



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, SEPTEMBER 12, 2022

6:30 P.M.

CITY COUNCIL CHAMBERS

CALL TO ORDER: Gage Simpson, Chair, called the meeting to order at 6:32 P.M.

SALUTE TO THE FLAG:

PRESENT: Gage Simpson, Chair; Brad Gallagher, Vice Chair; Cheryl Grey; Matthew Gutch; Brendan Dailey; Alice Smith, Alternate

ABSENT: Emily Bergmann; Justin Farrington

STAFF: Aneisha Samuels, Senior Planner, City of Saratoga Springs
Jackie White, Counsel to the Land Use Boards
Patrick Cogan, Building Inspector, Zoning Officer

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.

ZBA APPLICATION UNDER CONSIDERATION:

NEW BUSINESS:

1. **#20220661 STEWART 'S MARION AVENUE - INTERPRETATION,** Marion Avenue, Interpretation of chapter 240 of the City Code
Code section 1.7 (D).

RECUSAL:

Matthew Gutch recused from this application.

Applicant: Stewart's Shops

Agent: Libby Coreno, Attorney; Ryan Rubado, Stewart's

Ms. Coreno stated the original application to the Board was for the setback in the TRB zone as it is against the design requirements. Stewart's has owned three parcels in the Marion Avenue track. Through the course of the application and appearing before the Board there was a discussion with the interpretation of Stewart's use on the site plan of 100 ft. into the residential zone. At that meeting Patrick Cogan, Building Inspector, Zoning Officer made determinations about the way in which Stewarts held the property and an Area Variance related to the frontage. We supplied additional information to the Code Enforcement Officer because the letter left open the ability to reverse or augment based upon additional information. We filed for an interpretation which is a procedural requirement. Referencing NY State City Law 81-b Ms. Coreno stated Zoning Boards can affirm wholly or in part to modify any decisions and that is why we are here tonight. In reviewing Section 1.7(d) prior to the UDO in the city that if you own a lot or land in common ownership at the time of the enactment of the zoning ordinance that was somehow split by zoning, you could move in either direction at the property owners' option 100 ft. into the nonconforming parcel. That is what Stewarts did.

Ms. Coreno read into the record the following from the zoning ordinance: 1.7 D. Where a zoning district boundary line divides a lot or land in single ownership as existing at the time of this enactment the district

requirements on either side of the boundary may be construed at the property owner's option, as extending into the remaining portion of the property for a distance not exceeding 100 feet.

In this case Stewart's purchased these two lots between 2003 and 2004. The date of this enactment as a Local Law, was filed for the entire Chapter 240, by the City Council in 2012. Our current application did not seek zoning relief as to 1.7D because we read and interpreted it to be at our option to extend the 100 ft. One of the main principals when there is vagueness in the zoning law the benefit goes to the property owner. There are some reasons here that may not have been clear before. The parcel in question has been on the assessment role as vacant commercial, a 330 designation. Before 2013 and as far back as Stewart's records will go, they have been paying taxes on a commercial parcel that has this zoning line running through it. Every single word in the zoning ordinance matters. Our interpretation is that the word in this application is the temporal clause or the timing clause. That clause states the ownership at the time of this enactment. Our interpretation is that this enactment was the September 4, 2012, Zoning Ordinance because that is how it is used in the rest of the code. If you put all of the Stewart's facts into 1.7 D we read it as follows: Where the UR-2 and the TRB zoning line divides the land in single ownership of Stewarts as of September 4, 2012, the district requirements on either side of the boundary may be construed at Stewart's option as extending into the remaining portion for a distance not to exceed 100 ft. Ms. Coreno acknowledged in her letter this is an old parcel and has been a gas station since back into the 70's and there was a great deal of work researching this. Particularly in the draft UDO of April 2021 it is clear now that the history of the zoning in the city is going to be precedential because that is a strikeout in the draft and their argument is if the language as interpreted currently was meant to control then why change the ordinance to something that is different. Stewart's lots were consolidated into the same tax district and same tax parcel number on July 12, 2022. Assessment records were also provided. Ms. Coreno provided information on examples of this being done elsewhere in the city.

PUBLIC HEARING:

Gage Simpson, Chair opened the public hearing at 6:47 P.M.

Gage Simpson, Chair asked if anyone in the audience wished to comment on this application.

John Yakuponia, Avenue A, Saratoga Springs. Marion Avenue, Maple Avenue, Maple Dell Homeowners Association. As the Stewart's representative stated every single word in the zoning ordinance matters. Section 1.7 states where there is uncertainty about the property line that rule of being able to move it may apply. In May Patrick Cogan, Building Inspector, Zoning Officer ruled that was not really the intent because of wording changes. We just heard every single word of the zoning ordinance matters. The boundary between the parcels has not ever been in question. The boundary between the commercial and residential is not and has not been in question. The Neighborhood Association asks to consider every single word of the zoning ordinance, including the preface to 1.7.

