



# ZONING BOARD OF APPEALS

## MINUTES (DRAFT)

MONDAY, MARCH 27, 2023

6:30 P.M.

CITY COUNCIL CHAMBERS

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

### **SALUTE THE FLAG**

**PRESENT:** Gage Simpson- Chair; Brad Gallagher- Vice Chair, Cheryl Grey  
Alice Smith, Emily Bergmann,

**ABSENT:** Brendan Dailey

**STAFF:** Liz Haight, Recording Secretary to the Land Use Boards.  
Aneisha Samuels, Senior Planner, City of Saratoga Springs  
Mark Schachner, 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:**

1. **#20230069 200 East Garage Renovations Area Variance**, 200 East Avenue, Area variance to permit finished space in a detached garage, since the building permit was applied for under the previous zoning within the Urban Residential -3 District.

#### **AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	Proposed	Relief Requested
Finished Space	Not permitted	Permitted	1 finished space or (100%)

Aneisha Samuels noted that finished space is permitted under the current zoning. However this applicant has an open building permit under the previous zoning and as such would require finish space relief in order to be consistent with the 2012 Zoning Ordinance.

Christopher Rends represented the application. He stated the garage was built a few years ago at the time the applicants were not interested in finished space. Since there the applicants decided they wanted finished space

based on the UDO changes. Since the building permit is under the previous ordinance the applicant is seeking an office and full bathroom upstairs.

Aneisha Samuels noted there needs to be some conformation on record regarding the exact use of the space.

The applicant noted the space will be an office with a bathroom the owner started working from home during covid-19 and this would be an ideal office space.

Cherie noted based on the public comments she wants some clarification regarding the bathroom as based on the drawing s the bathrooms seems excessive and she was conformation it will be used as proposed.

Christopher stated the use is for office space and will potentially be used as a gym in the future

Public hearing was open at 8:13 and closed at 8:13 by Gage Simpson  
No public comments were heard

The following motion was presented by Cherie Grey

#20230069  
IN THE MATTER OF THE APPEAL OF  
Michael and Michel Kristensen  
200 East Avenue  
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 200 East Avenue in the City of Saratoga Springs, New York being tax parcel number 166-13.1.35, in the UR-3 district on the Assessment Map of said City.

This being an application for an area variance under the Zoning Ordinance of said City to permit finished space in an existing detached garage and public notice having been duly given of a hearing on said application held on March 27, 2023.

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 amounts of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
SECOND STORY FINISHED SPACE IN GARAGE	NOT PERMITTED	PERMITTED	100%

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. Per the applicant, the second-floor space would accommodate a gym, office and half bath for use by the residents of the house. Per the applicant, there is no other space in the house for the facilities. Per the Board, the detached garage was issued a building permit under the Zoning Ordinance, therefore triggering the variance for the finished space.
2. The applicant has demonstrated that granting these variances will not create an undesirable change in

- neighborhood character or detriment to nearby properties. No changes will be made to the exterior.
3. The Board notes the requested variances are substantial, however the substantiality of these variances is mitigated by the lack of adverse impact as noted above.
  4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district.
  5. The alleged difficulty is self-created insofar as the applicant's desire to finish the second floor of the garage, but this is not necessarily fatal to the application.

Conditions: No cooking, bathing or overnight stays in the second-floor finished space.

It is so moved. Dated: March 27, 2023

Seconded by Emily Bergmann

Passes by the following votes:

**AYES: 5 (G. Simpson, B. Gallagher, C. Grey, E. Bergmann, A. Smith,)**

**RECUSED:**

**NAYES:**

**2. #20230063 172 Caroline Area Variance**, 172 Caroline Street, Area variance to permit the subdivision of a residential lot into two lots within the Urban residential -3 District.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	Proposed	Relief Requested
Min Average Lot Width lot 2	60 ft.	55.5 ft.	4.5 ft. or (7.5%)
Min Total Side Yard Setback	12 ft.	9.7 ft.	2.3 ft. or (19.2%)
Accessory to Side (Existing garage)	5 ft.	0 ft.	5 ft. or (100%)

Tonya Yasenchack represented the application. She stated the owner would like to subdivide the property. She noted that at the time when she applied for the subdivision approval she believed the lot frontage would be zoning compliant since it's over 60ft. however when she learned that the average lot width is done using a three point calculation she realized they needed relief. However she noted that the lot appears to have significant frontage and the average is brought down by the narrow rear. She noted that she is aware of the garage encroachment and she would like to remedy that issue as well. The garage currently has electrical and the owner's intent to remove this as it will not be used as a dwelling unit. She noted lot 1 does not require any relief the intent is to have off-street parking off Nelson. She noted alternative lot line configurations were considered and this option presented was the most feasible to accommodate the parking. And it is not consistent with the neighborhood to have parking off Caroline Street.

