



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, JANUARY 7, 2019

6:30 P.M.

RECREATION CENTER

### **ELECTION OF OFFICERS**

Tony Izzo, Assistant City Attorney stated as an initial step this evening is the nomination and election of officers for the 2019 year. There are six members of the Board present tonight.

Tony Izzo, Assistant City Attorney conducted the annual elections for the year 2019.

The nomination for officers will be held in the order in which they appear on the letterhead.

**Board Chair:** A nomination of Bill Moore to continue as Chairman of the Zoning Board of Appeals was moved by Keith Kaplan. Motion was seconded by Susan Steer. Bill Moore, Chairman accepted the nomination for Chair. No further nominations for the office of chair. Cherie Grey made a motion to close the nominations for the office of Chair. Keith Kaplan, Vice Chairman seconded the motion. All signify by saying aye. All in favor - Ayes all, nays none. Motion carries 6-0.

**Board Vice-Chair:** A nomination of Keith Kaplan for the office of Vice Chairman was moved by Bill Moore, Chairman. Motion seconded by Susan Steer. Keith Kaplan, Vice Chairman accepted the nomination for the office of Vice Chairman. No further nominations for the office of Vice-Chair. Bill Moore, Chairman made a motion to close the nominations for the office of Vice Chair. Susan Steer, Chairman seconded the motion. All signify by saying aye. All in favor - Ayes all, nays none. Motion carries 6-0.

**Board Secretary:** A nomination of Brad Gallagher for the office of Secretary was moved by Bill Moore, Chairman. Motion seconded by Keith Kaplan, Vice Chairman. Brad Gallagher accepted the nomination for the office of Secretary. No further nominations for the office of Secretary. Bill Moore, Chairman made a motion to close the nominations for the office of chair. Keith Kaplan, Vice Chairman seconded the motion. All signify by saying aye. All in favor Ayes all, nays none. Motion carries 6-0

**Vote for Chair:** Votes in favor of electing Bill Moore, Chairman were unanimous. 6-0.

**Vote for Vice-Chair:** Votes in favor of electing Keith Kaplan, Vice Chairman were unanimous. 6-0.

**Vote for Secretary:** Votes in favor of electing Brad Gallagher, Secretary were unanimous. 6-0.

**CALL TO ORDER:** Bill Moore, Chairman, called the meeting to order at 6:39 P.M.

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

**PRESENT:** Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Susan Steer; Cheryl Grey; Brad Gallagher; Rebecca Kern, Alternate

**STAFF:** Susan Barden, Senior Planner, City of Saratoga Springs  
Tony Izzo, Assistant City Attorney  
Justin Grassi, 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.

**ANNOUNCEMENT OF ADJOURNED APPLICATIONS:**

**#3024 FAHY RESIDENCE**, 166 Lincoln Avenue area variance to construct a new single-family residence; seeking relief from the minimum average lot size width and minimum lot size requirement for a second single-family residence, to permit more than one principal building on a lot and minimum rear yard setback requirements in the Urban Residential-2 District.

**#3022 DEVAL SUBDIVISION**, 59 Franklin Street, area variance associated with a two-lot subdivision; seeking relief from the minimum average lot width for the proposed lot and minimum side yard setback to parking in the Urban Residential-4 District.

**#2953 STATION PARK MIXED USE DEVELOPMENT**, Washington Street and Station Lane, area variance for a proposed multi-use development containing a 110 room hotel, 88 senior housing units, 41 assisted living units, 90 townhouses, and 28,060 square feet of retail; seeking relief from the frontage build to and build out, minimum two story and maximum building height requirements in the Transect-5 District.

**#3064 CONNERS RESIDENCE**, 87 Ludlow Street, area variance to construct an addition to an existing single-family residence; seeking relief from the maximum principal building coverage requirements in the Urban Residential-3 District.

**#3069 MCFADDEN RESIDENCE**, 40 Lefferts Street, area variance to maintain a constructed deck and build a new screened porch to an existing single-family residence; seeking relief from the minimum side yard and total side yard setback requirements in the Urban Residential-1 District.

