



ZONING BOARD OF APPEALS

MINUTES (FINAL)

MONDAY, SEPTEMBER 26, 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 via zoom; Brendan Farrington; John Daley, Alternate; Alice Smith, Alternate

ABSENT: Emily Bergmann; Justin Farrington; Matthew Gutch

STAFF: Aneisha Samuels, Senior Planner, City of Saratoga Springs
Jackie White, Counsel to the Land Use Boards

ANNOUNCEMENT OF RECORDING OF PROCEEDING:

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

ZBA APPLICATIONS UNDER CONSIDERATION:

NEW BUSINESS:

- #20220801 1 YORK STREET MOUZON HOUSE SIGN,** 1 York Street, Area Variance to permit the installation of a 22.5 sq. ft.,
Sign above the first floor in the Urban Core (UC) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRED	PROPOSED	TOTAL RELIEF REQUESTED
Blade Sign Size	6 ft.	22.5 ft.	16.5 ft. or 275.0%
Blade Project Max 3.5 ft. from facade	3.5 ft.	5 ft.	1.5 ft. or 42.9%
Blade sign above first floor	None Permitted	Permitted	100%

Applicant: Mouzon House

Agent: Adam Wakulenko, Adirondack Sign Company

Mr. Wakulenko stated the Mouzon House is in a difficult location tucked into a corner with the parking garage in the way. We looked at all different locations to provide exposure with signage. We arrived at this type of sign which is Victorian looking. This is a double-sided **projection sign made ¼ inch thick aluminum graphics** applied to both sides. This will be engineered to assure that the signage will remain in place.

Alice Smith, Alternate questioned what makes this property unique.

Mr. Wakulenko stated it is the lack of visibility from the road. There is no clean place to put it near the roadway.

Cherie Grey questioned what alternatives were discussed for placement of a sign.

Mr. Wakulenko stated they looked at feasible alternatives, but this was the best location.

Brad Gallagher, Vice Chair, questioned how they determined this size for the signage and will it be illuminated.

Mr. Wakulenko stated they attempted to give this a Victorian look with scroll work at the top and bottom. The main portion of the sign is smaller. We tried to give it an elegant look which can be visible and legible. No illumination is proposed.

Gage Simpson, Chair stated he has no further questions. The applicant's agent has provided information and answered the questions the Board had.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 6:39 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 6:39 P.M.

John Daley, Alternate, presented the following resolution.

20220801
IN THE MATTER OF THE APPEAL OF
Mouzon House
1 York Street
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector's determination involving 1 York Street, in the City of Saratoga Springs, New York, being Tax Parcel 165.52-1-52 on the assessment map of said City.

The applicant having applied for an area variance under the Unified Development Ordinance (UDO) of said City to permit a projecting 2-sided shingle blade sign in the Urban Core (UC) District and public notice having been duly given of a hearing on said application held on September 26, 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	TOTAL RELIEF REQUESTED
Blade Sign Size (Article 12.7-B.3b.)	6 sq. ft.	22.5 sq. ft .	16.5 sq. ft. or 275% relief
Blade Project Max 3.5 ft. from façade Article 12.7-B.3d	3.5 ft.	5 ft.	1.5 ft. or 42.9% relief
Blade sign above first floor	Not Permitted	Permitted	100% relief

As per the submitted plans or lesser relief, 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 desires to locate a new 2-sided blade sign above the first floor, due to the building configuration and surroundings. The applicant noted that the permitted dimensions do not provide sufficient visibility to their restaurant location for customers.

2. The applicant has demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. Per the applicant, the proposed sign will not be illuminated, and will not impose upon any of the neighboring properties. The Board notes that this property is unique due to its configuration and surroundings, and a larger sign advertising the location of the business on site is consistent with neighborhood context.

3. The Board notes the requested variance is substantial. However, the Board notes that the substantiality is mitigated by its low impact on the neighboring properties, as noted above.

4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood; as noted above, the Board notes the need for a larger sign as consistent with neighborhood context.

5. The alleged difficulty is considered self-created insofar as the applicant desires to install a new two-sided blade sign. However, this is not necessarily fatal to the application.

Condition: All other existing wall signs shall be removed.

Note: DRB Review is required for the proposed sign.

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; Cheryl Grey, in favor; Brendan Dailey, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

2. #20220792 69 CAROLINE SIGN REPLACEMENT, 69 Caroline Street, Area Variance to permit the replacement of a 3’x4’ (12 sq. ft.) sign in the Urban Residential-4 (UR-4) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Freestanding sign	6 ft.	12 sq. ft.	6 sq. ft. or 100%

DISCLOSURE:

John Daley, Alternate disclosed that he lives around the corner on Phila Street. He has no financial interest in this application and he can be impartial in voting on this application.

Applicant: Saratoga Joinery

Agent: Adam Wakulenko, Adirondack Sign Company

Mr. Wakulenko stated the Saratoga Joinery would like to place a sign where the Children’s Museum Sign has been in place for over a decade. They are proposing the same design as what is currently there. It is a fitting sign for the place and location.