Gage Simpson, Chair stated the public hearing will remain open.

Aneisha Samuels, Senior Planner, stated the Zoning & Building Inspector has new information on this project.

Patrick Cogan, Zoning & Building Inspector stated he has provided the Board and applicant with a revised determination. After reviewing the materials presented by the applicant and in speaking with the advisory legal counsel, he decided to change the determination, as far as what this clause means as of the date of this enactment as noted by Ms. Coreno in her presentation. How he determined this section should be interpreted is one thing. The face of how it is written is entirely different. It is difficult to take the position that the date of this enactment means anything different than the September 4, and October 4th dates that are provided in the applicant's response. It is not disputed that Stewart's owns the parcels on both sides of the dividing line in 2012 when this version of the Zoning Ordinance was enacted. This was changed in the UDO. We did alter this clause specifically to be more stringent. We removed the "lot or lands under common ownership," and we also based it on the effective enactment of the zoning change that divided the lot rather than whatever the modified date of the ordinance might be. He is the one that changed

that in the UDO, so it is extremely hard for me to sit here and argue that there was no reason for us to change that, because it already meant that. If it already meant that then why did, we need to change that in the UDO. That is a valid point. Regardless of what the intent was when that line was drawn, it was not really what the clause says regarding what date you are to look at the ownership of these lots. It is clear and would be difficult for us to defend legally anything other than the enacted date of the text ordinance which was enacted September 4, 2012, and effective October 4, 2012. My revised determination does reinforce the prior determination from May that I do not believe that where there is uncertainty clause should apply to this particular clause under legal construction. He totally understands the point made, but he does believe it is a formatting error and not a decision that was made intentionally in order for that subsection D to be moved under 1.7 where it states where there is uncertainty. Mr. Cogan continued it would make the entire clause ridiculous if it is based only on uncertainty. Then how do you move the line 100ft. when you do not know where the line is. It is also not how that clause has been used for the last 10 years in the city. We have never required an applicant to establish that there has been any uncertainty as to where that line is before they request to move the requirements in either district 100 ft. There are examples of precedence. It would be difficult for us to defend this requiring uncertainty to use this clause.

Mr. Cogan stated the revised determination states the uncertainty clause is not required to request the move. Based on the effective date of the ordinance Stewarts is eligible to move the requirements of the TRB District 100 ft. north into the UR-2 parcel, subject to all of the limitations and privileges and requirements of that district. It does not mean that any approval is implied but merely an initial determination to allow the application to move forward. Based on the revised determination, it is up to the applicant if they wish to proceed with Interpretation Appeal or wish to withdraw that appeal and proceed with their previous zoning variance application.

Ms. Coreno stated based on the revised determination, she believes that it is the correct procedural way forward. The reason we were here initially was based upon the rules of the TRB and previous determination by Mr. Cogan noted that the proposal requires a variance. We would like to return to the agenda to continue the discussion we started with the Board a few months ago.

Gage Simpson, Chair stated the application which is on the agenda this evening is being withdrawn.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application.

Debra LaComb, 11 Marion Avenue, Saratoga Springs. She is an adjacent homeowner to the parcel. She questioned if the parcels have been combined, where does it stop. Why couldn't they extend another 100 ft. into the next parcel and the next parcel.

Mr. Cogan, Building Inspector & Zoning Officer stated it is not based on the parcel boundary it is based on the boundary between the zoning districts and that has not changed. So, the ability to move the requirements 100 ft. one way or the other does not alter the location of that district boundary and would not allow them to continue moving it 100 ft. They would be allowed to use the TRB requirements for that 100 ft. of the northern parcel.

Cherie Grey questioned Patrick Cogan that this allows up to 100 ft.

Mr. Cogan, Zoning & Building Inspector stated that is correct, but it is up to the property owners' option to use the 100 ft. or less.

Ms. Coreno stated based on the revised determination, she would like to withdraw this application and return to the Board to pursue the application and continue the discussion for an area variance which was started with the Board several months ago,

Gage Simpson, Chair, stated since this application is being withdrawn, he closed the public hearing at 7:02 P.M.

NOTE:

Matthew Gutch resumed his position on the Board.

2. #20220664 209 EAST PORCH DEMOLITION AND NEW CONSTRUCTION, 209 East Avenue, Area

Variance to permit

the demolition of the existing screen porch and the construction of a new addition in the Urban Residential-3 (UR-3)

District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Setback - Front	10 ft.	5.5 ft.	4.5 ft or 45.0%

DISCLOSURE:

Gage Simpson, Chair, disclosed that he has contracted with Mr. Hurff for another project. This has no financial interest in this application and can remain impartial in voting on this application.

