the property as a satellite dental office seeing only one patient per hour. The vegetative buffer will be kept.

DISCLOSURE:

Cheryl Grey, alternate Board member stated she did look at this property prior to the building demolition as a possible conversion but she did not follow through with the purchase.

Discussion ensued among the Board concerning the use and reasonable return on investment, as well as a buffering plan.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman, opened the public hearing at 9:40 P.M.

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

Tracey Millis, Maple Dell Neighborhood Homeowners Association. Mr. Millis provided a petition of neighborhood signatures for the Board. Mr. Millis spoke concerning the neighborhood concerns regarding additional commercial properties in the area. This is the third time we are appearing before this Board concerning spot zoning. This lot has never been zoned commercial.

Jack Wallace, 32 Maple Dell. Spoke concerning the self created hardship of this application, as well as the increase in traffic.

Bob Uceroni, resident of the Maple Dell area since 1988. The master plan at that time had designated this area all residential. Traffic is a huge impact.

Keith Kaplan, Vice Chairman stated we will keep the public hearing open. We have asked for additional information from the applicant to be provided prior to the next Zoning Board of Appeals meeting scheduled for July 11, 2016.

CORRESPONDENCE RECEIVED BY THE BOARD:

Correspondence dated 5/23/2016 from Gary Dake, Saratoga Springs.

10:00 P.M. The Board recessed.
10:06 P.M. The Board reconvened.

RECUSAL:

Board Alternate Cheryl Grey recused from the following application.

5. **#2807.2 SOUTH ALLEY, LLC SINGLE-FAMILY**, Murphy Lane, interpretation appeal of the Zoning and Building Inspector determination that an area variance modification was required to continue construction of the single-family residence.

SEQRA:

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

PARCEL HISTORY:

- Area variance modification for proposed changes to a previously approved barn conversion – withdrawn April 11, 2015.
- Area variances approved March 23, 2015 to permit the renovation and conversion of an existing barn structure.

Applicant: Jeanne D'Agostino, member; South Alley, LLC

Agent: Jim Fauci, Attorney

Mr. Fauci stated this is an interpretation appeal. This application has been opened for 15 months. In March of 2015 area variances were granted. Construction began and a stop work order was issued in January of 2016 on this property. This applicant has met on several occasions with the Building Inspector, the Mayor and Counsel for the City of Saratoga Springs trying to resolve this issue and to determine the reason for the stop work order. I believe the stop work order was issued based on information I have received. What we have here is a pre-existing non conforming legal lot. Part of the application information is a title report from the Title Company stated that this lot has been in existence since 1927. There is no question per the City code it is a pre-existing non-conforming lot. Also per your code, I have cited an applicant can construct a single family home upon that lot. Without any variances the home can be built up to 60 feet. This applicant can build with the variances granted up to 60 feet. This applicant is asking for no further relief. Per the city's own code, because of the legal nonconforming lot they are good to go and no further action is needed. We are therefore requesting the stop work order be rescinded, and the building permit be restored. The other issue is that this applicant was not in conformance with the resolution that actually granted the variances back in 2015. That resolution granting the variances did not contain any conditions regarding height restrictions it stated as per the submitted materials. In conversations with the Building Inspector his interpretation was that it was too high. Mr. Fauci circulated an email dated 1-22-2016 from Mr. Shaw to Ms. D'Agostino concerning the height of the structure. Further, the Building Department did inspect the foundation and did approve the backfilling of the site. Mr. Fauci read an inspection report from the Building Department dated December 24, 2015 stating it was okay to backfill. We are asking that the stop work order be rescinded and the building permit be reinstated.

Keith Kaplan, Vice Chairman stated given the late hour and the information presented this matter will not be resolved tonight. I would like the Board to focus this time as an information gathering period and not focused on our opinions. We do have some questions for counsel.

Keith Kaplan, Vice Chairman stated the Board is working off the 3/21/16 Building Inspectors denial stating what triggered the modification request until the appeal of the modification request was withdrawn it details why proceeding under the old variance wasn't an option and why a modification was necessary to proceed. You filed an application to have that modification take place, and withdrew your application. Now you are appealing the stop work order. The code

stipulates in order for you to have the ability to build on a non conforming lot, it had to be not held in common with the neighboring lot, which this was. It did not meet this exception. At the time the variance was granted it was held in common with the Mittlers.