Brad Gallagher, Vice Chair, stated he knows the sign you are replacing it has been there for a long time. You are just replacing it. He does not have any questions.

Cherie Grey stated staff could not locate the resolution for the current signage in place. She would like to treat this as a new freestanding sign. She would like the applicant to provide comparable signage in the neighborhood to justify this signage.

Aneisha Samuels, Senior Planner, stated this is a UR-4 District, so a sign of that size would be inconsistent. However, if this use were in another neighborhood the 12 sq. ft. would be permitted. The Board has provided a variance for the building to be used as it is.

Brad Gallagher, Vice Chair, stated this sign has been in this location for over a decade. There must be a resolution somewhere.

Aneisha Samuels, Senior Planner, stated there are files which have not yet been scanned and she has not had the opportunity to do so.

Brad Gallagher, Vice Chair, stated the signage has been in this location for 12 years and it is clearly visible so everybody who is driving by would have seen it. Precedent for this sign is where he would be coming from in the balancing test.

Gage Simpson, Chair, stated as we have previously stated there would be no signs for comparison in this neighborhood.

Aneisha Samuels, Senior Planner, stated following the workshop she did reach out to the applicant he was unable to provide any neighborhood comparables.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 6:51 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 6:52 P.M.

Brad Gallagher, Vice Chair, presented the following resolution.

#20220792
IN THE MATTER OF THE APPEAL OF
Saratoga Joinery
69 Caroline Street
Saratoga Springs NY 12866

In the matter of the appeal from the Building Inspector’s determination involving 69 Caroline Street, in the City of Saratoga Springs, New York, being Tax Parcel 165.60-2-66 on the assessment map of said City.

The applicant having applied for an area variance under the Unified Development Ordinance (UDO) of said City to permit the replacement of a 3’x4’ (12 sq.ft.) sign in the Urban residential- 4 (UR-4) Districts and public notice having been duly given of a hearing on said application held on September 26, 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	TOTAL RELIEF REQUESTED
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Freestanding sign size	6 sq. ft.	12 sq. ft.	6 sq. ft. or 100% relief
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As per the submitted plans or lesser relief, 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 desires replace the existing Children’s Museum sign with a new sign of the same size. The Board notes the sign size is appropriate for the associated use.
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 proposed sign will not be internally illuminated. The board notes the details of the sign will need to be approved by the Design Review Board.
3. The Board notes the requested variance is substantial. However, the Board notes that the substantiality is mitigated by its low impact on the neighboring properties, as noted above.
4. The applicant has demonstrated this variance will not have an adverse physical or environmental effect on the neighborhood; as noted above.
5. The alleged difficulty is considered self-created insofar as the applicant desires to replace the existing sign. However, this is not necessarily fatal to the application.

Note: The proposed sign needs DRB approval.

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; Cherie Grey, opposed; Brendan Dailey, in favor;

John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 5-1

3. #20220686 28 NORTH LANE-96 UNION DEMO AND CONSTRUCTION, 28 North Street/96 Union, Area Variance to permit the construction of a new three car garage and dwelling unit above in the Urban Residential-4 (UR-4) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIREMENT	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Average Lot Width	80 ft.	46.6 sq. ft.	33.4 sq. ft. or 41.8%

Applicant: Sharon Byrnes

Agent: Tonya Yasenchak, Engineering America

Ms. Yasenchak stated this project is located at 28 North Lane/96 Union Avenue which Ms. Byrnes has owned since 2002. Ms. Yasenchak stated she has been working on this project with Ms. Byrnes since 2018. Ms. Byrnes received a violation noting there were 4 apartments in the main house and there was a carriage house.

It was like this when she purchased the property. Ms. Byrnes at that time decided to return this home to a single-family home. The carriage house at the rear of the property which is 24 x 24 we requested and received a zoning variance to allow for a second dwelling unit to be in a detached structure. At the time zoning required that second unit be part of the principal structure. We have a variance received in 2018 that allowed for the second dwelling to be in a detached structure. Also, at that time the variance received allowed for a minimum rear yard setback to the carriage house, which was pre-existing and non-conforming. So, the variances we received not only allowed for the dwelling unit to be detached but we also received variances for rear yard, side yard and total side yard. Also, at that time we received variance for principal building coverage the carriage house and the principal structure had to be added for 30.1% coverage, when 25% was code. Four years later the house is totally renovated inside. The outside of the home, which has received approvals is now being renovated. Currently, we are presenting a project for the renovation of the carriage house into a three-car garage with a dwelling unit above. The UDO does allow for this however it does require a minimum property width of 80 ft. This property has a lot width of 46.63 ft. We are here for the one variance. We are proposing to remove the existing structure, and to rebuilt in a 1,000 sq. ft. footprint with roof overhangs included. We are further away from the property lines than what currently exists and meet setback requirements. The UDO allows for 40% lot coverage in this district, and we are under that requirement. We have received approvals for the carriage house as well as an existing variance for habitable space. The apartment over the garage will have one dwelling unit. We are also within the UDO's height restrictions. Carriage houses are consistent with the character of the neighborhood, in compliance with the new UDO standards. A visual of the site and existing carriage house were provided with views from all elevations including North Lane.

