



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JANUARY 23, 2017

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:04 P.M.

SALUTE TO THE FLAG:

PRESENT: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Adam McNeill, Secretary;
Gary Hasbrouck; James Helicke; Cheryl Grey

ABSENT: Susan Steer

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs
Tony Izzo, Assistant City Attorney
Mark Schachner, Counsel to the Land Use Boards arrived at 9:06 P.M.

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

#2942 TEAKWOOD BUILDERS SHOWROOM, 75 Church Street, area variance for an addition to an existing commercial building; seeking relief from the build-to, build out and two story requirement in the Transect-5 District. Adjourned to February 13, 2017.

#2876.1 BENTON SUBDIVISION, 58 Fifth Avenue, consideration of rehearing of a previously determined area variance application for a two-lot subdivision in the urban residential-1 district.

#2932 DEVALL CARRIAGE HOUSE, 59 Franklin Street, area variance for construction of a three-car carriage house with a second story dwelling unit; seeking relief from the minimum front yard setback (Cherry St.) and minimum side yard setback.

#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.

#2931 LAKE LOCAL, 550 Union Avenue, consideration for Coordinated SEQRA Review for expansion and construction of eating and drinking establishment, marina and docks and tourist accommodations in the Water Related Business and Rural Residential Districts.

NEW BUSINESS:

#2939 SBDT VENTURES, LLC LOTS, 34 & 36 Newton Avenue, area variance to create two residential building lots; Seeking relief from the minimum average lot width and minimum lot size requirements for each of the lots in the Urban Residential-2 District.

SEORA:

Action appears to be an unlisted action. Short EAF submitted. ZBA to complete Part II.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum average lot width: Lot 1	60 feet	50 feet	10 feet (17%)
Minimum lot size: Lot 1	6,600 sq. ft.	6,000 sq. ft.	600 sq. ft. (9%)
Minimum average lot width: Lot 2	60 feet	50 feet	10 feet (17%)
Minimum lot size: Lot 2	6,600 sq. ft.	6,000 sq. ft.	600 sq. ft. (9%)

Applicant: SBDT Ventures, Dave Trojanski, Tony Bonacio

Agent: Bill Thompson, Thompson and Fleming Land Surveyors; Michael Ginley, Ginley & Gottman Attorneys,

Mr. Thompson stated Mr. Trojanski is under contract to purchase two lots 34 & 36 Newton Avenue. They are shown as separate tax parcels on the tax map, and have their own tax map numbers and street address. On 34 Newton Avenue an existing home currently exists on the lot, and on 36 Newton Avenue there is an existing apartment above a garage. These lots are pre-existing non conforming lots which were verified by the Building Inspector. Mr. Shaw referred the applicants to the ZBA for clarification since both lots are owned by the same owner and variances would be required for lot width and lot size.

Keith Kaplan, Vice Chairman questioned feasible alternatives. Could one lot be conforming and compliant and one lot would require variances.

Mr. Thompson stated these are separate lots; we are not looking for subdivision or lot line adjustment. Mr. Thompson explained the reasoning behind dividing the lots as presented is it provides more equal space for each home. The subject lots in question are similar in both width and square footage to all of the immediate surrounding lots.

Dave Trojanski stated that is the plan. We are purchasing three lots from the same owner which are 50 feet wide and 120 feet deep. Our intention is to leave the lots as is and construct homes which are 30 feet wide. The houses which are proposed and are being designed will meet all current setback requirements, including lot coverage.

Keith Kaplan, Vice Chairman stated another alternative could be re-work the plan on one lot to a flag configuration and the other remain as proposed. Why would this not work?

Mr. Thompson stated in this configuration the fronts of the homes would not match up which is very typical and in character with the surrounding neighborhood. I do not think this would be a good look for the neighborhood.

Discussion ensued among the Board concerning the lot sizes and variances requested.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:16 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 Board is in receipt of the following correspondence.

A letter received January 23, 2017 from James Simon, 33 Newton Avenue.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for February 13, 2017.

OLD BUSINESS:

2. **#2930 THE SPRINGS SIGNS**, 60 Weibel Avenue, area variance for additions to two existing freestanding signs, seeking relief from the maximum size of freestanding signs in the Transect-5 District.

