



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JANUARY 11, 2021

6:30 P.M.

ZOOM WEBINAR

CALL TO ORDER: Keith Kaplan, Chairman, called the meeting to order at 6:34 P.M.

SALUTE TO THE FLAG:

PRESENT: Keith Kaplan, Chairman; Brad Gallagher, Vice Chairman; Cherie Grey; Gage Simpson; Matthew Gutch; Terrance Gallogly; Rosemary Ratcliff

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

COMMENTS FROM THE CHAIR:

Keith Kaplan, Chairman welcomed new Board member Rosemary Ratcliff.

COMMENTS FROM THE CHAIR:

Amanda Tucker, Senior Planner stated it has come to the attention of staff today that neighbor noticing mailings for the four new business items may not have been mailed as anticipated. Newspaper noticing was completed. We will hold open all the public hearings for all the new applications as typical until the next ZBA meeting scheduled for February 1, 2021.

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. **#20200446 SPEARMAN SINGLE-FAMILY**, 63 Jackson Street, area variance to construct an accessory structure for a single family residence; seeking relief from the minimum front yard setback and to permit finished space in an accessory structure in the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Coverage	10%	15.2%	5.2% or 52.0%
Setback – Front	10 ft.	7 ft.	3ft. or 30%
Setback – Side 1 North	8 ft.	7 ft.	1 ft. or 12.5%
Finished space in Accessory Structure	Not permitted	Permitted	100%

Agent: Jessie Boucher, Kodiak Construction

Mr. Boucher stated the property located at 63 Jackson Street has been classified as a two-family residence since the 1960's.

The homeowners are looking to use this property for their home instead of a rental property. Their desire is to remove the existing two-family residence and construct a single-family residence with a two-car garage. Currently less than one car garage exists on the property and that would also be removed in the process. The applicants would also like to have a patio space with an in-ground pool. It is the patio space and the in-ground pool that creates the 15% accessory coverage relief requested. Above the garage the applicants are looking to add space for art and craft studio as well as additional storage. A visual of the site was provided for the Boards review.

Cherie Grey questioned the size of the garage and pool which increases the accessory coverage to 15%. We also need percentages on the pool pump and the air conditioning pad and the percentage on the primary residence.

Mr. Boucher stated the garage is 22.6 ft. x 27 ft. and 1½ “ rake. The pool is 11 ft. x22 ft. The pool pump and air conditioning pad are included in the percentage of the accessory building on the plot plan. The coverage percentage on the primary residence is 24.8 square feet or 1,461 square feet including overhangs.

Cherie Grey questioned if there was any possibility of decreasing the amount of coverage on the accessory structure.

Mr. Boucher stated they did design the accessory structure to be as tight as possible trying to keep the total under 40%, noting the placement of the garage stairs on the interior of the garage versus an outdoor staircase.

Discussion ensued regarding the placement of a condition on the resolution that restricts the applicants from any further structures on the property without further variances.

Keith Kaplan, Chairman stated the application was very complete.

Discussion ensued regarding the escape wells on the structure as well as no front setback noted.

Mr. Boucher stated the escape well on the Wright Street side can be moved to the north side next to the air conditioning units.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 6:58 P.M.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for February 1, 2021. No additional information has been requested from the applicant.

Amanda Tucker, Senior Planner provided information to the Board from the zoning officer. As mentioned, the escape wells are not considered fire escapes but part of the principal structure. This is a corner lot with fronts on both Wright Street and Jackson Street. That is what brings the front setback to 7 ft. and the side setback to 7 ft. as well. There is concern regarding the layout of the house. The applicant must demonstrate how the basement space does not meet the zoning definition of a dwelling unit as well as the that the building will need to be sprinklered due to the height or third story above grade.

2. #20200785 DEGREGORIO ACCESSORY STRUCTURE, 38 Pine Road, area variance to construct an accessory structure for a single-family residence; seeking relief from the minimum front yard setback and to permit finished space in an accessory structure in the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback – Front	30 ft.	15 ft.	15ft. or 50%
Finished space in Accessory Structure	Not permitted	Permitted	100%

DISCLOSURE:

Keith Kaplan, Chairman disclosed when visiting the property, he did have a conversation with the applicant/owner. The applicant provided additional information where things were on the property site. The Chair stated he can remain objective in this application and the merits of the application were not discussed.