Agent: Matthew Hurff - Frost Huff Architects

Mr. Hurff stated he presented this presentation based on Table 3A of the new UDO guidelines. Some statistics maybe incorrect.

Apologies. The proposed project involves the demolition of a porch on the rear of the property. A visual was provided for the Boards review and information. The applicants would like to build an addition on the back of the house preserving the northern edge of the porch, come out as far as the corner of the porch currently does jogging into the south which would be within the setback which they would like to retain. Since we will be fully rebuilding it cannot be pre-existing since it will be demolished and rebuilt. It will be the same form and mass as what is existing within the setback. Mr. Hurff provided visuals of the of the surrounding neighborhood noting this will be consistent with what currently exists on the street and in character with the neighborhood. It is not an insignificant addition, but all the bulk regulations do comply and within the zoning requirements. Views of all elevations and plans were provided notiating the addition to property will be a one-story addition maintaining the mass and scale of what is there.

Matthew Gutch questioned the length of the roofline to where the porch juts out.

Mr. Hurff stated that is about 15-16 ft. If you look at the view of what is proposed. It is in the back and does not require relief.

Brad Gallagher, Vice Chair questioned if this project is staying within the existing footprint.

Mr. Hurff stated it is in the exact same footprint.

Cherie Grey stated it looks like you are adding on to the existing on the north line.

Mr. Hurff provided the Board with information to clear up the misconception of the size of the addition and location.

DISCLOSURE:

Cherie Grey disclosed that she knows the homeowner. She has no financial interest in this application and can be Impartial in voting on this application.

Gage Simpson, Chair, stated he has no issues with the project. You are rebuilding in the same footprint.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:14 P.M.

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

Gage Simpson, Chair, closed the public hearing at 7:15 P.M.

Matthew Gutch presented the following resolution.

#20220664
IN THE MATTER OF THE APPEAL OF
Robert Kimmerle and Vivianna Rangil
209 East Ave
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector’s determination involving a parcel at 209 East Ave, in the City of Saratoga Springs, New York, being Tax Parcel 166.62-1-8 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 new one-story addition, removal, and replacement of existing screen porch in the UR-3 District and public notice having been duly given of a hearing on said application held on the 12th day of September 2022.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSED	RELIEF REQUESTED
Front Setback	10ft.	4.5ft	45% relief

As per the submitted plans or lesser dimension, be **approved** as per this Board’s consideration of the following factors:

1. The applicants have demonstrated this benefit cannot be achieved by other means feasible to the applicants. The applicant proposes the construction of new addition comprised of living space, bathroom, the replacement of existing screen porch, and removal and reconstruction of portions of privacy fencing along the North edge of the property. The applicant is seeking to repurpose portions of the existing building footprint that are within the setback. The applicant noted that other designs were considered, but the present plan provided the best option.
2. The applicants have demonstrated that granting this variance will not create an undesirable change in the neighborhood character or detriment to nearby properties. The applicant provided neighborhood context and noted that the proposed relief will allow the house to be more in line with neighboring

homes. The Board notes that the new screened porch will be built in the same footprint as the existing unscreened porch.

3. The Board notes the requested variances are substantial. However, the Board notes that the relief requested is mitigated by the neighborhood context and lack of significant adverse impact on the neighboring properties, as noted above.
4. These variances will not have a significant adverse physical or environmental effect on the neighborhood or district. **The Property will not exceed district requirements for permeability.**
5. The alleged difficulty may be considered self-created insofar as the applicant's desire to replace existing screen porch with an addition and new screen porch and to fix the existing fencing, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair; in favor; Brad Gallagher, Vice Chair; Cheryl Grey, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

3. #20220784 303 NELSON AVENUE, AREA VARIANCE, 303 Nelson Avenue, Area Variance to renovate existing carriage house (garage) into an upper-level office and finished space with a half bathroom and no kitchen within the Urban Residential-3 (UR-2) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRE D	PROPOS ED	TOTAL RELIEF REQUESTED
Accessory to Side (North)	5 ft.	1.6 ft.	3.4ft. or 68.0%
Accessory to Side (West)	5 ft.	2.6 ft.	2.4 ft. or 48.0%
Finished Space in Accessory	Not permitted	Permitted	100%

Applicant: Jenny Clifton

Agent: Josue Flores, JWF Construction & Design

Mr. Flores stated the project was previously before the Board and variances were approved and granted. However proper neighbor noticing was not done. A building permit was obtained, and work was begun. A stop work order was issued. We have provided proper neighbor noticing for the project and are here tonight to complete the process.

Aneisha Samuels, Senior Planner, provided a summary of the neighbor's comments. They were supportive of the finished space. The neighbors had no idea that was happening, and they felt they were left out of the process. They have been notified and the applicant is here tonight for final approval. The Board should clarify if

there are any changes to the previous approval and to ensure that the applicant agree to not having overnight stays, or cooking.

