



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, JANUARY 31, 2022

6:30 P.M.

CITY COUNCIL ROOM

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

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

**PRESENT:** Keith Kaplan, Chair; Brad Gallagher, Vice Chair; Cherie Grey; Matthew Gutch, Emily Bergmann; Justin Farrington

**ABSENT:** Gage Simpson

**STAFF:** Aneisha Samuels, Senior Planner, City of Saratoga Springs  
Mark Schachner, Counsel to the Land Use Boards

### **COMMENTS FROM THE CHAIR:**

Keith Kaplan, Chair welcomed Justin Farrington, our new ZBA member.

### **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.

### **APPROVAL OF MEETING MINUTES:**

Deferred until the February 14, 2022, meeting.

### **PROCEDURAL BUSINESS:**

**1.#20220010 143 W. CIRCULAR STREET AREA VARIANCE**, 143 W. Circular Street, Area Variance to permit a two-lot subdivision seeking dimensional relief within the Urban Residential-2 (UR-2) District.

Aneisha Samuels stated the purpose of the application on the agenda this evening is to defer SEQRA Lead Agency Status to the Planning Board and recommended that the Board request an Advisory Opinion from the Planning Board to the ZBA.

No representative present for this application this evening.

Keith Kaplan, Chair, stated in these circumstances the Board generally defers Lead Agency Status to the Planning Board and would request an Advisory Opinion from the Planning Board as well.

Cherie Grey made a motion in the matter of the application for the 143 West Circular Area Variance, 143 West Circular Street, the ZBA defers Lead Agency Status to the Planning Board for SEQRA. Brad Gallagher seconded the motion.

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

### **VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

Cherie Grey made a motion in the matter of the application for the 143 West Circular Area Variance, 143 West Circular Street, the ZBA requests an Advisory Opinion from the Planning Board. Mathew Gutch seconded the motion.

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

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

**ZBA APPLICATIONS UNDER CONSIDERATION:**

**NEW BUSINESS:**

1. **#20211145 11 BOWMAN AREA VARIANCE**, 11 Bowman Street, Area Variance to replace the existing above-the-ground pool and deck with an in-ground swimming pool within the Urban Residential-2 (UR-2) District.

**AREA VARIANCE CONSIDERATION:**

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Coverage	10%	15.2%	5.2% or 52.0%

Applicant: Amy & George Roman

Agent: Ted DeLucia

Mr. DeLucia stated the applicants are proposing to remove the above ground pool and deck and replace with an inground pool. This will be installed in the same footprint as the above ground pool. There is a 6ft. stockade fence which surrounds the property. It is not obtrusive, and site work will improve grading and drainage and landscaping in this area as well.

Aneisha Samuels, Senior Planner stated she believes there was a miscalculation for the garage. The overhangs were not computed in the calculation submitted so the area of relief requested is 15.2%. A three-foot apron around the pool is acceptable. Anything larger would need to be computed and added as accessory coverage.

Matthew Gutch questioned if there would be any further accessory structures on the property.

Mr. DeLucia stated there are no accessory structures proposed.

Brad Gallagher, Vice Chair questioned the permeability coverage on the property.

Mr. DeLucia stated they did not provide permeability calculations on the site.

Keith Kaplan, Chair, stated this is a UR-2 district, permeability requirements are 25%. We can defer the application until our next meeting at which time you will have provided permeability coverage and principal and accessory coverage calculations to staff.

Cherie Grey questioned if the calculations on the house listed at 11.8% includes the overhangs on the house?

Keith Kaplan, Chair, explained permeability coverage to the applicant's agent.

**PUBLIC HEARING:**

Keith Kaplan, Chair opened the public hearing at 6:54 P.M.

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

Keith Kaplan, Chair stated the public hearing will remain open until our next meeting scheduled for February 14, 2022.

**2. #2021167 166 LINCOLN AREA VARIANCE,** 166 Lincoln Avenue, area variance to permit finished space in an accessory structure within the Urban Residential-2 (UR-2) District.

**AREA VARIANCE CONSIDERATION:**

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Finished Space in Accessory	Not Permitted	Permitted	100%

Applicant: Joseph Fahy

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak provided a visual of the accessory structure. When the applicants contemplated adding more storage to their property, they reached out to a staff member who provided advice as to what could be done with and without a permit. The staff person they consulted is no longer employed by the city. The applicant put two metal storage containers together on piers. To make it more aesthetically pleasing they added wood siding on and around. They then added a deck. A space was needed to accommodate a soundproof work from home situation. They cut through one of the containers added sliding glass doors to the 133 sq. ft. finished space. There is no plumbing, but they would like it to be heated. The deck just serves the yard for extra seating. Visuals of the neighborhood were provided noting detached accessory structures. This will not be used as a rental and adds 7.4% coverage. It will not change the character of the neighborhood.

