ZONING BOARD OF APPEALS

MINUTES (FINAL)
MONDAY, MAY 20, 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; Kathleen O'Connor, Alternate

ABSENT: Chris Hemstead

STAFF: Susan Barden, Principal Planner, Planning and Economic Development, City of Saratoga Springs-exited at 7:45 P.M.
Amanda Tucker, Senior Planner, Planning and Economic Development, City of Saratoga Springs
Tony Izzo, Assistant City Attorney, City of Saratoga Springs-exited at 8:20 P.M.
Vince DeLeonards, City Attorney, City of Saratoga Springs-exited at 7:30 P.M.
Mark Schachner, Counsel to the Land Use Boards
Patrick Cogan, Assistant Building Inspector and Zoning Officer, City of Saratoga Springs

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

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

ANNOUNCEMENT OF ADJOURNED APPLICATIONS:

1. 20190414 ECS PSYCHOLOGICAL SERVICES, 210 Church Street, area variance for a second-story open deck and additions on an existing medical office building; seeking relief from the minimum side yard setback and overall minimum lot permeability in the Office/Medical Business-2 (OMB-2) District.

2. #20190263 SAUTTER RESIDENCE, 150 Washington Street, area variance for placement of two AC condenser units; seeking relief from the minimum side yard setback for accessibility structure requirement in the Urban Residential-1 District.

3. #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

4. #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.

5. #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.

6. #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.

7. **#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.

8. **#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.

9. **#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:**

**RECUASAL:**
Keith Kaplan, Vice Chairman recused from the following application.

**NOTE:**
Kathleen O'Connor, Alternate assumed her position on the Board.

1. **#20190069 ARTISANAL BREW WORKS**, 41 Geyser Road, appeal of Zoning Officer determination that the existing brewery use, identified as "bottling plant", in the Industrial General District does not permit retail, eating and drinking or outdoor activities (such as food vending, recreational activities or special events).

Applicant: Artisanal Brew Works

Agent: Matthew Fuller, Meyer, Fuller and Stockwell, Attorneys

Mr. Fuller stated this is an appeal of the Zoning Officer determination letter dated November 26, 2018 concerning their uses. This was an unsolicited letter. We are dealing with a business which was allowed and all the uses were allowed and licensed through the city.

Mr. Fuller stated the following are the issues which were cited:
- "The tasting room does not have approval under City Zoning as an eating and drinking establishment."
- "No food preparation or sale of prepared food for consumption on the premises is permitted."
- "Retail is not a permitted use in the IND-G zoning district, nor is an Eating and Drinking Establishment."
- "No outdoor activity such as food vending, recreational activities, or special events associated with the brewery are permitted on the property."

Mr. Fuller stated there is no definition of "Bottling Plant" in the City's Zoning Ordinance. Bottling plant is listed as a permitted use with Site Plan Approval in the Industrial Light Zone where this property is located, as well as the off street parking requirement which we met. Mr. Fuller referred to the Building Permit dated 12/12/16. Under comments and conditions it is noted Tenant Space including brewery, tasting room (bar) lab, office and cold room. Also, ancillary uses are acknowledged such as Cabaret License Activities. Seating remains the same as last year and a clear path of travel has been and is maintained to all exits at all times.
The Artisanal Brew Works would need to operate under the guidelines as described by Bradley Birge. Mr. Birge's correspondence noted that the cabaret activities are an ancillary activity related to the brewing and tasting room activities permitted under the NYS Farm Brewers License with the caveat that:

- this remains an ancillary activity and does not become a primary activity.
- the cabaret activities are conducted wholly within the Artisanal tasting room portion of the building, no outdoor cabaret activities are permitted.
- the total number of seats permitted in the tasting room cannot exceed 50 regardless of any singular or combination of uses.

Mr. Fuller stated the City Staff has previously determined that ancillary uses to what has been described as “Bottling Plant” include a brewery, tap room, tasting room, bar eating and drinking license uses, lab, office, cold room, bar, cabaret license. All of these descriptions point to the finding by staff that “Bottling Plant” is an extremely broad term, with numerous associated uses. This has had a significant impact on the owners. The applicant has received full approvals. Mr. Fuller spoke regarding retail sales and what was allowed and what is now disallowed. Why in November of 2018 does this letter appear? What has changed now to disallow this use? The ZBA cannot endorse a local review process that essentially permits City staff to reinterpret the Zoning Ordinance. This is unconstitutional.