Aneisha Samuels, Senior Planner provided a visual of the property.

Cherie Grey stated she was concerned regarding the snow in the driveway and the proximity to the neighbors on the east side.

Gage Simpson, Chair, asked if there was any further questions or comments from the Board.

Mr. Flores stated the dormers will have a gutter system as well as the on the other side where the small roof extends to divert away from the neighbor’s property. We are also redoing the driveway and the downspout will be underground to the street.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:27 P.M.

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

Gage Simpson, Chair, closed the public hearing at 7:27 P.M.

Brendan Dailey presented the following resolution.

**#20220784
IN THE MATTER OF THE APPEAL OF
JENNY CLIFTON
303 NELSON AVENUE
SARATOGA SPRINGS, NEW YORK 12866**

from the determination of the Building Inspector involving the premises at 303 Nelson Avenue in the City of Saratoga Springs, New York being tax parcel number 166.45-1-11 on the Assessment Map of said City.

The applicant having applied for an area variance under the Zoning Ordinance of said City to seek relief to construct a second floor of an existing detached garage for use as habitable space in the Urban Residential - 3 (UR-3) District and public notice having been duly given of a hearing on said application held on September 12, 2022.

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

TYPE OF REQUIREMENT	DISTRICT DIMENSIONAL REQUIREMENT	PROPOSE D	RELIEF REQUESTED
Habitable Space	Not Permitted	Permitted	100%
Accessory to Side Yard Setback (North)	5'	1.6'	3.4' or 68%
Accessory to Side Yard Setback (West)	5'	2.6'	2.4' or 48%

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

1. The Board finds that the applicant has demonstrated this benefit cannot be achieved by other means feasible to the applicant. The applicant seeks to add a second floor to an existing detached garage to utilize the space for office space, which would include a toilet and a sink. According to the applicant, the space will not be used for sleeping, cooking, or bathing. The applicant considered alternative options;

however, those alternatives would not meet the needs of the applicant. Notably, there is no change to the current footprint of the detached garage.

2. The Board finds that the applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. According to the applicant, no changes will be made to the footprint of the detached garage. Moreover, the space will be utilized as an office and will not have any sleeping, cooking, or bathing facilities.
3. The Board finds the variance to be substantial. However, this is mitigated by the intended use of the space being limited to an office and half bath. The Board notes the garage is existing in the current footprint and the variance will facilitate a second floor with finished space.
4. This Board finds this variance will not have significant adverse physical or environmental effect on the neighborhood or district. Permeability requirements will be met.
5. The alleged difficulty is self-created insofar as the applicant desires to construct an office in the unfinished space on the second floor of the existing garage, but this is not necessarily fatal to the application.

Conditions:

1. No sleeping, cooking, or bathing facilities are permitted.

Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair; in favor; Brad Gallagher, Vice Chair, in favor; Cheryl Grey, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

CONTINUED BUSINESS:

4. #202204262 29 MADISON AVENUE AREA VARIANCE, 29 Madison Avenue, Area Variance to permit an addition to the existing carriage house to facilitate a two-car household, two home offices, and a gym within the Urban Residential-1 (UR-1) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open.

The applicant has returned following an appearance before the DRC for and Advisory Opinion.

Applicant: Carlson Molloy Residence

Agent: Mike Tuck & Peter Urban - Balzer Tuck Architecture

Mr. Tuck stated they were last before the Board back in May. At that time, we provided a presentation of the proposed project.

The Board decided they would like to request an Advisory Opinion from the DRB. We spent time deliberating the merits of the carriage house. We have reduced the depth from the alley by 6 inches and length by the alley by 6 inches thereby reducing the roof by 6 inches. We have made the addition slightly smaller. The deviation from our previously requested variances is minimal and like what was requested previously. The DRB was supportive of the addition to the main residence, and after the changes which were made to the carriage house, they were complimentary of the design and our approach to the addition to the carriage house.

They provided a positive recommendation for the project.

Gage Simpson, Chair, stated since you noted changes to the variances requested. I will read them into the record.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRE D	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	20%	31.0%	55%
Maximum Accessory Coverage	8%	9.1%	1.1%
Side 1 - Side Porch	12 ft.	6.1 ft.	5.9 ft. or 49.2%
Side 2	12 ft.	11 ft.	1 ft. or 8.3%
Total Side	30 ft.	16 ft.	14 ft. or 46.7%
Finished space in accessory structure	Not permitted	Permitted	100%
Patio to side	10 ft,	6 ft.	4 ft. or 40.0%

Cherie Grey stated the Board just received this information late today and has not seen the revised plans, following your review by the DRB.

Gage Simpson, Chair, requested Mr. Tuck provide the Board with an updated presentation with the changes suggested and implemented since the applicant's last appearance before the Board. Also, the Board does have two new Board members so the review would be helpful.

