



ZONING BOARD OF APPEALS

MINUTES (DRAFT)

MONDAY, APRIL 24, 2023

6:30 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Gage Simpson- Chair, called the meeting to order at 6:32P.M.

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

ABSENT:

STAFF: Amanda Tucker, 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. **#20230161 8 Taylor Shed**, 8 Taylor Street, Area variance to permit the rear encroachment of an existing rear patio within the Urban Residential - 2 District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Corner Side Setback (Rear Patio)	10 ft.	7 ft.	3 ft. or (30%)
Accessory To rear setback	5 ft.	3.3 ft.	1.7 ft. or (34%)
Patio to rear setback	25 ft.	13 ft.	12 ft. or 48%

Laurie and Gary Cretelli represented the application. Laurie stated that she shed was purchased in 2018 and the shed style matched the home. She stated at the time of purchasing the shed she had permission from the neighbor at 4 Taylor. At the time she didn't know it needed zoning. She noted the shed was placed in this location because it is on dry level ground and giving them space in the backyard. She mentioned the property remains at least 50% permeable and all the run off is contained on the property. She further noted the shed doesn't block anyone's view. She further stated that the patio is located at the back of the house she noted she requested relief for 2ft 2inches. She noted she did not knowingly violate the setback rules. She noted the section that needs the relief is used as a walkway to get to the door on the side of the garage. She noted that section is not used for sitting or entertaining. She noted a 6ft. fence surrounds the most of the yard and has small trees and shrubs. She noted the variance will not have any adverse impacts on the district or the neighbors.

Gary Cretelli of 8 Taylor Street. He stated his intent is to address the comments.

Discussion ensued among the board members and staff regarding clarification of the relief needs.

Gary further stated that he believes the real issue the neighbor is having is that he refused to sell a portion of his property and there is current litigation with the neighbor.

Gage asked for further clarification regarding the neighborhood context for other shed in the neighborhood within the setbacks. He further stated he is not too concerned about the patio.

Cherie noted that the shed should not have been placed in this position and she believes the shed is movable the applicants may want to consider that option or provide a narrative as to their position. She also asked for comparable shed.

Emily asked what triggered the variance request. The applicant noted it was brought their attention.

Cherie also noted that the comps are required to ensure the shed position is not setting a precedence for the neighborhood and that the zoning is in place to prevent that.

Public hearing was open at approximately 7:00 by Gage Simpson.

Michelle Storm represented Mr. Bidos. She noted she had submitted a letter. She noted the applicant's proposal is a self-created hardship and the zoning existed prior to the location of the shed. She also noted based on her observation there are no other shed within the setback within this neighborhood.

John Heath from 2 Richard Avenue stated he moved into this neighborhood 2016. He stated that he is supportive of the shed in the current position. He also stated he likes the arborvitae which is like a buffer to the shed. He noted moving the shed might not be feasible. He noted that the shed less invasive than other sheds within the neighborhood including other shed on Taylor but it may have been there for 30 or 40 years. The shed is not a nuisance to the neighborhood.

Todd Turnpeck noted he also a member of the neighborhood. He noted he has never seen the shed and he is supportive of the shed in the current position.

#2. 20230162 77 Hathorn Deck, 77 Hathorn Blvd, Area variance to permit the construction of a front deck within the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Front Yard Setback	30 ft.	7.5 ft.	22.5 ft. or (75%)

Jessica Madison represented the application from 77 Hathorn Blvd. She noted the home was purchased in 2018 and since then a lot has been done to improve the home. Her plan is to improve the front porch. The existing front porch is narrow and there is a dangerous 3-4ft drop off. Which makes it unsafe for children or the elderly. The plan is to increase the porch size and change the angle of the stairs. She noted she had a contractor that informed her to purchase the material which she did and then the contractor disappeared. And has since filled a cases in small claims court. She has since hired a new contractor and started the correct permitting process and

subsequently found out she needed a variance. She noted alternative dimensions were considered but this option is most feasible to allow for an up-to code front stairs. She further noted the intent is to make the entrance safer. She noted the existing home is within the setback. She also noted she has supporting letters from the neighbors.

She noted she looked around the neighborhood and there are other porches within the setback and what she is proposing is within character of the neighborhood. She noted she understands the variance request is significant but gas and water will not be impacted. She noted that the proposed porch will be an improvement to the home and neighborhood.

Shafer noted the applicant answered most of his questions. He asked for the applicant to confirm permeability. The applicant stated she believes permeability is compliant but she will confirm at a later date. He asked for staff to confirm if the home was preexisting non-conforming.

