ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, APRIL 22, 2019
6:30 P.M.
RECREATION CENTER

CALL TO ORDER:  Bill Moore, Chairman, called the meeting to order at 6:38 P.M.

SALUTE TO THE FLAG:

PRESENT:  Bill Moore, Chairman; Keith Kaplan, Vice Chairman; Brad Gallagher, Secretary;
Cheryl Grey; Jerry Lund; Chris Hemstead

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:

1. #20190171 AGIUS PROPERTIES, Tomahawk Lane (Arrowhead Road rear), Initiation of Coordinated SEQRA Review and consideration of LEAD AGENCY status for an area variance associated with a proposed three-lot subdivision; Seeking relief from the minimum average lot width for two of the proposed lots, minimum rear yard setback on Proposed lot 1, and minimum front and rear yard setbacks on proposed lot 2 in the Suburban Residential-2 District.

2. #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.

3. #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.

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.

5. #20190071 STELLETO 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.

6. #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.
7. **#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.

**NEW BUSINESS:**

1. **#20190225 BISHOP SUBDIVISION**, 223 Maple Avenue, area variance associated with a proposed two-lot subdivision seeking relief from the minimum average lot width and minimum lot size requirements for proposed lot 2 in the Urban Residential-2 District.

**SEQRA:**

Action appears to be an unlisted action. The Planning Board is the only other involved agency.

**PARCEL HISTORY:**

-Special Use Permit issued for a home occupation in 1992 with condition “the three tax parcels be merged into a single tax parcel”.

**AREA VARIANCE CONSIDERATIONS:**

<table>
<thead>
<tr>
<th>Required</th>
<th>Proposed</th>
<th>Total Relief Requested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lot 2</td>
<td>Minimum average lot width: Lot 2 60 ft.</td>
<td>50 ft.</td>
</tr>
<tr>
<td>Lot 2</td>
<td>Minimum lot size: Lot 2 6,600 sq. ft.</td>
<td>6,413 sq. ft.</td>
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</tbody>
</table>

**NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:**

-Per 8.4.6 City Planning Board Advisory Opinion is required.
-Saratoga County Planning Board Advisory Opinion is required.
-Planning Board subdivision review and approval required.

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated the applicant is proposing to subdivide the property into two lots. Lot #1 would include the existing house and residence and improvements on that lot. Lot #2 is the proposed lot the variances are requested for. We are asking for a 6,413 square foot lot versus the 6,600 square foot lot which is required in the district. This will need SEQRA review and we will need to appear before the Planning Board for Site Plan Review. A visual presentation was provided for the Board. The applicants have attempted to enlarge the lot but would not accomplish this to the required square footage. We have reviewed 47 adjacent lots in this district within 350 feet of this home. This was provided to the Board. Three out of 47 did not meet the required lot width, but did meet the 6600 square foot lot requirement. Ten of 47 did not meet the 6600 square foot requirement but did meet the 60 foot lot width. Twenty seven of the 47 did not meet either the 6600 square foot requirement or the 60 foot lot width requirement. Thirty nine of the 47 were non compliant in this district and 20 of the 47 lots or 42.5% of the lots were 50 feet or less in lot width. Twenty seven of the 47 or 57% had lot sizes fewer than 6,000 square feet. This request does fit in with the character of the neighborhood.

Bill Moore, Chairman asked if there were any further questions or comments from the Board. None heard.

Ms. Yasenchak further stated that Lot #1 is consistent and compliant with zoning regulations. Coverage on that lot is 28.8% and permeability is 53.8% and 25% is required in this district. Lot #1 does not require any variances.
Keith Kaplan, Vice Chairman, made a motion in the matter of the Bishop Subdivision, 223 Maple Avenue, that the ZBA request an Advisory Opinion from the Planning Board for this application. Cherie Grey seconded the motion.

**VOTE:**

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

**MOTION PASSES: 6-0**

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 6:46 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 applicant will return before the ZBA following their appearance before the Planning Board for an Advisory Opinion.

**NOTE:**

The agenda was heard out of order due to lack of representation for Agenda Item #2.

**RECUASAL:**

Board members Cherie Grey recused from the following application.

