



ZONING BOARD OF APPEALS

MINUTES (FINAL DRAFT)

MONDAY, MAY 16, 2021

6:30 P.M.

CITY COUNCIL CHAMBERS ZOOM WEBINAR

CALL TO ORDER: Gage Simpson, Chair, called the meeting to order at 6:31 P.M.

SALUTE TO THE FLAG:

PRESENT: Gage Simpson, Chair; Brad Gallagher, Vice Chair; Cheryl Grey; Keith Kaplan; Emily Bergmann
Matthew Gutch; Justin Farrington
; John Daley, Alternate

ABSENT: Emily Bergmann; Justin Farrington

STAFF: Aneisha Samuels, Senior Planner, City of Saratoga Springs
Patrick Cogan, Building Inspector/Zoning Officer
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.

APPROVAL OF MEETING MINUTES:

Cherie Grey made a motion to approve the minutes of the March 14, 20222022, Zoning Board of Appeals Meeting with amendments as submitted. Gage Simpson seconded the motion.

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

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VOTE:

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Gage Simpson, Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Gage Simpson, in favor; Keith Kaplan, in favor;
Matthew Gutch, in favor; John Daley, Alternate, Emily Bergmann, in favor;

MOTION PASSES: 56-0

ZBA APPLICATIONS UNDER CONSIDERATION:

NEW BUSINESS:

- #20220262 29 MADISON AVENUE AREA VARIANCE**, 29 Madison Avenue, Area Variance to permit an addition to the existing Single-family home and modifications to the existing carriage house to facilitate a two-car household two home offices two-car household two home offices, and a Gym within the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage%	20%	35.6%	40.7% or 103.5%
Maximum Accessory Coverage %	8%	9.4%	1.4% or 17.5%

Side 1 – Side Porch	12 ft.	6.1 ft.	5.9 ft. or 49.2%
Total Side	30 ft.	17 ft.	13 ft. or 43.3%
Finished space in accessory structure	Not permitted	Permitted	100%

Applicant: Carlson Molloy Residence

Agent: Mike Tuck & Peter Urban – Balzer Tuck Architecture

DISCLOSURE:

Cherie Grey disclosed that she is ~~approximately~~ 230 ft. from this property location. She has no financial interest in this application and can be impartial in voting.

Mr. Tuck provided ~~an aerial visual of the property location. Mr. Tuck provided a~~ history of the home and property, ~~as well as an aerial view of the site.~~ The ~~intention of the~~ Applicant is ~~proposing~~ to remove ~~some of the~~ previous additions and replace it with a new addition. The property currently has ~~an~~ inground pool which will be removing as well as expanding the current carriage house, ~~to facilitate a two-car household.~~ The interior of the home will be reconfigured to meet the needs of the homeowners. The lot requirements for this district ~~is~~are 12,500 sq. ft and this existing ~~non-conforming~~non-conforming lot is 7,500 sq. ft. What we are proposing will increase the principal coverage and slightly decrease the accessory coverage. Photographs of the current home and carriage house were provided to the Board as well as the current site plan showing the areas where requested variances would be ~~required~~needed. The intent is come off the rear of the home maintain the existing width of the home adding 15 ft. of living space and add additional 10 ft. to replace the screen porch. We are also proposing to change the configuration of the roof on the second floor to obtain ~~additional~~more second floor space. On the accessory structure/carriage house we are proposing an additional 12 ft. addition to the east. Mr. Tuck reviewed the floor plans and elevations for the home and carriage house for the Boards information and review. No changes are proposed to the front façade of the home facing Madison Avenue. Perspective views were provided from all elevations. Alternative designs were considered but were not in keeping with the historic nature of the home or meeting the clients needs. This project is required to appear before the DRC as well.

Keith Kaplan stated this is an ~~UR-1 District with 12,500 sq. ft. minimum lot size. This is an~~ undersized lot in this district. ~~It What~~ ~~would be helpful if nearby neighborhood properties f~~ lot square footages ~~of their lots and coverage percentages for~~ ~~of coverage for the principal buildings were submitted for neighborhood comparables for these lots.~~

Aneisha Samuels, Senior Planner, stated there were details missing from the submitted plans. The plans did not include all the numbers ~~required~~needed to ~~determine~~ ~~side on~~ the current relief required or requested. Calculations are need for the distance from the proposed chimney to the side yard, ~~and also the~~ dimensions for the total side and ~~also f~~or the patio off the carriage house to the side.

Mr. Tuck ~~stated~~said the patio from the carriage house to the side yard is existing.

Gage Simpson, Chair, reviewed the areas of relief for total side.

Aneisha Samuels, Senior Planner, stated the calculation for the total side yard will change based on the information the applicant's agent will submit.

Brad Gallagher, Vice Chair questioned if the A/C units and compressor unit considered in the calculations.

Mr. Tuck noted they have been included in the calculations.

Brad Gallagher, Vice Chair questioned staff regarding if these are compliant ~~regarding~~on the proximity to the lot line. It appears they are close.

