

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS MINUTES
April 26, 2010**

Chairman Stephen Bodnar called the meeting to order at 7:01 p.m. and led the flag salute.

Chairman Stephen Bodnar explained the *Rules of the Board*.

Zoning Clerk Linda McCabe called the roll: Chairman Stephen Bodnar – present, Clifford Hanehan – absent (arrived 7:07 p.m.), Thomas Carrangi – absent (arrived at 7:04 p.m.), Barbara Faraone – present, William Moreau – present, James Burke – present, Clarence Fosdick – present, and Alternate John Deyoe – present.

Due to the absence of two Board Members, Chairman Stephen Bodnar elevated Alternate John Deyoe to full voting status.

Board Member Thomas Carrangi arrived at 7:04 p.m.

Also present: Zoning Officer Gil Albert, Michael LaFrank, Michael Giovanone, Paul Morse, Matthew Mincher, and other interested persons. (Sign-in sheet is on file in the Clerk's office)

Approval of Minutes: **A motion was made by Clarence Fosdick and seconded by Barbara Faraone, to accept the minutes of the March 22, 2010 meeting.** Chairman Stephen Bodnar–aye, James Burke – aye, Barbara Faraone– aye, Thomas Carrangi - aye, Clifford Hanehan -absent, William Moreau - aye, Clarence Fosdick - aye, John Deyoe – aye.

Carried 7 – 0

Approved

Board Member Clifford Hanehan arrived at 7:07 p.m.

Order of Business:

Area Variance

**Michael LaFrank #10-04
1384 Rt. 9P
Saratoga Springs, NY 12866
S/B/L 193.6-23.1 Lake Residential**

Applicant is seeking a 38' front setback variance for the front of his home in order to remove an old 25' x 10' deck and replace it with a 25' x 12' deck.

The Applicant appeared before the Board explaining he'd like to remove the old 25' x 10' deck and replace it with a 25' x 12' deck. He passed photos around to the Board members showing how it would be equal to his neighbor's deck and it would be no closer to the road than the bottom step of the existing deck.

Chairman Stephen Bodnar stated a variance is needed for a front setback, the Applicant responded that is correct.

Zoning Officer Gil Albert stated steps are not included, so this would only be two feet more than the existing deck and the steps will go to the side, so it won't extend any further than the existing steps; he sees no problem with this. Chairman Stephen Bodnar asked if there were any further questions; there were none.

Chairman Stephen Bodnar read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact.

After providing Proof of Notice in the Saratogian on April 16, 2010, Chairman Stephen Bodnar opened the Public Hearing at 7:10 p.m. asking those wishing to speak to please stand and state their name and address.

No one came forward. Chairman Stephen Bodnar asked the Board if there were any more questions; finding none, **Chairman Stephen Bodnar closed the Public Hearing at 7:14 p.m.**

James Burke made a motion, seconded by Stephen Bodnar to approve the variance as requested for the new deck since it remains in character with the surrounding neighbors. Chairman Stephen Bodnar-aye, James Burke - aye, Barbara Faraone-aye, Thomas Carrangi - aye, Clifford Hanehan -aye, William Moreau - aye, Clarence Fosdick - aye.

Carried 7- 0

Approved

**Michael Giovanone # 10-05
5 Champion Lane
Saratoga Springs, NY 12866
S/B/L 193.6-1-1.1 Lake Commercial**

**Location: 1434 Rt. 9P
Saratoga Springs, NY, 12866**

The Planning Board has sent this Applicant, with a positive recommendation, for a 10' front setback variance and a 5' wetland buffer variance in order to construct a Boat and RV Storage Facility, located at 1434 Rt. 9P.

Chairman Stephen Bodnar and Board Member James Burke recused themselves from this application because they did not want any appearance of impropriety due to the donation of land for the fire department by the Applicant. Board Member Clifford Hanehan will act as standing Chairman for this application and Alternate Member John Deyoe was elevated to full voting status.