3. **#20190246 LAKE LOCAL PARKING**, 550 Union Avenue, area variance for construction of parking area associated with the redevelopment of the eating and drinking and marina use in the Water Related Business District.

**SEQRA:**

-ZBA had previously deferred Lead Agency Status for SEQRA to the Planning Board.
-The Planning Board issued a SEQRA Negative Declaration.

**PARCEL HISTORY:**

-Planning Board Site Plan Approved,
-DRC Architectural Review Approved.

**AREA VARIANCE CONSIDERATIONS:**

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<thead>
<tr>
<th></th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum side yard setback to parking: spaces 23-36</td>
<td>15 ft.</td>
<td>0 ft.</td>
<td>15 ft. (100%)</td>
</tr>
<tr>
<td>Minimum side yard setback to parking: spaces 38-54</td>
<td>15 ft.</td>
<td>0 ft.</td>
<td>15 ft. (100%)</td>
</tr>
</tbody>
</table>

Applicant: John Haines, partner
Agent: Mike Ingersoll, LA Group

Mr. Ingersoll provided a visual presentation to the Board, noting the existing lane that services the two residences towards the lake and approved parking spaces. During the review process these 31 parking spaces became in question.
The spaces are allowed but the issue is whether they are paved or a gravel area. Ownership of the lane came into question. Time ran out regarding the determination of ownership. We are here before the Board for a determination if the area can be paved or gravel or permeable pavers.

**DISCLOSURE:**

Keith Kaplan, Vice Chairman disclosed that he is acquainted with one of the neighbors, Mr. Garrett. No need for recusal.

Discussion ensued among the Board concerning the parking surfaces and parking in the setback and number of parking spaces to be provided.

Bill Moore, Chairman asked if there were any further questions or comments from the Board. None heard.

**PUBLIC HEARING:**

Bill Moore, Chairman opened the public hearing at 6:57 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.

**Barb Fran**, owner of one of the camps closer to the lake. Concern was voiced regarding the right of way and access and through this right of way is to remain the same.

Mr. Ingersoll stated the access will be available year around and this right of way will be widened.

**Tom Garrett**, homeowner in this area. He appreciates the scaled down version of this project. Concerns were voiced over traffic speed and traffic enforcement in this area.

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for May 6, 2019.

**OLD BUSINESS:**

1. **#2019188 TRAUTNER RESIDENCE**, 232 Nelson Avenue, area variance for demolition of existing front porch and construction of a new front pergola to an existing residence; seeking relief from the minimum side yard setback requirement in the Urban Residential-3 District.

This application was heard at the April 8, 2019 meeting. The public hearing was opened and remains open. Zoning and Building inspector has identified that the existing front porch roof does not legally exist. No additional information was requested from the applicant.

**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 7:04 P.M.

**NEIGHBOR INPUT:**

- Email correspondence from Janet and Michael Casey, 228 Nelson Avenue, received April 22, 2019.
- Email correspondence from Susan Davis, Architect for the project, received April 22, 2019.
Jerry Luhn presented the following resolution.

#20190188
IN THE MATTER OF THE APPEAL OF
John and Kerry Trautner
232 Nelson Avenue
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 232 Nelson Ave. in the City of Saratoga Springs, New York being tax parcel number 166.53-2-54 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 8th and 22nd days of April 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 amounts of relief:

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQ.</th>
<th>PROPOSED</th>
<th>RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum side yard setback</td>
<td>4 feet</td>
<td>0 feet</td>
<td>4 feet (100%)</td>
</tr>
<tr>
<td>Minimum total side yard setback</td>
<td>12 feet</td>
<td>4 feet</td>
<td>8 feet (67%)</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 for them. By way of example, the applicants note that an alternative design was contemplated that might stand in place of the variance sought, but was rejected; specifically, a pergola construction that would extend only over a portion of the area of the front elevation would not provide sufficient functionality and coverage protection, and would present an aesthetically challenging appearance. The Board notes that the property has preexisting nonconformity with setback requirements, and further notes this application does not call for any substantial expansion of the residence.

2. The applicants have demonstrated that granting this variance would not create an undesirable change in neighborhood character or detriment to nearby properties. The proposed porch demolition and pergola addition conforms to the outline of the existing house, and does not crowd or encroach upon neighboring properties.

