



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, MARCH 9, 2020

6:30 P.M.

RECREATION CENTER

CALL TO ORDER: Keith Kaplan, Chairman, called the meeting to order at 6:30 P.M.

SALUTE TO THE FLAG:

PRESENT: Keith Kaplan, Chairman; Brad Gallagher, Vice Chairman; Matthew Gutch;
Gage Simpson; Kathleen O'Connor, Alternate

ABSENT: Cherie Grey; Suzanne Morris

LATE ARRIVAL: Christopher Mills arrived at 6:34 P.M.

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Mark Schachner, Counsel to the Land Use Boards-arrived at 6:33 P.M.
Tony Izzo, Assistant City Attorney

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

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

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

#20191162 HANLEY RESIDENCE, 74 Fifth Avenue, area variance to demolish an existing single-family residence and to construct a new single-family residence with attached garage; seeking relief from the maximum principal building coverage and minimum front, rear side and total side yard setbacks in the Urban Residential-1 (UR-1) District.

#20191030 FLAHERTY RESIDENCE, 172 Fifth Avenue, area variance to remove existing shed and construct a detached pool house accessory structure for use as habitable space and to maintain an existing single-family residence; seeking relief to permit finished space in an accessory structure and minimum front yard setback in the Urban Residential-1 (UR-1) District.

#20190687 LOECK RESIDENCE, 4 Cherry Tree Lane, area variance to permit the construction of a dwelling unit in a detached two-story garage accessory structure for an existing single-family residence; seeking relief from the minimum lot size requirements and front yard setback in the Rural Residential (RR) 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

#20190156 MAIORIELLO RESIDENCE, 663 Crescent Avenue, area variance associated with a proposed two-lot subdivision, seeking relief from the maximum average lot width and minimum lot size requirements for the Rural Residential District.

#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.

#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.

#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.

ZBA APPLICATIONS UNDER CONSIDERATION:

PROCEDURAL ITEM:

1. **#20200022 TOP DOG ENTERPRISES SUBDIVISION**, 46-46a Seward Street, Initiation of Coordinated SEQRA Review and consideration of Lead Agency Status for an area variance associated with a proposed four-lot subdivision; seeking relief from the minimum average lot width and size for proposed lots 2, 3, and 4 and minimum rear yard setback from a principal structure on proposed lot 1 in the Urban Residential-1 (UR-1) District.

Keith Kaplan, Chairman stated the applicant's agent will provide a brief overview of the project. The Board will then discuss Lead Agency Status for the application.

Applicant: Top Dog Enterprises, LLC

Agent: Michael Toohey, Attorney

Mr. Toohey stated the parcel of land in question is located at 46-46A Seward Street. The parcel of land goes back to Van Dorn Street. A visual of the site was provided to the Board. The existing parcel contains a single-family residence, detached garage with an apartment and bungalow dwelling, 3 dwelling units as well as a pre-existing nonconforming daycare center. Maximum density for RN-2 in the Comprehensive Plan is 7 units per acre, which is more than supported by the UR-1 requirement for 12,500 square feet minimum lot size. The creation of three parcels at 7,636 square feet is the equivalent density of 5.7 units per acre. This project will significantly enhance the character of the neighborhood by eliminating a use that is not permitted and bringing attractive housing to this area. The applicant is proposing removing the existing bungalow dwelling on proposed lot #1. The removal of the commercial use, the daycare center and shed for a residential use. This would have a positive impact on the traffic and the environment and better utilization of the property. Mr. Toohey provided a tax map of all residential parcels on the street. Comparables of lots in the neighborhood were provided, noting what the applicants are proposing are in the middle range size of those lots which currently exist in the neighborhood. The home being proposed will meet all the setback requirements. Statistics were provided to the Board.

Keith Kaplan, Chairman stated the purpose of the discussion on this matter is to determine coordination of SEQRA review and which agency should assume Lead Agency, either the Planning Board or ZBA. No public hearing is required this evening.

Discussion ensued among the Board regarding deferral of Lead Agency Status to the Planning Board or the ZBA requesting Lead Agency Status.