Tonya presented several lots in the neighborhood with comparable or smaller lot widths. She noted she doesn't believe the changes being proposed will alter the neighborhood character or have an environmental impact. She noted all the relief needs are pertaining to lot 2. Lot 1 needs no relief.

Emily noted that she is concerned about the precedence that this lot might be setting as other lots may fall into a similar position.

Brad asked if there was a lot for the new lot. Tonya noted there are no proposed homes right now and it would be up to the new owners. She noted the new lot would 7620sqft. She noted there is no interest to make the garage a residence. He asked if she was aware of the lots sized across the street. Cherie asked if she had lot sized for the close within a close proximity.

Cherie asked for clarification regarding the total side request. Tonya stated the total side relief is only pertaining to the garage. She noted she would be ok with restricting the approval to the current structure. She confirmed if the garage was removed the owners would need future approvals to replace the garage in that position. Cherie asked if any consideration was make to making the lot line parallel with Caroline Street. Tonya noted in that position any fencing would appear odd.

Tonya noted both lots will be above the district requirement for size.

Aneisha Samuels noted a favorable Planning Board advisory received February 09, 2023

Public hearing was open at 6:55 by Gage Simpson

Erica Chambers she stated is the immediate neighbor to the proposed project. She noted the homes referenced in the comps where built in the 1900 under different regulations. She stated this proposal is a significant impact to the neighborhood as it is a historic district. The impact will be to the green space. She stated she has a view of green space right now and that will change with this proposal. She stated there hasn't been a new build in several years and this will be unfavorably impacting the neighborhood.

Public hearing will remain open.

**3. #20230086 69 Jackson Garage Demo Area Variance,** 69 Jackson Street, Area variance to permit the conversion of a detached garage into a 2 bedroom Guest apartment within the Urban Residential-2 District.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	Proposed	Relief Requested
Second Principal Structure	Not permitted	Permitted	100%
Min Lot Size	13200 sqft.	11783sqft	1417 sqft. Or (10.7%)
Rear Setback	25 ft.	5 ft.	20 ft. or (80%)
Interior Side Setback	8 ft.	5 ft.	3 ft. or (37.5%)

Michael Perry represented the application. He stated the intent is to replace the existing garage and provide a recreational space. The third goal is to provide guest space on the second floor for visiting family. He noted the

proposed position is ideal and any other position would not eliminate the need for relief. He noted there is a 15ft paper street that remains unpaved. He noted that the second primary dwelling is consistent with this neighborhood. He noted there is a similar structure on a lot approximately 200 ft. from this lot. There are numerous garage with habitable space above the garage. He notes the garage other than the setback would be very consistent.

Brad noted that usually a second dwelling would not be permitted in a structure of this time in this district. He stated habitable space may be consistent with the neighborhood. Brad noted that in many cases cooking facilities and full bath are usually not permitted.

Aneisha Samuels noted there is a big distinction between habitable space and finished space. Habitable space would suggest cooking and overnight stays whereas finished space may not.

Michael noted he is aware of other hoes with finished space and habitable space above their garage.

Brad stated he is not supportive of the current proposal with windows within 5ft of the lot lines and having habitable space. He noted his understanding is an apartment in the garage.

Cherie noted she is very familiar with this neighborhood. She stated she considers this neighborhood a single family neighborhood. With the exception of the apartments. She noted she believes that anything but a single family residence would not be consistent with the neighborhood. She asked if the applicant considered alternatives such as adding the rec room unto the principal residence instead of part of the garage.

Michael noted the purpose of the rec room is to support the patio. Cherie noted that she believes other proposals may be more appropriate.

Aneisha Samuels noted if the garage is only used as a garage then the 5ft setback would be the requirement. She noted however if the rec room is attached to the home the setback would be 25ft. If the garage only had the rec room it would be considered finished space and the requirement would be that of an accessory structure.

Brad noted half baths are often approved for offices etc. but full baths are not usually approved under these conditions.

Michael noted he will do some research and revisit the Board.

