



ZONING BOARD OF APPEALS

MINUTES

MONDAY, JULY 18, 2016

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:08 P.M.

SALUTE TO THE FLAG:

PRESENT: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Adam McNeill, Secretary;
Gary Hasbrouck; James Helicke; Oksana Ludd, alternate

SKYPE: Susan Steer

ABSENT: Skip Carlson

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs
Steve Shaw, Zoning and Building Inspector
Tony Izzo, Deputy City Attorney
Mark Schachner, Counsel to the Land Use Boards

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.

COMMENTS FROM THE CHAIR:

Bill Moore, Chairman commented on proper decorum for the audience during the Zoning Board of Appeals Meetings. Anyone who makes a comment to a Board member in a threatening manner or a verbal threat will be physically escorted out of the proceedings.

Bill Moore, Chairman stated he did view the webcast from the previous meeting. He feels properly informed to vote on any application before the Board this evening.

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

#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. Adjourned to July 25, 2016.

#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 RESIDENCE, 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. #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.

This application was heard at the June 20 meeting and adjourned to July 11, 2016. The public hearing was opened and remains open. At the June 20 meeting the Board requested that a revised/clarified stop work order be issued by Steve Shaw, Zoning and Building Inspector. Mr. Shaw's notice of violation was submitted to the Board on July 11, 2016. The applicant's attorney responded by letter dated July 13, 2016.

SEORA:

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

INTERPRETATION APPEAL:

The application states with regard to 5.4.4, the applicant has been granted all the "dimensional relief" it needs via variances in 2015.

Applicant: Jean Dagostino, South Alley LLC

Agent: James Faucci, Attorney

Mr. Faucci asked if his July 13, 2017 correspondence has been received by the Board. A new stop work order has been issued dated July 8, 2016 by the Building Inspector. This stop work order did provide more specificity.

Keith Kaplan spoke regarding the amendment to the application and the stop work order. It is unclear what is being requested of the ZBA. Mr. Kaplan requests the applicant to establish the connectivity interpreting what you are asking for.

Mr. Faucci stated the original stop work order was silent as to what was violated. Following several meetings, phone calls and correspondence to City staff to determine what was the exact violation. The new stop work order is more complete. The one issue which is consistent with what we were told was that the change in elevation had created a larger building structure in areas of the required setbacks not previously considered by the ZBA. This requires an amendment to the existing variances. What we have is a buildable lot to begin with.

Discussion ensued regarding the amendment to the application and the Stop Work Order.

Adam McNeill, Secretary stated there are a lot of things which have led to the confusion in this application. Going back to the original application, this is not what the ZBA considered and approved. What had arisen from that is a stop work order, which has nothing to do with sections 5.4 and 5.5. What it is was the building was raised and you need a front stoop, this ZBA issued you a front yard setback which did not include this. Now, you need to seek from the Building Inspector is some type of linear dimension to amend your original appeal. We need you to meet with Code Enforcement and asked for specific relief which needs to be granted and the applicant can then return before the Board.

Mr. Faucci defended the applicant's action and spoke regarding the stop work order to be rescinded.

Keith Kaplan, Vice Chairman stated the Board is charged with working with decisions made by the Zoning and Building Inspector. When doing an interpretation to remove a stop work order a modification would be required. The modification to this application was withdrawn, that was the venue to argue. This interpretation is not the venue.

Mark Schachner, Attorney to the Land Use Boards stated the interpretation request that was filed, along with all the extraneous issues which were brought forward concerning the Building Inspector's report and findings is an apples to oranges comparison. The Board is currently looking to deal with simply the interpretation which is being sought.

Susan Steer stated originally an application was on file to modify the old variance. That was withdrawn. Application was then made for an interpretation of 2 specific zoning ordinance sections which really have nothing to do with why this stop work order was issued. If what you are appealing is the stop work order than you need to file that specifically with the ZBA and state that specifically. Not these particular sections and that is what we have jurisdiction over. Really, that is what you need to be talking to us about. You need to be specific. Your application filed was dealing with an interpretation it is irrelevant and we should be done with that. If you wish to return and file a new application based upon your appealing the stop work order than let's do that.