Mr. Tuck provided a visual of the proposed project with revisions as suggested by the DRB for the Boards review and information.

Cherie Grey questioned if everything is in alignment with the side setbacks with the house.

Mr. Tuck stated they are not going any closer to any side setbacks with the main house than it already is. The main house steps at the point where we are making the addition, we have stepped it in to capture that roof entirely. So, the new roof is farther away from the property line than the existing roof and no closer than the adjacent wall on the west side. On the east side, we have stepped it back a number of feet and there is an entry porch and again we are further away from the property line than the existing structure. During that meeting it was requested that we provide additional dimensions on the site plan to provide beyond just the maximum projection of the existing residence into the setbacks. This is what the variance table reflects. Also, we provided dimensions for each step in the addition and that is in the submission information.

Cherie Grey questioned if the applicants supplied neighborhood comparables as far as lot percentage coverages for the principal and accessory structures and the combined.

Mr. Tuck stated that information was provided to the Board.

Gage Simpson, Chair, stated we do not have any extra homework for the applicant. We should have a resolution prepared and presented at the next meeting scheduled for September 26, 2022.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

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

Gage Simpson, Chair, stated the public hearing will remain open until the next meeting scheduled for September 26, 2022.

5. #20220650 173 EXCELSIOR SHED, 173 Excelsior Avenue, Area Variance to permit the location of a shed in the Urban Residential-1 (UR-1) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open.

The following are the areas of relief requested.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Accessory to Front (Loughberry Road South)	30 ft.	1 ft.	29 ft. or 96.7%

DISCLOSURE:

Brad Gallagher, Vice Chair, disclosed that he knows the applicant. He has no financial interest in this application and can be impartial in voting on the application.

Applicant: Dave Massaroni

Mr. Massaroni stated he is seeking an area variance for his shed which is 15 inches off the east property line on Loughberry Road South. Following the last meeting the Board questioned if the shed could be relocate any place else on the property. Photographs of the area were provided along with measurements.

Aneisha Samuels, Senior Planner, in the first consideration of this application it was thought the applicant needed a side relief. Based on the location of the shed the applicant would be requiring a front relief since Loughberry Road is a frontage. You have two frontages. Initially the Board thought that side relief was what was required but it is a frontage relief which is required. You are requesting to go from a 30 ft. requirement to 1 ft.

Gage Simpson, Chair, stated since this is a corner property you have two frontages. stated the applicant has provided the size of the shed. In terms of coverage percentage, we are not looking at that currently since he is not applying currently for a building permit.

Mr. Massaroni provided documentation on where the shed could not be sited. He is trying to preserve the two pine trees to the right of the shed. The shed would not fit between the two trees due to the size of the pad and the width of the shed. This would bring the shed about 5ft. from the house. A visual of the site was provided. Pulling the shed forward is another option. This summer we moved the chain link fence to the front of the home. If he moves the shed forward, he feels it would not be aesthetically pleasing on Excelsior Avenue. Where it is positioned further back on the property looks better. Additionally, my front sidewalk was removed and the connector to the Saratoga Greenbelt trail was installed. Trees were removed to accomplish that. Privacy was eliminated with the removal of those trees. I also have more foot traffic and parking issues along Loughberry Road South. The primary reason for the shed is storage but it also provides additional privacy on the deck because the deck is 6” off the ground. My neighbors have equally sized sheds in similar locations, so it is conforming to the neighborhood. Photographs were provided noting the foot traffic he sees daily. About 55 students a day walking to the school on Veteran’s Way. They do come onto the property.

Matthew Gutch questioned if the shed could be placed more onto the side of the house.

Mr. Massaroni stated it would look awkward on the property in this location. This would also move the shed closer to Excelsior Avenue.

Aneisha Samuels, Senior Planner, stated the relief would be the same. The only option to mitigate the relief is to remove the shed completely or move it across the yard.

Brad Gallagher, Vice Chair, stated to do this you are removing established trees. He questioned the distance the fence is from Loughberry Road.

Mr. Massaroni stated it is about 16 ft. getting wider to about 25 ft.

Aneisha Samuels, Senior Planner, stated the shed is visible from the intersection. However, she does not believe there are any more appropriate locations on the property for the shed. The options would be to remove it or keep the shed in its current location. This is something for the Board to consider.

Brenden Dailey stated he has no concerns with this. Considering the size of the lot, and the applicant has considered alternatives, while attempting to keep the established trees. It is a unique property, with activity in a nice part of town.

Cherie Grey stated if the shed were to be moved it would require less of a variance and she would be more comfortable.

Mr. Massaroni reiterated the increase in traffic and foot traffic.

