



ZONING BOARD OF APPEALS

MINUTES (DRAFT)

MONDAY, APRIL 10, 2023

6:30 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Brad Gallagher, Vice- Chair, called the meeting to order at 6:30P.M.

SALUTE THE FLAG

PRESENT: Brad Gallagher- Vice Chair, Cheryl Grey
Alice Smith, Brendan Dailey, Shafer Gaston

ABSENT: Gage Simpson- Chair, Emily Bergmann

STAFF: Liz Haight, Recording Secretary to the Land Use Boards.
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:

1. **#20230142 44 Jefferson Single Family Conversion**, 44 Jefferson Street, Area variance to permit the conversion of current structure to a single family within the urban Residential -2 District.

Cherie recused from this application

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Interior Side Yard Setback	8 ft.	3 ft.	5 ft. or (62.5%)
Total Side Yard Setback	20 ft.	14 ft.	6 ft. or (30%)

The application was represented by Jill More of 32 Jefferson Street. He noted the that 44 Jefferson has been vacant for 5 years it was built in 1976 as a grocery store and was also used as a barber shop. He noted it is a smaller lot and based on neighborhood feedback nobody wants it to be a business anymore. Because it's a small lot the variances are being triggered. He noted he would like to keep the current setback on the right side and go up two floors. On the left side the plan is to keep the current setback on the second floor and have a drive

through to the rear. The relief is for side yard setback. No relief is being requested for the front or rear only for the sides.

Brendan asked if there are any plans to control run-off. The applicant noted there will be a gutter in the back and the home will have a flat roof so no additional impacts will be generated.

Brad asked if the applicant could reduce the relief from the side yard setback. The applicant noted that on the left side he could eliminate some of the relief being requested but the proposed layout is what is preferred. He noted there is no intention to demolish the current structure as an engineer has confirmed the building is structurally sound. Brad asked if the square footage can be accomplished from another section of the building instead of the additional side yard relief.

The applicant noted he would go back to the design phase and propose a reduced setback relief request.

Brendan noted he has no problem with the proposal but it would be good to see some alternatives.

Public hearing was open at approximately 6:20 by Brad Gallagher.
No comments were heard.

2. #20230141 130 Circular Carriage House Renovation, 130 Circular Street, Area variance to permit the expansion of use in the detached garage within the Urban Residential -2 District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Sleeping Units in Accessory Structure	4 Units (based on previous approval)	6 Units.	2 Units or (505%)

Aneisha Samuels noted that the current application is a modification of the previous variance, which would permit the applicant to have 8 adults and their children sleeping in the accessory structure the current proposal is to increase that number to 12 adults and their children or 6 units.

Daniel Chertack represented the application. He noted that property is a residence for his clients that's also operate a synagogue. He noted that in the Jewish religion for some services you are required to have 10 men and they shouldn't walk to worship as such it is ideal that they sleep on the premises. Also there is a limited Jewish congregation as such oftentimes they have out of town members that also need a place to stay.

Cherie asked if it would be possible for the additional sleeping spaces to be added to the main dwelling instead of the garage. The applicant noted that the only space in the main home that could permit the additional dwelling area would be the basement and it is not up to code regarding access and circulation. He noted they have applied and was not approved. He further noted that the garage space is perfect for the proposal. The main home will not work to accommodate the project.

Rabbi Abi Ruben noted that he is the rabbi of the congregation. He noted the principal structure is used for his dwelling as well as for the worship and he has a big family as rabbis usually have between 8 and 15 children.

He noted his house is pretty full already. He noted that the basement is not in use but it would not satisfy the needs for handicap access or access for the elderly.

Daniel noted that the additional rooms will be on the first to accommodate access needs.

Cherie noted that there are restrictions for garage in Saratoga Springs. The applicant noted there will be no cooking and there is no kitchen. She noted this goes against the usual approval. She further noted parking may be an issue.

Further discussion ensued.

The applicant noted that he is seeking to accommodate 12 adults and their children.

Public comment was open at 6:36 by Brad Gallagher.

Donna Hayes of 5 cottage place noted she has direct view of the carriage house she noted there is a kitchen in the carriage house. She noted that the stove is often wheeled out during inspections. She noted the she observed the carriage house is being used for Airbnb. She noted that parking is a big issue. One time there was a school bus blocking the alley preventing her access. She noted it is not only for the congregation but she believes this is a retail project.

Joe Logan from 133 Circular Street. He is also concerned about the use of the property. He noted sometimes there are greyhound busses unloading people and he doesn't believe it is what it appears to be.

The applicant noted there is no kitchen

A motion for advisory opinion from the panning Board regarding parking and density was presented by Brad Gallagher. Motion passed 4-0 (Shafer abstained).

Public hearing remains open.

