

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS DRAFT MINUTES
October 27, 2014**

Chairman Stephen Bodnar called the meeting to order at 7:00 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 – present, William Moreau – absent, Thomas Carrangi – present, Clarence Fosdick – present, John Deyoe - present, Chris Benn – present.

Also present: Town Attorney William Reynolds, Zoning Officer Gil Albert, Al Parella, Jim Schriefer, Deborah Gilmore, Mel Ikler, JoAnn St. Pierre, Mike Ingersoll, Mr. & Mrs. Neubeck, Ed Crusado, Eric Catalano, Tom Frost, Katherine Smith, Tony Saouma, Tonya Yasenchak and other interested persons. (Sign-in sheet is on file in the Clerk's office)

Approval of Minutes: **A motion was made by Tom Carrangi, seconded by John Deyoe to accept the meeting minutes of September 22, 2014.** Chairman Stephen Bodnar - aye, Clifford Hanehan -aye, Thomas Carrangi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye. **Carried 6 - 0**
Approved

Area Variance

**Edwin Crusado #14-14
164 Franklin Beach Rd.
Saratoga Springs, NY 12866
S/B/L 180.17-1-10 Lake Residential**

Applicant has put an apartment above his detached garage without a building permit and requests a variance in order to keep it.

The Applicant appeared before the Board and said he didn't intentionally build an apartment illegally and he did tell the Building Inspector he wanted a bathroom in his garage.

Zoning Officer/Building Inspector Gil Albert stated he did ask for a bathroom in his garage, but he put a half bath in the garage and a full bath upstairs above the garage, as well as two bedrooms.

The Applicant stated he has a small house, lives out of totes and wanted to build above the garage for closet space. He said he figured he'd finish above the garage so it'd be a nice place his parents and visitors to stay when they visit, since his house is so small, instead of putting the trailer on the property when they are there. He said he's not trying to get out of paying taxes, but since he pays taxes on it he wants a full living space in there with a kitchen.

Zoning Officer/Building Inspector Gil Albert said it would be considered 'living space' without a kitchen, but with a kitchen it becomes an apartment, and that's not allowed.

Town Attorney William Reynolds stated the definition of a 'dwelling unit' is a structure/facility providing housekeeping for a single family. This looks like a separate dwelling space.

Zoning Officer/Building Inspector Gil Albert stated NYS defines it as a 'living space' since there is no kitchen.

Clifford Hanehan asked the Applicant where his house is located and the Applicant responded it's across the street from the garage.

Chairman Stephen Bodnar asked for the opinion of the Zoning Officer/Building Inspector.

Zoning Officer/Building Inspector Gil Albert said it's not connected to the house, so it's not considered an accessory building, and with living quarters in there it becomes two separate dwellings on one lot and that's not allowed. If there was a way for the Board to put contingencies on this he'd have no objection, if it's for visiting people, but since there's no way to police it he believes they need to deny this.

Chris Benn said he agrees with that; they have no way to check if a kitchen goes in or not.

The Applicant stated he wants to use it year round since he pays taxes; the Board told him the paying of taxes is not there purview, he needs to see the assessor concerning that. The Applicant reiterated he wants to use it year round.

Zoning Officer/Building Inspector Gil Albert stated it's not an allowable use in that district. If a kitchen goes in, it becomes a dwelling place or living quarters and as such the Applicant can't meet the setbacks. He was not against the concept, but the setbacks can't be met, it's not an accessory building, it no longer is considered a garage; it'd be a single family dwelling.

Town Attorney William Reynolds stated it seemed to him that the Applicant was asking the Board to essentially approve an illegal use of property and he recommended the Board deny this application.

After a lengthy discussion between the Board, the Applicant and the Town Attorney it was determined this is an illegal use of the property.

Chairman Stephen Bodnar then reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board did not find in favor of the Applicant.

Clifford Hanehan made a motion, seconded by Clarence Fosdick to deny the requested variances since the Board does not have legal jurisdiction to approve illegal uses of property. Chairman Stephen Bodnar - aye, Clifford Hanehan -aye, Thomas Carrangi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Denied

Saratoga Rowing Association #14-15
543 Union Ave.
Saratoga Springs, NY 12866
S/B/L 180.18-1-2 Lake Commercial
Location: 1460 Rt. 9P

Applicants seek a lot area variance of 1067 sq. ft, a front setback variance of 34.50', a two-sides setback variance of 8.50', a side setback variance of 3.50', a lot width variance of 157.20', and a frontage variance of 154.20' in order to go forward with their special use permit application to open a rowing training facility.

