



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, SEPTEMBER 28, 2020

6:30 P.M.

ZOOM WEBINAR

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ACCOUNTS DEPT

**CALL TO ORDER:** Keith Kaplan, Chairman, called the meeting to order at 6:35 P.M.

### SALUTE TO THE FLAG:

**PRESENT:** Keith Kaplan, Chairman; Brad Gallagher, Vice Chairman; Cherie Grey; Gage Simpson; Christopher Mills; Matthew Gutch; Terrance Gallogly

**STAFF:** Amanda Tucker, Senior Planner, City of Saratoga Springs  
Anthony Izzo, Assistant City Attorney  
Mark Schachner, Counsel to the Land Use Board

### 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 ITEM:

1. **#20200591 DINES TWO-LOT SUBDIVISION**, 35 and 37-39 Ash Street, Initiation of Coordinated SEQRA Review and Consideration of Lead Agency status for an area variance associated with a proposed two-lot subdivision; seeking relief from the minimum and total side yard setbacks, maximum principal building coverage, minimum setback to a patio and minimum lot size dimensions for both lots in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this application is before the Board for Initiation of SEQRA Review and Consideration of Lead Agency Status. The applicant's agent will provide a brief overview of the project.

Applicant: Matthew Dines

Agent: Brett Balzer, Balzer & Tuck Architecture

Mr. Balzer provided a brief overview of the project. Currently this is one tax map parcel consisting of 37 & 39 Ash Street. This is currently a two-family residence owned by the applicant. Lot#1 is vacant land where the applicant is proposing to construct a single-family residence after ZBA and Planning Board approvals. We are proposing to subdivide this property into two lots. Lot #1 consists of 35 Ash Street the proposed site of the new home and Lot #2 consisting of 37-39 Ash Street the two-family residence. This applicant will be returning this lot to its former subdivision. A previous residence existed on Lot#1 which burned down in 1980. Previous Sanborn Maps indicate a home on Lot#1. There are several area variances which will be required.

Keith Kaplan, Chairman stated procedurally, the subdivision will be ruled on first then the Board will deliberate on the variances requested for the home on the newly created lot.

Amanda Tucker, Senior Planner stated anything related to the subdivision should be dealt with currently; anything that maybe related to a future structure on Lot#1 can be dealt with at a future time. Minimum lot size and minimum lot width should be handled currently.

Mark Schachner, Counsel to the Land Use Boards stated any area variances needed to create a second lot must be dealt with by this Board prior to the Planning Boards review of the proposed subdivision. Any variances for a proposed building on a lot that does not exist will be dealt with at a future ZBA meeting in a future application.

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

Cherie Grey made a motion in the matter of the Dines Two-Lot Subdivision, 35 and 37-39 Ash Street that the ZBA Requests an Advisory Opinion from the Planning Board on this application. The ZBA also deferred Lead Agency Status to the Planning Board for SEQRA review. Keith Kaplan, Chairman seconded the motion.

**VOTE:**

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor

**MOTION PASSES: 7-0**

**NEW BUSINESS:**

1. **#20200573 CONNORS SINGLE-FAMILY RESIDENCE**, 87 Ludlow Street, modification to an area variance to construct an addition to an existing single-family residence; seeking relief from the minimum front yard setback requirement in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this applicant appeared before the Board previously for relief for this project. It has returned for a minor modification.

**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
Setback- Front	10 ft.	7 ft.	3 ft. or 30%
Setback	10 ft.	7 ft.	3 ft. or 30%

Applicant: Jennifer Connors

Ms. Connors stated when the final review of the home was performed it was discovered that the survey was incorrect. The home is built. We are seeking the variance to be in conformance.

Cherie Grey is disappointed to see the applicant before the Board once again. The initial review and variances granted for this project were substantial.

**PUBLIC HEARING:**

Keith Kaplan, Chairman opened the public hearing at 6:51 P.M.

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

Carrie Trautner, 232 Nelson Avenue. We are a neighbor. We were extremely disappointed with this project. It went from a cottage to a three-story building. It has changed the landscape of the neighborhood.