Brendan Dailey questioned if there was a plan for stormwater management with the construction of the new carriage house-garage.

Also, neighborhood comparables regarding height would be helpful to the Board. Will there be any trees removed for this project.

Ms. Yasenachak stated they are proposing guttering on the carriage house and a drip edge. She can provide that information to the Board. No trees will be removed in the construction of this project.

John Dailey stated in the interest of full disclosure he would have been Deputy Commission of Public Safety at the time that violation was issued. He believes it would have come out of the Mayor's Department. He has familiarity with cases in that area. This does not affect his ability to vote impartially on this project.

Cherie Grey questioned if a three-car garage proposed.

Ms. Yasenachak stated it is a three-car garage but presents as a two-car garage since the third is a tandem garage.

Brad Gallagher, Vice Chair, stated also in the interest of full disclosure Sharon Byrne's real estate team has been his realtor in the past. He has no financial interest in this project, and it will not affect his ability to vote impartially on this project. He appreciates the efforts to come into conformity and not ask for multiple variances. He also understands the non-conforming lot. There are issues being raised regarding the vegetation on the existing property and affecting vegetation on neighboring properties. Is there any excavation planned for this project. During that time what measures will be taken to assure that existing vegetation and trees will not be impacted during construction.

Ms. Yasenachak stated excavation will need to be done for the footers. She will provide additional details regarding the protection of existing vegetation and trees.

Gage Simpson, Chair, stated pre-existing non-conforming for a single family is 60 ft. width. For two units it would be an 80 ft. width. A previous variance was granted for a secondary structure on the property.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 7:19 P.M.

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

Stephanie Ferradino, Attorney representing the owners on both sides of this property. Correspondence was submitted to the Board. The neighbors are in favor of the efforts to beautify the properties. One year ago, 8 mature trees were removed between the subject property and 88 Union Avenue. A visual of the site was provided for the Board. Six of those trees were over 100 years old and provided a great deal of shade and privacy. When these were removed so was their privacy. Their porch was no longer usable in the same way because it became hot due to the lack of the trees providing shade. The pool does have privacy from the carriage house but not from the main structure. Their privacy has been invaded. The property at 100 Union Avenue has been looking at a construction site for over 4 years. The future owners of 96 Union will entertain and have people in the back yards as the adjacent property owners do. There is this starkness now where there was privacy. If the carriage house is moved forward, you now have new owners who has a patio and windows looking out to the pool area. Also, the mature vegetation that exists will be damaged during excavation. This will have a detrimental impact on both neighbors on either side of this property.

Rick Higgins, 100 Union Avenue. The variance was granted in 2018. Since that time there has been constant demolition and construction on this project. There have been four summers that we have had construction equipment at this site. We are all Saratogian's, we live here year around, sit on our porches in the summer. It is still not done. There has been no landscaping done on this site during that time. It is either a dust bowl or a mud pit. During this time 100-year-old trees were destroyed and along with it our privacy. This project will add additional construction time to this site. Please do not grant the relief requested.

Steve DeSalvo, 88 Union Avenue, LLC. We live next door. Ms. Byrne was the realtor that sold us our house. Our property is 1ft. 10inches by her survey to her structure. Within 10 ft. of her house on our property were 8 mature trees over 100 years old and over 100 ft. tall. We had an arborist evaluate the value of those trees at \$350,000. Photographs were provided with and without trees and Mr. DeSalvo spoke regarding the impact of the trees which were removed. The key is environmental and loss of privacy. Please deny this request for a variance.

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

Cherie Grey questioned the amount of relief requested for this variance.

Aneisha Samuels, Senior Planner, stated in this district 60 ft. Minimum Lot width is required. Because she has two dwellings it is 80ft. which is required. The current lot is 46.6 ft. in width requesting 41.8% relief.

Gage Simpson, Chair, questioned if the previous variance would have allowed them to have the carriage house. Wouldn't that have taken care of the minimum lot width variance request.

Aneisha Samuels, Senior Planner, stated the reason they are before the Board is because they are going higher. If they were not going higher or changing the footprint, they would not require relief.

Ms. Yasnchak stated they are open to moving the structure closer to North Alley. The zoning requirement is 10 ft. We did 17 ft. for better turning radius. Other properties are close to the Alley, and we are amenable to moving the structure back 7 ft. towards the alley.

It is unfortunate what has happened along the Union Avenue side. The project was started in December of 2018 when the variance was granted. Demolition was started. In 2020 Covid occurred and wracked havoc with the project since only one contractor was allowed on site at a time. This has stretched longer than anticipated. This project does not have any violations on site and are operating under a current building permit. We are here tonight for one variance. We understand the neighbors' concerns regarding the

length of time this process has taken. We will look at the height of the buildings in the neighborhood to provide context and research tree protection. Our surveyor will go out and locate these mature trees to assure we can accommodate them and note what property they are on. There has been civil action and a civil resolution. Ms. Byrnes is not a tree cutter. She hired someone to go out there and mark trees. Obviously more information should have been given.

