

**TOWN OF SARATOGA  
ZONING BOARD OF APPEALS DRAFT MINUTES  
February 28, 2022**

Chairman William Moreau called the meeting to order at 7:06 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 – present, Thomas Carrangi – present, Christopher Benn – present, Steve Mehan – present, Mark Solan – present, Alternate Rick Burke – absent (arrived at 7:06 p.m.).

Also present: Zoning Officer Gil Albert, Attorney Jacquelyn Poulos White, Paul & Debra Carkner, David Rich, Matthew Norfolk, Alicia & Louis Farone, Kim & Gerard Cuva. (Sign-in sheet is on file in the Clerk’s office.)

Approval of Minutes: **A motion was made by Thomas Carrangi, seconded by Christopher Benn, to accept the minutes of January 24, 2022 as written.** Chairman William Moreau – aye, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – absent (arrived at 7:06 p.m.), Thomas Carrangi – aye.

**Carried 6 - 0**

**Public Hearing**

**David Rich #22-04  
215 Kaydeross Ave. East  
Saratoga Springs, NY 12866  
S/B/L 193.5-1-8 Lake Res.  
Location: 136-137 Franklin Beach Rd.**

**Owner: Kimberly J. Cuva  
16 Fairview Rd.  
Loudonville, NY 12211**

Applicant is renovating the home and seeks a 6’ front setback variance to align the house with neighboring homes and to allow easier access to the home for elderly family members.

Applicant David Rich appeared before the Board and stated they are seeking a 6’ front setback variance in order to move it up to allow easier access to the house for elderly family members and to align the house with neighboring properties. He asked if the Board had any questions.

Mark Solan asked if there were additional steps coming off the house.

Applicant David Rich responded yes, out from the front of the house.

Zoning Officer/Building Inspector Gil Albert said stairs are not part of the setback.

Steve Mehan asked where the parking is located.

Applicant David Rich responded across the street and elderly parking is to be in front of the house.

Zoning Officer/Building Inspector Gil Albert asked if the shed will be removed and will they replace it.

Applicant David Rich responded the shed will be removed and not replaced.

Chairman William Moreau asked if there were any further Board questions. Seeing none, he then asked for the opinion of the Zoning Officer.

Zoning Officer/Building Inspection Gil Albert responded he has no issue with this as they're removing the shed and not replacing it and its keeping within surrounding area.

**Proof of Notice having been furnished by newspaper on January 14, 2022, Chairman William Moreau opened the Public Hearing at 7:08 p.m.**, asking those wishing to speak to the Board to please stand, state their name and address.

Seeing as no one wished to speak, **Chairman William Moreau closed the Public Hearing at 7:09 p.m.** He then asked if there were any further questions or comments of the Board. There were none.

Chairman William Moreau went through the Balancing Test, line by line, with the Board:

1. *Whether benefit can be achieved by other means feasible to applicant* – Clifford Hanehan said not really, they could go smaller though that's not desired; Board members agreed as well.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – Chairman William Moreau said no, Chris Benn, Steve Mehan, Rich Burke and Board agreed.
3. *Whether request is substantial* – Chairman William Moreau said no, it's minor and entire Board agreed.
4. *Whether request will have adverse physical or environmental effects* – Steve Mehan said no, as did Christopher Benn and Chairman William Moreau; the entire Board agreed.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Chris Benn said no, the lot is what it is. Chairman William Moreau agreed, as did the Board.

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

**A motion was made by Clifford Hanehan, seconded by Thomas Carringi, to grant and allow the 6' variance needed as it is a minor request and keeping within the neighborhood.**

Chairman William Moreau – aye, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carringi – aye.

**Carried 7 - 0**

### **Interpretive Appeal of Determination Continued Public Hearing**

**Mr. & Mrs. L. Farone #22-01  
717 Lake Ave, Rt. 29  
Saratoga Springs, NY 12866  
S/B/L 155.-1-63.11 Rural Residential**

**Representative: Matthew Norfolk, Attorney**

Applicants appeal the determination of Zoning Officer Gil Albert in regards to what they believe is a zoning violation at 727 Rt. 29.

Chairman William Moreau stated due to the owner of 727 Rt. 29, Mr. Dempsey, being unable to attend last month's meeting due to illness, which is the property the Applicants seek an appeal of, the Board has kept the public hearing open in order to hear him speak. Chairman William Moreau reconvened the public hearing.

