



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, MAY 6, 2019

6:30 P.M.

RECREATION CENTER

CALL TO ORDER: Bill Moore, Chairman, called the meeting to order at 6:30 P.M.

SALUTE TO THE FLAG:

PRESENT: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Brad Gallagher, Secretary; Cheryl Grey; Jerry Lund; Kathleen O'Connor, Alternate

ABSENT: Chris Hemstead

STAFF: Susan Barden, Principal Planner, Planning and Economic Development, City of Saratoga Springs
Amanda Tucker, Senior Planner, Planning and Economic Development, City of Saratoga Springs
Tony Izzo, Assistant City Attorney, City of Saratoga Springs
Mark Schachner, Counsel to the Land Use Boards
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:

1. **#20190069 ARTISANAL BREW WORKS**, 41 Geyser Road, appeal of Zoning Officer determination that the existing brewery use, identified as "bottling plant", in the Industrial General District does not permit retail, eating and drinking or outdoor activities (such as food vending, recreational activities or special events).
2. **#20190258 PLAZA 15 SELF STORAGE SIGN**, 30 Gick Road, area variance for construction of a wall sign; seeking relief from the maximum height of logo requirement in the Transect-4 District.
3. **#20190225 BISHOP SUBDIVISION**, 223 Maple Avenue, area variance associated with a proposed two-lot subdivision seeking relief from the minimum average lot width and minimum lot size requirements for proposed lot 2 in the Urban Residential-2 District
4. **#20190171 AGIUS PROPERTIES**, Tomahawk Lane (Arrowhead Road rear), Initiation of Coordinated SEQRA Review and consideration of LEAD AGENCY status for an area variance associated with a proposed three-lot subdivision; Seeking relief from the minimum average lot width for two of the proposed lots, minimum rear yard setback on Proposed lot 1, and minimum front and rear yard setbacks on proposed lot 2 in the Suburban Residential-2 District.
5. **#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.
6. **#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.

- 7. **#20190029 VAL-KILL RESIDENCE**, 40 Second Street, area variance to permit a dwelling unit as constructed in an accessory structure, seeking relief from the minimum side yard and rear yard setbacks, maximum principal building coverage, maximum number of principal buildings on a lot and minimum lot size requirements in the Urban Residential-2 District.
- 8. **#20190071 STELLATO RESIDENCE**, 148 Woodlawn Avenue, area variance for an addition to an existing single family dwelling and construction of a carport addition to the existing carriage house, seeking relief from the maximum side yard, total side yard and rear yard setbacks and maximum principal building coverage requirements in the Urban Residential-3 District.
- 9. **#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.
- 10. **#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.

PRESENTATION

Overview Presentation by Lisa Shields, Deputy Mayor with regard to application paperwork, storage and retrieval of information, process changes and features of the laser fiche files for the Land Use Boards.

NEW BUSINESS:

- 1. **#20190224 AMO & ROWE RESIDENCE**, 48 Webster Street, area variance for a second-story addition to an existing single-family residence, seeking relief from the minimum front yard setback (Webster), front yard setback (Adams) and maximum principal building coverage requirements in the Urban Residential-2 District.

SEQRA:

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

PARCEL HISTORY:

- Area variance (side yard setbacks and lot coverage) on July 18, 2005 for two-car, two-story garage.
- Area variance (side yard setbacks and lot coverage) on March 12, 2015 for a covered walkway from the house to the garage.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	EXISTING	PROPOSED	TOTAL RELIEF REQUESTED
Minimum front yard setback: (Adams St.)	10 ft.	4.13 ft.	4.2ft.	5.8 ft. (58%)
Maximum principal building coverage:	30%	50.5%	51%	21% (70%)
Maximum total building coverage	40%	50.5%	51%	11% (271/2%)

Applicant: Michael Amo and Nikki Lee Rowe

Agent: Tonya Yasenchak, Engineering America

The applicant is proposing a second story addition over the one story den of their home. The current den is pre-existing non-conforming with the property lines they are requesting area variances. The proposed addition would not encroach any further into the setback than what currently exists. The proposed addition increases the existing coverage by 0.5% or 25 square feet. No additional land is available for purchase as the home is located at the corner of two inner district streets. The proposed application requests cantilevering the master suite to the front wall for better alignment. The additional roof drainage will be minimal and will be managed in gravel perimeter drains. Other alternatives were entertained, however none could produce the effect the applicants were looking to achieve.