Brad Gallagher, Vice Chair, stated based on the public comments and concerns looking at moving this closer to the alley. We do not want to create more variances but given privacy concerns it might be helpful to discuss with the neighbor's placement and location to assist with the plans and privacy issues expressed.

Alice Smith, Alternate, stated the issue with the trees is especially important speaking from personal knowledge. If I were a neighbor, I would be concerned.

Ms. Yasenchak stated they are asking for a variance for lot width. How does that play out for trees that may or may not be on their project site.

Aneisha Samuels, Senior Planner, stated it is neighborhood context. We look at the criteria that is evaluated by the Board in terms of area variances this plays a role in neighborhood context and environmental impacts. We understand the applicant is looking for one area of relief but it also impacts different property evaluation criteria which the Board reviews in evaluating the area variance.

Ms. Yasenchak questioned if the Board would be amenable if research were done regarding the lot widths along North Alley to see how wide they are and if they have detached accessory structures, habitable or uninhabited. As well as neighborhood context of the trees along the alley to see what would be best for context.

Gage Simpson, Chair, stated as mentioned the Board would be interested in those similar in height and widths.

Cherie Grey stated she would appreciate the information you suggested for blocks in this neighborhood that are that width and how many of them have more than one residence would be helpful. Also, would the applicant be willing to have an arborist look at the tree roots to determine how much space would be necessary so as not to harm the trees.

Ms. Yasenchak stated she will reach out to the City Arborist and request for him to come out and look at the trees as well as have a discussion with him.

Gage Simpson, Chair, stated we do not have any real control over the trees on her property. Trees on a neighboring property is something else.

Aneisha Samuels, Senior Planner, stated we cannot make a decision based on the trees, or the location of the trees. What you can do is evaluate the trees in terms of environmental impacts in your evaluation criteria.

Brad Gallagher, Vice Chair, spoke regarding evaluation criteria for an area variance especially how those effects the privacy of the neighboring lots both on Union Avenue and North Alley. Speaking with your neighbors and the proposed placement of the carriage house/garage may require additional variances, this may resolve the other issues that is something we can balance and discuss.

Ms. Yasenchak questioned how the Board would feel with them requesting additional variances.

Gage Simpson, Chair, stated as Brad noted we will review the placement of the carriage house based on neighborhood context and if all the neighbors carriage/house garages line up a 0 setback essentially what we have done in the past, neighborhood context notes it is reasonable if it dictates the need to be built closer to the lot line and/or setback and would not be too unfavorable.

Brad Gallagher, Vice Chair, stated again it is a balancing act. Given the public opinion expressed tonight it is worth looking at.

As a Board we would be open to reviewing that if it were a potential concern.

Cherie Grey questioned if the applicant could provide an outline on the property where the carriage house would be placed on the site.

Ms. Yasenachak stated there was a site plan provided with the application noting where the carriage house/garage placement is located.

Gage Simpson, Chair, stated the public hearing will remain open until the next meeting scheduled for October 17th, 2022.

4. #20220678 16 MACARTHUR GARAGE WEST HARRISON AREA VARIANCE, 16 West Harrison Street, Area Variance to permit a renovation of an existing home in the Urban Residential-1 (UR-1) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIR ED	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage %	20%	21.0%	1.0% or 5.0%
Setback-Front (to porch)	30 ft.	24 ft.	6 ft. or 20.0%
Setback Side 1 (South)	12 ft.	5.9 ft.	6.1 ft. or 50.8%
Setback Side 2 (Egress Window - North)	12 ft.	8 ft.	4 ft. or 33.3%
Total Side	30 ft.	13.9 ft.	16.1 ft. or 53.7%

Applicant: Mary & Derrick Holquist

Ms. Holquist stated they purchased this home in 2013. We love the neighborhood and want to stay here. We had a tree come down on our home in May of 2021 and did damage to the garage. Our home was built in the 1950's need some updating, and we are outgrowing the house and have one bathroom. We are proposing to renovate our home add a master suite over the garage, bring the garage forward to the front of the house to be more consistent with the neighborhood. We have a flat roof on the porch and would like to renovate it to be more in line with the neighborhood.

Mr. Holquist stated the garage was built nonconforming with the flat roofs. The porch at one time was screened and we have removed the screens to be more Saratoga like. Visual of what the applicants are proposing along with homes in the neighborhood which have two stories were provided to the Board.

Gage Simpson, Chair, stated he agrees with the applicants moving the garage forward. It is the largest variance you are requesting but bringing it forward does fit in with the neighborhood. Can you provide some insight on why you are going up.

Ms. Holquist stated they are trying to make the house bigger in the simplest way. Adding a room over the garage does not affect the remainder of the house or the roof. We need an additional bathroom, and we would like to make this our forever home.