Applicant: Patrick DeGregorio

Mr. DeGregorio stated this garage structure is being constructed to house his antique cars, motorcycles, etc., and for additional storage space. The “playroom” is not really a playroom but additional storage space. This will be a three-season structure, electricity but no heat. It will be somewhat of a man cave. The location of the structure is to allow for back yard space and is aesthetically more pleasing of a placement as well as easy access from the house.

Discussion ensued among the Board regarding no bathroom facilities, permeability on the site, alternative designs and is the proposed space classified as finished space and possibly reducing the amount of relief being requested.

Amanda Tucker, Senior Planner stated she will clarify if this is indeed finished space with the building inspector.

Keith Kaplan, Chairman stated he is comfortable with this application. He did note there will be a condition on the resolution noting no bathing, no cooking and no overnight stays which is standard language with finished space.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 7:20 P.M.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for February 1, 2021. No additional information has been requested from the applicant. A resolution will be prepared and presented at that time.

3. #20200893 DUBLIN ACCESSORY STRUCTURE, 85 Beekman Street, area variance to construct a detached accessory structure for an existing single-family residence; seeking relief from the minimum side yard setback and maximum accessory coverage requirements in the Neighborhood Complementary Use-1(NCU-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Coverage	10%	16%	6.0% or 60.0%
Accessory to Side	5 ft.	3 ft.	2 ft. or 40.0%

Applicant: Jonathan Haynes, Phinney Design Group

Mr. Haynes stated he is presenting on this 2-car accessory structure on Beekman Street. There is an existing single-family home residence on the site with an existing curb cut and driveway. We are looking to add the two-car garage on the site and minimize a curb cut and an additional driveway as well as additional asphalt by placing the structure in this location. A visual of the proposed project was provided. The applicants did review alternative designs as well as the size of the structure. Mr. Haynes did review the project in relation to neighborhood context. The garage will have a full second story, unfinished space for storage. There is a proposal for a powder room on the first-floor level of the garage. Drainage has been addressed on the site.

Discussion ensued among the Board regarding the first-floor powder room proposed, conditioning of the resolution regarding no bathing, no showers, no overnight stays.

Keith Kaplan, Chairman stated it does sound like finished space. Is another area of relief required?

Amanda Tucker, Senior Planner stated the interpretation from the Zoning Officer will permit a half bath on the first floor of an accessory structure without quantifying that as finished space.

Discussion ensued among the Board regarding the definition of the finished space and a first-floor powder room, the overall footprint, height of the structure, percentage of lot coverage being used by the accessory structure, the possibility of reducing the size of the garage to a one-story structure thereby reducing or omitting a variance, percentage of lot coverage by the principal structure and moving the garage structure further from the lot line, as well as alternative designs.

DISCLOSURE:

Cherie Grey disclosed that she does know Jonathan Haynes personally. She has no financial interest in this application and can remain objective in voting on this application.

Mr. Haynes stated the structure is 23' in width by 25' in length and 23'10" in height. There is an existing plastic shed on the site which can be removed, as well as the concrete patio. There is no storage in the home. Mr. Haynes stated coverage for the principal structure is 19.7% well below the 40% requirement. There are letters of support from the neighbors.

Cherie Grey questioned if Mr. Haynes owns both the properties noting support to the project.

Mr. Haynes stated is part owner of the property to the north and part owner with his wife of the property to the west. They would be most impacted by the construction of the proposed structure.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 7:48 P.M.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application.

Mark Konieczny, owner of 79 & 81 Beekman Street, the two lots south of the property. John owns all three of the lots on the plans. He built a similar garage on his primary residence property. However, due to the grading of the site a water issue developed in the basement of his property for the first time. Can we do something to control drainage from this site. The garage is not for the benefit of the tenants who rent the property but for the owners use for his business the Local as well as the design firm he is associated with. There is a history of overbuilding in this corner with drainage issues.

