



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, APRIL 4, 2021

6:30 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Keith Kaplan, Chair, called the meeting to order at 6:35 P.M.

SALUTE TO THE FLAG:

PRESENT: Keith Kaplan, Chair; Brad Gallagher, Vice Chair; Cheryl Grey; Gage Simpson; Emily Bergmann

ABSENT: Matthew Gutch; Justin Farrington

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Jackie White, 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.

APPROVAL OF MEETING MINUTES:

Cherie Grey made a motion to approve the minutes of the March 14, 2022, Zoning Board of Appeals Meeting with amendments as submitted. Gage Simpson seconded the motion.

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

VOTE:

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair; in favor; Cherie Grey, in favor; Gage Simpson, in favor; Emily Bergmann, in favor

MOTION PASSES: 5-0

ZBA APPLICATIONS UNDER CONSIDERATION:

NEW BUSINESS:

1. **#20220184 5 IROQUOIS AREA VARIANCE**, 5 Iroquois Drive, area variance to permit the expansion of the primary residence and install a pool within the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage %	20 %	28.1%	8.1% or 40.5%
Rear Setback	30 ft.	18.7 ft.	11.3 ft. or 37.7%

Applicant: Patrick & Marion Roohan

Agent: Julie Francis, Attorney

Ms. Francis provided photographs to the Board. At the request of staff additional information was provided. The applicants are seeking to obtain an area variance for a small addition to the main structure of the home as well as the addition of an inground pool. A visual of the site was provided noting the character of the neighborhood where there are inground pools of the same size or larger than as the applicant is proposing. There will be no additional traffic disturbances or noise disturbances, it will be consistent to what the neighborhood is currently experiencing.

Keith Kaplan, Chair, stated he is not seeing an area of relief for the pool. What is the proposed coverage for the pool and any other accessory structures, sheds, air conditioners, or condenser units?

Ms. Francis stated the pool equates to 448 sq. ft. for a 32ft. x 14ft. pool, there is the addition to the home, and there are no further accessory structures.

Keith Kaplan, Chair, stated there is no relief requested for the pool. You are requesting relief for coverage at 28.1%. You are not asking for accessory relief, but you are asking for 28.1% coverage relief plus the pool.

Ms. Francis provided comparable homes in the area with similar coverage in the neighborhood. My clients are asking for relief like what has been granted to their neighbors. Ms. Francis stated there is a cement patio which will be removed for this application. The back porch will be included in the new addition.

Discussion ensued among the Board regarding what has been computed as coverage for the property and what has not. Accessory structures, overhangs, air conditioning equipment and condensers should all be considered part of the coverage.

Keith Kaplan, Chair, stated for the next meeting he would like to have the revised calculations.

Cherie Grey stated she would also like to receive the current coverage on the house.

Keith Kaplan, Chair, noted if the Board were to come to a resolution on this application there would be a condition on the approval limiting no further accessory structures.

PUBLIC HEARING:

Keith Kaplan, Chair opened the public hearing at 7:01 P.M.

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

Keith Kaplan, Chair stated the public hearing will remain open until the next meeting scheduled for April 25th. If requested information is received in a timely fashion, we should have a resolution at that time.

2. #20220195 132 FIFTH AVENUE, 132 Fifth Avenue, Area variance to permit the construction of a second-story addition to existing residence within the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage %	20%	49.0%	29.0% or 145.0%*
Setback-Front	30 ft.	11.6 ft.	18.4 ft. or 61.3%
Setback-Rear	30 ft.	7.7 ft.	22.3ft or 74.3%
Setback-Side 1 (West)	12 ft.	4.1 ft.	7.9 ft. or 65.8%
Total Side	30 ft.	12 ft.	18 ft. or 60.0%

* 50% existing – removed shed

Agent: Stephanie Ferradino, Ferradino Firm

Ms. Ferradino provided a visual of the property location and site. Renderings of the proposed home along with building elevations were provided to the Board noting everyone in this location is out of conformance with their front yards because the property lines are located not adjacent to the street but in the ROW. We are planning to remove the shed and not replace it as well as removal of the patio which will be replaced with a little bumped out area to allow a better flow on the interior. All the variances we are requesting are less than what currently exists which in part is due to the large overhangs on the existing home. Ms. Ferradino provided a variance relief chart noting the nonconformity of the existing house and improving the conditions on the site with the improvements. Ms. Ferradino reviewed the criteria for an area variance for the Board as well providing information on the homes in the proximity who have requested variances and the types of variances requested.

