

**TOWN OF SARATOGA  
ZONING BOARD OF APPEALS DRAFT MINUTES  
September 27, 2021**

Chairman William Moreau called the meeting to order at 7:00 p.m. and led the flag salute.

Chairman William Moreau welcomed everyone to the meeting and proceeded to review the *Rules of the Board*.

Zoning Clerk Linda McCabe called the roll: Chairman William Moreau – present, Clifford Hanehan – absent, Thomas Carrangi – present, Steve Mehan - present, Mark Sullivan – absent, Christopher Benn – present, Mark Solan – absent (arrived at 7:06 p.m.), Alternate Rick Burke - present.

Due to the absence of Clifford Hanehan, Rick Burke was elevated to full voting status.

Also present: Zoning Officer Gil Albert, Attorney Jacquelyn Poulos White, Paul and Debra Carkner, Tony and Lori Scalera, Robert Flansburg and Walter Hayes. (Sign-in sheet is on file in the Clerk's office.)

Approval of Minutes: **A motion was made by Christopher Benn, seconded by Rick Burke, to accept the meeting minutes of August 11, 2021 as written.** Chairman William Moreau – aye, Clifford Hanehan - absent, Christopher Benn - aye, Steve Mehan - aye, Mark Sullivan – absent, Thomas Carrangi - aye, Mark Solan – absent (arrived at 7:06 p.m.), Rick Burke - aye.

**Carried 5 - 0  
Approved**

**Public Hearings for Area Variance**

**Walter Hayes #21-05  
249 Hayes Rd.  
Schuylerville, NY 12871  
S/B/L 169.-1-66  
Location: 256 Burgoyne Rd. Rural Residential**

Returning Applicant seeks a 4' front set back variance in order to build a 24' x 24' garage on the undersized parcel.

Returning Applicant Walter Hayes appeared before the Board, stating he had submitted the requested updated survey of his property. He is seeking a 4' front setback to build a new 24' x 24' garage.

The Board discussed the survey measurements and the building envelope of the garage with the Applicant. After a short discussion, Chairman William Moreau asked Zoning Officer/Building Inspector Gil Albert if the distance from the garage to the house is an issue.

Zoning Officer/Building Inspector Gil Albert stated no, he just needs to be sure there's enough room to get around.

Chairman William Moreau asked if there were any further Board questions; there were none.

**After providing Proof of Notice in the Saratogian on September 17, 2021, Chairman William Moreau opened the Public Hearing at 7:12 p.m.** asking those wishing to speak, to please stand and state their name and address. Seeing as no one wished to speak, **Chairman William Moreau closed the Public Hearing at 7:13 p.m.**

Chairman William Moreau then asked if there were any further Board comments or concerns, there were none. He then went through the Balancing Test, line by line, with the Board:

1. *Whether benefit can be achieved by other means feasible to applicant* – Chris Benn said there's not a lot of room there, so no. Chairman William Moreau said the septic is in the back and he has to stay away from the well, so he agreed with Chris; Board members agreed as well.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – Chris Benn, Steve Mehan, Rich Burke and Chairman William Moreau said no, it will not create an undesirable change in the area, nor is it detrimental to nearby properties.
3. *Whether request is substantial* – Chairman William Moreau said no. Chris Benn agreed and added it's in keeping with the neighbors on either side of his property. The entire Board agreed.
4. *Whether request will have adverse physical or environmental effects* – Steve Mehan said no, as did Rick Burke and Mark Solan. The Board members agreed.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Chairman William Moreau said yes, he'd like a garage and there's no other place for it. Chris Benn agreed, as did the Board.

Chairman William Moreau asked if there were any further questions; there were none.

**A motion was made by Mark Solan, seconded by Steve Mehan, to grant the requested 4' variance and accept the application as submitted.** Chairman William Moreau – aye, Clifford Hanehan - absent, Christopher Benn - aye, Steve Mehan - aye, Mark Sullivan – absent, Thomas Carrangi - aye, Mark Solan – aye, Rick Burke - aye.  
**Carried 6 - 0**

**Marc & Meghan Russo #21-07  
21 School Rd.  
Wilton, CT 06897  
S/B/L 206.9-2-29.11 Lake Residential  
Location: 1107 Rt. 9P**

**Representative: Robert Flansburg  
6 Meghan Ct.  
Saratoga Springs, NY 12866**

Returning Applicants received a 7.1' frontage variance in May, 2021, to construct a three-car garage with apartment. They've decided to reduce the length of the structure from 60' to 44', to preserve the lake view as you arrive at their home. They now seek a 15' front setback variance to construct a two-car garage with apartment instead of the previously proposed three car and they would like to move the structure 15' closer to Rt. 9P.