Brad Gallagher questioned if the term “Bottling Plant” has a definition anywhere. Any examples of other bottling plants in the area having these same uses. Brad Gallagher questioned food and entertainment if it were year around and the number of seats allowed. How is food brought in?

Mr. Fuller stated this term is defined by other municipalities but not the City of Saratoga Springs. Food and entertainment is year around. There are occasional food trucks on the weekends. There were no food trucks this past summer due to the current issue. The previous summer 2-3 days per week entertainment was provided with approximately 30 people during busy times.

Kurt Borchardt, owner stated parking was contained within the space allotted. Not an unreasonable amount of people in attendance. Mr. Borchardt stated he met with Steve Shaw and they toured the area for outside guests. The brewery is licensed by the State Liquor Authority. Hours have been the same since we opened. Tuesday through Friday 3:30 PM - 9:00 PM. Weekends 12 Noon until 9:00 PM maybe 10:00 PM. Outside times or events begin at 3:00 PM – 5:00 PM or 4PM – 6:00 PM. We received one complaint call. These times are regulated by the State Liquor Authority. Mr. Fuller submitted information along with a letter from a neighbor via their attorney.

Cherie Grey stated this Board takes all neighbor communication seriously regardless of who they are or what they do. This is located in the Industrial District. A bottling plan is allowed in the IND-G District but not all of the uses. You will need a use variance to do what you are doing in this district.

Mr. Fuller stated use variances are one of the most difficult variances to receive in New York State and he would never encourage a client to try to obtain a use variance. Mr. Fuller also stated retail needs to be defined it is a very broad definition.

Bill Moore, Chairman stated he wants to hear from City Counsel’s perspective.

Vince DeLeonardis, City Attorney stated the issue is not who is or is not the clientele of the business. It is not who may or may not be getting drunk at the facility. With deference to counsel it is not who does or does not live across the street or the financial stability of the business. It is what is and is not allowed under the zoning ordinance. The appellant articulated four determinations made by the zoning officer that they are specifically appealing. The first is “The tasting room does not have approval under City Zoning as an eating and drinking establishment.” If you look at Table 2 of the Use Schedule, IND-G Zoning District, you will find that eating and drinking establishment is not a permitted use in that district. Number 2 - “No food preparation or sale of prepared food for consumption on the premises is permitted.” That is effectively defining an eating and drinking establishment which as indicated in the first enumerated point, under Table 2
of the Use Schedule is not a permitted use in the IND-G Zoning District. Number 3 - “Retail is not a permitted use in the IND-G Zoning district, nor is an Eating and Drinking Establishment.” Eating and drinking establishment was also referenced in points 1 and 2, on Table 2 of the Use Schedule, is not a permitted use in the IND-G Zoning District. Retail likewise in Table 2 of the Use Schedule is not a permitted use in the IND-G Zoning District. Those are the determinations cited by the zoning officer that they are taking issue with and asking for an interpretation from this Board. Those are the questions you have to answer. It simply requires you to take a look at the uses permitted in the zoning district and what is allowed and not allowed in that district. Determinations that may have or may not have been made by former employees or current employees, with regard to permits, licenses or the like are not a basis for estoppels and are not relevant to this Board. There is no person in City Hall who is allowed to change zoning, only this Board is allowed to grant variances.

Bill Moore, Chairman stated there are certain rights which are allowed under the NYS Farm Brewery License. Under this license they are allowed to have a tasting room, and ancillary sales. Are we to look at those rights or the zoning ordinance?

Vince DeLeonardis, City Attorney stated your purview is to interpret the Zoning Ordinance of the City of Saratoga Springs. We are aware the applicant does have a NYS Farm Brewery License. That license does permit the applicant to conduct certain activities within the limits of that license for which the city has not initiated any objection or indicated that they want that to discontinue. The applicant is stretching some of these to extreme by indicating retail means we can’t sell their product. They can, but what they can’t be is an eating and drinking establishment. Some of the activities that they are doing there are falling under that purview and have been addressed by the zoning officer. Some of the other references such as the seating capacity are not before you or under your purview. The issue is whether the zoning officer’s determination of an eating and drinking establishment is not an allowed use in this particular zone, and whether retail is allowed in this particular zone are the two issues.