Amanda Tucker stated that the setback requirements at the time of construction were much less and the zoning requirements have changed overtime.

Shafer asked if the proposed stairs will be ADA Compliant. Jessica noted Curtis Lumber did the drawings and everything is ADA Compliant.

Emily asked if the applicants considered other alternatives. The applicant stated they have considered alternatives but the stairs would be compliant and it would push further into the front yard, and the only option is to turn the stairs to the side.

Alice asked for clarification regarding the additional space. The applicant noted the width of the deck/porch remains the same and the only change is towards the front.

Cherie noted the comps provided by the applicant are not similar to what is being proposed. As none of the comps provided has come that far into the front setback. She noted she looked at an overhead Google map of the area and none of the other front porches protrudes that far into the front setback. The applicant may want to consider a lesser relief than the 75% being requested and this may be setting a bad precedence.

Gage noted the applicant should provide comps that are more similar to the requested deck/porch within the setback.

Public hearing was open at 7:37 by Gage Simpson. No comments were heard.

#3. 20230160 138 Jefferson Garage, 138 Jefferson Street, Area variance to permit the reconstruction of existing garage within the Urban Residential-2 (UR-2) District.

Brad Gallagher recused from the presentation.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Accessory to Side Yard Setback	5 ft.	2 ft.	3 ft. or (60%)
Accessory to Rear Yard Setback	5 ft.	2.5 ft.	2.5 ft. or (50%)

Stephanie Ferradino represented the application. She stated the applicants purchased the property in 2022 and they inherited the current violation on the property. The property is zoned UR-2 and the relief is for the accessory garage. She noted the lot is pretty significant and is L shaped. The property went into foreclosure in 2017-18 at that time all the parcels were under common ownership. The owner later moved the garage but was not considering the setbacks. She noted if the garage was to be moved further from the lot lines it would become unusable due the proximity to the principal structure.

Stephanie noted that her clients tried to purchase additional property but that was refused by the neighboring property owner. She also noted the change would not create an undesirable change in the neighborhood character. She noted her clients even proposed a land swap for the portions of the parcel impacted and the owner was not interested. The adjacent property that would be most impacted is undeveloped.

Stephanie further noted the variance may be considered substantial but is less than 3ft of relief and the owners have cured the encroachment. She noted she doesn't believe there would be any adverse impacts to the neighbors. Granting this relief will allow for the continued use of the garage.

She noted the difficulty is not self-created and the violation was earned from the previous owners, and granting this relief will remedy the violations.

Cherie asked for further explanation regarding the anchoring of the structure. Stephanie stated initially it was a carport that has been anchored approximately 3ft to make it a more permanent structure.

Cherie noted she believed this application was before the Board before regarding the front porch. She noted since the lot is significant there could be alternative locations. She further noted if the garage was to be demolished she wouldn't want a rebuild in the same position.

Mark Schachner confirmed it is up to the board to make that part of the condition of approval.

Cherie asked for the applicants to confirm the use of the structure. Stephanie confirmed the garage is only being used for car storage and equipment storage and is not being used for living space or renting in Airbnb

Public hearing was open at 7:58 by Gage Simpson.
No comments were heard.

#4. 20230159 672 Roof and Canopy Extension, 672 Crescent Avenue, Area variance to permit the expansion of the existing single-family home in the Rural Residential- (RR) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	RELIEF REQUESTED
Front Yard Setback	60 ft.	18 ft.	42 ft. or (70%)

Les Achroman represented the property owners. He stated that the intent is to create something nice on Crescent Avenue. Giving it a better curb appeal and improve the safety as you enter the house. The existing home has an unsafe entrance. The house is completely located within the setback. The applicants conserved moving the entire home but that is infeasible. There are other homes within Crescent Avenue that has been rezoned PUD and now has a 10ft setback. Although the zoning is different, that parcel is very close. All other requirements are within zoning except for the front yard requirement. 674 Crescent is also within the setback. The applicant resented similar homes within the neighborhood that are within the setback. The applicant noted a canopy will be added to the entrance and there will be new siding. The plan is to add a bay window. Rebuilding the entry stairs and rebuilding the windows and doors to modernize it. The proposal is to come out 2ft from the existing roof line. The owners provided letters of support for the neighbors. The owners stated that the intent is for the home to be tasteful.

