



ZONING BOARD OF APPEALS

MINUTES

MONDAY, JULY 11, 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; Susan Steer; Adam McNeill, Secretary; Gary Hasbrouck; Skip Carlson, James Helicke

STAFF: Bradley Birge, Administrator, Planning and Economic Development, City of Saratoga Springs
Steve Shaw, Zoning and Building Inspector
Tony Izzo, Assistant City Attorney

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:

#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.

#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.

#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.

#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.

OLD BUSINESS:

1. **#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. In addition staff requested approximate heights of the proposed housing types and fencing details. This information was submitted and supplied to the Board. Further requested information was provided to the Board on June 16, 2016.

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 – response issued March 22, “No Significant County Wide or Inter Community Impact.
- Site Plan review is required.

NEIGHBOR INPUT:

- Emailed letter from Sandra Cohen, received July 8.
- Letter from Jonathon Tingley, received June 20.
- Updated petition “Our Stance as Neighbors of Proposed “Downton Walk”” provided via email from Sam Brewton, June 20
- Letter from Laura Rappaport, received June 20.
- Email from Jane Daley, 196 Lake Ave., received June 19.
- Email from Susan Daniels, 210 Lake Avenue, received June 17.
- Email from Lisa Miller, 181 East Avenue, 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.
- Email from Stephanie Hogan, 5 Ritchie Place, received May 10.
- Email from Amanda Dugan, received May 9.
- Email from Laura Giannini, 19 Jumel Pl., received May 8.
- Email from Cynthia Whalen, 62B Catherine St., received May 5.
- Email from Johnny Miller, received March 22.
- Email from Jay Pollard, received March 21.
- Email from Mark English and Marie Sandholdt, received March 21.
- Email from Elizabeth DiNuzzo, received March 21.
- Email from Richard Ball, 7 Granger Ave., received March 21.
- Letter from Thomas and Rachel Uccellini, 51 Granger Avenue, dated March 21.
- Email from Bob McTague, 296 Nelson Avenue, received March 21.
- Email from Joan Rupprecht, 20 Jumel Place, received March 21.
- Email from Jim MacNeill, 215 Lake Avenue, received March 21.
- Email from Kim Stevens, 172 Circular Street, received March 21.
- Email Anne Kearney Proulx, 14 Jumel Place, received March 21.
- Email from Jerry Luhn, 6 Pinewood Ave., received March 21.
- Email from Judith LaPook, 38 Horseshoe Dr., received March 20.
- Email from Tina Morris, received March 20.
- Email from Kira Lejaunesse, received March 20.
- Email from Laura Giannini, 19 Jumel Pl., received March 20.
- Email from Lesley and Bob Vogel, 238 Caroline St., received March 20.
- Email from Linda Reese Church, 225 Lake Avenue, received March 20.
- Email and attachment from Sandra Cohen, 208 Lake Avenue, March 20 and 19.
- Email from Reginald Lilly, 15 Granger Avenue, received March 19.
- Email from mrlouspal@aol.com. Received March 19.
- Letter from Debra Mattison, 206 Lake Ave., dated March 18.
- Email from judithariester@aol.com, received March 18.
- Email from Philip and Debra Wood, 55 Railroad Pl., received March 18.
- Email from Penny Jolly, received March 18.
- Email from Darlene D. Murray, 177 East Ave., received March 18.
- Letter from Kira Cohen, dated March 17.
- Email from Barbara Claydon, 16 Jumel Pl., received March 17.
- Email from Peter Dorsman, 11 Park Alley North, received March 16.
- Email from John Love and Kara Conway Love, 724 Waldens Pond Rd., Albany, NY received March 15.
- Email from Gerald Mattison, received March 14.
- Email from Stephanie Waring, received March 13.
- Email from Jeff and Linda Anderson, 186 East Avenue, received March 12.
- Email from Meghan O’Connor, received March 11.
- Email from John Cashin, received March 11.