**NEW BUSINESS:**

1. **#3078 GRIMMETT RESIDENCE**, 30 Joseph Street, area variance for a new single-family residence; seeking relief from the maximum principal building coverage requirement in the Urban Residential – 32 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	30%	30.68%	.68% (2.3%)

Applicant: Lisa and Scott Grimmatt

The applicant is requesting relief from the maximum principal building coverage for 2.3%. The house has already been constructed. The only option at this point is to seek the variance. The soffit overhang areas are approximately 2-4" longer than 12" specified on the stamped drawings. The contractor error resulted in the request for relief. In the UR-2 District permits an additional maximum 10% of lot coverage for accessory structures. The only accessory structure on the property is an A/C unit.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 6:45 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 next Zoning Board of Appeals Meeting scheduled for January 28, 2019.

- 2. **#3079 SHEPARD RESIDENCE**, 26 Joshua Road, area variance to maintain a constructed landing and stairs to an existing single-family residence; seeking relief from the minimum side yard and minimum total side yard setback requirements 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:**

	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>TOTAL RELIEF REQUESTED</b>
Minimum side yard setback:	8 ft.	7.5 ft.	.5 ft. (6%)
Minimum total side yard setback:	20 ft.	17.7 ft.	2.3 ft. (11%)

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 6:45 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application. None heard.

**NOTE:**

Due to lack of representation for this application it will be placed at the end of the agenda.

**OLD BUSINESS:**

- 2. **#3068 BRANT CARRIAGE HOUSE**, 695 North Broadway, area variance to finish the interior of an existing carriage house for sleeping accommodations; seeking relief to permit finished/habitable space in an accessory structure in the Urban Residential-1 District.

This application was heard at the November 19, 2018 meeting and adjourned at the request of the applicant to the December 10, 2018 meeting. The public hearing was opened and remains open. The applicant submitted a revised application requesting relief to permit two principal building structures on the lot and a revised floor plan on November 30, 2018. The application was heard on December 10, 2018 and adjourned to January 7, 2019.

**SEQRA:**

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

**AREA VARIANCE CONSIDERATIONS:**

	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>TOTAL RELIEF REQUESTED</b>
To permit two principal buildings on one lot:	1	2	100%
Minimum front yard setback: Woodlawn Avenue	30 ft.	1.5 ft.	28.5 ft. (95%)
Minimum side yard setback:	12ft.	3.5 ft.	8.5 ft. (71%)
To permit placement of pool in the front yard – First Street:	Not permitted	Permitted	100%
To permit placement of pool in the front yard- Woodlawn Avenue	Not permitted	Permitted	100%

Applicant: 695 Broadway, LLC

Agent: Michael Toohey, Attorney

Mr. Toohey stated the relief to permit a second principal building on the lot may be considered substantial; however, as indicated in the narrative provided with the amended application the lot meets the minimum requirements for a two-lot subdivision.

Mr. Toohey stated he is drafting a declaration which will be forwarded to the City Attorney and filed in the County Clerk’s office prohibiting not only Mr. Brant but his successors and assigns from subdividing 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.

Bill Moore, Chairman closed the public hearing at 6:48 P.M.

Keith Kaplan, Vice Chairman stated he will be presenting two resolutions. One for two principal structures and one for the pool.

Keith Kaplan, Vice Chairman presented the following resolution.

**#3068**  
**IN THE MATTER OF THE APPEAL OF**  
695 North Broadway LLC  
P.O. Box 3443  
Greenwich, CT 06830

From a determination of the Building Inspector involving the premises located at 695 North Broadway in the City of Saratoga Springs, New York, tax parcel number 165.36-1-6 on the Assessment Map, of said City.

The Applicant having applied for area variances under the Zoning Ordinance of said City to renovate the existing carriage house to include a dwelling unit in a UR-1 District and public notice having been duly given of hearings on said application held on November 19 and December 10, 2018 and January 7, 2019.

