



# ZONING BOARD OF APPEALS

## MINUTES (FINAL)

MONDAY, NOVEMBER 15, 2021

6:30 P.M.

CITY COUNCIL ROOM

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

**SALUTE TO THE FLAG:**

**PRESENT:** Cherie Grey; Emily Bergmann; Terrance Gallogly; Shirley Poppel, Alternate

**ABSENT:** Keith Kaplan, Chair; Brad Gallagher, Vice Chair; Matthew Gutch

**STAFF:** Aneisha Samuels, Senior Planner, City of Saratoga Springs  
Tony Izzo, Assistant City Attorney

**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:**

Approval of meeting minutes was deferred to the December 6<sup>th</sup> ZBA Meeting.

**ZBA APPLICATIONS UNDER CONSIDERATION:**

**NEW BUSINESS:**

1. **#20210985 138 JEFFERSON ST. AREA VARIANCE**, 138 Jefferson St. area variance to renovate existing front porch within the Urban Residential-2 (UR-2) District.

Gage Simpson, Acting Chair, stated there are no areas of relief provided. We will listen to the applicant's presentation this evening.

Applicant: Michael Rinella

Mr. Rinella stated they have owned the 138 Jefferson Street property for years and they have made improvements. What we are now proposing is to renovate the existing front porch, adding a rounded octagon porch at one end and adding a new walkway as well.

Aneisha Samuels, Senior Planner stated the applicant just submitted the plot plan. The relief as she has calculated is 10 ft. setback from the front. Principal coverage on the lot appears fine.

Emily Bergmann questioned if the gazebo type porch will be enclosed

Mr. Rinella stated the octagon shaped porch will not be enclosed just roofed.

Gage Simpson, Acting Chair, stated the minimum front yard setback is 10 ft. in the UR-2 District.

Aneisha Samuels, Senior Planner stated based on the plot plans which have just been submitted the applicant may not require relief. The Building Inspector will review the plot plan and determine if relief is required.

Discussion ensued among the Board regarding the application and if relief is required.

Mr. Rinella stated what he is proposing is in keeping with the character of the neighborhood and other homes in the area.

Gage Simpson, Acting Chair, reviewed the information provided on the plot plan considering the 10 ft. front yard setback feels the applicant is looking at approximately 2.6 ft. relief.

It was the consensus of the Board to adjourn the application until the next meeting waiting for the denial from the Building Inspector.

**PUBLIC HEARING:**

Gage Simpson, Acting Chair, opened the public hearing at 6:43 P.M.

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

Gage Simpson, Acting Chair, stated the public hearing will remain open until the next ZBA Meeting scheduled for December 6<sup>th</sup>.

**2. #20210905 5 JUMEL PLACE AREA VARIANCE**, 5 Jumel Place, area variance to convert the existing accessory structure to a secondary principal building within the Urban Residential-3 (UR-3) District.

Gage Simpson, Acting Chair reviewed the areas of relief requested.

**AREA VARIANCE CONSIDERATIONS:**

| TYPE OF REQUIREMENT  | REQUIRED | PROPOSED | TOTAL RELIEF REQUESTED |
|--|----------|----------|------------------------|
| Minimum Average Width                                      | 80 ft.   | 55 ft.   | 25 ft. or 1.3%         |
| Side 1 garage/carriage house 2 <sup>nd</sup> principal     | 4 ft.    | 0.2 ft.  | 3.8 ft. or 95.0%       |
| Side 2 garage/carriage house 2 <sup>nd</sup> principal     | 4 ft.    | 1.9 ft.  | 2.1 ft. or 52.5%       |
| Total side garage/carriage house/2 <sup>nd</sup> principal | 12 ft.   | 2.1 ft.  | 9.9 ft. or 82.5%       |
| Second Principal Structure                                 | 1        | 2        | 100%                   |

Applicant: Matthew Richwine

Mr. Richwine stated the accessory structure is existing and has been since he purchased this home over 2 years ago. There is no intention of changing the footprint, the roof line, or the appearance of the structure. The upstairs portion of the accessory structure has about 400 sq. ft. of unfinished space. Their idea is to make this a usable living space upstairs while leaving the lower level as it currently exists as garages.

Gage Simpson, Acting Chair questioned the status of the existing space over the garage.