Cherie Grey questioned alternative perhaps in the rear versus the front of the home. Also, the location of the air conditioner units and were they included in the coverage.

Ms. Yasenchak stated the applicants are looking to extend the master suite. Ms. Yasenchak stated she will check the location of the air conditioning units and provide the information to the Board and will check site permeability as well.

Bill Moore, Chairman stated he is concerned about the lot coverage being over 50%.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:08 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. The applicant will provide requested information to the Board. A resolution will be prepared and presented at the next ZBA meeting scheduled for May 20, 2019.

Susan Barden, Principal Planner provided information to the Board on a revised denial potentially noting the property is currently in violation.

Ms. Yasenchak requested copies of the correspondence noting the potential violation and will provide additional requested information to the Board.

- 2. **#20190233 RITZENBERG RESIDENCE**, 48 Webster Street, area variance for an existing outdoor pizza oven and Open shed enclosure, seeking relief from the minimum side yard setback requirement in the Urban Residential-3 District.

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	5 ft.	1.1 ft.	3.9 ft. (78%)
Minimum setback from Principal Structure	5 ft.	Approximately 0.5 ft.	4.5 ft. (90%)

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

-DRC Historic review is required.

Applicant: Ken Ritzenberg

Mr. Ritzenberg stated he provided photographs of the pizza oven noting the structure is 4 feet into the ground, so there is no movement and it cannot be moved. The oven was built in 2010 and had a deteriorating shed over it. This shed allowed the smoke to go into the neighboring property. The new construction is designed to mitigate any smoke related health detriment to the most immediate neighbor. This accessory building is barely visible from the road and is virtually blocked by the house, trees and yard plantings. The shed is architecturally aesthetic and fits in with the character of the neighborhood and will be painted in colors consistent with those of the home. The open shed will direct smoke away from the neighboring property. A gutter was also installed on the roof to deflect any rainwater or snow from going onto the adjacent property. The requested variance will help preserve the native materials used in the construction of the pizza oven and will dissipate any smoke created by outdoor grilling or use of the pizza oven.

Keith Kaplan, Vice Chairman questioned if there are any city code regulations governing this.

Susan Barden, Principal Planner, City of Saratoga Springs stated Code Enforcement Officers review the fire code.

Keith Kaplan, Vice Chairman disclosed that when he visited the site Mr. Ritzenberg was there and directed him to the pizza oven.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:25 P.M.

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

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for May 20, 2019.

- 3. **#20190262 MATHEWS AND LANGE RESIDENCE**, 15 Echo Drive, area variance for an addition to an existing single-family residence; seeking relief from the minimum side yard and minimum total side yard setback requirement in the Suburban Residential-2 District.

SEQRA:

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

PARCEL HISTORY:

Area variance was issued for an 18' x 24' addition plus deck on March 24, 1999.

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	12 ft.	5.6 ft.	6.4 ft. (53%)
Minimum total side yard setback:	30 ft.	24.26 ft.	5.74 ft. (19%)

Agent: Stephanie Ferradino

Ms. Ferradino stated this property is located on Lake Lonely in an SR-2 District. This property has been added onto at least three times. The current owners obtained this property in 2011 and are proposing to make this a single family home. Current configurations are awkward. The proposed addition will allow the house to be squared up, correcting an interior problem with the configuration of the entrance to the house and the connection between the second story of the garage. That is the reasoning for the proposed variances. A visual presentation of the project was provided to the Board. This existing non-conforming structure violates the setbacks and is currently located 6.7 feet from the property

line. The current configuration of the property necessitates modification of the structure for use as a unified primary residence. A portion of that area will be removed and the requested relief is just one foot different from what currently exists. There is a fence between the property and the neighboring home, the one foot difference in the setback will not be significant or visible to the neighbor most affected. Survey information was provided to the Board. There are no adverse physical or environmental impacts.