Mr. Fuller spoke about bottling plant and retail and what does that mean. We cannot have different staff coming and revisiting the interpretation.

Patrick Cogan, Zoning Officer and Assistant Building Inspector. Steve Shaw was the Zoning Officer when the business first started. I would like to clarify some points concerning the initial presentation. The first thing I would like to note is that nothing in this interpretation is saying that the ancillary activities to the brewery, bottling plant and the tasting room are not allowed. In fact, this letter was not intended to be a zoning determination. This letter was requested by the owners of Artisinal Brew Works because we had multiple meetings and discussions and they requested clarification as to what they are allowed to do and not do at this facility. The letter was the answer as to what you are allowed to do under city code, building code and zoning at this facility. It was not solely meant as a zoning determination. When the letter says that retail is not allowed in the IND-G zone the applicant has presented to you that we are saying no retail. What we are stating is that retail is not a permitted use in this zone. So therefore, you can’t have something in this building that represents retail as a principal use. If you are going to have retail it has to be ancillary to the principal use in the building. Clearly we are not saying that they can’t sell your product, we are not saying that they can’t sell 4 packs, glasses with their logo on it or t-shirts. No one has ever told them they are not allowed to do that. These are specifically allowed by the Farm Brewers License. We are not putting any limitations on things they are specifically allowed to do under the Farm Brewers License. What we were trying to establish with the letter are the activities that would be allowed as accessory or ancillary to a principal use of retail, or two a principal use of eating or drinking establishment would not be allowed at this site. Food trucks are allowed only in a zone where eating and drinking establishments are a permitted principal use. Selling things that are in no way associated with the beer would not be allowed at this site.

**PUBLIC HEARING:**

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

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application.
Erica Anderson, Unified Beerworks, Malta. We have basically the same model that Artisanal has now. We have food trucks on Friday and Saturday nights. We have entertainment on Friday and Saturday nights. We sell product and it is integral to the business. Here to support our friends in the industry.

Chris Hopkins. We go over in the summer and order food. It is a great location in the summer to relax and enjoy.

Keith Johnston, CEO, Common Roots, Glens Falls. Seconded everything Erica said. It is advantageous to have food trucks and events and supports small business.

Bill Moore, Chairman stated we will leave the public hearing opened.

Bill Moore, Chairman stated we have asked for additional information concerning the breakdown percentage wise of the primary businesses and ancillary businesses.

NOTE:

Keith Kaplan, Vice Chairman resumed his position on the Board.
Kathleen O’Connor, Alternate exited the Board.

2. **20190420 RAYMOND WATKINS APARTMENT BUILDING**, 57 Ballston Avenue, area variance for a solar carport accessory structure over an existing parking lot for an existing apartment building; seeking relief from the minimum front yard setback in the Urban Residential-5 (UR-5) District.

SEQRA:

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

PARCEL HISTORY:

- DRC approval 05/04/17.
- CO issued 01/03/19 for solar install, not carports.

AREA VARIANCE:

<table>
<thead>
<tr>
<th></th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
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</thead>
<tbody>
<tr>
<td>Minimum front yard setback: Accessory-carport</td>
<td>20 ft.</td>
<td>19.3 ft.</td>
<td>0.7 ft. (3.5%)</td>
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</tbody>
</table>

Applicant: Raymond Watkins Apartments

Agent: Lindsey Halse, Kasselman Solar

Ms. Halse stated they are the installer of the carports and solar array. This has been installed. There are two carports. Carport #2 is in question. The steel pier was installed outside the setbacks.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:37 P.M.

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

Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA meeting scheduled for June 3, 2019.
4. **20190419 VERDILE RESIDENCE MODIFIED**. 60 Fifth Avenue, area variance for constructed changes to a previously approved area variance for construction of principal building and stone patio; seeking additional relief from the minimum lot line setback and maximum principal building coverage requirement in the Urban Residential-1 (UR-1) District.

**SEQRA:**

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

**PARCEL HISTORY:**

Area variance granted on July 28, 2017 for a new single family residence and detached garage. Maximum principal building coverage 28.82%.