Keith Kaplan, Chair, stated the applicants have appeared before this Board on a previous occasion for an addition and an accessory structure. He has no objections to this straightforward application. If a resolution is made, we would place conditions on the variance noting no bathing, sleeping, cooking permitted in this location. We have received correspondence from neighbors as well.

Aneisha Samuels, Senior Planner stated habitable space and finished space are not interchangeable. Habitable space is a living space whereas finished space which is what the applicant is seeking.

Cherie Grey questioned if Ms. Yasenchak participated in this application initially and if there was a building permit.

Ms. Yasenchak stated she has not been involved in the project since the beginning. Once they received notice from the city following this construction, we then put together a plan, reviewed the structure, and it is structurally sound. We did a full review prior to filing this application. There is an application pending for a building permit pending approval of the variance.

Cherie Grey questioned how difficult it would be to run a water service to this space.

Ms. Yasenchak stated it would be difficult. It is about 70 ft. from the house to the shed, there is a deck which would need to be removed. The inside is finished and would need to be de-constructed. You are looking at 80 ft. of a waste line and water line.

Emily Bergmann questioned if the applicants are proposing air conditioning.

Ms. Yasenchak stated there are no plans for air conditioning the unit.

Justin Farrington had related questions regarding the feasibility of running plumbing out especially considering the interchanges in language and the UDO would eventually allow this to be a permanent structure. He does have concerns regarding this becoming habitable space going forward.

Keith Kaplan, Chair, stated a condition would be placed on any variance.

**PUBLIC HEARING:**

Keith Kaplan, Chair, opened the public hearing at 7:13 P.M.

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

Keith Kaplan, Chair, stated we will keep the public hearing opened until the next meeting scheduled for February 14, 2022. The Board will review materials and consider a resolution for that meeting.

**CONTINUED BUSINESS:**

**4. #20211120 69 CAROLINE USE VARIANCE,** 69 Caroline Street, Use Variance to permit the conversion of the Children's Museum into an educational and community workshop center within the Urban Residential-4 (UR-4) District.

Keith Kaplan, Chair stated this is a previously opened application. The public hearing has been opened and remains open. The applicant has provided additional information to the Board which we have reviewed.

Applicant: John Haller

Agent: Stephanie Ferradino, Attorney; Chris Bennett

Ms. Ferradino stated they appeared before the Board two weeks ago for this project. This is a hopeful conversion of the Children's Museum located on Caroline Street to a community educational workshop spaced called the Joinery. At the last meeting we spoke about the four standard tests required to obtain a use variance. Following that discussion, the Board did have questions which required an additional submission of information which has been provided. The Board requested additional clarity and documentation on the \$500,000 that the Children's Museum had invested into this building in 2018. The correspondence provided goes into detail costs associated with those improvements. We also provided a narrative and additional information on Similar Organizations' Educational Uses, Possible Grant Funding opportunities, including CFA who has grant monies available, are applicable and can be sought by the non-profit which will be operating the Joinery. There are also opportunities for workforce development, historic preservation partnership opportunities to assist in education for preservation trades. This is a perfect opportunity here in Saratoga where people are looking to restore historic properties. We also spoke about the Joinery space being dedicated to Educational Uses. We also discussed the law pertaining to relaxed standards and we also provided additional law and quotes in this regard. The Board was also interested in the Joinery Operations. There will be a variety of users, membership classes, single and multi-day classes, accredited curriculum classes, and day use users. There will be less traffic than the Children's Museum had about 12 or so, at any given time. More if there is a class setting. We have a large parking lot and access to an upper parking lot. Truck traffic will not be an issue on Caroline Street, for deliveries and parking. Hours of operation during the weekdays from 1-9 PM. Weekends will be late mornings. Times will be adjusted based on the need. We spoke about sound, regarding the enclosed space, the brick building, choosing tools based on decibel levels. The parcel will be compliant with the city's noise ordinance.

Keith Kaplan, Chair, thanked the applicant for the comprehensive materials submission. We have reviewed them along with the Building Inspector and city staff. Also, the Chair suggested an independent consultant perform a noise evaluation along with city staff to verify decibel levels outside the building to further allay the concerns of the Board regarding sound impacts. This will be a condition as we move the application through the process towards a resolution. Are there any further concerns by the Board members regarding sound?

Cherie Grey stated her understanding that Patrick Cogan, Building Inspector will meet them there and run testing as well.

Aneisha Samuels, Senior Planner, stated that Patrick Cogan, Building Inspector requested that the applicant coordinate with Code Enforcement to have a site visit. The City will allow the applicants to do the testing to verify decibels and the equipment being used to prevent any future issues which may arise from neighbor complaints.

Ms. Ferradino stated we do not have any of the equipment to be used. If we use the planer that we used at the last informal sound study. That will be very loud.

Mr. Haller stated he does not own the building yet, what we learned from the informal sound study is that there are two areas where sound is leaking from the building. One is from one of the four front windows which does not close properly, and one is from the emergency exit on the north side of the building. We are unsure currently how to remedy this either insulate or replace the door.