Aneisha Samuels, Senior Planner ~~stated~~said accessory structures must be 5 ft. off the property line, ~~it appears~~ the applicant will also need ~~setback~~ relief for the two A/C units as proposed. ~~They would require setback relief.~~

Mr. Tuck questioned if they would need relief if they were wall mounted units.

Aneisha Samuels, Senior Planner, stated if they were wall mounted units, they would be calculated from how far they extend to the side yard.

Brad Gallagher, Vice Chair, stated he does not have any issues with the proposed addition, ~~it~~ is rather ~~large~~ but the lot is small. He understands the carriage house design and the internal staircase which dictates the design.

Cherie Grey stated what Keith spoke about ~~and~~ is a concern of hers ~~regarding~~ the comparison of neighborhood homes being on ~~another~~ lot of this size, ~~where~~. ~~If the~~ percentages are near 30% principal and 9.4% accessory. ~~Whether~~ ~~or not~~ there are lots of this size in the neighborhood

~~Using~~ using both Madison Avenue and 5th Avenue for comparison. ~~Also~~, what is the distance from the rear lot line to the garage.

Mr. Tuck stated 10 ft. 7 in. to the roofline ~~from the rear lot~~ line.

Cherie Grey stated she ~~does~~ feels this is a large addition for this house. 30% is high on coverage and she is curious as to what the neighborhood comparables will reveal. She voiced concern that the new additions' height ~~and if it would be in~~ ~~would be lower than~~ ~~that of the principal structure~~ in keeping with the DRC historic guidelines. ~~Also~~, what is driving the size of the addition the first floor or the second floor?

Mr. Tuck stated the height of the accessory structure is lower than that of the principal structure. ~~We~~ have been very deliberate about ~~the~~ historic structure ~~as it relates~~ to the addition while being sensitive to the character of the historic home. Mr. Tuck stated the ~~first~~ floor. ~~They~~ ~~are~~ ~~are~~ trying to preserve the character of the Madison Avenue side of the home but also ~~to~~ create a light, open space for the family.

Cherie Grey is still concerned ~~regarding~~ about the overall coverage percentage at almost 40%, and she is still struggling with it and the creation of setting a precedent in the neighborhood. ~~Were~~ ~~there~~ any feasible alternatives ~~considered~~ to help reduce the coverage.

Mr. Tuck stated they did struggle with ~~that~~ ~~that~~, and he ~~provided~~ ~~supplied~~ information to the Board regarding what was discussed and any alternatives they could implement to help with the reduction in coverage.

Gage Simpson, Chair, stated the overall coverage increase is approximately 5% ~~to~~ 35% existing and 40.1% proposed.

Matthew Gutch questioned if the applicants are proposing a ½ bath in the second story of the carriage house along with an exercise room and office. ~~Are~~ any other utilities planned for this area?

Mr. Tuck stated they are proposing a ~~sink and a toilet for this~~ ½ bath. They are no other appliances planned for this area.

John Daley, ~~alternate~~, echoed Keith and Cherie's comments. It will be good to have a sample of neighborhood comparables for context.

~~Gage Simpson, Chair stated the Board is looking for some neighborhood comparables.~~

Aneisha Samuels, Senior Planner, suggested the Board request an Advisory Opinion from the DRC prior to any decision by the ZBA.

Mr. Tuck questioned the process if they need to appear before the DRC following their appearance and variances from the ZBA.

Aneisha Samuels, Senior Planner, stated the ZBA would be requesting an Advisory Opinion from the DRC. ~~It~~ is an ~~Administrative~~ administrative process. ~~You~~ do not need to appear before the Commission. ~~This~~ is just a guide for the ZBA since you are asking for significant relief in terms of the carriage house and this is to determine how they feel regarding mass and scale and appearance in this historic district. ~~Pending~~ their Advisory ~~Opinion~~ ~~Opinion~~, the Board will consider the relief requested.

Keith Kaplan ~~stated said~~ if the DRC offers an opinion that might ~~likely~~ change ~~some of~~ the dimensions and design of the project then the applicant would need to return to the ZBA--_. It is better to obtain this information now, and then we can move ~~the application~~ ahead.

Keith Kaplan made a motion in the matter of 29 Madison Avenue Area Variance, 29 Madison Avenue, the ZBA requests an Advisory Opinion from the DRC for this project--_. 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; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor

MOTION PASSES: 6-0

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:10 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 meeting scheduled for June 6th~~. The applicant will return before the Board following receipt of the Advisory Opinion from the DRC. We have also requested additional information from the applicant's agent.

2. ~~#20220229~~ **3 MCALLISTER AREA VARIANCE**, 3 McAllister Drive, Area Variance to permit the expansion of the porch and renovate the second story within the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage %	20%	21.3%	1.3% or 6.5%
Setback-Front – Porch	30 ft.	9 ft.	21ft. or 70%
Setback-Front -- Home	30 ft.	15 ft.	15 ft. or 50%

Applicant: David & Laura Acquavella

Mr. Acquavella ~~provided a photograph of~~ ~~stated basically the entire street is nonconforming. A photograph of the neighborhood was provided~~ with the application. They are proposing to construct a second story addition and front porch addition their home--_. This is in keeping with the character of the neighborhood. ~~I and~~ the porch will ~~have be~~ the same distance of front yard setback as other homes on their street--_. The front porch steps will remain uncovered.

