



# ZONING BOARD OF APPEALS

## MINUTES

MONDAY, NOVEMBER 7, 2016

7:00 P.M.

CITY COUNCIL ROOM

**CALL TO ORDER:** Bill Moore, Chairman, called the meeting to order at 7:00 P.M.

### **SALUTE TO THE FLAG:**

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

**ABSENT:** James Helicke

**STAFF:** Susan Barden, Senior Planner, City of Saratoga Springs  
Tony Izzo, Deputy 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:**

**#2910 PET LODGE OF SARATOGA,** vacant lands on the east side of Route 9/South Broadway (tax parcels nos. 191.8-1-1-6), coordination of SEQRA review and area variance to construct a pet boarding facility and associated site work in the Tourist Related Business and Rural Residential Districts.

**#2915 OBSTARCZYK GARAGE,** 147 Spring Street, area variance to construct a detached, two car, two story garage, seeking relief from the minimum side yard setback and minimum distance between accessory and principal structure in the Urban Residential-3 District.

**#2778.1 GUARINO/HANER EXTENSION,** 21 Park Place, area variance extension for construction of two (2) two family residences; relief from the minimum front yard setback and maximum principal building coverage granted December 15, 2014.

**#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.

**#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.

**#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. **WITHDRAWN.**

**#2921 REGATTA VIEW, LLC RESIDENTIAL DEVELOPMENT**, NYS Route 9P, Dyer Switch Road and Regatta View Drive, interpretation appeal from determination of the Zoning and Building Inspector that the Interlaken PUD legislation fails to provide proof of compliance for the proposed development. Adjourned to November 21, 2016.

**NEW BUSINESS:**

1. **#2923 BRITTEN RESIDENCE**, 23 Crommelin Drive, area variance for an addition to an existing single family residence; seeking relief from the maximum principal building coverage in the urban residential-1 district.

**SEQRA:**

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

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum principal building coverage	20%	21.7%	1.7% (8.5%)

Applicant: Matt Britten

Agent: Tonya Yasenchak, Engineering America

The applicant is requesting an area variance. The applicant would like to add a one story master suite addition on to the existing home. A second story addition was considered, but did not meet the needs of the family and the applicant felt it did not fit the character of the neighborhood. This entire neighborhood has one story homes. Therefore we are slightly over coverage. We meet all the setback requirements; however we exceed the principal building coverage requirements by 1.7%. We did consider making the addition smaller; however the size of the addition is 22'x16' and encompasses a master suite, closet and bath. We do not feel this is excessive. We do meet the permeability requirements, at 64%, which is well within the requirements.

Susan Steer questioned other feasible alternatives.

Ms. Yasenchak reviewed the options the applicant considered.

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

None heard.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:06 P.M.

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 7:07 P.M.

Susan Steer presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
MATTHEW AND SHANNON BRITTEN  
23 CROMMELIN DRIVE  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 23 Crommelin Drive in the City of Saratoga Springs, NY, being tax parcel number 166.10-4-9 on the Assessment Map of said City. The Applicants having applied for an area variance to construct an addition to an existing single-family residence in a UR-1 District and public notice having been duly given of a hearing on said application on November 7, 2016.

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

Type of Requirement	District Dimensional Requirement	Proposed	Relief Requested
Maximum Principal Building Coverage	20%	21.7%	1.7% (8.5%)

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

1. The Board finds that the Applicants have demonstrated this benefit cannot be achieved by other means feasible to the Applicant. The Applicants intend to construct an addition on the first floor of the residence for a master suite and state that a second floor suite would not be consistent with the architecture of the home and that of the neighboring properties. The Applicants considered modifying the overhangs to reduce the coverage, but that would only reduce the variance request by 0.2% and would not be consistent with the existing home style. Further, the Applicants state that additional land is not available for purchase.
2. The Board finds that the Applicants have demonstrated that granting this variance will not produce an undesirable change in neighborhood character and will not be a detriment to the nearby properties. The neighboring homes are mostly single-story residences. According to the Applicants, "the addition, with the proposed overhangs, will be consistent in style with the existing home and others in the neighborhood." The addition will be located at the back of the residence and "will not block any neighbors' views."
3. The Board finds that the request for relief at 1.7% is not substantial. According to the Applicants, the request is for an additional 202.47 sq. feet in coverage which is "small in relation to the size of the current house."
4. The Board finds that the Applicants have demonstrated that granting this area variance will not have an adverse physical or environmental effect on the neighborhood. The proposed addition will not exceed the zoning district's permeability requirements, shading of the neighbors' property will not increase, no large trees will be removed and roof drainage will not drain off of the property.
5. The request for relief may be considered a self-created hardship; however self-creation alone is not fatal to the application.

