



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JUNE 8, 2020

6:30 P.M.

ZOOM WEBINAR

RECEIVED

NOV 04 2020

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

SALUTE TO THE FLAG:

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

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Jacquelyn Poulos White, Counsel to the Zoning Board of Appeals
Mark Schachner, Counsel to the Land Use Boards

ACCOUNTS DEPT

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.

ZBA APPLICATIONS UNDER CONSIDERATION:

PROCEDURAL BUSINESS:

- #20200419 LEAFARC MIXED USE LOT SUBDIVISION**, 63 Spring Street, request for Planning Board Advisory Opinion for an area variance associated with lot line adjustment; seeking relief from the minimum percentage Build out along frontage in the Transect-5 (T-5) District.

Keith Kaplan, Chairman stated the ZBA will be asking the Planning Board for an Advisory Opinion for an area variance associated with a lot line adjustment. The variance requested is for the minimum percentage of build out along the frontage of the property. This application has not been noticed. We will not be opening a public hearing on this application this evening. The applicant's agent will provide an overview of the project.

SEQRA:

Action appears to be a Type II action, no further SEQRA Analysis required.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Percentage Build out- Frontage	70%	61.6%	8.4%

Applicant: Leafarc, LLC, Anthony Swiatek

Agent: Matt Brobston, LA Group

Mr. Brobston stated the applicant is proposing to modify the lot line adjustment to remove the shared driveway. Originally the shared driveway was requested and approved to access some parking in the rear of the parcel for 53 Spring Street as well as their parcel on 63 Spring Street. They own both parcels and they are proposing to keep the access wholly on the 63 Spring Street parcel. The remaining parking spaces on the 53 Spring Street parcel to access from Allerdice Alley. The lot line adjustment would then make 53 Spring Street out of conformance with zoning due to lack of 70% frontage build out. We are adjusting this and requesting a variance for 9 ft. This will make the property more marketable. No change in uses.

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

Christopher Mills made a motion in the Leafarc Mixed Use Lot Subdivision, 63 Spring Street, request for an Advisory Opinion from the Planning Board regarding an area variance associated with a lot line adjustment for relief from the minimum percentage build out be approved. Cherie Grey seconded the motion.

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

VOTE:

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

MOTION PASSES: 7-0

NEW BUSINESS:

RECUSAL:

Brad Gallagher, Vice Chairman, recused from the following application.

- 2. **#20200087 MCALLISTER SUBDIVISION**, 313 Jefferson Street, an area variance associated with a proposed two-lot subdivision; seeking relief from the minimum rear yard setback for lot#1 in the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Lot 1 – Existing House – Rear Setback	25 ft.	8 ft.	17 ft. or 68%

Applicant: Mr. McAllister

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated this application appeared before the Board back in February when we were sent to the Planning Board for an Advisory Opinion and for SEQRA. Mr. McAllister owns the larger lot and is proposing to subdivide the property and he is before the Board requesting an area variance associated with a proposed two-lot subdivision. Both lots meet the zoning requirements for the area. A visual of the .47-acre site was provided noting the location of Mr. McAllister's home on the corner of Jefferson and Taylor. Each lot will be over the minimum acreage requirements for two lots. With the proposed new lot line, the rear setback which is now compliant as a side setback at 8 feet for the existing home will become a rear setback and not meet the requirements. The existing house will remain unchanged. The proposed new lot will be compliant with setbacks. There is no additional land to be purchased. The proposed new lot will be more consistent with the existing community character. The applicant is willing to condition an approval noting any variance granted will be for the existing house and should this be removed; the current zoning regulations would apply for new construction.

PUBLIC HEARING:

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

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

Ilse de Veer and Elaine DeBody. We live at the property adjacent to Lot#1. Concern was voiced regarding the proposed septic system and the possibility of destabilizing trees on the lot.

James Buydos. Lives across the street from Ilse and Elaine. Concern was voiced regarding keeping with the character of the neighborhood.