Cherie Grey questioned the applicant ~~regarding about~~ the photo provided along with the front porch distances of the neighborhood.

Mr. Acquavella stated they are only requesting an additional 2 ft. to the edge of pavement and along the length of the house.

Aneisha Samuels, Senior Planner, stated the applicant did not provide a survey--_. We are unsure if ~~there is any~~ additional relief ~~is~~ required--_. If the survey could be ~~provided~~ provided, we ~~can~~ could assure that no additional relief is required.

Cherie Grey questioned if the applicant considered reducing the size of the porch to meet the coverage requirements without a variance, either width wise or length wise--_. ~~Are there any~~ accessory structures on the property ~~would require~~ ~~if so do you have~~ ~~the~~ those coverage figures as well as any A/C unit ~~coverage~~ coverage figures.?

Mr. Acquavella stated they feel a 4 ft. wide porch is really unusable. They did not consider shortening the length of the porch. It goes along the front of the ~~house, and house and~~ provides coverage to the front windows from the elements as well. Mr. Acquavella stated they have a shed in the rear yard ~~and . The accessory structures total 8% coverage.~~

Cherie Grey stated all these add to the total coverage. In the future we would have to add in the principal coverage with your accessory coverage to assure you do not exceed coverage ~~in the future.~~ She requested any accessory structure coverages, A/C Unit ~~coverage or a generator coverages if there is one~~ on the property.

Keith Kaplan questioned the current lot size.

Mr. Acquavella stated the lot is 12,304 sq. ft.

Keith Kaplan stated when a resolution is presented it should state that any future accessory structure would be limited to 6.7%.

Gage Simpson, Chair, stated the Board has requested a copy of the survey.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:32 P.M.

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

Gage Simpson, Chair, closed the public hearing at 7:34 P.M.

Gage Simpson, Chair, stated at this time we ~~do~~ have a resolution prepared.

Cherie Grey presented the following resolution.

#20220229
IN THE MATTER OF THE APPEAL OF
David and Laura Acquavella
3 McAllister Drive
Saratoga Springs NY 12866

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from the determination of the Building Inspector involving the premises at 3 McAllister Drive in the City of Saratoga Springs, New York being tax parcel number 166.14-4-4, in the UR-1 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 the construction of a second story addition and a front porch addition to an existing home and public notice having been duly given of a hearing on said application held on May 16, 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 amounts of relief:

<u>TYPE OF REQUIREMENT</u>	<u>DISTRICT DIMENSIONAL REQUIREMENT</u>	<u>PROPOSED</u>	<u>RELIEF REQUESTED</u>
<u>Maximum Principal Coverage</u>	<u>20%</u>	<u>21.3%</u>	<u>1.3% or 6.5%</u>
<u>Minimum Front Yard Setback- Porch</u>	<u>30'</u>	<u>9'</u>	<u>21' OR 70%</u>
<u>Min. Front Yard Setback- Home</u>	<u>30'</u>	<u>15'</u>	<u>15' or 50%</u>

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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 coverage requested is to allow for the replacement of a front stoop to a front porch. The applicant cited neighbors' additions that are in keeping with the percentage of lot coverage required. The house is pre-existing and will also have a second story addition in the front of the house which will not change the footprint of the existing home. Per the applicant the porch will be at the same distance of front yard setback as other homes on the street. The Board notes the request appears consistent with the neighborhood.

2. The applicant has demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant noted the porch is within the same distance front setback as others in the neighborhood, demonstrating for the Board that there are other houses with similar front porches in the immediate area. The principal coverage is due to the fact that the existing house is at the maximum of 20% and any changes or additions to the home would cause an increase in overall coverage.
3. The Board notes the front yard setback is substantial at 70% and 50% for the porch and home respectively, 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. Applicant noted the front porch will add to the aesthetic of the facade. Permeability will meet the district requirement.
5. The alleged difficulty is self-created insofar as the applicant's desire to construct the front porch to an existing single-family residence, but this is not necessarily fatal to the application.

Conditions:

- Any future accessory structure is limited to 6.7%.

John Daley, Alternate, 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; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor;

MOTION PASSES: 6-0

3. #20220217 17 PARK AREA VARIANCE, 17 Park Place, Area Variance to permit the construction of a new single-family home with a detached multi-unit carriage house within the Urban Residential-4 (UR-4) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback-Front-Regent	25 ft.	10ft.	15 ft. or 60%
Setback-Front – Park Place	25 ft.	17.5 ft.	7.5 ft. or 30%
Side 1 – Window well	20 ft.	13 ft.	7 ft. or 35%
Side 1 – Home	20 ft.	16 ft.	4 ft. or 20%
Carriage House – Setback- Front – Park Place	25 ft.	17.5 ft.	7.5 ft. or 30%
Side 1	20 ft.	5.25 ft.	14.75 ft. or 73.8%
Parking in Front Setback	Not Permitted	Permitted	100%
Parking in Side Setback	Not Permitted	Permitted	100%
Total Side	45 ft.	25.25 ft.	19.75 ft. or 43.9%

Applicant: Christopher & Megan LaPointe

The applicants are proposing to build a 2700 sq. ft. main house and a 1500 sq. ft. carriage house with 2 rental units.