Public hearing was open at 7:15 by Gage Simpson

Jim McMann owner of the lot adjacent to the proposed project. Stated he is not supportive of the project. He notes he is concerned about the proposed rec room and the fire place proximity to his fence. He notes he would need an 8ft fence if this was approved. If there is a fire in his opinion this posed a serious hazard. He also noted based on the proposal the stairs would lead directly into his property. He notes he anticipates the Airbnb being a nuisance to him. He noted he is also concerned about the snow and ice blocking the entrance and he noted this could be a fire hazard and in the end you die.

Glen Moreno stated he is not an immediate neighbor but he wanted clarification if second principles are not permitted in this neighborhood. He also noted based on his knowledge there are no apartments above garages. Cherie noted without knowing if there are other districts within this area and without a zoning map she is unable to answer that question whether or not second principles are permitted in this neighborhood.

Jennet Moreno stated the applicants are wonderful people and her comments are not about them but about zoning. She agrees that two dwellings are not code compliant and she believes the requests are significant. She noted she appreciates the applicants trying to the right thing. She appreciates the property postings. She thinks the neighborhood is a single family neighborhood and anything else should not be permitted unless it's preexisting.

**4. #202300114 80 West Circular Use Variance.** 80 West Circular Street, Use variance to permit the relocation of a flooring business within the Urban Residential -4 District

Alice Smith disclosed she knows the applicant however she believes she is in a position to be objective on the matter.

Kate Morale represented the application she stated she is looking to relocate her carpet business. The building was used prior as NAPA. She stated they have been in business for 50 years and she wanted to locate the business in Saratoga.

Emily asked that the previous use was commercial and she is unsure why they need a variance. Aneisha noted the previous business has been not operational for more than a year as such they have lost the preexisting non-conforming privileges. Emily stated that there are 4 criteria that needs to be met when considering a use variance. There needs to be proof of lack of reasonable financial return, the uniqueness of the financial hardship, the project shouldn't alter the essential neighborhood character, and the hardship cannot be self-created.

Emily stated she has no major issues at this time.

Gage stated in odd that the owners are not he applicant and Mark Schachner confirmed that the owners doesn't have to be the applicant. Gage further noted he needs more information regarding the criteria and he needs more information on the self-creation criteria as he believes it will be difficult to prove it is not.

Brad stated the applicant needs to provide the evidence to satisfy the use variance criteria however he believes the property is unique and he believes the use is appropriate. Showing the rental records can be helpful, the applicant needs to provide evidence to of the lack of returns on the property not the business trying to move in. Brad noted the property is zoned residential but the use is consistent with commercial uses.

Cherie noted she believes the residential zoning is not appropriate for this lot considering all the neighboring commercial uses.

Alice disclosed she knows the applicant she further stated she believes she can be objective when making a decision on the matter.

**5. #20230087 85 Nelson Use Variance.** 85 Nelson Avenue, Use variance to permit the conversion of an unlawful multi-family home to a two-family home within the Urban Residential-2 District.

John Carusone represented the applicant. He noted there has been several meeting on the property. He noted this is a separate application from the previous application. He noted the applicant is asking for the 2 family to be permitted and the middle unit would be eliminated.

He stated he would like the contents of the previous application to be reincorporated in this new application.

He noted the first criteria being lack of adequate financial return. He stated Mr. Waite paid \$801,500 for the property in 2013. He subsequently received an estimate of \$455,000 to convert to a single family. That brings the total to \$1.256 million he noted it would be unlikely to sell the property for that price and the estimated value as a single family would be between \$1 and \$1.1 million. He noted that the property has not been listed for sale it is not the intent of the owner to do so. These properties where purchased as investment properties. He notes his client doesn't not believe it's a worthwhile to list the property. And it is not required for the client to list the property for consideration.

John stated he as looked at the other uses and the all requires a special use permit or other government approvals. He notes it's not feasible to do a bed and breakfast or rooming house. He believes these uses are more intense than a two family. He stated he doesn't believe there are any properties that suffer the same hardship or that was listed as a three family.

He noted that the proposal will not alter the essential character of the neighborhood. The property is across from the track and the use is consistent with the neighborhood. That being said he believes the two issues here the financial return and the hardship being self-created. He noted there is no permissible evidence that Mr. Waite bought this property knowing it was a single family. He noted that although it does say UR-2 on the property designation but it also stated the used being 3 family which is more easily understood by the general public. He stated that 83 nelson is a two family.

Aneisha Samuels stated 83 nelson is a single family home with an in-law suite.