The application was heard at the November 21, 2016 meeting and adjourned to December 12, 2016. Additional information was requested by the Board and submitted by the applicant. The application was further adjourned to December 19, 2016. The public hearing was opened on November 21, 2016 and remains open. This application was adjourned to January 9, 2017 to re-notice with correct parcel information. New information was provided to the Board.

PARCEL HISTORY:

-Area variance to permit wall signs on an elevation without street frontage parking lot facing the side of the building.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum size freestanding sing: North entrance	24 sq. ft.	36 sq. ft.	12 sq. ft. (50%)
Maximum size freestanding sign: South entrance	24 sq. ft.	52 sq. ft.	28 sq. ft. (117%)

Applicant: The Springs, Tony Bonacio, Bonacio Construction

Agent: Daniel Roicki, Adirondack Sign Company

Gary Hasbrouck stated the information submitted was confusing due to the number of designs submitted without noting which design was the owner's preference.

Mr. Bonacio provided a visual presentation of the site noting parking changes, speed limit changes, etc.; we are here because our tenants are looking to be memorialized on the front of the building with signage. This sign location has changed somewhat. We are proposing to have the Springs logo sign raised taller since it is less visible with the new parking configuration out in front. We have several iterations of the sign which was submitted to the Board.

Gary Hasbrouck questioned which signage package is the preference of the owners.

Mr. Bonacio stated the owners have chosen 2 signage packages to choose from. If the sign could be higher it would be fantastic. When the sign came through originally this was proposed taller but we did not go with that option.

Discussion ensued among the Board concerning the new proposed size of the signage, and the directory panel and increasing the height of the entire signage.

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 7:34 P.M.

James Helicke stated he will abstain from voting on this application since he was not in attendance for the entire application.

Gary Hasbrouck presented the following resolution.

#2930
IN THE MATTER OF THE APPEAL OF
18 Division Street
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 60 and 74 Weibel Avenue being tax parcels 166.-2.3 and 153.-1-23 on the assessment map of said City.

The applicant having applied for an area variance for additions to two freestanding signs; seeking relief from the maximum size of freestanding signs in the Transect-5 District. Public notice having been duly given of a hearing on November 21 and December 19, 2016 and January 9 and 23, 2017.

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

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
MAXIMUM SIZE FREESTANDING SIGN: NORTH ENTRANCE	24 SQ. FT.	36 SQ. FT.	12 SQ. FT. (50%)
MAXIMUM SIZE FREESTANDING SIGN: SOUTH ENTRANCE	24 SQ. FT.	44 SQ. FT.	20 SQ. FT. (83%)

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

1. The applicant has demonstrated that the benefits cannot be achieved by other means feasible. The North entrance sign appears to be minimized to the greatest extent possible and alternatives were provided for the South entrance sign and it was reduced in size from 52 sq. ft. to 44 sq. ft.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in the neighborhood character nor a detriment to nearby properties. The property faces the City of Saratoga Springs recycling center and is on a heavily traveled road that is home to many commercial business uses.
3. Both areas of relief may be considered substantial at 50% and 83%. The application states that "the variance is substantial in size but not relating the overall size of the development..."
4. The relief requested will not produce any adverse physical or environmental effects on the neighborhood. The main concern is for safety in the neighborhood and the increased signage will better direct visitors to the commercial venues located in the area.
5. The request for relief is considered self-created. The self-created difficulty is not necessarily 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, Vice Chairman, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Cheryl Grey, opposed; James Helicke, abstained

MOTION PASSES: 4-1-1

3. **#2937 QUAY GARAGE**, 111 Catherine Street, area variance to finish the interior of an existing garage; seeking relief to permit finished/habitable space in an accessory structure in the Urban Residential-2 District.

This application was heard at the January 9, 2017 meeting and adjourned to January 23, 2017. The public hearing was opened and remains open.

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

None heard.

PUBLIC HEARING:

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

None heard.

Bill Moore, Chairman closed at 7:41 P.M.

Cheryl Grey presented the following resolution.

**#2937
IN THE MATTER OF THE APPEAL OF
Linda Polumbi-Quay and Glen Quay
111 Catherine Street
SARATOGA SPRINGS, NY 12866**

From the determination of the Building Inspector involving the premises at 111 Catherine Street in the City of Saratoga Springs, NY, being tax parcel number 166.21-1-15 in the inside district on the Assessment Map of said City. The applicant having applied for an area variance to finish the second-story interior of an existing detached garage seeking relief to permit finished/habitable space in an accessory structure (residential) requirement in the Urban Residential – 2 District and public notice having been duly given of a hearing on said application on January 9 and 23, 2017.