~~The contractor~~ ~~Seett~~ ~~stated~~ ~~said~~ this is a vacant lot which was subdivided ~~off of~~ 23 Park Place which was a larger project that ~~these~~ ~~applicant~~ ~~these~~ ~~applicants~~ are proposing. In reviewing the visual of the ~~streetscapes~~ ~~streetscape~~, the applicants are attempting to maintain mature oak trees on the site and the design is driven by the trees. The carriage house will share a driveway with the property at 23 Park Place. A site plan was provided. The hedge row in place will be maintained to the best extent possible. The project is structured in terms of harmony with the character of the neighborhood.

Keith Kaplan stated he is confused regarding the property. Several years ~~ago~~ ~~ago~~, the Guarino's appeared before the Board at 21 Park Place with a much larger project. ~~Which was did the split go.~~

Mr. ~~LaPoint~~ ~~LaPointe~~ provided a visual of how the property was divided from 21 Park Place which maintains the address on Park Place ~~because the~~ ~~due to the fact that the~~ driveway is maintained on Park Place.

Keith Kaplan spoke regarding the size of the lot following the division which 11, 884 sq. ft. and we are proposing 3 units on the property. ~~One~~ single family home and a carriage house with 2 units. There is approximately 4,000+ square ft. per unit and the requirement is 3,000 sq. ft. per dwelling unit. It seems reasonable and ~~fairly straightforward~~ ~~straightforward~~. This is a very historic neighborhood.

This project the way it is structured is in harmony with the character of the neighborhood.

John Daley, Alternate, stated this project is well done and within the character of the neighborhood. He questioned if the parking requirement for the project will be met.

~~The contractor~~ ~~Seett~~ stated this does meet the parking requirements for this district. Three spaces are required for the carriage house and the applicant is providing the required amount of parking.

Cherie Grey reviewed the ~~single-family~~ ~~single-family~~ home and a carriage house with two units, meeting the district requirements. She did voice concerns regarding parking in the front of the home in this historic neighborhood so close to Regent Street. Can you provide the distance on Regent Street for ~~parking~~ ~~parking?~~ ~~showing if this~~ is in line with other homes on Regent Street particularly on this side of the street.

Brad Gallagher, Vice Chair, stated on the other side of Regent across the street from this property there is parking indicated which is just as close as the applicant is proposing.

~~Cherie Grey stated the property across the street is a converted carriage house and this is a blank slate.~~

Aneisha Samuels, Senior Planner stated that is correct. For this district it is 1.5 parking spaces per unit. They are fine in this regard. However, ~~based on Planning Board approval~~ we do require an Advisory Opinion from the Planning Board with regard to their driveway and also, we ~~do~~ need a DRC Advisory Opinion and approval.

~~The contractor~~ ~~Seett~~ stated there is language in the purchase agreement that states the applicant has unlimited access on the rear property line, for both vehicular and pedestrian access.

Gage Simpson, Chair, ~~stated the Board also~~ requested ~~some~~ neighborhood comparables noting the proximity to Regent Street is in line with the neighborhood.

Mr. ~~LaPoint~~ ~~LaPointe~~ stated they will provide the requested information to the Board.

PUBLIC HEARING:

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

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

Aneisha Samuels, Senior Planner, ~~stated~~ ~~said~~ for the Boards information the Planning Boards previous approval listed ~~some~~ conditions for this property, which the Board should review. It indicates we request a DRC Advisory Opinion as well as a Planning Board Advisory Opinion regarding placement of the driveway. There were five conditions listed in this approval for subdivision of 21 Park

Place— The Board should review both conditions and ~~Potentially~~ potentially follow up with the applicant as to what is needed and request the Advisory Opinions from the Boards—.

Cherie Grey made a motion in the matter of the 17 Park Place Area Variance, 17 Park Place, the ZBA requests an Advisory Opinion from the DRC for this project— Keith Kaplan 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; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor;

MOTION PASSES: 6-0

Cherie Grey made a motion in the matter of the 17 Park Place Area Variance, 17 Park Place, the ZBA requests an Advisory Opinion from the Planning Board for this project— Keith Kaplan 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; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor;

MOTION PASSES: 6-0

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

Ashley Gardner, 105 Regent Street— ~~We a~~ As a neighborhood we have been fighting high density on this lot for years— Her biggest concern is the requested 10 ft. variance from Regent Street— ~~All of All~~ the houses on that block are approximately a 25ft. setback from Regent Street. This would be inconsistent with the neighborhood— It will create a strange mass and scale in the neighborhood—.