Mr. Holquist stated we are taking advantage of a bad situation with the tree and improve the look of the house.

Gage Simpson, Chair, requested the applicants provide some neighborhood comparables in addition to just the immediate neighbors.

Provide as many examples as possible to show neighborhood context. It is not an entire upper floor addition. Comments from the neighbors regarding the project is always welcome and shows good intent on your part to keep the neighbors informed.

Brad Gallagher, Vice Chair, questioned why is this not under the UDO?

Aneisha Samuels, Senior Planner, stated the application was received prior to July 15th.

Brad Gallagher, Vice Chair, questioned the egress window location and need.

Mr. Holquist stated during Covid he set up an office in the basement. He would like to make it more permanent. Per code we are required to have an egress window.

Cherie Grey stated she would like to discuss the variance which affects the house next door with the second story. These neighbors presented us with a second story addition over the garage also. This home goes to the property line. We asked them if they would consider moving the second story away from the lot line to not impact the neighbors. She is concerned with the second-floor addition proposed since the house next door is the house impacted by the proximity to the lot line. This second-floor addition is too close to the property line. Can you provide the same consideration to this neighbor. Also, are there any additional accessory structures on the property.

Ms. Holquist stated there are no additional accessory structures on the property.

Brad Gallagher, Vice Chair, stated part of the consideration for the variance is feasibility. If it is not feasible due to the construction of the home and the ability to move the second-floor addition and the cost associated with that would be information the Board would consider. Are there any windows on the side facing the neighbors. That is another issue we have discussed in the past and mitigation.

Ms. Holquist stated they will speak to their architect.

Gage Simpson, Chair, stated your homework as previously noted was to provide neighborhood comparables and moving the second floor addition further away from the setback. If the additional information is received by October 10th, you can be placed back on the agenda for October 17th.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 8:11 P.M.

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

Libby Coreno 338 Caroline Street around the corner from this property. What the applicants are proposing is beautiful. Having purchased one of these properties and run into the same challenges, she understands the construction of these homes and trying to update them. It is lovely. Regarding community character, you can visit my home and the surrounding streets in the neighborhood. She supports this project.

Gage Simpson, Chair, stated the public hearing will remain open until the next meeting scheduled for October 17th.

CONTINUED BUSINESS:

5. #20220202 31-33 MARION AVENUE VARIANCE, 31-33 Marion Avenue, Area Variance to permit the demolition of the existing garage, mobile station, and car wash and to construct convenience store, gasoline canopy, car wash and rental space

within the Tourist Related Business (TRB) District.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIREMENT	PROPOSED	TOTAL RELIEF REQUESTED
Minimum Front Yard Setback	40 ft.	8 ft.	32 ft. or 80%

DISCLOSURE:

John Daley, Alternate disclosed that he was not at the previous meeting when the project was discussed. He has read all the pertinent information on the continued business agenda items and is ready to vote on these items.

Applicant: Stewart’s Shops

Agent: Libby Coreno, Attorney; Ryan Rubado, Stewart’s Shops

Ms. Coreno stated this property has long and storied history. This area variance application was filed in February 2022. Our first appearance before this Board was in May. At that time, we discussed the use of the 100 ft. under the zoning code. This was sent to Zoning and Code Enforcement for additional research. After research and review by this department a final determination was made by Patrick Cogan, Zoning Officer, and Building Inspector, which extending the 100 ft. into the TRB is permissible. We return this evening to discuss the merits of the application. We still do not have a denial letter, so this presentation is our interpretation of what variances are needed but that it is still subject to final city determination as it relates to the amount of distance needed. A visual of the site was provided noting that the site is extensively built out already. It has existed as a gas station since before 1970’s. The proposal does not alter much as it relates to the gas and the dispensers. This has to do with the 1976 Special Use Permit. The goal is to locate all the convenience store and gas uses closest to Route 50 rather than the residential side. A visual of the layout of the site was provided. Part of the site will become more conforming trying to make it fit in with the design guidelines. On January 28, 2022, the Code Enforcement Officer noted that there was a discrepancy between the minimum front yard setback in the TRB of 40 ft., and the Gateway Design District-2 which asks for a minimum frontage buildout be 50% of the lot line. His recommendation was that we bring this for a variance because the two guidelines were in conflict.

A visual was provided of the concept plan view that there be the shared access, the parking lot be at the side or the rear, that the building be street facing with a sidewalk, that there would be plantings along with the addition of traffic calming measures all have been incorporated into the design. When you look at that against the 40 ft. setback it just does not match. The code enforcement officer noting as well in his interpretation that the zoning controls over the design guidelines. Ms. Coreno stated we all agree that the gateway design was the intent for this zone, given the amount of work that was done, it just was not picked up and carried through when the overlay was created. Ms. Coreno reviewed a chart noting the amount of relief they are requesting in concept. Ms. Coreno provided more history of the project which in January of 2021 was proposed as a PUD. The City Council conducted coordinated review and issued a SEQRA Negative Declaration for the project on December 21, 2021. All of these uses in this configuration were proposed. Since the project and PUD did not go to legislation so the ZBA was not involved at that time. The project scope has since been reduced in size and impact. We ask that the ZBA act as its own Lead Agent and adopt the findings of the City Council due to the less intense use of the project and the previous Negative Declaration issued. Photographs of what the applicant is proposing was provided to the Board.