- Email from Jane and John Valetta, 31 Jumel Place, received March 9.
- Email from Bob McTague, received March 9.
- Email from Sandra Cohen, 208 Lake Avenue, received March 2.
- Email from Max Peter, 204 Lake Avenue, received March 1.
- Email from Sam Brewton, received February 29.
- Email from Tracy and Johnny Miller, 26 Jumel Pl., received February 21.

Applicant: John Witt, President, ANW Holdings

Agent: Libby Coreno, Partner, Carter Conboy

Bill Moore, Chairman asked if there were any further comments from the applicant.

None heard.

PUBLIC HEARING:

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

Bill Moore, Chairman asked if anyone in the audience has any new information to add to this application before we close the public hearing.

Jonathan Tingley, Tusczyński, Cavalier and Gilchrist, attorney for homeowners Gerald and Debra Mattison, Sam Brewton, and Sandra Cohen. Mr. Tingley submitted a copy of an email received this date from Margaret Roohan. Mrs. Roohan and her husband made an offer in an all cash deal to purchase 17 Jumel Place for \$484,000, which is \$114,000 more than is offered by ANW Holdings. Mr. Tingley stated he spoke via telephone to Mrs. Roohan today and she informed him their plan for the property is to build 4 buildings on the site. We have heard before that this site will comfortably house 4 buildings on this site. If she would subdivide the property and no variances would be needed. If she chose not to subdivide the site would require 4 buildings not 7 buildings as is currently proposed. The owners of the property informed Mrs. Roohan that they were in going to sell the property to ANW Holdings. This was presented to show that there was a feasible alternative to this project for the site. The neighbors have voiced their concerns regarding the densities of this project. The variances sought are not the minimum variances required. A copy of the proposed contract from Mrs. Roohan was provided to the Board.

Tim Monihan, realtor representing Mr. Witt and ANW Holdings. What was not mentioned was the offer was null and void since Mr. Witt was under contract for the purchase of this property.

Kira Cohen, 208 Lake Avenue. Ms. Cohen reiterated the 10 significant differences in the current project versus what was presented in an earlier application.

Libby Coreno, attorney for ANW Holdings. Two emails provided to Adam McNeill, Board Secretary, which were referenced in an earlier presentation. These emails are dated from October 28, 2013, and they indicate that in response to questions from the Planning Department the exact methodology used to calculate feasible economic alternatives with a scenario for every building lot from 1 through 7. It is that standard that we are putting forward tonight. I reiterate that any deviation from that the applicant considers a deviation from precedent which is in writing. Ms. Coreno spoke concerning paraphrasing of her comments.

Maureen Curtin, Saratoga Springs. Three years have passed since the original approval was granted. The criteria has changed. This is out of character for the neighborhood.

Ann Carney Prue, 14 Jumel Place. Lived in this neighborhood for many years. What is currently there is an eyesore. Too much density for the area.

John Kaufman, 44 White Street. I support the neighbors. Too much density. Modest neighborhood. Does not fit in with the neighborhood.

Gerald Mattison, 208 Lake Avenue. I agree with everything which has been said concerning opposing this project. We have 500 signatures concerning this project opposition.

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

SEQRA:

SEQRA Part I was provided by the applicant.

SEQRA Part II was reviewed by the Board.

Bradley Birge, Administrator provided guidance concerning SEQRA determination.

Libby Coreno, attorney for the applicants spoke on behalf of ANW Holdings noted the prior negative declarations issued one 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. We are allowed to rely on the previous negative declaration.

Bill Moore, Chairman made a motion for a SEQRA Negative Declaration.

VOTE:

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

MOTION PASSES: 5-1-1

Gary Hasbrouck presented the following resolution.