Aneisha Samuels, Senior Planner, stated she believes what the city is looking for are numbers. We are aware there is sound leakage, but that should not be an issue in this case. The city simply wants to verify the numbers you are obtaining are accurate to place potential conditions on the variance limiting decibels and/or hours of operation.

Keith Kaplan, Chair, stated another issue which was brought forth by the Building Inspector was the potential for odors, or chemical fumes having adverse impacts to the neighborhood.

Aneisha Samuels, Senior Planner, stated the concern was regarding any type of finishing products, fumes, and what mitigation measures are they proposing. This would not preclude this application from being approved simply a strategy to provide mitigation in the event it is necessary or conditioned upon.

Keith Kaplan, Chair, stated is there any type of situation where if they do not have the appropriate exhaust system in place where there would be a code issue.

Aneisha Samuels, Senior Planner stated she believes this is in the event there is any litigation from residents regarding a nuisance such as noise or noxious fumes, the city would have something as a baseline to use for measurement.

Cherie Grey spoke regarding the restaurants in the area and the venting which is required. Her only concern is the type of chemicals they will be using and the potential for harmful discharge into the air.

Keith Kaplan, Chair, suggested the applicant meet with Code Enforcement which would provide the Board with specifics to impose as a condition.

Aneisha Samuels, Senior Planner, stated the applicant needs to confirm if they are proposing to use spray applied finishing. If so, what mitigation measures they are proposing.

Keith Kaplan, Chair, questioned if there were other processes, they will be engaged in the course of woodworking that could emit fumes, or odors which would be objectionable to anyone outside the building.

Mr. Haller stated today products have extremely low VOC content. They will be finishing items, but the products in use today are water based or natural oil based with extremely low VOC.

Keith Kaplan, Chair, questioned if they were to be assisting people with historic items, and stripping things with lead-based paint It does seem there would need to be mitigation measures in place for these issues.

Ms. Ferradino stated they will review this within their own group and Code Enforcement and report back to the Board when they return.

Cherie Grey questioned if any outside work is contemplated on the outside of the building? Also, due to the hours of operation proposed will there be staff available during all hours of operation.

Ms. Ferradino stated no outside work is anticipated, a change in the rear exit door may occur where sound spillage is an issue. There will be staff present during hours of operation due to the safety issue.

Keith Kaplan, Chair, questioned the gallery space and the extent of retail activities, the frequency of this and how predominate it would be.

Mr. Haller stated retail is a small element of the project. It is not a revenue source for the organization, simply to help the artists.

They are not planning any large retail operation. On Chowder Fest Day we might have foot traffic.

**DISCLOSURE:**

Emily Bergmann stated she has viewed the previous meeting webcast and has reviewed the materials and is comfortable voting on the continued business items this evening.

**PUBLIC HEARING:**

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

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

David Appel, Circular Street. He stated he is a huge fan of the project. He feels the entire city will benefit from this project.

Keith Kaplan, Chair, stated the public hearing will remain open until the next meeting scheduled for February 14, 2022.

**5. #20210978 ST. PETER'S AREA VARIANCE – 46 CONGRESS**, 46 Congress Place, Area Variance to install wall signage for St. Peter's Family Medicine facing Congress Street, install panel for existing off-premises sign at the corner of Congress Place and Congress Street and install off premise new Freestanding sign at Congress Place entrance within the Transect-6 (T-6) District.

Keith Kaplan, Chair, stated this is a previously opened application. We reviewed this application at which time we requested an Advisory Opinion from the DRC which we have received. There were different findings regarding three aspects of the sign. The public hearing was opened and remains open.

Aneisha Samuels, Senior Planner, stated the applicant has proposed three signs. Two freestanding and one on the façade on Congress Street Plaza. The DRC stated the Congress Street freestanding sign is appropriate and is the entrance which should be emphasized. The South Franklin Street freestanding sign may not be necessary at all. If it remains, it should be smaller than proposed and with a directional arrow as it is in a residential area. Several members of the DRC thought this sign could be eliminated in its entirety. The wall signage on the façade is unnecessary and confusing.

Keith Kaplan, Chair, stated that is the opinion of the DRC. We tend to defer to the opinions of our colleagues on the other Land Use Boards and their interpretation. We as a Board discussed the placement of the sign facing Congress Plaza parking lot and felt that the placement was confusing. The DRC concurring is significant.

Applicant: St. Peter's Healthcare Partners

Agent: Tom Wheeler, AJ Sign Company

Mr. Wheeler stated they do understand the signage facing Congress Plaza as confusing. Taking the considerations of the ZBA and DRC we have eliminated that signage all together. The free-standing signage at the corner of Congress Street has had a directional arrow added. The South Franklin Street signage will remain as a directional aide and guide to the site. Mr. Wheeler stated we have provided the updated signage information today.

Cherie Grey stated she feels the South Franklin Street signage should remain. It is important for wayfinding. This is a residential area. And is a hidden entrance.

Emily Bergmann stated she agrees that the signage should be there as well. It is not a common well used entrance.