Cheryl Grey seconded the motion.

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

None heard.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, in favor; Susan Steer, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; Cheryl Grey, alternate, in favor

**MOTION PASSES: 7-0**

**2. #2927 FOUST GARAGE,** 8 Avery Street, area variance for an existing detached garage; seeking relief from the maximum accessory building coverage in the urban residential-3 district.

**SEQRA:**

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

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum accessory building coverage:	10%	11.27%	1.27% (12.7%)

Agent: Tonya Trombley, Witt Construction

The applicant is requesting an area variance for the detached garage. When the as built were completed it was discovered that the percentages were off. We built as per the plans. Combined principal and accessory building coverage is 40% in the district; however the error occurred in how it was divided. Requirements are 30% for the home and 10% for the accessory structure. The house is at 25.29% and the garage is at 11.27% totaling 36.56%.

Skip Carlson questioned the permeability of the site.

Ms. Trombley stated the calculation was submitted to staff. Permeability of the site is at 27%, the district requirements are 25%.

Discussion ensued among the Board concerning the relief requested.

Keith Kaplan, Vice Chairman requested additional information from the applicant's agent noting all the detached garages in the surrounding block and provide the percentage of coverage for those.

**DISCLOSURE:**

Susan Steer disclosed that several months ago she was questioned by a friend concerning the size of the garage. I directed him to Steve Shaw.

Susan Steer stated she does have concerns regarding this applicant's request as well especially if the second story will house habitable space and other site issues. I also would like to know how many other garages exist in this neighborhood, how many are two cars. What is the condition of the second floor?

Ms. Trombley stated there is only plywood on the floor, insulated, sheet rocked and electrical service is provided.

Brian Foust, owner spoke regarding the project which was approved with the overhangs. The building permit was approved with the overhangs. Concerning the second story there is no sheet rock. Bare walls. Right now there are no plans for this space.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:24 P.M.

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

**Dave Dongate**, 12 Avery Street. Mr. Dongate thanked the Board. As a resident we welcomed the development and enhancing the neighborhood. This is not in character with the neighborhood. We are concerned with runoff. No other garages are that big in this area. Concerned that it will become living space. It is surprising to me that an experienced builder would make that mistake. I hope this is not a precedent.

**Becky Savolio**, 6 Avery Street. This is a beautiful home but it is very large. Concern regarding the runoff is the main concern.

**Christine Miller**, 10 Avery Street. This is setting a precedent many of the homes are very modest.

Bill Moore, Chairman stated the Board has requested additional information. The public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for November 21, 2016.

**CORRESPONDENCE RECEIVED BY THE BOARD:**

Adam McNeill, Secretary noted the Board received this date November 7, 2016 a telephone call from Elizabeth Sickler concerning this application. Emailed details provided by city staff.

**3.#2844.1 SBDT VENTURES**, 60 Franklin Street, area variance to accommodate the as-built condition of a new single-family residence; seeking additional relief from the maximum principal building coverage, minimum front yard setback, minimum side yard (each) setback 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.