Mr. Haynes stated he does own all three parcels as previously noted. The parcel at 85 Beekman does have two tenants. There is a severe lack of storage in that building. Ultimately as owner I do want a two-car garage that can park two cars in it. This garage is designed to fit two cars, add a bathroom, and provide storage. There is no intent to raise grade for this project.

Cecilia & Richard Lockwood, 143 Grand Avenue. In reviewing the plans, we feel the garage is a bit overbuilt for the space, too much building for such a small space.

Mr. Haynes stated the storage would be for the owners. This project will add value to the property and is something he can bring to the property as a designer and builder and which there is a need for.

Mr. Phinney, Phinney Design Group, owner of 142 Grand Avenue and 85 Beekman. The principal and accessory structures added together are under the 40% coverage for the total lot. Other properties in the neighbor area are over the 40% lot coverage. The NCUD-1 zone housing many buildings which much higher density. The current proposal is not out of context.

DISCLOSURE:

Keith Kaplan, Chairman disclosed that his wife is a member of the Beekman Street Arts Co-op. He has no financial interest in this application and can remain objective in voting on this application.

Rosemary Ratcliff stated she was caught off guard during the presentation and following a question which disclosed that the applicant was the owner of all those properties. The statement the tenants have two cars and later that the tenants would not be using the

garage was confusing. It would have been helpful to start with the statement noting you are the owner of these properties and here is the intended use.

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for February 1, 2021. Additional information which has been requested from the applicant.

- #20200827 GREGORY SINGLE-FAMILY ADDITION**, 328 Caroline Street, area variance to construct additions to an existing single-family residence; seeking relief from the maximum principal coverage, minimum front and side yard setbacks, and minimum accessory side and rear yard setback requirements in the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	APPROVED VARIANCES	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage % (Previously Approved)	20%	22%	23.5%	1.5 ft. or 6.8%
Setback – Front	30 ft.		13 ft.	17 ft. or 56.7%
Side – West	12 ft.		5.4 ft.	6.6 ft or 55.0%
Accessory to Side (Shed)	5 ft.		0.8 ft.	4.2 ft. or 84%
Accessory to Side (A/C Unit)	5 ft.		3 ft.	2 ft. or 40%
Accessory to Rear (Shed)	5 ft.		2.5 ft.	2.5 ft. or 50.0%
Minimum Distance to adjacent lot line (Patio)	10 ft.		6 ft.	4 ft. or 40%

Applicant: Marina Gregory

Ms. Gregory stated she previously appeared before the Board in 2018. All the variances are pre-existing such as the shed and air conditioning unit or was built after the variances were granted in 2018. Their intent is to build up on the current footprint. They are very cognizant of the coverage and the use. We do wish to retain some green area in the yard. The roofline and overhang will come in a bit from what currently exists.

Amanda Tucker, Senior Planner clarified some of these items are existing however the non-conforming is being expanded upon. There is a vertical expansion proposed for this home. This is currently a one-story home and they are proposing a second story addition across the entire first floor. While the setback is currently in place, it is currently being expanded upon vertically. Additional relief is being required because of the addition of the second story. Updated photos and plans of the home which currently exist were requested.

Discussion ensued among the Board regarding all requested variances currently exist, moving the shed to meet requirements, possible relocation of the A/C unit, floor plans of the proposed addition, conditioning of the resolution regarding the side lot line, and conditions on variances granted in the event of a rebuild. Also, discussed was the size of the lot, neighborhood context and the amount of relief requested.

Ms. Gregory stated there is no storage on the property. They do not have a garage. The shed probably could be moved but it has existed in that area since they purchased the home and was on the survey with the previous application. The air conditioning unit is tucked away on the side of the property. Ms. Gregory provided elevations of the proposed project. Ms. Gregory stated they have considered many issues which they might encounter during construction. Floor plans will be provided to the Board. Spoke regarding height limitation in this neighborhood.