Mark Schachner, Attorney to the Land Use Board stated Susan Steer articulated my point better than I.

Mr. Faucci questioned the ability to amend the application and entertain an appeal of the Building Inspector's Stop Work order dated July 8, 2016.

Discussion ensued regarding allowing the applicant to amend the application.

Mark Schachner, Attorney to the Land Use Board stated the Board does not have before you a document from the applicant stating an Appeal from the Building Inspector's Stop Work Order revised denial. You need an amendment to the application.

Steven Shaw, Building Inspector stated the addition of front steps are encroaching and you need additional relief concerning principal building coverage.

Mark Schachner, Attorney to the Land Use Board stated is the Board now proposing to make a decision solely on the original interpretation request of sections 5.4 and 5.5 or are you requesting to consider the July 13th letter as an appeal of the July 8, 2016 determinations of the Building Inspector Report as appeal or both.

Keith Kaplan, Vice Chairman stated he is in favor of considering both.

Mr. Faucci requested the Board also include in their determination the correspondence sent to the Board on behalf of the applicant dated July 11, 2016.

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.

John Behan, stated a year ago the project was before the ZBA for restoring a barn. No alternatives were presented. It is unfathomable what has happened here. Substantial changes occurred with the plans. Non-conformity is a detriment to the neighborhood.

Rachel Dunn, 74 White Street. If the applicant moves forward with a new application, she requests anything submitted previously submitted from the neighbors be included in this application.

Bill Moore, Chairman stated the Board is not considering a new application – it will be an appeal of the Building Inspector's Report.

Sue Rodems, 84 White Street, stated the original application was for the renovation of the barn.

Brian Rodems, 84 White Street, stated the variances were granted with drawings as submitted.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for July 25, 2016. No additional information has been requested from the applicant.

NOTE:

Board Alternate Oksana Ludd exited the meeting at 8:15 P.M.
 Board Legal Counsel, Mark Schachner exited the meeting at 8:15 P.M.

NEW BUSINESS:

2. **#2891 BALLSTON AVENUE PARTNERS SUBDIVISION**, 96 Ballston Avenue, area variance to provide for a proposed 22 Lot subdivision and construct 22 townhouse units; seeking relief from the minimum lot size and minimum average lot width requirements for each of the proposed lots, minimum side yards, minimum total side yard and maximum principal building coverage requirements for each of the townhouse units in the Urban Residential-2 District.

BACKGROUND INFORMATION:

2015 Comprehensive Plan Complementary Core (CC). The CC designation consists of areas of commercial uses of moderate to high intensity interspersed with higher density residential uses. The area is intended to be pedestrian oriented with multi-modal transportation options and is a complementary, yet slightly less dense, extension of the Downtown Core. These areas represent a mix of freestanding offices, commercial uses, or clusters of businesses meeting the day to day needs of residents. The character of the CC areas is reflective of an urban environment with buildings near the street, parking to the rear or side and streetscape elements such as sidewalks, and ample room for street trees. The CC designation offers opportunities for infill and new development that continues to support the Downtown Core. Freestanding commercial structures as well as mixed-use, multi-story buildings with residential uses above the commercial uses would both be appropriate in this designation.

SEORA:

Application appears to be an Unlisted action. The applicant has submitted a full EAF. The Planning Board (site plan review) and DRC (architectural review) are also involved agencies.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Min. lot size: Lot 1	6,600 sq. ft.	2,640 sq. ft.	3,960 sq. ft. (60%)
Min. avg. lot width: Lot 1	60 ft.	30 ft.	30 ft. (50%)
Minimum side yard: Lot 1	8 ft.	0 ft.	8 ft. (100%)
Max. principal bldg. coverage: Lot 1	30%	34.2%	4.2% (14%)
Min. lot size: Lot 2	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 2	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 2	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 2	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 2	30%	51.4%	21.4% (71%)
Min. lot size: Lot 3	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 3	60 ft.	20 ft.	40 ft. (67%)
	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Min. side yard (each): Lot 3	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 3	20 ft.	0 ft.	20 ft. (100%)