Mark Schachner, Counsel to the Land Use Boards stated the Acting Chair's interpretation of the provision is more appropriate than the applicant's. Otherwise anybody could come forward, buy property, separate ownership and then avail themselves of that provision. That is a very appropriate point.

Mr. Fauci stated the Board knew that. The Board knew that the applicant was under contract to purchase the parcel in question from the existing owners if the variances were granted. I do not think it should be looked at that way.

Mr. Fauci questioned the issuance of the stop work order and what was it violating.

Discussion ensued concerning the variances granted and the validity of such, and the modification request and subsequent withdrawal and discussion of rescinding the stop work order.

Adam McNeill, Secretary asked the applicant to provide a written explanation and reasoning as to why the stop work order was issued to you. From that stop work order you file a written interpretation to this Board supporting evidence as to why you think the stop work order was improperly applied to your client.

Mark Schachner stated I offer the following suggestion, to ask the Building Inspector to issue a more detailed stop work order because it is apparent there is considerable confusion concerning the issuance of the stop work order. We are not at the stage where the applicant can articulate properly the issuance of the stop work order. The Board is not 100% clear of the issuance of the stop work order either. What Adam McNeill has suggested is a good idea.

Mr. Fauci requested the Board to vote on this application tonight due to the length of time already lapsed since the stop work order was issued.

Keith Kaplan, Vice Chairman indicated that the Board's discussion of this interpretation application should not proceed if it has not been made clear what it is being asked to interpret.

It was the consensus of the Board that this application be adjourned until July 11, 2016.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 10:42 P.M.

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

None heard.

Keith Kaplan, Vice Chairman stated the public hearing will remain open.

Board Alternate Cheryl Grey resumed her position on the Board.

OLD BUSINESS:

7. **#2894 LAWRENTZ HOME OCCUPATION**, 126 Crescent Street, area variance to construct a detached garage with second story music studio, seeking relief to permit a home occupation within a residential accessory structure in an Urban Residential-2 District.

This application was heard at the June 6, 2016 meeting and adjourned to June 20, 2016. The public hearing was opened and remains open.

SEQRA:

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

PARCEL HISTORY:

-Building permit issued for garage.

DISCLOSURE:

Board member James Helicke stated he met the homeowner on a site visit today.

PUBLIC HEARING:

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

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

None heard.

Keith Kaplan, Vice Chairman closed the public hearing at 10:45 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

#2894
IN THE MATTER OF THE APPEAL OF
Robert Lawrentz
126 Crescent St.
Saratoga Springs, New York 12866

from the determination of the Building Inspector involving the premises at 126 Crescent St, in the City of Saratoga Springs, New York being Section 179.29, Block 1, Lot 56, 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 maintenance of a home occupation within an accessory structure in an Urban Residential-2 District and due public notice having been given of a hearing on said application held on the 6th and 20th days of June 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 variances for the following relief:

AREA VARIANCE

- Finished and habitable space in an accessory structure	Not permitted	Total relief requested:	100% Complete
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- Accessory Building being used for home occupation

Not Permitted

Total relief requested:

100% Complete

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 notes that there are no feasible alternatives on the site. He indicated that significant modifications to the space would be needed to accommodate the intended activities of performing and mixing music on the site. This includes extensive soundproofing and the use of specialized equipment.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. As noted by the applicant, there will be little in the way of customers or collaborators visiting the site. The applicant has noted that the only other person who will come to the site would be a mixer and that there will be no sign; the Board notes that this conforms with the Code requirements regarding the number of employees and the parking requirements of a home occupation. The Board further notes that the soundproofing planned by the applicant will minimize disturbance to the neighbors. Finally, the potential for abuse of this finished space approval to use it as an apartment space is mitigated by the lack of windows- those having been omitted for sound proofing reasons.
3. The Board notes this variance is substantial insofar as it is asking for complete relief; however, it should also be kept in mind that the activity in question is a relatively small operation in terms of physical space, and when compared to the area of the house, this home occupation would fall within the acceptable range for size within the district. Per the applicants, the approximate 325 square feet needed for the studio and mixing space is well within the limitation of 15% of the dwelling, which would be 888 SF. It is only because the business area is located in the accessory structure, that a variance is needed for the home occupation. The habitable space variance's substantiality has been mitigated by the exclusion of kitchen and bathing facilities and this resolution has conditions, see below, limiting those facilities.
4. This variance will not have adverse physical or environmental effect on the neighborhood or district. No physical changes to footprint of structures or to permeable surfaces have been made in order to host these activities. As noted above, the noise impact of the activity will be mitigated by soundproofing.
5. The alleged difficulty is self-created due the applicant's desire to perform the home occupation in the accessory structure; this is not necessarily fatal to the application.