**AREA VARIANCE:**

<table>
<thead>
<tr>
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<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
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</thead>
<tbody>
<tr>
<td>Minimum lot line setback (Patio):</td>
<td>10 ft.</td>
<td>5.8 ft.</td>
<td>4.2 ft. (42%)</td>
</tr>
<tr>
<td>Maximum principal building coverage:</td>
<td>20%</td>
<td>29%</td>
<td>9% (45%)</td>
</tr>
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Agents: Brett Balzer, Balzer Tuck Architecture; Jim Sasko, Teakwood Builders

This application was before the Board several years ago. The home received a variance for maximum principal building coverage. We are seeking an amended variance in the amount of 29%. The reason for the variance is a 2" difference from the edge of the crown or trims at the soffit. 20% is required we are at 29% for 9% increase in relief requested. An alternative design would come at a great expense to the owner as the crown and the fascia would have to be cut back. The overhangs would then have to be reconstructed with a less substantial crown and would not be consistent with historical design context and intent. The second variance requested is for the patio setback from the rear yard. 10 feet is required, we are proposing 5.8 feet for a total relief of 4.2 feet. The patio was constructed of bluestone pavers and is in plane with the adjacent grass surface. The patio was initially planned to be rotated 90 degree from what is shown. This orientation created a narrow strip of non-usable lawn area due to the size of the patio. The patio was aligned with the face of the garage to minimize the impact of the neighborhood surroundings. We are well above the permeability requirement of 30% in this district. We are currently at 48% permeable.

Chris Hemstead questioned how the patio became non-compliant. Were there other alternatives.

Mr. Balzer stated the owner worked directly with the landscape contractors without knowledge of the builder. It was brought to his attention by staff noting the requirements for a 10 ft setback from the property line for patios.

Cherie Grey stated we do see this frequently with the eaves. For the record she stated she does live down the street from this property but not within 500 feet. She feels this project needs to be redone and meet the required 10 foot setback. We do not want to set a precedent. There are reasons why these setbacks are required. She stated she will be voting against the resolution.

Brad Gallagher questioned if any other property in this neighborhood have decks or patios within the setbacks in this area.

Mr. Balzer stated existing yes, the neighbor to the north has existing bluestone paths that go behind the house right up to the fence line.
Keith Kaplan, Vice Chairman stated he is fine with the patio.

PUBLIC HEARING:

Bill Moore, Chairman opened the public hearing at 7:50 P.M.

Bill Moore, Chairman asked if anyone in the audience wished to comment on this application. None heard. Bill Moore, Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next ZBA Meeting scheduled for June 3, 2019.

NOTE:

Board member, Suzanne Morris, exited the meeting.
Board alternate, Kathleen O’Connor, assumed her position on the Board.

OLD BUSINESS:

1. #20190224 AMO & ROWE RESIDENCE, 48 Webster Street, area variance for a second-story addition to an existing single-family residence, seeking relief from the minimum front yard setback (Webster), front yard setback (Adams) and maximum principal building coverage requirements in the Urban Residential-2 District.

Bill Moore, Chairman stated this is a previously opened application. The public hearing was opened and remains open. We have asked for additional information which was provided.

Applicant: Michael Amo and Nikki Lee Rowe

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated at the last appearance before the Board additional information was requested. Also, I was made aware the coverage calculations were incorrect previously. I have submitted area calculations to the Board as to what currently exists. The current lot coverage is 50.5%. What we were proposing is increasing the square footage by 20 square feet cantilevering over the front wall which will be removed. We are suggesting that we do not add any additional coverage. The roof overhangs already exist. We will be amending our variance request and coverage will remain at 50.5% which is what the coverage is currently. Also, it was brought to our attention that the air conditioning unit does not meet the 10 foot setback for accessory structures. We would like to add that to our variance.

Patrick Cogan, Zoning Officer and Assistant Building Inspector stated my determination is that it fits better under the accessory definition within the zoning ordinance which specifically lists mechanical equipment to be considered as an accessory structure. We were previously considering AC units to meet the same setbacks as the principal structure. Which I felt was not the intent and unnecessarily restrictive. My determination on this is it should be classified as an accessory structure and exempt from separation to the principal structure. I do not feel you should need to ask for relief for the AC units.

Discussion ensued regarding the walkway and other feasible means to achieve the benefit.

Patrick Cogan, Zoning Officer and Assistant Building Inspector stated the walkway project itself needed a building permit and needs a certificate of compliance. We never did a final inspection or closed the project out. At that time we would have required a survey and would have established the coverage exceeded the amount the variance allowed. There is a note on the denial to point out although it is an existing condition it is not an authorized existing condition.

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 8:06 P.M.