Mike Ingersol of the LA Group appeared on behalf of the Applicants. He explained to the Board that they have been before the Planning Board twice and the Planning Board has sent them to the Zoning Board of Appeals for the required variances. He then reviewed the application with the Board, explaining they plan to turn this property into a rowing training center. They plan to refurbish and add onto the existing building, put in a new well and hook up to the county sewer system. He said they are just shy of an acre of land, and variances are needed for the existing conditions. He explained that the second floor of the building will be removed and rebuilt; the Board reviewed the architectural drawings of the changes the Applicant seeks to make.

Town Zoning Officer/Building Inspector Gil Albert stated the building will remain the same, but they're building a new second floor to mirror the current second floor. So instead of the second floor covering only half of the building as it does now, it will have a full second floor.

Town Attorney William Reynolds asked if they are renovating the building. Mike Ingersol responded yes, the second floor comes off but will be rebuilt.

Town Zoning Officer/Building Inspector Gil Albert said a lot of exhaustive interior work is being done but they are not changing the footprint of the building. He also said the other building with the two apartments has been removed from the property.

Chairman Stephen Bodnar stated they've cleaned up the trailers, they've cleaned up the property; this seems like an improvement. It's an opportunity to make this 100% better than it's been in the past 30+ years. He then asked about the gas tanks that were there.

Mike Ingersol stated they've been taken care of prior to the purchase of the property.

Chairman Stephen Bodnar then stated this is a well prepared application. He asked if there were any Board questions; there were none.

Chairman Stephen Bodnar asked for the Town Attorney William Reynolds' opinion. He stated this application looks good to him and he likes the change from retail business to recreation.

Chairman Stephen Bodnar asked for Zoning Officer/Building Inspector Gil Albert's opinion. He responded he thinks it's an excellent use of the property and is all for it.

Chairman Stephen Bodnar then read a letter from the Planning Board Chairman asking the Zoning Board of Appeals to grant the variances for this project. He next read a letter from Town

Engineer Ken Martin which stated the Planning Board has declared Lead Agency for SEQR review of the proposed training center.

After providing Proof of Notice in the Saratogian on October 17, 2014, Chairman Stephen Bodnar opened the Public Hearing at 7:48 p.m. asking those wishing to speak to please stand and state their name and address:

JoAnn St. Pierre, 99 Point Breeze Rd., said she has no problem with this but voiced her sincere concern with parking during the regattas. She stated that when the regattas are ongoing it is very dangerous for those who live there to try and get out onto the road; the cars and trucks are parked all over the road and you can't see anything. She would like to see that addressed. She was told that this use has nothing to do with the regattas; this is for a training center. She was also told they won't accommodate parking for the regattas or the Dave Matthews Band or Phish concerts.

Mel Ikler, 105 Point Breeze Rd., asked if this is to be open year round and was told yes. He too has serious concerns about the regatta parking and feels something needs to be done about it.

He was told there is enough parking spaces for the proposed business.

Town Zoning Officer/Building Inspector Gil Albert explained that they should go to the Planning Board meeting for the public hearing since they will take a serious look at all of those issues.

Chairman Stephen Bodnar then asked the Board if there were any other questions; finding none **Chairman Stephen Bodnar closed the Public Hearing at 7:58 p.m.**

Chairman Stephen Bodnar then read the letter from the Saratoga County Planning Board which indicated no significant county wide or intercommunity impacts.

Chairman Stephen Bodnar reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

A motion was made by Clarence Fosdick, seconded by Chris Benn to grant the variances as submitted. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carringi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Granted

Al Parella #14-16

10 Brown Rd.

Saratoga Springs, NY 12866

S/B/L 206.-1-22, 206.9-2-61 Lake Residential

Location: Brock Dr.

Applicant seeks a frontage variance for his property on Brock Dr., which is a private road. He has been to the Planning Board to subdivide his land, but needs the variance to move forward with the subdivision.

The Applicant appeared before the Board and stated he has 4+ acres on Brock Dr. and has been to the Planning Board for a 4 lot subdivision, but due to his land being on a private road he needs to have a frontage variance, which he is now seeking from the Board. He meets all regulations, has the required amount of frontage but it's on a private road. He said the road is maintained by the homeowners on the road, they share the cost of maintenance all year and the Planning Board told him he can get a template from the county for road maintenance language and he is working on that since the Planning Board wants to see it written and signed. The easement language is already in the deeds and he has been approved to be hooked to the sewer system. He also showed the Board the location of the turn-around for emergency vehicles on Lot 4.