Robert Flansburg appeared before the Board on behalf of the Applicants. He stated the Board granted the Applicants the desired 7.1' frontage variance in May, 2021. The Applicants have since decided, in order to preserve the view of the lake upon arriving at their house, they'd like to

reduce the structure from 60' down to 44'. They are now asking for a 15' front setback variance to build a two-car garage with apartment instead of the previously proposed and granted 3 car garage. The only difference from the May proposal is they'll reduce some paved area and the garage reduces from a three car to a two-car with the proposed apartment. They'd like to push closer to Rt. 9P by 15' in order to maintain the lake views and to give their parents an apartment.

Steve Mehan questioned if the stone work and gate at the entrance will be moved forward as well.

Robert Flansburg responded he is still talking with his clients about that.

Steve Mehan questioned what the distance is if the stone and gates remain in the current location, as he wonders if a car is parked there, and another is coming through the gate, is there enough room for it to come in, and is there enough room to open and close the gates without hitting a vehicle.

Robert Flansburg responded he doesn't believe the gate is ever closed.

Steve Mehan replied the Board has to look at every scenario.

Zoning Officer/Building Inspector Gil Albert stated they're reducing the carport only by 4', but the building is being reduced as well.

Robert Flansburg replied yes.

Steve Mehan noted the carport doesn't come off, only from the overhang.

**After providing Proof of Notice in the Saratogian on September 17, 2021, Chairman William Moreau opened the Public Hearing at 7:27 p.m.** asking those wishing to speak to please stand and state their name and address. Seeing as no one wished to speak, **Chairman William Moreau closed the Public Hearing at 7:28 p.m.** He then asked if there were any further Board comments or concerns, there were none. The Board went through the Balancing Test, line by line:

1. *Whether benefit can be achieved by other means feasible to applicant* – Christopher Benn said it can be achieved by reducing the variance; Board members agreed.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – Christopher Benn said no, Chairman William Moreau and Mark Solan agreed.
3. *Whether request is substantial* – Christopher Benn said it might be as the Board already granted setbacks for them in May; Board members agreed.
4. *Whether request will have adverse physical or environmental effects* – Chairman William Moreau, Christopher Benn, Thomas Carringi, Steve Mehan, Rick Burke and Mark Solan all agreed there will be no adverse physical or environmental effects.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Mark Solan said yes, Chairman William Moreau agreed and added they already have plenty of setback. Board members agreed.

Chairman William Moreau stated with the test completed, he'd like to hear the opinion of Zoning Officer/Building Inspector Gil Albert.

Zoning Officer/Building Inspector Gil Albert responded it is self-created, but is it closer than others out there? It is not out of character there, but this is up to the Board.

Chairman William Moreau then asked for Attorney Jacquelyn Poulos White's opinion.

Attorney Jacquelyn Poulos White stated there are five questions to aid the Board in balancing the benefit to the applicants with detriment to health, safety and welfare of the community; the Board needs to reach their balance.

Chairman William Moreau asked if there were any further questions; there were none.

**A motion was made by Christopher Benn, seconded by Mark Solan, to accept amended application if the variance goes down to 10', not 15'.**

Robert Flansburg stated he needs to speak with his clients to see if 10' will work.

Mark Solan said the walkway is 35' long, you can shrink that by 5'. There's a lot of room there.

Mark Flansburg replied that's reasonable and he can make it work.

Chairman William Moreau questioned if Robert Flansburg would like the Board to vote or would like to speak to his clients first.

Robert Flansburg stated he'd like to speak to his clients first and wished to postpone the vote until he's done so.

Chairman William Moreau stated this application is Tabled at the request of the Applicant.  
**Tabled**

**Claude N. Eldaye #21-08  
1346 Rt. 9P  
Saratoga Springs, NY 12866  
S/B/L 193.6-1-8 Lake Residential**

**Representative: Robert Flansburg  
6 Meghan Ct.  
Saratoga Springs, NY 12866**

Applicant seeks a 10' two-sides setback variance and a 5' side setback variance in order to demolish his existing cottage and construct a new house with a garage beneath.

Robert Flansburg appeared before the Board on behalf of his client. He handed out copies of the original survey to the Board members and reviewed it with them. He said there is no problem with the depth and amount of acreage. The cottage is 30' wide on a 50' lot. His applicant wishes to maintain the setbacks and driveway and place the house parallel with the boundary line. His client wants to elevate it a bit and drain toward Rt. 9P, away from the house. The front setback will be maintained and there's 15' on the east side. The distance from well will be maintained with the 5' requested setback and the electric service comes in on that side as well. They are really looking for the side yard setback. He added that it's pretty wet toward the back and he doesn't believe they can get footings in without raising it.

Zoning Officer/Building Inspector Gil Albert stated it's in the flood plain so it has to be raised.

Robert Flansburg added the proposed garage is to be beneath the proposed house and a three-point turn can be made there. They will need a retaining wall since needing to go higher.

Mark Solan questioned the overall height.

Robert Flansburg responded from grade at front door it's 26.31' and the highest point is 35'. Zoning Officer/Building Inspector Gil Albert stated the height measurement goes from ground to highest point of the roof.

Robert Flansburg responded that is 35' high.

