



ZONING BOARD OF APPEALS

MINUTES (DRAFT)

MONDAY, JANUARY 23, 2023

6:30 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Gage Simpson, Chair, called the meeting to order at 6:30P.M.

SALUTE TO THE FLAG:

PRESENT: Gage Simpson, Chair; Brad Gallagher, Vice Chair;
Brendan Dailey, Emily Bergmann, Alice Smith, John Daley

ABSENT: Cheryl Grey

STAFF: Aneisha Samuels, Senior Planner, City of Saratoga Springs
Jackie White, 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.

ZBA APPLICATIONS UNDER CONSIDERATION:

NEW BUSINESS:

RECUSAL:

Gage Simpson, Chair recused from the following application.

1. **#2022 1030 6 SEWARD AREA VARIANCE-ADDITION**, 6 Seward Street, Area Variance to permit an addition to the front of an existing home and two car garage, in the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	Proposed	Relief Requested
Interior Side (North)	8	2ft	6ft or 75.0%
Min Total Side	20	10ft.	10ft or 50.0%

Agent:

Isiah Vail the owner of 6 Seward Street stated that the home was an eyesore for a number of years and he believes over the years he has made it much more appealing. The applicant states the home was built in 1929 at the backend of the property and the lot is a substandard sized lot and any modifications would require a variance. Mr. Vail stated he would like to expand his home to accommodate his family by adding a two car garage and expanding the home. 114 ft. currently separates the home from the road and based on the proposed plans would have approximately 63ft which would remain green space. Mr. Vail states that most family homes on Seward Street has garages that do not meet District requirements and he believes his proposal is consistent with the neighborhood. And in line with garages that were recently approved such as 13 Seward. He also noted his proposal is smaller than that which was approved for 13 Seward plus his proposal has no living space on top. Mr. Vail also notes he has support from both his neighbors.

Emily Bergman asked for alternate plans that would reduce the relief. The applicant noted other plans were explored that would impact existing water lines, gas lines and sewage lines and the cost is infeasible for the applicant. Emily Bergmann asked for the sq. ft. of the addition. The applicant noted the room under 500 sq. ft. approximately 375sqft. The applicant notes he intends to maintain the existing entrance to the home and it will be covered. The applicant notes the addition will be single story and the existing home is 3 story.

Emily Bergmann asked the applicant to provide the driveway width percentage. Staff noted the permitted amount is to not exceed 25% otherwise relief would be needed. Emily asked for numbers showing similar properties with similar setbacks.

Alice Smith wanted the applicant to provide the impervious area coverage for the existing and proposed. The applicant noted the coverage is 62.2 and required is 70%.

Brad noted the applicant may use a google image to provide the information Emily requested.

Brad opened public hearing: No questions or comments from the audience.

2. #20221085 140 West Circular , 140 West Circular, Area variance to permit a rear addition to the existing home in the Urban Residential -2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIREMENT	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	28%	30.2 %	2.2% or 7.9%
Setback - Front	30 ft.	21 ft.	9 ft. or 30.0%
Setback-Rear	30 ft.	24 ft.	6 ft or 20.0%
Interior Side - East	12 ft.	8.3 ft.	3.7 ft. or 30.8%
Minimum Total Side	30 ft.	20.4 ft.	9.6 ft. or 32.0%

Applicant: Jay Hanley

Agent: Chuck Marshall (Disclosed his relationship with the City- being a member of the Planning Board)

Brad disclosed he lives within 300 ft. of the home but he feels he has the ability to be fair in his deliberations and doesn't feel the need to recuse. 17:00

Mr. Tuck stated this application was before the Board back in January-February of 2020. We have gone through design modifications considering what the applicants needs and wants were and what this Board would approve, and what the neighbors were amenable to. We have made removed a bedroom from the first floor. We have reduced each of the variances previously requested and believe this is in keeping with the context of the neighborhood. Mr. Tuck provided examples of the neighborhood and home placement along with review of the homes which are not in compliance for coverages, side setbacks and rear setback issues. This proposed project is middle of what is currently on the street. A visual of the footprint of the project as well as floor plans were provided to the Board. A sketch of the home was provided to give the Board a sense of the mass and scale.

Brad Gallagher, Vice Chair stated the project is reduced from the previous submission. He appreciated the applicant explored options.

The variances requested are not out of line for the area.