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

Brad Gallagher, Vice Chairman presented the following resolution.

**#20200573**  
**IN THE MATTER OF THE APPEAL OF**  
**JENNIFER CONNORS**  
**87 LUDLOW STREET**  
**SARATOGA SPRINGS NY 12866**

from the determination of the Building Inspector involving the premises at 87 Ludlow Street in the City of Saratoga Springs, New York being tax parcel number 166.53-2-52 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to seek a minor modification of a previously granted area variance for the minimum front yard setback requirement in the Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held on the 28th day of September 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 Feet	7 Feet	3 Feet (30%)

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

1. The Board finds that the applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant stated the house is built on the pre-existing foundation and the only option to correct the setback issue is “knocking down the house.” The Board notes that this came about from a minor discrepancy of less than a foot between the old and the new survey.
2. The Board finds that the applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant stated that the house was built on the pre-existing footprint. Therefore, the Board finds that there is no change from the prior conditions that were previously in existence in the neighborhood.
3. The Board finds this variance to be substantial. However, the Board notes the relief requested is mitigated by its nature and its overall minimum impact on the neighboring properties. Again, the house was built on the pre-existing footprint.
4. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is self-created insofar as the applicant desired to construct a new addition to an existing single-family residence, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

**VOTE:**

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, opposed; Christopher Mills, in favor; Gage Simpson, in favor; Matthew Guich, in favor; Terrance Gallogly, in favor

**MOTION PASSES: 6-1**

2. **#20200584 OLMSTEAD SINGLE-FAMILY ADDITION**, 53 Greenfield Avenue, an area variance to construct an entry porch addition to an existing single-family addition; seeking relief from the minimum front yard setback in the Urban Residential-1 (UR-1) 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
Setback- Front	30 ft.	15.8 ft.	14.2 ft. (47.3%)

**DISCLOSURE:**

Keith Kaplan, Chairman disclosed on his visit to the site the applicant was outside the home. Pointed out the areas of relief but did not discuss this application. The Chair feels he can rule objectively on this matter.

Agent: Steven Greenbladd, Attorney:

Mr. Greenbladd stated the structure itself has always been non-conforming. The variance being sought will not create any more of a substantial variance. The structure is an old barn which the applicants have converted into a residential living space. There was never a porch or entryway into the structure. We are requesting approval to add a 6'x12' space to be converted to a covered porch/entry area. It will be of a like color and appearance of the current home. A visual of the current property was provided to the Board as well the location of the proposed addition. This will be minimally disruptive to the neighborhood. No trees will be removed.

Discussion ensued among the Board regarding feasible alternatives as well as the substantiality of the variance requested.

**PUBLIC HEARING:**

Keith Kaplan, Chairman opened the public hearing at 7:32 P.M.

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

Keith Kaplan, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for October 19, 2020.

- 3. **#20200545 VALENTE CONDOMINIUM GARAGE**, 64 Ludlow Street, area variance to construct a 10 stall garage for an existing condominium building; seeking relief from the maximum accessory building coverage in the Urban Residential-1 (UR-1) 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
Maximum Accessory Coverage	8%	9.7%	1.7% or (21.3%)

Applicant: 64 Ludlow, LLC, Paul Valente

Agent: Bob Flansberg, Architect. Dreamscapes Unlimited

Mr. Flansberg stated the applicant is proposing a 10-stall garage to the rear of the property behind the principal building. A visual of the site was provided to the Board. The applicant's desire is to have secured covered parking for the condominium owners. Floor plans and elevations were submitted to the Board. Each garage stall is 12'x24' a typical garage stall and one story in height.

**DISCLOSURE:**

Cherie Grey disclosed that she lives approximately 500 ft. from the project. This will not affect her objectivity in this matter.

Cherie Grey questioned if there were any alternative design considerations given to the project since this is a beautiful historic property. Also, will this project be subject to DRC review and approval.