Keith Kaplan, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for September 14, 2020.

NOTE:

Board Vice Chairman, Brad Gallagher resumed his position on the Board.

3. **#20200345 GUANILL TWO-FAMILY**, 144 West Circular Street, use variance to maintain a two-family residence; seeking relief from the permitted uses in the Urban Residential-2 (UR-2) District.

SEQRA:

Action appears to be an Unlisted Action.

DISCLOSURE:

Board Member Matt Gutch disclosed that he works with Chuck Marshall and this is not his property. He has no financial interest in this application, does not know the applicant and can be impartial in hearing the application.

Applicant: Rosemarie Guanill

Agent: Libby Coreno, Attorney and Chuck Marshall, neighbor

Ms. Coreno stated the applicant is before the Board for a Use Variance for the property at 144 West Circular Street. An aerial view of the site and the neighborhood was provided. A timeline showing the history of the property was reviewed noting the property was built as a single family initially in 1928. In the 1980's the property was changed to a two-family by the City. In 1996, 2002, and 2012 it was sold as a two-family residence. Two building permits have been issued since Ms. Guanill has owned the property one for a garage and one for roofing neither of which flagged it as a nonconforming use. Ms. Coreno reviewed the four-part test for a Use Variance reviewing reasonable rate of return; financial hardship relating to this property is unique; will not alter the character of the neighborhood; self creating hardship. Neighbors have submitted letters in support of the application.

Keith Kaplan, Chairman questioned counsel in terms of hardship, should there be two appraisals one noting a single-family home and one as a two family.

Ms. Poulos White, Counsel to the Land Use Boards noted that would be helpful. We would like to review those to better guide the Board on what is appropriate to review in that calculation.

Discussion ensued among the Board regarding improvements to the property; two-family home – one family home conversion; financial hardship quantification; return on investment; use variance going with the property.

PUBLIC HEARING:

Keith Kaplan, Chairman opened public hearing at 7:46 P.M.

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

Chuck Marshall 140 West Circular Street. He spoke regarding seeing his 4th month long neighbor from New York City. He spoke to the character of the neighborhood and would rather have a neighbor that Rose has vetted out rather than someone Air B & B has sent his way. This is someone who has been wronged and we are trying to rectify the situation. All information which has been requested will be supplied.

Gary Schall, lives across the street from Rose. Recently moved to Saratoga. Rose has been a wonderful neighbor who maintains her home impeccably. Please approve her request.

Patrick Amyot, 152 West Circular Street direct next-door neighbor. He agrees 100% with what Gary Schall says.

I have lived here since 2000 and since I can remember it has always been a two-family. It was not owner occupied and has been an eyesore until Rose purchased the property. It is only fair since she has been paying taxes on a two-family, she should be allowed to keep it as two-family.

A member of the public questioned why this is not considered self created.

Ms. Coreno, Attorney for the applicant stated the first, there is nothing in the public record to indicate to a good faith purchaser that there is any violation or noncompliance. Second the tax records indicate that it has been taxed this way with taxes being collected in this manner. Thirdly, the listing and where the realtor obtained the information from the City's database. These indicate a good faith reliance.

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for September 14, 2020.

4. #20200441 HORAN ACCESSORY STRUCTURE, 54 Granite Street, area variance to finish a detached accessory Structure as habitable space for an existing single-family residence; seeking relief to permit habitable/finished space in an accessory structure in the from permitted uses in the Urban Residential-3 (UR-3) District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Habitable Space in an Accessory Structure	Not permitted	Permitted	100%
Minimum distance to adjacent lot line (patio)	10 ft.	5 ft.	5 ft. or (50%)

Applicant: Ken Horan

Agent: Sue Davis, SD Atelier Architecture

Mr. Horan stated he is before the Board to request habitable space in his accessory structure's second floor. He plans to build a bathroom on the second floor for the occasional out of town family or friend. The first floor will be used to house lawn furniture and equipment as well as pool equipment since there is really no storage in the basement.