Conditions:

No Bathing Facilities, No kitchen facilities, no overnight stays. Limit of the proposed +-325 SF space for the recording and mixing facility.

Soundproofing of garage/studio as per application materials

Gary Hasbrouck seconded the motion.

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

NOTE:

Board Member Gary Hasbrouck stated he did view the prior meeting webcast and feels informed and able to vote on this application this evening.

None heard.

VOTE:

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

MOTION PASSES: 6-1

8. **#2897 CITY COTTAGE, LLC LOT LINE ADJUSTMENT**, 23 Jumel Place and 178 East Avenue, area variance to provide for a lot line adjustment between two lots, seeking relief from the minimum lot size and minimum average lot width requirements for one of the lots in the UR-3 District.

This application was heard at the June 6, 2016 meeting and adjourned. The public hearing was opened and remains open.

SEQRA:

Action appears to be Unlisted. A short form was submitted.

Agent: Libby Coreno, partner, Carter Conboy

Applicant: Cody Wodyla, owner 178 East Avenue

Ms. Coreno stated the only open issue was the request to set conditions at 170 East Avenue. Information was submitted concerning this regard was forwarded to the Board via written correspondence.

PUBLIC HEARING:

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

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

None heard.

Keith Kaplan, Vice Chairman closed the public hearing at 10:55 P.M.

Susan Steer presented the following resolution.

2897
IN THE MATTER OF THE APPEAL OF
CODY WOJDYLA
23 JUMEL PLACE
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 23 Jumel Place in the City of Saratoga Springs, NY, being tax parcel number 166.13-1-15 on the Assessment Map of said City.

The Applicant having applied for area variances to provide for a lot line adjustment between two lots, seeking relief from the minimum average lot width and minimum lot size requirements for one of the lots in the UR-3 District and public notice having been duly given of hearings on said application on June 6 and 20, 2016.

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

Type of Requirement	District Dimensional Requirement	Proposed	Relief Requested
Minimum Average Lot Width	60 feet	37.13 feet	22.87 feet (38%)
Minimum Lot Size	6,600 sq. feet	6,461 sq. feet	139 sq. feet (2%)

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

1. The Board finds that the Applicant has demonstrated this benefit cannot be achieved by other means feasible to the Applicant. The Applicant is proposing a lot line adjustment to increase the size of one of the lots and the new configuration would create a "symmetrical rectangular lot." The Applicant explored other ways of adjusting the lot line so that these variances would not be required, however those options would limit the Applicant's ability to have full access to his lot due to the location of a garage and large tree and would create a "sliver of unusable land."
2. The Board finds that the Applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. The parcel at 178 East Avenue will be brought into greater conformity and the other property will not be affected.
3. The Board finds that the request for relief from the minimum lot size at 2% is not substantial. Further, the Board finds that the request for relief from the minimum average lot width may be substantial at 38%, but this is mitigated by the fact that the existing minimum average lot width is nonconforming at 40.3 feet and therefore the proposed minimum average lot width of 37.13 feet is only a decrease of 3.17 feet or 8%.
4. The Board finds that the Applicant has demonstrated that granting these variances will not have an adverse physical or environmental effect on the neighborhood since the Applicant is proposing only a change in the boundaries and not any new construction.
5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

James Helicke seconded the motion.

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

None heard.

NOTE:

Board Member Gary Hasbrouck stated he did view the prior meeting webcast and feels informed and able to vote on this application this evening.

VOTE:

Keith Kaplan, Vice Chairman, in favor; Cheryl Grey, Alternate, in favor; Susan Steer, in favor;

Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; James Helicke, in favor

MOTION PASSES: 7-0

9. **#2980 BARLOW RESIDENCE**, 2 Cherry Tree Lane, area variance to construct an attached garage and breezeway to an existing single-family residence; seeking relief from the minimum side yard setback requirements in the Rural Residential District.

This application was heard at the June 6, 2016 meeting and adjourned. The public hearing was opened and remains open.