**#2759.1
IN THE MATTER OF THE APPEAL OF
ANW Holdings
27 Jumel Place
Saratoga Springs, New York 12866**

from the Building Inspector's determination for the premises, identified as Tax Parcel Section 166.13-1-50.2, Inside District of the City of Saratoga Springs, New York

WHEREAS, the applicant has applied for AREA VARIANCES for relief from the current City Zoning Ordinance for Minimum Front Yard Setbacks, Minimum Rear Yard Setbacks, Maximum fence height, Maximum principal buildings on one lot and Maximum principal building coverage in a UR-3 zoning district; and public notice having been duly given of multiple hearings for said application starting on February 22, 2016 and ending on July 11th, 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 VARIANCES for the following amount of relief:

Maximum principal building coverage: 7 units combined	Required: 30%	Proposed: 46%	Total relief requested: 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%)

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

- 1) The applicant has demonstrated that the benefit cannot be achieved by other means feasible to the applicant. Similar variances were previously approved in a Resolution dated Oct 28, 2013. An additional variance was granted on April 28, 2014. These variances expired with no action taken by the applicant. Alternatives presented by the applicant in 2014 compared with alternatives presented with the current application have changed in terms of raw sale price for the units and land development costs. Although the Board did not rely solely on these computations for analysis of feasible alternatives in the prior Resolution, the Board did take into account these representations in determining the minimum variance needed in regards to number of units. It should be noted that dictating sales prices on units or determining whether a unit is priced too high or too low for the neighborhood is not within the purview of this Board. However, the Board is evaluating the information provided by the applicant, along with other information, in an effort to determine the reasonableness of the request for the variance and, in particular, whether there are feasible alternatives that would require no or lesser variances. The applicant provided a chart comparing 2013 to 2016 Land Acquisition and Development Costs. The Board concludes there is a proportional consistency between the 2013 and the 2016 financial analysis as it relates to the costs vs anticipated revenue from completion of the proposed project. Both development costs and projected home prices increased in a significant but proportional amount. The Board also concludes the applicant's analysis of the real estate market as it relates to the neighborhood is reasonable. The applicant's position is that "an average minimum home price of \$1.3 million is not consistent with the market for the neighborhood and it would not move forward with the project at 5 units." The Board previously determined the applicant "explored alternate means to achieve the requested benefit including a smaller number of units which were evaluated and found to be economically unfeasible." The applicant also previously demonstrated that attempted uses of the existing structures for varied uses have not been shown to be practical or economically feasible. The Board concludes again that the applicant's proposal for a seven unit residential condominium development is necessary for an economically feasible use for this property and that there are no other feasible alternatives.

In regards to the physical presentation of the site layout and amenities, pools were contemplated in the originally approved site plans in 2013 and 2014. It appears the number of pools has increased by one. Since no additional variances are being requested for pools, the Board concludes it causes no significant change. In regards to the size and height of the buildings, no final height was submitted in 2013 or 2014 nor is there any request for variances from height. The square footage of the footprint has not changed from 2014. The Board concludes there are no significant changes in site layout and amenities from the application which was previously approved.

- 2) The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The construction now proposed is significant. However, no evidence demonstrates that the construction proposed now would create traffic, parking or other issues sufficient to disrupt the neighborhood to any extent greater than the construction already approved. The Board finds that all factual findings from the 2013 and 2014 Resolutions remain valid and that no material changes to the neighborhood have taken place since those Resolutions. The varied uses of the existing structure have been terminated with the approvals in 2013 and 2014.
- 3) The relief requested is substantial, but the Board finds the circumstances and findings in the previous Resolutions are consistent with the current request for relief. The Board notes no material changes from the previous application.
- 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 for the additional pool and that circumstances surrounding the current application are not materially different from those for which relief was previously granted.
- 5) The difficulty may be considered self-created. The applicant allowed the variances to expire and did not apply in a timely fashion to secure an extension allowed by City Code. This however is not fatal to the application.
- 6) The Board finds the current application does not materially differ from the previous application for which variance approval has expired and there are no sufficient differences to deviate from the prior precedential findings of this Board in its 2013 and 2014 Resolutions.
- 7) This approval is granted with the condition that, except for pools and the necessary mechanicals related to the pools, no additional accessory structures shall be built or installed.
- 8) No eight (8) foot fence shall be permitted to be constructed along Jumel Place or extending beyond the front foundation line along Jumel Place.

Balancing all of the above factors, the Board finds that the benefit to the applicant outweighs the detriment to the health, safety and welfare of the neighborhood or community if the variances are approved.

