



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JANUARY 27, 2020

6:30 P.M.

RECREATION CENTER

CALL TO ORDER: Keith Kaplan, Chairman, called the meeting to order at 6:32 P.M.

SALUTE TO THE FLAG:

PRESENT: Keith Kaplan, Chairman; Matthew Gutch; Suzanne Morris; Christopher Mills

ABSENT: Brad Gallagher, Vice Chairman; Cherie Grey; Gage Simpson

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Leah Everhart, Counsel to the Land Use Boards
Tony Izzo, Assistant City Attorney

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

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

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

#20190071 STELLATO RESIDENCE, 148 Woodlawn Avenue, area variance for an addition to an existing single family dwelling and carport addition to the existing carriage house and to permit a dwelling unit as constructed in an accessory structure; seeking relief from the minimum principal building coverage; maximum number of principal buildings on one lot, minimum lot size requirements, and maximum setbacks for a principal building in the Urban Residential-3 District.

#20191030 FLAHERTY RESIDENCE, 172 Fifth Avenue, area variance to remove existing shed and construct a detached pool house accessory structure for use as habitable space and to maintain an existing single-family residence; seeking relief to permit finished space in an accessory structure and minimum front yard setback in the Urban Residential-1 (UR-1) District.

#20190687 LOECK RESIDENCE, 4 Cherry Tree Lane, area variance to permit the construction of a dwelling unit in a detached two-story garage accessory structure for an existing single-family residence; seeking relief from the minimum lot size requirements and front yard setback in the Rural Residential (RR) District.

#3022 DEVALL 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

#20190156 MAIORIELLO RESIDENCE, 663 Crescent Avenue, area variance associated with a proposed two-lot subdivision, seeking relief from the maximum average lot width and minimum lot size requirements for the Rural Residential District.

#20190052 WILLARD RESIDENCE, 832 North Broadway, area variance for a new single-family residence and detached garage; seeking relief from the minimum front yard setback (Fourth St.) for the detached garage (accessory structure) in the Urban Residential-1 District.

#20190025 ELDER RESIDENCE, 704 North Broadway, area variance to convert an existing detached garage to a guest house and construction of a pool cabana; seeking relief from the minimum front yard setback and to permit more than one principal building on a lot for the guest house and to permit finished space in an accessory structure for the pool cabana in the Urban Residential-1 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.

#20191162 HANLEY RESIDENCE, 74 Fifth Avenue, area variance to demolish an existing single-family residence and to construct a new single-family residence with attached garage; seeking relief from the maximum principal building coverage and minimum front, rear side and total side yard setbacks in the Urban Residential-1 (UR-1) District.

ZBA APPLICATIONS UNDER CONSIDERATION

NEW BUSINESS:

1. **#20191188 PET LODGE GENERATOR**, 3320 Route 9, area variance to install a generator for an existing pet boarding facility; seeking relief from the minimum side yard setback for an accessory structure in the Rural Residential (RR) District.

SEQRA:

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

PARCEL HISTORY:

Received a variance on 01/23/2017 for a new building for minimum and total side yard setback, minimum parking, and total side yard setback for parking.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Accessory to Side (Generator)	30ft.	15.5ft	14.5ft (48.3%)

Applicant: Lori Sames, co-owner

Ms. Sames provided a visual of the site to the Board noting the location of the air conditioning units on the side of the building as well as the gas meter and other mechanicals. The applicant is proposing the addition of a generator in this location three feet from the air conditioning units and electrical equipment further back on the building. The building is located 300 feet from the road.

Discussion ensued among the Board regarding the need for the generator and the location. Generator specifications were requested from the applicant.

Ms. Sames stated we are proposing this location for the generator since it is logical housing it with all the other mechanicals as well as economical. This location will allow for additional vegetative buffering. This is a precautionary measure for the facility as well as allowing us the ability to provide heat for the building and potential clients.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 6:43 P.M.

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

Keith Kaplan, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for February 10, 2020.