Keith Kaplan, Chair, noted the properties depth, the mass of the second story addition and orientation of the windows. Were alternative designs considered in the pool, and the height of this proposed area.

Discussion ensued among the Board regarding the mass and scale, maximum height allowed in the district, permeability, the mass and scale, lot coverage, eaves, alternative designs, reduction in the amount of relief requested, substantiality of variances, alleviation of the rear setback, feasible alternatives, and the precedent setting nature of the rear yard setback.

PUBLIC HEARING:

Keith Kaplan, Chair opened the public hearing at 7:44 P.M.

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

Keith Kaplan, Chair stated the public hearing will remain open until the next meeting scheduled for April 25th, 2022. We have requested additional information from the applicant. If that information can be supplied by April 18th it would be appreciated.

3. #20220187 168 LINCOLN'SIRO'S AREA VARIANCE, 168 Lincoln Avenue, Area variance to permit the construction of an addition to the principal building to be used as restrooms to serve the courtyard patrons during track season within the Institutional Horse Track Related (INST-HTR) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback-Rear	43.3 ft.	6.7 ft.	13.4%
Setback-Side	40 ft.	1.5 ft.	38.5 ft. or 96.3%
Accessory to Principal	12 ft.	2.3 ft.	9.7 ft. or 80.8%

Applicant: Siro's Entertainment, Kevin Decker, General Manager

Agent: Bob Flansberg, Dreamscapes Unlimited

Amanda Tucker, Senior Planner stated in conversation with Patrick Cogan, Zoning Officer, he noted after conducting research, there is an existing prior variance. All buildings on this property are considered principal, not accessory. You would not need relief for the distance to an accessory structure it would simply need to meet building code in terms noncombustible materials. Therefore, the accessory to principal area of relief does not exist. This could affect your principal building coverage.

Keith Kaplan, Chair, stated we will need the new percentage of building coverage.

Mr. Flansberg stated this is a straightforward application. A visual of the proposed site was provided noting this is a simplistic building which matches the rear of the existing building to which we are appending. It serves two purposes, and both are important. One is restrooms that accommodate the patrons from the outdoor area and provides permanent outdoor restrooms with a handicap ramp and accessibility.

Mr. Decker stated this is a unique property in that it is only operational 90 days of the year and is related to the horse track.

Mr. Flansberg provided visuals of all elevations, noting the size of the structure will accommodate both the men's and ladies' rooms. The other purpose of the building is basement storage for the main building. The property is bounded by a 12 ft. high sound wall. This building ridge is 18 ft. in height and will not be visible due to the fencing.

Discussion ensued among the Board regarding the setbacks which aligns with the sound wall, location of the handicap ramp and accessibility to the restrooms, size of the proposed structure, proximity to the lot line and neighbors' property, and water runoff from the roof, as well as drainage. The restrooms will be for patrons only.

Mr. Flansberg stated they are proposing water attenuation measures and management of stormwater on the site.

Keith Kaplan, Chair, stated any resolution proposed would have a condition concerning water mitigation.

PUBLIC HEARING:

Keith Kaplan, Chair, opened the public hearing at 8:10 P.M.

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

Keith Kaplan, Chair, stated the public hearing will remain open until the next meeting scheduled for April 25th, 2022. We have requested additional information from the applicant.

4. #20220155 116 CRESCENT AREA VARIANCE, 116 Crescent Street, area variance to permit finished space within an accessory structures within the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Finished Space in Accessory Structure	Not permitted	Permitted	100%

Agent: Terry Gibson, Wainschaf Associates, Inc., Project Manager; Andrew Lammon, Lammon Architects

Mr. Gibson stated the applicant is proposing the addition of a pool house and ½ bath along with storage space.

