



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JUNE 27, 2022

6:30 P.M.

CITY COUNCIL CHAMBERS

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

SALUTE TO THE FLAG:

PRESENT: Gage Simpson, Chair; Cheryl Grey; Emily Bergmann;
Matthew Gutch; Brendan Farrington; Alice Smith, Alternate

ABSENT: Brad Gallagher, Vice Chair; Justin Farrington

STAFF: Aneisha Samuels, Senior Planner, City of Saratoga Springs
Mark Schachner, Counsel to the Land Use Boards

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

The proceedings of this meeting are being recorded for the benefit of the secretary. Because the minutes are not a verbatim record of the proceedings, the minutes are not a word-for-word transcript of the recording.

ZBA APPLICATIONS UNDER CONSIDERATION:

NEW BUSINESS:

1. **#20220487 81 PHILA STREET AREA VARIANCE**, 81 Phila Street, Area Variance to construct a two-family home seeking dimensional relief in the Urban Residential-4 (UR-4) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Lot Size	6000	4978 ft.	1022 ft. or 17.0%
Minimum Average Width	100 ft.	50 ft.	50 ft. or 50.0%
Maximum Principal Coverage	25%	34.0 ft.	9.0 ft. or 36.0%
Setback – Front	25	5 ft.	20 ft. or 80.0%
Side 1	20 ft.	4 ft.	16 ft. or 80.0%
Side 2	20 ft.	14 ft.	6 ft. or 30.0%
Total Side	45 ft.	18 ft.	27 ft. or 60.0%

Applicant: Scot Trifilo, Terrace Home Builders, owner

Agent: Bob Flansburg, Dreamscapes Unlimited.

Mr. Flansburg provided a visual of the site plan noting a detached garage to the left of home. Mr. Flansburg reviewed the project site noting the size and configuration of the lot. Plans were developed based on the assumption this was in a UR-3 District when in fact it is a UR-4 District.

Mr. Trifilo provided an aerial view of the proposed lot. He provided visuals of neighborhood comparables for the Boards review. The new construction will conform with what is there currently and be visually appealing.

Matthew Gutch questioned the height of the proposed structure and if it is a one- or two-family home proposed.

Mr. Flansburg noted it the building will be 30 ft. to the eave and 10 ft. to the ridge. The building will be 40-41 feet in height. Exact calculations will be provided to the Board. An apartment is proposed in the lower level. It will be a two-family structure.

Aneisha Samuels, Senior Planner stated the applicant should measure the side setback from the stairs. We need the dimensions from the stairs to the property line. Also confirm if there is egress from this basement apartment which is not impacted by the stairs.

Mr. Flansburg stated there is egress from the basement. The stairs will not impede egress from the basement apartment.

Matthew Gutch noted the building needs to be sprinklered since it is 3 stories in height. He questions if the applicant had considered any alternative designs and what is the total square footage of the building?

Mr. Flansburg stated they have taken everything into consideration in providing the calculations. Other designs were considered for this lot. Square footage calculations will be provided.

Cherie Grey stated the applicant will be over on coverage. Are there any accessory structures on the property, or air conditioners, etc., which adds to coverage.

Aneisha Samuels, Senior Planner, said the applicant will have 9% coverage left for accessory structures.

Mr. Flansburg spoke about coverage and noted that everything is included in the coverage calculations.

Cherie Grey said she is pleased to see they are proposing something which fits in and compliments the neighborhood homes. She questioned if the house would have a front porch since all the houses on this side of the street have front porches. Does this application require DRC review?

Aneisha Samuels, Senior Planner, said this application requires DRC review.

Mr. Trifilo spoke about the front porch and lot constraints. He supplied information on what he is proposing rather than an actual porch.

Emily Bergmann said the applicant did a nice job bringing everything together for the proposed structure. She questioned if the lot permeability percentage will be met.

Mr. Flansburg said there is no issue with meeting permeability requirements.

Gage Simpson, Chair said we are not asking for any additional information simply elevations.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:11 P.M.