Mr. Flansberg stated their goal was to request the least amount of variance possible. This project will appear before the DRC as well.

Mr. Valente, 64 Ludlow Street, applicant stated we did previously receive approval for an 8-car garage. This project is the same size as the 8-car project but will house 10 garages. This will mirror the building, a hip roof and colors to match the condominium building.

Discussion ensued among the Board regarding the proposed project.

Amanda Tucker, Senior Planner stated this project will be subject to site plan review by the Planning Board as well as DRC review and approval.

Keith Kaplan, Chairman questioned if the ZBA should request an Advisory Opinion from the DRC. The Chair noted he shares the concern of Cherie regarding the mass and scale of the building and impact on the neighborhood.

Discussion ensued among the Board regarding obtaining an Advisory Opinion from the DRC.

Keith Kaplan, Chairman made a motion in the matter of the Valente Condominium Garages, 64 Ludlow Street, the ZBA requests an Advisory Opinion from the DRC. Cherie Grey seconded the motion.

**VOTE:**

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor

**MOTION PASSES: 7-0**

**PUBLIC HEARING:**

Keith Kaplan, Chairman opened the public hearing at 7:54 P.M.

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

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for October 19, 2020. No additional information has been requested from the applicant.

- 4. **#20200544 NAPOLI SINGLE-FAMILY ADDITIONS**, 28 Granite Street, area variance to construct combine two lots and demolish an existing single-family residence, make additions to an existing single-family residence and construct a two-story detached structure with first floor parking and second floor dwelling seeking relief the minimum front yard setback, maximum principal building coverage, maximum number of principal buildings on a lot, and minimum lot size requirements in the Urban Residential-3 (UR-3) District.

**SEQRA:**

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

**AREA VARIANCE CONSIDERATIONS:**

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Coverage	10%	11.3%	1.3% or (13.0%)
Minimum Front Setback-Granite Street	10 ft.	5.2 ft.	4.8 ft. or (48%)
Setback-Front-Vermont Street	10 ft.	1.7 ft.	8.3 ft. or (83%)
Finished Space in Accessory	Not permitted	Permitted	100%

Applicant: Mike and Val Napoli

Agent: Bob Flansberg, Architect, Dreamscapes Unlimited

Mr. Flansberg provided a visual of the proposed survey for 28 Granite Street which houses the Napoli's current home. The Napoli's purchased the adjacent property at 24 Granite Street which serves as a rental property currently and has access from Brackett Lane. There is an existing garage which exists on the adjacent property. The Napoli's are proposing to consolidate these two lots into one property which will then provide them with 10,700 square feet of property. Their hope is to add an addition to the existing home with a covered deck a proposed carport and pool. They are also proposing to demolish the existing two car garage and construct a new two car garage with finished space above for a guest bedroom suite. The property does provide them with two fronts Granite Street and Vermont Streets. The existing non-conforming situation with the current home will not change at all. The current residence falls within the 30% lot coverage with plenty of green space. The pool water and the garage count as accessory structures.

Amanda Tucker, Senior Planner stated in the Zoning Ordinance no cooking facilities and no bathing facilities are permitted in an accessory structure. Noticing was completed stating this was a second principal structure. According to the applicant this will not be a second dwelling unit.

#### DISCLOSURE:

Keith Kaplan, Chairman disclosed that he did meet Mr. Napoli when he visited the site. He provided information where everything would be located. It was procedural. He does not feel this interferes with his ability to objectively vote on this matter.

Discussion ensued among the Board regarding substandard lots, size of the garage, the second principal structure with habitable space on the second floor, and lot coverage percentages including air conditioning unit, pool pump and generator.

Mr. Flansberg stated he will meet with his clients and discuss the concerns and questions of the Board. They will return before the Board.

#### PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 8:24 P.M.

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

Keith Kaplan, Chairman stated the public hearing will remain open.

Keith Kaplan, Chairman stated our next ZBA meeting is scheduled for October 19, 2020.