SEQRA:

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

PUBLIC HEARING:

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

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

None heard.

Keith Kaplan, Vice Chairman stated several questions were raised by the Board. Since there is no representation present for this application this evening we will adjourn this application until the next ZBA Meeting scheduled for July 11, 2016. Keith Kaplan, Vice Chairman stated the public hearing will remain open.

10. **#2759.1 ANW HOLDINGS RESIDENTIAL DEVELOPMENT**, 27 Jumel Place, area variance to demolish existing structure and construct seven single-family residences (condominiums); seeking relief from the maximum principal building coverage, minimum front and rear yard setbacks, maximum number of principal structures on one lot and maximum height for a residential fence requirement in the Urban Residential-3 District.

This application was heard at the February 22, 2016 meeting and adjourned to March 7, 2016. The Board requested the proposed project as an overlay on an aerial view of the neighborhood. The application was further adjourned at the applicant's request. The public hearing was opened and remains open.

SEQRA:

-The action appears to be an unlisted action, a short EAF was submitted as required.

-A negative SEQRA Declaration was issued on October 28, 2013 for the seven unit condominium project.

-The Board reaffirmed the Negative Declaration in review of the area variance modification in 2014.

PARCEL HISTORY:

April 28, 2014 area variance modification for additional relief for the two units fronting on Jumel Place.

October 28, 2013 area variance application approved "to construct a seven unit condominium development".

September 11, 2013 favorable advisory opinion issued by the Planning Board.

February 8, 2013 applications for Van Zandt "Ballet School" withdrawn by the applicant.

November 5, 2012 application for use and area variances to permit two additional residential units and an additional educational/training facility, while maintaining the ballet school and two apartments permitted by prior variance.

January 11, 2010 applications for Malta Montessori School withdrawn by the applicant.

November 2009, application for an interpretation and use variance modification; alternatively, a new use variance for Malta Montessori School.

The interpretation request was that the proposed use was a modification of the existing use variance granted September 23, 1996 for a ballet school and two apartments. The modification of the use variance was a request to remove the word "ballet" so as to allow a school and two apartments. Modification of a condition of the approval that specifies the hours of operation for the ballet school from 3:00 PM to 7:30 PM, Tuesday through Saturday; and to 8:45 PM on evening.

Alternatively, a new use variance was requested to use the property as a School for children ranging in age from 3 to 12 and two apartments.

November 6, 1996 Planning Board Site Plan Approval.

September 18, 1996 Use Variance approved to convert the existing building into a ballet school and two apartments.

September 18, 1996 Area Variance approved for minimum front yard setback, minimum side yard setback, minimum rear yard setback and maximum percent of building lot coverage.

July 10, 1980 Area Variance approved to construct a covered loading dock addition to the existing Adirondack Stihl Building.

October 14, 1957 ZBA issued favorable advisory opinion to the City Council for rezoning request by Tarrant Manufacturing.

January 5, 1953 ZBA issued an unfavorable advisory opinion to the City Council for rezoning request by Tarrant Manufacturing.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum principal building coverage: 7 units combined	30%	46%	16% (53%)
Maximum principal buildings on one lot:	1	7	6 (600%)
Minimum front yard setback: (two buildings)	10 ft.	1 ft.	9 ft. (90%)
Minimum rear yard setback: (two buildings)	25 ft.	6 ft.	19 ft. (76%)
Maximum height residential fence	6 ft.	8 ft.	2 ft. (33%)

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

- Saratoga County Planning Board referral required.
- Site Plan review is required.

Applicant: John Witt, President, ANW Holdings

Agent: Libby Coreno, Partner, Carter, Conboy

Ms. Coreno stated John Witt, ANW Holdings has a contract to purchase 27 Jumel Place. A visual presentation was provided to the Board in response to comments and questions the Board asked of the applicant. The first issue we are responding to is the fence delineation. No change in the plan is noted since our previous application. Ms. Coreno provided a concept rendering noting the front yard setbacks on Jumel Place. We will provide both a picture and calculations for the Board noting none of these setbacks have changed since the original application and approvals in 2013. Concerning the rear yard setbacks in and around the area. These are old neighborhoods. Tax map photos of rear yards in the neighborhood as well as calculations were provided to the Board. Cost and development figures were provided to the Board, reviewing the increased costs involved in construction of a new sub-base, the storm sewer, sanitary sewer and the addition of a new full water line which was not on the original plans. A review of the existing site was provided for the Board members. A concept rendering of the proposed plan was also provided to the Board. No new relief is requested.