Amanda Tucker, Senior Planner, stated Patrick Cogan, Zoning Officer, Building Inspector did research on the lots associated with this project. This is currently three zoned properties. The applicant purchased what was formerly a paper street and is now considered its own separate parcel. Additionally, there is a property line which bisects the property and would bisect the proposed accessory structure in half. Without the consolidation of these three properties, it would require variances and the structure would be built over the property lines. Patrick Cogan, Zoning Officer, Building Inspector is requiring a condition of approval being a lot line adjustment be considered and granted.

Keith Kaplan, Chair, stated obviously we cannot proceed until the lots are consolidated, and united.

Mr. Lammon questioned if the three lots need to be consolidated into one lot.

Keith Kaplan, Chair, stated if we agree with your request than we would issue and grant a resolution with a condition that the applicant would have to consolidate these lots.

Mr. Lammon stated the applicant is proposing finished space for a pool house, with a half bath and storage space. There is a small counter area with a refrigerator. There is a front covered area. No heat is proposed in this structure but there will be a mini-splint system for air conditioning.

Discussion ensued among the Board regarding conditioning of the space, noting no bathing facilities, no cooking facilities and no overnight guests which are normal conditions the Board imposes for a structure of this type.

PUBLIC HEARING:

Keith Kaplan, Chair opened the public hearing at 8:21 P.M.

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

Keith Kaplan, Chair stated the public hearing will remain open until the next meeting scheduled for April 25th, 2022. We anticipate a resolution at that time.

5. **#20220130 52 KIRBY AREA VARIANCE**, 52 Kirby Road, Area Variance to permit a two-lot subdivision seeking dimensional relief within the Urban residential-2 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Lot Size Lot #1	12,500 sq. ft.	10,000 sq. ft.	2500 sq. ft. or 20%
Minimum Lot Size Lot #2	12,500 sq. ft.	10,021 sq. ft.	2479 sq. ft. or 19.8%

Applicant: Richard Timberlake

Mr. Timberlake stated they are proposing to subdivide the property. A visual of the property site was provided for the Board. If the variances are granted the applicant will apply for subdivision.

Keith Kaplan, Chair, stated since the applicant is looking to subdivide the property the Planning Board does become involved, and we will be requesting an Advisory Opinion from them. The Chair recommended a Coordinated Review with the Planning Board for SEQRA, as well as deferring Lead Agency Status the Planning Board.

Cherie Grey made a motion in the matter of the Kirby Area Variance, 52 Kirby Road, the Zoning Board of Appeals defers Lead Agency Status to the Planning Board for this application. Gage Simpson seconded the motion.

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

VOTE:

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair; in favor; Cherie Grey, in favor; Gage Simpson, in favor; Emily Bergmann, in favor;

MOTION PASSES: 5-0

Cherie Grey questioned the applicant if consideration was given to make one lot a conforming lot and request variances for the second lot.

Keith Kaplan, Chair stated if the applicant were to consider the suggestion by Cherie. Lot #2 would require quite substantial variances. We will await an opinion from the Planning Board.

Mr. Timberlake spoke to the Board regarding lots and other homes in the neighborhood. He will provide additional information in that regard to the Board.

PUBLIC HEARING:

Keith Kaplan, Chair, opened the public hearing at 8:29 P.M.

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

Cindy Shaw, closest neighbor on 5 Glenwood Drive. She voiced concern regarding her property line which is 5 ft. from the applicant's property line. If the second home is built where proposed, it will negatively impact her two-story home with bedroom areas and a living room and dining room area which will be impacted.

Keith Kaplan, Chair, stated the public hearing will remain open until the applicant returns before the Board.

6. #20220109 55 CATHERINE AREA VARIANCE, 55 Catherine Street, area variance to permit the demolition and reconstruction of existing front porch within the Urban Residential-2 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback Front	10 ft.	4 ft.	6 ft. or 60%
Setback Rear	8 ft.	7.7 ft.	0.3 ft. or 3.8%

Applicant: Bill Springnether

Mr. Springnether stated the front exterior wall of their home is 6½ ft. from the property line. The front porch is falling apart due to exposure to the weather elements, becomes covered in ice and snow and is inaccessible in the winter months. We are proposing a covered front porch and replace what is currently deteriorated. The existing front stoop is 3 ft. wide. The concrete pad is 4ft wide. We are proposing a front porch which is 6ft. deep removing the concrete and replaced with wood. A visual of the property site was provided to the Board, showing neighborhood porches.

