



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, FEBRUARY 10, 2020

6:30 P.M.

RECREATION CENTER

**CALL TO ORDER:** Brad Gallagher, Vice Chairman, called the meeting to order at 6:30 P.M.

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

**PRESENT:** Brad Gallagher, Vice Chairman; Cherie Grey; Matthew Gutch; Suzanne Morris; Christopher Mills; Gage Simpson; Kathleen O'Connor, Alternate

**ABSENT:** Keith Kaplan, Chairman

**STAFF:** Amanda Tucker, Senior Planner, City of Saratoga Springs  
Leah Everhart, Counsel to the Land Use Boards

### **ANNOUNCEMENT OF RECORDING OF PROCEEDING:**

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

### **ANNOUNCEMENT OF ADJOURNED APPLICATIONS:**

**#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.

**#20200022 TOP DOG ENTERPRISES SUBDIVISION**, 46-46a Seward Street, Initiation of Coordinated SEQRA Review and consideration of Lead Agency status for an area variance associated with a proposed two-lot sub-division; seeking relief from the

minimum average lot width for both of the proposed lots, minimum and total side yard setback on proposed lot 1, total side yard setback on proposed lot 2, maximum principal building coverage on proposed lots 1 and 2, and front and side yard setbacks for an accessory structure on proposed lot 2 in the Urban Residential-1 (UR-1).

**ZBA APPLICATIONS UNDER CONSIDERATION**

**NEW BUSINESS:**

1. **#20200030 PASTECKI SINGLE-FAMILY ADDITION MODIFICATION**, 12 Schuyler Drive, modification of an area variance to permit additions to a single-family residence as constructed; seeking relief from the minimum and total side yard setbacks in the Urban Residential-1 (UR-1) District.

**SEQRA:**

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

**PARCEL HISTORY:**

- Received variance in 2017 for an addition to an existing single-family. Minimum and total side yard setbacks and maximum principal building coverage.
- No new relief for coverage is required, as confirmed by Patrick Cogan and the updated plot plan.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>TOTAL RELIEF REQUESTED</b>
Side yard – side 1	12 ft.	2 ft.	10 ft. or 83.3%
Total side	30 ft.	9.5 ft.	20.5 ft. or 68.3%

Applicant: Elizabeth Pastecki

Ms. Pastecki stated she is here to modify a request initially granted in April 2017. The existing garage wall was measured incorrectly against the property line. The initial plot information was incorrect according to final survey. The project was constructed exactly as designed. Nothing has changed.

Discussion ensued among the Board concerning variances requested and what was constructed.

**PUBLIC HEARING:**

Brad Gallagher opened the public hearing at 6:35 P.M.

Brad Gallagher asked if anyone in the audience wished to comment on this application. None heard.

Brad Gallagher closed the public hearing at 6:35 P.M.

Cherie Grey presented the following resolution.

**#20200030**  
**IN THE MATTER OF THE APPEAL OF**  
Elizabeth Pastecki  
12 Schuyler Drive  
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 12 Schuyler Drive in the City of Saratoga Springs, New York being tax parcel number 166.4-1-5 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 addition on an existing single-family residence in a UR-1 District and public notice having been duly given of a hearing on application held on February 10, 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	APPROVED	PROPOSED	RELIEF REQUESTED
Minimum side yard setback	12 ft	3 ft	2 ft	10 ft (83%)
Total minimum side yard setback	30 ft	10 ft	9.5 ft	20.5 ft (68%)

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 project was constructed as previously approved, however, according to the applicant, "Post construction, the survey measured the side yard setback to be less than the variance that was granted."
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 house is preexisting nonconforming predating current zoning regulations.
3. Although the variance is substantial at 83% and 68%, this is due to the fact that the existing house is constructed on the south side at 2' from the side property line and any addition would impact the total side setback. The addition was built to the minimum size to be useable by the applicant.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. The addition is at the rear of the home and not visible from the street.
5. The alleged difficulty is self-created insofar as the applicants desire to construct the proposed addition, but this is not necessarily fatal to the application.

Conditions:

1. Accessory structures limited to 5.6% of lot coverage.

Brad Gallagher, Vice Chairman asked if there was any further discussion. None heard.

**VOTE:**

Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor; Gage Simpson, in favor; Kathleen O'Connor, in favor

**MOTION PASSES: 7-0**

**OLD 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.

**DISCLOSURES:**

Cherie Grey disclosed she was absent from the previous meeting – she reviewed the webcast and is prepared to vote.