**PARCEL HISTORY:**

- Area variance approved on July 27, 2015.
- Lot Line adjustment approved administratively the Planning Board Chair.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PREVIOUSLY APPROVED	PROPOSED	TOTAL RELIEF PREVIOUSLY APPROVED:	TOTAL RELIEF REQUESTED:
Minimum average lot width:	100 ft.	55.4 ft.	NO CHANGE	NO CHANGE	NO ADDITIONAL RELIEF REQUIRED
Maximum principal building coverage:	25%	31%	36.2%	6 ft. (24%)	11.2% (44.8%)
Minimum front yard setback:	25 ft.	14.8 ft.	14.3 ft.	10.2 ft. (40.8%)	10.7 ft. (42.8%)
Minimum side yard setback:	20 ft.	2.9 ft.	2.4 ft.	17.1 ft. (85.5%)	17.6 ft. (88%)
Minimum side yard setback:	20 ft.	12.4 ft.	12.2 ft.	7.6 ft. (38%)	7.8 ft. (39%)
Minimum total side yard setback:	45 ft.	15.3 ft.	14.6 ft.	29.7 ft. (66%)	30.4 ft. (68%)

Applicant: Dave Trojanski, SBDT Ventures

Agent: Jason Tommell, VanDusen and Steves Land Surveyors

Mr. Tommell explained the applicant appeared before the ZBA on July 27, 2016, for concurrent variances on 60 Franklin Street and 66 Franklin. This was subsequent to a lot line adjustment to more equally distribute the substandard frontage. After those approvals were received, the plans were drawn. Mr. Tommell stated the surveyors provided the wrong numbers for the previous variances requested and granted. Visual presentation of the home was provided as well as the other homes in the neighborhood.

Discussion ensued regarding the requested additional relief, and the lot coverage of the home. The Board has requested additional data for the neighborhood concerning the lot coverage.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 7:54 P.M.

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

None heard.

**CORRESPONDENCE RECEIVED BY THE BOARD:**

Adam McNeill, Secretary stated the ZBA is in receipt of the following correspondence:

-Letter dated November 4, 2016 from Debra Prisendente.

Bill Moore, Chairman stated the applicant has been requested to furnish the Board with additional information. A resolution will be prepared and presented at the next ZBA Meeting scheduled for November 21, 2016.

**4. #2925 SOUTHERN SUBDIVISION**, 124 York Avenue, area variance associated with a proposed two lot residential subdivision; seeking relief from the minimum lot size and minimum average lot width requirements for each of the lots in the Urban Residential-3 District.

**SEORA:**

Action appears to be an unlisted action. A short EAF was submitted. Completion of Part II is necessary by the Board.

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum lot size: Lot 1	6,600 sq. ft.	5,319 sq. ft.	1,281 sq. ft. (19.4%)
Minimum average lot width: Lot 1	60 ft.	48 ft.	12 ft.
Minimum lot size: Lot 2	6,600 sq. ft.	5,279 sq. ft.	1,321 sq. ft. (20%)
Minimum average lot width: Lot 2	60 ft.	48 ft.	12 ft.

Agent: Libby Coreno, Partner, Carter Conboy Attorneys

This home was built in 1875. The applicants have performed enormous repairs to the interior of the home since their ownership in 2014. They have kept up this historic home. This lot was originally divided in the 1880's. It is one of the only two parcels which have a north to south connective lots. This property has been in the family since the 1940's. Visual presentation was provided to the board. Ms. Coreno reviewed the tests for an area variance. The relief requested may be considered substantial at 20% but given the metrics of the surrounding neighborhood which is overwhelmingly out of conformance in amounts far in excess of 20% the relief sought in this application is not substantial. Additional property is unavailable for purchase. In assessing the lots in the neighborhood revealed that may

are currently not in compliance with the UR-3 requirements. The lot width of the existing/proposed lots would not change at 48'. Lots with less than 5300 square feet in size totaled 52 or (43%). The proposed lot would be accessed off of Middle Avenue. Proposed lot 2 is fairly clear of vegetation. Water and sewer are available along Middle Avenue. Concerning precedent I bring up 10 Avery St. as comparison.

Discussion ensued among the Board concerning the relief requested and the proposed residential subdivision as well as the density of the area and average lot width of neighboring lots.

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

- Per 8.4.6 City Planning Board advisory opinion required.
- Planning Board subdivision approval required.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 8:30 P.M.