Ms. Davis provided a visual of the site. The applicant is mindful of what is allowed in this district and is being transparent as to what he is proposing.

Cherie Grey questioned if the existing structure on the lot it was built at the time the home was constructed in 2014. What is the footprint of the current structure versus what is being proposed?

Mr. Horan stated it was basically refaced and re-roofed. This structure existed when they purchased this home in 2012. It is used to house lawn and pool equipment.

Ms. Davis stated the existing structure is 12 ½ feet wide by 22 feet. What we are proposing is 18 feet by 22 feet and the height will be 22 feet which is lower than the home and 6 feet taller than what currently exists.

Cherie Grey stated space on the second floor is what she is struggling with. Can the current home accommodate guests?

Mr. Horan stated there really is not much they can do to expand into those areas. He is looking for usable space in the accessory structure for out of town family.

Discussion ensued among the Board regarding occupancy on the second floor of an accessory structure and the precedent setting nature of the request, as well as the variance going with the property.

Ms. Davis provided information regarding what the applicant had considered and what she had suggested.

Keith Kaplan, Chairman stated as a Board we are generally acceptable to finished space in an accessory structure, but we generally condition it with a half bath maximum and no kitchen facilities or overnight stays. The Chair noted the way it is currently structured he is against it.

Discussion ensued among the Board regarding the applicant's request, the precedent setting issue as it currently is proposed. and the consistency of the Board in these types of request.

Kathleen O'Connor, Alternate stated she is inclined to vote in favor of this application. She is aware of the precedent setting nature of the request but also noted perhaps the Board would come to a point where the precedent needs to be changed in the future.

Keith Kaplan, Chairman stated this is a precedent we have set for ourselves, but it is a precedent we are setting for the future. We have asked for no additional information. Based on the conversation this evening among the Board perhaps this should be considered by the applicant.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 8:28 P.M.

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

Keith Kaplan, Chairman stated the public hearing will remain open. We have asked for no additional information. Our next ZBA meeting is scheduled for September 14, 2020.

CONTINUED BUSINESS:

5. **#20200306 LACOPPOLA POOL**, 245 Woodlawn Avenue, area variance to increase accessory structure area to allow for a pool; seeking relief from maximum building coverage for an accessory building within the Urban Residential-1 District.

Keith Kaplan, Chairman stated this is a previously open application. The public hearing was opened and remains open. We did not request any additional information from the applicant.

DISCLOSURES:

Christopher Mills disclosed he was absent from the previous meeting. He did view the webcast and is able to vote on this application this evening.

Matt Gutch disclosed he was absent from the previous meeting. He did view the webcast and is able to vote on this application this evening.

PUBLIC HEARING:

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

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

Keith Kaplan, Chairman closed the public hearing at 8:30 P.M.

Brad Gallagher presented the following resolution.

#20200306
IN THE MATTER OF THE APPEAL OF
Eric LaCoppola
245 Woodlawn Ave
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 245 Woodlawn Avenue in the City of Saratoga Springs, New York being tax parcel number 165.28-1-4 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to increase the accessory structure area to permit a pool in UR-1 District and public notice having been duly given of a hearing on said application held on the 6th day of July through the 3rd day of August 2020.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum Accessory Coverage	8%	10.2%	2.2% (or 21.6%)

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 stated that the pool was delivered and installed as a single piece unit and cannot be modified. The installation of the larger pool was the result of a misunderstanding between the applicant and the City of Saratoga Springs concerning a city easement. The applicant was further confused by the City's issuance of a permit for installation of the larger pool. Based on the foregoing, the Board finds that the applicant has demonstrated it is not feasible to remove or modify the pool at this time.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The pool is located in the rear of the property and not easily visible from the street.
3. The Board finds these variances to be substantial. However, the Board notes the relief requested is mitigated by its nature and its overall minimum impact on the neighboring properties. Indeed, the pool is installed at grade and thus has no impact on the bulk of the structures on the property.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. Permeability of the lot remains compliant with requirements.
5. The alleged difficulty is self-created insofar as the applicant constructed the pool, but this is not necessarily fatal to the application.