3. The Board finds this variance application to be substantial; however, it is mitigated by the fact that the placement of the residence on the lot is pre-existing. Further, as noted above, the relief request ameliorates the pre-existing nonconformity inherited by the applicants in this case.

4. The judgment of the Board is that this variance will have no significant adverse physical or environmental effect on the neighborhood or district, as the footprint will not change substantially.

5. The alleged difficulty presented in this appeal is self-created insofar as the applicant desires to construct the proposed addition in place of a pre-existing and substandard porch structure, but this is not deemed fatal to the application before this Board.

Condition: This motion granting the variance sought is conditioned upon an understanding that any future accessory structure(s) on the existing lot may not exceed 6.6% of the lot area.

Cherie Gray seconded the motion.
Bill Moore, Chairman asked if there was any further discussion.

Brad Gallagher, Secretary stated he viewed the previous webcast and feels comfortable voting on this project tonight.

VOTE:

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

MOTION PASSES: 6-0

NEW BUSINESS:

2. #20190223 SANSON & WRIGHT RESIDENCE, 39 York Avenue, area variance for partial demolition and new construction of additions to an existing single-family residence, seeking relief from the maximum principal building coverage requirement 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:

<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>30%</td>
<td>39.9%</td>
<td>9.9% (33%)</td>
</tr>
</tbody>
</table>

NOTIFICATIONS/APPROVALS/CONDITIONS OF APPROVAL:

-DRC Historic Review is required.

Applicant: Robert Sanson & Cynthia Wright


Mr. D’Amour provided a visual presentation of the project for the Boards review. The applicants have lived in this home for over 20 years and intend to stay in this home. They are proposing renovations to make this home more comfortable for them. The existing property is non-conforming. They are proposing the 2nd story addition over their existing home. This will require new foundation work and therefore needs to meet zoning requirements. This will be placed in the same footprint location with a slight change in geometry. We need to fit setback requirements. The site is very small and does not meet minimum lot size requirement since is predates zoning. Additional property cannot be acquired. Several options were reviewed but were not feasible. Mr. D’Amour stated they created an efficient floor plan which allows them to age in place. Currently we are over the lot coverage requirements. Several changes were made and is now within the setback requirements and we are now down to 39.9% for primary and accessory structures. 30% is allowed in this district. We did review other homes in this area and this falls in the middle of gross area of other homes in that neighborhood. 6 – 7 properties in this area are over the gross square footage allowed from 1,842 to 2,682 for property footprint. Many of these lots are under the required minimum lot size requirements. What the applicant is requesting will not change the character of the neighborhood.

Bill Moore, Chairman asked if there were any further questions or comments from the Board.

Discussion ensued among the Board regarding conditioning the approval noting no accessory structures.
Keith Kaplan, Vice Chairman stated the homeowner was present when he visited the site. They did not discuss the application. Concern was voiced regarding the proximity to the property line. The mass and scale differs greatly from the original home. This does differ from the neighborhood character and he is currently not in favor of the project.

Mr. D'Amour stated this home is within the Historic District. They have had some conversations with the Saratoga Springs Preservation Foundation. The owners are looking to create larger bedrooms. The homeowner is a practicing artist and is looking to have a studio with some height and light. This will be discussed with the DRC.

Cherie Gray stated she is very much into preservation. She had no problem with different materials however the issue for her is the height of the proposed addition.

Bill Moore, Chairman stated he does have concern regarding the height of the addition as well.

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. No additional information has been requested from the applicant. A resolution will be prepared and presented at the next ZBA Meeting scheduled for May 6, 2019.

APPROVAL OF MEETING MINUTES:

Keith Kaplan, Vice Chairman made a motion to approve the January 7, 2019 ZBA Meeting Minutes as amended. Cherie Grey seconded the motion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Gray, in favor; Chris Hempstead, abstained; Jerry Lund, abstained

MOTION PASSES: 4-0-2.

Keith Kaplan, Vice Chairman made a motion to approve the March 18, 2019 ZBA Meeting Minutes as amended. Cherie Grey seconded the motion.

VOTE:

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Gray, in favor; Chris Hempstead, abstained; Jerry Lund, abstained

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 7:27 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 7-8-19