Keith Kaplan, Chairman stated it is not the duty of the Board to seek out and find the areas of variance. The application and later denials will have that information for us since it was noted that we did not catch the shed or a/c location previously. The Chair also voiced concerns regarding the size of the lot, neighborhood context and the amount of relief requested. It is not a matter of meeting the height requirement for the district, it is the concept of mass and scale and being proximate to the lot line. The west side lot line is 5.4 feet off. Having it one story is one thing, two story is another.

Ms. Gregory spoke regarding a home on the other side of the school has also been expanded and she feels the addition to her home will balance with that aesthetically.

Cherie Grey questioned the second story addition adding to the lot coverage.

Amanda Tucker, Senior Planner stated there possibly may have been a mistake in the prior computation for lot coverage. Currently what is proposed is 23.5% lot coverage.

PUBLIC HEARING:

Keith Kaplan, Chairman opened the public hearing at 8:38 P.M.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman stated the public hearing will remain open until the next ZBA meeting scheduled for February 1, 2021. No additional information has been requested from the applicant. A resolution will be prepared and presented at that time.

CONTINUED BUSINESS:

5. **#20200345 GUANILL TWO-FAMILY**, 144 West Circular Street, use variance to maintain a two-family residence; seeking relief from the permitted uses in the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. The Board has requested and received updated information.

Applicant: Rosemarie Guanill

Agent: Libby Coreno, Attorney, Chuck Marshall, Neighbor

Ms. Coreno stated this is their fourth appearance before the Board for the use variance application for 144 West Circular Street. No additional information has been requested.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman closed the public hearing at 8:41 P.M.

Gage Simpson presented the following resolution.

**#20200345
IN THE MATTER OF THE APPEAL OF
ROSEMARIE GUANILL
144 WEST CIRCULAR STREET
SARATOGA SPRINGS NY 12866**

from the determination of the Building Inspector involving the premises at 144 West Circular Street in the City of Saratoga Springs, New York being tax parcel number 165.74-1-32 on the Assessment Map of said City.

The applicant having applied for a **use variance** under the Zoning Ordinance of said City to maintain a two-family residence in an Urban Residential-2 (UR-2) District and public notice having been duly given of a hearing on said application held on the 3rd day of August 2020 through the 11th day of January 2021.

In consideration of the unnecessary hardship as shown by the submitted application, supplemental documentation, and oral presentation to the Zoning Board of Appeals, I move that a use variance to permit a two-family residence in the UR-2 District, be **approved** for the following reasons:

1. The applicant has demonstrated that she cannot realize a reasonable financial return on her initial investment for any currently permitted use on the property. At the outset, the Board notes that the applicant has provided extensive documentation regarding this application. That documentation indicates that the applicant purchased the property in October 2012 for \$212,000, and that she did so relying on publicly available information, including certain publicly available records from the City of Saratoga Springs, Saratoga County, and the Eastern New York Regional MLS, which classified the property as a two-family residence. The applicant stated that she purchased the property as a two-family residence believing that she would be able to supplement her income by renting the attached apartment during the six-week racing season. The applicant also indicated that she would not have purchased the property had it not been for this two-family classification. Over the course of the next several years, the applicant has made substantial financial investments into the property, including significant financial investments towards maintaining and improving the apartment that has been used for rental purposes. A detailed financial analysis was provided to the Board with supporting documentation that indicates that the applicant has spent over \$60,000 pro rata on specific costs that can be categorized as expenses relating to the apartment. These costs are in addition to approximately \$120,000 that the applicant has incurred to maintain and improve the premises.

The applicant has also provided other important information that supports this conclusion. The applicant has provided two appraisals, including one appraisal that indicates that the value of the property as a single-family residence is approximately \$26,000 less than the value of the property as a two-family. The applicant has also provided a detailed breakdown of income that has been generated from the seasonal rental of the apartment during the summer racing season, as well as an estimate from a local real estate company that indicates the future income to be lost if this use variance is not granted. Next, the applicant provided documentation that indicates that this property has been taxed as a two-family residence, and that insurance and utilities have been paid on the property since at least 2012 as if it were a two-family residence. Finally, the applicant has provided an estimate from a contractor that indicates that it would cost approximately \$52,000 to retrofit the premises from a two-family to a single-family residence.