Steven McIntyre, 110 Regent Street— The applicant is his daughter and son-in-law— The Boards have approved similar variances on my home at 110 Regent Street which is a home and a carriage house— This is the only way the city can get ~~some~~ infill development without apartments in the city—.

David Guarino, 21 Park Place— We had ~~many~~ meetings with the Land Use Boards on the ~~previous~~ earlier project— He spoke ~~regarding~~ about what approvals and conditions which were placed by the Planning Board and the current proposed plan—.

Michael Ladd, 113 Regent Street— He has owned the property since 1998— He believes that the side of the carriage house is too close to Regent Street— This is not in character with the neighborhood—.

Aneisha Samuels, Senior Planner, provided information to the ~~made the~~ Board regarding the ~~aware of a~~ significant amount of public comment ~~which was s~~ submitted and available for review ~~on-line~~ online—.

Gage Simpson, Chair, stated the public hearing will remain open until the next meeting scheduled for June 6, 2022— We will await the information from the DRC and the Planning Board along with the information requested from the applicant.

4. #20220218 52 DOTEN AREA VARIANCE, 52 Doten Avenue, Area Variance to permit a rear addition to the existing residence in the ~~The~~ U Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	30%	30.6%	0.6% or 2.0%

Applicant: Joe Juidiciani & Meghan Breen

Mr. Juidiciani stated they are proposing the addition of a small screen room 20 x 16 on the rear of their home. ~~When they purchased this home they knew it was about the maximum coverage percentage.~~ We are looking for a slight variance to accomplish this.

DISCLOSURE:

Brad Gallagher, Vice Chair, disclosed that he knows Joe Juidiciani. ~~They attended law school together.~~ The Vice Chair stated he does live in the neighborhood more than 500 ft. from this property. He has no interest in this application and it does not influence his ability to be impartial in this application.
It is a very modest ask.

Brad ~~Gallagher~~Gallagher, Vice Chair, stated he is familiar with the property. The ask is very modest ask, very straightforward given the neighborhood context.

Mr. Juidiciani ~~stated~~said there are ~~several covered~~age porches in the neighborhood. It is in conformance with the neighborhood.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 8:21 P.M.

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

Aneisha Samuels, Senior Planner, questioned the applicant if the stairs to the rear are included in the coverage percentage numbers and setback calculations. Please confirm those numbers.

Mr. Juidiciani stated those rear stairs will be removed and the patio reconfigured. He will provide the final calculations to staff.

Gage Simpson, Chair, closed the public hearing at 8:22 P.M.

Brad Gallagher, Vice Chair, presented the following resolution.

#20220218
IN THE MATTER OF THE APPEAL OF
Joseph Juidiciani & Meghan Breen
52 Doten Avenue
Saratoga Springs, New York 12866

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from the determination of the Building Inspector involving the premises at 52 Doten Avenue in the City of Saratoga Springs, New York being tax parcel number 178.52-2-16.2 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to seek relief to construct a small screen porch addition in the Urban Residential – 2 (UR-2) District and public notice having been duly given of a hearing on said application held on May 16, 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 variance for the following amount of relief:

<u>TYPE OF REQUIREMENT</u>	<u>DISTRICT DIMENSIONAL REQUIREMENT</u>	<u>PROPOSED</u>	<u>RELIEF REQUESTED</u>
<u>Maximum Lot Coverage</u>	<u>30%</u>	<u>31%</u>	<u>1% or 3.3%</u>

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

1. The Board finds that the applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant seeks to construct a small screen room addition that is approximately 200 sq. ft. to the rear of the existing principal structure. The Board notes that the current primary residence has an integrated garage and that there are no existing accessory structures on the property. The applicant notes that there is no additional property available for purchase.
2. The Board finds that the applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. According to the applicant, the proposed screened in porch is small and located behind the residence and will not be able to be seen from the street. The Board notes that there are several other properties in the neighborhood that have screened porches located in the rear of the residences.
3. The Board does not find this variance to be substantial.
4. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district.
5. The alleged difficulty is self-created insofar as the applicant desires to construct a small, screened addition in the rear of the property, but this is not necessarily fatal to the application.

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CONDITIONS: Future accessory structures are limited to 9%.

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; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor;

MOTION PASSES: 6-0

CONTINUED BUSINESS:

DISCLOSURE:

John Daley, Alternate, stated he has not attended all the meetings with regarding the continued business applications. He has viewed the ~~webcasts, and~~ webcasts and read the material as well as conversations with staff.—_He feels confident voting on these applications this evening.

5. **#20220195 132 FIFTH AVENUE AREA VARIANCE.** 132 Fifth Avenue, Area Variance to permit the construction of a second story addition to an existing residence within the Urban Residential-1 (UR-1) District.

Gage Simpson, Chair, stated this is a previously opened application.—_The public hearing was opened and remains open.

Applicant: Steven & Jennifer Meglio

Agent: Stephanie Ferradino, Ferradino Firm

Ms. Ferradino stated no additional information was submitted regarding this application.

Gage Simpson, Chair, asked if there were any further questions or comments from the Board.