Brad stated that he appreciated the presentation. He asked for clarification on the overhang on the 1.5/2ft overhang. The applicant confirmed the proposed extension would be an additional 2ft out from the current overhangs. He also confirmed the front stoop would be approximately 6ft. Brad asked if alternatives were considered to relieve the relief. The applicant noted alternatives considered were very awkward looking.

Brendan asked for rendering of the alternatives the applicant noted it was not even worthwhile to draw those.

Cherie conformed the relief needs and the existing conditions. The applicant noted the existing is 4ft to the wall less than what is being proposed. However the overhangs are approximately 2ft.

Public hearing was open at 8:22 by Gage Simpson.
No comments were heard.

CONTINUED BUSINESS

5. #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. Gage noted the Board does not have a resolution. John stated he was at last meeting and he expected a resolution and would be happy to answer any questions.

Gage noted that the section 1.7 in question in his opinion does not apply to the 31-33 Marion Avenue since there is no uncertainty with the boundary lines.

John noted he is not asking for a change he is asking for the status quo to be maintained. He noted if you have weigh arm Stewart's knew at the time of purchase where the lot and districts lines.

Mark Schachner mentioned it is important to keep in mind the legal procedure. The applicant or the developer should not matter. The boards' role is to review the zoning and interpret the relevant sections of the ordinance. The environmental or community impact should not play a role. He further noted there are competing legal principals based on the previous decisions.

John noted this is how it was written and enacted and there were ample opportunity to change it but it wasn't.

Cherie noted this is a tedious process and the board felt it necessary to take their time to review the material.

Public hearing remains open. No additional comments were heard.

6. **#20220202 31-33 Marion Avenue Area Variance**, 31-33 Marion Avenue, Area variance to permit the demolition of the existing garage, mobile station and car wash and to construct convenience store, gasoline canopy, car wash and rental space within the Tourist Related Business (TRB) District.

Application adjourned to future meeting pending a revised denial from the zoning officer or revised plans from the applicant. Since the relief requested is dependent on the outcomes of the interpretation. As presented the application would be a use variance however if the district lines were allowed to move 100ft as proposed by the applicant it would be an area variance.

7. **#20230048 35 Newton Subdivision Area Variance**, 35 Newton, Area variance to permit a two-lot subdivision within the Urban Residential -2 District.

Brad Gallagher recused from the project.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	Proposed	Relief Requested
Min Average Lot Width lot #1	60 ft.	50 ft.	10 ft. (16.7%)
Min Lot Size lot #1	6600sqft	5750 sqft.	850 sqft. (12.9 %)
Min Average Lot Width lot #2	60 ft.	50ft	10 ft. (16.7%)
Min lot size lot #2	6600sqft	5750 sqft.	850 sqft. (12.9 %)

Collin Klepatar represented the application.

Amanda Tucker noted the application received a favorable advisory and Negative SEQR Declaration from the City Planning Board.

Cherie conformed that the existing home and garage will be demolished. The applicant conformed.

Public hearing was closed at 8:34 by Gage Simpson

Emily Bergman presented the following motion:

#20230048
IN THE MATTER OF THE APPEAL OF
Colin Klepetar
58 Newton Ave
Saratoga Springs, NY 12866

From the determination of the Building Inspector involving the premises at 35 Newton Ave in the City of Saratoga Springs, NY, being tax parcel number 165.57-1-60.1 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-2) District and public notice having been duly given of a hearing on said application on March 13th and April 24th, 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 1	60'	50'	10' (16.7%)
Minimum Lot Size Lot 1	6600 sf	5750 sf	850 sf (12.9%)
Minimum Average Width: Lot 2	60'	50'	10' (16.7%)
Minimum Lot Size Lot 2	6600 sf	5750 sf	850 sf (12.9%)

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 remodeling the current house on Lot 1. However, due to extensive mold and other issues in the house purchased “as-is”, it was not feasible to continue to work on the house. The house and garage will be demolished and new houses will be built on Lot 1 and Lot 2. The applicant states that the subdivision of the property will allow them to afford to build the house on Lot 1.
2. The applicant states that the subdivision will not produce an undesirable change in the neighborhood’s character. While both lots being presented are undersized at 50 feet instead of the required 60 feet, the applicant provided neighborhood context to show that there are 9 other lots in the surrounding area that also have a 50 foot frontage – one right next door to the applicant’s property, and six directly across the street and two around the corner on Bensonhurst. Overall, these proposed new lots 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. The variances requested are similar in width and square footage to the majority of surrounding lots per the applicant and per the zoning map from 1902. Although the average width of both lots will be 10 feet short of the zoning requirement, it is the same or larger than the neighboring lots to the south, east, northeast and southeast. Additionally, the Board notes that Lot 1 and Lot 2 being 850 sf smaller than the zoning requirement, the lots will still have the same square footage as the parcel directly to the south and is similar to the parcels to the east, northeast and southeast.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. Per the applicant, any new homes being built on Lot 1 and Lot 2 will meet district zoning requirements. There are already sources to tap into for water, sewer and gas. Additionally, the applicant states that by meeting the zoning requirements, he will ensure that there is adequate area for water runoff and drainage. Standard district permeability will be met.
5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