In consideration of the balance between the benefit to the applicant 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 Requirement	Proposed	Relief Requested
To permit finished/habitable space in an accessory structure-residential	Unfinished/uninhabitable space	Finished/habitable space	100%

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The garage exists and relief requested is to finish the interior. As the application states, "She would like to use the area for her creative space and gardening and will use it only for that purpose".
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to nearby properties. The garage exists and the relief requested is to finish the interior. In 2005, a building permit was issued to include the dormers and the additional space was permitted to be partially finished but due to budget reasons by the applicant this work was not done. A redesign of the dormers with this application will be less impactful on the neighbors than the original plan.
3. The request for relief to permit finished/habitable space is substantial. Dormers will be added to allow interior space to be finished for a 2 piece bath and headroom only.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The garage exists on the property.
5. The request for relief may be considered a self-created hardship due to the applicant's desire to finish the garage space. However, self-creation is not necessarily fatal to the application.

Conditions of approval:

Interior of garage limited to bathroom facilities to include toilet and sink only as per submitted floor plan

No kitchen facilities permitted

No overnight accommodations

Gary Hasbrouck 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; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, in favor

MOTION PASSES: 6-0

4. #2941 HENNESSEY RESIDENCE, 101 North Street, area variance for additions to an existing single family residence; seeking relief from the minimum side yard setback requirement in the Urban Residential-3 District.

This application was heard at the January 9, 2017 meeting and adjourned to January 23, 2017. The public hearing was opened and remains open.

PUBLIC HEARING:

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 7:46 P.M.

Gary Hasbrouck presented the following resolution.

#2941
IN THE MATTER OF THE APPEAL OF
John and Jennifer Hennessey
101 North Street
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the same premises identified as tax parcel number 166.37-2-29.

Whereas, the appellant having applied for an area variance under the Zoning Ordinance for minimum side yard setback for an addition to an existing single-family house in an UR-3 zoning district; and public notice having been duly given of a hearing on said application held on January 9th and 23rd, 2017.

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

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
MINIMUM SIDE YARD SETBACK:	4'	2.4'	1.6' (40%)

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. Shifting the addition further from the property line was determined by the applicant to be not feasible. The application states, "...the addition size would have to be reduced in size or the size of the garage would be compromised." The applicant noted the size of the master bedroom, the upstairs portion of the addition, is important to them and they don't want to encroach further into their backyard. The application indicates no additional land is for sale.
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, "Minimizing the depth of the addition allows for preservation of the deep rear yard which is an important characteristic of the neighborhood." The application also states, "The project includes removal of the encroaching, non-compliant bump out along the West/left side of the house".
3. The relief requested may be considered substantial. However, the addition will actually be further from the side setback than the remaining part of the house due to a slight angle of the house to the property line.
4. This applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. The Board notes no request for permeability variances and the applicant notes the large back yard will be preserved.
5. The difficulty may be considered self-created. This, however, is not necessarily 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, Vice Chairman, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, in favor

MOTION PASSES: 6-0

5. **#2940 STEIMLE TWO-FAMILY**, 63 Ash Street, area variance to construct a detached garage; seeking relief from the the minimum average lot width and minimum lot size requirements for a second single family residence, to permit more than one principal building on a lot, minimum total side yard setback, minimum rear yard setback and maximum principal building coverage (two structures combined) requirements in the Urban Residential-3 District.

This application was heard at the January 9, 2017 meeting and adjourned to January 23, 2017. The Board had asked that the applicant provide other feasible alternatives for consideration. In response, the applicant provided a revised site plan attaching two structures – revised denial provided. The public hearing was opened and remains open.

AREA VARIANCE CONSIDERATIONS-ORIGINAL:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum lot size: Second single family	6,600 sq. ft.	0 sq. ft.	6,600 sq. ft. (100%)
Minimum average lot width: Second single family	60 ft.	0 ft.	60 ft. (100%)
Maximum principal building coverage: Two structures combined	30%	47%	17% (57%)
Minimum total side yard setback:	12 ft.	9.8 ft.	2.2 ft. (18%)
Minimum rear yard setback:	25 ft.	5.3 ft.	19.7 ft. (79%)

