



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, MARCH 13, 2017

7:00 P.M.

CITY COUNCIL ROOM

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 7:00 P.M.

SALUTE TO THE FLAG:

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

ABSENT: Gary Hasbrouck

STAFF: Susan Barden, Senior Planner, City of Saratoga Springs
Tony Izzo, Assistant City Attorney, City of Saratoga Springs

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:

#2876.1 BENTON SUBDIVISION, 58 Fifth Avenue, area variance to construct a single family residence; seeks relief from the minimum front yard, minimum side yard, minimum total side yard and minimum rear yard setbacks, and maximum principal building coverage requirements in the Urban Residential-1 District.

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

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

#2951 SHELTERS OF SARATOGA ADDITION, 14 Walworth Street, area variance for an addition to an existing residence; seeking relief from the minimum average lot width, minimum side and rear yard setbacks and maximum principal building coverage for the building addition and minimum front, rear and side yard setbacks to parking in the Urban Residential-4 District. Application adjourned to March 27, 2017.

NEW BUSINESS:

1. **#2776.1 GUARINO/HANER EXTENSION**, 21 Park Place area variance extension for construction of two (2) two-family residences; seeking relief from the minimum front yard setback and maximum principal building coverage requirements in the Urban Residential-3 District.

RECUSAL:

Board Member Susan Steer recused from this application.

SEQRA: ORIGINAL ACTION

- Action classified as a Type I action –substantially contiguous to Congress Park-Casino-Circular Street, Nation Register District (across Regent St.)
- ZBA initiated coordinated review with Planning Board and requested Lead Agency Status on Sept. 22.
- Planning Board deferred Lead Agency Status on October 8, 2014.
- ZBA issued a Negative SEQRA Declaration on December 15, 2014.
- No further SEQRA action for an extension.

PARCEL HISTORY:

- Site Plan Review application pending.
- Subdivision application pending.
- Area variance to construct (2) detached two-family residences and (1) detached garage on a lot occupied by an existing three-family residence approved December 15, 2014.
- Site Plan review approval March 3, 1987 for site improvements associated with construction of a third residential unit in the R-4 District.

AREA VARIANCE –ORIGINAL ACTION

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum front yard setback: Park Place –two unit	25 feet	16 feet	9 feet (36%)
Minimum front yard setback: Park Place-Two unit addition	25 feet	16 feet	9 feet (36%)
Maximum principal building coverage: Combined	25%	27.6%	2.9% (11.2%)

Applicants: David Guarino and Linda Haner

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated the applicants are requesting an extension of previously approved variances. These approvals were granted and signed off on December 15, 2014. The circumstances upon which the original variances were granted have not changed. There have been no changes to the neighborhood or site since the original variances were granted. Circumstances are the same as well.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:05 P.M.

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

Andrea Gardner, 105 Regent Street. Ms. Gardner reiterated that the adjacent property owners are 100% against what the applicants are proposing. We do not feel this historic neighborhood is conducive to what they are proposing. This is not consistent with the neighborhood.

Mark Herwig, 107 Regent Street. Mr. Herwig echoes the sentiment of Ms. Gardner.

Jane Wy, 44 White Street. Ms. Wy also echoes the sentiment of Ms. Gardner.

Jim Lombardo, 35 Park Place. Questioned the extension policy of the ZBA.

Dan Meaney, property owner. Mr. Meaney stated he feels the same as his neighbors. Petitions have been submitted and personally would not even like to have the extension granted. He is against what is being proposed.

Will Lyons, lives across the street. Mr. Lyons stated he is against the project and echoes the sentiment of his neighbors.

Ashleigh Gardner, Ballston Spa. Spoke regarding the applicants have two projects before the Planning Board and questioned procedure concerning this.

Discussion ensued concerning the applicants appearing before the Planning Board.

Susan Barden, Senior Planner stated the project that is before the Planning Board is a pending site plan application. This has not changed. Subsequent to that application and considerations by the Planning Board the applicant has changed course and has also submitted a subdivision application which did not require any variances. They do have two pending applications before the Planning Board. If the site plan application is denied, than the variances would not move forward and the remaining steps to the project would cease.

Andrea Gardner, 105 Regent Street, questioned the two projects submitted simultaneously before the Planning Board.

Susan Barden, Senior Planner stated she believes that it has not been formally withdrawn. Ms. Barden stated we spoke about no changes in the project or the neighborhood since the initial application in 2014. The applicants must identify why the extension is necessary and they have done so since the application is still pending by the Planning Board.