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
To permit two principal buildings on one lot:	1	2	1 (100%)
Minimum front yard setback: Woodlawn Ave.	30 ft.	1.5 ft.	28.5 ft. (95%)
Minimum side yard setback:	12 ft.	3.5 ft.	8.5 ft. (71%)

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

1. The Board finds that the Applicant has demonstrated the benefit cannot be achieved by other means feasible to the Applicant. The applicant has indicated that two options were considered. The first option was to seek relief to permit finished space in an accessory structure. This option was not well received by the Board because the proposed improvements were for the use of the carriage house as a guest house, including bedrooms and full bathrooms. The second option was to subdivide the property creating two single-family residential lots, one lot for the main house and one lot for the carriage house. However, as the application states, "That goal can be achieved but the owner questions if forcing this parcel into being two lots would be the best option for the neighborhood, the District and the City".
2. The Applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The carriage house exists on the property and the proposed construction is primarily interior renovations to the existing structure. Both the Design Review Commission and Saratoga Springs Preservation Foundation provided favorable opinions of the project. DRC Historic Review is required for any proposed exterior changes to the carriage house.
3. The Board finds that the areas of relief are substantial. The substantiality of the relief to permit a second principal building on the lot is mitigated by the fact that the lot would meet the minimum lot requirements (area and width) for a two-lot subdivision; therefore, the residential density will not be exceeded. The relief from the two front yard setbacks is mitigated by the fact that the carriage house exists on the property and, according to the application, has existed in its present position since 1871.
4. The Board finds that the Applicant has demonstrated that the variances will not have significant adverse physical or environmental effect on the neighborhood or district. As noted above, density of the property and footprint of the carriage house will not be increased.
5. The alleged difficulty is self-created insofar as the applicant desires to renovate the existing carriage house, but this is not necessarily fatal to the application.

**CONDITIONS:**

Renovations are interior only - no new construction beyond the existing footprint or existing elevation is permitted.  
 No future subdivision of the property – also to be included as a deed restriction on the property.

**NOTE:**

DRC historic review required.

Susan Steer 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

Keith Kaplan, Vice Chairman presented the following resolution.

**#3068**  
**IN THE MATTER OF THE APPEAL OF**  
695 North Broadway LLC  
P.O. Box 3443  
Greenwich, CT 06830

From a determination of the Building Inspector involving the premises located at 695 North Broadway in the City of Saratoga Springs, New York, tax parcel number 165.36-1-6 on the Assessment Map, of said City.

The Applicant having applied for area variances under the Zoning Ordinance of said City to construct a pool in a UR-1 District and public notice having been duly given of hearings on said application held on November 19 and December 10, 2018 and January 7, 2019.

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 amounts of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Placement of pool in rear or side yard:	Side or rear yard	Front yard (Woodlawn)	100%
Placement of pool in rear or side yard:	Side or rear yard	Front yard (First)	100%

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

1. The Board finds that the Applicant has demonstrated the benefit cannot be achieved by other means feasible to the Applicant. The property fronts on three streets – North Broadway, Woodlawn Ave. and First St. and therefore has three front yards. The application states, “There is not enough room on the south side of the carriage house to construct a traditional pool that is consistent with the size of the subject real property and the structure located thereon”.
2. The Applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. As the applicant states, “The design for the pool area includes significant landscaping toward the exterior margin of the two streets”.
3. The Board finds that that the areas of relief are substantial. The substantiality of the relief to permit the placement of the pool in the front yard is mitigated by the fact that the pool will be located behind the house and exceed the minimum setback (8 feet) for a pool. In addition, the pool will be buffered by a fence and new hemlock hedge along First St. and Woodlawn Ave.
4. The Board finds that the Applicant has demonstrated that the variances will not have significant adverse physical or environmental effect on the neighborhood or district. As the application states, “From the pool area there will be no opening directly onto First Street or Woodlawn Avenue, thus the pedestrian traffic for the pool area will be physically limited to the interior of the parcel and visually shielded by the hemlock hedgerow”.
5. The alleged difficulty is self-created, as the application states, “The applicant did make an individual decision to place the pool in this location”, but this is not necessarily fatal to the application.