The Applicant appeared before the Board, stated his name and that he is the owner of Boat -n- RV Condos. He explained that he was sent here by the Planning Board to obtain the required variances in order to construct a Boat and RV Storage Facility to be located at 1434 Rt. 9P. He reviewed his storage facility project, stating he moved the building off the wetlands completely and in so doing both DEC and Army Corp. now have no jurisdiction or involvement. The building is significantly smaller than the original plan and completely off, though only 5' away from the wetlands, and the Town requires a 50' buffer. Due to that, he was sent to the Zoning Board of Appeals (ZBA) for a wetland buffer variance and a front setback variance. The Army Corp. and DEC are in favor of the project, and the Applicant, on a strictly voluntary basis, has completed a Phase 1 and 1B to show transparency to the Town. The land is all imported fill where the building envelope sits, which dates back to the 1940's; it is sandy loam and fine sand, there is no adverse ecological or archeological effects with the project since everything on site was imported; the water table is anywhere between 4'-5' below the existing soils according to the tests. The Applicant then stated he will use the existing drive and will have one down-light over the door, so there will be very little impact on the area. The new building will sit 30' further back than the existing house; which will be removed. This will be for seasonal storage of motor homes and boats, no septic since it's on sewer, the building will be earth tones with masonry and a 4' concrete knee wall in front, like the other building he owns across the road, and it will be professionally landscaped.

Acting Chairman Clifford Hanehan questioned if additional fill will be required and was told only in the frost walls since it will be an unheated building and he will be using only bank-one gravel imported

to the site. Zoning Officer Gil Albert asked the Applicant if DEC knows this and the Applicant responded yes, they have talked many times and Brad Surewood of Region 4 flagged it and likes the proposal.

Acting Chairman Clifford Hanehan questioned if the Applicant had proof of mailing neighbor notifications and the Applicant responded yes, he handed them to the Clerk. He then asked if there were any Board questions at this time; there were none.

After providing Proof of Notice in the Saratogian on April 16, 2010, **Acting Chairman Clifford Hanehan opened the Public Hearing at 7:29 p.m. asking those wishing to speak to please stand and state their name and address.**

Richard Vale made a comment that evaluating foliage is the true way to assess wetlands and that this property may not be real wetlands. The Applicant responded that DEC and the Army Corp. of Engineers had completed an on-site inspection and delineated and flagged the wetlands.

Acting Chairman Clifford Hanehan asked if there were any other questions; finding none he closed the Public Hearing at 7:35 p.m.

A lengthy Board discussion ensued concerning wetlands, buffer zones, building location, soil, and zoning regulation 400-8.12 section D1 and D2.

Zoning Officer Gil Albert stated the Applicant is here for variances, referred by the Planning Board. Town Attorney William Reynolds proceeded to read the portion of that law that pertains to this application:

“section 400-8.12; Steep Slopes, Erosion and Sediment Control: listed under section D. Development Standards: No development will be permitted in a 50’ buffer zone at the sides of the designated wetland, of significant flowing streams (designated by the DEC and normally flowing more than six months per year) or active reservoir (greater than 1/10th acre with a six month per year discharge). When average slopes next to the stream exceed ten percent a special review and consultation will be required by the Town Planning Board prior to establishing a development buffer.”

Town Attorney William Reynolds stated he does not think this Board has any authority with this; forget the first sentence and go to the second sentence of D2, reading ‘...unless reviewed by the Town Planning Board...’, the Planning Board should have reviewed this themselves instead of sending it to the ZBA; it should go back to Planning. Zoning Officer Gil Albert stated the Planning Board has reviewed it and sent the Applicant here, with a positive recommendation for the variances.

Acting Chairman Clifford Hanehan read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact.

Town Attorney William Reynolds stated the Board can approve the frontage variance and then bounce this back to the Planning Board. Acting Chairman Clifford Hanehan stated, for clarification, the Board is to address the frontage variance and send this to Planning for the wetlands and Town Attorney William Reynolds responded yes, ZBA doesn’t have the authority for the wetlands. The Applicant respectfully disagreed.

Clarence Fosdick read the NY Planning Federation summary checklist for variance criteria and found no reason to deny this applicant.

Acting Chairman Clifford Hanehan thanked him stating that was a good exercise; if there are no further comments by the Board, as Acting Chairman, he asked for a motion and suggested that the

Board should only rule on the frontage variance; not on wetland setbacks which should be turned back to the Planning Board.

Clarence Fosdick made a motion seconded by Thomas Carrangi, to approve the 10' front setback variance as proposed. Chairman Stephen Bodnar—recused, James Burke — recused, Barbara Faraone—aye, Thomas Carrangi - aye, Clifford Hanehan -aye, William Moreau - aye, Clarence Fosdick — aye, Alternate John Deyoe — aye. **Carried 6– 0**

Approved

Acting Chairman Clifford Hanehan added the Applicant needs to go to the Planning Board.