Cherie Grey stated in viewing the signage she is concerned with vehicles pulling out of that driveway and visibility.

Brad Gallagher, Vice Chair stated that was his question as well. Can this signage be reduced in size for better traffic visibility?

Mr. Wheeler stated he has reduced the sign from what St. Peter's normally requires. This sign will be moved as close to the tree to the right as possible.

Keith Kaplan, Chair, stated there is a large blank field on the sign and making it smaller would certainly help. Moving the sign back a bit would be encouraged. If a portion of the field of red was removed it would make the lettering more visible and preserve the corporate logo.

Discussion ensued among the Board regarding the South Franklin Street signage. It was the consensus of the Board to remove the blank red area on that signage and reduce the overall size of the sign like the monument sign on Congress Place.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair stated the public hearing will remain open until the next meeting on February 14, 2022.

**6. #20211095 150 HENRY STREET AREA VARIANCE**, 150 Henry Street, Area variance to construct a two-family residence in the in the Urban Residential-4A (UR4-A) District.

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

Applicant: William Allerdice

Agent: Sue Davis, SD Atelier Architecture; Dave Carr, LA Group

Ms. Davis stated information was provided to the Board regarding the driveway and parking per the Boards request. A visual of the proposed driveway was also provided. Access statistics were noted. The existing frontage is 64.62 ft., the access drives may occupy 25% the proposed driveways are 34%, the requested variance is 9%. The parking issue was also a concern. In this UR-4A zone two spaces are required per unit. We were able to get one space per unit in the garage and are requesting a waiver for two additional parking spaces. There are garage structures in the neighborhood with a large amount of paved driveway in front of them. Examples were provided of neighborhood comparables. Ms. Davis noted they are not setting a precedent in this location.

Keith Kaplan, Chair, stated we had a discussion on how to deal with the two spaces. It has been observed that this is the UR-4A an incredibly unique district, and with the UDO about to take effect which would allow parking in the setback. The Board has discussed the relative merits. Do we go for the variance for parking or go for the variance for the setback encroachment? It appears to be headed to the setback encroachment.

Cherie Grey questioned when the UDO becomes effective the unit to the left will be allowed to park in the setback. How much of the vehicle would be parked in the left setback currently?

Mr. Carr stated the entire car would be in the setback and over the property line. This building is 24 ft. away from the road. The first 10 ft. is city right of way. This neighborhood is unique in that it is residential with multiple bus stops. Requesting the relief for two spaces seems to make more sense to him.

Aneisha Samuels, Senior Planner, stated with the implementation of the new UDO you would be allowed to park in the setbacks. Based on the average car size it would not be within the right of way. The minimum parking lot size would be 7.5 ft. to 10ft. which is well within what would be provided here.

Cherie Grey stated she would be more comfortable providing relief now which will be rectified by the new UDO soon.

Keith Kaplan, Chair asked if there were any further questions or comments from the Board. None heard.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair, closed the public hearing at 8:25 P.M.

Cherie Grey presented the following resolution.

**# 20211095  
IN THE MATTER OF THE APPEAL OF**

Wallace Allerdice  
150 Excelsior Avenue  
Saratoga Springs NY 12866

From the determination of the Building Inspector involving the premises at 150 Henry Street in the City of Saratoga Springs, New York being tax parcel number 165.52-2-9 on the Assessment Map of said City. The applicant having applied for an area variance under the Zoning Ordinance of said City to permit construction of a new two-family residence in the UR-4A District and public notice having been duly given of a hearing on application held on January 10 and 31, 2022.

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:

<b>TYPE OF REQUIREMENT</b>	<b>DISTRICT DIMENSIONAL REQUIREMENT</b>	<b>PROPOSED</b>	<b>RELIEF REQUESTED</b>
Minimum average width lot size	80 ft	61.5 ft	18.5 ft (23.1%)
Principal lot coverage %	30%	38%	8% (26.7%)
Rear setback	25 ft	17.7 ft	7.3 ft (29.2%)
Parking requirement in setback	NOT PERMITTED	PERMITTED	100%
Max access driveway width	25%	34%	9% (36%)

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 demolish an existing 2 car garage and replace it with a two-family residence. The applicant states that the neighborhood is currently bordered by apartments across the street and construction of a new multi-condominium building to the south and therefore, feels a two-family residence is consistent with the neighborhood. The lot is pre-existing, non-conforming with no additional property for sale. The applicant has designed the two-family residence to be set back from the street and as far back into the property as possible to conform to the curve in the existing street. However, the Board notes that moving the building any further back would not be possible due to the topography at the rear of the property and would also move the building closer to the lot and home in existence on Circular Street.
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 property is preexisting nonconforming predating current zoning regulations. The neighborhood is primarily multi-family and therefore this two-family residence will conform to the existing residences.
3. The variances are substantial, this is due to the fact that the lot is preexisting and the applicant desires to build a two-family residence. The applicant has designed a two-family residence that is conforming to side and front setbacks.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. Permeability requirements will meet district requirements.
5. The alleged difficulty is self-created insofar as the applicant desires to construct a two-family residence, but this is not necessarily

fatal to the application.