**NOTE:**

DRC historic review required.  
Rebecca Kern, 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

3. **#2914 SAMES MIXED-USE BUILDING**, 20 Bowman Street, area variance to convert existing one-story building to an eating and drinking and add a second-story for a residential unit, seeking relief from the minimum front and side yard setbacks for the second-story addition and minimum front, side and rear yard setbacks to parking in the Tourist Related Business District.

This is the same project and request for relief as previously approved in 2016. The applicant did not extend the approval and it has expired.

This application was heard at the December 10, 2019 meeting and adjourned to January 7, 2019. The public hearing was opened and remains open.

**SEQRA:**

- Action appears to be Unlisted.
- Part 1 of the short form has been submitted.
- Board issued a Negative SEQRA Declaration on October 24, 2016.

**PARCEL HISTORY:**

-Area variance for the project approved October 24, 2016.

Applicant: Laurie Sames

Ms. Sames stated they are actively marketing the property. A tenant was interested; however, he is no longer interested.

**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.

**Edward Miller** stated they have a horse barn directly across the street from the proposed project. This will change the fabric and integrity of the neighborhood. The neighbors were opposed to this before and remain opposed to it. The building was rented to the Horseshoe. Trees were removed. The property has always been up for sale, since June of 2017.

**JoAnn Faresta**, 102 Ludlow Street. Owner of 13 Bowman Street, horse barn. Spoke against this application.

**DISCLOSURE:**

Rebecca Kern, Alternate disclosed that she did review the previous meeting webcast. She feels comfortable voting on the projects this evening.

**PUBLIC HEARING:**

Bill Moore, Chairman closed the public hearing at 7:15 P.M.

Susan Steer presented the following resolution.

**#2914  
IN THE MATTER OF THE APPEAL OF  
MATT SAMES  
19 BLUE JAY WAY  
REXFORD, NY 12148**

From the determination of the Building Inspector involving the premises at 20 Bowman Street in the City of Saratoga Springs, NY, being tax parcel number 179.29-3-11 on the Assessment Map of said City.

The Applicant having applied for area variances to convert an existing one-story building to a two-story building with an eating and drinking establishment on the first floor and a residential unit on the second floor in a Tourist Related Business District and public notice having been duly given of hearings on said application on December 10, 2018 and January 7, 2019.

This is the exact same project and same relief previously granted on October 24, 2016, which expired. The Board notes no change in the project or in the neighborhood since the application was granted.

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:

<b>TYPE OF REQUIREMENT</b>	<b>DISTRICT DIMENSIONAL REQUIREMENT</b>	<b>PROPOSED</b>	<b>RELIEF REQUESTED</b>
Minimum Side Yard Setback	40 feet	6.8 feet	33.2 feet (83%)
Minimum Front Yard Setback	40 feet	27.1 feet	12.9 feet (32%)
Minimum Side Yard Setback (to parking)	20 feet	1.8 feet	18.2 feet (91%)
Minimum Rear Yard Setback (to parking)	25 feet	+/- 18 feet	7 feet (28%)

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. As previously resolved on October 24, 2016:



The Applicant intends to construct a two-story building with an eating and drinking establishment on the first floor and a residential unit on the second floor by converting the existing one-story building. The Applicant has demonstrated that due to the fact that the lot is small, it would not be possible to demolish the existing building and construct a new building without a variance for parking. The Applicant intends to locate parking on the side of the lot that borders an existing bar/restaurant so as to mitigate any noise, traffic or congestion on the sides of the lot that border the residential district. The Applicant recognizes the limited availability of off-street parking in the neighborhood and is not asking for a variance for parking and has provided 17 parking spaces to serve the business and residence. Further, the Applicant has explained that the proposed location for parking is safer than what currently exists for the property since the area where cars will ingress and egress the property will be smaller and sidewalks will be installed. The Applicant has indicated that no other land is available to purchase.