Chairman Stephen Bodnar and Board Member James Burke returned to the Board.

Paul E. Morse, Jr. #10-06

1292 Rt. 9P

Saratoga Springs, NY 12866

S/B/L 193.10-1-51 Lake Residential

Applicant is seeking an area variance of 458', a front setback variance of 26', a two-side setback variance of 8' and a side setback variance of 10' in order to replace his house that was burned down in January of this year, with a modular house. The original house was 21' x 48' and the new house will be 28' x 48' with the addition of a new 6' deck.

The Applicant appeared before the Board stating he wants to replace his house that burned down with a standard 28' x 48' chalet modular home due to the length of time it takes for stick built, and needs a number of variances in order to do so. He handed in his neighbor notifications and stated he had looked to put this on the original foundation but Zoning Officer Gil Albert told him it needed to be replaced.

William Moreau stated the submitted plans show 26' but the Applicant said 28' was standard; which does the Applicant want to go with; the Applicant replied 26'.

Clarence Fosdick stated the side setback goes to 12' then not 10', adding that the Applicant said 29.5' will be maximum height and the Applicant responded yes.

Clifford Hanehan questioned if there were neighbors behind him and was told no; to the north and south and he's not blocking anyone's views. Board discussion continued.

Chairman Stephen Bodnar asked if there were any more questions from the Board; there were none. He then asked Zoning Officer Gil Albert for his opinion. Zoning Officer Gil Albert stated the Applicant is staying within the character of the area and he likes it.

Chairman Stephen Bodnar then read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact.

After providing Proof of Notice in the Saratogian on April 16, 2010, **Chairman Stephen Bodnar opened the Public Hearing at 8:15 p.m. asking those wishing to speak to please stand and state their name and address.**

No one came forward. Chairman Stephen Bodnar asked the Board if there were any more questions; finding none, **Chairman Stephen Bodnar closed the Public Hearing at 8:16 p.m.**

Chairman Stephen Bodnar made a motion, seconded by Clifford Hanehan to approve the variances as 26' x 48' modular home with 10' side setback; with a total two-side setback of 44', a 25' front setback and maximum height of 29.5' from ground to the peak of the roof since it remains in character with the surrounding area. Chairman Stephen Bodnar—aye, James Burke — aye, Barbara Faraone—aye, Thomas Carrangi - aye, Clifford Hanehan -aye, William Moreau - aye, Clarence Fosdick — aye. **Carried 7– 0**

Approved

Matthew M. Mincher #10-07
63 Springwaters Dr.
Saratoga Springs, NY 12866
S/B/L 206.6-3-8 Lake Residential

Applicant is seeking a front setback variance of 80' and an area variance in order to move an existing cabin onto his 6.06 acre parcel to establish a second detached home.

The Applicant appeared before the Board and explained that he has a single family home on 6+ acres and that he has been given a newly renovated cabin as long as he can move it onto his property. If he can't, then this cabin will be demolished; the current owners must remove it in order to build their new home. He said he had spoken to Stan Barber of Larmon's House Movers and was told it can easily be moved. He'd like to tuck it into the woods, where there is a natural spot for it, and you would not be able to see it from Hill Rd.; adding this is recycling at its best. He would not have a driveway for this, only a walkway, he would use it when he has guests stay. He is looking for an area variance to move this building onto his property and would like to move it by September or the current owners will have to tear it down. The Applicant added that he has been there for ten years and plans to stay there forever; it would not be a primary residence but he certainly would use it when he has family and friends staying there; it would not be rented out.

Clarence Fosdick stated this is a good idea but the Applicant needs to show where it will be located on the land.

Zoning Officer Gil Albert stated the Applicant owns Springwater Dr. and had gotten a road frontage variance before. If our law doesn't explicitly say that private roads are to be included as road frontage, then road frontage is not applicable to the use, but all other zoning regulations are. Zoning Officer Gil Albert added two family attached dwellings are allowed in that area, but this is for a detached home. If he attached it he wouldn't need the variance so this is the only avenue he has.