AREA VARIANCE CONSIDERATIONS-REVISED:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum lot size: Two family	8,000 sq. ft.	4,500 sq. ft.	3,500 sq. ft. (43.75%)
Minimum average lot width: Two family	80 ft.	30 ft.	50 ft. (62.5%)
Maximum principal building coverage:	30%	50.1%	20.1% (67%)
Minimum total side yard setback:	12 ft.	8 ft.	4 ft. (33%)
Minimum rear yard setback:	4 ft.	3.25 ft.	.75 ft. (18.75%)

Applicant: Jennifer and Scott Steimle

Agent: Jesse Boucher, Kodiak Construction

Mr. Boucher stated based on the conversation at the last meeting we have revised the plans quite a bit, decreasing the amount of relief requested. We flipped the garage 180 degrees with the parking at the rear, which shortens up the outdoor living space. We provided information requested today with how this project relates to the neighborhood in principal and total lot coverage.

Discussion ensued among the Board concerning what properties have similar lot coverages and multiple structures.

PUBLIC HEARING:

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

None heard.

Bill Moore, Chairman closed the public hearing at 8:03 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

#2940
IN THE MATTER OF THE APPEAL OF
Jennifer and Scott Steimle
134 Cobble Hill Drive
Gansevoort NY 12831

from the determination of the Building Inspector involving the premises at 63 Ash Street in the City of Saratoga Springs, New York being tax parcel number 165.74-2-4 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 an addition to create a garage attached to the principal residence by a vestibule, and the building of additional living space, for an existing two-family residence in the UR-3 district and public notice having been duly given of a hearing on said application held on the 9th and 23rd days of January 2017.

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
MINIMUM LOT SIZE- TWO FAMILY	8000 SF	4500 SF	3500 OR 43.8% RELIEF
MAXIMUM PRINCIPAL BUILDING COVERAGE	30%	50.1%	20.1% OR 67% RELIEF
MINIMUM LOT WIDTH- TWO-FAMILY	80'	30'	50' OR 62.5% RELIEF
MINIMUM SIDE YARD SETBACK, EAST SIDE	4'	3.25'	0.75' OR 18.8% RELIEF
MINIMUM TOTAL SIDE YARD SETBACK	12'	8'	4' OR 33.3% RELIEF

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

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. Per the applicants, it is not feasible to purchase land from the neighbors due to lack of availability or affordability. The board notes that the lot is substandard, and the lot size and width areas of relief requested currently exist.

Due to the lack of lot width, the number of feasible alternatives to achieve the desired result of additional dwelling space is smaller than if there were other sites on the property where an attached garage could be added. An idea for a detached garage with finished space was explored by the applicants, but the need for overnight stays made it necessary to opt for an addition to the principal residence.

2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board notes that the proposed addition in the rear of the house is designed to encroach less over the east side setback than if the existing adjacent portion of the house was to be extended. Per the applicants, this addition is in character with the surrounding properties; they have provided the Board with a map of nearby properties, particularly those with two-family residences. Furthermore, the applicants note that the proposed project will continue the property's status as a two-family house.
3. The Board notes the requested variances are substantial, however the Board notes that the lot is undersized for

the district, at 4,500 square feet, which adds significantly to the degree of coverage relief required on each of the five areas of relief listed above. As noted above, the applicants have provided maps of the area showing 6 other lots with similar lot width next door, in back, and across Western Alley. Of these, the subject property and one other lot are multi-family.

4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. As per the applicant, permeability will be 26.5% with this proposed project. This would exceed district requirements of 25%.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed addition, but this is not necessarily fatal to the application.

Condition: No accessory structures are permitted on the subject parcel.

Cheryl Grey seconded the motion.

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

James Helicke stated he is opposing the resolution. This is a very substantial request and not consistent with the neighborhood as stated in the zoning code.

VOTE:

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

MOTION PASSES: 4-2

6. **#2938 FOX TWO-FAMILY**, 217 Caroline Street, area variance for an addition to an existing multi-family residence seeking relief from the minimum side yard setback and maximum size of freestanding signs in the Transect-5 District.

This application was heard at the January 9, 2017 meeting and adjourned to January 23, 2017. The public hearing was opened and remains open.

Applicant: Kurt Fox

Agent: Sue Davis, SD Atelier Architecture

Ms. Davis provided a model and visual presentation of what currently exists and what is proposed. The applicant is proposing an additional 300 sq. ft. to allow for a required interior exit stair that is code compliant. There is no adjacent land for sale, and we have developed the design based on the code requirements for egress and appropriate design for the residence. The proposed addition is replacing an addition that does not blend appropriately with the main residence. The proposed design will integrate with the historic design and details of the original residence. Since our last appearance before the Board we were able to reduce our request from 52% down to 50.4%.