#### CONTINUED BUSINESS:

1. #20200467 SKINNER SINGLE-FAMILY ADDITION, 19 Andrews Street, area variance to construct a two-story addition to an existing single-family residence; seeking relief from the minimum front, side and total side yard setbacks in the Urban Residential-2 (UR-2) District.

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

Applicant: Andrew Skinner

Mr. Skinner stated based on the comments of the Board they revisited their plans and narrowed the structure slightly. It is still nonconforming; however, it is less nonconforming than the existing structure. It is now two stories in height versus one story. This information was submitted to the Board. We will use contrasting materials to minimize the size of the structure. Examples of similar type structures in the neighborhood were also provided to the Board for their information. It is not the largest, tallest or closest to the edge of the lot. It is the nature of the neighborhood with 50' wide lots.

Keith Kaplan, Chairman asked if the Board had any further questions for the applicant.

Discussion ensued among the Board regarding the newly presented alternatives plans regarding the relief requested. And the adverse environmental effects in the neighborhood, and proximity to the property line.

**DISCLOSURE:**

Matthew Gutch disclosed he reviewed the September 14, 2020 ZBA minutes and materials and is informed to vote on this application.

Brad Gallagher, Vice Chairman disclosed he reviewed all materials regarding this application. He feels confident to vote on this application.

**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 8:35 P.M.

Keith Kaplan, Chairman presented the following application.

**#20200467  
IN THE MATTER OF THE APPEAL OF  
ANDREW AND LINDA SKINNER  
11 DUBLIN SQUARE LANE  
SARATOGA SPRINGS NY 12866**

from the determination of the Building Inspector involving the premises at 19 Andrews St. in the City of Saratoga Springs, New York being tax parcel number 165.58-1-5 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 construction of an addition to an existing single-family residence in a UR-2 District and public notice having been duly given of a hearing on said application held on the 14th and 28th days of September 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 Front Yard Setback	10'	6.3'	3.7' or 37% relief
Minimum Side Yard Setback (west)	8'	2'	6' or 75% relief
Minimum Side Yard Setback (east)	8'	6'	2' or 25% relief
Minimum Total Side Yard Setback	20'	8'	12' or 60% relief

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

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. In the case of the west side setback, the Board notes the encroachment already exists on the main residence and the addition on the west side extends the current line. On the east side, the applicant has explored options including detaching the garage and moving to the rear, as well as changing the floor plan to decrease the width of the addition.

The applicants note that detaching the garage and placing it in the rear adjacent to the alley, would result in the loss of green space and the loss of accessibility for a handicapped member of the family. The applicants further note that decreasing the width of the addition to avoid a variance on the east side would result in a reduction of handicapped accessibility, as well as an adverse impact on natural light and internal alignment of the addition with the existing portion of the residence.

2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicants note the consistency of the front porch proposal with neighboring properties. On the side setbacks, the Board notes the application materials show that the west portion of the addition - i.e. the proposed family room portion - is mainly a one-story structure, and the east portion of the addition - the proposed garage and workshop - are stepped back from Andrews St.

The Board finds these design choices reduce the impact of the mass and scale of the addition on the neighborhood. Finally, the Board notes information provided by the applicants showing the consistency of this proposed project with neighboring properties in terms of setback, size and height of residences.

3. The Board finds these variances to be substantial on a percentage basis; however, the substantiality is mitigated by the fact that the addition on the west is an extension of the existing portion of the residence, and the consistency of the proposed dimensions of the full project with the neighborhood as noted above.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. The lot as shown in the application materials will still well exceed permeability requirements of 25%.
5. The alleged difficulty is self-created insofar as the applicant's desire to construct the proposed addition, but this is not necessarily fatal to the application.

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; Christopher Mills, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor

**MOTION PASSES: 7-0**

**APPROVAL OF MEETING MINUTES:**

Approval of meeting minutes was deferred to the October 19, 2020 ZBA meeting.

**MOTION TO ADJOURN:**

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 8:45 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary

APPROVED 10-19-20