Note: Due to the fact that the new designation of this UR-4A zoning district will be changed to UR-4, the parking in the setback will be allowable with adoption of the UDO. At the time of this resolution, parking is not allowable in the setback. The UDO has not been adopted by City Council.

Keith Kaplan, Chair, seconded the motion.

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

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

**4. #20211117 85 BEEKMAN MODIFICATION**, 85 Beekman Street, Modification for an Area Variance to permit finished space in a detached accessory structure within the Neighborhood Complementary Use-1 (NCU-1) District.

Keith Kaplan, Chair stated this is a previously opened application. The public hearing has been opened and remains open.

Applicant: Mike Phinney & Jonathan Haines, Phinney Design Group

“Finished space” is not allowed on the second floor of an accessory structure without a variance. The building department determined finished space is having sheet rock on the walls and ceiling. This was brought forward in applying for the building permit. This is a garage and is not intended for any type of living space simply temperature-controlled storage. The plans have not changed since our last appearance before the Board.

Cherie Grey questioned the applicant if there is ample space for two vehicles to park in the driveway for the residences.

Mr. Haines stated there is sufficient parking to accommodate two vehicles from the residences.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair noted the Board has received public comment and that has been reviewed by the Board and is posted on the website.

**DISCLOSURE:**

Keith Kaplan, Chair, disclosed that his wife rents studio space at 79 Beekman St. to paint. The owner of the building provided public comment.

Mark Konieczny stated he and neighbors were concerned regarding the possible use of this space for a commercial use and could the resolution be worded to prevent this from happening in the future.

Keith Kaplan, Chair, provided information on reasonable conditions which are placed on resolutions with finished space in an accessory structure to assure prescribed activities occur properly.

Keith Kaplan, Chair, closed the public hearing at 8:40 P.M.

Keith Kaplan, Chair presented the following resolution.

**#20211117**  
**IN THE MATTER OF THE APPEAL OF**  
Dublin Underground LLC  
142 Grand Ave  
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 85 Beekman St in the City of Saratoga Springs, New York being tax parcel number 165.66-3-14 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit an accessory structure with a finished space on the second floor in an NCU-1 District and public notice having been duly given of a hearing on said application held on the 10th and 31st days of January 2021.

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 REQUIREMENT	PROPOSED	RELIEF REQUESTED
Finished Space in Accessory Structure	Not Permitted	Permitted	100%

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

1. The applicant was previously approved to build an accessory structure in accordance with Zoning Board resolution #20200893. Per the applicant, a change in insulation type has forced a modification to the original plans of not having a finished space on the second floor. The suggested insulation would necessitate covering the walls with drywall (gypsum board) which, in turn, categorizes the area as finished space. Alternatives were considered, however, building a new construction with the most efficient insulation and thermal barrier technology is prudent for a storage space that will contain moisture absorbing materials (e.g., paper files, cardboard, etc.).
2. The Board notes the modification to the design of the accessory structure will not have an impact on neighborhood character or be a detriment to nearby properties. All modifications are internal to the structure.
3. The Board notes the requested variance of 100% is substantial, however, this is mitigated by the fact that the finished space will not have bathing or cooking facilities and is designed to be used as climate-controlled storage.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. As noted, the modification is internal to the structure approved in resolution #20200893.
5. The alleged difficulty is considered self-created insofar as the applicant desires to build an accessory structure with a second-floor finished space. However, this is not necessarily fatal to the application.

Condition: No bathroom facilities beyond toilet and sink, and cooking facilities, including personal and commercial food preparation and reheating, and overnight stays are not permitted.

Cherie Grey seconded the motion.

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

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

**8. #20211112 60-62 GREENFIELD AREA VARIANCE**, 60-62 Greenfield Avenue, area variance to convert existing two family to a single-family and construct a two-car garage and pool in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chair stated this is a previously opened application. The public hearing was opened and remains open. The applicants did revised the plans and a minor change was noted in the dimensions and the applicant will update the Board.

Applicant: Charles & Amy Pinckney

Mr. Pinckney stated following the last meeting they took the feedback provided by the Board and attempted to reduce the overall site coverage to less than 40% which they were able to achieve. They have reduced the size of the proposed pool. We are now down to 39.9%. A visual of the proposed site, noting the change in coverage was also provided.

Keith Kaplan, Chair asked if there were any further questions from the Board.

Cherie Grey questioned the two setbacks on the side of the house with the bay window.

Mr. Pinckney stated they had placed this request for an additional 15 inches. There is a pre-existing nonconforming from the original roof line and the new roof line which extends it 15 inches.

Aneisha Samuels, Senior Planner, clarified why the two setbacks. This is to prevent the applicant from using the more substantial relief for the entirety of the setback instead of just one section. Because it would be more aggressive and pertain to the entire side of the home.