Ms. Coreno reviewed the five-part test for the area variance. There will be no undesirable change to the character of the neighborhood

or a detriment to the nearby properties. We feel it is an improvement to the area as well as trying to manifest the intent of the design guidelines regardless of the conflict with the zone. We are reducing the size of the carwash as well as removing the service station entirely. The DRB has seen this project and given it a favorable review in 2021.

Aneisha Samuels, Senior Planner, stated she believes they might have missed areas which could require variances. Relief from parking in the rear yard setback since it is not permitted. Lastly, is the applicant planning to consolidate the two lots.

Ms. Coreno stated they have been consolidated.

Aneisha Samuels, Senior Planner, requested Ms. Coreno review Section 6.3.3 of the Zoning Ordinance and speak about siting fueling stations in proximity to the residential districts.

Ms. Coreno stated she believes that she has reviewed that. The 1976 Special Use Permit specifically cites those fueling stations there.

If there is going to be a modification of that Special Use Permit the argument is that this sits with the Planning Board not the Zoning Board since this was in place before Zoning. It is a pre-existing pursuant to a prior city authorization. Outside of Stewarts never having moved them, they could stay there. Our belief moving them improves the overall appearance.

Aneisha Samuels, Senior Planner, stated she agrees however, there is limitation as it relates to the proximity of the property lines. If you have consolidated the lots into one parcel and that parcel now shares a closer distance to the residential neighborhood coming from zero. Could you provide staff with a narrative as to how you will accomplish this.

Ms. Coreno stated they will be unable to meet that because it is pre-existing pursuant to a prior city approval. So that city ordinance came significantly later in time by about 30 years. The fact that there is a new restriction that pre-dates that. While she understands this could be an area variance relief, she senses that it belongs to the Planning Board since it is their Special Use Permit where it is located, and we have vested rights in that permit.

Aneisha Samuels, Senior Planner, stated since the lots have just been consolidated staff would need a narrative explaining this.

Ms. Coreno stated she will providing this to staff.

Gage Simpson, Chair, stated we will know more regarding variances needed once we receive the denial from the Zoning Officer, Building Inspector.

Aneisha Samuels, Senior Planner, requested a copy of the easement be provided to staff for the file.

Ms. Coreno noted the request, and they will provide the requested information.

Cherie Grey questioned staff if the Saratoga County Planning Board has reviewed this project.

Aneisha Samuels, Senior Planner, stated potentially she is unsure at this time if an Advisory Opinion will be required.

Cherie Grey questioned the size of the building proposed.

Mr. Rubado, stated the square footage of the Stewart's Shop is 3,975 sq. ft., and the square footage of the proposed rental is 3,180 sq. ft.

Ms. Coreno stated the size of the building is not generating a variance request. Building orientation as opposed to square footage.

Cherie Grey stated she will review the webcast because something is driving the variances. She also questioned if there is a tenant for this space. Is the U-Haul dealership a part of this project?

Ms. Coreno stated there is no identified tenant as this time. The U-Haul dealership will not be a part of this project.

Cherie Grey stated understands the size of the building and how everything lays out on how it is pushing everything down 100 ft. into the residential zone. She is curious as to why a tenant is necessary for a Stewart's Convenience store building.

Ms. Coreno stated they are authorized by law and a determination by the Code Enforcement Officer that we are not pushing 100 ft. into a R-2 zone. It is now TRB by operation of the ordinance. We are in the TRB District.

Cherie Grey is concerned about how much space this is taking up. She is having spotty reception and will defer to her fellow Board members and staff.

Gage Simpson, Chair, questioned if Ms. Coreno could elaborate more about the TRB District.

Ms. Coreno stated, there was a fundamental discussion when the applicants appeared before the Board back in May whether the applicant was entitled to move the zoning line not the property line 100 ft. It is not an argument we have made it is allowed per zoning and how the ordinance is written. We are compliant in our zone. This is the only 100 ft. allowed in the zoning ordinance. There is no more ability to extend. This lot is substantially pre-existing. The idea of moving all this closer to the 100 ft. does not make sense. We are sensitive to the neighbors and the issues which have been raised by moving the commercial uses down towards Route 50 necessitates the least amount of impact. Over time and the zoning restrictions this available area to build has kept on narrowing to the point down by the Adirondack Trust Building there is almost no building envelope even though these structures have existed for a long period of time. Our goal is to not change the character of the neighborhood and does necessitate the need for variances. The parking is necessary because Stewart's is a busy place. We have discussed this with the Planning Board and will continue to do so as we move through the process.

Gage Simpson, Chair, questioned the need for the second retail shop.

Brad Gallagher, Vice Chair, stated the applicant is not asking for coverage relief.