Discussion ensued among the Board regarding the siting of the house on the property which is somewhat elevated making the porch appear larger in mass, steep grade and retaining wall in the front of the home, the size of the proposed porch, limited amount of space to work with, neighborhood comparables on the applicant's side of the street, water runoff on the site.

Brad Gallagher, Vice Chair, questioned if the roof overhangs were calculated as well as if guttering is proposed and considered in the calculations.

Keith Kaplan, Chair, stated he is also concerned with the size of the proposed porch and limited amount of space to work with, along with the elevation of the house, he is uncomfortable with the current proposal.

PUBLIC HEARING:

Keith Kaplan, Chair opened the public hearing at 8:48 P.M.

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

Sue Davis, SD Atelier Architecture, stated she feels this house is screaming for a type of a porch. She thinks it would be nice to address the issues. Whether it needs to be 6ft deep or not. It should be approved, and she has seen situations where conditions such as this have been dealt with successfully.

Keith Kaplan, Chair, stated the public hearing will remain open until the next meeting scheduled for April 25th. If the information can be provided to the Board by the 18th of April.

7. #20220056 19 ANDREWS AREA AND USE VARIANCE, 19 Andrews Street, Use Variance to permit a two-family residence and an Area Variance to permit the modification of a single-family home construction within the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chair, stated at the previous meeting there had not been proper noticing for the Use Variance. The proper noticing issue has been remediated.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Setback Side 1	8 ft.	3.5 ft.	4.5 ft. or 56.3%
Setback Side 2	8 ft.	2 ft.	6 ft. or 75%
Total Side	20 ft.	5.5 ft.	4.5 ft.

Applicant: Andrew Skinner

Mr. Skinner indicated that he would be retaining counsel for the use variance portion of the application and would defer that portion of the application until the next meeting. He then provided a visual of the site which was previously approved. They have an in-law apartment on the second floor over the garage. Mr. Skinner provided information on the previous variances granted for this project. A visual of the area the applicant is requesting relief for was provided to the Board. A visual of the area they are requesting to add on to the plans. A visual of the rear of property side, the area they are adding on as well as the proximity to the lot line and neighboring property. In terms of the neighborhood, it is not the largest or the tallest. Mr. Skinner also provided views of the proposed location of the staircase to the second floor if the use variance were granted.

Keith Kaplan, Chair, stated we can discuss the four-part test for a Use Variance next time, but we can review dimensional relief on that staircase tonight. He explained that the Board cannot grant area dimensional relief for the staircase until after the use variance is granted but noted the discussion for now can be on the merits of the dimensional relief in terms of its incremental impact. This staircase would be incremental since it would be outside the current wall that exists. The Chair observed that the side in question is tight as it currently exists.

Mr. Skinner stated it is incremental and there is an existing variance which would have to be modified. A visual of the location of the staircase was provided to the Board.

Keith Kaplan, Chair, noted that the side in question is tight as it currently exists but adding an additional structure to this side is too close. The Chair stated he is not comfortable with this staircase, and he is not in favor of this.

Brad Gallagher, Vice Chair, stated he is also uncomfortable with the staircase in such proximity to the property line and the neighbor's home.

Cherie Grey spoke regarding the substantiality of the previous variances and total side yard setbacks. Also, the Board conditioned the previous resolution stating no extensions shall be allowed beyond the limits of the construction as shown on the plans dated 02-01-2021. We just cannot keep making these variances and adjustments.

Gage Simpson stated that is a good point. He is in favor of the other side for the staircase. This was a blank slate at the time and the staircase should have been thought through at that time and other options could have been available. He is not in favor of the application as presented.

Emily Bergmann stated she agrees with her fellow Board members regarding the proximity to the property line with the stairs. The addition to the second story is fine and does make sense. The staircase is not something she would be in favor of.

Keith Kaplan, Chair, stated changes or modifications to the plans may be helpful. It is up to the applicant to make changes, on the addition on one side and the staircase on the other side. Both of those items are in the plans now. There is a distinction being drawn by the Board of the two requests. All we can rule on is what is before us. Any changes to the application should be submitted by April 18th for the April 25th meeting.