Cherie Grey questioned if the front setback proposed currently in line with what is there. What is the height of the proposed structure at the peak.

Mr. Tuck stated it is in line with what currently exists. He believes it is 4 ft. lower than existing but he will provide that calculation to the Board.

Brendan Dailey stated it is not out of character or context for the 5th Avenue neighborhood.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 6:55 P.M.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson Chair stated the public hearing will remain open until the next ZBA meeting scheduled for January 23, 2023.

Requested information should be submitted to the Board as soon as possible.

3. #20221080 Nelson Area Variance, 83 Nelson Avenue, Area variance to permit the renovation and expansion of the front porch in the Urban residential -2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Minimum Lot Size	6600 sq. ft.	6413 sq. ft.	187 ft. or 2.8%
Minimum Average Width	60 ft.	50 ft.	10 ft. or 16.7%

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated we are before the Board because the previous approval has expired. The variances which were requested are minor. A majority of the neighborhood is non-compliant. We are aware we are required to go through the process. This is a simple two lot subdivision. The existing house is on one lot and the vacant lot will have a new home constructed on it. At our last appearance before the Board, we explained that we could not make the lot wider without leaving the other lot substandard. There is no additional land to be purchased. Ms. Yasenchak stated 84.3% of the neighborhood lots researched were non-compliant with lot width or lot area requirements. She reviewed other statistics regarding the neighborhood, and it was determined that this project is within the character of the neighborhood. There are no environmental issues. Sidewalk work has been done.

Ms. Yasenchak stated there are no zoning issues with the proposed home. All the prior original application materials were provided to the Board. The previous resolution #20190225 was also provided to the Board.

Gage Simpson, Chair, stated we will need a motion for deferral of Lead Agency Status to the Planning Board as well as an Advisory Opinion from the Planning Board.

Cherie Grey made a motion in the matter of the application for 223 Maple Avenue Area Variance for Subdivision, 223 Maple Avenue the ZBA defers Lead Agency Status to the Planning Board for SEQRA. Gage Simpson, Chair seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Brendan Dailey, in favor

MOTION PASSES: 4-0.

Cherie Grey made a motion in the matter of the application for 223 Maple Avenue Area Variance, for Subdivision, 223 Maple Avenue, the ZBA requests an Advisory Opinion from the Planning Board regarding this application. Brendan Dailey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Brendan Dailey, in favor

MOTION PASSES: 4-0.

Aneisha Samuels, Senior Planner, stated Saratoga County Planning Board referral is also required.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:06 P.M.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson Chair stated the public hearing will remain open until the next ZBA meeting scheduled for January 23, 2023.

4. #20221035 110- 114 Nelson Avenue Lot 1 Area Variance . 110-114 Nelson Avenue lot #1, Area variance to permit the construction of a single-family home in the Urban Residential-2 District

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	28%	33.0%	5.0% or 17.9%
Interior Side - East	15 ft.	3.9 ft.	11.1 ft. or 74.0%

Applicant: Sandra Sgambati & Brad Howland

Agent: Sue Davis, SD Ateller Architecture

Ms. Davis provided a visual of the current property and surrounding area. The applicants are proposing to attach the existing garage to the house and create a small mudroom/powder room area. A visual of the existing survey was also provided as well as the proposed project infilling the space between the house and garage. A view of all elevations was provided to the Board.

Aneisha Samuels, Senior Planner, stated based on the information and plans which was submitted we were unsure of the relief requested. We have number calculations which were misleading and needed clarification.

Gage Simpson, Chair, stated this is a straightforward application and makes sense. The homes in the surrounding neighborhood are large. It fits the neighborhood. We are just awaiting updated relief calculations.

Aneisha Samuels, Senior Planner stated the district requirements for that district is 28% total for both the principal and accessory structures.

Ms. Davis stated she would like to recheck the calculations and provide that information to staff.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:16 P.M.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson, Chair, stated the public hearing will remain open until the next ZBA Meeting scheduled for January 23, 2023.

The Board has requested additional information. Pending receipt of that information a resolution should be prepared to be presented at that time.