Max. principal bldg. coverage: Lot 3	30%	51.4%	21.4% (71%)
Min. lot size: Lot 4	6,600 sq. ft.	2,640 sq. ft.	3,960 sq. ft. (60%)
Min. avg. lot width: Lot 4	60 ft.	30 ft.	30 ft. (50%)
Min. side yard: Lot 4	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 4	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 4	30%	34.2%	4.2% (14%)
Min. lot size: Lot 5	6,600 sq. ft.	2,640 sq. ft.	3,960 sq. ft. (60%)
Min. avg. lot width: Lot 5	60 ft.	30 ft.	30 ft. (50%)
Min. side yard: Lot 5	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 5	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 5	30%	34.2%	4.2% (14%)
Min. lot size: Lot 6	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 6	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 6	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 6	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 6	30%	51.4%	21.4% (71%)
Min. lot size: Lot 7	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 7	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 7	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 7	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 7	30%	51.4%	21.4% (71%)
Min. lot size: Lot 8	6,600 sq. ft.	2,640 sq. ft.	3,960 sq. ft. (60%)
Min. avg. lot width: Lot 8	60 ft.	30 ft.	30 ft. (50%)
Min. side yard: Lot 8	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 8	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 8	30%	34.2%	4.2% (14%)
Min. lot size: Lot 9	6,600 sq. ft.	2,640 sq. ft.	3,960 sq. ft. (60%)
Min. avg. lot width: Lot 9	60 ft.	30 ft.	30 ft. (50%)
Min. side yard: Lot 9	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 9	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 9	30%	34.2%	4.2% (14%)
Min. lot size: Lot 10	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 10	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 10	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 10	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 10	30%	51.4%	21.4% (71%)
Min. lot size: Lot 11	6,600 sq. ft.	1,760 sq. ft.	4,840 sq. ft. (73%)
Min. avg. lot width: Lot 11	60 ft.	20 ft.	40 ft. 67%)
Min. side yard (each): Lot 11	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 11	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 11	30%	51.4%	21.4% (71%)
Min. lot size: Lot 12	6,600 sq. ft.	2,611 sq. ft.	3,989 sq. ft. (60%)
Min. avg. lot width: Lot 12	60 ft.	30 ft.	30 ft. (50%)
Min. side yard: Lot 12	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 12	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 12	30%	34.5%	4.5% (15%)
Min. lot size: Lot 13	6,600 sq. ft.	2,635 sq. ft.	3,965 sq. ft. (60%)
Min. avg. lot width: Lot 13	60 ft.	31 ft.	29 ft. (48%)
Min. rear yard: Lot 13	25 ft.	0 ft.	25 ft. (100%)
Max. principal bldg. coverage: Lot 13	30%	33.2%	3.2% (11%)
	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Min. lot size: Lot 14	6,600 sq. ft.	1,702 sq. ft.	4,898 sq. ft. (74%)
Min. avg. lot width: Lot 14	60 ft.	20 ft.	40 ft. (67%)