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

Clifford Zaleski, 77 Phila Street. What Mr. Trifilo is proposing is not out of line for the neighborhood and his concern was drainage. He discussed the drainage with Mr. Trifilo, and he explained how the drainage will be resolved with the construction of a retaining wall and the installation of the driveway. He is assured that the drainage will not be an issue. He is supportive of the application.

Gage Simpson, Chair, stated the public hearing will remain open until the next meeting scheduled for July 18th. We should have a resolution to present at that time.

2. #20220477 111 WHITE STREET AREA VARIANCE, 111 White Street, Area Variance to demolish existing single-family home and construct a new single-family home in the Urban Residential-3 (UR-3) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Average Width	60 ft.	50 ft.	10 ft. or 16.7%

Application: Robyn Scotland

Ms. Scotland stated they purchased the home prior to covid. The house needs to be renovated. We have three children and would like to have a family home.

Aneisha Samuels, Senior Planner, stated they are rebuilding, and the property lot width is not compliant with zoning requirements. However, we do not have a plot plan at this time, and we are unsure if additional relief is needed or required.

Gage Simpson, Chair, stated what we are discussing is the size of the lot. As in the previous application if there is a layout and plans with actual numbers computed we could determine if there is any additional relief required.

Ms. Scotland questioned if the Board was in receipt of their plans.

Aneisha Samuels, Senior Planner, stated we have no plans submitted.

Ms. Scotland stated they do have full plans drawn and will have them provided to the Board. The home they are proposing is like the other homes on the street. It is a basic house.

Gage Simpson, Chair, provided information to the applicant regarding what information the Board would require. The Chair feels this will be a straightforward application. If the applicant submits the information to staff, we will have ample time to review it prior to the next meeting scheduled for July 18th.

Cherie Grey questioned if the applicant has a survey of the property, which would be helpful to submit to the Board as well.

Ms. Scotland stated they have a survey completed as well. All the requested information will be submitted.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:24 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 July 18th. We have requested additional information from the applicant.

3. #20220503 18 EMPIRE AVENUE AREA VARIANCE. 18 Empire Avenue, Area Variance to construct rear porch
In the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Side Setback – Side 1	8 ft.	6.5 ft.	1.5 ft. or 18.8%

Applicant: Steve & Renee Tannenbaum

Mr. Tannenbaum stated they purchased this home 6 years ago unaware that houses 18 and 20 were built with a variance. They are 12 ft. apart, all the other homes as 15 ft. apart. We are proposing the addition of a rear deck to add to the value of their home. They would like the deck to extend the entire length of the home. Our neighbor agrees with the project. This is in conformance with the neighborhood.

Cherie Grey stated she visited the site and saw Mr. Tannenbaum. She spoke with the owner, but this will not affect her ability be impartial.

Gage Simpson, Chair, asked if there was any further questions or comments from the Board. None heard.

Gage Simpson, Chair, asked the square footage of the deck.

The contractor stated noted the size of the deck and there will be no electrical or plumbing involved in the project.

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. None heard.

Gage Simpson, Chair, closed the public hearing at 7:33 P.M.

Cherie Grey presented the following resolution.

IN THE MATTER OF THE APPEAL OF

Steven Tannenbaum
18 Empire Avenue
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 18 Empire Avenue in the City of Saratoga Springs, New York being tax parcel number 178.33-2-37 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a rear deck in a UR-2 District and public notice having been duly given of a hearing on said application held on June 27, 2022.