Condition: No additional accessory structures.

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

VOTE:

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

MOTION PASSES: 7-0

7. **#20200138 GERSIN SHED**, 9 Waterview Drive, area variance to maintain a shed accessory structure for an existing single-family residence; seeking relief to locate within the "no cut" buffer in the Interlaken PUD District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. We did not request any information from the applicant, but staff was researching information.

Amanda Tucker, Senior Planner stated she will defer to Jackie Poulos White, Land Use Board Counsel.

Ms. Poulos, Counsel to the Land Use Board stated staff presented information we are still researching. Concern is this area was noted at the last meeting was this was a no cut buffer that is set forth in the legislation. If there was something in our code that the applicants

could seek relief from, then they would seek a variance for relief. What is still unraveling is where this no cut buffer is set forth. It may be a part of an easement which was given to the HOA. Now, it looks like that may not be the case. If it is something between the property owner and the HOA that is not in this Boards purview. This no cut buffer may have been set forth as part of the subdivision or site plan approval on a map which we have not yet seen. If that is the case then this Board does not have the authority to grant relief on restrictions the Planning Board may have put in place. We are concerned about the appropriateness of this application to be before the Board. It appears we need more facts.

Keith Kaplan, Chairman questioned Counsel if this application should be adjourned this evening.

Ms. Poulos stated that is what she is recommending.

Keith Kaplan, Chairman adjourned the above referenced application.

6. #20200305 MARSH DECK, 3 Callagan Drive, area variance to expand an existing rear deck; seeking relief from rear setback within the Urban Residential-2 District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. We have requested the applicant to provide a survey. The Chair asked if the applicants wished to provide any further information on this project.

Applicant: Katherine and Christopher Marsh

Ms. Marsh stated unfortunately the survey cost was unrealistic to expand this deck modestly. The principal coverage on the lot was provided to staff and it is a 1% increase from 23 to 24%. The applicant is confident that their calculations are correct.

PUBLIC HEARING:

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

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

Keith Kaplan, Chairman closed the public hearing at 8:44 P.M.

Matthew Gutch presented the following resolution.

**#20200305
IN THE MATTER OF THE APPEAL OF
Kathryn and Christopher Marsh
3 Callagan Drive
Saratoga Springs NY 12866**

from the determination of the Building Inspector involving the premises at 3 Callagan Drive in the City of Saratoga Springs, New York being tax parcel number 165.79-1-55 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 deck on the parcel of a single-family residence in UR-2 District and public notice having been duly given of a hearing on said application held on the 6th day of July through the 3rd day of August 2020.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum rear yard setback	25'	21'	4' or 16%

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

3/4

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant noted that the current deck does not meet current code requirements. They also noted a smaller deck would result in less than ideal conditions, as it would not provide enough space or functionality.
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 this on the rear of the property and is less aesthetically impactful.
3. The Board does not find the variance to be substantial.
4. This variance will not have significant adverse physical or environmental effect on the neighborhood or district. The Board notes permeability is not an issue.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed deck, but this is not necessarily fatal to the application.

Gage Simpson seconded the motion.

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

VOTE:

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

MOTION PASSES: 7-0

8. #20200307 SARATOGA NATIONAL BANK & TRUST ATM SIGNAGE, 171 South Broadway, area variance to permit additional signage and branding for ATM kiosk; seeking relief from permitted number, size and lettering for wall signs within the Transect-5 Neighborhood Center District.

Keith Kaplan, Chairman stated this is a previously opened application. We are in receipt of new information with some changes.

