ZONING BOARD OF APPEALS

MINUTES

Monday, January 28, 2019
6:30 P.M.
Recreation Center

Call to Order: Bill Moore, Chairman, called the meeting to order at 6:30 P.M.

Salute To The Flag:

Present: Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Brad Gallagher; Secretary; Susan Steer; Cheryl Grey; Jerry Luhn; Chris Hemstead; Rebecca Kern, Alternate

Staff: Bradley Birge, Administrator, Planning and Economic Development, City of Saratoga Springs

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.

Announcement of Adjourned Applications:

#3024 FAHY RESIDENCE, 166 Lincoln Avenue area variance to construct a new single-family residence; seeking relief from the minimum average lot size width and minimum lot size requirement for a second single-family residence, to permit more than one principal building on a lot and minimum rear yard setback requirements in the Urban Residential-2 District.

#3022 DEVALL SUBDIVISION, 59 Franklin Street, area variance associated with a two-lot subdivision; seeking relief from the minimum average lot width for the proposed lot and minimum side yard setback to parking in the Urban Residential-4 District.

#2953 STATION PARK MIXED USE DEVELOPMENT, Washington Street and Station Lane, area variance for a proposed multi-use development containing a 110 room hotel, 88 senior housing units, 41 assisted living units, 90 townhouses, and 28,060 square feet of retail; seeking relief from the frontage build to and build out, minimum two story and maximum building height requirements in the Transect-5 District.

New Business:

1. #3080 DOGRA SIGN, 3 Gick Road, area variance to construct a sign identifying a home occupation; seeking relief from the maximum size requirement for such sign in the Urban Residential-2 District.

SEQRA:

Action appears to be a Type II action, and therefore exempt from further SEQRA review.

Area Variance Considerations:

<table>
<thead>
<tr>
<th></th>
<th>Required</th>
<th>Proposed</th>
<th>Total Relief Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum size for sign for home occupation</td>
<td>1.5 sq. ft.</td>
<td>7.5 sq. ft.</td>
<td>6 sq. ft. (400%)</td>
</tr>
<tr>
<td>Type of sign for home occupation</td>
<td>Wall</td>
<td>Freestanding</td>
<td>100%</td>
</tr>
</tbody>
</table>
Applicant: Sajan Dogra; Laura Dogra

Ms. Dogra stated the applicants are using their living room to offer yoga classes and meditation. There is no visible area to install a sign afforded by the City’s ordinance. The applicants are requesting the signage placement in their front yard. The applicants provided a visual of the proposed sign 3½ feet by 2½ feet.

Cherie Grey questioned the amount of information on the proposed sign since this is a residential district and this size and type of signage is not allowed. What information would be most important to have on the sign versus what is proposed.

Ms. Dogra stated the signage they are proposing has information on contacting them and what services they provide. The permitted window sign would not be a feasible alternative and the wall facing the main thoroughfare is not visible due to landscaping and tall bushes. Our home is located on the corner of a busy intersection a few hundred yards from multiple community centers and businesses advertising themselves with large, metal and plastic signs.

Cherie Grey stated this is a large variance for the proposed signage especially in a residential area where there are no signs of this type. Window decals may be a better solution for signage.

Bill Moore, Chairman stated he agrees with Cherie the sign is way too big and it is a safety concern with people trying to read the hours and other information listed. The top portion of the sign is fine.

Brad Gallagher, Secretary stated he also believes the sign is too large, with too much information.

Chris Hemstead questioned the proximity to the commercial area. Nothing similar in their neighborhood.

Keith Kaplan, Vice Chairman questioned the size of the signage allowed.

Bradley Birge, Administrator, Planning and Economic Development, City of Saratoga Springs stated for a home occupation the applicant is allowed 1½ square feet relief on the wall. The applicant is looking for relief from a wall sign to a free standing sign.

Keith Kaplan, Vice Chairman stated for him it is all about safety. He does not like the fact that this opens the door for other people to want the same thing. I don’t like the current size it is too much. I don’t mind it being a little bigger than the allowed 1 ½ square feet. Too much information currently is on the proposed sign and it is also a safety factor.