Discussion ensued among the Board regarding the proposed resolution and computation of numerical calculations, which need to be recomputed.

Cherie Grey began to present the resolution.

Bill Moore, Chairman stated he felt the resolution should be rewritten with the corrected computations and present this at the next ZBA Meeting scheduled for June 3, 2019.

RECUSAL:
Kathleen O’Connor, Alternate recused from the following application.

2. #20190233 RITZENBERG RESIDENCE, 215 Caroline Street, area variance for an existing outdoor pizza oven and open shed enclosure, seeking relief from the minimum side yard setback requirement in the Urban Residential-3 District.

Bill Moore, Chairman stated this is a previously opened application. The public hearing was opened and remains open. Additionally information was requested from the applicant.

Applicant: Ken Ritzenberg

Mr. Ritzenberg stated the Board requested some additional information. Additional dimensions were reviewed and provided to the Board. He spoke regarding additional calculations which he has provided. The applicant indicates that there are no adverse physical or environmental impacts. The applicant states changes have been made so no drainage or runoff will affect neighboring properties.

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

PUBLIC HEARING:

Bill Moore, Chairman stated the public 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 8:17 P.M.

Jerry Lund presented a resolution.

#20190233
IN THE MATTER OF THE APPEAL OF
Kenneth and Susan Ritzenberg
215 Caroline Street
Saratoga Springs, New York 12866

from the determination of the Building Inspector involving the premises at 215 Caroline Street in the City of Saratoga Springs, New York being tax parcel number 166.53-2-40 on the Assessment Map of said City.
The applicants having applied for an area variance under the Zoning Ordinance of said City to permit the maintenance of an accessory structure, specifically an open post-and-beam shed sheltering a clay pizza oven and barbecue grill, adjacent 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 6th and 20th days of May 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:

<table>
<thead>
<tr>
<th>TYPE OF REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQUIREMENT</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum side yard setback: Shed</td>
<td>5'</td>
<td>1.1&quot;</td>
<td>3.9 (72%)</td>
</tr>
</tbody>
</table>

As per the submitted plans or lesser dimensions, be APPROVED for the following reasons:

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to them, owing in part to the construction, depth and mass of the oven. This application does not call for nor does it anticipate any expansion beyond the existing setback encroachment.

2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The proposed variance has a total footprint of 5' x 9', alongside of the applicants' fence which runs parallel to their neighbor's garage, and which replaces a preexisting deteriorated structure in the same location. It will not crowd neighboring properties.

3. The Board finds this variance to be substantial; however, as noted above the relief requested is consistent with the character and lot size containing the residence which mitigates the impact of its substantiality.

4. This variance will not have significant adverse physical or environmental effect on the neighborhood or district: smoke abatement and water runoff have been taken into account by the structure's design; its footprint is modest; and the structure is open.

5. The alleged difficulty is self-created insofar as the applicant desires to maintain an existing structure built prior to seeking variance approval, but this is not necessarily fatal to the application.

Keith Kaplan, Vice Chairman seconded the motion.

Amanda Tucker, Senior Planner stated there are actually two additional areas of relief required, one from the principal building should be 5 feet, and also the pizza oven to the side yard setback should also be 5 feet.

### Additional Variance Table

<table>
<thead>
<tr>
<th>TYPE OF REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQUIREMENT</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum setback from principal structure (shed):</td>
<td>5'</td>
<td>1'</td>
<td>4' (80%)</td>
</tr>
<tr>
<td>Minimum side yard setback (oven):</td>
<td>5'</td>
<td>2.5'</td>
<td>2.5' (50%)</td>
</tr>
</tbody>
</table>

Patrick Cogan, Zoning Officer, Assistant Building Inspector stated if the variance is granted for the 1.1 feet it can be conditioned to include the pizza oven itself or you can grant a separate variance for the pizza oven stating it cannot move any closer to the property line.

Bill Moore, Chairman stated we would want two to have distinction between the two.
Discussion ensued among the Board concerning the modifications to the resolution.

Mark Schachner, Counsel to the Land Use Board stated his suggestion would be to have two separate amounts of relief. Amanda Tucker, Senior Planner questioned if the applicant had the dimensions from the shed to your principal structure and the pizza oven to the side yard setback.

Mr. Ritzenberg stated he has submitted approximated calculations.