John Stated if you look at the Guanill application she board noted the assessment records at the time was a significant factor in deciding on that matter. The Guanill was preexisting for 40 years in this case it is for 20 years either way that is a significant number of years. He stated that at the time of purchase Mr. Waite in good faith thought he was buying into a 3 family. He further stated that if this approval was granted it will hurt no one however it was to be denied it would significantly impact on Mr. Waite Financially.

Gage stated that the financial hardship was the hardest criteria to proof considering the profits earned on the parcel thus far.

Emily stated the 83 nelson was sold as a single family for over \$1 million and is a smaller house. With that rationale it would imply that your property would be larger and likely obtain a larger return.

Mr. Waite stated the only reason they obtained that return was because they have an in-law suite.

Brad stated that is an option for 85 Nelson and they applicant may want to consider this as an option. If they sold for over \$1million seeing as your home is larger it would make financial sense that you would gain more since you have more square footage.

Mr. Waite stated that 85 Nelson has a full kitchen and to convert 85 Nelson it would be cost prohibitive and it would be a functionally odd looking property. Brad stated to convert from three to single family what is the conversion cost for that conversion. John stated he would get those numbers.

Cherie noted this is a single family neighborhood and anything else would be inconsistent.

Emily asked why the applicant is reluctant to listing the property for sale. John noted it would be too complicated to listing a three family as a single family. Cherie noted it would be useful for the applicants to consider alternatives including the possibility of the in law suit.

Gage stated the self-creation is not a big issue for him since the parcel is listed and taxed as a three family.

Mark Schachner stated that each application should stand on its own and each application should stand on its own merits as such it would be imperative that the applicants submit whatever additional information they would like to submit.

Public hearing was open at 8:06 by Gage Simpson. No comments were heard at this time.

**CONTINUED BUSINESS**

**6. #20221034 Marion Avenue Zoning Interpretation,** Marion Avenue, Appeal to the Zoning Board 9/12/22 Interpretation of section 1.7 regarding 31-33 Marion Ave

Application Adjourned to a future meeting and was removed from the agenda.

**7 #20230022 191 Church Street Porch,** 191 Church Street, Area variance to permit the demolition and reconstruction of the side porch to connect to the main porch within the Office Medical Business (OMB) District.

Gage Simpson Recused from the application

Emily disclosed that although she was absent at the last meeting she has reviewed the material and is able to vote.

Brad disclosed he was absent at the last meeting but he has also reviewed the material.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>TOTAL RELIEF REQUESTED</b>
Corner Side Setback	12 ft.	10.5 ft.	1.5 ft. or 12.5%

No representative was present

Brad asked if there were any public comments, no comments were heard.

Public hearing closed at 8:17 by Brad Gallagher

The following motion was presented by Cherie Grey



#20230022  
 IN THE MATTER OF THE APPEAL OF  
 Gage and Ashley Simpson  
 191 Church Street  
 Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 191 Church Street in the City of Saratoga Springs, New York being tax parcel number 166-13.1.35, in the OMB district on the Assessment Map of said City.

This being an application for an area variance under the UDO of said City to permit demolition and reconstruction of a side porch and public notice having been duly given of a hearing on said application held on February 27, March 13, and 27, 2023.

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 amounts of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
CORNER SIDE SETBACK	12'	10.5'	1.5' (12.5%)

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. Per the applicant, the front and side porches are currently not connected and the applicant would like to combine them for function and circulation. The porch is pre-existing, non-conforming. The porches will not extend any further into the setback than is currently in existence.
2. The applicant has demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. All other exterior facades will be maintained in their present position.
3. The Board notes the requested variance is not substantial at 12.5%.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is self-created insofar as the applicant's desire to connect the porches but this is not necessarily fatal to the application.

Note: Favorable DRB opinion March 15, 2023

It is so moved. Dated: March 27, 2023

Seconded by

Passes by the following votes:

**AYES: 4 (B. Gallagher, C. Grey, E. Bergmann, A. Smith,)**

**RECUSED: 1 (G. Simpson)**

**NAYES:**

**8. #20230047 3 Lilac Lane Pool House Construction,** 3 Lilac Lane, Area variance to permit the construction of a pool house within the Rural Residential (RR) District.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>RELIEF REQUESTED</b>
Accessory to rear yard Setback	50 ft.	25 ft.	25 ft. (50%)

The application was represented by John Witt. He noted that the HOA land behind the property has a conservation Subdivisison. There is a wooded area that buffers the house. He noted that this lot is not as deep as the other lots due to the curvature of the front lot line. He notoed there is a 50ft setback I this district for accessory use. There is an existng patio that the pool house is abutting. He noted the request is for 25ft relief. He provided comps that showed pook that were within the setback.the pool house will have a bathroom and an outdoor kitchen. In the back of the pool house there will be a storage shed.