Keith Kaplan, Vice Chairman questioned feasible alternatives.

Ms. Ferradino stated the newest portion of the home over the garage has been redone and in order to utilize this newly renovated area and provide access to the home a staircase is necessary which can only be constructed with the renovation of the home.

Cherie Grey questioned why the home was not moved to the left side as opposed to the right which provides more space to the lot line.

Discussion ensued among the Board concerning the proposed application and relief requested.

Susan Barden, Principal Planner stated she believes an additional area of relief is necessary for the second story over the existing non-conforming setback.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:39 P.M.

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

Alan Tanner 17 Echo Ridge Drive. This is a private road to Lake Lonely. This area has wells and septic systems. The property in question does not have a septic system. The previous owner built the garage over the leach field which encroaches on my property. I am not against re-building. However, I am requesting water and sewer systems in this area. You cannot build a septic system in this area without encroaching on my well. This is my major concern.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next scheduled ZBA Meeting on May 20, 2019.

- 4. **#20190263 SAUTTER RESIDENCE**, 150 Washington Street, area variance for placement of two AC condenser units; Seeking relief from the minimum side yard setback for accessory structure requirement in the Urban Residential-1 District.

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:	5 ft.	1 ft.	4 ft. (80%)

Applicant: Rob Sautter

Mr. Sautter stated he wanted to add central air conditioning to his building. The contractor recommended installing on the east side of the residence since the driveway exists on the west side which would not be a logical location. The air

conditioning units are small basically 2ft by 2ft and 24 and 30 inches in height. Mature shrubbery is located in this area and they cannot be seen from the road.

Cherie Grey questioned the building permit and what it was obtained for.

Mr. Sautter stated the HVAC unit was added. Air handlers were added as well as the new air conditioners for efficiency and aesthetics. The contractor and I were unaware of the requirements concerning the setbacks on this side of the home. The City did come and inspect the HVAC. It was tagged for possible encroachment. A survey was completed which verified the encroachment.

Amanda Tucker, Senior Planner stated there is an additional relief required due to some work which was completed on the front porch which will require front and side yard setback variances. There was also some question with regard to overall principal building coverage and permeability as well, due to some blacktop which was added as well.

PUBLIC HEARING:

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

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

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for May 20, 2019.

OLD BUSINESS:

1. **#20190223 SANSON & WRIGHT RESIDENCE**, 39 York Avenue, area variance for partial demolition and new construction of additions to an existing single-family residence, seeking relief from the maximum principal building coverage requirement in the Urban Residential-3 District.

This application was heard at the April 22, 2019 meeting. The public hearing was opened and remains open. No additional information was requested.

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 7:49 P.M.

Jerry Lund presented the following resolution.

**20190223
IN THE MATTER OF THE APPEAL OF**

Robert Sanson and Cynthia Wright
39 York Avenue
Saratoga Springs, New York 12866

from the determination of the Building Inspector involving the premises at 39 York Avenue in the City of Saratoga Springs, New York being tax parcel number 166.42-1-21 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of an addition to an existing single-family residence in a UR-3 District, and public notice having been duly given of a hearing on said application held on the 22nd day of April and the 6th day of May 2019.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum Principal Building Coverage	30% (Presently 41.9%)	39.9%	9.9% (33%)

As per the submitted plans be **disapproved** for the following reasons:

1. The applicants have submitted that the benefit sought cannot be achieved by other means feasible to them, and that alternative designs were contemplated before reaching that conclusion. The applicants included in their materials drawings and a narrative in support of their appeal to this Board, noting their desire for more functionality in living space which would support their desire to remain in the home and age in place. The Board notes that the property has preexisting nonconformity with relevant current maximum principal building lot coverage requirements, and that this application calls for a slight reduction of such coverage. However, as far as the second floor adjacent to the northern property line, the board finds that a lower profile design may be feasible.
2. The Board finds that granting this variance, as presented, would create an undesirable change in the character of the neighborhood through its scale and imposing design that would dominate and overwhelm adjacent as well as other neighboring homes.
3. The Board finds the variance sought to be substantial on a percentage basis.
4. The variance sought would, for the reasons cited above, have a significant, lasting and adverse physical or environmental effect on the surrounding neighborhood or district, despite the virtue of its restrained footprint on the lot.
5. The alleged difficulty is self-created insofar as the applicants seek approval to construct the proposed addition.
6. Balancing the benefit sought by the applicants against considerations affecting the health, safety and welfare of the community articulated through the governing ordinances of the City, the Board disapproves this variance application, as presented.

Cherie 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; Brad Gallagher, Secretary, in favor; Cherie Gray, in favor; Jerry Lund, in favor; Kathleen O'Connor, Alternate, abstained

MOTION DENIED: 5-0-1

2. **#20190246 LAKE LOCAL PARKING**, 550 Union Avenue, area variance for construction of parking area associated with the redevelopment of the eating and drinking and marina use in the Water Related Business District.

RECUSAL:

Cherie Grey recused from this application.

This application was heard at the April 22, 2019 meeting. The public hearing was opened and remains open. No additional information was requested.

PUBLIC HEARING:

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

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

Bill Moore, Chairman closed the public hearing at 8:02 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

**#20190246
IN THE MATTER OF THE APPEAL OF**

550 Union LLC,
c/o John Haynes
142 Grand Ave
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 550 Union Ave. in the City of Saratoga Springs, New York being tax parcel number 180. -4-6 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit parking spaces at a restaurant, shop and marina in a Water Related Business District and public notice having been duly given of a hearing on said application held on the 22th day of April , and the 6th day of May 2019.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum Side Yard Setback to parking- spaces 23-36, and spaces 38-56	15'	0'	15' or 100%

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant notes that the variance is being sought as an alternative to pursuing a "quiet title" action, which they expect would have been time-consuming and expensive.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board notes that the parking spaces are interior to the subject parcel, adjacent to a strip of road connecting Union Ave to several private home lots adjacent to the subject lot. The Board does not find that the positioning of these parking spaces adjacent to this road would interfere with these neighbors' use of this road.

3. The Board finds these variances to be substantial. However, the Board finds that the substantiality is mitigated by the fact that the spaces are in the interior of the parcel and therefore limits their effect on the neighbor's usage and their visibility to neighbors and visitors.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. Given the placement of these spaces interior to the parcel, the Board finds no adverse physical or environmental effect on nearby properties.
5. The alleged difficulty is self-created insofar as the applicant desires to create the proposed parking spaces, but this is not necessarily fatal to the application.

Note: Planning Board site plan approved.
DRC architectural plan approved.

Brad Gallagher, Secretary 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; Brad Gallagher, Secretary, in favor; Jerry Lund, in favor; Kathleen O'Connor, Alternate, abstained

MOTION PASSES: 4-0-1

NOTE:

Cherie Grey resumed her position on the Board.

APPROVAL OF MEETING MINUTES:

Keith Kaplan, Vice Chairman made a motion to approve the April 8, 2019 ZBA Meeting Minutes as amended. Cherie Grey seconded the motion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, abstained; Cherie Gray, in favor; Jerry Lund, in favor; Kathleen O'Connor, Alternate, abstained

MOTION PASSES: 4-0-2

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 8:05 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 6-3-19