Zoning Officer/Building Inspector Gil Albert said 4 lots have frontage on Brock Dr. and the Brown Rd. frontage is not going to be used. He thinks this is a good fit; there are no issues, less density and meets all town setbacks, even frontage, it's just on a private road.

Chairman Stephen Bodnar stated the Planning Board has sent the Applicant to the ZBA and if approved, they will send him back to the Planning Board to go forward with the subdivision.

Chairman Stephen Bodnar asked for the Town Attorney's opinion. Town Attorney William Reynolds said the Board needs to interpret allowing frontage on private roads, needs to assure that the right-of-way is deeded and that the easement is in writing that the homes will be hooked up to public sewer.

The Applicant reiterated he's getting the template from the county as suggested by the Planning Chairman to do exactly that. He will have the common driveway maintenance and easement language written and signed prior to going back to the Planning Board.

After providing Proof of Notice in the Saratogian on October 17, 2014, Chairman Stephen Bodnar opened the Public Hearing at 8:23 p.m. asking those wishing to speak to please stand and state their name and address; seeing as no one spoke, **Chairman Stephen Bodnar closed the Public Hearing at 8:24 p.m.**

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

Chairman Stephen Bodnar reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

A motion was made by Clarence Fosdick, seconded by Tom Carringi to grant the variance as submitted and send the Applicant back to the Planning Board for subdivision approval.

Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carringi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Granted

**Martyna & Ashraf Ahmed #14-13
15 Palmers Maple Shade
Saratoga Springs, NY, 12866
S/B/L 206.9-2-70 Lake Residential**

Representative: Tonya Yasenchak

Returning Applicants seek numerous variances in order to demolish the existing house and build a new 2-story house with attached garage.

Tonya Yasenachak, Engineering America, appeared on behalf of the Applicant and reviewed the amended application, survey and plot plan with the Board. She said the Applicant would like to remove the existing house and build a new one, which is more cost effective than renovating. The existing lot is pre-existing and non-conforming at 2,764 sq. ft. It is impossible to build a new structure meeting town zoning regulations on that lot. The new house will be energy efficient, will not pose any negative effects on the lake or surrounding environment, will be an upgrade in value and will be consistent with the existing character of the surrounding community and neighborhood. They are looking for a 36.4' front setback variance, a 24.9' back setback variance, a 42.5' two-sides setback variance, a 17.0' side setback and a 23.6% building coverage. She said they don't believe this is self-created; they're just trying to increase the quality of their home. There are no impacts from this; they are decreasing impacts to the neighbors due to moving the house further away from the neighbors on the side. She also stated they will stay out of the right-of-way.

Co-Chairman Clifford Hanehan asked what the proposed house will look like and was told it will stay within code, but she neglected to bring a printout with her.

Co-Chairman Clifford Hanehan asked if there were any Board questions; there were none.

Co-Chairman Clifford Hanehan asked the opinion of Town Zoning Officer/Building Officer Gil Albert; he stated they're trying to make it better and this plan is better than the one they presented last month. He's okay with this plan.

Co-Chairman Clifford Hanehan asked the opinion of Town Attorney William Reynolds; he said he has no comment.

After providing Proof of Notice in the Saratogian on October 17, 2014, Co-Chairman Clifford Hanehan opened the Public Hearing at 8:45 p.m. asking those wishing to speak to please stand and state their name and address:

Anthony Saouma, 13 Palmers Maple Shade, stated he is in favor of the proposed project.

Co-Chairman Clifford Hanehan then asked if there were any other questions; finding none **Co-Chairman Clifford Hanehan closed the Public Hearing at 8:47 p.m.**

Chairman Stephen Bodnar stated on the deed it said Palmers Maple Shade are camp lots; he thinks they've done a good job with the amendments to their application.

Clifford Hanehan reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

A motion was made by Clarence Fosdick, seconded by John Deyoe to grant the variances as submitted. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carringi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Granted

James Schriefer #14-09
3 Palmer's Maple Shade
Saratoga Springs, NY 12866
S/B/L 206.9-2-67 Lake Residential

Returning Applicant seeks numerous variances in order to remove his existing house and build a new one.