Notes: City Planning Board issued a favorable advisory on April 13, 2023 and concluded a negative declaration for the SEQR.

It is so moved, April 24th, 2023
Seconded by Cherie Grey

Passes by the following votes:

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

ABSTAINED: 1 (S. Gaston)

RECUSED: 1 (B. Gallagher)

NAYES:

8. #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 application. He noted since the last meeting a provided a thumb drive to Aneisha with information from the previous application that is relevant to this application. He further stated he provided a letter from Tom Rohan used in the Guanill application, that listing the home as a single home would be infeasible and trying to sell a property with violations will be difficult to get financing. John stated listing will not work in his opinion.

John noted the cost to convert to a two family would be a negligible cost. He further stated 83 nelson as a separate entrance to the rear unit.

Cherie asked for comparable two family homes within the district. John Conformed there are several single family homes and two and three family buildings. He noted this building has been used in this manner for over 20 years.

Emily asked for confirmation regarding the use of the middle unit. John noted the middle unit would be not be used as it is used now. The middle unit kitchen would need to be removed. Emily asked if the applicant explored the option to combine the middle unit with the front or rear and what would be the cost associated with that change.

Emily further asked if the applicant explored other acceptable uses including Bed and Breakfast and rooming house. The applicant noted the layout of the home would not work because they are not connected.

Ted Waite confirmed he would be residing in the front unit and renting the rear unit. He confirmed he also owns the neighboring parcel.

Emily noted that the financial piece is difficult to prove. And she would like to see more information regarding the financial hardship.

Gage stated the 4 criteria is difficult to proof all in this case. Although he can empathize with the hardship not being self-created he believes Cherie asked for more information regarding the uniqueness and Emily may need more information regarding the financial hardship.

Public hearing was remains open. No additional comments were heard.

9. #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.

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%)

Application adjourned to future meeting.

Public hearing remains open.
No comments were heard.

10. #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.	15 ft.	15 ft. or (50%)

Joseph Colander of 84 Adams road. He stated he turned in the requested information.

Cherie noted he only provide 1 comp and there was no address. Joseph stated that 111 Geysler and 107 Geysler have similar garages.

Gage noted he was not at the previous meeting but he has caught up with the recordings. Joseph noted he does not require a side yard setback and the current proposal is what he needs.

Gage stated based on what he observed at the last meeting the board seems to want further reduction in the relief needs. He noted he drives a full size truck it will be difficult to turn in a closer garage and he has other plans for his backyard that wouldn't work if the garage was to be positioned closer.

Cherie noted the property seems to be significantly asphalt and if the applicant will have finished space above the garage. She noted she is concerned about the building size so close to the rear yard. The applicant noted his wife has a lot of stuff and he needed the additional space including the existing carport and the proposed 3 car garage. She further noted the proposed garage seems inconsistent with the neighborhood.

Joseph noted his lot is much narrower than most of the other lots in the neighborhood.

Brad noted the request is significant and the minor improvements from last week seems like more could be done.

Shafer noted the zoning is in place for a reason and if the applicant considers alternatives including elevations and it shouldn't be a quick sketch but the applicant should provide the actual proposal. Shafer further noted for him to make a decision the drawing needs to be reflective of the actual plans and not just an idea of what the proposal is. Shafer noted he wouldn't consider this application a complete package.

Brendan stated he would like to see some rendering of what the building would look like. He further noted it would be helpful if the applicant provide alternate drawings so he can visualize the proposed garage.

The applicant noted he would like to scratch the project. If the board is not amicable to the 15ft setback. He further noted there are no neighbors to be impacted.

Gage noted the role of the board is to reduce the relief percentage. And if relief is granted the ideal situation is to reduce the proportion of building within the setback.

Public hearing remains open.

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 approximately 8:45 P.M.

Respectfully submitted,

Aneisha Samuels
Senior Planner