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

TYPE OF REQUIREMENT	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Side setback for rear deck	8'	6.5'	3.5' (18.8%)

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 deck on the rear of the house and would prefer for the deck to be across the total width of the pre-existing house. When the house was built, it was placed at 6.5' from the north property line and the applicant would like for the deck to be installed at the same setback. Per a variance granted for the mismeasurement of the side yard setback from the required 8' to 6.5' (resolution #20344 dated June 16, 2002), an error of the builder should not impact the addition of the rear deck.
2. The applicant has demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. The deck is in the rear of the house and not visible from the front of the location. Many properties in the neighborhood have rear decks. The property is deep and can accommodate the deck with no other variances required.
3. The Board notes the requested variance of 18.8% is not substantial.
4. These variances will not have a significant adverse physical or environmental effect on the neighborhood or district. Permeability requirements will meet district requirements.
5. The alleged difficulty is considered self-created insofar as the applicant desires to construct the rear deck. However, this is not necessarily fatal to the application.

Emily Bergmann seconded the motion.

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

VOTE:

Gage Simpson, Chair; in favor; Cheryl Grey, in favor; Emily Bergmann, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

4. **#20220446 1 ALGER AREA VARIANCE**, 1 Alger Street, Area Variance to construct a screened porch in the Urban Residential-3 (UR-3) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	30%	56.7%	26.7% or 89.0%
Setback-Front-Alger Street Home	10%	7.1 ft.	2.9 ft. or 29.0%
Setback-Front-Alger Street screened porch	10	0.3 ft.	9.7 ft. or 97.0%

Applicant: Luke & Lauren Boughton

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated she appeared with the Boughton’s when they previously appeared before this Board for a variance for an addition in 2016. This project site is unique since it fronts on Woodlawn, Alger, and Bolster Lane. The applicant added a small screen porch on the front of their home without any permits or approvals. It is not attached to the home; it was constructed without a survey and is over the property line and resulted in encroachment over the north property line on Alger Street. It was in the middle of covid and constructed this for their children to play. The only alternative is to remove the structure or reduce its size and be added to their home. The reduced size results in a 125 sq. ft. coverage increase in the principal building footprint and 2.7% increase in lot coverage. There is no additional land to be purchased. The fence will be relocated on the property and removed from the ROW. This will not result in an inconsistent or incompatible with the neighborhood. The applicants are looking for a variance to allow for the 125 sq. ft. of extra coverage, which adds an increase of 2.7% to the overall coverage. When we were here previously, we looked at the project as whole the house and garage together. In this zone a 40% coverage is allowed. 30% for the house and 10% for accessory structures. This house as it stands with the amended screen porch would stand at 56.7 which is 16.7% over the total coverage. We do not feel that the 16.7% is that substantial.

Gage Simpson, Chair, stated he assumes this will be attached to the house. The figures provided include moving and attaching it to the house. Has there been conversation with the city regarding the size of the right of way?

Aneisha Samuels, Senior Planner, stated right of ways are in place for future infrastructure change. It is wide to provide for future planning.

Ms. Yasenchak stated it will be attached to the house. They will be reverse engineering it. We will be adding any additional structure onto this to make it code compliant. There is no sidewalk in this location. Homes that are further to the west, photographs provided, do have the green space shown in the right of way. The sidewalk had never been brought in front of this house.

Alice Smith, Alternate, questioned if there was an aerial view of the project.

Ms. Yasenchak stated there is an existing plot plan that does show the existing site. It shows the building as well as the addition. An existing plot plan as well as what is being proposed was submitted. The existing plot plan shows the encroachment over the property line about 2 ft. and the proposed plot plan which shows the screen porch back within the property line as well as any fencing over the property line will be brought into conformance.

Emily Bergmann questioned how did the applicant end up before the Board? This was built without any approvals and permits.

Ms. Yasenchak stated they requested help with the application, they are in violation currently.

Matthew Gutch stated the applicants are removing 2 ft. which removes the encroachment and attaching it to the house. Would the applicants consider reducing the size of the porch more than 2 ft.?

Ms. Yasenchak stated they are taking off 2 ft. and attaching it to the house. Once this is completed it will be .3 ft. away from the from the property line. The applicants would be agreeable to consider reducing it a bit more than the 2 ft.

Emily Bergmann questioned the front setback requiring 97% relief.

Ms. Yasenchak stated in removing the 2 ft. the front wall will be .3 ft. off the property line and the requirement is 10 ft.