Susan Steer stated too much information on the sign. A freestanding sign is fine.

Jerry Luhn stated traffic safety is a concern.

Bradley Birge, Administrator, Planning and Economic Development, City of Saratoga Springs stated the Board has provided some guidance to the applicants concerning what the Board would be looking for.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 6:45 P.M.

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

Bill Moore, Chairman stated the public hearing will remain open. If the applicants would like to rework the design and resubmit the information to staff, we can review at the next ZBA meeting scheduled for February 4, 2019.
2. #3081 KOTELLY TERRACE, 47 Walnut Street, area variance to maintain a constructed terrace to an existing single-family residence; seeking relief from the minimum yard setback requirement for a patio/terrace in the Urban Residential-2 District.

SEQRA:

Action appears to be a Type II action and therefore exempt from further SEQRA review.

AREA VARIANCE CONSIDERATIONS:

<table>
<thead>
<tr>
<th></th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum yard setback: Patio/terrace</td>
<td>10 ft.</td>
<td>9 ft.</td>
<td>1 ft. (10%)</td>
</tr>
</tbody>
</table>

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated this is a recently built new home. The building inspector discovered the terrace was not 10 feet from the adjacent property line but 9 feet. This was an oversight on everyone's part. Ms. Yasenchak provided information on the zoning ordinance regarding terraces. Terraces must be 10 feet from the property line. We are requesting a 1 foot variance. This cannot be seen from the road.

Brad Gallagher, Secretary stated he has no further questions.

Bill Moore, Chairman disclosed that he does live several blocks from this home.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:53 P.M.

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

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for February 4, 2019.

3. #3082 RICHTER RESIDENCE, 23 Eureka Avenue, area variance for an addition to an existing single-family residence; seeking relief from the maximum principal building coverage requirement in the Urban Residential-1 District.

SEQRA:

Action appears to be a Type II action, and therefore exempt from further SEQRA review.

AREA VARIANCE CONSIDERATIONS:

<table>
<thead>
<tr>
<th></th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum principal building coverage:</td>
<td>20%</td>
<td>26.9%</td>
<td>6.9% (35%)</td>
</tr>
</tbody>
</table>

Agent: Ed Lewis, Garneau Builders

Mr. Lewis stated the applicant is proposing an addition to the home, similar to others in the area. The applicant is removing the existing 12 x 16 screen porch on the home and replacing that with a new kitchen, master bedroom and screen porch.
Keith Kaplan, Vice Chairman questioned the applicant's agent concerning feasible alternatives. Why are the sizes of the additions necessary and how they are laid out which puts the applicant over the allowable building coverage.

Mr. Lewis explained how the applicant arrived at this particular design and size.

Keith Kaplan, Vice Chairman stated the variance is a significance variance. Perhaps the applicant can look at a smaller footprint and why a smaller footprint would not be feasible.

Discussion ensued regarding feasible alternatives.

Mr. Lewis stated the applicant could possibly remove the screen porch. This is something which needs to be discussed with the applicant. Currently the project would add a bathroom and bedroom. There are many homes in the area which have additions similar to what is proposed. There is also a small shed on the property.

Keith Kaplan, Vice Chairman requested information on lot coverages on neighboring properties. This would be necessary to provide a resolution for the next meeting scheduled for February 4, 2019.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:05 P.M.

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

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for February 4, 2019.

OLD BUSINESS:

4. **#3064 CONNERS RESIDENCE**, 87 Ludlow Street, area variance to construct an addition to an existing single-family residence; seeking relief from the maximum principal building coverage requirements in the Urban Residential-3 District.

This application was heard at the October 29, 2018 meeting and adjourned to November 19, 2018. The public hearing was opened and remained open. The Board requested that the applicant submit accessory building coverages for the pool and shed and principal building coverages in the neighborhood. The application was adjourned from the November 19, 2018 meeting awaiting submission of information requested. Information was submitted on November 20, 2018.