Keith Kaplan, Chair, stated he is supportive of using the one setback which is the most restrictive.

Mark Schachner questioned if the debate is whether to use just the one dimension, the most restrictive. It seems like that would be a good practice unless staff has a strong opinion otherwise that seems like an appropriate practice and what we have typically done in the past.

Aneisha Samuels, Senior Planner, stated the Board has done both, but from a zoning perspective it is easier to monitor, if there are specifics as to what is permitted in terms of dimensions from each part. It is a preventative technique.

Cherie Grey thanked the applicant for reducing the overall coverage to less than 40%.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair, closed the public hearing at 8:55 P.M.

Brad Gallagher, Vice Chair presented the resolution.

**20211112**  
**IN THE MATTER OF THE APPEAL OF**  
Charles & Amy Pinckney  
60-62 Greenfield Avenue  
Saratoga Springs, New York 1866

from the determination of the Building Inspector involving the premises at 60 and 62 Greenfield Avenue in the City of Saratoga Springs, New York being tax parcel number 165.35-2-27 and 28 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to seek relief to convert an existing two-family to a single-family residence and construct a garage and pool in an Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held on January 10, 2022, and January 31, 2022.

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 Accessory Coverage (Pool & Garage)	10%	19.2%	9.2% (or 92%)
Setback – Front (West side bay window)	10 ft.	7.1 ft.	2.9 ft. (or 29%)
Setback – Front (West side addition)	10 ft.	8.5 ft.	1.5 ft. (or 15%)
Finished Space in Accessory	Not Permitted	Permitted	100%

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. The applicant seeks to add a bay window on the western side of the residence. The proposed bay window and addition will encroach less into the front setback than existing porch that is being removed. The applicant also seeks to construct a two car garage with finished space and a pool. The Board notes that the proposed accessory structures when combined with the primary residence do not exceed the total lot coverage permitted in the district. The applicant also seeks to finish space in the garage in order to utilize the space for storage and working space.
2. The Board finds that the applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. Again, the encroachments by the additions on the primary residence will be less impactful than the current conditions at the property. Moreover, the proposed accessory structures are in character with the neighborhood.
3. The Board finds the variance to be substantial. However, this is mitigated by the intended use of the space in the garage to be limited to storage and office space that does not have sleeping, cooking, or bathing facilities. The Board also finds the maximum accessory coverage proposed to be substantial; however, this is mitigated by total maximum coverage permitted on the lot not exceeding the district requirements. The Board does not find the requested variances for the front setbacks to be substantial under the circumstances presented.
4. This Board finds this variance 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 two-car garage, with finished space, a pool and modify the footprint of the existing primary residence, but this is not necessarily fatal to the application.

CONDITIONS: No bathing, cooking or overnight stays are permitted.  
 Future principal building coverage should be limited to 20.8%.

Cherie Grey seconded the motion.

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

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

**9. #20210696 85 NELSON AVENUE USE VARIANCE**, 85 Nelson Avenue, use variance to permit existing three-family Residence to be used as three-family residence within the Urban Residential-2 (UR-2) District.

Applicant: Ted Waite

Agent: John Carusone, Attorney

Mr. Carusone questioned if there will be a vote on this application this evening with 6 members present.

Keith Kaplan, Chair, questioned if the new Board member Justin Farrington has familiarized himself with the materials on this application.

Justin Farrington. Board member stated he has not familiarized himself with the materials for this application.

Mr. Carusone, attorney for the applicant requested to adjourn the application until the next meeting. He did however review information for the Board this evening. Mr. Carusone focused on lack of reasonable return and whether this was self-created. Mr. Carusone noted he feels this application is like one the Board heard regarding a Rosemarie Guanill and will speak on that as well. A visual of the property was provided to the Board. Mr. Carusone stated on the issue of reasonable return Mr. Waite purchased this property in 2013 for \$801,500. We have had two estimates for the sale of this property as a single-family home. The more recent was from Bill Moore for \$1,118,775.00. Based upon the purchase price and the cost of converting it to a single-family residence the loss would be \$32,000, not considering there are three heating systems, three furnaces, three air conditioning condensers, 3 hot water heaters which would be awkward in a single-family home. A major cost would be incurred in rectifying the gap between the front unit and the middle unit, and the middle unit and the rear unit. The levels of the home are different. This would be a significant expense to unify all the units into a single-family home. Mr. Waite purchased this property for track rental and is located directly across the street from the track. He derives a part of his income from that. The Board was also provided with an opinion from Tom Roohan in the Guanill case. Left with a choice of trying to sell it as a single family and have the buyer do what would need to be done. A decrease in the selling price would be necessary. In the block from Wright Street to Crescent there is only one property, namely this property that is listed as a three family. All the others are listed as single family or a rooming house. Everything else is listed as single family. Our problem is unique to this parcel and not something common to the entire street and neighborhood. Regarding character of the neighborhood, as like Ms. Guanill this property has been three family for years. Patrick Cogan, Building Inspector stated it was 2003 when it was listed as such on the assessment rolls. It has been years. Granting this use variance will not alter the character of the neighborhood which is mixed. One the issue of self-created hardship. The applicant was unaware when he purchased this property that the zoning did not permit three family. We have the tax bills, the assessment information, what is on both the County and the City tax rolls as a three-family residence. Also, a printout was provided to the Board from a Real Estate Website dated commensurate with the purchase which stated it was a three-family residence. More importantly not just the documents but viewing the house it is clear it is a three family. There is no mistake since it is so segmented. In good faith, like Ms. Guanill he purchased the property that it was a three family and would not have purchased this had he known it was a single-family residence. Mr. Carusone feels he is entitled to the relief requested. He relied on records which were official both city and county.

