



ZONING BOARD OF APPEALS

MINUTES

MONDAY, MARCH 4, 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; Cheryl Grey; Jerry Lund; Chris Hemstead; Kathleen O'Connor, Alternate

ABSENT: Rebecca Kern

STAFF: Susan Barden, Principal Planner, Planning and Economic Development, City of Saratoga Springs
Tony Izzo, Assistant City Attorney, City of Saratoga Springs
Justin Grassi, Counsel to the Land Use Boards

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

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

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

#20190052 WILLARD RESIDENCE, 832 North Broadway, area variance for a new single-family residence and detached garage; seeking relief from the minimum front yard setback (Fourth St.) for the detached garage (accessory structure) in the Urban Residential-1 District.

#20190079 SJK PROPERTIES, 78 Mitchell Street, area variance for a new single-family residence and accessory structures; seeking relief from the maximum principal and accessory building coverage's, minimum rear yard setback and minimum setback from principal to accessory building for the detached garage in the Urban Residential-3 District.

#20190025 ELDER RESIDENCE, 704 North Broadway, area variance to convert an existing detached garage to a guest house and construction of a pool cabana; seeking relief from the minimum front yard setback and to permit more than one principal building on a lot for the guest house and to permit finished space in an accessory structure for the pool cabana in the Urban Residential-1 District.

#20190030 FALVEY MULTI-USE BUILDING, 65 Beekman Street, area variance for a new 2 story multi-use building; seeking relief from the minimum front yard (Beekman and Oak Sts.) and maximum principal building coverage requirements within the Neighborhood Complementary Use-1 District.

#3022 DEVAL 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.#20190050 LOVE RESIDENCE, 16 Diamond Place, area variance for constructed changes to an existing single-family residence and detached garage; seeking relief from the minimum front and side yard setback requirements for the house and maximum accessory building coverage for the garage in the Urban Residential-3 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum front yard setback:	4ft.	3.5 ft.	.5 ft. (12%)
Minimum side yard setback:	4 ft.	3.5 ft.	.5 ft. (12%)
Maximum accessory building coverage	10%	10.1%	.1% (1%)

Applicant: Kara Conway Love

Mrs. Love stated due to an oversight during construction the zoning violations were not revealed until the final survey. Exclusive of the overhangs, the house is fully contained within the required setback area. The overhangs encroach .5 feet into the front yard setback. The relief requested cannot be achieved by any other means because the garage and house have already been constructed. The requested variances will not result in an undesirable change in the neighborhood.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 6:35 P.M.

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 6:35 P.M.

Cherie Grey presented the following resolution.

#20190050
IN THE MATTER OF THE APPEAL OF
John and Kara Conway Love
16 Diamond Place
Saratoga Springs, NY 12866

From the determination of the Building Inspector involving the premises at 16 Diamond Place in the City of Saratoga Springs, NY, being tax parcel number 166.53-1-31 on the Assessment Map of said City.

The Applicant having applied for an area variance to permit constructed changes to an existing home in the UR-3 District and public notice having been duly given of a hearing on said application March 4, 2019.

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 variance for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum Front yard setback:	4*ft.	3.5 ft.	.5 ft (12%)
Minimum Side yard setback:	4 ft.	3.5 ft.	.5 ft. (12%)
Maximum accessory building coverage	10%	10.1%	.1% (1%)

*Front yard setback is determined by average of two front yard setbacks on adjacent parcels.

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 overhang on the side of the house extended an additional 4 inches, the front entryway overhang was extended an additional 5 inches and the accessory building was built .1% over the allowance amount of 10%. Per the applicant, these were all not noticed until the final survey was completed after all construction. Although the house and the garage are within the variance allowances, the slight amounts of overhangs created the requested relief and are considered minimal.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. Many of the homes on this alley are using the full use of the property due to the fact that they are positioned close to the lot lines on both the front and sides.
3. The requested variance is not substantial as the front and side yard setbacks are 12% and the accessory building coverage is 1%.
4. Due to the minor degree of relief, the Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood.
5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

Condition: No future accessory buildings.

Chris Hemstead 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; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hempstead, in favor; Kathleen O'Connor, in favor

MOTION PASSES: 7-0

2. **20190071 STELLATO RESIDENCE**, 148 Woodlawn Avenue, area variance for an addition to an existing single family dwelling and construction of a carport addition to the existing carriage house, seeking relief from the maximum side yard, total side yard and rear yard setbacks and maximum principal building coverage requirements in the Urban Residential-3 District.