Min. side yard (each): Lot 14	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 14	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 14	30%	50.9%	20.9% (70%)
Min. lot size: Lot 15	6,600 sq. ft.	1,704 sq. ft.	4,896 sq. ft. (74%)
Min. avg. lot width: Lot 15	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 15	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 15	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 15	30%	51.3%	21.3% (71%)
Min. lot size: Lot 16	6,600 sq. ft.	2,603 sq. ft.	3,997 sq. ft. (61%)
Min. avg. lot width: Lot 16	60 ft.	31 ft.	29 ft. (48%)
Min. side yard: Lot 16	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 16	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 16	30%	33.6%	3.6% (12%)
Min. lot size: Lot 17	6,600 sq. ft.	2,611 sq. ft.	3,989 sq. ft. (60%)
Min. avg. lot width: Lot 17	60 ft.	31 ft.	29 ft. (48%)
Min. side yard: Lot 17	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 17	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 17	30%	34%	4% (13%)
Min. lot size: Lot 18	6,600 sq. ft.	1,713 sq. ft.	4,887 sq. ft. (74%)
Min. avg. lot width: Lot 18	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 18	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 18	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 18	30%	51.3%	21.3% (71%)
Min. lot size: Lot 19	6,600 sq. ft.	1,716 sq. ft.	4,884 sq. ft. (74%)
Min. avg. lot width: Lot 19	60 ft.	20 ft.	40 ft. (67%)
Min. side yard (each): Lot 19	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 19	20 ft.	0 ft.	20 ft. (100%)
Max. principal bldg. coverage: Lot 19	30%	51.8%	21.8% (73%)
Min. lot size: Lot 20	6,600 sq. ft.	2,994 sq. ft.	3,606 sq. ft. (55%)
Min. avg. lot width: Lot 20	60 ft.	36 ft.	24 ft. (40%)
Min. side yard: Lot 20	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 20	20 ft.	10 ft.	10 ft. (50%)
Min. lot size: Lot 21	6,600 sq. ft.	2,833 sq. ft.	3,767 sq. ft. (57%)
Min. avg. lot width: Lot 21	60 ft.	35 ft.	25 ft. (42%)
Min. side yard: Lot 21	8 ft.	0 ft.	8 ft. (100%)
Max. principal bldg. coverage: Lot 21	30%	30.9%	.9% (3%)
Min. lot size: Lot 22	6,600 sq. ft.	2,576 sq. ft.	4,024 sq. ft. (61%)
Min. avg. lot width: Lot 22	60 ft.	31 ft.	29 ft. (48%)
Min. side yard: Lot 22	8 ft.	0 ft.	8 ft. (100%)
Min. total side yard: Lot 22	20 ft.	10 ft.	10 ft. (50%)
Max. principal bldg. coverage: Lot 22	30%	33.7%	3.7% (12%)

Applicant: Steve Gottman, member of the Ballston Avenue, LLC

Agent: Scott Lansing, Lansing Engineering

Mr. Gottman provided a history of the property and the variances requested. The site is primarily seven City lots and is 1.36 acres. This is a relatively commercial area. In 2012 the LLC applied to the City Council for a change in zoning. We received overwhelming support from the neighbors and we are ready to proceed with the zoning change. We have submitted all information to the City. After conversations with the City we withdrew that application due to the proposed Comprehensive Plan Amendment which was in process in 2012. In 2015 the Comp Plan was adopted and many of the changes we hoped would occur are covered under the Comp Plan. This area is now considered a Complementary Core District. There has still been no adoption of the zoning code change. This has created a financial hardship for the LLC.

The applicants have stated alternative designs have been considered by the applicants to create a development for the parcel that is both appropriate to the neighborhood and marketable to the community. It is our opinion that the proposed variances allow flexibility to provide a more appropriate density that is compatible with the existing adjacent uses and provides an appropriate transition to the existing residential uses setback from the Route 50 corridor.

Mr. Lansing reviewed the site. The site is primarily 1.36 acres and we will be utilizing the entire site which would entail the removal of all structures on the lots. We are proposing a 22 lot subdivision for 22 townhomes, each on its own lot. There are approximately 5 buildings with approximately 4 units in each building. One building will be a 2 unit building. Architectural renderings are not yet available. The front facades will blend in with the adjacent areas and complement the neighborhood. Access will be from Finley Street. Consolidation of existing curb cuts on Ballston Avenue. Clearing will be limited and green space will be maintained to the greatest extent possible. Internal sidewalk system will connect to the sidewalks both on Finley Street and Ballston Avenue. Concerning utilities, we do have access to the public water and sewer system. All stormwater will be managed on site. This is a permitted use in the zone. We do have 5 general variances listed on each proposed lot and the green space requirement of 25% are met for each lot. Mr. Lansing reviewed the variances requested. We feel this is in compliance with the Comprehensive Plan.