Emily Bergman questioned if the applicant were to sell this as a single-family home would he not realize a financial return based on the purchase price, improvements which were made and the current appraised value and financial provided.

Mr. Waite stated that the improvements made were about \$25,000 more than what was stated by the Board member.

Mark Schachner stated what he heard is that the applicant was citing information which was different than what was submitted in the application materials. The Board needs to advise the applicant if he wished to amend the application and/or provide additional information on the figures they may do so. The applicant's counsel needs to provide updated correct information. The public hearing should remain open until this information is provided.

Keith Kaplan, Chair, stated that was going to be part of the homework assigned to the applicant to provided updated accurate information and as detailed of an itemization as possible.

Emily Bergmann spoke regarding income from rental monies and expenses and cost of conversion. If listed at the number cited, you would receive about \$600,000+ dollar profit. It is hard to see that it could not receive a reasonable return as a single family.

Mr. Waite spoke regarding this property and the unlikelihood of converting to a one family.

Keith Kaplan, Chair, reviewed with the applicant agents what information is required and needs to be provided to the Board. The Board is looking for data. Cost of conversion estimates could be articulated to the Board by a professional contractor. On the reasonable return test, we need information regarding whether a reasonable financial return can be achieved through the permitted uses. The permitted uses are a single-family home, or a rooming house, a bed and breakfast, and we have talked about this and why this is not feasible. I have received verbal answers, but we have never had the figures articulated out.

That is the evidentiary matter that would help the Board come to the right conclusion. We need more evidence then just this is not going to work; we need to see why.

Aneisha Samuels, Senior Planner, stated this is an active violation and therefore needs to be resolved as soon as possible. The next meeting is scheduled for February 15, 2022. It is advisable that the added information be provided by February 7<sup>th</sup>.

Keith Kaplan, Chair, stated on the self-created test, again we have asked for and, in the case, you refer to Ms. Guanhill we were provided with what documentation existed at the time of purchase. If anything, more than the assessment could be provided it would be helpful.

Discussion ensued of the property's classification, and of the proper timing for Board consideration of that classification.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair, stated the public hearing will remain open until the next meeting scheduled for February 14<sup>th</sup>, 2022.

**10. #20211022 LASH BLVD AREA VARIANCE**, 120 S. Broadway, area variance to erect one freestanding 48 in. x72 in. monument, internally lot LED sign within the Transect-5 (T-5) District.

Keith Kaplan, Chair, stated this is a previously opened application. The public hearing has been opened and remains open. Since the applicants last appearance before the Board, we have requested and received the Advisory Opinion from the DRC. The DRC has issued a Favorable Advisory Opinion on this application.

Applicant: Lash Boulevard

Agent: Russ Hazen, Ray Signs, Inc.

Mr. Hazen stated they have appeared before the DRC. The DRC did have recommendations for landscaping, and we have forwarded that updated information to both Aneisha and Amanda. There are no other changes to the application.

**PUBLIC HEARING:**

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

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

Keith Kaplan, Chair, closed the public hearing at 9:37 P.M.

Keith Kaplan, Chair presented the following resolution.

**2021022**  
**IN THE MATTER OF THE APPEAL OF**  
 Lash Blvd  
 2913 Ford Ave  
 Schenectady, NY 12306

from the determination of the Building Inspector involving the premises at 120 South Broadway, in the City of Saratoga Springs, New York being tax parcel 178.35-1-6 on the Assessment Map of said City.

This being an area variance under the Zoning Ordinance of said City, to install a freestanding sign for a commercial building in a T-5 District and public notice having been duly given of a hearing on said application held on November 1, 2021, through to January 31, 2022.