Mr. Richwine stated the area currently is unfinished with framing and floors.

Gage Simpson, Acting Chair, stated you looking to make this into a complete livable dwelling unit. Full kitchen, bathroom facilities and living area. How long has the garage been in existence.

Mr. Richwine stated yes, that is the intention. The principal structure was built in 1900 but he is not sure when the accessory structure was built.

Aneisha Samuel, Senior Planner, stated based on the Sanborn Maps, dated 1961 this accessory structure existed as it stands today. At that time, it was used as a dwelling unit. Sometime from then to now it ceased to exist as a residential dwelling unit. So, the applicant lost the privilege of having two principal dwelling units since there has been a discontinuance of the use of the second principal structure for a period exceeding one year.

Mr. Richwine stated there is currently an overhang on one side and we are considering moving that overhang to the rear or the north facing side of the house since there is more than ample room to manage the overhang without requiring any relief.

Cherie Grey questioned what the garages are currently being used for and what is the driving force behind the conversion of the space.

Mr. Richwine stated he is an electrical engineer and currently works from home. One option is to move his office to the structure. The other potential use for it is an in-law suite when his parents or in-laws come for a visit.

Cherie Grey stated accessory structures in Saratoga Springs in this district are not approved for residences unless they have been pre-existing nonconforming continuous uses. What the Board has approved are office and playrooms but with extremely limited accommodations. No shower or bathing facilities and no overnight stays. In this neighborhood there are many single-family homes. It would be helpful to have neighborhood comparables to better determine it does not conflict with the context of the neighborhood.

Mr. Richwine stated there are number of other homes in the area and the applicant did provide addresses that have this type of Situation and he feels this change would fit well into the neighborhood since the garage has been existence for years. There is precedent in the neighborhood.

Cherie Grey stated this structure is large and goes from one side of the property to the other. Anytime you add another residence on this then it becomes more encumbering in the neighborhood. Since you are close on the property lines. In this type of situation, we condition the area over the garage noting no bathing facilities, and no overnight stays.

Mr. Richwine stated he will submit neighborhood comparables to the Board for their review.

Gage Simpson, Acting Chair stated that would be helpful with neighborhood context especially since this was a residence previously. You are not building anything new. If it fits the neighborhood context is what we would need to see.

Terrance Gallogly questioned if the applicant had any contractors come through to determine if the structure is suitable and able to stand the renovations.

Mr. Richwine stated he has had contractors come through and make an assessment and provide a quote for the project. There have been no red flags regarding renovation or construction. The fact that it was a residence at one time and the living quarters do not appear to be close to the lot lines.

Emily Bergmann stated she feels this fits the character of the neighborhood.

Shirley Poppel, Alternate stated she also feels it fits the character of the neighborhood and she does not have a problem with what has been proposed.

### **PUBLIC HEARING:**

Gage Simpson, Acting Chair opened the public hearing at 7:05 P.M.

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

Kelly Shabaugh, 140 George St. is the owner of 9 Jumel Place which is a two-family home. There are carriage houses in the neighborhood on Jumel and Ludlow. He has no problem with what is being proposed and is within the context of the neighborhood.

Mark Hayes, 7 Jumel Place. Mr. Hayes stated the Matt and Kristen have been good stewards of the house. He has no objections to what is being proposed.

Gage Simpson, Acting Chair stated the Board has requested additional information from the applicant. Setbacks from the second story accessory structure and neighborhood comparables would be helpful.

Gage Simpson, Acting Chair stated the public hearing will remain open until the next ZBA meeting scheduled for December 6<sup>th</sup>.

**3. #20210869 338 CAROLINE AREA VARIANCE**, 338 Caroline Street, area variance to construct a porch, garage, and rear addition within the Urban Residential -1 (UR-1) District.