Bill Moore, Chairman stated this he does not feel comfortable hearing this project and making a decision before the City Council has voted on a zoning designation for this area. He will not overrule the City Council.

Adam McNeill, Secretary stated this currently is zoning a UR-2 District. The ZBA has to treat this as a UR-2 District until such time as a zoning re-designation is made by the City Council.

Discussion ensued regarding zoning, the Comprehensive Plan, and the proposed project.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 9:13 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.

Adam McNeill, Secretary made a motion for coordinated review for SEQRA.

James Helicke seconded the motion.

VOTE:

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

MOTION PASSES: 4-2

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVALS:

- Per 8.4.6 City Planning Board Advisory Opinion is required.
- County Planning Board referral is required – response “No significant countywide or intercommunity impact”, with Comment issued May 19, 2016.
- Planning Board subdivision approval required.
- DRC Architectural Review is required.

3. **#2902 HOFFMAN CARWASH**, 2214 Ballston Avenue, area variance to construct a wall sign; seeking relief to install such sign above the first floor level of the building in the Highway General Business District.

SEQRA:

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

PARCEL HISTORY:

-Planning Board Site Plan and DRC Architectural Review approvals for carwash.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Placement above first floor level:	Max. 1 st floor placement (12')	Above 1 st floor level (17.8')	Above 1 st floor level of building (5.8' above 1 st floor level)
Placement of wall sign on façade without street frontage:	On façade facing street	On side of building	Placement on side of building

Applicant: Marty Andrews, Hoffman Car Wash

Agent: Robert March, Phinney Design Group

Mr. March stated when the application was before the DRC it was presented with the signage showing at that elevation. It seemed to be very positive feedback from the Commission. It was necessary to place the signage in this location due to the easterly traffic flow and this was the only place for signage placement. There is an overhead door for the carwash facility and shed roof prevents signage placement within the zoning requirements.

Discussion ensued regarding signage placement.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 9:25 P.M.

Bill Moore, Chairman asked if anyone in the audience would like to speak concerning this application.

None heard.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for July 25, 2016.

4. **#2903 CAPOZZOLA HOME OCCUPATION**, 57 Gilbert Road, area variance to maintain a home occupation in a detached garage; seeking relief to permit a home occupation in an accessory structure (residential), to exceed the maximum floor area and number of employees for home occupations in the Rural Residential District.

DISCLOSURE:

Susan Steer disclosed that she does know Theresa and has know her for years. Their children played soccer together. No reason for recusal, simply disclosure.

SEQRA:

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

PARCEL HISTORY:

-Area variance and building permit issued for garage.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Home occupation conducted entirely within the structure:	Activity conducted within principal structure	Activity conducted within detached garage	To permit activity within detached accessory structure (residential)
Maximum area of total floor area of dwelling:	15%	25%	10% (67%)
Maximum number of employees	1	2	1 (100%)

Ms. Capozzola stated had the garage been attached which is what was preferred, the amount of relief requested would have been less. Our well, septic and leach fields prevented the garage attachment. The second portion of the application violates all the setbacks, there is hardly any room between my home and my mother’s house. Both buildings were constructed prior to any zoning regulations. When the garage was constructed the zoning requirements were different from those presently regulated for a home office designation. I do have two employees who job share. I request the Board’s indulgence since they have been with me for a length of time. Business and professional office facilities are permitted home occupations. Garages and home occupations are both allowable in the zone. The garage is residentially scaled and is architecturally consistent with the home. There will be no undesirable change in the character of the neighborhood. This area has gone through quite a transition.

Keith Kaplan, Vice Chairman stated the applicant is an attorney. How does it come to be that this is just now coming through this process. Obviously this has been in place for some time. Mr. Kaplan questioned the applicant concerning the length of duration of this operation.

Ms. Capozzola stated she has had an office in her home for 19 years and business over the garage for 13 years. I was under the impression that the use was appropriate. I did not apply nor receive a permit for the use over the garage area.