At the November 26, 2018 meeting the Board asked the Building Inspector to review the possible need for relief from the minimum setback for a patio for area around the pool. It was determined that no additional relief was required.

At the December 10, 2018 meeting the public hearing was closed and a motion to approve was not passed.

The applicant has provided a revised plan that eliminates one of the proposed rear porches and reduces the principal building coverage to 31.9%.

Agent: Bob Flansburg, Dreamscapes Unlimited

Mr. Flansburg stated they have reduced the requested variance to 31.9%.

Bill Moore, Chairman asked if there were any further questions or comments from the Board. None heard.
Bill Moore, Chairman stated the public hearing was closed at a previous meeting.

Keith Kaplan, Vice Chairman presented the following resolution.

#3064
IN THE MATTER OF THE APPEAL OF
Jennifer Conners
87 Ludlow Street
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 87 Ludlow St. in the City of Saratoga Springs, New York being tax parcel number 166.53-2-52 on the Assessment Map of said City.

The appellants having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a single-family residence on an existing foundation plus additions in a UR-3 District and public notice having been duly given of a hearing on said application held on the 29th day of October through the 10th day of December 2018.

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 variance for the following amount of relief:

<table>
<thead>
<tr>
<th>TYPE OF REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQUIREMENT</th>
<th>PROPOSED</th>
<th>RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Principal Building Coverage</td>
<td>30%</td>
<td>31.9%</td>
<td>1.9%</td>
</tr>
</tbody>
</table>

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 has noted that there is a carriage house already on the property being used as a residential structure, which leaves a limited amount of lot coverage to be allotted to the main house. The applicant reviewed with the board the fact that the main house foundation was retained, so reducing the old foundation's dimensions would not have been feasible.

   The applicant has noted that reducing the size of the porch additions in the back would have limited their usefulness.

   The applicant further notes that the screened-in porch area could have been detached from the main house, thereby reducing the need for principal building relief; however this would have reduced its utility. The Board notes that the current accessory structure- the pool area- is less than the 10% allotted, so some of the unallotted accessory area could have accommodated a detached covered sitting area such as a gazebo.

   Finally, the applicant has revised her plan, to remove an originally requested rear covered porch area, in order to minimize the lot coverage variance request.

2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The proposed addition is in the back of the house fronting Ludlow St., limiting its impact on neighbors. Additionally, the applicant has furnished information on neighboring properties indicating the areas of principal coverage sought for this property are not disproportionate.

3. The Board finds this variance not to be substantial on a percentage basis. Furthermore, the Board will impose conditions precluding further accessory structures, noting the district requirement of 3.0% for a principal residence and 10% for an accessory building. The current pool is approximately 5.4% of lot area. The Board notes the 1.9% of area variance allotted to this proposed project will result in total coverage allowable by district...
requirements.

4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district. The lot as shown in the application materials will still well exceed permeability requirements of 2.5%.

5. The alleged difficulty is self-created insofar as the applicants desire to construct the proposed rebuilt structure with an addition, but this is not necessarily fatal to the application.

Condition: No additional accessory structures permitted without additional relief.

Cherie Grey seconded the motion.

Bill Moore, Chairman asked if there was any further discussion.

Discussion ensued among the Board concerning the addition of no accessory structures to be noted on the resolution. It was the consensus of the Board that the addition of a note stating no accessory structures be added to the resolution.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Susan Steer, in favor; Cheryl Grey, in favor; Rebecca Kern, Alternate, in favor

MOTION PASSES: 6-0

NOTE:
The agenda was heard out of order to accommodate agent representation.

5. #3079 SHEPARD RESIDENCE, 26 Joshua Road, area variance to maintain a constructed landing and stairs to an existing single-family residence; seeking relief from the minimum side yard and minimum total side yard setback requirements in the Urban Residential -2 District.

This application was heard at the January 7, 2019 meeting and adjourned to January 28, 2019. The public hearing was opened and remains open.

PUBLIC HEARING:

Bill Moore, Chairman stated the public hearing was opened and remains open.