2. The Board finds that the Applicants has demonstrated that granting this variance will not produce an undesirable change in neighborhood character and not be a detriment to the nearby properties. As previously resolved on October 24, 2016:

The property is located at the edge of a Tourist Related Business District and an eating and drinking establishment is a permitted use. There is a bar/restaurant on the lot directly to the south of the property and the race track and harness tracks are nearby. Further, a horse stable is located directly across the street and the lot directly to the north of the property is used for parking during the racing season. There are also single and multiple family homes in the neighborhood. Currently, the building is in disrepair. Revitalization of the site will have a positive impact on the neighborhood.

3. As previously resolved on October 24, 2016:

The Board finds that the requests for relief are substantial, but substantiality is offset by the fact that the lot is small and the Applicant intends to provide for the required off-street parking for the intended use of the property and the parking will be located on the side of the lot nearest the bar and restaurant establishment located directly to the south of the property which is also part of the Tourist Related Business district. Further, the addition of the second story will align with the existing setback and will not encroach upon the setback any further.

4. As previously resolved on October 24, 2016:

The Board finds that the Applicant has demonstrated that granting these area variances will not have an adverse physical or environmental effect on the neighborhood. The Applicant will need to obtain a special use permit and undergo site plan review before the project is approved. The site will be improved to the extent that there will be a consolidation of the existing curb cut and a sidewalk will be installed. The proposed site permeability is 33.3% which exceeds the required 30% permeability

5. As previously resolved on October 24, 2016:

The request for relief may be considered a self-created hardship; however, self-creation alone is not fatal to the application.

**NOTE:**

Reaffirmation of Negative SEQRA Declaration, issued October 24, 2016.

Saratoga County Planning Board has stated that a new County referral is not required. See email and original referral response of "No Significant Countywide or Intercommunity Impacts", dated October 24, 2016.

**CONDITIONS:**

Second floor to be residential only and only accessible from outside the building. The second-story deck will be for residential use only.

Cherie 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; Brad Gallagher, in favor; Cherie Grey, opposed; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 5-1**

Bill Moore, Chairman stated the Board will need to reaffirm the SEQRA Negative Declaration previously issued.

Keith Kaplan, Vice Chairman made a motion to reaffirm SEQRA Negative Declaration originally issued on October 24, 2016.

Susan Steer seconded the motion.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

4. **#3071 CORBETT RESIDENCE**, 45 Walton Street, area variance to construct a new front porch addition to an existing single-family residence; seeking relief from the minimum front yard setback requirement in the Urban-Residential-3 District.

This application was heard on December 10, 2018 and adjourned to January 7, 2019. 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 7:25 P.M.

Susan Steer presented the following resolution.

**#3071  
IN THE MATTER OF THE APPEAL OF  
Cynthia Corbett  
45 Walton Street  
Saratoga Springs NY 12866**

From the determination of the Building Inspector involving the premises located at 45 Walton Street in the City of Saratoga Springs, New York being tax parcel number 165.52-2-75n the Assessment Map of said City. The Applicant having applied for an area variance under the Zoning Ordinance of said City to construct a porch to a single-family residence and seeking relief from the minimum front yard setback requirements in the Urban Residential-3 District and public notice having been duly given of hearings on said application held on December 10, 2018 and January 7, 2019.

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 front yard setback	10 ft.	2 ft.	8 FT. (80%)

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 desires to construct a porch that is of the same character and side as the original porch that was removed by a previous owner. The home is a contributing property to the West Side National Register District. The Applicant provided a copy of the Sanborn map showing the existence of a porch on the original home. The existing home already encroaches on the front yard setback therefore to restore the porch would require a variance.
2. The Applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Applicant has provided photographs of neighboring homes showing that many of them have porches similar to the one proposed by the Applicant.
3. The Board finds that the variance of 8 feet or 80% for the minimum front yard setback is substantial, however this is mitigated by the fact that the home was constructed before the current zoning ordinance was adopted and the porch was an original feature of the home. The Applicant has proposed a 120 square foot porch that is as small as practicable to accommodate outdoor seating.
4. The Board finds that the variance will not have significant adverse physical or environmental effect on the neighborhood or district. The proposed porch is small at 120 square feet.
5. The alleged difficulty is self-created, but this is not necessarily fatal to the application.