Alice Smith stated she does not feel the privacy should be an issue in whether this is approved or not. She feels the trees do make it a unique situation. They are big old trees and moving the shed is not going to make a huge difference in the view or the space versus destroying those trees. She would rather preserve the trees.

Gage Simpson, Chair, stated following the Boards discussion the Board is considering either it stays in its current location, or it is moved.

Discussion ensued among the Board regarding the amount of relief requested, how much relief would be required if the shed were moved, visibility from Excelsior.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

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

Gage Simpson, Chair, stated the public hearing will remain open. We have not requested any further information.

We should have a resolution prepared to present at the next meeting scheduled for September 26th.

5. #20220446 1 ALGER AREA VARIANCE. 1 Alger Street, Area Variance to construct a screened porch in the Urban Residential-3 (UR-3) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	30%	56.7%	26.7% or 89.0%
Setback-Front-Alger Street Home	10 ft.	7.1 ft.	2.9 ft. or 29.0%
Setback-Front-Alger Street screened porch	10 ft.	0.3 ft.	9.7 ft. or 97.0%

DISCLOSURE:

Brad Gallagher, Vice Chair, disclosed that he has been absent from previous meetings. He has reviewed the materials and web casts and is familiar with the continued business projects. Also, he knows Luke Boughton who is his daughter's soccer coach. He has no financial interest in this application and can remain impartial in rendering a decision on this application.

Applicant: Luke & Lauren Boughton

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated at the last appearance before the Board we did go back and revised the plans to lessen the relief requested. One of the questions the Board asked was if we could reduce the size of the screened porch to make it smaller and more palatable. Originally, we were looking for .3 ft. setback from the Alger Street side to the roof overhang of the modified screen porch. Taking off a bit more of the porch and the overhang we have been able to make that 0.9 ft. The house is not square with the road so the closest point to the property line would be .9 ft. We did submit those revised plans. The modified plat plans depict modifications to the screen porch being reduced to 7.6 ft. which is still usable. Also, we cannot make it any smaller due to the piers which are set into the ground. The porch roof overhangs have been reduced both on the sides and on the front. Not only have we reduced the setback relief to .9 ft. but also the overall coverage changes to 56.3% from 56.7%. There is a variance in place when the Boughtons did the last addition to their home and that coverage is 55.5%. Currently we are asking for .08% relief from what was approved. Also, we did submit information on the local building locations in the neighborhood right on Alger Street. The porch they constructed is on Alger and there are porches in the area and difficult to measure. The measurements and comparables are from the road edge and not the property line. This information was provided to the Board, and it does show it is not out of character for the neighborhood. We also submitted information which was provided when the Boughton's initially appeared before the Board in 2015.

Ms. Boughton apologized to the Board and read a letter to provide more context to the Board regarding their decision to build the screen porch the pandemic, an ill child and providing a space for them to play and visit grandparents.

Ms. Yasenchak stated if this project moves forward it is required to be modified to conform to the 2020 residential building codes.

A building permit would be required, and a stringent review process would be undertaken with the building department.

Gage Simpson, Chair, questioned if there was access from the house to the screened porch.

Ms. Yasenchak stated there is a door for access. This will be required to be connected to the house along with guttering.

Matthew Gutch stated he is sympathetic to what the applicants have done. Did you consider other solutions, besides building an addition. A screened garage.

Gage Simpson, Chair, stated he has reviewed this project. The project with modifications as proposed would fit it in with the character of the neighborhood. The previous resolution granted on this property did condition and state no additional accessory structures. At that time, the principal coverage was at 54% which is at the high end of the neighborhood context. This would conflict with what we as Board had previously acted on.

Brendan Dailey questioned if the project as proposed now would rectify the encroachment into the in the right of way?

Ms. Yasenchak stated they are required to rectify that by law.

Brad Gallagher, Vice Chair, questioned how many porches are along the road and within the same boundary.

Ms. Yasenchak stated they only went up one or two blocks, since the other house present to a different street. The examples she provided do sit about 11ft. - 12ft. from the road. This home will sit about 12 ft. This home has been renovated over the years and is unique but does conform to the neighborhood. Ms. Yasenchak stated property owners always have the right to request relief. The Board then evaluates the request on an individual basis.

Gage Simpson, Chair, stated it is the same homeowner who appeared before the Board in 2015 requesting relief.

Brad Gallagher, Vice Chair, stated he has seen while on this Board the same homeowners return for additional relief on a property which was previously conditioned.

Cherie Grey stated she went back and watched the previous webcast and minutes. There was discussion regarding the amount of relief requested and members of the Board struggled with the decision made in 2016. She is not comfortable increasing the lot coverage, where this is being placed, and she is not comfortable disrespecting a previous resolution.

Gage Simpson, Chair, stated he goes back to what Matt said, alternatives, even the garage.