Bill Moore, Chairman stated he believes we should not vote on the resolution this evening. We should rework the resolution and wait until the exact calculations are submitted. At this point we will hold this and we will present a resolution at the next ZBA meeting scheduled for June 3, 2019, with the exact calculations.

Bill Moore, Chairman made a motion to withdraw the previous resolution presented on the Ritzenberg application.

Keith Kaplan, Vice Chairman seconded the withdrawal.

Board Alternate Kathleen O’Connor resumed her position on the Board.

3. #20190262 MATHEWS AND LANGE RESIDENCE, 15 Echo Drive, area variance for an addition to an existing single-family residence; seeking relief from the minimum side yard and minimum total side yard setback requirement in the Suburban Residential-2 District.

Bill Moore, Chairman stated this is a previously opened application. The public hearing was opened and remains open. Additional information was requested from the applicant.

Agent: Stephanie Ferradino

Ms. Ferradino stated at the last meeting the Board requested additional information. The applicant’s agent provided clarification on the following issues. The air conditioning will be compliant and located within the setbacks. The septic systems plans were submitted and we have made some updates to the map to include several areas which were added. A visual of the project site and location of the air conditioner and septic system. The architect verified the amount of relief requested is the minimum required to create code compliance with the staircase access to the second floor as well as egress from the residence. A valid certificate of occupancy was issued to the applicants prior to their purchase of the property, so we assume the septic is compliant. There are no additional bedrooms or bathrooms are being added so the septic capacity remains the same. East and north elevations were provided and are the subject of these variances. Changes to the map were provided for the Board’s review.

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 8:35 P.M.

Keith Kaplan, Vice Chairman presented the following resolution.

#20190262
IN THE MATTER OF THE APPEAL OF
Jeanne Mathews and Dale Lange
12 Laurel Lake West
Weston CT 06883

from the determination of the Building Inspector involving the premises at 15 Echo Ridge Dr. in the City of Saratoga Springs, New York being tax parcel number 179.4-2-29 on the Assessment Map of said City.
The appellants having applied for area variances under the Zoning Ordinance of said City to permit additions to an existing single-family residence in a Suburban Residential-2 District and public notice having been duly given of a hearing on said application held on the 6th and 20th days of May 2019.

In consideration of the balance between benefit to the applicants with detriment to the health, safety and welfare of the community, I move that the following area variances for the following amount of relief:

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQUIREMENT</th>
<th>PROPOSED</th>
<th>RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Principal Building Coverage</td>
<td>12'</td>
<td>5.6'</td>
<td>6.4' or 53.3%</td>
</tr>
<tr>
<td>Minimum Total Side Yard Setback</td>
<td>30'</td>
<td>23.6'</td>
<td>6.4' or 21.3%</td>
</tr>
</tbody>
</table>

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

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. The applicants note that the lot is "oddly configured"; the Board observes that the area of nonconformance is on the portion of the north side of the parcel where the lot line turns towards the building, and there is no encroachment in the area of the proposed plan west of where the lot line bends. The applicants further note that the proposed area of relief includes the interior stairway and moving that stairway to the other side of the house would not be workable for access between the bedroom over the garage and the rest of the house and would not be code compliant for egress from the bedroom over the garage from the house.

2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board notes that this addition project does not materially change the footprint of the residence, and the parcel size is consistent with district requirements. The Board further notes the area of requested relief is triggered by the irregular shape of the lot in the area of the existing residence.

3. The Board finds the side yard setback variance to be substantial on a percentage basis; however, the substantiality is partly mitigated by the proposal's removal of a current encroachment. As a result, the plan results in the incremental encroachment of approximately one foot, which is not substantial in absolute or percentage terms.

4. These variances will not have significant adverse physical or environmental effect on the neighborhood or district, as the footprint will only change slightly due to the removal of one area and replacement of another.

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

Cherie Grey seconded the motion.

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

**VOTE:**

Bill Moore, Chairman, in favor; Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Gray, in favor; Jerry Lund, in favor; Chris Hemstead, abstained; Kathleen O'Connor, Alternate, in favor

**MOTION PASSES: 6-0-1**

**APPROVAL OF MEETING MINUTES:**

Approval of meeting minutes was deferred to the June 3, 2019 meeting.

**MOTION TO ADJOURN:****

There being no further business to discuss Bill Moore, Chairman adjourned the meeting at 8:37 P.M.
Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 7-22-19