Cherie 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

5. **#3074 ST. PAUL'S LUTHERAN CHURCH SIGN**, 149 Lake Avenue, area variance to construct a freestanding sign; seeking relief from the maximum size requirement in the Urban Residential-3 District.

This application was heard on December 10, 2018 and adjourned to January 7, 2019. 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 7:29 P.M.

Cherie Grey presented the following resolution.

**3074**  
**IN THE MATTER OF THE APPEAL OF**  
**St. Paul's Lutheran Church**  
**149 Lake Avenue**  
**SARATOGA SPRINGS, NY 12866**

From the determination of the Building Inspector involving the institution at 149 Lake Avenue in the City of Saratoga Springs, NY, being tax parcel number 166.45-4-21 on the Assessment Map of said City.

The Applicant having applied for an area variance to permit signage on an existing structure and seeking relief in the UR-3 District and public notice having been duly given of a hearing on said application on December 10, 2018 and January 7, 2019.

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

<b>TYPE OF REQUIREMENT</b>	<b>DISTRICT DIMENSIONAL REQUIREMENT</b>	<b>PROPOSED</b>	<b>RELIEF REQUESTED</b>
Maximum size Freestanding:	4 square feet	27 square feet	23 square feet (85%)

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 freestanding sign is in existence and the new sign is oriented to the face to be the minimum size for the wording to be visible. The district requirement of 4 square feet was deemed to be too small for visibility.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. The monument sign has been in place for many years and the church requests stating the name of the church.
3. The Board does find the variance to be substantial at 85%, however, on this well-traveled area of Lake Avenue, the size of the sign will be easier to read.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood.
5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

**NOTES:**

Design Review Commission approval required.  
Saratoga County approval issued December 20, 2018.

Keith Kaplan, Vice Chairman 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

**6. #3075 DORE RESIDENCE,** 36 Forest Avenue, area variance to construct additions to an existing single-family residence; seeking relief from the minimum front yard, minimum side yard setbacks and maximum principal building coverage requirements in the Urban Residential -1 District.

This application was heard on December 10, 2018 and adjourned to January 7, 2019. 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 7:33 P.M.

Cherie Grey presented the following resolution.

**#3075  
IN THE MATTER OF THE APPEAL OF  
Judith Dore  
36 Forest Avenue  
Saratoga Springs, NY 12866**

From the determination of the Building Inspector involving the premises at 36 Forest Avenue in the City of Saratoga Springs, NY, being tax parcel number 166.38-2-88 on the Assessment Map of said City. The Applicant having applied for an area variance to permit an addition to an existing home in the Urban Residential -1 District and public notice having been duly given of a hearing on said application December 10, 2018 and January 7, 2019.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Front yard setback:	30 ft.	18.5 ft.	11.5 ft. (38%)
Side yard setback: Front Addition	12 ft.	6 ft.	6 ft. (50%)
Side yard setback: Rear Addition	12 ft.	6.4 ft.	5.6 ft. (47%)
Total side yard setback: Rear Addition	30 ft.	27.9 ft.	2.1 ft. (7%)
Maximum principal building coverage:	20%	24.9%	4.9% (24%)

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 wants to add a mudroom and front porch onto the front of the home and a master bedroom suite and sunroom onto the rear of the home. The home is pre-existing, non-conforming in regards to both the side yard setback and the front yard setback with the lot existing at 71' wide in a required lot width of 100'. The house was built in 1955 and the side and total side setbacks have been in existence since then. Any addition would require the variance on side yard and total side yard setback.