AREA VARIANCE CONSIDERATIONS ORIGINAL REQUEST:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback: rear addition	4 ft.	n/a	3 ft.	1 ft. (25%)
Minimum side yard setback: rebuilt side	4 ft.	.5 ft.	.5ft.	3.5 ft. (87.5%)
Maximum principal building coverage:	30%	44%	53%	23% (77%)

AREA VARIANCE CONSIDERATIONS PRESENT REQUEST:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback: rear addition	4 ft.	n/a	3 ft.	1 ft. (25%)
Minimum side yard setback: rebuilt side	4 ft.	.5 ft.	.5ft.	3.5 ft. (87.5%)
Maximum principal building coverage:	30%	44%	50%	20% (67%)
Minimum front yard setback:	10 ft.	0 ft.	5.5 ft.	4.5 ft. (45%)

Ms. Davis stated revised floor plans were provided to the Board. The neighboring property analysis was provided in terms of total lot coverage. At least 4 other properties are currently exceeding lot coverage more than what we are currently requesting. The applicant is agreeable to no additional accessory structures permitted on the site. Ms. Davis reviewed the floor plan revisions for the Board.

PUBLIC HEARING:

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

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

None heard.

Bill Moore, Chairman closed the public hearing at 8:27 P.M.

Adam McNeill, Secretary presented the following resolution.

#2938
IN THE MATTER OF THE APPEAL OF
 Kurt Fox
 136 Lincoln Avenue
 Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 217 Caroline Street in the City of Saratoga Springs, New York being tax parcel number 166.53-2-38 in the Inside District, on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit an addition to a residence in a UR-3 district and public notice having been duly given of a hearing on said application held on January 9th and 23rd, 2017.

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:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
MINIMUM SIDE YARD SETBACK: REAR ADDITION:	4'	N/A	3'	1' (25%)
MIN. SIDE YARD SETBACK: REBUILT SIDE	4'	.5'	.5'	3.5' (87.5%)
MAX. PRINCIPAL BUILDING COVERAGE:	30%	44%	50%	20% (67%)
MIN. FRONT YARD SETBACK:	10'	0'	5.5'	4.5' (45%)

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 is converting this residence from a three family to a two family, and in doing so create an addition which encloses a previously exterior stairwell as it was deemed unsafe. The applicant considered a design which required less relief, however that design was not feasible as it did not allow for egress from the basement. There is no adjacent land for sale.
2. The board notes that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant indicates there are numerous adjacent properties which have lot coverage's which also exceeds 50%. The proposed design will integrate with the historic design and details of the original residence.
3. The board notes that the requested variances could be considered substantial; however, the addition is to provide required egress to the second floor residential unit. In addition, the overall density would be reduced from an existing nonconforming three family to a two family residence.
4. The board concludes this variance will not have significant adverse physical or environmental effect on the neighborhood or district as the removal of the existing stairwell and construction of the new addition is located in the rear northeast corner where it is least visible to neighboring properties. The change from a three family back to a two family residence will also mean less parking, noise, and impact to the neighborhood.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed addition, but this is not necessarily fatal to the application.

Condition: No accessory structures permitted on the property

James Helicke seconded the motion.

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

None heard.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Cheryl Grey, in favor; James Helicke, in favor

MOTION PASSES: 6-0

7. **#2933 PLAZA 15 STORAGE, LLC**, vacant parcel off of Jones Road/Plaza Road (private road), consideration for Area variance for construction of a 70,000 square foot two-story, self storage building; seeking relief from the Frontage build-to and build-out requirements in the Transect-4 District.

SEQRA:

- Action appears to be an unlisted action.
- Planning and DRC are involved agencies.
- Coordinated SEQRA Review initiated.
- ZBA deferred Lead Agency Status to the Planning Board.
- Planning Board issued Negative SEQRA Declaration on January 12, 2017.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Build to line:	12-18ft.	122 ft.	104 ft. (578%)
Build out:	50%	0%	50% (100%)

Agent: Mike Toohey, Attorney; Brien Ragone, Environmental Design

Mr. Toohey stated there is no frontage on a public road. Mr. Toohey provided the Board with a visual presentation of the proposed site located in the Transect 4 zone north of the arterial. It is a developed site. We are seeking Area Variances and a Special Use Permit and Site Plan Review as well as Design Review approval to allow the construction of a climate controlled 70,000 square foot two story building on the site for self storage purposes. Significant storage currently exists on the site but it is not climate controlled.