When all this information is viewed in totality, and after careful deliberation, it is the Board's conclusion that the applicant cannot realize a reasonable financial return on her initial investment for the currently permitted use on the property, which is a single-family residence.

2. The applicant has demonstrated that the financial hardship is unique to this property and this applicant and does not apply to a substantial portion of the neighborhood. The documentation provided to the Board indicates that the applicant purchased this property and undertook a significant financial investment maintaining and improving a two-family residence. This two-family residence pre-existed her ownership, and the historical documentation suggests that this property has been identified as a two-family since the 1980s and was known in the neighborhood to include an apartment, which is unique in a neighborhood that consists of single-family residences. It appears, by all the documentation provided, that this property was treated by the City of Saratoga Springs and Saratoga County as a lawful two-family residence. In addition to the Saratoga County and MLS listing as a two-family residence, the applicant has provided a building permit issued by the City of Saratoga Springs for roofing work and the construction of a detached garage in 2014 without any mention that the property was not in compliance with the Zoning Ordinance. The property also appears to have been taxed, by both Saratoga County and the City of Saratoga Springs, as a two-family residence, which is a significant factor for several considerations of this application. In sum, the historical record and the extensive documentation provided establishes that this property and the financial hardship to the applicant would be unique, and therefore would not apply to a substantial portion of the surrounding neighborhood.
3. The applicant has demonstrated, and the Board finds, that the variance will not alter the essential character of the neighborhood. The record indicates that the apartment has been in existence for many years, and that it has only been used for seasonal rentals during the summer racing season. The apartment has been known to many in the neighborhood, and no objections were raised by neighbors regarding this application. To the contrary, several members of the community commented during public hearings that they were in support of this application and the continued use of the property with the apartment. As such, it is the Board's conclusion that the granting of this use variance, especially with the conditions listed below, will not have any meaningful impact on the essential character of the neighborhood.
4. The applicant has demonstrated that the alleged hardship has not been self-created. The applicant states that she was unaware that use of the premises as a two-family was not permitted at the time of purchase, and the extensive record indicates that, for all intents and purposes, this property has been treated as a two-family residence by the City of Saratoga Springs and Saratoga County for a significant period prior to the applicant's purchase of the property. There is no indication in this record that the applicant created, or contributed to, the alleged hardship.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, opposed; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor; Rosemary Ratcliff, in favor

MOTION PASSES: 6-1

5. #20200591 DINES TWO-LOT SUBDIVISION, 35 & 37-39 Ash Street, area variance associated with a proposed two-lot subdivision; seeking relief from the minimum and total side yard setbacks, maximum principal building coverage, minimum setback to a patio, and minimum lot size requirements for both lots in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open.

Applicant: Matthew Dines

Agent: Brett Balzer, Artur Dabrowski, Balzer Tuck Architecture

Mr. Balzer stated this application appeared before the ZBA at the December 14, 2020 meeting We concluded that meeting with some clear direction on how to proceed and the items which needed to be addressed. We submitted three additional drawings to supplement our previous presentation. The following items the Board wished to have addressed are as follows:

- Off Street Parking (4) spaces at 9x18 as per code
- Permeability issues with the 37-39 Lot.
- Revise the proposed adjoining lot line location in relation to 37 Ash Street.
- Confirm removals of existing patios/encroachments closer than 10' to the proposed property line
- The Board requested any additional variance requests for the proposed requests for the proposed Residence at Lot#1 35 Ash Street be addressed as part of this application.