RECUSAL:

Cherie Grey recused from this application.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	4 ft.	3 ft.	1 ft. (25%)
Minimum total side yard setback:	12 ft.	8 ft.	4 ft. (33%)
Minimum rear yard setback: Garage	25 ft.	0	25 ft. (100%)
Minimum rear yard setback: Carport	25 ft.	8 ft.	17 ft. (68%)
Maximum principal building coverage:	30%	55%	25% (83%)
Minimum average lot width: Two-family	80 ft.	50 ft.	30 ft. (37%)
Minimum lot size: Two Family	8,000 sq. ft.	6,500 sq. ft.	1,500 sq. ft. (19%)

Applicant: Tony and Jerilynn Stellato

Mr. Stellato stated there are three things we are looking to accomplish with the area variances requested. We are looking to add a first floor master suite at the rear of the home on the first floor level and a stairway to access the basement. The carriage house has an exterior porch and stairwell off the rear of it. There are 3 black walnut trees along the property line where our vehicles are parked. We are proposing a covered carport area over this portion of the driveway to protect the vehicles. The walnuts drop off the trees and dent our vehicles. Mr. Stellato performed a land coverage analysis on 16 properties. We concluded that the zoning ordinance was established after these lots were formed. Mr. Stellato provided percentages of the area lots for the Board’s information and concluded that their property will be 35.1% permeable after the proposed construction is completed.

Brad Gallagher, Secretary questioned if there were any floor plans or drawings for the Board to review.

Mr. Stellato stated these are being completed by architect Bob Flansburg. Sketch drawings were provided for the Boards review.

Discussion ensued regarding the carriage house garage, parking and proposed deck.

Bill Moore, Chairman stated the coverage figures submitted are incorrect. The areas of relief are too great and I cannot support an application requesting this much relief.

Keith Kaplan, Vice Chairman stated he too is uncomfortable. This is too much relief and I cannot support this application as it is currently submitted. There are other options and perhaps this can be re-worked with less relief requested.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:07 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. We await drawings, floor plans and new lot coverage calculations.

NOTE:

Board Member Cherie Grey resumed her position on the Board.

- 3. **#20190076 CRISAFULLI RESIDENCE**, 94 North Street area variance to permit a dwelling unit seeking relief from the minimum side yard (both sides), total side yard and rear yard setbacks and maximum principal building coverage requirements in the Urban Residential-3 District.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	4 ft.	1 ft.	3 ft. (75%)
Minimum side yard setback:	4 ft.	3 ft.	1 ft. (25%)
Minimum total side yard setback:	12 ft.	4 ft.	8 ft. (67%)
Minimum rear yard setback:	25 ft.	18 ft.	7 ft. (28%)
Maximum principal building coverage	30%	43%	13% (43%)

Applicant: Laura Crisafulli, owner

Agent: Edward Sossner, Attorney

Ms. Crisafulli stated she is proposing to add a 2nd story on her home. She has contracted with architect George Olsen.

Mr. Sossner provided a visual of the proposed project site for the Board. The lot is pre-existing non-conforming. The width and square footage of the lot make the design in both size and configuration challenging. The project includes removal of the non-compliant portion of the structure to the rear yard. The addition of a second story is consistent with the aesthetics found in the neighborhood. The proposed house includes an attached garage. The applicants have provided building coverage's in the neighborhood and identified most of them at 50%. The size and location of the addition will limit and/or reduce ground disturbance to the rear yard area preserving more green space.

The Board voiced concern regarding the location of mechanical units and the height of the proposed new building as well as reducing the size of the project to reduce lot coverage.

Bill Moore, Chairman advised the applicant to provide lot coverages in the area for the Boards review.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:35 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. The Board has requested additional information and the applicant will return before the Board following the receipt of those items.

- 4. **#20190029 VAL-KILL RESIDENCE**, 40 Second Street, area variance to permit a dwelling unit as constructed in an accessory structure, seeking relief from the minimum side yard and rear yard setbacks, maximum principal building coverage, maximum number of principal buildings on a lot and minimum lot size requirements in the Urban Residential-2 District.

NOTE:

Bill Moore, Chairman recused from the following application.
Keith Kaplan, Vice Chairman assumed the duties of the chair.