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

**Doug Haller**, 90 Elm Street. We do own the two family home across the street with my brother in law. Concerns were voiced concerning the neighborhood character. This is a great neighborhood. Almost entirely owner occupied. This house has been a rental for the last few years. The applicants have done a great job rescuing the home. We are just concerned regarding the character of the neighborhood.

**Courtney Curtis**, 116 York Avenue. One of the things I am concerned about is the 100 year old sugar maple tree on the property. The neighbors enjoy the tree and hope the tree is not removed.

Bill Moore, Chairman stated we will leave the public hearing open. We have asked the applicant for additional information.

**5.#2928 CHARLES SCHWAB SIGNS**, 46 Marion Avenue, area variance for wall signs, seeking relief from the maximum number of wall signs on a façade maximum height of lettering and maximum extension of sign from face of the building requirements 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 approved November 24, 2014 for tenant signs on East elevation parking lot

**AREA VARIANCE CONSIDERATIONS:**

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum number of wall signs: "Charles Schwab" wall sign and blade sign on East elevation (parking lot)	1	2	1 (100%)
Maximum extension from building face: blade sign	6"	30"	24" (400%)
Maximum height lettering: Marion Ave. facing "Charles Schwab" wall sign	18"	30"	12" (67%)
Maximum height lettering: Parking lot facing "Charles Schwab" wall sign	18"	30"	12" (67%)

Agent: Russ Hazen

Mr. Hazen stated the applicant is requesting relief for the height of the lettering. Only 2 of the 13 letters are above the 18" letter height maximum and the blade sign is only 2 foot square. Mr. Hazen stated they have provided some before and after photographs for the boards review. When the 18" letter max is applied, the sign appears extremely small, when the smaller letters are brought to 18" this causes the "h" and "l" to exceed the 18" max letter height so this is not feasible looking sign at 18" max letter height.

Keith Kaplan, Vice Chairman questioned the applicant on the placement of the blade side. Concern was voiced regarding this type of signage when there is no other type of blade sign proposed in this plaza.

Bill Moore, Chairman stated the Board has only granted relief associated with blade or projecting signs along a pedestrian walkway/alley (at the Washington building on Broadway).

Adam McNeill, Secretary questioned the applicant as to the possibility of a sandwich type sign.

Keith Kaplan, Vice Chairman questioned the necessity of the blade sign since there is no other business which has that type of signage in the plaza.

It was the consensus of the Board that the blade sign request be removed from the application.

Mr. Hazen stated the two signs will look like the other signs, halo lit, aluminum letters, and background to match the wall color of the facade.

Keith Kaplan, Vice Chairman requested a photo simulation of what the proposed signage would look lit.

Cheryl Grey, alternate stated the signage is too large.

#### **DISCLOSURE:**

Adam McNeill, Secretary stated he is a client of Charles Schwab. No financial interest in this application.

Keith Kaplan, Vice Chairman stated he is a client of Charles Schwab. No financial interest in this application.

Adam McNeill, Secretary, stated he feels the size of the sign is almost obtrusive. He requested additional views of smaller size signage.

Keith Kaplan, Vice Chairman questioned the violation of the Pizza Shop notation on this application. What is the relevance?

Susan Barden, Senior Planner stated the property is owned by Prime Properties and the violations are on the property.

Keith Kaplan, Vice Chairman questioned if there should be a condition on the resolution.

Adam McNeill, Secretary questioned if a variance can be approved if there is an active or outstanding violation.

Tony Izzo, Deputy City Attorney stated Section 8.4.2 reads the ZBA shall not accept any application for appeal that includes a parcel in which there is an outstanding, unresolved, written violation from the zoning officer that is not the subject of the appeal.

Susan Barden, Senior Planner stated she will investigate further and advise the Board.

#### **PUBLIC HEARING:**

Bill Moore, Chairman, opened the public hearing at 8:51 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. Staff will investigate violations and the Boards responsibility. A resolution will be prepared and presented at the next ZBA meeting scheduled for November 21, 2016.

**OLD BUSINESS:**

**#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.

This application was heard at the July 18, 2016 meeting and adjourned at the applicant's request to October 24, 2016. The public hearing was opened on July 18, 2016 and remains open. Additional information was provided as requested by the Board.