2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. Many of the properties in the neighborhood are not conforming to the side yard and front yard setbacks and these are remaining the same.
3. The request for relief to permit the addition is considered substantial; however, the lot is preexisting nonconforming with the district requirements and the applicant has demonstrated that the proposed size of the additions have been kept to a minimum to achieve both the front and rear additions. No further changes are being proposed to the side yard setbacks.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The front porch and mudroom additions will only be 4' additional into the front yard setback. The additional principal building coverage of 4.1% is due to the fact that the total lot is 10,368 sq ft and required in the district is 12,500 sq ft. There is no additional property available for purchase.
5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

**CONDITION:**

Any future accessory building limited to 3.1% of lot coverage

Keith Kaplan, Vice Chairman 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

**7. #3076 WINSUPPLY OF SARATOGA SIGNS**, 5 Finley Street, area variance for construction of two wall signs; seeking relief for placement above the first floor level of the building and for placement on a façade without street frontage requirements in the Transect-5 District.

This application was heard on December 10, 2018 and adjourned to January 7, 2019. 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 7:40 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

**#3076**  
**IN THE MATTER OF THE APPEAL OF**  
WinSupply of Saratoga  
5 Finley St.  
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 5 Finley St, in the City of Saratoga Springs, New York being tax parcel 178.26-1-50 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City, to install 2 wall signs for a commercial building in a T-5 District and public notice having been duly given of a hearing on said application held on December 10, 2018 and January 7, 2019.

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

TYPE OF RELIEF	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Wall sign on side with no street frontage	Not permitted	Permit a wall sign on parking lot side	100%
Placement of wall sign above first floor- street side	Not permitted	Permit a sign above the first floor	100%
Placement of wall sign above first floor- parking lot side	Not permitted	Permit a sign above the first floor	100%

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

1. No other feasible means exist to achieve the desired benefit. As noted by the applicant, the identifying signage makes the most sense to be located near the entranceway; however the Board notes that the design of the entranceway precludes the placement of a sign large enough to be visible from pedestrians or motorists in the area at first-floor level. The applicant further notes that the sign on the parking lot side is needed since that is the sign that faces South Broadway, a block away. Per the applicant, without a sign on that side, there would be no identification of the business since Broadway is the point from where the predominant number of people are viewing the building.
2. This request will not produce an undesirable change in the neighborhood character or nearby properties. The Board notes the neighborhood context is commercial and mixed use properties. The parcel is a short distance from the South Broadway gateway entrance to the City, with numerous motorists driving nearby on that busy thoroughfare. Having easily visible signage from South Broadway, Adelphi and Finley Streets is important from a safety point of view; the Board further notes that a grade change exists between South Broadway and the subject parcel, significantly reducing the adverse visual impact of placing the signs above the first floor.
3. The variances are substantial relative to what is allowed. However, the Board notes a lack of impact on the neighborhood and district, and further notes the utility of signage for the consumers and suppliers of the company as well as nearby travelers on South Broadway and Finley St, to help direct those people and reduce their confusion. These factors mitigate the substantiality of the variances.
4. The Board finds that the proposed signs to have a negligible physical and environmental impact. Neither height nor size appears to be obtrusive in this proposal.
5. The applicant's desire for signage is self-created, however this alone is not necessarily fatal to the application.

**NOTES:**

- Saratoga County Planning Board decision, December 20, 2018 “Approve, with acknowledgement that the appeal presented poses no impact of a county nature”.

- Design Review Commission Architectural review required.

Rebecca Kern, 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; Brad Gallagher, in favor; Cherie Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

**8. #3077 SARATOGA GOLF AND POLO CLUB**, 301 Church Street, area variance for construction of platform tennis courts, cabana building and expanded parking area; seeking relief from the minimum rear yard setback to the courts and cabana and minimum side yard setback to parking the Institutional Parkland/Recreation District.

The application was heard on December 10, 2018 and adjourned to January 7, 2019. The public hearing was opened and remains open.

**DISCLOSURE:**

Susan Steer is an employee of Saratoga Hospital which is next door to this building. She has no financial interest in this application. There is no need for recusal, simply disclosure.

Rebecca Kern, Alternate stated she was a former member.

**RECUSAL:**

Cherie Grey recused from this application since she was a member previously and still holds a share in 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.