Brad noted he appreciate the applicant proving the information that he has regardin gthe comps and the grading clarification.

Cherie noted she appreciates the comps that were provided. She noted she appreciates the applicant moving it 5ft it makes a big difference.

Gage noted public hearing is still open and if any had comments. No additional comments were heard

Aneisha noted that at the previous meeting the board asked for comps for pook houses within the setback not just pools withi the setback. The applicant noted there arent too many pool houses within the setback but pools and pool houses are bothe accessory.

**9. #20221115 136 State Street Garage Demo and Reconstruction Area Variance,** 136 State Street, Area variance to permit the renovation of the existing single-family residence within the Urban Residential-1 (UR-1) District.

**AREA VARIANCE CONSIDERATIONS:**

<b>TYPE OF REQUIREMENT</b>	<b>REQUIRED</b>	<b>PROPOSED</b>	<b>RELIEF REQUESTED</b>
Max. Principal Coverage	28%	41.2%	13.2% (47.1%)
Rear Setback (To front porch)	30 ft.	5 ft.	25 ft. (83.3%)
Corner Side Yard Setback	25 ft.	13.8 ft.	162 ft. (54%)
Interior Side Yard Setback	12 ft.	5 ft.	7 ft. (58.3%)

Brett Balzar represented the application he noted this was his 3<sup>rd</sup> meeting. He noted he has provided the additional material requested by the Board. He noted he has updated the relief request to include the additional rear yard relief. He also noted that there are several lots exceeding the coverage similar to what he is requesting for his clients.

Gage noted he appreciates the changes and work done by the applicant

Emily noted she appreciates the new information. She also noted that the percentages of relief are significant on this lot and she is still weighing that in her mind.

Cherie noted she needs further clarification on the relief being requested including those that are existing and the once caused by the renovation. The applicant provided the clarification.

The applicant noted there will be a demo and reconstruction of the garage but it will be rebuilt in the same footprint. He also noted most of the additional relief is triggered by the entryway. The Garage is smaller than desired.

Cherie noted that the lot coverage is still something she is concerned about. Is there a way to reduce that additional 2.5%? The applicant noted they reduced the pool from the original application. The patio/deck area has also been reduced as much as is feasible. The applicant noted that 139 state street has a similar precedent regarding the coverage. Cherie noted that that matter is still pending. The applicant further noted that the front porch would be the only other alternative and if this were a DRB meeting the conversation would be very different as the front porch would be required. He noted what is being proposed is consistent with the neighborhood. The only other alternative would be to go higher and that would change the mass and scale and may be inconsistent with neighborhood. He noted that he believes they have done their due diligence and believes this current proposal is the most consistent with the neighborhood. Brett noted he has addressed the concerns of the neighbors.

Gage noted that since the lot is undersized and the pool is below grade. He thinks it less of a visual impacts. The applicant noted the pool will be primarily flush with grade except in the back where it drops off

Gage Simpson closed public hearing at 8:45

Gage Simpson presented the following motion.

**#20221115**  
**IN THE MATTER OF THE APPEAL OF**  
Josh Nemer  
136 State Street  
Saratoga Springs NY 12866

From the determination of the Building Inspector involving the premises at 136 State Street in the City of Saratoga Springs, New York being tax parcel number 165.28-1-13 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to renovate the current single-family structure and demolish and replace the existing garage within the Urban Residential 1 (UR-1) District and public notice having been duly given of a hearing on said application held on February 27<sup>th</sup>, March 13<sup>th</sup>, and March 27<sup>th</sup>, 2023.

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
MAXIMUM PRINCIPAL COVERAGE	28%	38.4%	10.4% (37.1%)
REAR	30'	20'	10' (33.3%)
INTERIOR SIDE	12'	5'	7' (58.3%)
CORNER SIDE	25'	13.8'	11.2% (44.8%)

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 wishes to connect the single-family home and demolish and replace the existing garage. The Board notes the applicant has considered and presented other alternatives, however the applicant notes this option is most feasible.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The existing non-conforming garage is in need of demolition and replacement.
3. The board notes that the requested variances are substantial, but mitigated by neighborhood context, among other factors.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. Standard district permeability requirements will be met. The applicant noted in the application that run off mitigation measures will be in place.
5. The alleged difficulty is considered self-created insofar as the applicant desires to construct the renovations; however, this is not necessarily fatal to the application.