Bill Moore, Chairman closed the public hearing at 7:16 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

#2778.1
IN THE MATTER OF THE APPLICATION OF
David Guarino and Linda Haner
21 Park Place
Saratoga Springs, New York 12866

Based on submitted evidence that the application for an extension of a granted area variance does not differ from the original application and approval due to the fact that the application is pending before the Planning Board, and that there have been no significant changes in the condition of the property or neighborhood warranting otherwise, the board moves that the application of David Guarino and Linda Haner for the premises at 21 Park Place in the City of Saratoga Springs, and identified as tax parcel #165.84-1-1 originally granted on December 15, 2014 for construction of two two-family residences in an Urban Residential- 4 District be **approved**, and that the variance approval be extended for 18 months from the date that such resolution would have expired, June 29, 2016, with the new expiration date to be December 29, 2017. The variance shall expire on December 29, 2017 unless the necessary building permit has been issued and actual construction begun as per the Zoning Ordinance, or otherwise further extended.

James Helicke seconded the motion.

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

None heard.

VOTE:

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

MOTION PASSES: 4-0-1

2. **#2948 PERRY CARRIAGE HOUSE**, 173 Phila Street, area variance for additions to an existing carriage house; seeking relief from the minimum side and rear yard setback requirements in the urban residential-3 District.

RECUSALS:

Bill Moore, Chairman recused from this application.
Susan Steer, Board Member recused from this application.

Keith Kaplan, Vice Chairman assumed the duties of the Chair.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback	5 ft.	.20 ft.	.66 ft.	4 ft. (88.8%)
Minimum rear yard setback	5 ft.	.80 ft.	2.5 ft.	2.5 ft. (50%)

Applicants: Kyle and Jennifer Perry

Agent: Brett Balzer, Balzer Tuck Architecture

DISCLOSURE:

Cheryl Grey disclosed that she does know the applicants. She has no financial interest in this application. This will in no way prevent her from remaining objective in this matter. No need for recusal simply disclosure.

Mr. Balzer provided a visual presentation of the site. The current carriage house is not sufficient in size to house their vehicles. Both areas of relief could be considered substantial however both existing dimensions are preexisting nonconforming and both additions are more conforming. The distances from the side and rear lot lines to the addition will be larger than the current distances from lot lines to the existing carriage house. The only alternative which would not require a variance would be to demolish the existing carriage house and construct a new carriage house within the minimum setbacks. It is not a desirable alternative to tear down the original carriage house within the city historic district. The variance will not create a detriment to nearby properties and the additions will be in keeping with the original character of the carriage house. The variance will also not have an adverse environmental or physical effect on the neighborhood or district because they are minimal additions to an already existing structure. The applicants are proposing a second story unfinished and will remain unfinished. The applicants are also proposing to re-use existing windows and doors. We have met with the Saratoga Springs Preservation Foundation and they were in favor of what the applicants are proposing. The application will require DRC review and approval.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 7:36 P.M.

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

None heard.

Keith Kaplan, Vice Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for March 27, 2017.

Bill Moore, Chairman resumed the duties of the Chair.

Keith Kaplan, Vice Chairman resumed the duties of the Vice Chair.

Susan Steer, Board Member resumed her position on the Board.

- 3. **#2949 PASTECKI RESIDENCE**, 12 Schuyler Drive, area variance for an addition to an existing single-family residence; seeking relief from the minimum side yard and total side yard setbacks and maximum principal building coverage requirements in the urban residential-1 district.

Applicant: Liz Pastecki, owner

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	12 ft.	3 ft.	9 ft. (75%)
Minimum total side yard setback:	30 ft.	10 ft.	20 ft. (67%)
Maximum principal building coverage	20%	24.35%	4.35% (22%)

Ms. Pastecki stated they are proposing a living room addition to the rear of the home. The home currently is cinder block and stucco which they will maintain on the addition. The homes are very closely spaced in this area. A visual rendering of the proposed project was provided to the Board. All areas of relief could be considered substantial. The side yard and total side yard setback variances are the most substantial however they are both existing dimensions. The request although seems substantial it increases the footprint of the building by 20% and the total lot coverage by 4.05%. The existing house already exceeds zoning allowances so the addition of a family room no matter how small would require a variance. The addition proposed will be on the back of the house and will not significantly change the appearance nor will it interfere with surrounding properties and will not be visible from Schuyler Drive. Permeability of the lot will be 65% after the addition and patio are completed.

Discussion ensued concerning the amount of relief requested.

A request was made of the applicant by the Board to verify the area variance considerations prior to the next meeting including the overhangs.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:46 P.M.

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

None heard.

Bill Moore, Chairman stated the public hearing will remain open. Information has been requested from the applicant. A resolution will be prepared and presented at the next ZBA Meeting scheduled for March 27, 2017

OLD BUSINESS:

4. **#2926 TEPPER/LANE RESIDENCE**, 144 Spring Street, area variance for a front porch addition to an existing single family residence; seeking relief from the minimum front yard and side yard setback requirements in the Urban Residence – 3 District.