Ms. Yasenchak stated the garage is toward the rear of the property and not easily accessed. She asked that the Board look at this and judge this on its own merits. Life changes. We would like the Board to consider our application.

Brad Gallagher, Vice Chair, stated, Ms. Yasenchak's applications are always complete and accompanied by documentation and information which is much appreciated. After listening to other Board members, he feels there is additional information which would be helpful to him. The floor plan would be helpful as well as other houses in the neighborhood where those porches are. If we could obtain more visuals contextually in character with the neighborhood. He agrees with Cherie regarding precedent, but he also appreciates changes in conditions. Time changes, life changes.

Matthew Gutch agrees with the Vice Chair but would also like to see if the porch could be reduced a bit more. Additional alternatives would be helpful.

Brendan Dailey stated he would appreciate seeing alternative plans.

Gage Simpson, Chair, requested the applicant could provide sketch plans to show the roof lines and guttering.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

Gage Simpson, Chair, asked if anyone in the audience wished to comment on this application.

Anne McCaffer lives across the street, and she has owned her property since 1984. There was a commercial business there originally when she purchased hers home. There was more traffic. To have a home there makes a big difference to that corner of the neighborhood. I can hardly see what they have built. It is well hidden behind foliage. Visually she does not feel it has created an issue.

Gary Hasbrouck 36 State Street. He has submitted a letter today. As you look at this project you will see neighbors' property over the 30% coverage in this area. Look at this project from a street perspective and a neighborhood perspective.

Aneisha Samuels, Senior Planner, stated an important consideration is the proximity to the right of way, for future infrastructure the city might be building.

Tyson Hunt, 137 Woodlawn Avenue directly south of the Alger Street property. What they have done and modified as they proposed would fit in nicely with the neighborhood. He is all for bettering the neighborhood. If it betters the neighborhood, he wants it to stay.

Bill Dwyer, 142 Woodlawn. What they have done to their house looks great. He is right across the street. They are always working on their property. He is in favor of this project.

Gage Simpson, Chair, stated we will keep the public hearing opened until the next meeting scheduled for September 26, 2022. We have requested additional information. We will review all that information submitted. We should have a resolution prepared to present at that time.

6. #20220622 14 WEST HARRISON AREA VARIANCE. 14 West Harrison Street, Area Variance to permit a renovation of an existing home in the Urban Residential -4 (UR-4) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Setback-Front	25 ft.	4 ft.	21 ft. or 84.0%
Setback-Side 1 (north side to north)	20 ft.	0.8 ft.	19.2 ft. or 96.0%
Setback-Side 2 (south side to north)	20 ft.	19 ft.	1 ft. or 5.0%

Applicant: Ashleigh Edwards

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated we were before this Board earlier in the year for additions to the existing building and proposed removal of the front porch which has happened. We are proposing to rebuild a small porch 4.5 ft in depth and that new stoop would be within the property lines. The previous porch was encroaching over the property line. Nothing has changed regarding the proposed addition to the home. We also discussed the possibility of a lot line adjustment. She is no longer considering the lot line adjustment.

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

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

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

Gage Simpson, Chair, closed the public hearing at 9:07 P.M.

Cherie Grey presented the following resolution.

#20220622
IN THE MATTER OF THE APPEAL OF
Ashleigh Edwards
91 Division Street
Saratoga Springs NY, 12866

from the determination of the Building Inspector involving the premises at 14 West Harrison Street in the City of Saratoga Springs, New York being tax parcel number 165.59-1-76 on the Assessment Map of said City.

The applicant having applied for area variances under the Zoning Ordinance of said City to permit a rear addition and a front porch alteration to an existing house in a UR-4 District and public notice having been duly given of a hearing on said application held on July 18, 25 and September 12, 2022.

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

TYPE OF REQUIREMENT	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Minimum Front Yard Setback	25 ft.	4 ft..	21 ft. or (84%)
Minimum Side Yard Setback (North side to north)	20 ft..	0.8 ft..	19.2 ft. or (96%)
Minimum Side Yard Setback (South side to North)	20 ft.	19 ft.	1ft. or (5%)

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

1. The applicant has demonstrated that this benefit cannot be achieved by other means feasible to the applicant. The applicant desires to replace a front porch with an uncovered stoop and to eliminate a rear screened porch and steps and replace with a new entrance and mudroom. The rear construction would be parallel with the existing north side of the house. This house was built in this location prior to zoning codes and is pre-existing, non-conforming. The house is less than 20' wide and sits within .8 ft. of the property line. The narrow home sits entirely within the 20' setback. The applicant states that the existing front porch encroaches over the property line and will be eliminated to no longer be on the neighboring property. There is no property adjacent to purchase.
2. The applicant has demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. Per the applicant, the neighborhood predates zoning with many homes built within the front setback. The applicant is renovating the existing home and the front porch will conform to the neighborhood.
3. The Board notes the requested variances are substantial at 84% and 96%, substantiality is mitigated due to the fact that the house has been in existence and has always been non- conforming, the entire home is within the side yard setback and modification to either side of the home would require relief.