Cherie Grey stated she had previously requested if there were any further alternatives discussed or considered. No alternative designs were discussed or presented. The five variances requested are well over 50%.

Ms. Ferradino provided background information and research done by the Meglio's prior to their purchase of the property. Ms. Ferradino spoke regarding the financial issues in demolishing the structure and starting new, and the negative impact on the environment without an impact to rear neighbors which faces the track. It is within the standards and consistent with the neighborhood which is in transition.

Cherie Grey discussed placing a ~~two-story~~ two-story home on this lot feels like fitting a round peg into a square hole. She is struggling with this application which is ~~requesting~~ asking ~~very large~~ exceptionally large variances on this size lot. She is also concerned about the 7.9 ft. setback and the precedent setting nature of this variance. She is uncomfortable with this application.

Gage Simpson, Chair, stated he has been on the fence with the overall requested variances. As Cherie mentioned the variances requested are ~~very large~~ exceptionally large, almost maxed out on all variances. It has been stated that this is an existing footprint going up and the information presented has convinced the Chair to be in favor of this application.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing remains open.

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

Cherie Grey questioned clarifying the rear setback to make it more specific.

Aneisha Samuels, Senior Planner, stated in the resolution it is stated as per submitted plans, however we could include in the resolution the two separate setbacks.

Gage Simpson, Chair, closed the public hearing at 8:42 P.M.

Ms. Ferradino stated the applicants are happy with a condition on the resolution noting as per the submitted plans to keep that 7.7 ft. limited to the existing footprint on not apply to the entire property.

Matthew Gutch presented the following resolution.

#20220195
IN THE MATTER OF THE APPEAL OF
Steven and Jennifer Meglio
132 Fifth Avenue
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector's determination involving a parcel at 132 Fifth Ave., in the City of Saratoga Springs, New York, being Tax Parcel 166.14-4-27 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 second story and a rear addition to an existing principal structure in the UR-1 District and public notice having been duly given of a hearing on said application held on the 4th day of April through the 16th day of May 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:

<u>TYPE OF REQUIREMENT</u>	<u>DISTRICT DIMENSIONAL REQUIREMENT</u>	<u>PROPOSED</u>	<u>RELIEF REQUESTED</u>
Max Principal Coverage %	20%	49%	29.0% or 145%
Minimum. Front Yard Setback	30ft	11.6ft	18.4ft or 61.3% relief
Rear Setback	30ft	7.7ft	22.3ft or 74.3%
Side Yard (West) Setback	12ft	4.1ft	7.9ft or 65.8%
Total Side Yard Setback	30ft	12ft	18ft or 60.0% relief

As per the submitted plans or lesser dimension, be **approved** as per this Board's consideration of the following factors:

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. The applicants propose to construct a full second floor to the existing building footprint, except the portion on the western rear portion of the house which will be a single-story great room with high ceilings. The Board notes that the lot is on the southern portion of Fifth Ave, where the lot depth is constrained by the neighboring Oklahoma track, the applicant notes that there was no additional land available to purchase to alleviate the relief requested. The applicants noted that other designs were reviewed but were cost prohibitive. The applicants further note that a full demolition of the house for new construction was reviewed but was not cost effective.
2. The applicants have demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The applicants noted that the proposed relief will allow the house to be more in line with neighboring homes, providing the Board with neighborhood context of other homes which have similar designs for their nonconforming lots and indicating that several that have added a second story. The applicants further note that the coverage of the principal structure will decrease slightly from the existing 50% to the proposed 49%, with the changes reducing overhangs in some areas while the addition partly offsets the impact of those reductions. The proposal includes space on the second floor; the applicants point out that many of the neighborhood properties have a second floor, and that there are no windows looking down from the second floor into the western neighbor's property.
3. The Board notes the requested variances are substantial. However, the Board notes that the relief requested is mitigated by the neighborhood context and lack of significant adverse impact on the neighboring properties, as noted above.
4. These variances will not have a significant adverse physical or environmental effect on the neighborhood or district. The subject parcel will exceed district requirements for permeability.
5. The alleged difficulty may be considered self-created insofar as the applicant's desire to construct a second floor and rear addition, but this is not necessarily fatal to the application.

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Conditions:

- I. There are to be no functional windows on the western-facing side of the house on the second floor
- II. These variances will be null and void if 25% or more of the existing foundation is removed or replaced, including planned demolition and/or act of God.
- III. No future accessories are permitted.

Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion.—

Discussion ensued among the Board, with Counsel and the Building Inspector regarding clarifying the resolution.

VOTE:

Gage Simpson, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, opposed; Keith Kaplan, in favor; Matthew Gutch, in favor; John Daley, Alternate, in favor;

MOTION PASSES: 5-1

RECUSAL:

Matthew Gutch recused from the following application and exited the meeting--

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 a convenience store, gasoline, canopy, car wash and rental space within the Tourist Related Business (TRB) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Front Yard Setback	40 ft.	8 ft.	32 ft.