Zoning Officer/Building Inspector Gil Albert replied okay. He added he's making it better than what has been there, so he is okay with this.

Chairman William Moreau asked for the opinion of Attorney Jacquelyn Poulos White; she had no opinion.

**After providing Proof of Notice in the Saratogian on September 17, 2021, Chairman William Moreau opened the Public Hearing at 8:49 p.m.** asking those wishing to speak to please stand and state their name and address; seeing as no one wished to speak, **Chairman William Moreau closed the Public Hearing at 8:50 p.m.** He then asked if there were any further Board comments or concerns, there were none.

1. *Whether benefit can be achieved by other means feasible to applicant* – Christopher Benn said no, Chairman William Moreau agreed, as did the entire Board.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – Mark Solan and Christopher Benn said no, he's matching the footprint. Board members agreed.
3. *Whether request is substantial* – Christopher Benn said no. Chairman William Moreau and Mark Solan agreed, added it's almost the same as the side yard setback.
4. *Whether request will have adverse physical or environmental effects* – Mark Solan said no. Chairman William Moreau agreed there will be no damage to the neighboring properties; Board members agreed.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Christopher Benn stated no. Chairman William Moreau they're building on the same footprint, basically on a sub-standard lot, so he agreed with Christopher Benn. The Board agreed as well.

Chairman William Moreau asked if there were any further questions; there were none.

**A motion was made by Steve Mehan, seconded by Mark Solan, to accept the application as presented and grant the 10' two-sides setback variance and a 5' side setback variance as requested.** Chairman William Moreau – aye, Clifford Hanehan - absent, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Mark Sullivan – absent, Thomas Carringi - aye, Rick Burke - aye.

**Carried 6 - 0**

The Applicant thanked the Board.

**Old Business:** Concerning a 2014 denied application: Debbie Carkner, 162 Franklin Beach Rd., addressed the Board of ongoing issues with the neighbor at 164 Franklin Beach Rd. She and her family have lived there for 26 years and the neighbor bought the property next to them 10 years ago. He's rented the apartment out for years (she showed the advertisements of this) and said this is on a private road. She said there is an illegal apartment above the garage and a smaller one in the back of the garage, as well as ongoing construction on their residence. There have been many vehicles in and out of that property with all of the many renters. The last time the neighbor came before this Board was seeking allowance of their non-permitted apartment in 2014; they were denied their request as the Board unanimously stated they've no legal jurisdiction to approve an illegal use of property.

Concerning the construction on the residence, the FOILED information uncovered the most recent variances were in 2001. Debbie had packets with photos, as well as FOILED information for each Board member. She said the Board granted 164 Franklin Beach Rd. the following variances in 2001: 20' front setback (east) from the road, 30' side setbacks (north and south), 20' rear setback (west) from the lake. She said they've built beyond the side and rear setbacks and pitched the roof of the entire structure toward the north and south sides, which has caused water runoff issues on the south side (her property line). They've built a deck and have now enclosed it and she does not believe that was part of their submitted plan to the Board in the past. The now enclosed deck blocks the Carkner's lake views to the north. She has 7 windows that now only see the siding of their house; two of which previously had lake views. She suggested the Board review the enclosed information in their provided packets.

Attorney Jacquelyn Poulos White stated the Board can hear complaints, if they choose, but cannot legally do anything. Their purview is of applications for area and use variances before them. She stated that Debbie Carkner needs to contact the Code Enforcement Officer concerning this. This Board is here to listen to the applications before them, deal with area and use variances only. They do not have to hear anything beyond that, as that is their scope of law.

Debbie Carkner replied she has called many times.

Zoning Officer/Building Inspector Gil Albert stated she has, and he's told her many times that he needs a signed, formal complaint. He said he's now received a formal, signed complaint from her at the beginning of this meeting, so now he can do something. He stated he told her numerous times he needed a signed formal complaint to go onto that property. Now that he has it, he can go forward.

Attorney Jacquelyn Poulos White agreed.

Chairman William Moreau told Debbie Carkner that this is a building code issue, she gave a signed, formal complaint form to the Zoning Code Officer this evening. The Board cannot act on this as it is out of their purview.

Zoning Officer Gil Albert said he's been asking for the formal complaint; she's finally given it to him this evening. He reviewed what he can do and said he will speak with her later.

**New Business:** None

**A motion was made by Thomas Carringi, seconded by Steve Mehan, to adjourn the meeting at 8:14 p.m.** Chairman William Moreau – aye, Clifford Hanehan - absent, Thomas Carringi - aye, Christopher Benn - aye, Steve Mehan - aye, Mark Sullivan – absent, Mark Solan – aye, Rick Burke - aye.

**Carried 6 - 0**

**Meeting Adjourned**

Next meeting will be held on October 25, 2021, 7:00 p.m. Any and all submittals must be to the Clerk no later than 8:45 a.m. October 8, 2021, due to the Columbus Day holiday.

Respectfully submitted,

Linda McCabe  
ZBA Clerk