**PUBLIC HEARING:**

Bill Moore, Chairman stated the public hearing was closed at the last ZBA Meeting on October 24, 2016.

Keith Kaplan, Vice Chairman presented the following resolution.

**#2903  
IN THE MATTER OF THE APPEAL OF  
Theresa Capozzola  
57 Gilbert Rd  
Saratoga Springs NY 12866**

from the determination of the Building Inspector involving the premises at 57 Gilbert Road, in the City of Saratoga Springs, New York being tax parcel number 166.-3-14 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 habitable space in a detached garage being used for a home occupation on the second story in an RR District and public notice having been duly given of a hearing on said application opened on the 18th day of July 2016 and continued through the 24<sup>th</sup> day of October 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 variances for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
HOME OCCUPATION IN HABITABLE SPACE IN ACCESSORY STRUCTURE	NOT PERMITTED	ALLOW HOME OCCUPATION	100%
MAXIMUM AREA OF TOTAL FLOOR AREA OF DWELLING DESIGNATED FOR HOME OCCUPATION	15%	19.6%	4.6% OR 30.7% RELIEF

As per the submitted plans and drawings or lesser dimensions, be **denied** for the following reasons:

1. The applicant has not demonstrated this benefit cannot be achieved by other means feasible to the applicant. As noted below, the Board finds the use of the accessory building for a home office would be acceptable at the subject location, upon the approval of the habitable space in that building. The applicant's law practice requiring occasional client visits and the presence of a non-occupant employee at the office is what makes the current activity in the accessory building at the subject property a home occupation, requiring further variance from the zoning ordinance.

The applicant indicates that the principal residence is too small to accommodate this home occupation; however, the Board finds that the applicant's practice could be reasonably reconfigured to locate the client visits and employees at a site where such uses are permitted, without undue difficulty for the applicant

2. The applicant has not demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The board notes that a professional office located in a building adjacent to a road connecting two state highways (Routes 29 and 9P) is not consistent with the rural/exurban character of the neighborhood. While the number of trips indicated by the applicant may be relatively small, the need to park these vehicles on site and the need to pull out of the parking area into the fast-moving traffic on Gilbert Road, results in a circumstance detrimental to nearby properties. Furthermore, this is a residential neighborhood and the maintenance of a professional office in the midst of that residential use is inconsistent with neighborhood character.

3. The home occupation of accessory structure relief is total, and the home occupation dimensional relief, at 30.7%; the Board finds both amounts of relief to be substantial.

4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. Permeability is not an issue in this case, and footprint of the home and accessory structures are unchanged by the home occupation. Per the applicant, the use as a home occupation includes the use of a half-bath and does not require kitchen or further bathing facilities.

5. The alleged difficulty is self-created. The board finds that the applicant knew or should have known of the need for requesting relief for habitable space and home occupation for the 11 years this office has been located in the subject structure. While self-creation by itself is not fatal to an area variance application, it is a consideration to be weighed with the others above.

In addition to reviewing this application in the context of dimensional relief in the points above, the Board also notes that it has reviewed the requirements for home occupations under City zoning ordinance section 6.4.3. These include:

- The activity shall be conducted entirely within the structure and shall occupy no more than 15% of the total floor area of the residential dwelling units. Per the applicant, the home occupation takes up 498 square feet, which equates to 19.6% of the total 2535 (main home 2037 plus the habitable space over garage of 498) square feet and therefore exceeds City requirements.
- Only occupants of the residence and no more than one non-occupant may conduct the activity at any one time. The applicant notes that there are two employees who job share and therefore one non-occupant conducts this activity at any given time.
- The activity shall generate no more than ten visits to the property per day. Visits may not occur before 8:00 a.m. or after 9:00 p.m. The applicant has submitted a log of visits covering the period July 27 to August 26, 2016 and has informed the Board that this period of time represents the busy season for her occupation as an attorney; she stated that the most visits this home occupation generates is three.
- Any need for additional parking generated by the activity shall be met onsite. The Board notes that this parking is in place.
- One non-illuminated, wall sign, not exceeding 1½ sq. ft. in area, is permitted in association with the activity. The Board notes no sign is in place on the exterior.