OLD BUSINESS:

1. **#20190908 TOWERS RESIDENCE**, 91 Union Avenue, area variance to demolish an existing detached garage and construct a new second principal structure with a dwelling unit for an existing single-family residence; seeking relief from the minimum side and front yard setbacks and coverage for a principal structure, minimum lot width, and side yard setback for an accessory structure in the Urban Residential-4 (UR-4) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. The Board has requested no additional information from the applicant.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remained open.

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

Keith Kaplan, Chairman closed the public hearing at 6:47 P.M.

Christopher Mills presented the following resolution.

#20190908
IN THE MATTER OF THE APPEAL OF
Joanne Thorburn and John Towers
91 Union Avenue
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 91 Union Avenue in the City of Saratoga Springs, New York being tax parcel number 168.69-1-28 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 demolition of an existing detached garage and replace it with a second principal structure with a dwelling unit for an existing single-family residence in a Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held on the 16th day of December 2019 through the 27th day of January 2020.

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 Average Width	120 ft.	83.3 ft.	36.7 ft. or 30.6%
Accessory to Side (AC Unit)	5 ft.	4.4 ft.	.6 ft. or 12%
Accessory to Side (Generator)	5 ft.	3.6 ft.	1.4 ft. or 28%
Total Principal Buildings on One Lot	1	2	100%

As per the submitted plans and documents 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' representative, the applicants have evaluated several design options, and there is no additional land to purchase to feasibly achieve the desired result. Moreover, the placement of the AC Unit and generator is the only feasible location on the property to meet the applicants' needs.

2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicants' representative notes that the existing garage is not in usable condition, and has demonstrated that several other properties in this area include a second principal structure with a dwelling unit. By removing the deteriorating garage and replacing it with a new, second principal structure that is similar in footprint to the existing garage, there will not be any meaningful change in the neighborhood character or detriment to nearby properties. Similarly, the variance for the side yard setbacks for the AC Unit and generator will not have any meaningful impact on the neighborhood character or any detriment to nearby properties.
3. The Board notes that the requested variance for a second principal structure is substantial; however the impact of the substantiality is mitigated by the combination of neighborhood context, and the size and location of the second principal structure as compared to the existing garage. With regard to the side yard setback for the generator accessory structure, this may be considered substantial at 28%, however the impact of the substantiality is mitigated by the nature of the accessory and its overall minimum impact on the neighboring property. Similarly, while the requested relief for the minimum average lot width may be considered substantial, the overall size of the lot and neighborhood context would have mitigated the impact on the substantiality.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. As previously indicated, there are several existing properties within the neighborhood that include a second principal residence of a similar size, and all roof drainage will be absorbed into the lawn areas adjacent to the current structure. The Board also notes that there remains greater than the required 25% permeability, and total lot coverage will still be within district requirements.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed second principal residence, but this is not necessarily fatal to the application. As noted above, the applicant considered several designs, and the improvement in appearance and functionality of the structure and property will provide an overall benefit to the applicants and the neighborhood, thus outweighing the self-created nature of the variance.

Conditions:

1. The applicant has agreed to work with the City to remove the existing curb cut due north directly in front of the proposed carriage house to allow for additional street parking.

Suzanne Morris seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

Keith Kaplan, Chairman made a motion to rescind the initial approval to add the amendment /condition for removal of the curb in front of the proposed carriage house.

Suzanne Morris seconded the motion.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

Keith Kaplan, Chairman made a motion to approve the amended resolution.

Christopher Mills seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

2. **#20191085 BLACK RESIDENCE**, 94 York Avenue, area variance to construct a detached two-car garage with a carport and in-ground pool and to maintain a shed for an existing single-family residence; seeking relief from the maximum accessory building coverage and side yard setback and minimum patio setback in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. Public hearing was opened and remains open. Additional information including a revised plot plan was submitted to the Board and has been reviewed.