Keith Kaplan, Vice Chairman seconded the motion.

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

James Helicke stated the application raises a number of issues. He questioned the issue of fewer units, and the fact that we are charged with approving the minimum amount of variances. He is not in favor of the application.

Adam McNeill, Secretary, stated this property came before the Board by three separate applicants. If this variance is not granted it reverts back to its original use which is commercial and is the opposite of what neighborhood character is. I own a home in this neighborhood. There was unanimous Planning Board response and approval. Financial information was provided for and substantiates 7 units. No substantial changes in the plans noted.

Susan Steer stated when she first saw this application she was surprised concerning the project which had been approved. Substantial changes in economics have changed the application. I concur with James. This project does not conform with the neighborhood character. I am not in favor of the application.

Keith Kaplan, Vice Chairman, stated the facts that we have been provided in the application indicate that the footprints of the homes have not changed, the houses have not changed, the heights have not changed, and the mass and scale has not changed. He also thanked the neighbors for their sincere passion they have brought to this project.

Bill Moore, Chairman stated he reviewed the relief in 2013 and 2014 and now, the variances are basically identical. As we go back to the original the building which sits there now occupies 49.4% and this is down to 46%. Would like the applicant to check the fencing positioning as it was stated earlier should not come forward of the foundation line along Jumel Place.

Gary Hasbrouck stated concerning the feasible alternatives. In all the information I have reviewed nowhere did I see a financial plan that would show that 5 units would be a feasible alternative to this project. The applicant provided that information that 7 units are needed to make this project work. I have reviewed the 5 tests we are charged with.

VOTE:

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

MOTION PASSES: 5-2

2. **#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.

This application was heard at the June 20 meeting and adjourned to July 11. The public hearing was opened and remains open. At the June 20 meeting the Board asked the applicant to submit the deed language pertaining to the easement on the property.

DISCLOSURE:

Bill Moore, Chairman stated he did view the previous meeting webcast in its entirety. He is comfortable with voting on the applications this evening.

Bill Moore, Chairman stated we have asked for no new information.

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 8:26 P.M.

Skip Carlson presented the following resolution.

#2896
IN THE MATTER OF THE APPEAL OF
Lynch's Tavern, Inc. (DBA Ice House)
70 & 72 Putnam Street
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 70 and 72 Putnam Street in the City of Saratoga Springs, New York, being tax parcel number 160.60-1-51 & 52 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 erect a permanent tent; seeking relief from the minimum two-story and minimum frontage build-out requirements in the Transect – 6 District. Public notice having been duly given of a hearing on said application held on June 20 and July 11, 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 for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
MINIMUM BUILD-OUT	80%	33.2%	46.8& (58.5%)
MINIMUM TWO-STORY	TWO-STORY	ONE-STORY	ONE-STORY (100%)

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 did consider locating the permanent tent more toward Putnam Street which would not require variances for front build-out and distance to the property line. However the applicant finds the current proposal more desirable for the following reasons: "locating the tent back further allows for more sun exposure for the south and west patio, the cost of the second floor expansion is not economical and moving the tent forward would limit future building additions".
2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The application states, "a temporary tent has been in the proposed location for several years and will produce no change in existing conditions".
3. The request for relief may be considered substantial at 58.5% and 100%. The application states that "the variances appear substantial. However the permanent tent will be located in the exact same location as the prior temporary tent with the patio serving as a buffer".
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The application states, "the proposed tent is the same size and is at the same location as the existing tent and does not increase the impermeable area of the site in any manner".
5. The request for relief is considered self-created. The self-created difficulty is not necessarily fatal to the application.

Note: Saratoga County Planning Board response "no significant county wide or inter community impact issued June 16. DRC Architectural Review required

Condition: This relief only relates to a tent structure as shown on submitted plans

Gary Hasbrouck seconded the motion.

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

James Helicke stated there is no precedent for a principal building allowing a tent to be built in the Transect-6 District.

A very bad precedent is being set. This is detrimental to our downtown.