PUBLIC HEARING:

Keith Kaplan, Chair, opened the public hearing at 9:09 P.M.

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

Keith Kaplan, Chair, stated the public hearing will remain open until the next meeting scheduled for April 25th, 2022. We have requested additional information from the applicant.

CONTINUED BUSINESS:

8. **#20220083 17 CLARK AREA VARIANCE**, 17 Clark Street, Area Variance to permit finished space in an accessory building used as an art studio within the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chair, stated this is a previously opened application. The public hearing was opened and remains open. We have asked for additional information which has been provided.

Applicant: Jessica and Bill Tobin

Ms. Tobin stated the applicant is applying for the addition of a ½ bath within an accessory structure. Ms. Tobin uses this space as her personal art studio. There is no current plumbing in this structure, which does not allow for ease in clean up. The accessory structure is finished space just an addition of the ½ bath. We received correspondence from staff regarding a fire rated wall and easements surrounding properties. A visual of the site plan map was provided to the Board. Ms. Tobin provided information regarding the easements, length of time the fence has been in place, an Adverse Possession Agreement and what has transpired with the property.

Keith Kaplan, Chair, stated when something comes before the Board and there are enforcement actions and things that need to be remediated, we try to take this opportunity to rectify these matters. He recommended making the relief requested conditional on obtaining easements for encroachments over the property line.

Brad Gallagher, Vice Chair, questioned regarding the Adverse Possession issue and what the settlement was regarding that whether it is on file with the City. If you are adversely possessing it and it has become part of your lot, he would not be in favor of suggesting the applicant remove anything.

Keith Kaplan, Chair, stated he is not advocating a condition for the applicant to remove or move anything but to ensure easements are obtained for those sides where there is an encroachment.

Keith Kaplan, Chair asked if there were any further questions or comments from the Board. None heard.

PUBLIC HEARING:

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

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

Keith Kaplan, Chair, closed the public hearing at 9:27 P.M.

Brad Gallagher, Vice Chair, presented the following resolution.

#20220083
IN THE MATTER OF THE APPEAL OF
Bill and Jessica Tobin
17 Clark St
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 17 Clark Street in the City of Saratoga Springs, New York being tax parcel number 165.84-1-17 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to seek relief to permit the finished space in an accessory building used as an art studio in the Urban Residential – 3 (UR-3) District and public notice having been duly given of a hearing on said application held between March 14 and April 4, 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 REQUIREMENT	PROPOSED	RELIEF REQUESTED
Habitable Space	Not Permitted	Permitted	100%

as per the submitted plans or lesser dimensions, be approved for the following reasons:

1. The Board finds that the applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant seeks to finish existing space in an existing accessory structure. According to the applicant, the space will not be used for sleeping, cooking, or bathing. The applicant considered alternative options; however, those alternatives would not meet the needs of the applicant. Notably, there is no change to the current footprint of the accessory structure.
2. The Board finds that the applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. According to the applicant, no changes will be made to the footprint of the existing accessory structure. Moreover, the space will be utilized as an art studio and will not have any sleeping, cooking, or bathing facilities.
3. The Board finds the variance to be substantial. However, this is mitigated by the intended use of the space being limited to an art studio that does not have sleeping, cooking, or bathing facilities and will not change the exterior of the existing accessory structure.
4. This Board finds this variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The Board finds that the applicant has demonstrated the habitable space will be limited to the existing accessory structure.
5. The alleged difficulty is self-created insofar as the applicant desires to construct finished space in an existing accessory structure, but this is not necessarily fatal to the application.

Condition:

1. No sleeping, cooking, or bathing space is permitted.

Note:

1. Applicant to maintain (and improve if necessary) the entire accessory structure to achieve conformity with or exceed all fire-resistance ratings for building materials.

Cherie Grey seconded the motion.

VOTE:

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair, in favor; Cherie Grey, in favor; Gage Simpson, in favor; Emily Bergmann, in favor;

MOTION PASSES: 5-0

9. #20220045 145 UNION AREA VARIANCE, 145 Union Avenue, Area Variance to permit demolition and reconstruction of a rear porch and construct a side addition in the Urban Residential-4 (UR-4) District.

Keith Kaplan, Chair, stated this is a previously opened application. The public hearing was opened and remains open. We have asked for additional information which has been provided.