This application was heard at the February 27, 2017 meeting and adjourned to March 13, 2017. The public hearing was opened and remains open.

PUBLIC HEARING:

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

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

None heard.

Bill Moore, Chairman closed the public hearing at 7:48 P.M.

Cheryl Grey presented the following resolution.

**#2926
IN THE MATTER OF THE APPEAL OF
Eric Tepper/Patricia Lane
144 Spring Street
Saratoga Springs, NY 12866**

From the determination of the Building Inspector involving the premises at 144 Spring Street in the City of Saratoga Springs, NY, being tax parcel number 166.61-3-25 in the UR-3 district on the Assessment Map of said City. The applicant having applied for an area variance to construct a front porch addition to an existing single-family residence and public notice having been duly given of a hearing on said application on February 27 and March 13, 2017.

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

TYPE OF REQUIREMENT	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum front yard setback:	10 feet	0 feet	10 ft. (100%)
Minimum side yard setback:	4 feet	1.5 feet	2.5 ft. (62.5%)

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 an alternative was investigated to place the porch on the east side of the home; however, it would impact the existing driveway and would bring the principal building coverage over the 30% limit.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to nearby properties. The porch existed on the Sanborn maps prior to 1961. Other properties adjacent to said property have overhangs that exist over the front property lines. In this circumstance, the Board finds that bringing back an original element to the home will be an asset.

3. The Board finds that the request for relief is substantial but the substantiality is mitigated by the fact that similar front porches exist in the neighborhood.
4. The Board finds that the Applicant has demonstrated that granting these area variances will not have an adverse physical or environmental effect on the neighborhood.
5. The request for relief may be considered a self-created hardship; however self-creation alone is not fatal to the application.

Note:

Encroachment allowance granted by City Council of Saratoga Springs on 2/7/17
Historic Review by Design Review Commission

Keith Kaplan, Vice Chairman seconded the motion.

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

None heard.

VOTE:

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

MOTION PASSES: 6-0

5. **#2947 POWER RESIDENCE**, 84 Walworth Street, area variance for a rear deck and stair addition to an existing residence; seeking relief from the minimum rear yard setback in the Urban Residential-3 District.

This application was heard at the February 27, 2017 meeting and adjourned to March 13, 2017.
The public hearing was opened and remains open.

PUBLIC HEARING:

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

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

None heard.

Bill Moore, Chairman closed the public hearing at 7:54.

Keith Kaplan, Vice Chairman presented the following resolution.

#2947
IN THE MATTER OF THE APPEAL OF
Clayton Power
84 Walworth St
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 84 Walworth Street in the City of Saratoga Springs, New York being tax parcel number 165.58-2-35 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 stairway and deck attached to a residence in the UR-3 district and public notice having been duly given of a hearing on said application held on the 27th day of February and 13th day of March 2017.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum rear yard setback	25'	10'	15' or 60% relief

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. Per the applicant, the staircase cannot be located further forward on the property due to the configuration of the building and the layout of the driveway. The applicant cited a combination of aesthetic and functional reasons for attaching this stairway to the back apartment of the building, including egress from the living area and access to the parking area. The Board agrees and notes that the areas further forward have a lower roof line, plus the use of the parking area would be complicated with the stairs placed further forward and in the midst of what is now an open area for residents' vehicles.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant notes, and the Board agrees, that the placement of the stairway and deck in the rear of the house will be less visually obtrusive to the neighbors than a more forward placement due to the layout of the property,
3. The Board notes the requested variance is substantial; however the Board notes that the existing rear living space in the residence is placed further back on the parcel, which is the cause of this stairway's encroachment into the rear setback. The Board finds that the substantiality is mitigated by the fact that the stairway encroaches to a lesser extent than the existing structure, and the fact that the stairway provides needed egress and, as noted by the applicant, enhances the functionality of the property without substantial impact on the neighbors.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The stairway will not increase the density of use, and as noted above will not be visually obtrusive.
5. The alleged difficulty is self-created insofar as the applicant desired to construct the proposed deck and stairway, but this is not necessarily fatal to the application.

Cheryl Grey seconded the motion.

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

None heard.

VOTE:

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

MOTION PASSES: 6-0

APPROVAL OF MINUTES:

James Helicke made a motion to approve the minutes of the February 13, 2017 and February 27, 2017 ZBA meeting minutes as submitted.

Cheryl Grey seconded the motion.

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

None heard.

VOTE:

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

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 7:58 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 3/27/17