Applicant: Stewart's Shops; [Ryan Rubado, Stewart's Shops](#)

Agent: Libby Coreno, Law Offices of M. Elizabeth Coreno; Ryan Rubado, Stewart's Shops

Ms. Coreno stated they are in receipt this date of correspondence from Code Enforcement-- They are proceeding this evening with ~~The the~~ area variance request as noted on the application-- We can then discuss the status of the application after the presentation. Ms. Coreno provided a project history as well as a summary of proposed changes-- ~~This is the first appearance before the ZBA.~~ This project, land, corridor has gone through several iterations of review back to the 1980's--s. A proposed PUD was initiated in January of 2021-- SEQRA - Coordinated review and negative declaration issued by City Council on December 21, 2021-- The ZBA was not involved due to lack of permitting or approval-- The project has been reduced in scope since 2021. ZBA is permitted to act as Lead Agent and adopt the findings of the City Council due to less intensive use of the project as was previously reviewed and given a negative declaration-- A visual of the proposed site was provided as well as a rendering of the proposed project-- This presentation and siting of the buildings on the front of the road-- This was provided to the DRC as part of the PUD process and was given a positive ~~Recommendations~~ because it is consistent with their Marion Avenue gateway design regulations-- ~~This is in conflict with conflicts with~~ the 40ft. setback in the TRB-- We had a conversation with the Code Enforcement officer who confirmed the conflict and what has brought us here this evening-- Ms. Coreno spoke regarding the existing front yard setback which is 24ft. and the proposed new setback is 8 ft.
_The property is currently non-conforming--

Ms. Coreno reviewed the 5-Part Balancing Test for an Area Variance, the longevity of a convenience store in this location, compatibility with the neighborhood-- She noted this is a long and narrow site, b Bound by Route 9 on one side and a very extensive National Grid easement on the other side-- We have met with National Grid concerning an easement and the ability to place some of the site elements into the easement - mostly pavement but no buildings or structures-- We have sought to obtain maximum participation from one of our neighbors which is one of our ~~one of our~~ obligations-- We have attempted to design the site as conforming as possible.
We have had a SEQRA Negative Declaration-- Ms. Coreno stated she is aware there is a question pending as it relates to the 100 ft. buffer-- Ms. Coreno spoke regarding Section 1.7 D and the way it is setup is at the property ~~owners~~ owner's option, T they can move a zoning line.
There is debate about this-- Our thinking is this is something afforded the property owner through the code not something to seek relief from-- We understand the ZBA has the authority to ask for a determination and has the right to do so-- It was not in the application since we did not believe we needed to request relief from-- A determination has been researched and asked for by Code Enforcement Officer-- I saw this at 5:00 P.M. this evening, I have thoughts about this and would like to be given an opportunity to respond formally.
The car wash and the 100 ft. isare really related to use-- It is a use measurement-- The car wash is compliant regarding setbacks or variances-- She is curious to hear the Boards view on the front setback-- While still understanding that there will be a submission from her outlining the merits of the 100ft. particularly the precedent in the City on this rule which is quite extensive and on the record.

Aneisha Samuels, Senior Planner, stated ~~she would like to state~~ SEQRA Review was completed for the PUD and approved by the City Council. However, the City Council is no longer an involved agency for this project. Therefore, their SEQRA Evaluation does not necessarily stand anymore. ZBA intends to defer Lead Agency Status to the Planning Board. As such the ZBA will either adopt the City Council's Evaluation and Negative Declaration or they could potentially redo SEQRA.

Ms. Coreno stated she understand that City Council is no longer an involved agency. However, their SEQRA Negative Declaration is part of this record. The applicant's request is to have that determination adopted because the project is of a lesser impact. If the ZBA

intends to defer Lead Agency Status to the Planning Board the applicant has no say in that decision. This is a less intense project than what was previously reviewed by the City Council for SEQRA.

Aneisha Samuels, Senior Planner, said she understand that the applicant would like to have on the record that the applicant is requesting to have the previous SEQRA Determination used. However, since City Council is not an involved agency their SEQRA does not necessarily stand.

Ms. Coreno questioned what does not necessarily stand?

Jackie White, Counsel stated their understanding is the same as what Aneisha stated. It is our understanding that the ZBA intends to defer to the Planning Board. The Planning Board acting as Lead Agency will review the previous determination and assess what needs to be done.

Patrick Cogan, Building Inspector, Zoning Officer clarified the areas of relief which are needed. That is something we need additional information on. Not necessarily the 100 ft. move but also some questions on the canopy which should be treated as a principal structure.

Ms. Coreno stated the canopy is pre-existing, nonconforming. We can supply history on that if needed.

Mr. Rubado stated the canopy is new with new dispensers in the same location.

Ms. Coreno stated it is being upgraded but it is not being moved from this location.

Patrick Cogan, Building Inspector/Zoning Officer questioned if the gas canopy was being moved to behind the building.

Ms. Coreno stated it was in the PUD.

Mr. Rubado stated the gas canopies are being moved further back to have more setback from the front. The intent was to keep the canopy away from the residential area.

Patrick Cogan, Building Inspector/Zoning Officer questioned if there is rear setback relief required which the current canopy does not have. It may be beneficial, but the Board should consider.

