ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, JUNE 3, 2019
6:30 P.M.
RECREATION CENTER

CALL TO ORDER: Keith Kaplan, Vice Chairman, called the meeting to order at 6:33 P.M.

SALUTE TO THE FLAG:

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

ABSENT: Bill Moore, Chairman

STAFF: Amanda Tucker, Senior Planner, City of Saratoga Springs
Susan Barden, Principal Planner, City of Saratoga Springs
Tony Izzo, Assistant City Attorney, City of Saratoga Springs-exited at 8:30 P.M.
Vince DeLeonardis, City Attorney, City of Saratoga Springs-exited at 7:25 P.M.
Leah Everhart, 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. #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.

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. 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.

4. #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.

5. #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.

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.

8. **#2953 STATION PARK MIXED-USE DEVELOPMENT.** Washington Street and Station Lane, area variance for a proposed multi-use development containing a 110 room hotel, 88 senior housing units, 41 assisted living units, 90 townhouses, and 28,060 square feet of retail; seeking relief from the frontage build-to and build-out, minimum two-story and maximum building height requirements in the Transect-5 District.

9. **#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).

10. **#20190263 SAUTTER RESIDENCE.** 150 Washington Street, area variance for placement of two AC condensers units; seeking relief from the minimum side yard setback for accessory structure requirement in the Urban Residential-1 District.

11. **#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 side yard setbacks, maximum principal building coverage, maximum number of principal buildings on a lot an minimum lot size requirements in the Urban Residential-2 District.

**NEW BUSINESS:**

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-1 District.

Keith Kaplan, Vice Chairman, stated the applicants are before the Board this evening for procedural actions only. The public hearing has not yet been noticed. The public hearing will be noticed following SEQRA determination and Advisory Opinion from the Planning Board.

Applicant: Pat & Jim Agius
Agent: Michael Toohy, Attorney

Mr. Toohy reiterated what the Chair stated. The applicants are before the Board this evening for procedural actions only. The applicants are proposing a subdivision of this property which is currently two tax parcels into 3 lots, 20,000 square feet each. There are several area variances associated with this three-lot subdivision.

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

- Per 8.4.6 City Planning Board advisory opinion is required.
- Planning board subdivision review and approval is required.

Keith Kaplan, Vice Chairman, stated the first order of business for the Board is to initiate coordinated review for SEQRA.

Cherie Grey made a motion in the matter of the Agius Properties, Tomahawk Lane that the Zoning Board of Appeals would like to initiate coordinated review for SEQRA with the Planning Board. Jerry Luhn seconded the motion.

**VOTE:**

Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hemstead, in favor; Suzanne Morris, in favor
MOTION PASSES: 6-0

Cherie Grey made a motion in the matter of the Agius Properties, Tomahawk Lane to defer Lead Agency Status to the Planning Board. Brad Gallagher, Secretary seconded the motion.

VOTE:

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

MOTION PASSES: 6-0

2. #20180185 (3025) DAWSON/MOTO HOLDINGS RESIDENCE, Cobb Alley/77 Franklin Street, area variance to
   Construct a new single-family residence; seeking relief from the minimum mean lot width and minimum lot size and
   Minimum front and rear yard setbacks and maximum principal building coverage requirements in the Urban
   Residential-3 District.

3. #20180186 (3026) DAWSON/MOTO HOLDINGS RESIDENCE, Cobb Alley/77 Franklin Street, area variance to
   Construct a new single-family residence; seeking relief from the minimum mean lot width and minimum lot size and
   Minimum front and rear yard setbacks and maximum principal building coverage requirements in the Urban
   Residential-3 District.

4. #20180187 (3027) DAWSON/MOTO HOLDINGS RESIDENCE, Cobb Alley/77 Franklin Street, area variance to
   Construct a new single-family residence; seeking relief from the minimum mean lot width and minimum lot size and
   Minimum front and rear yard setbacks and maximum principal building coverage requirements in the Urban
   Residential-3 District.

Applicant: Anthony Dawson

Mr. Dawson stated they were before this Board and were granted several variances on April 23, 2018. The Department of Public Safety had concerns with turning radius into the garages from the 12’ wide alley and compliance with the Fire Code for emergency vehicle access. This is a modification to a previous variances dated April 23, 2018.

Keith Kaplan, Vice Chairman asked the Board if there was any further questions or comments. None heard.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 6:42 P.M on application #3025.