Applicant: Gillian Black

Agent: Bob Flansburg, Dreamscapes Unlimited

Mr. Flansburg stated he has provided the requested information to the Board. He provided a visual of the site and updated survey as well as a revised plot plan.

Keith Kaplan, Chairman stated since the areas of relief have changed he provided the following information.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Coverage	10%.	13.4%	3.4% (34%)
Setback – Front	10 ft.	5ft.	5 ft. (50%)
Patio Setback	10 ft.	9 ft.	1 ft. (10%)

Mr. Black stated based on feedback received from the Board they have made some changes. We have reduced the width of the garage and we have kept the depth and centered it. Coverage’s of properties in the neighborhood was also provided for the Board review. The lot coverage ratio has also changed.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

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

Keith Kaplan, Chairman closed the public hearing at 7:14 P.M.

#20191085
IN THE MATTER OF THE APPEAL OF
 Gillian Black
 94 York Avenue
 Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector’s determination to construct a new detached garage at an existing single-family residence at 94 York Avenue, in the City of Saratoga Springs, New York, being Tax Parcel 166.45-3-23 on the assessment map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a two-car garage to the existing residence in a UR-3 District and public notice having been duly given of a hearing on said application held on December 16, 2019 and January 6 and 27, 2020.

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
Max. accessory building coverage	10%	13.4%	3.4% (34%)
Front yard setback (Middle Ave.)	10'	5'	5' (50%)
Patio setback to accessory building	10'	9'	1' (10%)

As per the submitted plans and documents 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 construct a two-car garage and maintain an existing pool with the pool pump already installed, plus two air conditioner units on the property. The garage space is designed for two vehicles and will be accessible from Middle Avenue. The applicant reduced the size of the garage to the minimum to accommodate two vehicles plus yard tools.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The garage will be built at the rear of the property which borders Middle Avenue and is in alignment with other homes fronting Middle Avenue.
3. The relief requested may be considered substantial at 34% and 50%. However, other properties in the immediate neighborhood have coverage at or exceeding the proposed amount. The total coverage of both the principal structure and all accessory structures will be 38.1% which is under the allowable 30% for principal building and 10% for accessory structures allowed in the district. Additionally, existing properties on Middle Avenue are built closer to the setback amount of 10' on both the same side (north) of this property and on the south side of the street.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. Many of the homes on both sides of this street are closer to the street than the required setback. Permeability would still be maintained at more than the minimum of 25%.
5. The difficulty may be considered self-created. However, this is not necessarily fatal to the applicant.

Conditions:

1. Garage is not to have a second story.
2. Existing shed to be removed.
3. Sidewalk to be maintained on Middle Avenue.
4. Any future additions to principal or accessory structure to be limited to 1.9%

Suzanne Morris seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

5. **#20191169 VALENTIN RESIDENCE**, 62 Bensonhurst Avenue, area variance to construct a deck and stair addition to an existing single-family residence; seeking relief from the total side yard setback and minimum principal building coverage in the Urban Residential-2(UR-2) District.

Keith Kaplan, Chairman stated this is a previously opened application. Public hearing was opened and remains open. No additional information was requested.

Agent: Libby Coreno, Attorney - Bonacio Construction

Ms. Coreno stated at the previous appearance before the Board there was a discrepancy regarding the lot coverage and the size of the stairs. Information was provided to staff and is also available and stamped on the plans. The relief is 1% and a 1% variance is requested.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

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

Keith Kaplan, Chairman closed the public hearing at 7:21 P.M.

Suzanne Morris presented the following resolution.

#20191169
IN THE MATTER OF THE APPEAL OF
Emmanuel and Maya Valentin
62 Bensonhurst Avenue
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 62 Bensonhurst Avenue in the City of Saratoga Springs, New York being tax parcel number 165.65-2-1 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit the addition of a deck and staircase to an existing single-family residence in a UR-2 District and public notice having been duly given of a hearing on application held on January 6 and 27, 2020.