Applicant: Kate Amello

Agent: Sue Davis, SD Atelier Architecture

Ms. Davis stated the Board requested what we were presented as a percentage of lot coverage, including a generator and air conditioning condenser units. A visual chart was provided noting the addition of the generator and air conditioning condenser units does add 27 sq. ft., which adds .5% and brings us to 31% versus 30.4%. This information was provided to staff. Everything else remains the same. Another issue was drainage and the proximity to the property line. The applicant will address the drainage with the use of drainage tiles and the use of guttering.

Keith Kaplan, Chair, asked if there were any further questions or comments from the Board. None heard.

PUBLIC HEARING:

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

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

Keith Kaplan, Chair, closed the public hearing at 9:40 P.M.

Cherie Grey presented the following resolution.

#20220045
IN THE MATTER OF THE APPEAL OF
 Kate Amello
 145 Union Avenue
 Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 145 Union Avenue in the City of Saratoga Springs, New York being tax parcel number 166.69-3-17 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to seek relief to build a rear entrance and porch and a replacement side addition in the UR-4 District and public notice having been duly given of a hearing on said application held on March 14 and April 4, 2022.

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 REQUIREMENT	PROPOSED	RELIEF REQUESTED
Max. Principal Building Coverage	25%	31%	6% (24%)
Side setback 1	20 ft	1.3 ft	18.7 ft (93.5%)
Side setback 2	20 ft	8.1 ft	11.9 ft (59.5%)
Total side setback	45 ft	9.5 ft	35.5 ft (78.9%)

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 proposes to replace the rear porch and staircase and modify the existing porch and stairs to alleviate existing snow and rain issues into the rear entrance of the house. The applicant seeks to incorporate a better entrance to the cellar. The applicant would also like to replace an existing extension on the west side of the house, keeping it in the same set back as currently exists. The applicant states that all the renovation areas will continue to be one story. The Board notes this is a pre-existing, non-conforming lot with a home that was built in this location prior to present zoning regulations.
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 states there will be no noticeable changes from the front of the home. The rear and side additions/changes will be in conformance with the architecture of the current house. The accessory structure of 6.5% coverage plus the principal coverage of 30% is still within the total combined coverage of 40% allowable in the district.

2. The Board does find the variances to be substantial, however, the substantiality is due to the nonconforming, preexistence of this house in this location. The Board notes that the lot is only 40' wide in a district that requires 100'.
3. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district. Additionally, the applicant proposes to provide an irrigation system and drainage ditch to ensure water does not drain onto neighboring properties.
4. The alleged difficulty is self-created insofar as the applicant desires to reconstruct a rear porch and stairs plus a side addition to an existing single-family residence, but this is not necessarily fatal to the application.

Condition:

Accessory structure coverage limited to 9%

Note:

Design Review Commission Review Required.

Gage Simpson seconded the motion.

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

VOTE:

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair; in favor; Cherie Grey, in favor; Gage Simpson, in favor; Emily Bergmann, in favor;

MOTION PASSES: 5-0

10. #20211246 94A NORTH STREET AREA VARIANCE, 94A North Street, Area Variance to permit the construction of a Two-family residence seeking dimensional relief within the Urban Residential-3 (UR-3) District.

Keith Kaplan, Chair, stated this is a previously opened application. The public hearing was opened and remains open. We have asked for additional information which has been provided.

Applicant: Louis Recchia

Mr. Recchia stated the setbacks regarding the overhangs were adjusted due to an oversight in measuring. Guttering will be installed as well.

Keith Kaplan, Chair, asked if there were any further questions or comments from the Board. None heard.

PUBLIC HEARING:

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

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

Keith Kaplan, Chair, closed the public hearing at 9:55 P.M.

Emily Bergmann presented the following resolution.

**#20211246
IN THE MATTER OF THE APPEAL OF
Louis Recchia**

8 Vanderbilt Ave
94A North Steet Area Variance
Saratoga Springs, NY 12866

From the determination of the Building Inspector involving the premises at 94A North Street in the City of Saratoga Springs, NY, being tax parcel number 166.45-2-26 on the Assessment Map of said City. The Applicant having applied for an area variance to permit single story addition and seeking relief in the UR-3 District and public notice having been duly given of a hearing on said application February 28th through April 4th, 2022.