Keith Kaplan Vice Chairman asked if anyone in the audience wished to speak on application (3025) Dawson/ Moto Holdings Residence, Cobb Alley/77 Franklin Street. None heard.

Keith Kaplan, Vice Chairman opened the public hearing at 6:42 P.M on application #3026.

Keith Kaplan Vice Chairman asked if anyone in the audience wished to speak on application (3026) Dawson/ Moto Holdings Residence, Cobb Alley/77 Franklin Street. None heard.

Keith Kaplan, Vice Chairman opened the public hearing at 6:42 P.M on application #3027.

Keith Kaplan Vice Chairman asked if anyone in the audience wished to speak on application (3027) Dawson/ Moto Holdings Residence, Cobb Alley/77 Franklin Street. None heard.

Keith Kaplan, Vice Chairman closed the public hearing 6:46 P.M. on application 3025.
Keith Kaplan, Vice Chairman closed the public hearing 6:46 P.M. on application 3026.

Keith Kaplan, Vice Chairman closed the public hearing 6:46 P.M. on application 3027.

Susan Barden, Principal Planner stated we have received some information from Leah Everhart, Attorney for the Land Use Boards concerning SEQRA.

Leah Everhart, Counsel to the Land Use Boards spoke regarding the SEQRA determination. This determination made last April was a Type 1 action and they were considered together. Since there is a going to be a subsequent change to a previous SEQRA action, the Board should consider whether or not any new or different impact would be likely to occur as a result. If no new or different impacts are likely to occur that haven’t been previously been reviewed then the Board should adopt a resolution basically stating that.

Keith Kaplan, Vice Chairman stated the Zoning Board of Appeals previously granted a negative SEQRA declaration on this project. Point is well made by counsel.

Keith Kaplan, Vice Chairman made a motion that the ZBA notes that the changes contemplated here in this set of applications constitute no changes in the findings on the EAF no changes to the impact we evaluated on this project for SEQRA and we reaffirm the SEQRA Negative Declaration.

Brad Gallagher, Secretary voiced concerns regarding the changes in the Board Members and new appointees not having access to the documents to reaffirm.

Keith Kaplan, Vice Chairman stated the Board will recess so the new Board Members can review the previous SEQRA documents.

Board recessed 7:51 P.M.
Board reconvened 8:07 P.M.

The Board completed the review of the previous SEQRA Negative Declaration adopted in April of 2018.

Cherie Grey seconded the motion for a reaffirmation of the SEQRA Negative Declaration.

**VOTE:**

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

**MOTION PASSES: 6-0**

Cherie Grey presented the following resolution:

#20180185 (3025)

IN THE MATTER OF THE APPEAL OF
Anthony Dawson/ Moto Holdings, Inc.
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at a vacant lot on Cobb Alley in the City of Saratoga Springs, NY, being tax parcel number 165.66-2-70.1 on the Assessment Map of said City. The Applicant having applied for an area variance to permit demolition of an existing scrap yard and construction of a new single-family residence and seeking relief as described below in the UR 3 District and public notice having been duly given of a hearing on said application March 19 and April 9 and 23, 2018 with a modification of the previous approval on June 3, 2019.
In consideration of the balance between the benefit to the Applicants with detriment to the health, safety and welfare of the community, I move that the following variance for the following amount of relief:

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<tr>
<th>TYPE OF REQUIREMENT</th>
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<td>4 ft.</td>
<td>21 ft. (84%)</td>
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<td>10 ft.</td>
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<td>6 ft. (60%)</td>
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As per the modification of previously approved variance on April 23, 2018, all terms, conditions, and findings of the previous variance to remain unchanged except as proved herein be APPROVED for the following reasons:

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicant. A letter issued by the Commissioner of Public Works, Skip Scirocco, dated May 13, 2019 requested an adjustment to the approved variance to allow for access to infrastructure of 4' for the front yard setback, an increase of 3.5’. Thereby, the rear yard setback was adjusted from 7.5' to 4', a decrease of 3.5'.

2. The applicants have demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties, as noted on the variance previously granted, April 23, 2018, this board considers the changes made since then to be minor in nature and not impactful to neighborhood character.

3. The relief requested can be considered substantial at 84% and 60%, however, the lots are pre-existing, nonconforming.

4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood, as the modification was requested to improve physical access to infrastructure along Cobb Alley.