**AREA VARIANCE CONSIDERATIONS:**

| TYPE OF REQUIREMENT          | REQUIRED | PROPOSED | TOTAL RELIEF REQUESTED |
|------------------------------|----------|----------|------------------------|
| Maximum Principal Coverage % | 20%      | 25.2%    | 5.2% or 26.0%          |
| Setback – Front Porch        | 30 ft.   | 6.9 ft.  | 23.1 ft. or 77.0%      |
| Setback – Front Garage       | 30 ft.   | 23.1 ft. | 6.9 ft. or 23%         |
| Setback – Front Second Floor | 30 ft.   | 12.7 ft. | 17.3 ft. or 57.7%      |
| Side 1 – East                | 12 ft.   | 7.1 ft.  | 4.9 ft. 40.8%          |
| Total Side                   | 30 ft.   | 22.1 ft. | 7.9 ft. or 26.3%       |

Applicant: Libby Coreno

Ms. Coreno stated she is before the Board this evening representing herself. An aerial view of her property was provided to the Board, noting all the homes in this area are closer to the home than current regulations allow. A visual of the existing survey was provided noting the proximity of her driveway and her neighbors. Ms. Coreno provided a schematic of what the code is now and what currently exists. A visual of what the applicant is proposing was provided noting currently she is one of only two houses in the 3-block area without a garage or carport. She is looking to increase safety and accessibility to the home. This proposed plan offers the least amount of impact having the garage detached with a right sided orientation. A 4.9 ft. variance is requested on the east side and a 7.9 ft. variance for total side. Ms. Coreno provided floor plans of the second-floor addition. The first floor is pre-existing, non-conforming 13.25 ft. from the lot line. This addition will address a design issue with basement stairs and rear entrance stairs, maintain three bedrooms and the least amount of relief to cure this condition. It also will require the least amount of coverage issues, side yard variances, tree preservation and permeability. The last request is for a four-season room in the rear of the home which is compliant with rear and side setbacks. It will increase the lot coverage to 25.2%. 5.2% relief from the 20% maximum on this substandard lot. Also, this places the living area to the rear of the home for privacy including a bathroom. The front living room, a child's bedroom, and a bathroom front on Caroline Street approximately 20 ft. from the road. Lastly, we are proposing a front porch expansion which will widen the pre-existing, non-conforming front yard. 0.85 relief is requested from the pre-existing porch to allow for eaves. It is consistent with prior porches approved in the zone and will increase coverage from the elements. Ms. Coreno reviewed the areas of relief requested and reviewed the 5-part balancing test for an area variance. Ms. Coreno stated it is impossible to address the lack of a garage or design defect without increased square footage. A single-story addition would have greater impact. The design selected is to create the least amount of relief requested while addressing concerns. She is attempting to preserve existing foliage and reduce impervious surfaces. There are two story homes found in the immediate adjacent area of the property. Porches of comparable size exist in and around the property. The side yard setback for the garage is consistent with the area and the lot coverage is consistent in ratio to homes in the UR-1 and others with more substantial pre-existing non-conformance. The design is the least impactful to the neighbors on both sides.

Terrance Gallogly questioned if there were any accessory structures on the lot and, requested copies of the internal floor plans for the Board to review.

Ms. Coreno stated there are no accessory structures. The children have a play set in the rear.

Emily Bergmann questioned the applicant to confirm if the current driveway is to be removed and there will be only one curb cut where the new garage is proposed.

Cherie Grey questioned if the applicant considered a detached garage versus attached and the confirmed the size of the garage. Also, the dimensions of the three-season room and interior floor plans. Accessory structures on the property will be limited.

Discussion ensued among the Board concerning the relief requested, lot coverage, curb cut and detached versus attached garage as well as the location of the garage, and coverage for the air conditioning unit.

**PUBLIC HEARING:**

Gage Simpson, Acting Chair, opened the public hearing at 7:45 P.M.

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

Gage Simpson, Acting Chair stated the public hearing will remain open until the next ZBA meeting scheduled for December 6<sup>th</sup>.

**CONTINUED BUSINESS:**

**4.#202107795 3D TOMAHAWK TRAIL AREA VARIANCE**, 3D Tomahawk Trail, area variance for finished space above the detached garage to be used as a home/family office space within the Sub-Urban Residential -2 (SR-2) District.

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

Agent: Bob Flansburg, Dreamscapes Unlimited

Mr. Flansburg stated the plans have not changed. Everything remains as submitted.

Discussion ensued among the Board with Counsel regarding wording of the resolution.

**PUBLIC HEARING:**

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

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

Gage Simpson, Acting Chair, closed the public hearing at 7:52 P.M.

Terrance Gallogly presented the following resolution.