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

Bill Moore, Chairman closed the public hearing at 7:20 P.M.

Susan Steer presented the following resolution.

#3079
IN THE MATTER OF THE APPEAL OF
Joe Shepard and Patti Landon
26 Joshua Road
Saratoga Springs NY 12866

From the determination of the Building Inspector involving the premises located at 26 Joshua Road in the City of Saratoga Springs, New York being tax parcel number 178.52-1-16.2 in the Assessment Map of said City.
The Applicants having applied for area variances under the Zoning Ordinance of said City to construct an exterior stairway to a single-family residence and seeking relief from the minimum and total side yard setback requirements in the UR-2 District and public notice having been duly given of hearings on said application held on January 7 and 28, 2019.

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:

<table>
<thead>
<tr>
<th>TYPE OF REQUIREMENT</th>
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<th>PROPOSED</th>
<th>RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Side Yard Setback</td>
<td>8'</td>
<td>7.5'</td>
<td>0.5' (6%)</td>
</tr>
<tr>
<td>Total Side Yard Setback</td>
<td>20'</td>
<td>17.7'</td>
<td>2.3' (11%)</td>
</tr>
</tbody>
</table>

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 Applicants desire to construct a stairway that leads out of their mudroom to a fenced in portion of their side yard for their pets. Due to a City building code requiring a minimum 3 foot landing leading out from a doorway, there is no other feasible alternative absent removing the doorway.

2. The Applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The stairway is small and due to the existence of a driveway, is not near the home of the neighboring property.

3. The Board finds that the variances at 0.5 feet (6%) and 2.3 feet (11%) are not substantial.

4. The Board finds that the variance will not have significant adverse physical or environmental effect on the neighborhood or district. The proposed porch is very small and will not affect site drainage.

5. The alleged difficulty is self-created, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Susan Steer, in favor; Cheryl Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES: 6-0**

5. **#3069 MCFADDEN RESIDENCE.** 40 Jefferts Street, area variance to maintain a constructed deck and build a new screened porch to an existing single-family residence; seeking relief from the minimum side yard and total side yard setback requirements in the Urban Residential-1 District.

This application was heard at the November 26, 2018 meeting and adjourned to December 10, 2018. The public hearing was opened at that time and remains open. An updated survey with dimensions to the deck was submitted December 3, 2018 as requested by the Board.

This application was adjourned from the December 10, 2018 meeting awaiting a principal building coverage calculation from the surveyor.

**PUBLIC HEARING:**

Bill Moore, Chairman stated the public hearing was opened and remains open.
Bill Moore, Chairman asked if anyone in the audience wished to comment on this application. None heard.

Bill Moore, Chairman closed the public hearing at 7:23 P.M.

Brad Gallagher, Secretary presented the following resolution.

#3069
IN THE MATTER OF THE APPEAL OF
Ryan and Sonja McFadden
40 Jefferts Street
Saratoga Springs, NY 12866

From a determination of the Building Inspector involving the premises located at 40 Jefferts Street in the City of Saratoga Springs, New York, tax parcel number 166.39-1-18.1 on the Assessment Map, of said City.

The Applicant having applied for area variances under the Zoning Ordinance of said City to permit the maintenance of an existing deck and construct a screened porch on an existing single-family residence in a UR-I District and public notice having been duly given of hearings on said application held on November 26, 2018, December 10, 2018 and January 28, 2019.

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:

<table>
<thead>
<tr>
<th>TYPE OF REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQUIREMENT</th>
<th>PROPOSED</th>
<th>RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum Side Yard Setback</td>
<td>12 FT.</td>
<td>7.3 FT.</td>
<td>4.7 FT. (39%)</td>
</tr>
<tr>
<td>Minimum Total Side Yard Setback</td>
<td>30 FT.</td>
<td>29 FT.</td>
<td>1 FT. (3%)</td>
</tr>
<tr>
<td>Principal Building Coverage</td>
<td>20%</td>
<td>26%</td>
<td>6% (30%)</td>
</tr>
</tbody>
</table>