5. The request for relief may be considered self-created, but this is not necessarily fatal to the application.

NOTE:

1. All previous conditions apply.
2. No accessory structures.

Brad Gallagher seconded the motion.

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

VOTE:

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

MOTION PASSES: 6-0

Keith Kaplan, Vice Chairman, presented the following resolution.

#20180186 (3026)
IN THE MATTER OF THE APPEAL OF
Anthony Dawson/ Moto Holdings, Inc.
Saratoga Springs, NY 12866
from the determination of the Building Inspector involving the premises at a vacant lot on Cobb Alley in the City of Saratoga Springs, NY, being tax parcel number 165.66-2-70.1 on the Assessment Map of said City. The Applicant having applied for an area variance to permit demolition of an existing scrap yard and construction of a new single-family residence and seeking relief as described below in the UR 3 District and public notice having been duly given of a hearing on said application March 19 and April 9 and 23, 2018 with a modification of the previous approval on June 3, 2019.

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2. The applicants have demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties, as noted on the variance previously granted, April 23, 2018, this board considers the changes made since then to be minor in nature and not impactful to neighborhood character.

3. The relief requested can be considered substantial at 84% and 60%; however, the lots are pre-existing, nonconforming.

4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood, as the modification was requested to improve physical access to infrastructure along Cobb Alley.

5. The request for relief may be considered self-created, but this is not necessarily fatal to the application.

NOTE:

1. All previous conditions apply.
2. No accessory structures.

Cherie Grey seconded the motion.

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

VOTE:

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

MOTION Passes: 6-0
Cherie Grey presented the following resolution:

#20180187 (3027)

IN THE MATTER OF THE APPEAL OF
Anthony Dawson/ Moto Holdings, Inc.
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at a vacant lot on Cobb Alley in the City of Saratoga Springs, NY, being tax parcel number 165.66-2-70.1 on the Assessment Map of said City. The Applicant having applied for an area variance to permit demolition of an existing scrap yard and construction of a new single-family residence and seeking relief as described below in the UR 3 District and public notice having been duly given of a hearing on said application March 19 and April 9 and 23, 2018 with a modification of the previous approval on June 3, 2019.

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As per the modification of previously approved variance on April 23, 2018, all terms, conditions, and findings of the previous variance to remain unchanged except as proved herein be APPROVED for the following reasons:

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2. The applicants have demonstrated that granting this variance will not produce an undesirable change in neighborhood character or detriment to the nearby properties, as noted on the variance previously granted, April 23, 2018, this board considers the changes made since then to be minor in nature and not impactful to neighborhood character.

3. The relief requested can be considered substantial at 84% and 60%; however, the lots are pre-existing, nonconforming.

4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood, as the modification was requested to improve physical access to infrastructure along Cobb Alley.

5. The request for relief may be considered self-created, but this is not necessarily fatal to the application.

NOTE:

1. All previous conditions apply.
2. No accessory structures.

Brad Gallagher, Secretary seconded the motion.

Keith Kaplan, Vice Chairman asked if there was any further discussion. None heard.
VOTE:
Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hemstead, in favor; Suzanne Morris, in favor

MOTION PASSES: 6-0

5. #20190460 TOWNE RESIDENCE, 18 MacArthur Drive, area variance for the demolition of an existing 1-story garage and reconstruction of a 2-story garage with second floor living area; seeking relief from the minimum side yard setback, minimum front yard setback, total side yard setback, and maximum principal building coverage in the Urban Residential-1 (UR-1) District.

Applicant: Steven and Suzanne Towne
Agent: Jim McLagan; Justin McLagan, Tru-North Design and Development

The applicants have purchased this home to downsize. They are looking to modify this new home for some additional space for visiting children. The majority of the homes along MacArthur Drive are single family ranch style home. In completing the design we are need of several variances. This is not unusual for this area. 20 of 24 homes in this area are non compliant with lot dimensions. No other land is available for purchase. There is no possibility for a lot line adjustment. The proposed design is the most practical and cost effective design which achieves the needs of the owners while respecting the neighbors.

Brad Gallagher questioned alternative designs due to the close proximity to the property line. He is concerned regarding drainage and run-off to the neighbors.

Justin McLagan, Contractor stated this can be dealt with guttering.

Keith Kaplan, Vice Chairman spoke regarding the massing and proximity to the other homes. Also questioned changing the configuration.

Mr. McLagan spoke regarding the project and the placement of the addition and the garage and the feasibility of the design.