It is so moved, dated: March 27<sup>th</sup>, 2023

Seconded by Cherie Grey

Passes by the following votes:

**AYES: 4 (G. Simpson, B. Gallagher, E. Bergmann, A. Smith,)**

**RECUSED:**

**NAYES: 1 (C. Grey)**

**10. #20221036 110-114 Nelson Lot #2 Area Variance**, 110-114 Nelson 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	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Front Setback	10 ft.	3 ft.	7 ft. or (70%)
Max Principal Coverage	40 %	45	5% (12%)
Interior Side Setback (Porte Cochere)	8 ft.	5 ft.	3 ft. (37.5%)
Min. Total Side Setback	20ft	13ft.	7ft (35%)

John Witt represented the application. He noted there has been some additional changes and he has eliminated the relief for the garage. He noted that overall most of the relief have been reduced. He noted that the lot to the rear will be developed as a PUD. He noted that he has extensive neighborhood support. He stated that he studied the 4 blocks around this project are non-conforming. There Porte cochere that are on the property line. He stated this proposal is more conforming than most of the homes in this neighborhood. He noted he has eliminated the bump out on the garage. He noted the front setback remains the same. If you remove the Porte Cochere the coverage would be consistent with district requirement.

Brad asked if the applicant provided revised plans. He appreciates the proposal and he thinks it fits into the neighborhood and he is supportive of the current proposal.

Gage stated he is supportive of the project

Public hearing was closed at 9:03 by Gage Simpson. No additional comments were heard.

Brad Gallagher presented the following motion:

20221036  
 IN THE MATTER OF THE APPEAL OF  
 Witt Construction Inc.  
 110-114 Nelson Avenue Lot 2  
 Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 110-114 Nelson Avenue Lot 2 in the City of Saratoga Springs, New York being tax parcel number 166.77.47-17 on the Assessment Map of said City.

The applicants having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a new residence and detached garage in a UR-2 District and public notice having been duly given of a hearing on said application held January 23 through to March 27, 2023.

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 PRINCIPAL COVERAGE	40%	43.6%	3.6% (9%)
SETBACK – FRONT	10 FT.	3 FT.	7 FT. (70%)
SETBACK - INTERIOR SIDE (PORTE COCHERE ONLY)	8 FT.	5 FT.	3 FT. (37.5%)
MINIMUM TOTAL SIDE	20 FT.	13 FT.	7 FT. (35%)

As per the submitted revised plans, dated February 15, 2023 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 submitted that the vernacular architecture of the surrounding residences in the neighborhood along with the setbacks of those residences are consistent with the requested variances for the proposed new construction. The proposed residence was designed to accommodate the needs of the applicant as they age-in-place, as well as to blend with the architectural details of historic homes in the surrounding neighborhood, according to the applicant. Design elements, such as the porte-cochere, which create uniqueness in the architecture while also providing functional coverage aspects to the side entry, according to the applicant. In addition, the porte-cochere is similar to another neighboring property which has less of a setback, according to the applicant. Based on these characteristics and unique location of the property, the Board finds that the applicant has demonstrated that other alternative designs that were considered would not serve the applicant or the neighborhood as well as the proposed design.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant has provided evidence, including video and written materials, which the Board finds establish that the variances are similar in context to neighboring properties. Moreover, the applicant has demonstrated that other properties have similar design characteristics, like the porte-cochere, to neighboring properties.
3. The Board finds these variances are substantial, but notes the character of the neighborhood mitigate this concern as the proposed design and setbacks are similar to other residences.
4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. The lot will exceed permeability requirements of 25%.
5. The alleged difficulty is self-created insofar as the applicants desire to construct the proposed addition, but this is not necessarily fatal to the application.

It is so moved. Dated: March 27, 2023  
Seconded by Cherie Grey

Passes by the following votes:

**AYES: 5 (G. Simpson, B. Gallagher, C. Grey, E. Bergmann, A. Smith,)**

**RECUSED:**

**NAYES:**

**APPROVAL OF MEETING MINUTES:**

No meeting minutes were approved.

**MOTION TO ADJOURN:**

There being no further business to discuss Gage Simpson, Chair, adjourned the meeting at 9:11 P.M.

Respectfully submitted,

Aneisha Samuels  
Senior Planner