As per the submitted documents, including the revised survey dated January 15, 2019, or lesser dimensions, be APPROVED for the following reasons:

1. The Board finds the Applicant demonstrated the benefit sought cannot be achieved by other means feasible to the Applicant. The Applicant demonstrated that the pre-existing deck was non-conforming at the time they purchased the property and has existed for many years in its current state. The Board finds the Applicant considered removing the portions of the deck that encroach into the setback requirements and to do so would require the expenditure of significant capital resources. The Board notes that the Applicant is not seeking to alter the existing deck, but only maintain it. The Board finds that the proposed screen porch, which is the only new construction, does not require any relief.

2. The Applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board finds that the deck has existed in its current state for many years. Moreover, the vegetative screening ensures the encroaching portion of the pre-existing deck does not impede on the privacy of the neighboring properties.

3. The Board finds that although the relief requested for minimum side yard setback of 39% could be considered substantial. The Board finds this to be mitigated because of the pre-existing nature of the deck and vegetative screening that protects the privacy of the neighboring properties. The Board does not find the relief for minimum total side yard setback of 1 foot or 3%, or principal building coverage of 6.5% to be substantial.

4. The Applicant has demonstrated that the variance will not have significant adverse physical or environmental effect on the neighborhood or district. The portion of the deck requiring relief has been in existence for many years without
any negative effects on the neighborhood. Moreover, the vegetative screening along the property line protects the privacy of neighboring properties.

5. The alleged difficulty is self-created but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Bill Moore, Chairman asked if there was any further discussion. None heard.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Susan Steer, in favor; Cheryl Grey, in favor; Rebecca Kern, Alternate, in favor

MOTION PASSES: 6-0

6. #3078 GRIMMETT RESIDENCE, 30 Joseph Street, area variance for a new single-family residence; seeking relief from the maximum principal building coverage requirement in the Urban Residential – 32 District.

This application was heard at the January 7, 2019 meeting and adjourned to January 28, 2019. The public hearing was opened and remains open.

PUBLIC HEARING:

Bill Moore, Chairman stated the public hearing was opened and remains open.

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

Bill Moore, Chairman closed the public hearing at 7:28 P.M.

Brad Gallagher, Secretary presented the following resolution.

#3078
IN THE MATTER OF THE APPEAL OF
Scott and Lisa Grimmett
30 Joseph Street
Saratoga Springs, NY 12866

From a determination of the Building Inspector involving the premises located at 30 Joseph Street in the City of Saratoga Springs, New York, tax parcel number 165.82-1-74 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 existing single-family residence to exceed the maximum lot coverage in a UR-2 District and public notice having been duly given of hearings on said application held on January 7 and 28, 2019.

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:

<table>
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<tr>
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<th>PROPOSED</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Maximum Principal Building Coverage</td>
<td>30%</td>
<td>30.7%</td>
<td>0.7% (2.3%)</td>
</tr>
</tbody>
</table>
As per the submitted documents, or lesser dimensions, be APPROVED for the following reasons:

1. The Board finds the Applicant demonstrated the benefit sought cannot be achieved by other means feasible to the Applicant. The residence has already been constructed and would require the expenditure of significant capital to correct the error relating to the soffit overhangs. Accordingly, the correction of the soffit overhangs is not feasible.

2. The Board finds the soffit overhang error to be minimal and will not have an undesirable change in the neighborhood character or detriment to nearby properties.

3. The Board finds the relief requested for maximum principal building coverage of 0.7% or 2.3% is not considered substantial.

4. The Board finds that the variances will not have significant adverse physical or environmental effect on the neighborhood or district. The soffit overhangs project less than 6” into the coverage area.

5. The alleged difficulty is self-created insofar as the Applicant, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Bill Moore, Chairman asked if there was any further discussion. None heard.

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Susan Steer, in favor; Cheryl Grey, in favor; Rebecca Kern, Alternate, in favor

**MOTION PASSES:** 6-0

**MOTION TO ADJOURN:**

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 7:30 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 3-4-18