Emily Bergmann questioned if this is in context with the neighborhood.

Ms. Yasenchak stated she included in the application pictures of homes directly to the west, across the street and down Woodlawn. Some homes have stairs which go directly down to the sidewalk. She has not measured neighborhood comparables.

Emily Bergmann stated those calculations would be helpful if the applicant could submit them.

Ms. Yasenchak stated she can provide the information, but it will be from public property with a laser to obtain this information.

Aneisha Samuels, Senior Planner, stated the Board would want similar porches, not just the deck and uncovered steps. They would want examples of enclosed areas like the this. Or an uninsulated front porch.

Ms. Yasenchak stated she will provide the information the Board has requested, there are comparables we can provide.

Cherie Grey stated she is upset about the process on this property primarily because nothing was followed properly. She viewed the webcast from the initial variance approvals and reviewed the resolution. At the time that the increase in this property was struggle for the entire Board, even with the reduction in the size of the garage, the size of the overhangs. The other condition was the shed was going off the property. This was a tough variance for the Board to grant due to the high percentage of lot coverage on this property, but it was granted. What I am struggling with is why the client walked away and thought they could be whatever they wanted on this property, even though they needed to remove a small Rubbermaid shed.

Ms. Yasenchak stated she cannot speak for her clients. They removed the shed and received a CO for their addition. They knew what they were approved for 6 years ago. I do not think any Board can speak for another Board in the future that would limit or restrict a property owner to come before the Board or a future Board to ask for something again. A property owner has the right to ask.

Cherie Grey stated this property is maxed out. It is a small property, should not be larger, should not be encroaching any further on the setback. She is not in favor of adding to this. The owners made the decision for the addition of the garage and a master suite knowing this was going to be as much as they could do with the property.

Mark Schachner, Counsel to the Land Use Board stated this is an example of where the Board is getting bogged down with your decision discussion prematurely. Right now, the applicant's agent has made a presentation, questions were asked by the Board about the application. This type of discussion should be held at the juncture of deciding.

Cherie Grey stated you could build a small porch and remove the fence. She is struggling with this application since the percentage was already high.

Gage Simpson, Chair, stated the setback to the home required should be 10 ft., proposed is 7.1 ft. would not that have been cleared up with the previous variance.

Aneisha Samuels, Senior Planner, stated in the last variance granted in 2016, they received relief for the home being 7.1 ft. If they built now to that 7.1 ft., they would have been fine. The home existing without the front porch would be ok. Once they build anything they would need additional coverage and frontage requirements. If they remove the screen porch they would not be before this Board.

Discussion ensued among the Board regarding the relief previously requested, and the amount of relief currently requested.

Gage Simpson, Chair, stated what the Board is requesting from the applicant's agent is further examples of neighborhood context,

possibly reducing the size of the porch. If these plans can be submitted at least one week prior to the next meeting which is scheduled for July 18th.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 8:02 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 July 18th. We have requested additional information from the applicant.

CONTINUED BUSINESS:

5. **#20220285 18 ALGER AREA VARIANCE**, 18 Alger Street, Area Variance to permit the placement of a shed within the Urban Residential-2 (UR-2) District.

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

Cherie Grey stated she is looking for the principal coverage percentage and the accessory coverage percentage. We did not receive that from the applicant.

Aneisha Samuels, Senior Planner, stated the applicant has provided the size of the shed. In terms of coverage percentage, we are not looking at that currently since he is not applying currently for a building permit.

Gage Simpson, Chair, asked if there were any further questions or comments from the Board. None heard.

PUBLIC HEARING:

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

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

Gage Simpson, Chair, closed the public hearing at 8:05 P.M.

Gage Simpson, Chair, presented the following resolution.