Bradley Birge, Administrator, Planning and Economic Development stated if you are moving forward with this application you need to be very sure about what relief you are providing. Dimensionality, build-to and built-out or is it for a specific type of structure. The details you provide will run with the land ad infinitum. You as a Board requested information from the applicant on the easement language. Do you as a Board feel comfortable moving forward with the application without the information you requested.

Gary Hasbrouck stated there are some other businesses which have tents that remain up all year. More is being made out of this than is necessary. What is the detriment to the community if this remains up all year. No other property has a detriment to it because of this decision allowing the tent. Focus on the five tests.

Bill Moore, Chairman stated he agrees with James. It is not a building it is a tent.

Steve Shaw, Zoning and Building Inspector stated he is concerned about the size and the location.

Bradley Birge, Administrator, Planning and Economic Development stated do you wish to commission this relief specifically for the tent structure.

VOTE:

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

MOTION PASSES: 4-3

NOTE: Board Secretary Adam McNeill exited the meeting at 8:56 P.M.

3. #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.

This application was heard at the June 20, 2016 meeting and adjourned to July 11, 2016. The public hearing was opened and remains open. The applicant submitted a revised site layout showing two parking spaces in the rear and one in the front meeting the required 3 on-site parking spaces and a principal building coverage calculation.

Bill Moore, Chairman stated the requested information has been provided to the Board.

Bill Moore, Chairman asked if there was any further questions or comments from the Board.

Susan Steer questioned the applicant concerning the parking. The off street parking will be gone. There will be curb cuts all across the front of the property. She questioned if the all the parking could be placed in the rear of the property.

Mr. Jeff Clark, Executive Director – Habitat for Humanity, Northern Saratoga, Warren, and Washington Counties stated the problem is the concern regarding the shared driveway and the ownership of the property.

Discussion ensued regard the placement of the parking on the property.

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.

Susan Steer presented the following resolution.

**IN THE MATTER OF THE APPEAL OF
GLENS FALLS AREA HABITAT FOR HUMANITY
26 CHERRY STREET
SARATOGA SPRINGS, NY 12866**

From the determination of the Building Inspector involving the premises at 26 Cherry Street in the City of Saratoga Springs, NY, being tax parcel number 165.58-3-12 on the Assessment Map of said City.

The Applicant having applied for area variances to construct a two-family residence, seeking relief from the minimum front yard, side yard and total side yard setback and maximum principal building coverage requirements in the UR-4 District and public notice having been duly given of hearings on said application on June 20 and July 11, 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 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%	26.2%	1.2% (4.8%)

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 City of Saratoga Springs has donated this property to Habitat for Humanity, a nonprofit that provides affordable housing. The Applicant intends to demolish the current dilapidated structure and construct a two-family home. The Applicant considered other designs, but explained that while placing each residence on

each floor of a home would make the footprint smaller thereby requiring less variances, that design was not feasible because the Habitat "model" prefers two-family homes that are designed side by side so each family is responsible for their own roof and basement. The lot is substandard and no additional land is available for purchase to mitigate the need for the variances.

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 home that is currently on the property is abandoned and deteriorating rapidly. A new residence on the lot would dramatically improve the character of the neighborhood. The neighborhood is characterized by single, two and multiple family homes and a warehouse. New townhouses are being constructed across the street that are similar in style.
3. The Board finds that the requests for relief may be considered substantial, however substantiality is due to the fact that the lot is substandard and the Applicant's design is actually consistent with other homes in the neighborhood. Moreover, substantiality is offset by the fact that this project will improve the character of the neighborhood and promotes an important public policy goal of providing affordable housing for two families.
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 and will, in fact, improve it by demolishing a dangerous and abandoned structure.
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.

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

MOTION PASSES: 6-0

The Board recessed at 9:00 P.M.

The Board reconvened at 9:04 P.M.

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.

This application was heard at the June 20, 2016 meeting and adjourned to July 11. The public hearing was opened and remains open. Additional information was submitted by the applicant to the Board.

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 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.