**#20210795**  
**IN THE MATTER OF THE APPEAL OF**  
**Stephen Hoffman**  
**3D Tomahawk Trail**  
**Saratoga Springs, NY 12866**

from the determination of the Building Inspector involving the premises at 3D Tomahawk Trail in the City of Saratoga Springs, New York being tax parcel number 192.12-1-58 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 finished space on the second floor of an existing detached garage in the Suburban Residential – 2 (SR-2) District and public notice having been duly given of a hearing on said application held on November 1 and 15, 2021.

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:

| <b>TYPE OF REQUIREMENT</b> | <b>DISTRICT DIMENSIONAL REQUIREMENT</b> | <b>PROPOSED</b> | <b>RELIEF REQUESTED</b> |
|----------------------------|---|-----------------|-------------------------|
| Finished Space             | Not Permitted                           | Permitted       | 100%                    |

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 finish the second floor of an existing detached garage, which would include a toilet and a sink. According to the applicant, the space will not be used for sleeping, cooking, or bathing. The applicant considered alternative options including siting the

office space in the main residence; however, he noted those alternatives would not meet the needs of the applicant due to noise and privacy.

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, no changes will be made to the footprint or outside appearance of the garage. Moreover, the space will be utilized as an office and will not have any sleeping, cooking, or bathing facilities.

3. The Board finds the variance to be substantial. However, this is mitigated by the stated use of the space being limited to an office that does not have sleeping, cooking, or bathing facilities and will not change the current exterior of the existing garage.

4. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district. The Board finds that the applicant has demonstrated the office will be constructed in the existing unfinished space on the second floor of the garage.

5. The alleged difficulty is self-created insofar as the applicant desires to construct an office in the unfinished space on the second floor of the existing garage, but this is not necessarily fatal to the application.

**CONDITIONS:** No kitchen, bathing facilities or overnight stays or other facilities customary with a dwelling unit are to be permitted.

Cherie Grey seconded the motion.

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

**VOTE:**

Gage Simpson, Acting Chair, in favor; Cherie Grey, in favor; Emily Bergmann, in favor; Terrance Gallogly, in favor; Shirley Poppel, Alternate, in favor

**MOTION PASSES: 5-0**

**5. #20210788 42 CIRCULAR AREA VARIANCE**, 42 Circular Street, area variance to replace a rear deck and build carriage style garage within the Urban Residential-4 (UR-4) District.

Applicant: Julie Furey

Agent: Sue Davis, SD Atelier Architecture

Ms. Davis stated at the applicant's last appearance before the ZBA it was suggested we appear before the DRC for an Advisory Opinion to determine if this was an appropriate addition to the home. The DRC did not have any concerns. Also, the carriage style garage will house an exercise room attached. A concern was voiced regarding patio distance from the property line. Since that time, we have submitted an updated site plan. The plan notes the patio will be 10 ft. from the property line per zoning regulations. We have eliminated the fire pit from consideration for this project.

Discussion ensued among the Board concerning the relief requested.

**PUBLIC HEARING:**

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

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

Gage Simpson, Acting Chair, closed the public hearing at 8:06 P.M.

Cherie Grey presented the following resolution.

**#20210788**  
**IN THE MATTER OF THE APPEAL OF**  
**Julie Furey**  
**883 Boston Post Road**  
**Madison, CT 06443**

From the determination of the Building Inspector involving a single-family home at 42 Circular Street in the City of Saratoga Springs, NY, being tax parcel number 165.76-2-62 on the Assessment Map of said City. The Applicant having applied for an area variance to permit an addition on the rear of the existing home and a two-story carriage house and seeking relief in the UR-4 District and public notice having been duly given of a hearing on said application November 1 and 15, 2021.