Chairman Stephen Bodnar asked Town Attorney William Reynolds if the Applicant can have more than one residence there. After a lengthy discussion of the Board, and per Town Attorney William Reynolds reference to Zoning Regulation 400-8.11, "Multiple Uses", the Board is sending this to the Planning Board.

Chairman Stephen Bodnar read the letter from the Saratoga County Planning Board indicating no significant county wide or intercommunity impact but with the following comment:

'The applicant should provide the town with evidence that the newly located cabin will have its own dedicated well that meets NYS DOH standards. The applicant will need to provide the town with the appropriate approval from the Saratoga County Sewer District #1 for connection to the system for the cabin.'

After providing Proof of Notice in the Saratogian on April 16, 2010, Chairman Stephen Bodnar opened the Public Hearing at 8:50 p.m. asking those wishing to speak to please stand and state their name and address.

John McSwieney stated he is not for or against this; he thought they had two landlocked parcels and that's what the variance was for, but realizes now it is one large parcel; he also wanted to know what the setback is near his house.

Chairman Stephen Bodnar asked if there were any more questions; finding none, **Chairman Stephen Bodnar closed the Public Hearing at 9:05 p.m.**

Town Attorney William Reynolds stated the Applicant needs to show a site plan with building locations and the ZBA should send this to the Planning Board.

Chairman Stephen Bodnar made a motion, seconded by Clifford Hanehan to send this Applicant to the Planning Board and that the Applicant needs to have a surveyor plot where the location of the house will go and then come back to ZBA if needed. Chairman Stephen Bodnar—aye, James Burke – aye, Barbara Faraone—aye, Thomas Carrangi - aye, Clifford Hanehan -aye, William Moreau - aye, Clarence Fosdick – aye.

Carried 7– 0

Approved

Chairman Stephen Bodnar stated we have an issue with an applicant returning without going through proper procedure. By courtesy of the Board, they addressed Mr. Witt's application.

**ANW Holdings #10-02
563 N. Broadway
Saratoga Springs, NY 12866
S/B/L 193.-1-7.11 Rural
Location: Condon Rd.**

**Owner: Pat Dooley
30 Condon Rd.
Stillwater, NY 12170**

Applicant has proposed a three lot subdivision to the Planning Board. The Planning Board had sent this Applicant to the Zoning Board of Appeals because it would like a shared driveway for two of the parcels to ensure safe access onto Condon Rd. The Applicant is seeking a road frontage variance of 82' in order to move forward with this proposal.

The Applicant told the Board he had spoken with Ian Murray and assumed he would be at this meeting and on the agenda. He apologized for his miscommunication at the last meeting and since that time he had Chairman Ian Murray out to the site, along with Bruce Agard, to find the best sites for two driveways instead of using a shared drive.

Chairman Stephen Bodnar stated the Public Hearing was held last month and the Applicant was looking for an 82' frontage variance; he then read a letter from Chairman Ian Murray:

“On April 16, 2010 I met with John Witt and Bruce Agard on site concerning the driveway locations. After careful review and measuring I indicated on the attached map the best location for the driveways on the proposed subdivision.

If and when they get ZBA approval and this application returns to the Planning Board, we will make it mandatory that these be the approved locations. Please give a call if you have any questions.”

Sincerely,
Ian Murray

Chairman Stephen Bodnar asked if there were any questions from the Board; there were none.

Clifford Hanehan made a motion, seconded by William Moreau to grant the 82' variance, on condition of Planning Board approval of the driveway location, for the 18+/- acre lot, as it is keeping within the character of the neighborhood. Chairman Stephen Bodnar—aye, James Burke – aye, Barbara Faraone—aye, Thomas Carrangi - aye, Clifford Hanehan -aye, William Moreau - aye, Clarence Fosdick – aye. **Carried 7– 0**

Approved

Old Business: None

New Business: None

Chairman Stephen Bodnar made a motion, seconded by Clifford Hanehan, to adjourn the meeting at 9:29 p.m. Chairman Stephen Bodnar–aye, James Burke– aye, Barbara Faraone– aye, Thomas Carrangi-aye, Clifford Hanehan-aye, William Moreau-aye, Clarence Fosdick-aye.

Carried 7 – 0

Adjourned

The next Zoning Board of Appeals meeting will be held May 24, 2010.

Respectfully submitted,

Linda McCabe
ZBA Clerk