IN THE MATTER OF THE APPEAL OF

David D. Chew
18 Alger Street
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector’s determination involving a parcel at 18 Alger Street, in the City of Saratoga Springs, New York, being Tax Parcel 165.43-1-39 on the assessment map of said City. The applicant having applied for an area variance under the Zoning Ordinance of said City to permit an accessory structure in the UR-3 District, and public notice having been duly given of a hearing on said application held on the 6th and 27th day of June 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:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Accessory to Rear	5ft	0.2ft	4.8 ft. or 96% relief
Accessory to Side	5	0	5ft. or 100% relief

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Accessory to Principal Structure	5ft	0.5t	4.5ft. or 90% relief

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. Per the applicant, the structure requested is to allow for the replacement of a previously existing storage shed at the rear of the property. Per the applicant the shed will be at the same distance or similar rear and side setbacks as other homes on the street.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The shed location appears to be consistent with similar shed in the neighborhood.
3. The Board finds that the variances substantial, however substantiality of the variance is mitigated by-the points provided above.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood.
5. The alleged difficulty may be considered self-created insofar as the applicant's desires to build an accessory, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

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

VOTE:

Gage Simpson, Chair; in favor; Cheryl Grey, in favor; Emily Bergmann, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

6. **#20220130 52 KIRBY AREA VARIANCE**, 52 Kirby Road, Area Variance to permit a two-lot subdivision seeking dimensional relief within the Urban residential-2 (UR-1) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open. Neighborhood comparables were provided per the Board's request. The Planning Board provided a positive Advisory Opinion. and accepted Lead Agency Status for SEQRA.

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

PUBLIC HEARING:

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

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

Gage Simpson, Chair, closed the public hearing at 8:18 P.M.

Cherie Grey presented the following resolution.

IN THE MATTER OF THE APPEAL OF

Richard Timberlake
52 Kirby Road
Saratoga Springs NY 12866

from the determination of the Building Inspector involving a parcel at 52 Kirby Road in the City of Saratoga Springs, New York being tax parcel number 165.13-2-37, in an UR-1 district on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit a subdivision to create two parcels, in which there is currently existing home on the property sited on "Lot 1" on the corner of Kirby Road and Glenwood Avenue and with a new "Lot 2" on Glenwood Avenue, and public notice having been duly given of a hearing on said application held April 4 and 25, June 6 and 27, 2022.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum lot size #1	12,500 sf	10,000 sf	2,500 sf (20%)
Minimum lot size #2	12,500 sf	10,021 sf	2,479 sf (19.8%)

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

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. The applicant has a deep lot and would like to divide the lot to build a single-family home on lot #2. The Board notes that the proposed lots meet district width requirements. The house on Lot #1 which is existing meets all side, front, and rear setback requirements, although the garage does not but is pre-existing, non-conforming. The applicant presented a potential plan for a house on lot #2 that would also meet all side, front, and rear setback requirements.
2. The applicants have demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. The lot is located on Kirby Road; however, the subdivision would create a new lot on Glenwood Avenue. The lot would be consistent with existing lots and homes located on Glenwood Avenue. The applicants further provided the Board with information on comparable lots in the neighborhood, making it clear that this new Lot 2 would be consistent with neighborhood context.
3. The Board notes that the variance is not substantial. However, it does create two substandard lots in the district but would not create a precedence due to the fact that the neighborhood does not have many lots that could be subdivided.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district.
5. These areas of relief are self-created insofar as the applicant's desire to subdivide this parcel, but that by itself is not fatal to the application.

Note:

City Planning Board favorable advisory opinion provided May 26, 2022.

Emily Bergmann seconded the motion.

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

VOTE:

Gage Simpson, Chair; in favor; Cheryl Grey, in favor; Emily Bergmann, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

APPROVAL OF MEETING MINUTES:

Cherie Grey made a motion to approve the minutes of the May 16, 2022, Zoning Board of Appeals Meeting with amendments as submitted. Emily Bergmann seconded the motion.

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

VOTE:

Gage Simpson, Chair, in favor; Cherie Grey, in favor; Emily Bergmann, in favor; Justin Farrington, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 8:35 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

Meeting minutes approved July 25, 2022