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 variances for the following amount of relief:

| TYPE OF REQUIREMENT  | DISTRICT DIMENSIONAL REQUIREMENT | PROPOSED  | RELIEF REQUESTED |
|--|----------------------------------|-----------|------------------|
| Side setback rear porch, north   | 20 feet                          | 17 ft.    | 3 ft. (15%)      |
| Finished space in accessory<br>(Two Story Carriage House style Garage) | Not permitted                    | Permitted | 100%             |

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant states that the deck on the rear of the house will be demolished and replaced with a new porch with staircases. The applicant will also create a deck on the second floor where there is currently a doorway original to that portion of the rear part of the house. Due to the pre-existing placement of the house on the property, a variance is necessary to allow for the rear porch construction. The Board notes the deck will be further from the lot line than a portion of the main house. The applicant further notes there is currently no garage on the property. The proposal includes garage with a first-floor exercise room and two-piece bathroom. The second story of the carriage house will be used for storage and remain unfinished.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in the neighborhood character or detriment to the near properties. The Board notes this addition will not be visible to the road. The existing rear deck is to be replaced with one conforming in size and character to the historic nature of this house. The proposed carriage house is to meet all setbacks and design consideration has been taken to use elements from the original carriage house on the property (Beagle St. School), in order to fit in with neighborhood context. It should be noted that a favorable advisory opinion from the Design Review Commission has been issued.
3. The Board finds the variance of 15% to not be substantial, however, the relief requested of permitted space in an accessory building is substantial at 100%. The applicant states that only the first floor will be finished with exercise space and a half bathroom; see conditions below to mitigate substantiality of this proposal. The applicant states that the second floor will remain unfinished.
4. The applicant has demonstrated that granting this variance will not have an adverse physical or environmental impact on the neighborhood. Permeability is expected to be met.
5. The request for relief may be considered a self-created hardship. However, self-creation is not necessarily fatal to the application.

**NOTES:**

Design Review Commission favorable advisory opinion 11/3/2021.  
 Application requires DRC Review.

**CONDITION:**

Finished space limited to first floor of accessory structure only. No kitchen, bathing facilities or overnight stays are to be permitted.

Shirley Poppel, Alternate seconded the motion.

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

**VOTE:**

Gage Simpson, Acting Chair, in favor; Cherie Grey, in favor; Emily Bergmann, in favor; Terrance Gallogly, in favor; Shirley Poppel, Alternate, in favor

**MOTION PASSES: 5-0**

**6. #20210715 303 NELSON AVENUE**, 303 Nelson Avenue, area variance to renovate existing carriage house (garage) into an upper-level office and finished space with a half bathroom and no kitchen space within the Urban Residential-3 (UR-3) District.

Agent: Ed Revetto, Revetto Design Group

Mr. Revetto stated at their previous appearance before the Board a site plan was requested to review the property setbacks. A survey was also submitted. The applicant is requesting space over the garage. The only way to accomplish this is to remove the roof of the existing garage, change the roof pitch to provide an office space area and half bath. There is no change to the current footprint, and no addition on the property. There are no changes to the proposed project since the last appearance before the Board.

Gage Simpson, Acting Chair stated what the Board was looking to determine in their request of the site plan was to determine other setbacks and proximity to the property lines.

Aneisha Samuels, Senior Planner, provided the following information.

**AREA VARIANCE CONSIDERATIONS:**

| <b>TYPE OF REQUIREMENT</b>  | <b>REQUIRED</b> | <b>PROPOSED</b> | <b>TOTAL RELIEF REQUESTED</b> |
|-----------------------------|-----------------|-----------------|-------------------------------|
| Accessory to Side (North)   | 5 ft.           | 1.6 ft.         | 3.4 ft. or 68%                |
| Accessory to Side (East)    | 5 ft.           | 2.6 ft.         | 2.4 ft. or 48.0%              |
| Finished Space in Accessory | Not permitted   | Permitted       | 100%                          |

Cherie Grey questioned the proximity to the property next door and if the roof pitch will impact snow onto the neighbor’s property.

Mr. Revetto provided information noting it is not a driveway but an alley and is so noted on the survey. He spoke regarding the proposed plans.

Aneisha Samuels, Senior Planner stated she has not yet received updated floor plans.

Mr. Revetto stated they can update the floor plans to make the bathroom smaller. We clearly understand the limitations that are placed on the space.

**PUBLIC HEARING:**

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

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

Gage Simpson, Acting Chair, stated the public hearing will remain open until the next ZBA meeting scheduled for December 6<sup>th</sup> at 8:06 P.M.



**MOTION TO ADJOURN:**

There being no further business to discuss Gage Simpson, Acting Chair, adjourned the meeting at 8:35 P.M.

Respectfully submitted,

Diane M. Buzanowski  
Recording Secretary