Applicant: Saratoga National Bank

Agent: Nina Oldenquist, Oldenquist Design

Ms. Oldenquist stated the original presentation requested relief in two areas. One for a second freestanding sign, and second for the area of the signage. The Board was not comfortable with the amount of relief requested. A visual of the original presentation versus what is currently being proposed was provided to the Board. The applicant has removed the image of the horse and the logo is on two faces of the ATM kiosk. The total area of these two logos comes in under 12 square feet which is under the allowable area for a freestanding sign. These can be considered as wall signs. As wall signs the allowable area that we would get for a structure of this side on the long side would be 18 square feet. On the short side 8 square feet. This design is under the square footage for both of those. We are in size compliance.

Amanda Tucker, Senior Planner stated Patrick Cogan noted he is comfortable moving forward with this as a wall sign. A variance is still needed to allow a second wall sign facing South Broadway since there is one currently on the building itself. A second variance is also required for maximum height for the logo which is 18 inches and you are just over at 18.5 inches. There are no additional wall signs currently which face Canfield Street. Any possible approvals will be conditioned on a possible future wall sign that fronts or faces Canfield Street would require a variance.

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

Discussion ensued among the Board regarding wall signage size and height.

NOTE:

Mark Schachner, Counsel to the Land Use Board joined the meeting at 9:07 P.M.

Jackie Poulos, Counsel to the Land Use Board exited the meeting at 9:07 P.M.

PUBLIC HEARING:

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

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

Keith Kaplan, Chairman closed the public hearing at 9:07 P.M.

Cherie Grey presented the following resolution.

#20200307
IN THE MATTER OF THE APPEAL OF
Saratoga National Bank & Trust
171 S. Broadway
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector's determination involving signage on an ATM attached to the drive thru lanes, in the City of Saratoga Springs, New York, being Tax Parcel 178.27-1-39 on the assessment map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit maximum number of wall signs per street frontage on S. Broadway on new construction of an ATM in the T-5 District and public notice having been duly given of a hearing on said application held on July 6 and August 3, 2020.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum number of wall signs per street frontage (South Broadway):	1	2	1 (100%)
Maximum height of logo in T-5 District	18"	18.5"	.5" (2.8%)

As per the submitted plans dated July 21, 2020, be **approved** as per this Board's consideration of the following factors:

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant is installing a new ATM machine and will require signage to identify that this is the bank's ATM. The new design will incorporate a change in branding by the bank and will be conforming to other signage in the district.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The signage will conform to a new logo and will not impact neighboring properties
3. The relief requested is considered substantial at 100%. However, the signage has been designed to be a minimum size and still be viewable to the public. The Board finds the relief associated with the maximum height of the logo not to be substantial.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. A previous design was presented and deemed to be too large for the T-5 District. The new design will present the bank's logo while maintaining an appearance consistent in the neighborhood.
5. The difficulty may be considered self-created. However, this is not necessarily fatal to the applicant.

Note:

- Any additional signage on the building or ATM structure facing Canfield Street would require a variance.
- DRC approval of all signage is required.
- Saratoga County Planning Board opinion of no significant countywide or intercommunity impact, dated July 16, 2020.

Matthew Gutch seconded the motion.

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

VOTE:

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

MOTION PASSES: 7-0

9. **#20200239 CIONI PORCH**, 138 Washington Street, area variances to permit rebuilding of a pre-existing side porch Along Beekman Street frontage; seeking relief from minimum front setback and maximum lot coverage in the Urban Residential-3 District.

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

Applicant: Tricia Cioni

Agent: John Cannie, Attorney

Mr. Cannie attorney for the applicant stated an additional letter was submitted regarding some feasibility comments as well as reviewed the project for the Board. A visual of the property was provided. The applicant is requesting area variances to rebuild the pre-existing non-conforming porch on Beekman Street. The porch is 7ft. by 15 ft., and currently encroaches over the property line by .1 feet which is the roof overhang. It is the applicant's intention to remedy this by pulling the porch back .1 feet closer. This will be a rebuild of the porch maintaining the structural components and the roof overhang encroachment will be rectified.

Keith Kaplan, Chairman asked if there were any questions or comments from the Board.

Cherie Grey questioned why the porch could not be shortened and remove the porch off the lot line.