Mr. Ragone stated the site is 3.2 acres along Plaza Road, east of the existing self storage. A visual presentation of the site notes multiple easements that cross the property which necessitates these variances. A National Grid easement bisects the property, and a water main easement owned by the City of Saratoga Springs which runs along the entire border of the property line. A Saratoga County sewer easement which also runs from the northern to the western edge of the property line and an additional water main easement which runs along the southern property lines for the adjacent properties and a sanitary sewer easement along the southwestern portion of the site for the adjacent properties. The proposed 1.65 acre site is the only place it can be placed on the site. We are proposing a 70,000 square foot two story storage facility that will include a small leasing office. There will be two points of access to the site. The proposed 1.65 acre site is the only place it can be placed on the site. We are proposing a 70,000 square foot two story storage facility that will include a small leasing office. There will be two points of access to the site, one along the northerly property line which will access the second floor and one along the easterly property line which will access the first floor. The building will be benched into the existing slope giving a view of a one story building for the existing residential neighbors. Storm water will be handled via bio retention measures and connection into the current stormwater systems. The new structure will match the existing buildings with a dark tan and darker brown color combination. Mr. Ragone provided photographs of the site noting the existing trees for buffering and siting of the current buildings.

Mr. Toohey stated under the Comprehensive Plan it is in a community mixed use zone. Mr. Toohey reviewed some excerpts from the Comprehensive Plan and Zoning Map which explained the history of how this property has become a commercial site. Mr. Toohey reviewed the 5 tests required for an area variance. The lot defines what can be done on the property.

Adam McNeill, Secretary questioned the type of lighting proposed for the building.

Mr. Ragone stated these plans are not yet finalized and will be reviewed with the Planning Board. We do know it will be down type lighting with outside shields and security lighting.

Discussion ensued among the Board concerning the buffering and no cut buffer to mitigate these buildings for the neighbors.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 9:00 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 ZBA meeting scheduled for February 13, 2017.

8. **#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.

This application was heard at the September 12, 2017 meeting and adjourned. The public hearing was opened and remains open.

SEQRA:

- Action appears to be Unlisted – Part I of the short form submitted.
- Required approvals from the Planning Board and DRC – involved agencies.
- ZBA initiated Coordinated Review and deferred Lead Agency to the Planning Board on September 12, 2016.
- DRC deferred Lead Agency to the Planning Board on September 21, 2016.
- Planning Board to accept Lead Agency status and consider any potential environmental impacts of project on September 22, 2016.
- Planning Board issued a Negative SEQRA Determination on December 8, 2016.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback: North	30 ft.	25 ft.	10 ft. (33%)
Minimum total side yard setback: South	100 ft.	55 ft.	60 ft. (60%)
Minimum total side yard setback: parking	100 ft.	85 ft.	60 ft. (60%)
Minimum parking spaces	31 spaces	8 spaces	23 spaces (74%)

NOTE:

Mark Schachner, Counsel to the Land Use Boards arrived at 9:06 P.M.