3. #20230140 84 Adams Street Area Variance, 84 Adams Street, Area variance to permit the construction of a detached garage in the Sub-Urban residential District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	Proposed	Relief Requested
Accessory to rear yard setback	30 ft.	11 ft.	19 ft. or (63.3%)

Joseph Colander of 84 Adams road. He stated he wasn't initially seeking any relief. After the plans were drawn he realized the proposed plans without relief would not work because he drives a full size pick up. In order to build a detached garage he is looking to build it as far back as he can. He noted that behind is property is that Ballston spa area and no residence will be impacted. The applicant noted he is not seeking any side yard relief. He noted the relief is only for the rear yard relief for the detached garage.

Brad noted the garage is currently 45 ft. between the garage and the home. He further asked if the applicant would consider moving the garage closer to the house to lessen the relief from the rear.

Brendan asked for the applicant to consider alternatives that would lessen the relief being requested.

The applicant noted he is not encroaching on any one he would be encroaching on trees. As such he believes the alternatives would be infeasible.

Brad noted there are other alternatives such as reducing the garage to a 2 car garage that would potentially reduce the relief being requested.

Cherie noted the home already has a two car garage and this additional 3 car garage seems odd. The applicant noted the 3 car garage would be used for storage. Cherie noted that the applicant should provide comps with similar accessory structures within the rear setback. She further noted based on her observation the shed or accessory in this neighborhood seem to be on the smaller end.

Alice stated that granting relief that is this significant will set a bad precedence for other homes in the neighborhood.

Public hearing was open by Brad Gallagher at 7:29

CONTINUED BUSINESS

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.

Aneisha Samuels noted that the applicants have asked to be adjourned to a future meeting. The applicants have noted they are working on the requested material and needs more time.

Public hearing remains open.

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.

Aneisha Samuels noted that the applicants have asked to be adjourned to a future meeting. The applicants have noted they are working on the requested material and needs more time.

Public hearing was remains open

6. #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:

TYPE OF REQUIREMENT	REQUIRED	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%)

Application withdrawn by applicant. The proposal has been amended to exclude the dwelling space. The garage will be a detached garage with finished space and will not include habitable space.

Application withdrawn.

7. #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.

Brendan stated he wasn't at the last meeting and has watched the video and has been brought up to date.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	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 noted no rear relief is needed for the garage to alley. She stated the lot width relief is triggered by the narrow front on the alley. She noted she has provided the additional information requested by the board including the aerial image showing the lot frontages on Caroline. She noted all the lots are under 60ft except for 1 lot. She noted that she believes the lot width request is consistent with the neighborhood. She further noted that the lot line position is most consistent with creating a parallel lot line both lots are over the lot size requirements. She noted that from Caroline Street you would not be seeing the smaller lot line impacts since the front is 63ft. and the relief is only triggered by the narrow rear. As it pertains to the other variances these are triggered by the existing building.

Alice smith asked if all the relief being requested is for the new lot and the existing lot will remain compliant.

Brad stated public hearing is still open and if anyone had comments. No additional comments were heard.

Brad Gallagher closed public hearing at 8:07

Brendan Dailey Presented the following motion.

#20230063
IN THE MATTER OF THE APPEAL OF
James Stockwell
172 Caroline Street
Saratoga Springs, NY 12866

From the determination of the Building Inspector involving the premises at 172 Caroline Street in the City of Saratoga Springs, NY, being tax parcel number 166.61-1-7 on the Assessment Map of said City. The Applicant having applied for an area variance to permit a subdivision to create two parcels, in the Urban Residential (UR-3) District and public notice having been duly given of a hearing on said application on March 27th and April 10th, 2023.

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

Type of Requirement	District Dimensional Requirement	Proposed	Relief Requested
Minimum Average Width: Lot 2	60'	55.5'	4.5' (7.5%)
Minimum Total Side (Garage Only)	12'	9.7'	2.3' (19.2%)
Accessory to Side existing garage	5'	0'	5' (100%)

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant considered other alternatives, including altering the lot lines, but such alterations would have compromised the size of both lots 1 and 2, making them undesirable to the applicant and would compromise the size of the existing lot 1 and potentially result in more relief needs.
2. The South side of Caroline Street currently has similar lot sizes, but once this lot is subdivided it will become more consistent with homes on the north side of Caroline Street. The applicants note that the proposed new boundary and lot configuration are consistent with the UDO and will provide sufficient space for a zoning-compliant new home construction on Lot 2. The current garage is exiting and the south west roof is proposed to be modified to remove the roof corner which infringes over the property line. If the garage is demolished the permitted zero-foot setback would no longer apply. The applicants provided the Board with information on comparable lots in the neighborhood so that Lot 2 would be consistent with neighborhood context. While the Board is generally not in favor of creating non-compliant sized new lots, the shortfall in total lot size in this case is not significant.