Mr. Dabrowski provided a visual presentation of the site plan. At the previous meeting it was noted that the lot line must be 3 feet from the building, or fire resistance will be required. The lot line was shifted over one foot to 3 feet 2 inches which satisfies the fire code. On lot #2 the parking was modified so that the only portion of gravel is along the main driveway and for this application is being treated as 0% permeable. All the back yard area and the side yard area will be green space and 100% permeable. Permeability requirement is 25% and we are currently at 26% permeable. We are removing an existing patio and concrete sidewalk on the side lot. Variances requested for Lot #2 are minimum lot size, minimum average width, minimum side yard setback on the east, minimum total yard setback, and maximum percentage of lot coverage for the principal two family structure. Lot#1 which is currently vacant we are proposing a single-family residence, with a two-car garage. The variances requested for Lot #1 are minimum lot size, minimum average width, minimum total yard setback, maximum percentage of lot coverage for the accessory building to fit a two-car garage, also a variance for finished space in an accessory building for a home office use only for the owner. We are also proposing removing the existing shoreline which is two feet over the property line. The proposed new structure will meet the property lines. On Lot #2 we will be removing a sidewalk encroachment. In terms of permeability is exceeds the permeability requirement of 25%, it will be 41.4% which includes the proposed gravel driveway in the front, and the proposed patio.

Keith Kaplan, Chairman stated the variances requested for Lot#1 were not part of the noticing for this meeting. We are dealing with the subdivision portion of the application this evening, but it will not deal with the proposals on Lot#1 which will only exist if the subdivision is approved. If this is approved, we will deliberate at the next meeting for the variances requested for the project.

Also, if the applicant can provide for the next meeting feasible alternatives which were explored in requesting the finished space over the garage as well as a floor plan for the proposed space in the accessory structure. The information supplied regarding the materials was descriptive and complete.

Cherie Grey questioned the subdivision, what previously existed, density on the site, size of the lots, amount of relief requested.

Mr. Balzer provided a visual of the Sanborn Maps and what existed on the site, and the desire to return what previously existed back on the site.

Terrance Gallogly questioned the variances needed for the lots and not simply a subdivision as initially presented.

Mr. Dabrowski provided information to the Board regarding how these projects evolved and the request from the Board to include the requested relief with the subdivision application.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman closed the public hearing at 9:36 P.M.

Keith Kaplan, Chairman presented the following resolution.

**#20200591
IN THE MATTER OF THE APPEAL OF
MATTHEW J. DINES
37-39 ASH ST.
SARATOGA SPRINGS NY 12866**

from the determination of the Building Inspector involving a parcel at 35 and 37-39 Ash St. in the City of Saratoga Springs, New York being tax parcel number 165.74-2-16, in an Urban Residential-3 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 a subdivision to create two parcels, in which the currently existing improvements on the property are sited on "Lot 2" consisting of 5,778 square feet to be considered as 37-39 Ash St, and with a new "Lot 1" consisting of 6,272 square feet to be considered as 35 Ash St, and public notice having been duly given of a hearing on said application held on the 14th day of December 2020 and the 11th day of January 2021.

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: Lot 1	6600 SF	6272 SF	328 SF or 5%
Minimum Lot Size: Lot 2	8000 SF	5778 SF	2222 SF or 27.8%
Minimum average lot width: Lot 1	60'	43.6'	16.4' or 27.3%
Minimum average lot width: Lot 2	80'	40.1'	39.9' or 49.9%
Max. principal bld. coverage: Lot 2	30%	55.4%	25.4% or 84.7%
Minimum side setback: Lot 2, east	4'	3'	1' or 25%
Minimum total side setback: Lot 2	12'	3'	9' or 75%

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 applicants. The applicant notes that the requested lot shapes and dimensions would return the two new lots to the same separate status they had in the past, as shown on old City maps. The Board notes that given the total size of the now-combined parcel, the proposed placement of the dividing line between these two proposed lots allows for a minimal lot size variance for Lot 1, while allowing similar space to Lot 2 allowed on the historic map, with space allowed for a driveway.