Gage Simpson disclosed he was absent from the previous meeting-he reviewed the webcast and is prepared to vote.

Kathleen O'Connor disclosed that she was not in attendance at the previous meeting-she reviewed the webcast and is prepared to vote.

Brad Gallagher, Vice Chairman disclosed that he was absent from the previous meeting-he reviewed the webcast and is prepared to vote.

Brad Gallagher, Vice Chairman stated this is a previously opened application. The public hearing was opened and remains open.

**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.

Applicant: Lori Sames, co-owner

Ms. Sames stated she appeared before the Board at the previous meeting. The Board at that time requested the height of the generator which is 2ft.5in. in height. All dimensions were provided to staff as well as the location of the generator.

Discussion ensued among the Board regarding the proposed landscaping and appropriate time schedule for generator testing.

**PUBLIC HEARING:**

Brad Gallagher, Vice Chairman stated the public hearing was opened and remains open.

Brad Gallagher, Vice Chairman asked if anyone in the audience wished to comment on this application. None heard.

Brad Gallagher, Vice Chairman closed the public hearing at 6:43 P.M.

Brad Gallagher, Vice Chairman presented the following resolution.

**#20191188**  
**IN THE MATTER OF THE APPEAL OF**  
Pet Lodge of Saratoga/Dogs on Broadway  
3320 Route 9  
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 3320 Route 9 in the City of Saratoga Springs, New York being tax parcel number 191.8-1-3 on the Assessment Map of said City.

The appellants having applied for an area variance under the Zoning Ordinance of said City to permit the installation of a generator as an accessory structure in a Rural Residential (RR) District and public notice having been duly given of a hearing on said application held on January 27 through February 10, 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 variances for the following amounts of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum side yard setback	30 ft	15.5 ft	14.5 ft (48.3%)

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 explored alternative locations for the generator in the front and rear of the existing building. The Board finds the applicant's proposal to locate the generator near the existing A/C equipment is the most feasible location that meets the desired benefit.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or

detriment to nearby properties. The Board finds that the location of the property and the generator thereupon will not have an undesirable change on the neighborhood character or detriment to nearby properties. This property is located in a heavily wooded area along Route 9. The generator will be located about 300 feet from the road and will be obscured by bushes.

3. The Board finds requested variance to be substantial on a percentage basis, but this is mitigated by the fact the generator is located next to the heavily wooded State Park property and will be obscured by bushes.
4. The Board finds the addition of a generator and the requested variance for same 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 add a generator within the set-back, but this is not necessarily fatal to the application.

Conditions:

1. Vegetative buffering required to block view from entrance/parking area.

Cherie Grey seconded the motion.

Brad Gallagher, Vice Chairman asked if there was any further discussion. None heard.

**VOTE:**

Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor; Gage Simpson, in favor; Kathleen O'Connor, in favor

**MOTION PASSES: 7-0**

2. **#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.

Brad Gallagher, Vice Chairman stated this is a previously opened application. The public hearing was opened and remains open. Updated design was submitted and the project has been slightly reduced in size.

**SEQRA:**

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

**PARCEL HISTORY:**

Existing 2 ½ story house to be demolished.

**AREA VARIANCE CONSIDERATIONS:**

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Building Coverage	20%	33.2%	13.2% (66%)
Setback- front yard	30 ft.	18.1 ft.	11.9 ft. (39.7%)
Setback- rear yard	30 ft.	20 ft.	10 ft. (33.3%)
Side 1 (East)	12 ft.	8.3 ft.	3.7 ft (30.8%)
Side 2 (West)	12 ft.	10.4 ft.	1.6 ft. (13.3%)
Total Side	30 ft.	18.7 ft.	11.3 ft. (37.7%)

Agent: Mike Tuck, Christine Nickerson, Balzer Tuck Architecture

Mr. Tuck stated they appeared before the Board approximately four weeks ago and at that time we had a list of comments from the Board. The first was how does this home compare to other homes in the street. Generally speaking there are 16 lots on this street with an excess of 30% coverage. There are 6 properties which have what the applicant is requesting for total lot coverage. This

home is not out of keeping with homes on the street. Other comments had to do with the west side and the rear setbacks. There was comments noting the home is too close to the street or too great in height. We have made efforts to reduce those setback requests to increase distances from each. The front remains consistent with what currently exists and complies with the 12 foot side setback to the west. Mr. Tuck reviewed all the areas of relief requested noting the changes. Visual presentation showing initial request and the current relief requested. Street views were provided noting the height of the home in relation to the neighborhood. Floor plans were provided as well as views of all elevations were provided to the Board. The front porch secondary gable on the east side has been omitted to further reduce the scale, and we have expanded the porch for a larger porch presence. An overview of the existing footprint to the currently proposed was provided. Mr. Tuck provided information on the homes with the same setback or larger than what the applicant is proposing as well as the height of the proposed structure.