Keith Kaplan, Vice Chairman questioned how a real estate attorney can claim lack of knowledge concerning this process and the zoning ordinances.

The Board requested a floor plan of the garage and home as well as interior floor plan evidence of square footage. Photographs of the office were requested as well. No building permit was issued for habitable space above the garage. Discussion ensued regarding the size of the space and garage. Also, the number of hours additional staff work per week.

Adam McNeill, Secretary stated the difficulty he is having is that this is an RR-1 District.

Susan Steer stated she is concerned regarding an office in an accessory structure. There is a reason they are permitted in an primary structure versus an accessory structure is that they do change the nature and changes the intensity of the use. I am concerned about that and the number of employees and the fact that this variance will run with the land.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 10:06 P.M.

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

Debbie Kwasnieski, 63 Gilbert Road. There is a lot more traffic on the weekend on this road. You do not even know it is a home office or that there is anyone in there working.

Clifford Van Wagner, 18 Rolling Brook Drive. As a citizen I am shocked that the applicant sat on the ZBA for 7 years and says she is unsure of all these regulations. She also sat on the Comprehensive Plan Committee. We were on the ZBA at the same time. That is just crazy to do what has been done without the benefit of a building permit or any inspections and to be an attorney on top of that who helps other people with land use just shocking.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for July 25, 2016.

5. **#2904 CAPOZZOLA LOT LINE ADJUSTMENT**, 55 AND 57 Gilbert Road area variance to provide for a lot line adjustment between two lots; seeking relief from the minimum side yard setback requirements for each of the existing residences in the Rural Residential District.

SEQRA:

Action appears to be a Type II Action.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback: 55 Gilbert	30 ft.	10.4 ft.	19.6 ft. (65%)
Minimum side yard setback: 57 Gilbert	30 ft.	12.1 ft.	17.8 ft. (60%)

Applicant: Theresa Capozzola

Ms. Capozzola stated the property line goes through the existing house at 55 Gilbert Road. A lot line adjustment appears that the only way to provide each house its own lot is to adjust the line as it's drawn. There is less than 25 ft. between the two homes. My parents have lived in this home since it was built. Surveys were not required at the time these homes and garage was built. Both lots would meet the requirements of the RR zone. The proposed lots are irregularly configured. The improvements have been in existence for over 90 years and 60 years respectively. The current septic system is shared and this will be addressed by a condition that will require 55 Gilbert Road to install its own septic system.

Keith Kaplan, Vice Chairman stated this is a very straightforward application. No further questions or comments.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 10:14 P.M.

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

None heard.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the ZBA Meeting scheduled for July 25, 2016.

6. **#2905 MCGUIRE PORCH**, 97 Lawrence Street, area variance for a rear porch addition to an existing single-family residence; seeking relief from the minimum side yard setback requirement in the Urban Residential-2 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback	8 ft.	5.5 ft.	5.5 ft.	2.5 ft. (31%)

DISCLOSURE:

James Helicke stated he visited the property and the homeowner showed him the porch in question. They did not discuss the merits of the application.

Keith Kaplan, Vice Chairman stated he visited the property on Saturday and he and the applicant viewed the porch in question. They did not discuss the merits of the application.

Applicant: Ben & Heather McGuire

Mr. McGuire stated this is the only area it could be done as the current exit from the kitchen is located on the back/side of the property. We could make the porch long and thin along the back of the property but our laundry room, exhaust and window would be inside the porch which would cause an issue.

Discussion ensued regarding the need for a survey for the comfort of the Board. The Board requested a survey of the property, and a permeability calculation prior to granting a variance.

Mr. Shaw, Building Inspector stated this is so close to the line, we will require a survey prior to the issuance of a Certificate of Occupancy.

Mr. McGuire stated he will obtain a survey and provide the Board with the information they have requested.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 10:28 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 Board awaits the applicant's submission of materials requested prior to return before the Board.