Ms. Coreno stated there are reasons for that. It is conforming within the zone and is not driving the variance relief. The Board is reviewing the project as presented. The reason we are here is because we designed a project compliant with the design guidelines only to find out we would not be here at all. We are trying to do what is right but not interested in losing the development space of the lot because of it.

Gage Simpson, Chair, stated it is also a wider distance at 8 ft. front yard setback with the addition of the retail space.

Ms. Coreno stated that is also to conform with the design guidelines having 50% of your lot built out. The goals are to prevent having gaps in the streetscapes with Urban infill.

Brendan Dailey asked if Ms. Coreno could speak to the SEQRA review since this project is so close to the Loughberry Water Shed.

It was all approved along with the stormwater management.

Ms. Coreno stated that is the Critical Environmental Area (CEA) which was reviewed. Pursuant to the stormwater regulations and the MS-4 guidelines, this water will be pooled on site and cannot leave the site for purposes of stormwater management. All stormwater management will be managed onsite.

Aneisha Samuels, Senior Planner, stated she is aware SEQRA has been performed and we may be in a position to re-do SEQRA determination. It is not required but may be necessary since the project has changed significantly since approved. She understands it has been changed reducing the impacts, but it may be a consideration for the Board.

Ms. Coreno stated the argument that we are making under SEQRA is this project is less impactful than the project which has received a Negative Declaration. We provided in our original application a side-by-side comparison and overlay so the Board could see the project shrink and become smaller. We also provided a proposed change grid. My understanding is the Board can look at changed conditions. Our hope is that the changed conditions are less than what was originally proposed and less impactful. This information was provided as well.

Gage Simpson, Chair, homework requested for the next meeting scheduled for October 17th from staff is to provide variance calculation numbers. From the applicant we are requesting parking in the rear and a narrative on the Special Use Permit 250 ft.

PUBLIC HEARING:

Gage Simpson, Chair, opened the public hearing at 8:44 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. There are approximately 30 homeowners in this association. There was information provided this evening. Section 1.7 ruling came up and we discussed previously. The Neighborhood Association we will take appealing this under consideration and will act within the 60-day window. SEQRA scope is smaller. The City Council reviewed SEQRA, and it is clear they did not do their due diligence as it relates to SEQRA and therefore should be reviewed since it encompasses the CEA the only one in the city. He spoke regarding the Comprehensive Plan as well.

Gage Simpson, Chair, stated the public hearing will remain open. The next ZBA meeting will be held on October 17th.

6. #20220262 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.

AREA VARIANCE CONSIDERATIONS:

TYPE OF REQUIREMENT	REQUIRE D	PROPOS ED	TOTAL RELIEF REQUESTED
Maximum Principal Coverage	20%	31.0%	11.0% or 55%
Maximum Accessory Coverage	8%	9.4%	1.4% or 17.5%
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%

Applicant: Carlson Molloy Residence

Agent: Peter Urban - Balzer Tuck Architecture

Mr. Urban stated when they last appeared before the Board, we discussed the Advisory Opinion from the DRB. The DRB requested we reduce the size of the carriage house in relation to Mass and Scale. We met their requirements and have returned to the ZBA. The only change is the carriage house is stepped back from the south elevation by 6 inches, the roof ridge was dropped 6 inches and the east elevation was brought in as well. The remainder of the application has not changed.

Cherie Grey questioned the amount of existing total coverage versus what is proposed.

Mr. Urban stated the existing coverage is 35.5% and 40.4%.

Cherie Grey stated this lot coverage is largest in the neighborhood. This a sizeable lot coverage.

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 8:58 P.M.

Brendan Dailey presented the following resolution.

**#20220262
IN THE MATTER OF THE APPEAL OF
Timothy Molly and Kerry Carlson
29 Madison Avenue
Saratoga Springs NY 12866**

From the determination of the Building Inspector involving the premises at 29 Madison Avenue in the City of Saratoga Springs, New York being tax parcel number 166.61-2-24 on the Assessment Map of said City.

The applicant having applied for an area variance under the Unified Development Ordinance (UDO) of said City to permit an addition to the existing garage and an alteration to the rear of the principal building within the Urban Residential 1 (UR-1) District and public notice having been duly given of a hearing on said application held on May 16th through to September 26th, 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 REQUIREMENT	PROPOSED	RELIEF REQUESTED
Maximum Principal Coverage	20%	31%	11%(55.0%)
Max Accessory Coverage	8%	9.4%	1.4%(17.5%)
Side 1-Side Porch	12'	6.1'	5.0' (49.2%)

Side 2	12'	11'	1' (8.3%)
Total Side	30'	16'	14' (46.7%)
Finished space accessory	Not permitted	100%	(100%)
Patio to Side	10'	6'	4' (40%)

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 want to build a rear addition to the principal home and renovate the existing detached garage to include finished space. To achieve this the applicants have proposed to remove the existing in-ground pool. The applicants note they have considered other alternatives and has worked with the Design Review Board (DRB) to resolve on the current plans. The Board notes DRB issued a favorable advisory on August 24, 2022.