5. #20221036 110- 114 Nelson Avenue Lot 2 Area Variance. 110-114 Nelson Avenue lot #2, Area variance to permit the construction of a single-family home in the Urban Residential-2 District

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	40%	51%	11 ft. or 27.5%
Setback to the Front	10 ft.	3 ft.	7 ft. or 70%
Interior Side	8 ft.	5 ft.	3 ft. or 37.5%
Interior Side	8 ft.	2.5 ft.	5.5 ft. or 68.8%
Minimum Total Side	20 ft.	7.5 ft.	12.5 ft. or 62.5%
Accessory to Side - AC	5 ft.	4 ft.	1 ft. or 20%
Accessory to Side	5 ft.	1 ft.	4 ft. or 80%
Accessory to Rear	5 ft.	1 ft.	4 ft. or 80%

Applicant: Sliwowski Residence

Agent: John Witt

Mr. Witt provided a visual of the surrounding area and site plans. The proposed home has special design needs for clients designed to age in place. The Porte cochere is meant for the function of dropping off with flush entry so the clients can use an elevator to access the first and second floors. The requested variances are for constructing a single-family home with a front porch and detached garage similar to existing homes in the neighborhood. The lot is currently used for a seasonal non-conforming parking area. Mr. Witt proposes to eliminate the parking area, significantly reducing neighborhood traffic.

Gage Simpson, Chair, stated that Mr. Witt should look for ways to minimize the plans slightly. The Porte cochere is an area of the design that is aesthetically pleasing, but the relief being requested creates a lot of

issues. He asked if the Porte cochere could it be pulled closer to the house or if the 4th bedroom could be moved somewhere else.

Mr. Witt stated he could probably move the Porte cochere 6 inches closer to the house and might be able to reduce the overhangs but it would be awkward.

PUBLIC HEARING:

Crystal Nolan of 119 Nelson across the street had questions for The Board on the setbacks and overhangs of the house as well as the effect on water runoff.

6. #20221089 Cobb Alley Lot A Extension ,Cobb Alley extension of a previously granted variance that would permit the construction of a single-family home in the Urban Residential-3 (UR-3) District

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
N/A	N/A	N/A	N/A
N/A	N/A	N/A	N/A

Applicant: Emilia Schmidt and Patrick Schmidt

Agent: Patrick Schmidt

Mr. Schmidt came to The Board for an extension and said there are no changes to the previous plan that was submitted. The variance and requirements were not discussed. The Board had no comments apart from Gage Simpson, Chair saying this is a straightforward request.

Gage Simpson, Chair, opened the public hearing at 7:52 P.M.

PUBLIC HEARING: There were no public comments.

Gage Simpson, Chair stated the board moves to grant the extension, and May 12th 2024 is the new expiration date for the variance.

7 #20221033 122 Madison Area Variance, 122 Madison Avenue ,Area variance to modify a previously granted area variance to support the construction of a single-family residential home in the Urban Residential- 2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Interior side	8 ft.	6 ft.	2 ft. or 25%

Applicant: Andy and Eileen O'Connor

Agent: Bob Flanders

Bob Flanders said they are following the plans and using the existing foundation. When they got the original area variance for the side-yard setback, they had a negative setback on the north boundary where there was a carport constructed then removed. After the survey, they discovered the property line and the home are not exactly parallel.

The Board had no further comments.

Gage Simpson, Chair opened the public hearing at 8:00 P.M.

PUBLIC HEARING: There were no public comments.

CONTINUED BUSINESS:

#20220855 139 STATE STREET GARAGE REMP AREA VARIACE, 139 State Street, Area Variance to permit the renovation of an existing home in the Urban Residential-1 (UR-1) District.

Discussion ensued among the Board regarding the additional information requested from the applicant. It was the consensus of the Board that the requested information was not crucial to the application and the Board moved forward with the application.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson, Chair, closed the public hearing at 7:16 P.M.

Brendan Dailey presented the following resolution.

**#20220828
IN THE MATTER OF THE APPEAL OF
Ray Signs
28 Colonial Ave.
Schenectady, New York 12304**

From the determination of the Building Inspector involving the premises at 3257 Route 9 in the City of Saratoga Springs, New York being tax parcel number 191.-1-23 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit the installation of an externally illuminated directory sign within the Gateway Commercial Rural (GC-R) District and public notice having been duly given of a hearing on said application held on October 24th, 2022, through to December 12, 2022

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 variances for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Freestanding Sign Size	12 sq .ft.	28.4 sq .ft.	16.4sq. ft. or (136.7%)

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. The applicant wants to remodel the current sign by replacing it with an externally illuminated directory sign in order to allow for greater visibility on a highly trafficked/higher speed road. The applicant has considered alternative options.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The current sign already exists, and the

altered sign will not alter the current character of the street/neighboring properties.