7. **#2906 PELLET ADDITION**, 14 Heather Lane, area variance for an addition to an existing single-family residence; seeking relief from the minimum side yard and total side yard setback requirements in an Urban Residential-1 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED

Minimum side yard setback:	12 ft.	9.7 ft.	9.4 ft.	2.6 ft. (22%)
Minimum total side yard setback:	30 ft.	20.4 ft.	20.1 ft.	9.9 ft. (33%)

Applicants: The Pellets

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated the Pellets are proposing an addition to their home of 20 years. They want to stay in this home and add a 12 x 20 foot addition to their home. They have a standard colonial. They would like to modify the location of their ½ bath and bring the laundry up from the basement. The best location is behind the existing family room. Several options were provided to the Board. Both side yards and total side yards are preexisting nonconforming. The addition would expand the nonconforming structure. The variance requested is not any more than what currently exists, or what has existed for the past 30+ years. The addition would only encroach .4' into the existing side yard setback. The proposed addition will be consistent with the architectural character of the neighborhood. The rear addition is single-story and follows the existing side yard setbacks, it should not be visible from the street. No trees will be removed for the construction of this addition.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 10:38 P.M.

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

None heard.

Bill Moore, Chairman stated a resolution will be prepared and presented at the next ZBA Meeting scheduled for July 25, 2016.

8. **#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.

PARCEL HISTORY:

- Area variance to permit the redevelopment and expansion of the pharmacy in a Transect-5 District, granted January 26, 2015.
- Planning Board special use permit issued March 25, 2015.
- Planning Board site plan review approval granted April 14, 2016.
- DRC architectural review approval granted February 25, 2015.

SEQRA – Original Action

- Planning Board as (lead agency) issued a Negative SEQRA declaration on October 8, 2014.
- No further SEQRA action for an extension.

AREA VARIANCE – ORIGINAL ACTION

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Build-to-line: West Avenue	0-12'	32'10"	20.83' (174%)
Frontage build-out: West Avenue	70%	52.23%	17.77% (25%)
Minimum two-story:	Two-story	One-story	One-story (100%)

Tony Izzo, Assistant City Attorney provided information to the Board concerning an extension and the duties of the ZBA in that regard.

BACKGROUND INFORMATION:

The current approval will expire August 3, 2016, if not extended, which is eighteen months from the filing date of the decision. The applicant is requesting an 18 month extension to February 3, 2018. The original timeframe was not sufficient since the approval process has taken longer than anticipated and construction has not yet begun. The circumstances upon which the original variance was granted have not changed. The site remains unchanged.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 10:28 P.M.

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

None heard.

Bill Moore, Chairman stated a resolution will be prepared and presented at the next ZBA Meeting scheduled for July 25, 2016.

9. **#2786.2 RITE AID SIGNAGE**, 90 West Ave3nue/242 Washington Street, area variance for proposed sign package for a new pharmacy/retail establishment; seeking relief from the maximum number of wall signs, maximum area for wall signs, placement of wall signs above the first floor level of the building, maximum area for a freestanding sign, to permit directional signage, maximum area for directional signage, and to permit temporary signage (banner) in the Transect-5 District.

SEQRA:

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

PARCEL HISTORY:

- Area variance to permit the redevelopment and expansion of the pharmacy in a Transect-5 District, granted January 26, 2015.
- Planning Board special use permit issued March 25, 2015.
- Planning Board site plan review approval granted April 14, 2016.
- DRC architectural review approval granted February 25, 2015.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Placement above the first floor level of building: "Rite Aid" wall sign (36 sq. ft.) on Washington St. façade:	Below first floor level	Above first floor level	Placement above first floor level (100%)
Maximum number of wall signs permitted per street frontage: "Drive Thru Pharmacy" → (13.5 sq. ft.) wall sign on Washington Street façade	1	2	1 (100%)
Maximum number of wall signs: Rite Aid shield (10.5 sq. ft.) wall sign at the corner West and Washington	0 No street frontage	1	1 (100%)
Placement above first floor level of building: Rite Aid shield (10.5 sq. ft.) wall sign at corner of West and Washington.	Below first floor level	Above first floor level	Above first floor level (100%)
Placement above first floor level of building: "Rite Aid Pharmacy" (58.5 sq. ft.) wall sign on parking lot façade.	Below first floor level	Above first floor level	Placement above first floor level (100%)
Max. number of wall signs: "GNC Live Well" and "Drive	1	4	3 additional signs (300%)