Mr. Cannie provided information to the Board regarding the rebuild of the roof, and it being cost prohibitive.

PUBLIC HEARING:

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

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

Keith Kaplan, Chairman closed the public hearing at 9:35 P.M.

Christopher Mills presented the following resolution.

**#20200239
IN THE MATTER OF THE APPEAL OF
Tricia Cioni
138 Washington Street
Saratoga Springs NY 12866**

from the determination of the Building Inspector involving the premises at 138 Washington Street in the City of Saratoga Springs, New York being tax parcel number 165.66-1-14 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 reconstruction of an existing 7ft by 15ft porch in an Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held on the 8th day of June through the 3rd day of August, 2020.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum front yard setback	10 ft.	0 ft.	10 ft or 100%
Maximum principal building coverage	30%	66.1%	36.1%

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 existing, non-conforming porch was damaged by an unintentional act of a third party, and the applicant is merely seeking to restore, rebuild and repair the porch to its original dimensions and use. The applicant further notes that there is no available property to purchase, such that this benefit cannot be achieved by any other means feasible.
2. The applicant has demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant seeks to restore a porch that has been in existence for more than 50 years. The applicant notes that the existing structure is not in usable condition due to the unintentional act of a third party and has demonstrated that other properties in this area include comparably sized and located porches. The applicant notes that the existing porch fits with the character and neighborhood and has been in existence in its current location for more than 50 years. By removing the compromised porch and replacing it with a new porch that is similar in footprint to the existing porch, there will not be any meaningful change in the neighborhood character or detriment to nearby properties.
3. The Board notes that the requested variances are substantial, however the impact of the substantiality is mitigated by the combination of neighborhood context and the fact that this porch had been in existence in its current location for more than 50 years prior to the unintentional destruction by a third party.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. As previously indicated, there are several existing properties within the neighborhood that include a porch of a similar size and location. As the applicant seeks to restore the porch that has existed for more than 50 years, there will be no physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is self-created insofar as the applicant could not establish that the porch was a lawful, pre-existing non-conforming part of the structure, but this is not necessarily fatal to the application. As noted above, the applicant is requesting these variances to reconstruct a porch which was damaged by the unintentional act of a third party.

Condition:

1. Any significant reconstruction of this porch would nullify this variance. This would not apply to repairs for normal wear and tear.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion.

Gage Simpson questioned if the porch needed to be repaired or replaced.

Discussion ensued among the Board with Counsel regarding wording of the language on conditioning the resolution.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, opposed; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O'Connor, Alternate, in favor

MOTION PASSES: 6-1

10. **#20200102 MCDONALD'S SIGNAGE**, 197 Broadway, area variance to erect signage; seeking relief from the maximum number freestanding sign requirements in the Transect-5 District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. We have resolved some outstanding issues since the applicant's last appearance before the Board.

Amanda Tucker, Senior Planner stated she has some updates regarding the denial. Patrick Cogan, Building Inspector/Code Enforcement Officer determined that the overhead drive signs are not considered signs and will not be considered as part of the relief. One freestanding sign is permitted per parcel and they are asking for the two menu boards and the two browse boards. They are asking for four free standing signs in addition to the one that currently exists – five freestanding signs, four areas of relief.

Applicant: Clark Brink

Agent: Rebecca Green

Ms. Green stated these menu boards were installed in 2011. We have the opportunity to upgrade the Boards make them more appealing and less obtrusive. Ms. Green reviewed the project, what the applicant is proposing, as well as the amount of relief they are requesting.

PUBLIC HEARING:

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

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

Keith Kaplan, Chairman closed the public hearing at 10:21 P.M.

Gage Simpson presented the following resolution.