In consideration of the balance between benefit to the applicants 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
Max principal coverage	30%	31%	1% (3.3%)
total minimum side yard setback	20 ft	17.5 ft	2.5 ft (12.5%)

As per the submitted plans and documents 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. Due to the front entrance designed to be on the north side of the home and the fact that the water table in the area required the home to be built with a higher foundation, the addition of the deck and staircase is necessary for the existing doorway to be useable.
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 staircase will not impact the neighbor due to the fact that immediately to the north is the Division Street school property and playground.
3. The Board does not consider either area of relief to be substantial.
4. The applicant has demonstrated that granting this variance will not have any adverse physical or environmental effect on the neighborhood.
5. The alleged difficulty is self-created insofar as the applicants desire to attach the structures, but this is not necessarily fatal to the application.

Keith Kaplan, Chairman seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

4. #20190956 KRISTENSEN RESIDENCE, 200 East Avenue, area variance to construct a detached garage for an existing single family residence; seeking relief from the minimum side yard setback in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. Additional information concerning storm water management has been submitted.

Applicant: Michael and Michelle Kristensen

Mr. Kristensen stated when his wife presented the application at a previous meeting there was a question regarding stormwater. We have investigated and propose mitigation by either of the following measures – installation of a 49 gallon rainwater barrel with a connected dry well drainage system or installation of a down spout catch basin with 4” conduit connected to the house sewer line. The third option we hope not to do is change the pitch of the roof so that it is draining into the yard.

Keith Kaplan, Chairman stated he reviewed the webcast from the previous meeting. This evening we have four Board members present. There were three Board members at the table who expressed misgivings or hesitation about the size of the variance. Stormwater was raised by a Board member in addition to the materiality and size of the variance. It is a 5 ft setback from the property line to the accessory structure overhang requirement and this is an 80% variance. This does not exist it is a plan. Is there any way to move it or have it conform? The plan has not changed in that regard. The Chair stated he expressed difficulty with the project and is not in support of this resolution at it is currently presented.

Mr. Kristensen provided a visual of the site noting the site constrictions they are working with as well as several alternatives which were considered but are not feasible due to a stately tree, loss of green space and lack of turning radius.

Keith Kaplan, Chairman reiterated what the ZBA is charged with and granting variances for the least amount of relief possible. What the applicant is requesting is overly substantial.

Discussion ensued regarding the Boards concern of the current project as presented and the precedent setting nature of the amount of variance requested.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

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

Keith Kaplan, Chairman stated we will keep the public hearing open. The next ZBA meeting is scheduled for February 10, 2020.

5. 20191198 MAYHEW & HURLY RESIDENCE, 127 Division Street, area variance to construct additions to an existing single-family residence and to maintain an accessory structure; seeking relief from the maximum principal building coverage, single and total side yard setbacks and side yard setback for an accessory structure in the Urban Residential -3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. No additional information was requested from the applicant.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

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

Keith Kaplan, Chairman closed the public hearing at 7:42 P.M.

Matthew Gutch presented the following resolution.

#20191198
IN THE MATTER OF THE APPEAL OF
Ian Mayhew & Francoise Hurlly
127 Division Street
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 127 Division Street in the City of Saratoga Springs, New York being tax parcel number 165.58-2-19 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 in an Urban Residential-3 (UR-3) District and public notice having been duly given of a hearing on said application held on the 6th and 27th days of January, 2020.