3. The Board notes the requested variance is substantial but not necessarily detrimental to the applicant.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is considered self-created insofar as the applicant desires to erect the new sign; however, this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey in favor; Brendan Dailey, in favor

MOTION PASSES: 4-0

5. **#20220855 139 STATE STREET GARAGE REMP AREA VARIACE,** 139 State Street, Area Variance to permit the renovation of an existing home in the Urban Residential-1 (UR-1) District.

APPLICATION ADJOURNED

6. **#20220686 28 NORTH LANE-96 UNION DEMOLITION AND CONSTRUCTION,** 28 North/96 Union, Area Variance to permit the construction of a new three car garage and dwelling unit above in the Urban Residential-4 (UR-4) District.

Applicant: Sharon Byrne

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated we have appeared before the Board previously. We had submitted information which was not received electronically. We are here this evening to further discuss the application. We are awaiting additional information from the surveyor to locate the trunks of the existing trees and tree canopy. This was not shown on the survey. The new information submitted in October for the November meeting. We pulled the building closer to the alley as much as possible with the utility lines overhead. Also, we did show on the submitted plan how pulling the building further south removes the building from under the tree canopy. The building now will be under only one tree canopy and that is the information we are awaiting from the surveyor as to where that is located. This current plan shows the new location of the building. This new information provides information on the neighborhood context and how many properties in the area have second dwelling units. We have included a map and an aerial was also provided. We reviewed 27 properties along North Alley and of those 27 properties, 21 properties have two or more residential units. Six of those 21 properties were on lots that were over 80 ft. in width, and 15 of those properties were on lots that were under 50 ft., which is the width of our property which is approximately 49+ft. in width. Two of those properties were not on the tax rolls but had utilities and mail visible from the public right of way. We feel what we are asking for with this variance which is only for the apartment occupancy on the second floor. We can build a large building anywhere on the property and have the detached second dwelling unit without returning before the Board. We are very consistent with the neighborhood.

Cherie Grey stated in reviewing the percentage number she calculates that the applicant is over by .2% for total coverage. The combined principal and accessory structure came to 40.2%. She voiced concern regarding the root system of the beautiful heritage tree which could be impacted by the construction.

Ms. Yasenchak stated they will review the calculations to assure compliance with the district requirements. We are awaiting the information from the surveyor regarding the tree. She spoke about the ability to build a structure anywhere on the property without out a second-floor dwelling unit.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application.

Stephanie Ferradino, Attorney for homeowners at 88 Union Avenue and 100 Union Avenue. At the October meeting the applicant was requested to consult an arborist and we have not seen that information. Since that time, we have consulted an arborist and submitted his report. It is what you do not see is what will be impacted on what the applicant is proposing. The location of the structure is being proposed to accommodate the utility lines versus the decades old trees that provide a huge benefit. The arborist stated the proposed construction will significantly impede all the trees in question. We request the Board review and take these suggestions into consideration.

Gage Simpson, Chair, stated the public hearing will remain open until the January 23, 2023, ZBA Meeting.

7. #20220862 190-194 GRAND AREA VARIANCES, 190-194 Grand Avenue, Area variances to permit the subdivision of an existing lot to create three lots in the Urban Residential-2 (UR-2) District.

Applicant: Mary Aloy & Gary Quirion

Agent: Matthew Jones, Attorney; Dave Carr, LA Group

Mr. Jones stated they have previously appeared before this Board with a request for 18 variances. We took the Boards comments and when we appeared before the Planning Board, we were looking at 16 variances. A view of the site was provided to the Board. Mr. Jones stated as the structure appears before the Board will not change because of the variances requested from this Board and the subdivision request before the Planning Board for three single family units. Mr. Jones provided an aerial view of the site as well as provided elevations for the Boards review noting the area proposed for parking and the relocation of the shed. A review elevation view provided the proposed property line. Mr. Jones reviewed area variances received for the property in 1994 which were for relief from the front of the building for a zero setback.

Mr. Carr stated they reduced three variances and removed two. We were able to remove pavement. We needed to provide two parking spaces on each lot to meet zoning code. We were able to remove pavement and reduce on all three lots the impervious cover.