3. The requested variances are not considered substantial besides the garage; however, since it is existing, this is not necessarily fatal to the application.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood.
5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

Condition: If the garage is removed the permitted zero-foot setback will no longer apply.

Notes: The City Planning Board issued a favorable advisory and concluded a negative declaration for the SEQR on February 9th 2023.

It is so moved, April 10th, 2023

Seconded by Cherie Grey

Passes by the following votes:

AYES: 4 (B. Gallagher, C. Grey, B. Dailey, A. Smith,)

ABSTAINED: 1 (S. Gatson)

RECUSED:

NAYES:

8. #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

John Iacaponi represented the application. He noted this is a complex property and situation but in some ways it is very simple. He noted that starts often mentions precedent and he believes the precedent regarding the previous ZBA Decision should be considered. He noted in the previous decisions the board noted that there should be no further expansion of the commercial use. He noted he is entitled to believe the zoning map of 1992/1998 that shows the line very clearly. If you look at the direct ruling regarding this location you can clearly see the intent of the city regarding no further expansion of the commercial use has been the intent of the city for decades and that has been very clear.

Alice stated the boundaries have not changes the district names might change and the district lines have remained clear.

Aneisha stated that the role of the Board is to interpret the ordinance. The project scope and land owners shouldn't matter. The project should play no role in the board interpretation of the ordinance.

Jackie stated that the focus should be on the interpretation appeal of this provision and not the project. She further stated that the role of the Zoning administrators should be viewed with any more weight and this board now has the opportunity to agree or not agree with his interpretation. As a board you may decide to uphold, modification or overturn his determination.

John stated there is no uncertainty with the district or lot boundaries since the before 1960. He further noted that the intent of the city is irrefutable.

Brad stated public hearing remains open and if there were additional public comments.

Libby Coreno stated she is representing the Stewarts shop. She noted that this section has been interpreted before and there is case law on this issue. She noted previously the interpretation by the appellant division 3rd department was supportive of Patrick Cogan’s interpretation and was under similar circumstances. In that case the applicant was permitted to extend the RR zoning at the property owner’s option into the TRB zone, as a result the animal kennel was located entirely into the RR zone. She noted that the legislative body incorporated this law in 2012 decades after any decision by this Board. She noted that the way the board has been counselled by staff and legal council is absolutely the accurate interpretation of the legal standard. Libby further noted that the city has the taxed the parcel as vacant commercial. The board should consider how the section has been interpreted over the years.

Lacolm from 11 Marion Avenue was the second commenter. She stated how she interprets the section is an, and, if, when, statement. She further stated that if the first section doesn’t apply the remaining sections wouldn’t apply. If there is no uncertainty then the remaining sections wouldn’t apply.

Libby further commented that the state provisions of 81a6 states that the application should not be adjourned while the appeal is pending. She asked that the Stewart’s application be returned to the agenda.

Public hearing remains open.

9. #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:

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

Brittany Englemann represented the application. She stated nothing regarding the project has changes and at the last meeting the board sis not request any additional information.

Brad Noted public hearing is still open and if there were any comments. No comments were heard.

Brad Closed public hearing at 7:53

Cherie Grey Presented the following motion

#20220047
IN THE MATTER OF THE APPEAL OF
Jim and Amber Sears
3 Lilac Lane
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 3 Lilac Lane in the City of Saratoga Springs, New York being tax parcel number 154.18-2-38 on the Assessment Map of said City.

The applicant having applied for an area variance under the Unified Development Ordinance (UDO) of said City to permit the construction of a pool house at the residence in a RR-1 District and public notice having been duly given of a hearing on application held on March 13, 27 and April 10, 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 variance for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
MINIMUM REAR SETBACK TO POOL HOUSE	50 FT	25 FT	25 FT (50%)

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 wants to build a pool house adjacent to their already existing pool. They would also like to have a small shed attached to the pool house for equipment. Per the applicant, the pool house location is affected by the slope on the property and cannot be positioned differently and still be accessible to the pool. The applicant has no other location to locate the pool house.
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 house and pool are already in existence. The area behind the property is a wide conservation area with existing homes on the other side of the conservation area. The pool house will be shielded by wooded lots on both the rear and side property with part of the home blocking the view of the pool house from the road. The applicant provided comparable neighborhood pools placed in the rear setback.
3. Although the variance is substantial at 50%, this is due to the fact that the existing house and pool are constructed with no other area to construct the pool house. There is no adjacent property available to purchase.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. Permeability requirements will meet district requirements.
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.

It is so moved. Dated: April 10, 2023

Seconded: Brendan Dailey

Passes by the following votes:

AYES: 4 (B. Gallagher, C. Grey, B. Dailey, A. Smith,)

ABSTAINED: 1 (S. Gatson)

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 8:34 P.M.

Respectfully submitted,

Aneisha Samuels
Senior Planner