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 notes the location of the property in a historic district and have provided documentation to the Board that this parcel was formerly two building lots. The Board notes the neighborhood context in the Arts District between Beekman Street and South Franklin Street supports the density of two building lots as per this proposal. Furthermore, the applicant notes that until the 1980's there was in fact a residence on what is proposed to be Lot 1.
3. The Board notes that most of the areas of relief are substantial, however the substantiality of these variances is mitigated by the lack of adverse impact as noted above.
4. These variances will not have a significant adverse physical or environmental effect on the neighborhood or district. Permeability of Lot 2 will be 26%, which meets UR-3 requirements of 25%. Lot 1 improvements will be evaluated separately and after subdivision approval; preliminary plans propose 41% permeability.
5. These areas of relief are self-created insofar as the applicant desires to subdivide this parcel, but that is not fatal to the application.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, opposed; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor; Rosemary Ratcliff, in favor

MOTION PASSES: 6-1

NOTE:

New Board Member Rosemary Ratcliff disclosed that she has reviewed all materials and the webcast, and she does feel comfortable voting on the continued business agenda items.

Keith Kaplan, Chairman stated when the applicant returns before the Board for the continuation of the project, he noted further information regarding the one foot of total side setback. This is a blank slate and there must be a way to reconfigure this or provide some additional information regarding why it could not be done. It seems avoidable. The accessory building at 945 square feet seems to be immense. A 24 x 24 standard two car garage is far less than 945 square feet. It is much bigger than a two-car garage and this is a tight space. He is not comfortable with this as it currently is presented and would like to hear more about the proposal at the next appearance before the Board.

7. 20200749 YURKEWICZ MULTI-FAMILY, 47 White Street, area variance to maintain an existing multi-family residence; seeking relief from the minimum side yard and total side yard setback requirements in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open.

Agent: Matthew J. Jones, Attorney

Mr. Jones provided a visual presentation of the new survey. The multi-family residence which exists at 47 White Street is a pre-existing non-conforming use. It is a 5-room apartment building and is has existed on this site as it is shown on the survey going back to the '30s and '40s. A 12' x 15' addition to the right or east of the structure which was applied for and granted in 1972. It did receive a building permit; however, a certificate of occupancy cannot be located or an explanation as to why the building permit was issued. The current owners have owned the property since 1979 and is currently under contract for sale now pending a ZBA determination. Updated areas of relief are as follows:

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback – Side 1- East	4 ft.	0.4 ft.	3.6 ft. or 90%
Total Side	12 ft.	1.9 ft.	10.1 ft. or 84.2%

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Chairman closed the public hearing at 9:57 P.M.

Brad Gallagher, Vice Chairman presented the following resolution.

**#20200749
IN THE MATTER OF THE APPEAL OF
DIANE AND WILLIAM YURKEWICZ
8271 GRAND PALM DRIVE, APT 2
ESTERO, FL 33967**

from the determination of the Building Inspector involving the premises at 47 White Street in the City of Saratoga Springs, New York being tax parcel number 165.756-1-29 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City seeking relief from the minimum side and total side yard setbacks for an existing multi-family residence in the Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held on December 14, 2020 and January 11, 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:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Max. Side Yard	4 Feet	0.4 Feet	3.6 Feet (90%)
Total Side Yard	12 Feet	1.9 Feet	10.1 Feet (84.2%)

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 maintain the existing structure that has existed in its current state since 1972. The applicant has demonstrated that the Building Department approved the addition in 1972, which permitted the structure to extend within 0.4' of the eastern property line. The applicant has also demonstrated that a lot line adjustment, even if possible, would not cure the encroachment into the setback, as it would create a violation of the setback requirements for the adjacent property located at 53 White Street.
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. The applicant has demonstrated that the current encroachment has existed since 1972. Thus, the Board finds that the length of the existence of this encroachment into the setback is evidence that there will be no change to the character of the neighborhood.
3. The Board finds that this variance is substantial. However, the Board also finds that the applicant has demonstrated that the variances requested are similar in nature to encroachments by other properties located in the neighborhood.
4. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district. Again, the encroachment has existed since 1972.
5. The alleged difficulty is self-created. However, the Board finds that it was reasonable for the applicant to rely on Building Permit issued by the Building Department that the addition, along with its encroachment, was permitted.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor; Rosemary Ratcliff, in favor

MOTION PASSES: 7-0

NOTE:

New Board Member Rosemary Ratcliff disclosed that she has reviewed all materials and the webcast, and she does feel comfortable voting on the continued business agenda items.