SEQRA:

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

AREA VARIANCE CONSIDERATIONS:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	8 ft.	2 ft.	6 ft. (75%)
Minimum rear yard setback:	25 ft.	.5 ft.	24.5 ft. (98%)
Maximum principal building coverage:	30%	38.1%	8.1% (27%)
Maximum number principal buildings on one lot:	1	2	1 (100%)
Minimum lot size: Second SFR	6,600 sq. ft.	0 sq. ft.	6,600 sq. ft. (100%)
Minimum average lot width: Second SFR	60 ft.	0 ft.	60 ft. (100%)

Applicants: Chris Rose and Gina Peca, Principals

Agent: Stephanie Ferradino

Ms. Ferradino provided a visual of the property noting that this is income property for the applicants and is located at the corner of Second and Catherine Streets and is currently rented. The structures were constructed in the 1920's which predated zoning. This property was purchased by the applicants in 2017. Prior to purchase the owners attorney inquired about existing violations. Hearing nothing from the City the applicant purchased the property. The property was marketed and sold with the knowledge of violation, prior owners and realtor failed to disclose violation. In August the applicants began renovations on the property. In September the property was visited by John Barney, City Staff and noted a building permit was not necessary. One week later Jim Herkel, City Staff issued a verbal stop work order and then reversed himself. Two days later the stop work order was issued. A visual of the site with renovations was provided to the Board. Ms. Ferradino reviewed the areas of relief requested and the variance standards, noting the requested relief will not result in an adverse effect on the neighborhood. Ms. Ferradino spoke regarding neighborhood opposition.

Keith Kaplan, Vice Chairman stated the background information was helpful. Mr. Kaplan questioned the usage of the space and could it be used as finished space and why that is not feasible.

Ms. Ferradino stated her clients have invested over \$20,000 to turn this property into an updated rental. Changing this to another use would require an additional financial burden.

Keith Kaplan, Vice Chairman requested feasible alternatives. Can you identify other additional properties which have more than two principal buildings on one lot where the total lot is less than 13,200 square feet. Are there any and where are they located. This is a very substantial area of relief. How is this mitigated on the neighborhood. Is there buffering on the property. It looks like this is right on the property line. Environmentally there seems to be no huge issues. I have some grave concerns regarding the self created hardship portion of the application. Also information was requested from staff to support the information provided by the applicant and the applicant's agent.

Susan Barden, Senior Planner stated the information provided this evening is documented in the applicant's property information filed with the City.

DISCLOSURE:

Brad Gallagher, Secretary disclosed that he did look at this property as an investment at one time. He did not go through with the opportunity nor did he review any documents or such as related to this property. He can be impartial and has no financial interest in this application.

Cherie Grey questioned parking on the site.

Keith Kaplan, Vice Chairman requested a parking plan from the applicant and how it is proposed on this site.

Cherie Grey questioned what the Building Inspector was looking at when the property was visited twice.

Ms. Ferradino stated the neighbors voiced a complaint which precipitated the city visit.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 8:05 P.M.

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

Clifford Van Wagner, 18 Rollingbrook Drive. Owner of the property at 101 Catherine Street which is immediately east of this property. This property was illegally converted from a garage. Mr. VanWagner cited code 240.7, noting this a direct violation of this code.

Murray Levith, owner of 3 properties in the area. I am in opposition to this variance for several reasons. I have written a letter. Two structures on a tiny lot should not be allowed.

Dave Williams, Agent for property owners at 95 Catherine Street. I sympathize with what has happened to the applicants. Public record is clear stating this is a single family unit with a detached garage. Improvements have been made. Large windows are close to the property line, which is a violation of building codes and setbacks. The variances are enormous.

Kevin McCain, 99 Catherine Street which abuts the side of the garage. This is not a cottage it has always been a garage. This is an illegal use of a garage. Mr. McCain cited from the zoning regulations noting this is not a legal use on a small undersized lot.

Sandy Williams, 95 Catherine Street. Purchased her home 4 years ago. We have two separate lots and we purchased a two family home and are using it as a one family home. This is a nice neighborhood. We are opposed to two family homes in this area.

Keith Kaplan, Vice Chairman stated the public hearing will remain open.

CORRESPONDENCE RECEIVED BY THE BOARD:

- Letter from Christina and Murray Levitz, dated February 21, 2019.
- Email David Williams-for Sandra Williams dated March 2, 2019.
- Letter from Kevin and Lynn McCane, dated March 4, 2019.

Keith Kaplan, Vice Chairman stated this matter will be carried to the next meeting on March 18, 2019. We do require information be provided by the 11th so we will be in a position to provide a resolution at that meeting.

Justin Grassi, Counsel to the Land Use Boards stated this application does not differ much from the usual applications the Board receives. The Board will be reviewing the criteria. Self created or not the onus is on the buyer.

Bill Moore, Chairman resumed his position on the Board.
Keith Kaplan, Vice Chairman resumed his position on the Board.

OLD BUSINESS:

- 5. **#20190049 CARRUTHERS RESIDENCE**, 52 Walton Street, area variance for an addition to an existing single-family residence; seeking relief from the minimum side yard setback requirement in the Urban Residential-3 District.