Agent: Michael Toohey, Attorney; Jamie Easton, MJ Engineering

Mr. Toohey stated the applicant was before this Board a significant time ago. He provided a visual presentation of the site which is 1.6 acres and encompasses 6 tax parcels with 105 sq. ft. of frontage as well as two zoning districts. The site fronts on the TRB District and the back of the parcel is the RR zone. There is commercial utilization in this area. We have taken up our right within the code to move the zoning line from its present location to the west, thus allowing it to be 100 ft. further from the line. We have chosen to move it to the front. In the zone, and where this property is located in the Tourist Related Business District we can have an animal clinic and in the RR we can have an animal kennel. We are opting to have the animal kennel for the use in this particular portion of the property. We have shifted this site so that the animal play area has been moved to lessen the impact to our neighbor to the south. There is a solid fence proposed along the property line. A view of the floor plan of the 6,000 square foot facility was provided. Of that 6,000 square feet, 4,500 square feet is kennels so that there is no office space. 1,500 sq. ft. remains. There are two employees on site most of the time. No trash on the south side of the property that has been moved to the north side of the property. 100 yard shift takes the property line for the RR zone which the zoning code allows us to do and moves it beyond any point in which there is use development having to do specifically with the animal kennel. All that is left to the west of that is a driveway which is a universal use. Every use in the City of Saratoga Springs allows you to have a driveway. There is no functional use that is inconsistent with the TRB Zone that is here and there is no extended use of the animal clinic that extends into the property that it is not permitted in by code. One of the criterions which become important is that this shift which occurs within the 100 ft. plain here can only be done in single ownership prior to the effective date of this code. The effective date of the code which the Board is dealing with is October 4, 2012. I have a deed here noting that those requirements are met. As a result we have the benefit of the 100 ft. shifting of the line. The use of the building will continue to be in the RR-zone. The buildings we are proposing to build are in compliance with that zone. Another issue which arose is the parking in the RR-zone and the 31 spaces which are proposed. Information was provided to the Board. The applicant has done an analysis of the parking among his other facilities in the Capital District and one in Williston, Vermont. Over 9 days we performed a parking analysis. We took 136 samples of parking at 4 locations, not once was there more than 8 cars which include employees. The Clifton Park facility is twice the size of this facility. There are 4,500 sq. ft. of kennels in the facility. 1,500 sq. ft. of remaining space requires 8 spaces and this

can be met. Mr. Toohey reviewed the 5 tests for an area variance, noting there is no additional land is available for purchase.

The Board recessed at 9:24 P.M.

The Board reconvened at 9:44 P.M.

Bill Moore, Chairman stated the Board met to confer with Board counsel, Mark Schachner, concerning the Pet Lodge application. Mr. Schachner highlighted for the Board some areas of concern noted by the opposing party and what her attorney has pointed out. Mr. Schachner was highlighting Ms. Liu attorneys' correspondence noting their belief this requires a use variance. What are your thoughts on this in relation to the driveway Mr. Toohey?

Mr. Toohey stated this application has been before the Board since October and he is disappointed that this has just come up. We received a denial from the Building Inspector dated January 10, 2017, mentioned nothing of this. This is the first official notification we have heard of this. Under General City Law Section 20 it grants the right from the State to the Cities to create zoning codes and the right to enforce those codes. There are some unique portions of the zoning codes. The first part is the shifting of the zone 100 ft as we have discussed earlier this evening. Our property owner has this right. Our property owner has this right which is also what is allowable in the zone. The use that we are proposing in the district is compliant with the RR zone. The next portion is the concept of what is allowable in this zone or the use. Our proposed use is an allowable use in the zone. Mr. Toohey stated within all zones you are allowed to have a driveway and in some instances requires a driveway. The driveway is a universal neutral utilization.

Keith Kaplan, Vice Chairman reiterated what Mr. Toohey stated for clarification. The principle Mr. Toohey articulated is anything that is allowable in the RR District like a house. If the applicant was proposing a house instead of a kennel then the driveway in a TRB District which would lead to a house would not be allowed.

Mr. Toohey stated that is exactly what the theory is. Mr. Toohey further explained another example for the Board. A driveway is a universal neutral utilization.

Discussion ensued concerning the district requirements of the zone and the use.

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.

Iris Liu, I am opposed to the project. Ms. Liu stated the project needs to be approved in its entirety not piecemeal. Ms. Liu stated the applicant should choose a use which is allowed in the TRB zone. There are a substantial amount of variances requested. Parking is an issue. Parking spaces have gone from 31 down to 8 spaces. This is a large building with many animals and only 2 staff. This is unbelievable. This will not be kept up. We will also have to deal with signage.

Dr. Bryner, 3304 Route 9. Dr. Bryner stated he was not aware of this development and nobody in the immediate area new anything. I am speaking of the Consignment shop as well. There are several issues I would like to speak about. I have a small animal clinic and do not board dogs. Sometime we board cats, but we live there. You cannot use the term vet hospital unless you have staff 24 hours a day. At the Pet Lodge the animals are left alone at night. I visited the Clifton Park Pet Lodge. It seemed nice. Barking is an issue. Dogs are driven there. There are more than 2 employees in the operation. In some ways I like this project; it is an odd property with wetlands. It is nice back there. I almost think it should be residential affordable housing would be better served.

Discussion ensued among the Board concerning presenting a resolution this evening.

James Helicke will abstain from voting on this application since he has not been present for the entire presentation of the project.