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 REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum Principal Coverage	30%	37%	7% (23.3%)
Setback Front (Wood Deck)	10 feet	7.6 feet	2.4 feet (24%)
Rear Setback	25 feet	3.6 feet	21.4 feet (85.6%)
Side 1 (East)	4 feet	0 feet	4 feet (100%)

as per the submitted plans or lesser dimensions, be **approved** for the following reasons:

1. The applicant has demonstrated that this benefit cannot be achieved by other means feasible to the applicant. The applicant, having submitted two different proposals to the board – first, a two-story structure and second, a one-story addition. Based on the feedback from the Board, the applicant decided to go with the second plan (one story addition). This one-story addition will require more principal coverage relief than the two-story structure proposal, however, the applicant is removing the existing walkway and pavers to create additional green space. Overall permeability will increase with this proposal. Additionally, there is no available land for purchase at this time.
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 proposed one-story addition will comply with the neighborhood character and addresses concerns from neighbors regarding the shadow that a two-story structure would have on neighboring properties. Additionally, a one-story addition will address neighborhood concerns regarding privacy as the house is already very close to the rear lot line.
3. The Board does not find the maximum principal coverage variance of 23.3% or the front setback variance at 24% to be substantial. The rear setback variance at 85.6% and the east side setback at 100% are substantial. However, the rear and east setbacks are pre-existing conditions as the structure is located very closer to the property line.
4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. The applicant's property is located on a small street with four other structures. The rear of all the other properties faces the street. Additionally, permeability requirements will be met and the Boards notes that the applicant is adding gutters.
5. The request for relief may be considered a self-created hardship, as it is the applicant's desire to construct an addition. However, the property was previously subdivided from the adjoining property, making the lot substandard at that time. Self-creation is not necessarily fatal to the application.

Condition:

Future accessory coverage cannot exceed 3%.

Cherie Grey seconded the motion.

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

VOTE:

Keith Kaplan, Chair, in favor; Brad Gallagher, Vice Chair; in favor; Cherie Grey, in favor; Gage Simpson, in favor; Emily Bergmann, in favor

MOTION PASSES: 5-0

11. **#20210696 85 NELSON USE VARIANCE**, 85 Nelson Avenue, Use Variance to permit existing three-family residence to be used as a three-family residence within the Urban Residential-2 (UR-2) District.

Keith Kaplan, Chair, stated this is a previously opened application. We have asked for additional information which has been provided.

Applicant: Ted Waite

Agent: John Carusone, Attorney

Mr. Carusone stated they are confused as to why they are on the agenda. In conversations with staff the public hearing was to be reopened, so we re-noticed. The additional information requested was unable to be compiled in time for this meeting and requested to be placed on the Agenda for the April 25th meeting.

Keith Kaplan, Chair, stated because you re-noticed for public hearing, you are here and on the agenda. This provides the opportunity to comment on any additional information or provide additional information by April 18th.

PUBLIC HEARING:

Keith Kaplan, Chair, opened the public hearing and stated the public hearing was opened at 10:09 P.M.

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

Amanda Tucker, Senior Planner, stated we have received additional public comment and it was decided to re-open the public hearing regarding the posting and sale of the house back in 2010, when it was listed as a single-family residence. The applicant purchased the property in 2013. The property has not been listed as anything but a single family. Additionally, the posting did state that it was a single family with an in-law apartment. Building department records indicate that it was not lawful as discussed. The in-law apartment in the accessory structure must be accessed through a living space on the main structure. It was also noted at that time a listing there was an attached garage with storage space above. The building department also noted that it was not lawfully converted.

Keith Kaplan, Chair, stated our staff person has provided additional information denoting that this was a single-family house in that regard. Since this will carry until next time. Our regular staff person will return for the next meeting to provide her insight at that time and what she encountered. The public hearing was opened and remains open until the next meeting, scheduled for April 25th.

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Chairman adjourned the meeting at 10:15 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

[April 4th](#) ZBA meeting minutes approved on [April 25th](#)

Motion by Cherie Grey, seconded by Gage Simpson.

Motion passes: 7-0.