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	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum size, free standing sign	12 SF	24 SF	12 SF or 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 larger lettering is called for in order for the sign to be visible from South Broadway. The applicant has provided a photo simulation of the sign with dimensions compliant with district requirements; upon comparison to the proposed sign, the Board agrees that a compliant size would not be sufficiently visible from South Broadway.
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 on the South Broadway gateway entrance to the city, with numerous motorists driving on that busy thoroughfare. Having easily visible signage from South Broadway is not just important from a safety point of view to ensure people seeking this business can easily locate it but is also consistent with the commercial context of the neighborhood. The applicant further provided comparable sign sizes for several nearby businesses, noting the consistency of the proposed sign dimensions with those in the neighborhood.
3. The variance is substantial relative to what is allowed. However, Board finds the lack of adverse impact and consistency with neighboring context, noted above to mitigate the substantiality of the variance.
4. The Board finds that the proposed sign to have a negligible physical and environmental impact. The Board notes that the proposed sign is internally illuminated and that the visual impact is proportional to the sign's distance from the roadway.
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, January 5, 2022, finding no significant countywide or intercommunity impact.
- Design Review Commission (DRC) approval required for this proposal. The Board notes DRC advisory opinion issued January 20, 2022, noting the height and scale as appropriate and consistent with the surrounding neighborhood, and encouraging details on landscaping and lighting.

Cherie Grey seconded the motion.

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

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Emily Bergmann, in favor; Justin Farrington, in favor

**MOTION PASSES: 6-0**

**RECUSAL:**

Emily Bergmann Board member recused from the following application and exited the meeting.

**11. #20211138 35 HYDE STREET AREA VARIANCE**, 35 Hyde Street, Area Variance to renovate existing front porch and modify driveway for a single-family residence within the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chair stated this is a previously opened application. The public hearing has been opened and remains open. Since the applicant's appearance before the Board changes have been made to the scope and size of the project.

Application: Achim Bergmann

Agent: Mike Tuck, Balzer Tuck Architecture

Mr. Tuck stated at the last meeting we presented the applicants proposal and concern was voiced regarding the overall size and scope of the project. The applicant considered the Boards concerns and reduced the size of the overall width of the porch by 4ft. We surveyed the street to support our argument that what we were requesting was in keeping with the character of the street and with the neighborhood. We have submitted information to support that defense.

Cherie Grey stated the applicant has reduced the size of the porch which was a concern.

Keith Kaplan, Chair, thanked the applicant for having responded to the Boards concerns.

Keith Kaplan, Chair asked if there were any further questions or comments from the Board. None heard.

**PUBLIC HEARING:**

Keith Kaplan, Chair, stated the public hearing remains open.

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

Keith Kaplan, Chair, closed the public hearing at 9:45 P.M.

Cherie Grey presented the following resolution.

**#20211138**  
**IN THE MATTER OF THE APPEAL OF**  
Joachim and Emily Bergmann  
35 Hyde Street  
Saratoga Springs, NY 12866

From the determination of the Building Inspector involving the premises at 35 Hyde Street in the City of Saratoga Springs, NY, being tax parcel number 165.73-2-56 on the Assessment Map of said City. The Applicant having applied for an area variance to permit alterations on the existing front porch and changes to the driveways to an existing home in the UR-2 District and public notice having been duly given of a hearing on said application January 10 and 31, 2022.

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:	10 ft.	3 ft.	7ft. (70%)
Maximum Access Driveway Width:	25%	36.1%	11.1% (44.4%)

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 states that the porch has been in existence and wants to rebuild it to extend to the driveway across the front façade and add a side porch for access to the driveway and rear property. The applicant provided neighboring properties with front setbacks in the same or more configurations as presented for this property. And, also presented similar front porches on neighboring properties. The driveways will be reduced by the applicant but will still be maintained in the present positions for multiple vehicles to be parked off-street. The Board notes that the driveways are currently a higher percentage of access width and will be reduced substantially.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. As stated above, many of the properties are at or near the same setback as the proposal by the applicant. Driveway aprons and width will also be reduced from what is presently in existence. The applicant also states that the driveway in front of the two-car attached garage is not deep enough to park additional vehicles in the driveway, therefore maintaining the second driveway will accommodate off-street parking.
3. Although the variance is substantial at 70% and 44.4%, this is due to the fact that the existing house and driveways are currently in the locations. The applicant desires to have a front porch and staircase to the front door and in order to make it useable, would have to be within the setback of 10'. The driveways have been in existence since the two-car garage was added to the front of the home.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. All permeability will be met, and letters of support were received from neighbors.
5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

Keith Kaplan, Chair seconded the motion.

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

Cherie Grey stated she is opposing this due to driveways. She is not comfortable with these on a single-family home.

**DISCLOSURE:**

Justin Farrington stated he has reviewed the materials for the application is comfortable voting on this application.

**VOTE:**

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, opposed; Matthew Gutch, in favor; Justin Farrington, in favor

**MOTION PASSES: 4-1**

**COMMENTS FROM STAFF:**

Aneisha Samuels, Senior Planner stated regarding Agenda Item# 6. **#20211095 150 HENRY STREET AREA VARIANCE**, When she spoke regarding the parking she mentioned a small parking requirement, that is just parkable space. That is not the parking requirement space. The parkable space is the 7.5ft – 10ft. So, you can park in that space. However, the code requirements would be 9 x 18 ft. for clarification.

**MOTION TO ADJOURN:**

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 9:55 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

Approved: February 28, 2022