Discussion ensued among the Board concerning the size of the lot, the size and height of the proposed structure, alternative designs, and the number of variances requested, the percentage of lot coverage, and the rear yard setback, as well as the building is a two story building. Also discussed was the precedent setting nature of the request. The Board requested an overhead shot of the property and showing the fronting of the property on the site as well as rear elevation views.

### **PUBLIC HEARING:**

Brad Gallagher, Vice Chairman stated the public hearing was opened and remains open.

Brad Gallagher, Chairman asked if anyone in the audience wished to comment on this application.

**Len Fusco**, 72 Fifth Avenue as he has stated this proposed project will obstruct the view of the track from his home which is the most important feature of his home. This proposed new home will dwarf and suffocate his home. Please enforce the code.

**Richard Sellers**, 73 Fifth Avenue directly across the street. Our height is 24-25 feet. I believe the Board should review this scaled up for the proper height perspective. The applicant runs a home construction business in Nantucket, which has far stricter zoning regulations than we do. If they can build gorgeous homes there inside and out he can do it here. This house will dominate other homes in the area and obscure the visual of the track for the neighbors.

**Cheryl Rinaldi**, 200 West Circular Street. Concerns were voiced regarding the storm water management and water runoff.

**Bonnie Sellers**, 73 Fifth Avenue. When the rear elevations are completed could the architect show where the patio is and how everything lines up in relation to where everything lines up now.

Brad Gallagher, Vice Chairman stated the public hearing will remain open. We have provided some feedback to the applicants representative and we are hoping there will be some follow-up. Our next meeting is scheduled for February 24, 2020.

### **RECUSAL:**

Board Member Cherie Grey recused from the following application and exited the meeting at 7:27 P.M.

- 3. #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.

This is a previous opened application. The public hearing was opened and remains open.

### **PARCEL HISTORY:**

-Based on new information the carriage house and dwelling unit have been determined to be pre-existing nonconforming by the zoning officer. Relief will not be required for existing structure.

Applicant: Gerilyn and Tony Stellato

Mr. Stellato stated since their last appearance before the Board the existing carriage house and dwelling unit have been determined to be pre-existing nonconforming. This presentation was provided at a previous meeting. Mr. Stellato stated the house addition has not changed at all nor have the floor plans. We are planning to make the deck and the entrance to the apartment more compact. The new deck is smaller in width. Views of the project were provided for the Boards review. Floor plans for the garage were provided. It has been condensed as much as possible. The footprint will remain the same. Visual of the proposed changes to the home were also provided. We are no longer connecting the carriage house to the house. We will require relief as a principal structure setbacks and coverage total existing coverage is 44.5%. Proposed coverage is 51.3% an increase of 6.8%. Total allowable principal and accessory coverage is 40%. Permeability will be 40% requirement is 25%. Stormwater will be managed on site with some site improvements.

It was the consensus of the Board that the applicant has returned with a more conforming project. Increasing the permeability and handling water runoff while achieving the needs of the applicant. The Board is still concerned regarding the amount of relief requested and the concerns of the neighbors.

**PUBLIC HEARING:**

Brad Gallagher, Vice Chairman stated the public hearing was opened and remains open.

Brad Gallagher, Vice Chairman asked if anyone in the audience wished to comment on this application. None heard.

Brad Gallagher, Vice Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for February 24, 2020.

**APPROVAL OF MEETING MINUTES:**

Gage Simpson made a motion to approve the minutes of the January 6, 2020 meeting and January 27, 2020 meeting of the Zoning Board of Appeals with changes as submitted.

Suzanne Morris seconded the motion.

Brad Gallagher Vice Chairman asked if there was any further discussion. None heard.

**VOTE:**

Brad Gallagher, Vice Chairman, in favor; Matthew Gutch, in favor; Christopher Mills, in favor; Suzanne Morris, in favor; Gage Simpson, in favor

**MOTION PASSES: 5-0**

**MOTION TO ADJOURN:**

There being no further business to discuss Brad Gallagher, Vice Chairman adjourned the meeting at 7:45 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 8-3-20