- No outdoor storage or display of products or equipment in association with the activity is permitted. The Board notes no outdoor storage.

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

I further move that the variance requested for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
HABITABLE SPACE IN ACCESSORY STRUCTURE	NOT PERMITTED	FINISHED SPACE IN ROOM ABOVE GARAGE	100%

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

1. The applicant notes that there are no feasible alternatives within the principal residence due to its small size to enjoy the benefits of a game room or home office. The applicant notes a lack of a basement in the principal residence building and that attic space is only accessible through a hatch.

The applicant further notes “no feasible way to add on the home due to the location of the neighboring property to the north, the road on the east and the septic tank and leach field on the south. The rear of the home (the west) is not physically set up to have an addition as there is a steep roof, a water line for a sump pump and a brook in the rear...” of the residence. The board notes that the property is large enough in area to accommodate a larger principal residence and inquired about the potential to connect the residence to the garage; the applicant observed the plumbing and brook locations noted above constrain her from making such improvements.

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, this property is located on a 5.5 acre parcel in the RR-1 district. The garage in which this habitable space is located, is a 2 car garage designed to look like a barn. The Board notes that this design is consistent with the existing house and the rural/exurban character of neighboring properties on Gilbert Road.

It should be noted that the accessory structure in question already exists, and has been in place for twelve years. The finished space is contained in the structure, with no externally visible signs of it that could detract from neighborhood character.

3. The habitable space relief is total; the Board finds that to be substantial. However, the Board finds this substantiality is mitigated by the fact that the intensity of use on this property is quite low. As noted by the applicant, the dwelling area of the property including this office space is 1% of the property area.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. Permeability is not an issue in this case, and footprint of the home and accessory structures are unchanged by the finished space. Per the applicant, the finished space includes a half-bath and does not include a kitchen or further bathing facilities, which is relevant to this point in terms of potential water and sewer use.
5. The alleged difficulty is self-created. The board finds that the applicant knew or should have known of the need for requesting relief for habitable space for the 12 years this finished space has been located in the subject structure. In any case, self-creation is a consideration but not necessarily fatal to an area variance application.

Conditions/Notes:

No kitchen or bathing facilities beyond the half-bath, or any overnight stays will be permitted in the finished space in the accessory structure.

Cheryl Grey seconded the motion.

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

Discussion ensued among the Board concerning verbiage of the resolution.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; Cheryl Grey, alternate, in favor

**MOTION PASSES: 7-0**

10. **#2922 NEWPORT NEWS SHIPBUILDING SIGN**, 33 Cady Hill Blvd., area variance for installation of a wall sign in the Industrial General District; seeking relief from the requirement that the sign be placed on a façade that has street frontage.

This application was heard at the October 24, 2016 meeting and adjourned to November 7, 2016. The public hearing was opened and remains open.

**PUBLIC HEARING:**

Bill Moore, Chairman stated the public hearing has been 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 9:15 P.M.

Skip Carlson presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
Newport News Shipbuilding  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 33 Cady Hill Boulevard in the City of Saratoga Springs, NY, being tax parcel number 177.-1-63 on the Assessment Map of said City.

The applicant having applied for area variance for a wall sign in the Industrial General District; seeking relief from the requirement that the sign be placed on a façade that has street frontage. Public notice having been duly given of a hearing on October 24 and November 7, 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 the following variance for the following amount of relief:

Type of Requirement	Required	Proposed	Total Relief Requested
Placement of permitted wall sign on façade without street frontage:	On façade with street frontage	On façade without street frontage	100%

As per 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. The applicant has stated that by installing the signage in the desired location, Newport News Shipbuilding will be more easily identified by approaching traffic.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in the neighborhood nor a detriment to nearby properties. The building is in an existing industrial area and the proposed signage falls within the district requirements for size. The applicant makes the case that there are no buildings within 100 feet of the property and the sign will face a parking lot that is owned by Logistics One, the applicant's landlord.
3. The relief requested at 100% may be considered substantial, but that substantiality is mitigated by the fact the relief is for placement not size.
4. The relief requested will not produce any adverse physical or environmental effect on the neighborhood. The applicant has made the case that installing the sign on the parking lot side will be much more identifiable by approaching traffic than a sign on the street frontage side. The placement of the sign on the parking lot side will provide better visibility for visitors and deliveries alike, creating less traffic and better safety for the area.
5. The request for relief is considered self-created. The self-created difficulty is not necessarily fatal to the application.