Christopher Mills made a motion in the matter of the Top Dog Enterprises Subdivision, 46-46a Seward Street that the ZBA defers Lead Agency to the Planning Board. Brad Gallagher, Vice 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; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O'Connor, in favor

MOTION PASSES: 6-0

OLD BUSINESS:

1. **#20200066 BOTTINI GARAGE ADDITION**, 57 East Avenue, area variance to construct an addition to an existing accessory structure for an existing single-family residence; seeking relief from the maximum accessory building coverage in the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chairman noted this is a previously opened application. The public hearing was opened and remains open. Additional information was requested from the applicant. Dated plans were submitted to the Board by the applicant. There have been some changes to the application.

Discussion ensued among the Board regarding the applicant reducing the amount of relief requested. They have reduced the size of the structure.

Keith Kaplan, Chairman stated he appreciates the applicants efforts in reducing the size of the relief requested.

Agent: Douglas Morbido

Mr. Morbido reviewed for the Board what changes were made to the application and the amount of relief currently requested. The previous structure was larger and the applicant has modified the plans for a smaller addition. Modifications have been made to the garage with a slightly larger garage footprint keeping the stairs to the rear. The new plans indicate the front is substantially smaller and the setback is not nearly as far. The pergola has been removed. The bilco doors will remain.

Keith Kaplan, Chairman read the revised areas of relief requested into the record.

AREA VARIANCE CONSIDERATIONS - REVISED

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Accessory Structure-with stairs	10%	11.4%	1.4% or 14%
Maximum Accessory Structure-without stairs	10%	8%	.8% or 8%

Amanda Tucker, Senior Planner stated in speaking with the Zoning Officer is noted that if the stairs are removable, they would not be included in the coverage calculation. If they are permanent, they would then be included in the coverage calculation.

Keith Kaplan, Chairman asked if there were any questions or comments from the Board.

Discussion ensued among the Board concerning the relief requested. It was the consensus of the Board that they appreciated the applicant reducing the amount of relief requested by reducing the size of the structure, and the amount of relief requested, as well as the reduction in size of the walkway and several other modifications would bring the addition into conformance without a variance.

Brad Gallagher, Vice Chairman stated the project was basically a clean slate and the applicant is so close to meeting zoning requirements. He is not convinced a variance is required with the storage space currently available.

Keith Kaplan, Chairman stated he is in agreement with his colleagues regarding the ability to meet zoning requirements without a variance. He does, however appreciate the applicant reducing the size of the structure and the amount of variance 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 6:55 P.M.

Gage Simpson presented the following resolution.

#20200066
IN THE MATTER OF THE APPEAL OF
Samuel Bottini
57 East Avenue
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 57 East Avenue in the City of Saratoga Springs, New York being tax parcel number 166.21-1-7 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to permit an addition to an accessory structure in a UR-2 District and public notice having been duly given of a hearing on application held on February 23 and March 9, 2020.

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
Maximum Accessory Building Coverage	10%	11.4%	1.4% (14%)

As per the submitted plans and documents 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 explored alternative options, including a much larger design. The modified design reflects the smallest footprint to perform the desired function.
2. The applicant has demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties. The garage is an existing structure to the rear of the existing house, reducing the visibility from the street.
3. The variance is not considered substantial at less than 14%. The Board notes that the existing principal coverage is 17.8%, which is substantially less than the permitted 30%. The Board further notes that the use will be limited to such uses as that permitted in an accessory structure and is conditioned accordingly below.
4. The Board finds this variance will not have an adverse physical or environmental effect on the neighborhood. The lot will maintain a permeable area substantially greater than the 25% required. The proposed addition vertically expands upon an existing garage while the expansion of the footprint is sited in a way that minimizes the impact on any neighboring properties.
5. The alleged difficulty is self-created insofar as the applicants desire to construct the proposed accessory structure, but this is not necessarily fatal to the application.