Ms. Coreno questioned Patrick Cogan, Building Inspector/Zoning Officer regarding lot consolidation. We are using all the available acreage for both the setbacks, coverage and other measurements. If that needs to be clearer, we can provide that information.

Mr. Rubado stated it is their intent to consolidate three parcels.

Patrick Cogan, Building Inspector/Zoning Office questioned if the intent is to include the UR-2 parcel which is the subject of the 100 ft. move would be consolidated as well.

Mr. Rubado stated yes.

Patrick Cogan, Building Inspector/Zoning Officer stated he submitted his determination and supporting materials to Aneisha as well as placing them on the laser fiche for the Boards availability. The question raised by public comment was whether it was appropriate or not for Stewart's to take the 100 ft. move. Some reasons stated were because it was part of 1.7 and that begins where there is

uncertainty as to the boundary location between zones, then it falls through with letters A,B,C,D. The suggestion there was because there was no uncertainty as to where this boundary line is, that the 100 ft. move is not available to the applicant.

Patrick Cogan, Building Inspector/Zoning Officer continued, the first part of the determination delves into that aspect. He reviewed every zoning ordinance since enacted in 1961. There is a history of this clause or some form of it in the ordinance since 1961. Basically, as you review from 1961 – 2012 that clause was always under its own heading. It had no qualifying condition attached to it that there needed to be any uncertainty as to where the boundary line was to be able to utilize the 100 ft. move. He did not feel that the 2012 reorganization of that portion of the Zoning Ordinance was indicative of the intent of that clause. Basically, I think it was done in error placing in under 1.7. It should be a separate section and not be subject to the uncertainty clause. Since 2012 we have many examples of where we have allowed the 100 ft. move of the requirements for the district, and we have never required the applicant to prove that there was any sort of uncertainty as to where the boundary division line is. In fact, it doesn't make a whole lot of sense to say that the only way you can move it 100ft. is to say you don't know where the boundary line is and where do you measure it from. That is an exhibit of why that should not be in that section and why he feels that this is an error. He does not feel that this question has any impact on this application. We have allowed this and precedent to the contrary and court case law precedent to the contrary from our own Zoning Ordinance.

The next question becomes whether this application meets all the criteria for the owner to be able to do the 100 ft. move at their option. Where is the starting line? Where do we start? In 2012 when the entire ordinance was adopted, is it when the line was established on the map separating the boundary into two zoning districts. For him, the intent is to provide the property owner the ability to move that line if the line is drawn through the middle of their property. Every time the Zoning Ordinance or map is updated to say that this portion of it starts over leads to a potentially problematic interpretation. Someone could knowingly purchase property in another district and wait for an update in the ordinance noting ownership prior to the zoning change. It is important in this case to know when that line was drawn and who owned the property at that time. As far back as 1990 when the moratorium around Loughberry Lake, and the zoning changes, the line between the commercial and residential districts has been exactly where it is today. Through better mapping and published parcel level details on the zoning maps it is very clear that in 1998 there is the dividing line between the parcel district at the time was C3 and the residential district which was UR-2 remains in the exact same place. That portion of C3 was changed to TRBD and then TRB but the line has remained where it is now. Stewarts acquired this property in 2003 and 2004. They acquired it from two entities. It was divided lands not under common ownership.

Stewart's Shops acquired that property after that line was firmly established. There is more information in the determination. He is struggling with what the intent is versus what the literal language states. There is some grey area. It is my determination since this line was clearly established and both properties were purchased with the dividing line in place, the 100 ft. move should not apply to this. The Board has requested my determination based on public comment. It is fair for the applicant to be able to present why they should be allowed to move 100 ft. and I should be allowed to consider that and modify my determination if necessary. There is also the option for the applicant to seek an interpretation or appeal of that determination.

Libby Coreno, thanked Patrick Cogan, Building Inspector/Zoning Officer, for the time he invested in this. It is not an easy determination. We will submit our research and interpretation and case law.

Gage Simpson, Chair, asked if there anything else zoning related to discuss further this evening.

Aneisha Samuels, Senior Planner, said we are awaiting on the final determinations for actual areas of relief. Until we confirm the actual areas of relief, we should defer requesting the Advisory Opinion and deferral of SEQRA Lead Agency Status.

Gage Simpson, Chair, stated we will wait until further information is provided.

PUBLIC HEARING:

Gage Simpson, Chair stated the public hearing remains open.

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

John Yakuponia, Neighborhood Association, noted the complex history here. He appreciates the information provided by the Building Inspector/Zoning Officer. It is clear that the parking for this retail space is over the boundary line. It is important to note

this entire neighborhood is designated residential neighborhood in the Comprehensive Plan. This application does not comport with the Comprehensive Plan.

Gage Simpson, Chair, stated the public hearing will remain open.

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MOTION TO ADJOURN:

There being no further business to discuss Gage Simpson, Keith Kaplan, Chair, man adjourned the meeting at 4:49:51 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

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Meeting minutes approved June 27, 2022