Mr. Craig Dempsey appeared before the Board and stated in 2020 he and his wife acquired the property that had been the Maranville Farm. He's getting close to retirement and he wants to turn this business over to his son and daughter-in-law. To the best of their knowledge this property was a wedding venue and doing their due diligence, they found there were challenges with the previous owner and they wanted to make sure they stayed within the parameters of the original permit. Before purchasing the property, they discussed with Zoning Officer Gil Albert about getting the certificate of occupancy reissued, as it had expired and the previous owner had worked with the Town to extend it. The previous owners needed an ADA restroom in place and failed to do so and per Mr. Dempsey's discussions with Zoning Officer Gil Albert, they've been working on this issue. He said he has until May of 2022 to have plans in place for the ADA restrooms. They have had 9 weddings, birthday parties, baby showers, etcetera, staying within the original permit parameters. He tries, being sensitive to their neighbors, to have things shut down between 9 – 9:30 p.m., with the very latest by 10 p.m. They have 19 weddings booked for 2022 and have booked into 2023, with 4 weddings to date. They have outstanding reviews and no complaints to the Town. They are fine with the numbers of the permit and do not seek to add to it. His son and daughter-in-law plan to take over the business and plan on 25 small events per year. It was a business before the previous owner's debacle. He attends/is on-site for each wedding/event, adheres to the parking of 40 automobiles, never going beyond what is allowable in their permit. He did meet with Alicia Farone and she was very emotional about this issue and he respects that. He and his family have been, and continue to be, responsible with this business, adhering to the permit. He will have a financial disaster if not allowed to continue this business, as they have invested a lot of money into this.

Matthew Norfolk, attorney for the Farones, said this is a jurisdiction issue. They are not asking the ZBA to compel Mr. Albert to pursue a violation against Mr. and Mrs. Dempsey, they are simply seeking an interpretive appeal of whether or not this is a permitted use, under special use permitting in that district. This business is not allowed in that district and it's not listed under any uses in the Town's code book. This needs a use variance and is not allowed. Interpretation is not up to debate. Mr. Dempsey said a permit is already in place and that is not true.

Maranville had an agriculture business and the Planning Board allowed her a conditional permit for two weddings. The Town Board wouldn't amend the regulations to add this, so it is not allowed. He then handed out a 19-page submittal to the Board.

***(Let it be noted all submittals are to be handed in to the clerk two weeks before a meeting)***

Mr. Dempsey asked to speak and was granted to do so. He stated he was confused when he read the Town's ordinance. Noise ordinance is met and there is a long list of possible uses in that district and this is allowed in the spirit of a commercial operation. You need to examine the differences of weddings and anything else listed. He talked with Supervisor Thomas Wood and other Town officials and there was never an issue with the 80 people events being held there. This is in a district that provides for and allows businesses and special use permits. This will be devastating to his family if they aren't allowed to continue; he added is not a wealthy man, he is retiring and trying to do everything reasonable. He thanked the Board for listening.

Alicia Farone stated Mr. Dempsey did see her, and said this is hard for her and she disagrees with it being in the spirit of a commercial operation. She is against this and doesn't want this

there. She has no issue with Mr. Dempsey as they've been very responsible with their business. That being said, she's against this, it isn't permitted.

Attorney Jackie White asked attorney Matthew Norfolk his position and he responded there is no permit. The 2016 permit allowed functions of 80 people with 40 cars to Maranville. This is not a farm to table events business. The use has changed solely to an event business.

Mr. Dempsey asked to speak and was so granted. He said he spoke with the Town and wasn't purchasing the property unless he could continue with events and was told he could. He proceeded, in good grace, to purchase it and stay within the limits of the permit.

Zoning Officer Gil Albert stated the permit originally was for farm to table ag. business, with weddings and events to subsidize that business. It was quickly realized that Maranville was only doing weddings and far beyond the 80 permitted people and 40 allowable cars. His decision was based upon the decision made by the Planning Board. It is the Planning Board's discretion to allow certain things if not clearly in the regulations and they did so in this case.

Chairman William Moreau asked if anyone further wished to speak; seeing no one, **Chairman William Moreau closed the Public Hearing at 7:35 p.m.** Chairman William Moreau proposed that they adjourn this to give Counsel and the Board time to review and absorb all that was presented and to table the vote until next month.

**A motion was made by Chairman William Moreau, seconded by Thomas Carringi, to table the vote until next month's meeting.** Chairman William Moreau – aye, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carringi – aye.  
**Carried 7 - 0**

**Old Business:** None

**New Business:** None

**A motion was made by Clifford Hanehan, seconded by Mark Solan, to adjourn the meeting at 7:46 p.m.** Chairman William Moreau – aye, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carringi – aye.  
**Carried 7- 0**  
**Meeting Adjourned**

Next meeting will be held on March 28, 2022, 7:00 p.m.

\*Any and all submittals must be to the Clerk no later than 8:45 a.m. March 14, 2022 to be on the agenda.

Respectfully submitted,

Linda McCabe  
ZBA Clerk