The shed will be removed completely, and it will be replaced it with a smaller shed. By doing that we removed the building coverage

variance on Lot#3 by reducing the lot of the accessory structure and the other is the rear yard setback relief.

Mr. Carr reviewed the

the impervious coverage reductions for the lots. We removed the building coverage relief on Lot #3 which is no longer needed. The rear yard setback for the accessory structure is no longer needed. The side yard setback was .1 ft. off the property line and now it is

3 ft. the request goes from 4.9 ft. to 2 ft. The requirement is 5ft. One additional item, the Vice Chair asked the question regarding the corner of the wall, and it was confirmed with the surveyor that the corner is not the corner. The wall is over the property line by 1 ft. That will be rectified with the Planning Board.

Mr. Jones stated the Planning Board on December 8, 2022, adopted a Favorable Advisory Opinion to the ZBA.

Brad Gallagher, Vice Chair, questioned if the shed could be moved an additional 2 ft. to avoid the variance altogether. Is there any way to add more permeable pavement.

Mr. Carr stated moving the shed would not allow for the 2 parking spaces per unit required. Regarding the permeable pavement you need 3ft. to either bedrock or groundwater. Bedrock is extremely high in this part of the city. The pavement around there is pavers. They are getting infiltration.

Cherie Grey feels this should remain condominiums. Is there anyway of moving the curb cut and the driveway in the back of the property so every property pulls into their own property.

Mr. Carr stated that is the way it is now.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson, Chair, closed the public hearing at 8:07 P.M.

Gage Simpson, Chair presented the following resolution.

**#20220862
IN THE MATTER OF THE APPEAL OF
Mary Aloy & Gary Quirion
190-194 Grand Avenue
Saratoga Springs NY 12866**

from the determination of the Building Inspector involving the premises at 190-194 Grand Avenue in the City of Saratoga Springs, New York being tax parcel number 165.66-3-2 on the Assessment Map of said City.

The applicants having applied for an area variance under the UDO of said City to permit the subdivision of a multi-family residence in a UR-2 District and public notice having been duly given of a hearing on said application held on October 24 through to December 12, 2022.

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
Lot 1			
Min Lot Size:	6600 sq ft.	4274 sq.ft.	2326 sq.ft. or (35.2%)
Min Avg Width:	60 ft.	28 ft.	32 ft. or (53.3%)
Corner Side	10 ft.	0 ft.	10 ft. or (100.0%)
Permeability	70%	72%	2% or (2.9%)
TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Lot 2			
Min Lot Size:	6600 sq. ft.	3873 sq. ft.	2727sq.ft. or (41.3%)
Min Avg Width:	60 ft.	26 ft.	34 ft. or (56.7%)
Permeability	70%	74.5%	4.5% or(6.4%)
Interior Side	8 ft.	0 ft.	8 ft. or (100.0%)
Interior Side	8 ft.	0 ft.	8 ft. or (100.0%)
Min Total Side	20 ft.	0 ft.	20 ft. or (100.0%)

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Lot 3			
Min Lot Size:	6600 sq. ft.	4152 sq.ft.	2448 sq.ft. or (37.1%)
Min Avg Width:	60 ft.	27 ft.	33 ft. or (55.0%)
Permeability	70%	74%	4% or (5.7%)
Interior Side	8 ft.	0 ft.	8 ft. or (100.0%)
Interior Side	8 ft.	0 ft.	8 ft. or (100.0%)
Min Total Side	20 ft.	0 ft.	20 ft. or (100.0%)
Accessory to side:	5ft.	3ft	2 ft. (40%)

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. The applicants desire to convert and subdivide a building with 5 apartment units into a structure with 3 individual living units with separate tax parcels. The Board notes this building currently exists and the desire to subdivide into 3 individual units triggers all the variances. There is no adjacent land available for purchase to alleviate any variances.
2. The applicants have demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. Per the applicants, there will be no change to the external structure, hence there will be no change to the character of the neighborhood and no detriment to nearby properties. Per the applicants, the shed on lot 1 will be repositioned to result in the least amount of relief possible to allow for the required parking.
3. Although most of the variances listed in the table are substantial, they are mostly created by subdividing a building into individual living units. The building will not be expanded, nor will the exterior be modified per this application. The building is pre-existing, non-conforming and any modifications to the structure would necessitate several variances.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. The pre-existing, non-conforming external structure will not change so there will not be any changes to the physical or environmental effect of this property.
5. The alleged difficulty is self-created insofar as the applicants' desire to subdivide the multi-family building, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Gage Simpson, Chair asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey in favor; Brendan Dailey, in favor

MOTION PASSES: 4-0

8. #20220207 131 EXCELSIOR AREA VARIANCE, 131 Excelsior Avenue, Area Variance to permit the construction of 102 apartment units within the Transect-5 (T-5) District.