Bill Moore, Chairman closed the public hearing at 10:20 P.M.

NEIGHBOR INPUT:

- Letter from Jon Crain on behalf of Lu Holding, LLC and Iris Lu, dated September 26.
- Letters of support submitted by Michael Toohey via email dated October 4, 2016.

Adam McNeill, Secretary presented the following resolution.

#2910
IN THE MATTER OF THE APPEAL OF
 Pet Lodge of Saratoga
 Tax Parcel Nos 191.8-1-1 thru 6
 Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at the vacant lands on east side of Route9/South Broadway in the City of Saratoga Springs, New York being tax parcel number 191.8-1-1 thru 6 in the Outside District, on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a pet boarding facility and associated site work in an RR district and public notice having been duly given of a hearing on said application held on October 11 and December 12, 2016 and January 23, 2017.

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:

	Required:	Proposed:	Total relief requested:
Minimum side yard setback: North	30 ft.	20 ft.	10 ft. (33%)
Minimum total side yard setback:	100 ft.	50 ft.	50 ft. (50%)
Minimum parking:	31 spaces	8 spaces	23 spaces (74%)
Minimum total side yard setback: to parking	100 ft.	85 ft.	15 ft. (15%)

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 size of the lot and its width is preexisting. The lot can't be expanded to the west as it is bound by a public road. The land do the north is owned by the State of New York and it is not "feasible" for the Applicant to go through the process to have the State of New York sell them the land. The property owner to the east and south has said in a public meeting they have no interest in selling the land and have not responded to a written inquiry asking them to sell the land. As a result there is no way for the Applicant to acquire more land which would eliminate or mitigate the need for the Area Variance.
2. The board notes that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The subject property is located in a commercial zone surrounded by the following uses: restaurant, consignment shop, veterinary clinic, one single family residence. The creation of an animal kennel is a permitted use in the zone with the benefit of the zoning boundary extension authorized in Section 1.7D of the City Zoning Law. The applicant notes that the building structure will be set back from the road and will only be minimally visible from that road.

3. All areas of relief requested may be considered substantial; however, the board recognizes that the configuration of the parcel pre-exists the Zoning Code and as a result cannot meet the setback and area requirements of the Rural Residential Zone that currently requires a total side yard setback requirement of 100', which would only allow a 5' wide strip of land upon which a structure could be built. The board also notes the placement of the building on the site meets the one side setback requirement for the only occupied parcel adjacent to this site.

The relief from the minimum parking requirement is substantial; however, the substantiality is mitigated by the fact that the parking requirement is calculated by the total square footage of the building while only a portion of the building will be occupied by employees or pick-up and drop-off visits as typical of the business.

4. The board concludes this variance will not have significant adverse physical or environmental effect on the neighborhood or district. The limited requirements for potable water and sanitary sewer can be accommodated on site. Letters submitted by long time neighbors of other 'Pet Lodge' locations indicate that the proposed use does not create excess noise, smell or the presence of loose dogs. The board also notes that all kennels are interior within the proposed building.
5. The difficulty is not self created. The city designated the portion of the site that is to be developed as Rural Residential while the substandard size of the land in question prevents that designation. As a result, reasonable accommodation should be reached.

The Board notes that the driveway from the main road (Rt. 9) is located in the Tourist Related Business District and any land use in the adjacent RR zone, including a residence, would also require access over the differing zone.

Gary Hasbrouck seconded the motion.

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

Mark Schachner made a suggestion for a minor addition to the resolution.

Discussion ensued among the Board concerning the resolution presented and some changes to the amount of relief requested.

Adam McNeill, Secretary provided some revisions to the resolution.

Gary Hasbrouck seconded the amended motion.

Cheryl Grey stated she is opposed to the application she does feel the number of variances required is extreme.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, Secretary, in favor; Gary Hasbrouck, in favor; Cheryl Grey, opposed; James Helicke, abstained

MOTION PASSES: 4-1-1

APPROVAL OF MINUTES:

Gary Hasbrouck made a motion to approve the minutes of the December 19, 2016 meeting minutes with additions and corrections as submitted.

Keith Kaplan, Vice Chairman seconded the motion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Adam McNeill, Secretary, in favor; Cheryl Grey, in favor; Gary Hasbrouck, in favor; James Helicke, abstained

MOTION PASSES: 5-1

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 10:37 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 2/27/17