8. 20200760 TRIMBLE ACCESSORY STRUCTURE, 139 Grand Avenue, area variance to construct an accessory dwelling unit for an existing single-family residence; seeking relief to permit finished space in an accessory structure in the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. No additional information was requested from the applicant's agent.

Cherie Grey voiced her concern regarding the height of the garage.

Mr. Flansburg explained the design of the structure and conversations with the Preservation Foundation and the height and scale is in keeping with the character of the main house.

Keith Kaplan, Chairman stated the applicant is before the Board for relief for finished space in an accessory structure.

PUBLIC HEARING:

Keith Kaplan, Chairman stated the public hearing was opened and remains open.

Keith Kaplan, Chairman asked if anyone in the audience wished to comment on this application.

Maureen Curtin, 125 Grand Avenue. Ms. Curtin spoke about permitted uses in the district. Proximity to the rear property line. Air conditioning unit location.

Mark Schachner, Counsel to the Land Use Board stated there has not been any determination that the proposal constitutes a new or different use that is a prohibited use.

Amanda Tucker, Senior Planner stated that is correct. Patrick Cogan, Zoning and Building Inspector upholds the determination that is currently before the Board for an area variance. That has been submitted to the record.

Cecelia & Richard Lockwood, 143 Grand Avenue. We are direct neighbors with the Trimble's. We are pleased with this proposal to make a garage. The property needs a garage and a beautifully designed space. We also welcome not having their cars on the street. It looks like a beautiful space and will be an enhancement to the neighborhood. The dimensions of the lot are adequate for the construction.

Keith Kaplan, Chairman closed the public hearing at 10:10 P.M.

Matthew Gutch presented the following resolution.

**#20200760
IN THE MATTER OF THE APPEAL OF
PAUL AND REBECCA TRIMBLE
139 GRAND AVENUE
SARATOGA SPRINGS NY 12866**

In the matter of the appeal from the Building Inspector's determination involving a parcel at 139 Grand Avenue, in the City of Saratoga Springs, New York, being Tax Parcel 165.66-2-73 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 two-story accessory structure in the UR-3 District and public notice having been duly given of a hearing on said application held on the 14th day of December 2020 through the 11th day of January 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:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Finished space in an accessory structure	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 wants to construct a two-story accessory building with a two-car garage with a finished space above for a home office which will include a half bath. Applicant noted this space would be most conducive for their current profession and that there was no appropriate space in the principal structure for a home office.
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 two-story structure will be constructed to conform to the architecture on the property, while minimizing the loss of green space. The Board notes that finishing the space will not change the exterior character of the structure.
3. The relief requested may be considered substantial at 100%, but the relief requested is mitigated by its nature and its does not impact the neighboring properties. Permeability will meet the district requirement.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood. The footprint is not impacted by this relief.
5. The difficulty may be considered self-created insofar as the applicant desires to build a two-story accessory building, but this is not necessarily fatal to the application.

Conditions:

1. No cooking facility or range. No overnight stays. No bathing facilities.

Note:

Subject to review by the Design Review Commission.

Cherie Grey seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor; Rosemary Ratcliff, in favor

MOTION PASSES: 7-0

NOTE:

New Board Member Rosemary Ratcliff disclosed that she has reviewed all materials and the webcast, and she does feel comfortable voting on the continued business agenda items.

APPROVAL OF MEETING MINUTES:

Cherie Grey made a motion to approve the minutes of the November 9, 2020 Zoning Board of Appeals be approved with modifications as submitted.

Keith Kaplan, Chairman seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion. None heard.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, in favor; Cherie Grey, in favor; Gage Simpson, in favor; Matthew Gutch, in favor; Terrance Gallogly, in favor; Rosemary Ratcliff, in favor

MOTION PASSES: 7-0

NOTE:

New Board Member Rosemary Ratcliff disclosed that she has reviewed all materials and the webcast, and she does feel comfortable voting on the continued business agenda items.

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 10:20 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

Approved: 02/01/2021