Cheryl Grey, alternate 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; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; Cheryl Grey, alternate, opposed

**MOTION PASSES: 6-1**

**#2924 NOONAN RESIDENCE,** 39 Schuyler Drive, area variance for addition to an existing single family residence; seeking relief from the maximum principal building coverage, minimum front yard setback, minimum side yard and total side yard setback requirements in the Urban Residential-1 District.

This application was heard at the October 24, 2016 meeting and adjourned to November 7, 2016. The public hearing was opened and remains open.

**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 9:20 P.M.

Gary Hasbrouck presented the following resolution.

IN THE MATTER OF THE APPEAL OF  
Tom and Susan Noonan  
39 Schuyler Drive  
SARATOGA SPRINGS, NY 12866

From the determination of the Building Inspector involving the premises at 39 Schuyler Drive in the City of Saratoga Springs, NY, being tax parcel number 166.14-4-45.1 on the Assessment Map of said City.

Whereas, the appellants has applied for area variances for relief from the current City Zoning Ordinance for minimum front, side and total side yard setbacks along with maximum principal building coverage for constructing an addition to an existing single-family residence in a UR-1 zoning district; and public notice having been duly given of a hearing on said application on October 24 and November 7, 2016.

Whereas, in consideration of the balance between the benefit to the applicant with the detriment to the health, safety and welfare of the community, the Board makes the following resolution that the requested area variances for the following relief or lesser dimensions be approved:

Type of Requirement	District Dimensional Requirement	Existing	Proposed	Relief Requested
Minimum front yard setback:	30 ft.	16 ft.	11.8 ft.	18.2 ft. (61%)
Minimum side yard setback:	12 ft.	8.1 ft.	7.1 ft.	4.9 ft. (41%)
Minimum total side yard setback:	30 ft.	24.6 ft.	25.4 ft.	4.6 ft. (15%)
Maximum principal building coverage:	20%	30.2%	34.4%	14.4% (72%)

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The application states, "Current lot is nonconforming based on current zoning. Land purchase is not feasible." The modest 240 sq. ft. single-story addition to the rear replaces an existing deck. The rest of the variances requested are for the 2<sup>nd</sup> floor of an existing home which already is nonconforming in its current state. The increased depths of the roof soffits account for most of the side yard setbacks. The front porch has been designed to meet the minimum needs of the applicant according to the applicant.
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, "The requested variance is

consistent with surrounding properties". Based upon pictures submitted by the applicant, it appears several homes in the neighborhood have undergone renovations similar to the plan submitted by the applicant.

3. The relief requested may be considered substantial. However, it should be noted that this is an existing home on a nonconforming lot. The construction proposed is vertical in nature and building coverage increases mainly due to the 3 season room at the rear of the home and the increased roof overhangs. Building coverage is at 30% on the existing home. The coverage increase over existing is only 4%.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. No relief is being requested from the permeability requirement.
5. The difficulty may be considered self-created. This, however, is not necessarily fatal to the application.

Condition: No further accessory buildings

Cheryl Grey 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; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Skip Carlson, in favor; Cheryl Grey, alternate, in favor

**MOTION PASSES: 7-0**

**APPROVAL OF MINUTES:**

Adam McNeill, Secretary made a motion to approve the minutes of the October 11, 2016 Zoning Board of Appeals Meeting with additions or corrections as submitted.

Cheryl Grey seconded the motion.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor; Adam McNeill, Secretary, in favor; Skip Carlson, in favor; Gary Hasbrouck, in favor; Cheryl Grey, alternate, in favor

**MOTION PASSES: 7-0**

**MOTION TO ADJOURN:**

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 9:25 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 12/12/16