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
Single Side Yard Setback (West)	4'	2.2'	1.8' (45%)
Total Side Yard Setback	12'	10.3'	1.7' (14.2%)
Maximum principal coverage	30%	39.9%	9.9% (33%)
Accessory to Side (Existing Shed)	5'	1.3'	3.7' (74%)

As per the submitted plans and documents 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 lot is pre-existing, non-conforming and the addition has been located as far as possible to the East side in order to minimize the single side setback relief required while maintaining vehicular access to the property.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The addition is located at the rear of the property. The property is also surrounded by larger structures (e.g., fences, buildings, sheds) than the addition making it "imperceptible" from the street.
3. The Board notes the requested variances of 74%, 45%, and 33% are substantial, however the impact of the substantiality is mitigated by the lot being a pre-existing, non-conforming lot. The applicant is seeking to develop the property at a scale that is consistent with the neighborhood, and the proposed addition has a greater West side setback than the currently existing, non-conforming house. The Board notes that the total side yard setback relief at 14.2% is not substantial.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. Per the applicant, the addition will be consistent with the height, footprint, and density of the surrounding properties and will have no measurable impact of natural light or stormwater runoff.

- The alleged difficulty is considered self-created insofar as the applicant desires to build the proposed addition. However, this is not necessarily fatal to the application.

Conditions:

- Applicant to obtain an easement for the existing front porch and steps that encroach into the City right-of-way.

Christopher Mills seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

- #20191195 FERGUSON RESIDENCE**, 280 West Circular Street, area variance to construct a new single-family residence With attached garage on a vacant lot; seeking relief from the maximum principal building coverage, total side yard setback, and minimum average lot width in the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open.

Applicant: Myron & Linda Ferguson

Agent: Brandon Ferguson, Environmental Design Partnership, Tim Wade, Architect

Mr. Ferguson stated the applicant appeared before the Board several weeks ago and received some feedback from the Board. We have made some changes to the plan and still require three variances. Lot width is one which we cannot change. We did remove the rear porch area as well as some of the covered walkway which reduced the coverage to the 40% building coverage requirement. Also, we pulled back the overhangs and this increased the total side yard setback to 17ft from 16 ft. The garage has been realigned and the house was moved back on the property allowing two additional parking spaces in the driveway in front of the garages. Elevations were provided to the Board noting some changes in the roof lines and the front façade of the home. Floor plans were reviewed with the Board. A neighborhood analysis was completed and in comparison this lot is the smallest lot in the neighborhood.

Keith Kaplan, Chairman thanked the applicant for working with the site and reducing the variances requested, as well as taking into consideration the neighborhood character. The new areas of relief are as follows:

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Average Width	60 ft.	50 ft.	10 ft. (16.7%)
Maximum Principal Coverage	30 %	40%	10% (33.3%)
Total side yard	20 ft.	17 ft.	3 ft. (15%)

Keith Kaplan, Chairman stated the resolution will have a condition noting no additional accessory structures permitted.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application.

Keith Kaplan, Chairman closed the public hearing at 8:02 P.M.

Matthew Gutch presented the following resolution.

#20191195
IN THE MATTER OF THE APPEAL OF
 Myron & Linda Ferguson
 7394 Wileytown Rd
 Middle Grove, NY 12850

from the determination of the Building Inspector involving the premises at 280 W. Circular Street in the City of Saratoga Springs, New York being tax parcel number 165.18-3-23, 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 single-family residence on existing lot, in UR-2 District and public notice having been duly given of a hearing on said application held on the 6th of January through the 27th day of January 2020.

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
Maximum Principal Building Coverage	30%	40%	10% or 33.3% Relief
Minimum Average Width	60'	50'	10' or 16.7%
Total Side Yard Setback	20'	17'	3' or 15%

As per the submitted plans and documents 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 noted that alternative designs were contemplated, but they would result in less functional living space.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The proposed dwelling is seen as an improvement and more in line with the neighborhood over the previous mobile home that existed.
3. The Board finds the variance with regard to the maximum principal building coverage to be substantial on a percentage basis; however, the Board notes that the lot is undersized which mitigates the substantiality in this case. With regards to the minimum average lot width and total side yard setback, the Board does not find either of those to be substantial.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is self-created insofar as the applicant desires to construct a new dwelling but this is not necessarily fatal to the application.