Returning Applicant appeared before the Board and explained he now has changed his plan from last month and wants to remove the old house and build a new house. The new one will be a two story house with a covered porch, 1764 sq. ft. and the porch will be 8' x 15'. The main building will be 50' x 30' with building coverage at 36%, and the elevation is 27' to peak. He then said there are 16 houses on the road and they all exceed 50% of building coverage with their homes.

Zoning Officer/Building Inspector Gil Albert asked if the Applicant plans to keep the porch where it is and the Applicant replied yes.

Clarence Fosdick stated if the porch was 6' deep instead of 8' it would be better.

Chairman Stephen Bodnar asked for the Town Attorney's opinion; he had no comment.

After providing Proof of Notice in the Saratogian on October 17, 2014, Clifford Hanehan opened the Public Hearing at 9:11 p.m. asking those wishing to speak to please stand and state their name and address: no one spoke.

Clifford Hanehan closed the Public Hearing at 9:12 p.m.

Clifford Hanehan asked if there were any Board questions or comments; there were none.

Clifford Hanehan reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

Chairman Stephen Bodnar made a motion, seconded by Thomas Carrangi, to grant the variances as presented. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carrangi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye. **Carried 6 - 0**
Granted

Deborah Gilmore #14-18
139 Hanehan Rd.
Schuylerville, NY 12871
S/B/L 195.-1-14 Rural

Applicant seeks a front setback variance in order to construct an addition and covered porch onto her home.

The Applicant appeared before the Board and reviewed her application, stating the house has been in her family for over 75 yrs. and she's been working on getting the farm running and is now ready to focus on the house. She has a total of 103+/- acres. The house is on the west side

of the road and angled; the front porch is 31' to the corner. She'd like to have an 8' x 10' addition onto her existing mud room on the back side of the house.

Zoning Officer/Building Inspector Gil Albert stated she needs a variance due to the house being vacant for the last 10 years or so. He also said the addition will be on the back side of the house away from the road and he is fine with this addition being allowed.

Chairman Stephen Bodnar asked the opinion of the Town Attorney; he had no comment.

After providing Proof of Notice in the Saratogian on October 17, 2014, Chairman Stephen Bodnar opened the Public Hearing at 9:25 p.m. asking those wishing to speak to please stand and state their name and address: no one spoke.

Chairman Stephen Bodnar closed the Public Hearing at 9:28 p.m.

Chairman Stephen Bodnar reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

Clifford Hanehan made a motion, seconded by John Deyoe, to grant the variance as presented. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carrangi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Granted

**William & Jean Neubeck #14-19
179 River Rd.
Schuylerville, NY 12871
S/B/L 209.9-1-6 Conservancy District**

Applicants seek a 27.4' front setback variance in order to construct an addition to their existing home.

Applicants appeared before the Board and stated they'd like to construct an addition onto their house and seek a 27.4' front setback variance to do so. They stated they know they have to stay off the right-of-way for the power lines.

Zoning Officer/Building Inspector Gil Albert said they have Garry Robinson working with them, they are doing the best they can and are keeping it back out of the right-of-way. He then said he is okay with this project.

Chairman Stephen Bodnar asked for the Town Attorney's opinion; he had no comment.

After providing Proof of Notice in the Saratogian on October 17, 2014, Chairman Stephen Bodnar opened the Public Hearing at 9:36 p.m. asking those wishing to speak to please stand and state their name and address: no one spoke. **Chairman Stephen Bodnar closed the Public Hearing at 9:37 p.m.**

Chairman Stephen Bodnar reviewed the Summary of Area Criteria Balancing Test and went through it line by line with the Board; the Board found in favor of the Applicant.

Chairman Stephen Bodnar made a motion, seconded by Chris Benn, to grant the variance as presented. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carringi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Granted

Old Business: none

New Business: Zoning Officer Gil Albert stated a joint meeting of the Planning and Zoning Boards will be held on 10/29/14 at 7 p.m. to continue working on zoning amendments; please be sure to bring your notes with you.

A motion was made by John Deyoe, seconded by Clifford Hanehan, to adjourn the meeting at 9:45 p.m. Chairman Stephen Bodnar – aye, Clifford Hanehan -aye, Thomas Carringi - aye, William Moreau – absent, Clarence Fosdick - aye, John Deyoe – aye, Chris Benn - aye.

Carried 6 - 0

Adjourned

The next Zoning Board of Appeals meeting will be held November 24, 2014.

Respectfully submitted,

Linda McCabe
ZBA Clerk