This application was heard at the February 25, 2019 meeting and adjourned to March 4, 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 8:25 P.M.

Jerry Luhn presented the following resolution.

#20190049

IN THE MATTER OF THE APPEAL OF

Jay and Maria Carruthers
52 Walton Street
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 52 Walton Street in the City of Saratoga Springs, New York being tax parcel number 165.51-3-3 on the Assessment Map of said City.

The appellant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of an addition to an existing single-family residence in a UR-3 District and public notice having been duly given of a hearing on said application held on the 25th day of February and the 4th day of March 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 variance for the following amount of relief:

	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum side yard setback:	4 ft.	0 ft.	4 ft. (100%)

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 note that alternative designs were contemplated that would have amplified the impact of the proposal by extending the footprint of the structure, for example, while the design presently advanced retains the present footprint of the home.

Consistent with that representation, the applicants submitted with their materials architectural drawings of their plan. The Board notes that the property exhibits preexisting nonconformity with side setback requirements. This application does not call for any expansion beyond those existing setback encroachments.

2. The applicants have demonstrated to the satisfaction of this Board that granting this variance will not create an undesirable change in neighborhood character nor any known detriment to nearby properties. The proposed addition will be no wider than the existing house, and will not further crowd neighboring residential properties.
3. The Board finds this variance application to be substantial on a percentage basis; however, as noted above, the relief request represents a continuation of a pre-existing nonconformity which substantially mitigates the impact of the application in this case.
4. This variance will not have significant adverse physical or environmental effect on the neighborhood or district, as the footprint will not change and will not be visible from the street.
5. The alleged difficulty is self-created insofar as the applicant desires to construct the proposed addition, but in the circumstances of this case should not be deemed 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; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hempstead, in favor; Kathleen O'Connor, Alternate, in favor

MOTION PASSES: 7-0

6. **#20190074 BRADSHAW RESIDENCE**, 14 Greenridge Place, area variance for an addition to an existing single-Family residence; seeking relief from the minimum side yard and total side yard setback requirements in the Urban Residential-2 District.

This application was heard at the February 25, 2019 meeting and adjourned to March 4, 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 8:31 P.M.

Cherie Grey presented the following resolution.

#20190074
IN THE MATTER OF THE APPEAL OF
Nancy and Michael Bradshaw
14 Greenridge Place
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 14 Greenridge Place in the City of Saratoga Springs, New York being tax parcel number 165.83-2-27 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 addition of a second story on the rear of an existing single-family residence in a UR-2 District and public notice having been duly given of a hearing on application held on February 25 and March 4, 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 variance for the following amount of relief:

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum side yard setback	8 ft.	2 ft.	6 ft. (75%)
total minimum side yard setback	20 ft.	12 ft.	8 ft. (40%)

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. Due to the pre-existing nonconforming width of the lot of 34' where 60' minimum is required, any addition to the existing home would require a variance. Adding a bedroom and bathroom to the second story of the rear addition of the home was deemed to be the best location with the cantilevered area on the south side necessary to tie the hallway into the existing hallway on the second floor.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. Although the proposed second story addition will be closer to the lot line by 2' due to the cantilevered structure, there will be nothing in that 2' space on the first level (i.e. concrete pad or mechanicals) and the new 2018 survey indicated that the lot line was closer to the home at 14 Greenridge Place, giving the neighbor an additional 3' of property on that property line.
3. Although the variance is substantial at 75% and 40%, this is due to the fact that the lot width is below the minimum required and the existing home is placed on the property in this location.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. The addition will be in the rear of the home and not visible from the street. Permeability will remain the same and total % of principal lot coverage is minimal.
5. The alleged difficulty is self-created insofar as the applicants desire to construct the proposed addition, but this is not necessarily fatal to the application.

Chris Hempstead 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; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hempstead, in favor; Kathleen O'Connor, Alternate, in favor

MOTION PASSES: 7-0

APPROVAL OF MEETING MINUTES:

Keith Kaplan, Vice Chairman made a motion to approved the January 25, 2019 Zoning Board of Appeals Meeting Minutes with amended changes as submitted.

Cherie Grey seconded the motion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hempstead, in favor

MOTION PASSES: 6-0

Keith Kaplan, Vice Chairman made a motion to approved the February 4, 2019 Zoning Board of Appeals Meeting Minutes with amended changes as submitted.

Cherie Grey seconded the motion.

VOTE:

Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hempstead, in favor

MOTION PASSES: 5-0

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 8:36 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 3-18-19