Ms. Coreno addressed issues which were disconcerting concerning written correspondence received by both the Board and the applicant this date from the attorney for several homeowners.

NOTE:

Alternate Board Member Cheryl Grey stated she has attended several meeting and she has watched the webcast of the meetings she was absent from concerning this application. She is well informed and is able to vote on this application this evening.

Discussion ensued among the Board concerning the application, financial information provided and presented, as well as accessory structures on the site.

DISCLOSURE:

Adam McNeill, Secretary stated several neighbors who are present this evening spoke to him outside his home concerning the height of the fencing.

PUBLIC HEARING:

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

Keith Kaplan, Vice Chairman asked if anyone in the audience has any new information to add to this application.

Maureen Curtin, Saratoga Springs. Difficult to absorb all the new information presented this evening. A lot of data to comprehend. I disagree with counsel Coreno concerning the financial data provided by Mr. Tingley. Feasibility is a very important issue as well as financial information concerning cost of these structures.

Kira Cohen, 208 Lake Avenue, spoke regarding the changes and precedent.

Sam Brewton, 206 Lake Avenue, spoke regarding the 2013 application and demonstrated the impact on the neighborhood. A visual presentation was provided to the Board showing the homes in the area against the project. Neighbors are not in support of this project, there are changes in the neighborhood. Neighborhood petition provided to the Board containing 47 signatures.

Raymond Ryan, friend of John Witt stated it has always been a dream of mine to own a John Witt home.

Jane Valetta, 31 Jumel Place. Stated the neighborhood has changed since 2013. None of the homes in this neighborhood are at \$500,000.

Gerald Mattison, 206 Lake Avenue. Information was provided to the Board. There are some alternatives. Too much density for this neighborhood.

Jeff Nealon, 25 Jumel Place. Concern regarding the close proximity to fencing, especially safety wise. This is not fair to the neighborhood. It is better than what is currently there.

Deb Mattison, 206 Lake Avenue. Too much density, fencing and pools. It will change the character of the neighborhood. Safety concerns.

NEIGHBOR INPUT:

- Correspondence from Jonathan Tingley, received June 20
- Email from Susan Daniels, 210 Lake Ave., received June 17.
- Email from Lisa Miller, 181 East Ave., received June 17.
- Letter from Jeff Neilen and Dawn Gaylord, 25 Jumel Place, received June 2.

-Change.org – Saratoga Neighbors for Zoning Enforcement –signatures and comments.

Keith Kaplan, Vice Chairman questioned the Board members concerning closing the public hearing or leaving the public hearing open.

Susan Steer made a suggestion to keep the public hearing open until the next meeting.

Discussion ensued.

Keith Kaplan, Vice Chairman polled the Board concerning the public hearing.

- Adam McNeill, voted to close the public hearing.
- Susan Steer, voted to keep the public hearing open.
- Cheryl Grey, voted to keep the public hearing open.
- James Helicke, voted to keep the public hearing open.
- Skip Carlson, voted to keep the public hearing open.
- Gary Hasbrouck, voted to close the public hearing.

It was the consensus of the Board to keep the public hearing open.

Keith Kaplan, Vice Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next Zoning Board of Appeals Meeting on July 11, 2016.

APPROVAL OF MINUTES:

James Helicke made a motion to approve the minutes of the April 25, 2016 Zoning Board of Appeals meeting with additions or corrections as submitted.

Susan Steer seconded the motion.

VOTE:

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

MOTION PASSES: 5-0

Keith Kaplan, Vice Chairman made a motion to approve the minutes of the May 9, 2016 Zoning Board of Appeals meeting with additions or corrections as submitted.

James Helicke seconded the motion.

VOTE:

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

MOTION PASSES: 6-0

Keith Kaplan, Vice Chairman made a motion to approve the minutes of the May 23, 2016 Zoning Board of Appeals Meeting with additions or corrections as submitted.

Susan Steer seconded the motion.

VOTE:

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

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Vice Chairman adjourned the meeting at 12:26 A.M.

Respectfully submitted,

Diane M. Buzanowski

Recording Secretary

APPROVED 7/25/16