**#20200102
IN THE MATTER OF THE APPEAL OF
McDonald's
CB Enterprises of Saratoga
7 Woods Edge Ct
Saratoga Springs, NY 12866**

from the determination of the Building Inspector involving the premises at 197 South Broadway in the City of Saratoga Springs, New York being tax parcel number 165.83-1-7 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 installation of 4 freestanding signs in a Transect-5 (T-5) District and public notice having been duly given of a hearing on said application held on the 18th day of May through the 3rd day of August, 2020.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Max # of Freestanding Signs on 1 Parcel (Menu Boards)	0	2	200%
Max # of Freestanding Signs on 1 Parcel (Pre-Browse Boards)	0	2	200%
Max Size of Freestanding Sign: Menu Boards (2)	12 sq ft	19.1 sq ft	7.1 sq ft (59.2%)
Min Separation Between Signs	50'	17'	33' (66%)
Min Vertical Clearance (Drive Thru)	10'	9'	1' (10%)

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 proposed menu signs are a replacement to the sign package approved with the building of the restaurant in 2011. The applicant proposes to replace the current menu signs that are larger (42 sq ft) and require employees to manually rotate and replace the panels several times per day, noting a safety and efficiency issue. The proposed menu and pre-browse signs are light-emitting diode (LED) screens that can be modified remotely to improve safety and convenience for the employees. Per the applicant, the proposed pre-browse signs are like what McDonald's is doing at many of their locations to provide customers an opportunity to see daily specials prior to making their decision at the order station. The applicant notes this reduces the amount of time customers are ordering which reduces the line of vehicles waiting to order. The applicant further provided information to the Board showing the separation between the menu and pre-browse sign is determined by where a vehicle would be idling if a vehicle in front of them was at the order station, and that the vertical clearance sign is required to notify the drivers that the drive thru window roof is 9 feet tall.
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 the proposed menu signs are smaller than the currently installed menus and will emit less overall light (33,000 lumens vs. 57,000 lumens). Additionally, the applicant notes that the pre-browse signs are intended to increase the flow through the drive thru which will reduce the number of vehicles lined up in the queue that could impact traffic on Broadway. Furthermore, the applicant notes that the separation of the signs and the adjustable brightness of the LED screen will not add to the overall light emitted from the property.
3. The Board notes the requested variances are substantial, however the impact of the substantiality is mitigated by the following:
 - a. The 2 menu signs are replacing larger menu signs currently in place.
 - b. The 2 additional pre-browse signs are intended to reduce the number of vehicles waiting in line that could lead to a larger impact on the neighborhood if traffic is interrupted on Broadway.
 - c. The overall square footage of the proposed menu signs and the pre-browse signs is lower than the already existing menu signs (58 sq ft proposed vs. 84 sq ft existing).
 - d. The overall clearance sign is replacing an already installed overall clearance sign.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. As noted above, per the applicant, the new LED screens are more efficient and produce less overall light. The applicant notes this reduces the property's carbon footprint and removes the light bleed from the current menus into adjacent properties. Also as noted above, the pre-browse signs are intended to reduce the number of vehicles idling in line which will reduce carbon emissions and reduce any impact on Broadway traffic.
5. The alleged difficulty is considered self-created insofar as the applicant desires to replace the existing menus and install pre-browse signs. However, this is not necessarily fatal to the application.

Note:

- Saratoga County Planning board finding of no significant county wide or intercommunity impact, July 29, 2020.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion.

Cherie Grey stated she will be opposing this application due to the pre browse boards. She feels they are not necessary and are merely advertising.

Kathleen O'Connor, Alternate stated she will be opposing the application due to the pre browse boards. She also feels they are unnecessary.

Brad Gallagher, Vice Chairman stated he will be opposing the application due to the pre browse boards. He agrees with fellow Board members and feels they are unnecessary.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, opposed; Cherie Grey, opposed; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O'Connor, Alternate, opposed

MOTION PASSES: 4-3

APPROVAL OF MEETING MINUTES:

Christopher Mills made a motion to approve the minutes of the February 10th and February 24th ZBA Meeting with amendments as submitted. Cherie Grey seconded the motion.

VOTE:

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

MOTION PASSES: 7-0

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 10:34 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 9-14-20