Thru" (totaling 45.34 sq. ft.) "Drive Thru Pharmacy →" (13.5 sq. ft.) and "department within" (8.75 sq. ft.) wall signs on West Ave. façade			
Placement above first floor level of building: "Rite Aid Pharmacy" (58.5 sq. ft.) wall sign on parking lot façade	Below first floor level	Above first floor level	Placement above first floor level (100%)
Max. number of wall signs: "Rite Aid Pharmacy" (58.5 sq. ft.) "GNC Live Well" and "Drive Thru" (totaling 45.34 sq. ft.) and "department within" (8.75 sq. ft.) wall signs on parking lot façade	0 No street frontage	3	3 signs (300%)
Max. number of wall signs: "Drive Thru Pharmacy →" (13.5 sq. ft.) and "Drive Thru Pharmacy" (11.5 sq. ft.) wall signs on parking lot façade	0 No street frontage	2	2 signs (200%)
Max. size freestanding sign:	24 sq. ft.	48.25 sq. ft.	24.25 sq. ft. (101%)
Maximum number freestanding sign	1	2	1 (100%)
Temporary banner "Rite Aid Coming Soon" (32 sq. ft.)	0	1	1 (100%)

Applicant: National Retail- Rite Aid Pharmacy

Agent: Matthew J. Jones, Attorney; Jaclyn Hakes, MJ Engineering; Terry Meisner, Saxton Signs

DISCLOSURE:

Mr. Jones disclosed that he is a member of the Saratoga Springs Charter Revision Committee. This does not present an issue for the applicant and is simply for disclosure purposes.

Mr. Jones provided a brief overview of the project and variances which were previously granted by this Board. Mr. Jones reviewed the signage in the area. The application represents the third iteration of the signage package prepared by the project team in an effort to minimize the relief sought.

Ms. Hakes briefly reviewed the site plan noting some modifications of the site plan following review by the Planning Board and the Design Review Commission. A second entrance was placed on the building. Landscape modifications and increased pedestrian areas have been added. Parking spaces have been removed and banked at this time. The Planning Board allowed the spaces to be banked following an evaluation of parking needs. Circulation pattern for both pedestrians and vehicles was reviewed for the Board. Additional walkways have been added. There is an existing sidewalk along West Avenue and also along Washington Street. Currently three areas of civic space to create a more vibrant pedestrian access are proposed. The proposed building does have three street-facing facades. The building faces two streets and has two building frontages for wall signs.

Mr. Jones stated procedurally we need two approvals one for signage variances and the DRC for Architectural Approval. We realize a referral to the DRC for an Advisory Opinion concerning signage is possible. A review of the proposed signage was provided to the Board. Currently 24 signs are proposed. The freestanding "Drive Thru Pharmacy →" (4 sq. ft./4 ft. high), "pick up", "clearance", "drop off", "exit only" wall signs are directional signs max. 4 sq. ft. and do not require relief.

Discussion ensued concerning the proposed signage and number of signs proposed. It was the consensus of the Board that the GNC signage should be removed, too many signs proposed. The Board discussed the possibility of pavement signage. Also the Board requested mock ups of the larger signs in different sizes for comparison as well as alternatives.

Susan Steer stated there are too many signs. What can we reduce? Perhaps window signage and awnings.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 11:30 P.M.

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

None heard.

Bill Moore, Chairman stated we will leave the public hearing open.

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

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

APPROVAL OF MINUTES:

The approval of meeting minutes was deferred to the next Zoning Board of Appeals Meeting on July 25, 2016.

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 11:35 P.M.

Respectfully submitted,

Diane M. Buzanowski

Recording Secretary

APPROVED 9/12/16