Applicant: Conifer, LLC

Agent: Doug Heller, LA Group

Mr. Heller stated they appeared before the Board previously. This is the former site of the brewery, and we are proposing to Redevelop the site into 102 apartments. We have requested a variance for minimum build to frontage. The property is unique Since the west side has a NYSDOT easement and Spring Run stream that makes it unfeasible to develop. Along the east side the district transitions from a T-5 to a UR-1 zone. With the project the applicant has maintained the vegetative buffer on this east side. This neighborhood has a variety of commercial and residential buildings. Since the last appearance before this Board, we had appeared before the Planning Board and received a Favorable Advisory Opinion. Through that process they have requested, and we have added a civic space to the plans adding a rose garden a seating area and pergola. A visual of the site was provided to the Board.

Brendan Dailey questioned if any of these units are proposed to be aimed at affordability. Are there any green elements proposed for this project. Will there be any EV charging stations.

Mr. Heller stated yes, it is something Conifer specializes in affordability housing. They are still providing 20% of these units to be affordable. The project will be 10% more energy efficient than those built to standard code. Appliances will be all electric. Building designed to be energy star. Mechanical units' area designed to be P-Tack and V-Tack which are heat pumps. EV Charging Stations are meeting and exceeding the requirements.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application. None heard.

Gage Simpson, Chair, closed the public hearing at 8:26 P.M.

Aneisha Samuels, Senior Planner stated the ZBA deferred SEQRA Lead Agency Status to the Planning Board. They Have performed SEQRA Review. They have also provided a Favorable Advisory Opinion. We have received Saratoga County Planning Board Referral and Review which notes no Significant Countywide or Intercommunity Impact.

Cherie Grey presented the following resolution.

**#20220207
IN THE MATTER OF THE APPEAL OF
Conifer, LLC
1000 University Avenue, Suite 500
Rochester, NY 05420**

from the determination of the Building Inspector involving the premises at 131 Excelsior Avenue in the City of Saratoga Springs, New York being tax parcel number 166.30-1-3 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit demolition of an existing building and new construction of an apartment building in the T-5 District and public notice having been duly given of a hearing on application held on April 25, 2022, through to December 12, 2022

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSE D	RELIEF REQUESTED
Minimum % Build to frontage	70%	44%	26% (37.1%)

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. The applicant is proposing to demolish an existing building on this property and build a 102-unit apartment building. The applicant states that they want to maintain the vegetative barrier on the east side of the property to not impact the single-family home on that side. On the west side of the property, there is a NYSDOT easement and Spring Run stream that makes that area unfeasible to develop. If that portion of the frontage were eliminated from the total frontage, the build out would be increased and would potentially not require a variance. The Board notes that both borders will create a more aesthetic appearance by leaving buffering areas.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. The neighborhood has a variety of commercial and residential buildings. This will be similar to new construction in the neighborhood with the **building façade toward the front of the property and the parking in the rear.**
3. The requested variance is substantial; however, substantiality is mitigated by the points noted in 1 and 2 above.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. Permeability will meet district requirements.
5. The alleged difficulty is self-created insofar as the applicant's desire to construct an apartment building, but this is not necessarily fatal to the application.

Notes:

Planning Board negative declaration (November 17, 2022).

Saratoga County Planning Board: No significant county-wide or intercommunity impact (June 20, 2022).

Design Review Board Favorable advisory opinion (September 28, 2022).

Brendan Dailey seconded the motion.

Gage Simpson asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey in favor; Brendan Dailey, in favor

MOTION PASSES: 4-0

APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the January 23, 2023, ZBA Meeting.

MOTION TO ADJOURN:

There being no further business to discuss Gage Simpson, Chair, adjourned the meeting at 8:32 P.M.

Respectfully submitted,

Michael Dutre
Grant Assistant