Cherie Grey stated she knows the McLagan's and the Towne family. She can remain impartial in voting on this application. Ms. Gray requested review of all elevations. She spoke regarding the proximity to the property line especially the second story addition in this area. The part closest to the neighbor will be the second story.

Mr. McLagan stated he has reduced the size of the knee walls trying to help mitigate the height.

The Board reviewed all elevations for the project.

Chris Hemstead stated for him it is the feasibility of the project as well as runoff, however if you mitigate runoff I will be in favor of the project.

Keith Kaplan, Vice Chairman stated he agrees with what Cherie and Brad have said. 3’4” from the property line is too close, even 4’4” is too close. We are exacerbating a tough situation and it makes it too imposing to the neighbor. At this time I am not in favor of the project.

Mr. McLagan spoke about mitigating the runoff and redesigning the project to remain at 4’4” which is what currently exists.
Keith Kaplan, Chairman stated the lot is very narrow. Adding a second story makes the situation even worse.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman opened the public hearing at 7:55 P.M.

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

Keith Kaplan, Vice Chairman stated the public hearing will remain open. A resolution will be prepared and presented at the next meeting scheduled for June 17, 2019. Any additional information should be submitted to staff concerning elevations and runoff schematics.

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.

This application was seen at the May 20, 2019 meeting. The applicant modified the application to the existing footprint and will build a second story addition over the existing first floor footprint. The relief is for the existing overage on the lot coverage. Relief will be required from the setback for the existing air conditioning units.

PUBLIC HEARING:

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

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

Keith Kaplan, Vice Chairman closed the public hearing at 7:58 P.M.

Cherie Grey presented the following resolution.

**#20190224**

**IN THE MATTER OF THE APPEAL OF**

Michael Amo & Nikki Lee Rowe
48 Webster St.
Saratoga Springs, NY 12866

from the determination of the Building Inspector involving the premises at 48 Webster St. in the City of Saratoga Springs, NY, being tax parcel number 166.77-2-19 on the Assessment Map of said City. The Applicant having applied for an area variance to construct a second-story addition over an existing one-story portion of the existing residence in the UR-2 District and public notice having been duly given of a hearing on said application May 6 and 20 and June 3, 2019.

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

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<tr>
<td>Front yard setback: Adams St.</td>
<td>10'</td>
<td>4.1'</td>
<td>5.9' (59%)</td>
</tr>
<tr>
<td>Maximum principal building coverage:</td>
<td>30%</td>
<td>50.5%</td>
<td>20.5% (68.3%)</td>
</tr>
<tr>
<td>Minimum front yard setback, accessory A/C</td>
<td>10'</td>
<td>1.4'</td>
<td>8.6' (86%)</td>
</tr>
</tbody>
</table>

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant proposes a second-story addition over an existing one-story portion of the existing residence which is at 4.1' from Adams Street. There is no additional land available for purchase and the corner lot is only 50' wide reducing the possibility of any addition on the property.

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 house was originally built at this distance to Adams Street and will not alter the distance to the lot line. The A/C unit is currently placed within the fencing and not visible from the street. The garage was approved in a 2005 variance for 3' from the side lot line but due to the fact that the lot line and garage are not square on the property, the angle at the corner is constructed at 2.9' from the side yard lot line.

3. The request for relief to construct the addition is considered substantial; however, the applicant is keeping within the existing previously built additions on the property to maintain the principal building coverage at 50.5%. And, will also maintain the second story addition over the existing one story side den. The garage and the A/C unit are also considered substantial at 42% and 86% however, the garage was approved in a 2005 variance and there is no other location for the A/C unit on the property.

4. The Applicant has demonstrated that granting this variance will not have an adverse physical or environmental effect on the neighborhood. Any runoff will be managed in gravel perimeter drains. The applicant submits that the existing site permeability is 31.7%, of which 25% is required.

5. The request for relief is a self-created hardship. However, self-creation is not necessarily fatal to the application.

NOTE: Previous conditions from 2005 and 2015 variances remain:
   1. No kitchen, bath or shower facilities will be constructed in the garage.
   2. The premises will not be used as an apartment or guesthouse.
   3. No additional accessory structures permitted.

Brad Gallagher, Secretary seconded the motion.

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

VOTE:

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

MOTION PASSES: 6-0

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.

This application was seen at the May 20, 2019 meeting. The public hearing was opened and remains open. Additional information including a revised denial was received.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman stated the public hearing was opened and remains open.
Keith Kaplan, Vice Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Vice Chairman closed the public hearing at 8:06 P.M.