Bill Moore, Chairman closed the public hearing at 7:45 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

**#3077  
IN THE MATTER OF THE APPEAL OF  
SARATOGA GOLF AND POLO CLUB  
301 CHURCH STREET  
SARATOGA SPRINGS, NY 12866**

from the determination of the Building Inspector involving the premises at 301 Church St, in the City of Saratoga Springs, New York being tax parcel 165,-1-20.11 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 construction of several member amenities including platform tennis courts, a pro shop, additional parking and other improvements on a



private club in an Institutional Parkland/Recreation District and public notice having been duly given of a hearing on said application held on December 10, 2018, and the 7<sup>th</sup> day of January 2019.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum rear yard setback:	50 ft.	14.6 ft.	35.4 ft. or 70.8%
Minimum rear yard setback:	50 ft.	10 ft.	40 ft. or 80%
Minimum side yard setback to parking	30 ft.	15.6 ft.	14.4% or 48%

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant notes that alternative placements have been contemplated and the proposed location choice Minimizes impact to neighboring property, while enabling the applicant to preserve mature trees and a large open lawn. The applicant further notes that the placement of the new accessory structures is equivalent to existing accessory building setbacks. Finally, the applicant notes that the proposed location choices enhance the uses of the existing buildings and amenities, such as the clubhouse, pool and cabana.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The proposal includes vegetative screening and a landscape berm to minimize visual impact to the property bordering the proposed project, a parking lot for Saratoga Hospital. The Board notes a grade change between the subject parcel and the hospital parking lot, as well as vegetative screening installed by the hospital as part of the PUD for that property, providing further visual definition from the subject property. Finally, the Board notes a concrete wall already in place around much of the subject property, minimizing visual impact to and from Church and Myrtle Street.
3. The Board finds these variances to be substantial. However, the Board finds that the substantiality is mitigated by factors noted above relating to visibility. The Board further notes that the proposed setback encroachments are similar to those already existing for accessory structures in place on the property.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. The parking portion of this proposal that encroaches on the side setback is planned as permeable surface. Additionally, as noted above, the vegetative buffering and landscape berm will help mitigate visual impacts.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed improvements, but this is not necessarily fatal to the application.

**NOTE:**

Saratoga County Planning Board decision, “No significant countywide or intercommunity impact”, on December 20, 2018.

Planning Board site plan review is required.

Design Review Commission architectural review is required.

Brad Gallagher 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; Brad Gallagher, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 5-0**

**NEW BUSINESS AGENDA ITEM:**

- 2. **#3079 SHEPARD RESIDENCE**, 26 Joshua Road, area variance to maintain a constructed landing and stairs to an existing single-family residence; seeking relief from the minimum side yard and minimum total side yard setback requirements 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:**

	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>TOTAL RELIEF REQUESTED</b>
Minimum side yard setback:	8 ft.	7.5 ft.	.5 ft. (6%)
Minimum total side yard setback:	20 ft.	17.7 ft.	2.3 ft. (11%)

Agent: Bob Flansburg, Dreamscapes Unlimited

Mr. Flansburg stated we are requesting an area variance for a wooden landing on the side of this home. There is an entrance to the mudroom in this location. This was overlooked until the applicant went for a Certificate of Occupancy. Mr. Flansburg stated this was his error.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 6:45 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 next Zoning Board of Appeals meeting scheduled for January 28, 2019.

**APPROVAL OF MEETING MINUTES**

Susan Steer made a motion to approve the minutes of the November 19, 2018 Zoning Board of Appeals Meeting as amended. Cherie Grey seconded the motion.

**VOTE:**

Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor; Brad Gallagher, in favor; Cherie Grey, in favor

**MOTION PASSES: 4-0**

Susan Steer made a motion to approve the minutes of the December 10, 2018 Zoning Board of Appeals Meeting as amended. Cherie Grey seconded the motion.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Susan Steer, in favor; Brad Gallagher, in favor; Cherie Grey, in favor

**MOTION PASSES: 5-0**

**MOTION TO ADJOURN:**

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 8:02 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 4/22/19