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. At our last appearance before the Board there were some questions concerning the variance standards. Ms. Ferradino stated she did some research on legal standards in New York State. She reviewed reasonable return, uniqueness of financial hardship, and the altering of the essential character of the neighborhood. The current owners have been trying to market and sell this property for 11 years. The land cannot be developed. There has been no return on their investment since there is no use for this property as it is currently zoned. Ms. Ferradino reviewed the cost to construct a home. Impediments of parking and the cost to construct and the size of the property. No viable offers were made on the property. Property and school taxes were provided as well as and the maintenance costs were estimated at \$138,404 which is the current purchase price.

Data from present value on investment. 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. A screening plan of the property was provided to the Board. The size of the proposed office is approximately 3,000 square feet. The proposed project is a one story building. Materials and construction of the project will be done with a residential feel using stone and/or brick and siding.

Discussion ensued concerning comparables, financial hardship, and the essential character of the neighborhood.

Bradley Birge, Administrator, Planning and Economic Development stated the hardship is on the property itself.

Susan Steer, stated she is worried about the creeping effect. Has the Comprehensive Plan reviewed this area?

Bradley Birge, Administrator, Planning and Economic Development stated for the last several Comprehensive Plan rewrites this section has always been looked at because you have a commercial aspect on Excelsior Avenue and up Marion, but you also have a very stable residential area. Each time you look at this there are very different views as to what should occur in this area. There are no changes in the Comprehensive Plan for this area in 2015.

Bill Moore, Chairman stated he is not comfortable with the comparatives listed. Opening this lot up to commercial is something I am not comfortable with. This is not a fair comparison.

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.

Tracey Millis, Maple Dell Neighborhood Homeowners Association. Mr. Millis provided a petition of Neighborhood Association documents and affidavits and signatures for the Board. Mr. Millis spoke concerning the neighborhood concerns regarding additional commercial properties in the area. This is the northern gateway, single family residential homes. This is the biggest investment in our lives. Keep this a residential area.

Jack Wallace, 32 Maple Dell. Spoke concerning the self created hardship of this application, as well as the increase in traffic. The major concern is allowing a commercial property and the increase in traffic.

Mike Davis, 22 Maple Dell. The applicant did not improve the property but did tear it down. The property was not properly and consciously maintained and improved.

Bob Uceroni, resident of the Maple Dell area since 1988. This will have an effect on neighborhood traffic. A traffic study is needed. Traffic is a huge impact.

Bill Moore, Chairman stated we will keep the public hearing open. We will prepare and present a resolution at the next Zoning Board of Appeals meeting scheduled for July 18, 2016.

NEIGHBORHOOD INPUT:

- Letter from Gary Dake, President of Stewart's dated May 23, 2016.
- Letter from Tracy Millis III, Neighborhood Association President, dated June 20, 2016.
- Email from Tracy Millis, 37 Maple Dell, submitted June 20.
- Email from Todd Wolfe, 28 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Email from Michael Davis, 22 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Letter from Michael Davis to Ms. Ferradino, submitted June 20, 2016.
- Email from Denise Dupras, 20 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Email from John and Laura Manhey, 30 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Email from Laura Manhey, 30 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Letter from Barbara Talerico, 79 Covell Avenue, dated May 24, 2016.
- Email from Jeff Waldron, owner 382 Maple Ave., and Jeff Waldron & Gerard Kaluser, owners 384 Maple Avenue to Tracy Millis, submitted June 20, 2016.
- Email from Richard Richmond and Warren Richmond, 5 Avenue A to Tracy Millis, submitted June 20, 2016.
- Email from Anthony Kenney, 386 Maple Avenue to Tracy Millis, submitted June 20, 2016.
- Email from Suzanne Sinicopi, 32 Maple Dell to Tracy Millis, submitted June 20, 2016.
- Email from Louisa Foye, 6 Marion Avenue to Tracy Millis, submitted June 20, 2016.
- Email from Joshua Ramsdill to Tracy Millis, submitted June 20, 2016.

APPROVAL OF MINUTES:

Approval of meeting minutes was deferred to the July 18, 2016 Zoning Board of Appeals Meeting.

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 10:11 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 9/12/16