Jerry Lund presented the following 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, and the 3rd day of June, 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:

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<tr>
<td>Minimum side yard setback (shed):</td>
<td>5'</td>
<td>1.1'</td>
<td>3.9' (72%)</td>
</tr>
<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>

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 structure anticipated by 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.
3. The Board finds this variance to be substantial; however, the total footprint of 5’x 9’ is modest, which mitigates the impact of substantiality in this case.
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 addressed in this appeal is self-created insofar as the applicant desires to maintain an existing structure built prior to seeking variance approval, but this is not deemed to be fatal to the application.

CONDITION:

1. Shed must be maintained as an open-air structure, ie. Must not be enclosed in the future.

Cherie Grey seconded the motion.

Keith Kaplan, Vice Chairman stated he is opposed to this application. This too major of a project in this small yard. It is too close to the property line as well as the principal structure.

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

VOTE:

Keith Kaplan, Vice Chairman, opposed; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hemstead, in favor; Suzanne Morris, in favor

MOTION PASSES: 5-1

3. 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.

This application was seen at the May 20, 2019 meeting. The public hearing was opened and remains open. No additional information was requested.

PUBLIC HEARING:

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

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

Keith Kaplan, Vice Chairman closed the public hearing at 8:24 P.M.
Cherie Grey presented the following resolution.

#20190420
IN THE MATTER OF THE APPEAL OF
Raymond Watkin Apartment Building
57 Ballston Avenue
Saratoga Springs NY 12866

from the Building Inspector's determination involving a solar panel carport accessory structure at 57 Ballston Avenue, in the City of Saratoga Springs, New York, being Tax Parcel #165.83-1-1 on the assessment map of said City.
The applicant having applied for an area variance under the Zoning Ordinance of said City to permit the construction of a solar carport accessory structure in a UR-5 District and public notice having been duly given of a hearing on said application held on May 20 and June 3, 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>AREA OF RELIEF</th>
<th>REQUIRED</th>
<th>PROPOSED</th>
<th>TOTAL RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Min. front yard setback:</td>
<td>20’</td>
<td>19.3’</td>
<td>.7’ (3.5%)</td>
</tr>
</tbody>
</table>

As per the submitted plans or lesser dimensions, be APPROVED as per this Board’s consideration of the following factors:

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant added solar panels and in so doing constructed a carport for the installation. The applicant stated that when repaving and curbing was completed, it was found that the property lot line angled and was .7’ closer to one of the structures.

2. The applicant has demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The parking lot already existed and there is no detriment to the addition of the carport and solar panels.

3. The relief requested is not considered substantial at 3.5%.

4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood.

5. The difficulty may be considered self-created. However, this is not necessarily fatal to the application.

Brad Gallagher, Secretary seconded the motion.

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

VOTE:

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

MOTION PASSES: 6-0

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.

This application was seen at the May 20, 2019 meeting. The public hearing was opened and remains open. No additional information was requested.

PUBLIC HEARING:

Keith Kaplan, Vice Chairman stated the public hearing was opened and remains open.
Keith Kaplan, Vice Chairman asked if anyone in the audience wished to comment on this application. None heard.

Keith Kaplan, Vice Chairman closed the public hearing at 8:29 P.M.

Chris Hempstead presented the following resolution.

#20190419
IN THE MATTER OF THE APPEAL OF  
Dr. Vince and Louise Verdille  
60 Fifth Ave  
Saratoga Springs NY 12866

from the determination of the Building Inspector involving the premises at 60 Fifth Avenue in the City of Saratoga Springs, New York being tax parcel number 166.13-2-45 on the Assessment Map of said City.

The applicant having previously applied for an area variance (under the address 56 Fifth Avenue) to minimum rear, side, and front yard setbacks, minimum total side yard setback, and maximum principal building coverage under the Zoning Ordinance of said City in connection with construction of a single-family residence and detached garage; and the Board having previously approved the area variance in a motion dated July 24, 2017, including:

<table>
<thead>
<tr>
<th>REQUIREMENT</th>
<th>DISTRICT DIMENSIONAL REQ.</th>
<th>PREVIOUSLY PROPOSED</th>
<th>PREVIOUS RELIEF REQUESTED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Maximum Principal Building Coverage</td>
<td>20%</td>
<td>28.62%</td>
<td>8.62% (43% Relief)</td>
</tr>
</tbody>
</table>