Condition:

1. No further accessory structures are permitted.

Keith Kaplan, Chairman seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

7. **#20191180 PEPPERS CORNER LLC, TWO-FAMILY**, 173 Lake Avenue, area variance to demolish an existing retail building and construct a new two-family residence with attached garages; seeking relief from the minimum front and side yard setbacks, Maximum principal building coverage, minimum lot size, and minimum average lot width in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open.

Applicant: Tom West

Agent: AJ Alvarez, Plan Architecture,

Mr. Alvarez stated the applicant appeared before the Board on January 6th we received some feedback from the Board requesting a calculation and possible reduction to include the overhangs of the roof which were included in the drawings submitted. When all the roof overhangs are omitted, we do fall below the 40% maximum. Also, we have included the air conditioning units in that calculation. Overall, the building has been reduced a bit. We do not want to compromise on the living space. Room sizes are comfortable and marketable, not excessive. Our permeable area is in excess of the minimum required by 10%. We do still require a front yard setback on the Warren Street side of 7 ft., on the rear northwest corner of the building. We also discussed setbacks on the adjacent properties in the neighborhood. We feel the proposed property is desirable and does conform to the neighborhood.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

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

Keith Kaplan, Chairman closed the public hearing at 8:15 P.M.

Keith Kaplan, Chairman presented the following resolution.

**20191180
IN THE MATTER OF THE APPEAL OF
Caruso Home Builders, LLC
19 Railroad Place, Suite 201
Saratoga Springs, NY 12866**

from the determination of the Building Inspector involving the premises at 173 Lake Avenue in the City of Saratoga Springs, New York being tax parcel number 166.45-3-46 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 two-family residence in an Urban Residential-3 District and public notice having been duly given of a hearing on said application held on the 6th and 27th days of January 2020.

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
Maximum Principal Building Coverage	30%	43.0%	13% or 43.35% relief
Minimum Setback- front	10'	7'	3' or 30% relief

As per the submitted plans and documents 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. Per the applicant, studies with smaller rooms and alternate floor plans were done and were ruled out due to negative impact on quality living space and marketability of the units. The Board notes that the current use of the property is a retail store in a residential area, and that a previous proposal has been made to develop the property into further retail usage, which was

met with neighborhood opposition and withdrawn by the owner.

Furthermore, the Board notes that the front setback is a function of this property being a corner lot; the front setback in question is on the Warren Street side of the property. The applicant notes that this setback variance is triggered by the inclusion of a bump-out entranceway, which was included in the plan for aesthetic reasons, to break up a linear arrangement of the side of the building.

2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board notes the fact that the garage areas are attached and included in the middle of the building on the Warren St. side, and therefore part of the principal building calculation and part of the need for relief in this case. Having the interior garage space as well as added parking in the back alleviates the parking impacts on the neighborhood, which is residential and close to the downtown area.

The residential use, with parking impacts taken into accounts, will avoid some of the adverse impacts cited in public hearings under the previous proposal to develop two retail stores on the property. This, along with the condition imposed below on accessory coverage, supports the reasonableness of the applicant's request for relief, in terms of neighborhood character and context. Furthermore, in terms of front setback, the proposal represents a decrease in setback encroachment compared to current conditions.

3. The Board notes the requested variance for principal building coverage at 43.33% is substantial, however the impact of the substantiality is mitigated by the combination of neighborhood context cited above, and the limitation to be placed on future accessory structures as per the condition below. The Board further notes that the requested setback variance of 30% is also substantial but mitigated by the factors cited above including the fact that this represents a decrease from current encroachment.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The application shows greater than required 25% permeability, and as noted above, the traffic and parking effects appear likely to be improved relative to current conditions.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed residential structure, but this is not necessarily fatal to the application.

Conditions:

1. No further accessory structures are permitted.

Matthew Gutch seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

APPROVAL OF MEETING MINUTES:

Keith Kaplan, Chairman made a motion to approve the minutes of the December 19, 2019 Zoning Board of Appeals meeting as amended.

Suzanne Morris seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor

MOTION PASSES: 4-0

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 8:25 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 2-10-20