Conditions:

1. Existing pergola to be removed.
2. No cooking facility or range, no overnight stays, and no bathing facilities.

Keith Kaplan, Chairman seconded the motion.

Keith Kaplan, Chairman asked if there was any further discussion.

Brad Gallagher, Vice Chairman spoke regarding the amount of relief requested the size of the applicant's lot and noted that he is not in favor of the application.

Discussion ensued among the Board concerning whether all requirements for an area variance have been met.

VOTE:

Keith Kaplan, Chairman, in favor; Brad Gallagher, Vice Chairman, opposed; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O'Connor, in favor

MOTION PASSES: 5-1

2. **#20200055 KETCHOYIAN POOL HOUSE**, 11 Liz Ann Drive, area variance to construct a detached pool house accessory structure for an existing single-family residence; seeking relief from the minimum rear yard setback for an accessory structure in the Rural Residential (RR) District.

DISCLOSURE:

Keith Kaplan, Chairman disclosed that when he visited the property on February 23, 2020 the homeowner was at home, invited the Chair in and showed him the specifics of the project and the location. There was no discussion of the merits of the applications.

Keith Kaplan, Chairman stated this is a previously opened application. The public hearing was opened and remains open. The Chair noted this parcel is part of Louden Meadows II Subdivision. A special setback was approved by the Planning Board at 50' for a Principal Structure and 15' for an Accessory Structure for Rear Yard. Information was requested from the applicant concerning the amount of relief requested. This information was provided to the Board and the project has been decreased in size, therefore the amount of relief requested has been reduced.

AREA VARIANCE CONSIDERATIONS - REVISED

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Rear yard setback	15 ft.	9 feet	6ft or (40%)

Applicant: Mike Ketchoyian

Mr. Ketchoyian stated at his previous appearance before the Board it was apparent that the Board was not in favor of the original proposal and suggested the applicant revisit the project to determine if the amount of relief requested could be reduced. Mr. Ketchoyian stated he has revised the project and reduced the requested amount of relief.

Discussion ensued among the Board regarding the current amount of relief 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 7:17 P.M.

Keith Kaplan, Chairman presented the following resolution.

#20200055
IN THE MATTER OF THE APPEAL OF
Mark Ketchoyian
11 Liz Ann Dr.
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 11 Liz Ann Dr. in the City of Saratoga Springs, New York being tax parcel number 167.-6-4 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 a detached accessory structure in a Rural Residential (RR) District and public notice having been duly given of a hearing on said application held on the 24th day of February through the 9th day of March, 2020.

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
Rear yard setback	15'	9'	6' (40%)

As per the submitted plans and documents 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 design represents an open-air pool house situated in an aesthetically appropriate location relative to the pool and the yard configuration. The Board notes the unique lot configuration resulting in the fact that much of the structure does not encroach into the setback.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant notes that “the proposed structure would not be visible to neighbors at all. The structure would be surrounded by woods on 3 sides”. The board notes the wooded land is currently owned by the Police Benevolent Association.
3. The Board notes the requested variance of 40% is substantial; however the impact of the substantiality is mitigated by the odd-shaped lot configuration. The side wall of the accessory structure begins within the approved setback, however, a slating property line angles toward the rear of the structure resulting in a 9’ setback between the rear corner of the structure to the rear property line. The rear property is also surrounded by woods which mitigates any visual impact of the accessory structure encroaching on the property line.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The accessory structure is toward the rear of the property where it is surrounded by wooded areas, will not increase neighborhood density, and will have minimal impact on water management.
5. The alleged difficulty is considered self-created insofar as the applicant desires to build the accessory structure. However, this is not necessarily fatal to the application.

Gage Simpson 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; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O’Connor, in favor

MOTION PASSES: 6-0

APPROVAL OF MEETING MINUTES:

Keith Kaplan, Chairman made a motion to accept the minutes of the February 25, 2020 ZBA Meeting as submitted. Gage Simpson 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; Matthew Gutch, in favor; Christopher Mills, in favor; Gage Simpson, in favor; Kathleen O’Connor, in favor

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 7:23 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 5-18-20