The applicant having now applied for: (i) a revised area variance to the maximum principal building coverage, and (ii) new minimum adjoining lot line setback under the Zoning Ordinance of aforementioned City in connection with the now constructed single-family residence, detached garage, and patio in the UR-1 district, and public notice having been duly given of a hearing on said application held on the May 20 and June 3, 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>Maximum Principal Building Coverage</td>
<td>20%</td>
<td>29%</td>
<td>9% (45% Relief)</td>
</tr>
<tr>
<td>Min. Adjoining Lot Line Setback (Patio)</td>
<td>10'</td>
<td>5.8'</td>
<td>4.2' (42% Relief)</td>
</tr>
</tbody>
</table>

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

1. The applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. With respect to the variance for maximum principal building coverage, an alternative design to avoid the requested relief would come at “great expense to the owners” as the crown and fascia would have to be removed, roofing materials cut back, and overhangs reconstructed with less substantial crown.

   With respect to the variance for minimum adjoining lot line setback, the existing narrow lot, construction of patio to account for safety concerns over grill location, and desire to maximize backyard grass area render reconstruction infeasible.

2. The applicant previously demonstrated, and the Board previously agreed, that granting the variance with respect to maximum principal building coverage would not create an undesirable change in neighborhood character or detriment to nearby properties. The additional relief now sought by applicant does not change the Board’s prior conclusion.
With respect to the variance for minimum adjoining lot line setback, the applicant demonstrated, and the Board agrees, that the patio as constructed is in keeping with the character of the neighborhood, and will not affect existing views.

3. The applicant previously demonstrated, and the Board previously agreed, that the original request for total relief at 43% was substantial, but was mitigated by the fact that the coverage requested falls within the range of principal building lot coverages of the surrounding neighbors. The total relief of 45% now sought by applicant does not change the Board’s prior conclusion.

The Board finds the variance for minimum adjoining lot line setback is substantial; however, this is mitigated, in part, by the fact that the patio itself is “constructed of bluestone pavers and…in plane with the adjacent grass surface.”

4. The applicant previously demonstrated, and the Board previously agreed, that the variance with respect to maximum principal building coverage would not have an adverse physical or environmental effect on the neighborhood, citing that the variance was consistent with the existing neighborhood. The additional relief now sought by applicant does not change the Board’s ultimate conclusion.

With respect to the variance for minimum adjoining lot line setback, the applicant demonstrated, and the Board agrees, that the patio as constructed will not have an adverse physical or environmental effect on the neighborhood and is in keeping with the existing neighborhood.

5. The alleged difficulties are self-created insofar as the applicant constructed the house and patio, but this is not necessarily fatal to the application.

CONDITIONS:

1. Except as expressed in this motion, any prior condition(s) in the Board’s motion dated July 24, 2017 continue to apply.

2. Existing patio area to remain at grade and in plane with adjacent grass surface.

Cherie Grey seconded the motion.

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

Cherie Grey spoke about setting a precedent. This is a very visible property and allowing a 5 foot setback is very dangerous. This should be constructed 10 feet from the property line. There were many variances granted for this property to be built. I do not feel the applicant should be given another area variance for this property.

Keith Kaplan, Vice Chairman stated he is definitely divided about this. He is sympathetic with Cherie and the point she is making, however, the fact that the patio is on grade makes him more comfortable.

Leah Everhart, Counsel to the Land Use Board made several recommendations concerning wording in the resolution. The Board will amend the resolution to read as counsel recommended.

VOTE:

Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, opposed; Jerry Luhn, in favor; Chris Hemstead, in favor; Suzanne Morris, in favor

MOTION PASSES: 5-1
APPROVAL OF MEETING MINUTES:

Cherie Grey made a motion to approved the May 6, 2019 Zoning Board of Appeals Meeting Minutes with minor modifications as submitted. Keith Kaplan, Vice Chairman seconded the motion.

VOTE:

Keith Kaplan, Vice Chairman, in favor; Brad Gallagher, Secretary, in favor; Cherie Grey, in favor; Jerry Luhn, in favor; Chris Hemstead, abstained; Suzanne Morris, abstained

MOTION PASSES: 4-0-2

MOTION TO ADJOURN:

There being no further business to discuss Keith Kaplan, Vice Chairman adjourned the meeting at 8:40 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

APPROVED 7-8-19