4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. Permeability will meet the district requirement.
5. The alleged difficulty is considered self-created insofar as the applicant desires to build the addition. However, this is not necessarily fatal to the application.

Note: Shed has been in existence for many years, if it is replaced, it would need to meet present zoning setback requirements.

Note: The Board notes the proposed stoop will be 0.3ft. From the front yard setback however since the stoop is uncovered does not need relief.

Brendan Dailey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair; in favor; Brad Gallagher, Vice Chair; in favor; Cheryl Grey, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

7. #20220621 29 WATERBURY AREA VARIANCE, 29 Waterbury Street, Area Variance to replace the existing detached garage in the Urban Residential-2 (UR-2) District.

Gage Simpson, Chair, stated this is a previously opened application. The public hearing was opened and remains open.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIREMENT	PROPOSED	TOTAL RELIEF REQUESTED
Accessory to Side	5 ft.	2.5 ft.	2.5 ft. or 50%
Accessory to Rear	5 ft.	2.5 ft.	2.5 ft. or 50%

Applicant: Applicant: Maddy Zanetti & Zach Novik

Ms. Zanetti stated at the previous meeting we provided information on the project and our attempt to save the existing garage currently on the site. It is in a state of disrepair, with holes in the roof, structural decay, and insufficient structural support. We have discussed the project with our neighbors, and they are in favor of this project. Additional photographs were provided to the Board. We are looking to construct a new garage in the same footprint as the current garage. We are also proposing to reconstruct the garage to provide a straight pull in access to the new garage and provide more greenspace in the backyard.

Gage Simpson, Chair, stated the additional information requested by the Board has been provided.

Cherie Grey stated she has concerns regarding the side setback. How did you arrive at 2.5 ft.

Mr. Novick stated they choose 2.5 ft. because they have straightened out the driveway providing direct access to the garage and providing more relief off the house.

PUBLIC HEARING:

Gage Simpson, Chair, stated the public hearing was opened and remains open.

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

Gage Simpson, Chair, closed the public hearing at 9:34 P.M.

Brendan Dailey presented the following resolution.

#20220621
IN THE MATTER OF THE APPEAL OF
Maddy Zanetti and Zachery Novick
29 Waterbury Street
Saratoga Springs NY, 12866

From the determination of the Building Inspector involving the premises at 29 Waterbury Street in the City of Saratoga Springs, New York being tax parcel number 165.43-1-4 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 demolition and replacement of an existing garage within the Urban Residential 2 (UR-2) District and public notice having been duly given of a hearing on said application held on July 18th, 2022, through to September 12th, 2022.

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:

TYPE OF REQUIREMENT	DISTRICT REQUIREMENT	PROPOSED	RELIEF REQUESTED
Side accessory	5'	2.5'	2.5' (50%)
Rear accessory	5'	2.5'	2.5' (50%)

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 wish to demolish the current structure as it was built in 1920 and is deteriorating and replace it with a new garage. The applicants note they have considered other alternatives however they have noted that moving the structure's location would impact numerous large pine trees/green space on their property and make it more difficult to park their cars.
2. The applicants have demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. A garage in the rear of the property is consistent with other properties in the neighborhood and does not alter the current character of the street.
3. The Board notes the requested variances of 50% are substantial but not detrimental for the approval of said variances as stated above. Permeability requirements will be met.
4. This variance will not have a significant adverse physical or environmental effect on the neighborhood or district. The applicants noted gutters could be added for permeability and storm water purposes.
5. The alleged difficulty may be considered self-created insofar as the applicant's desires to reconstruct an existing detached garage, but this is not necessarily fatal to the application.

Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair; in favor; Brad Gallagher, Vice Chair; in favor; Cheryl Grey, in favor; Matthew Gutch, in favor; Brendan Dailey, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

APPROVAL OF MEETING MINUTES:

Brendan Dailey made a motion to approve the minutes of the July 18, 2022, Zoning Board of Appeals Meeting with amendments as submitted. Cherie Grey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Cherie Grey, in favor; Emily Bergmann, in favor; Justin Farrington, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

Cherie Grey made a motion to approve the minutes of the July 25, 2022, Zoning Board of Appeals Meeting with amendments as submitted. Brendan Dailey seconded the motion.

Gage Simpson, Chair, asked if there was any further discussion. None heard.

VOTE:

Gage Simpson, Chair, in favor; Cherie Grey, in favor; Emily Bergmann, in favor; Justin Farrington, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

MOTION TO ADJOURN:

There being no further business to discuss Gage Simpson, Chair, adjourned the meeting at 9:42 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

Meeting minutes approved October 17, 2022