2. The applicants have demonstrated that granting these variances will not create an undesirable change in neighborhood character or detriment to nearby properties. The Board notes that any additions to this property would trigger the need for relief and appreciates the overall reduction in total coverage percent due to the removal of the existing in-ground pool.

3. The Board notes the requested variances are substantial but not necessarily detrimental to the applicant. Substantiality of the finished space relief is mitigated by the fact that under current zoning finished space is permitted in accessory structures. The other substantial areas of relief are mitigated by the points noted in 1 and 2 above.

4. These variances will not have a significant adverse physical or environmental effect on the neighborhood or district. The addition is proposed in the rear of the property and will not be visible from the public street. The Board notes that district permeability requirements will be met.

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

Note:

Favorable DRC Advisory August 14, 2022.

Conditions:

- 1) The Applicants have exceeded district requirements for coverage, no additional coverage is permitted on this property.
- 2) No Bathing, cooking or overnight stay is permitted in the finished space.

Brad Gallagher, Vice Chair, 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; Brendan Dailey, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, in favor

MOTION PASSES: 6-0

7. #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%

Applicant: Dave Massaroni

Mr. Massaroni stated as discussed at the last meeting it is not feasible to move this shed anywhere else on the property. Trees would need to be removed to accommodate the shed in a different location. Mr. Massaroni stated he has made major improvements in both the front and rear yards with landscaping and the planting of additional trees. Mr. Massaroni stated privacy on his lot has been diminished due to the completion of the Spring Run Trail adjacent to his property.

Gage Simpson, Chair, questioned the Board regarding their opinions on the shed and its location.

Alice Smith, Alternate stated it sets a bad precedent. She agrees there is no other place to locate this large shed.

John Daley, Alternate, stated he does not feel the shed is overly invasive.

Cherie Grey stated she keeps going back to the fact that the applicant did not follow the process. Had the applicant done so it would have triggered a zoning variance, and input from the ZBA could have eliminated the size of the variance. She is not in favor of leaving the shed in its current location.

Brad Gallagher, Vice Chair, agrees with Cherie on some points. He does not like the after effect of asking for relief. However, he does feel this is the only place on the property that makes sense. Uniqueness of the shed location minimizes the impact for him. He is in favor of keeping the large mature trees. There are mitigating factors and he is in favor of this application.

Brendan Dailey stated he appreciates saving the tree. This is a large variance request. He appreciates Cherie's concerns regarding process. He is in favor of this application.

Gage Simpson, Chair, stated we have listened to the applicant regarding the uniqueness of the property site. Had you come before the Board prior to placement of the shed we could have provided information and insight into the various setbacks required.

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 9:17 P.M.

Gage Simpson, Chair, read the following resolution into the record.

**#20220801
IN THE MATTER OF THE APPEAL OF
David Massaroni
173 Excelsior Avenue
Saratoga Springs NY 12866**

In the matter of the appeal from the Building Inspector's determination involving 173 Excelsior Avenue, in the City of Saratoga Springs, New York, being Tax Parcel 166.31-2-16 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 location of a shed in the Urban Residential - 1 (UR-1) District and public notice having been duly given of a hearing on said application held on July 25th through to September 26, 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	TOTAL RELIEF REQUESTED
Accessory to front (Loughberry Road South)	30 ft.	1 ft.	29 ft. or 96.7%

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

1. The applicant has demonstrated that this benefit cannot be achieved by other means feasible to the applicant. The shed is currently placed between the property line and very large trees. Per the Applicant, the property has 6 large trees and a patio that are restricting the repositioning of the shed. The limited space between the trees, in addition to the patio, added to the irregular shape of the property, would only allow placement of the shed closer to the home and the front yard setback off Excelsior Street.
2. The applicant has not demonstrated that granting this variance will not create an undesirable change in neighborhood character or detriment to nearby properties. The applicant expressed the need for storage space as well as privacy provided by the location of the shed. The Board finds this case unique in that the proposed shed is not located close to any structures on the neighbor’s property. The Board finds the benefit to the applicant more significant than the potential adverse impacts in this case.
3. The Board notes that the variance is substantial, substantiality is mitigated by the points noted above. The property will meet district permeability requirements.
4. The applicant has demonstrated that the proposed variance will not have an adverse physical or environmental effect on the neighborhood
5. The alleged difficulty may be considered self-created insofar as the applicant placed the shed in this current location, but this is not necessarily fatal to the application.

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; Cheryl Grey, opposed; Brendan Dailey, in favor; John Daley, Alternate, in favor; Alice Smith, Alternate, opposed

MOTION PASSES: 4-2

APPROVAL OF MEETING MINUTES:

Approval of meeting minutes was deferred to the October 17th ZBA meeting.

MOTION TO ADJOURN:

There being no further business to discuss Gage Simpson, Chair, adjourned the meeting at 9:29 P.M.

Respectfully submitted,

Diane M. Buzanowski
Recording Secretary

Minutes approved October 17, 2022