

**TOWN OF SARATOGA  
ZONING BOARD OF APPEALS DRAFT MINUTES  
January 24, 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 Carringi – present, Christopher Benn – present, Steve Mehan – present, Mark Solan – present, Alternate Rick Burke - present.

Also present: Zoning Officer Gil Albert, Attorney Jacquelyn Poulos White, Jim Vianna, Paul & Debra Carkner, Attorney John Cannie, Attorney Justin Grassi, Attorney Matthew Norfolk, Attorney Ayah Badran and Pepe Farone. (Sign-in sheet is on file in the Clerk’s office.)

Approval of Minutes: **A motion was made by Thomas Carringi, seconded by Christopher Benn, to accept the minutes of September 27, 2021 and November 15, 2021 as written.**

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**

**Public Hearings**

**Tricia Pasos 22-03  
873 Rt. 4 S  
Schuylerville, NY 12871  
S/B/L 183.-1-20.14 Rural**

**Representative: James Vianna, PLS  
140 Lohnes Rd.  
Stillwater, NY 12170**

Applicant went before the Planning Board for subdivision, but due to a lack of frontage on the proposed lot, they’ve sent the Applicant to ZBA for a variance. Applicant seeks a 100’ frontage variance in order to create a new lot for future residential construction. The future lot will be over 5 acres which will require 300’ of frontage and only has 200’.

Jim Vianna, PLS, appeared on behalf of the Applicant. He stated this will not be a public hearing tonight, as he did not get the neighbor notifications out, but will be back in the spring. There was a survey done 15 years ago, but he will survey the property in the spring. The application was in front of the Planning Board for a proposed two lot subdivision, resulting in a 4.99+/- acre parcel with 200’ of frontage and a 17.79+/- acre parcel with 200’ of frontage. Town regulations require lots greater than 5 acres to have a minimum of 300’ of frontage, which is why the Planning Board has sent this to the ZBA. Due to the creek, they will use the existing driveway as a shared drive, then once over the creek the driveway will branch off. The parcel proposed as 4.99+/- acres has an existing house and will be sold and the Applicant would like to build a new house on the remaining lands for herself and children.

Christopher Benn questioned if the swale is an issue.

Jim Vianna replied no, that’s why they’ll be using the existing driveway and then branching off.

Steve Mehan questioned if the creek is wet all year and Jim Vianna replied he believes so.

Chairman William Moreau asked for the Zoning Officer's opinion.

Zoning Officer Gil Albert responded he has no problem with the proposal.

Chairman William Moreau asked for the Attorney's opinion.

Attorney Jackie White responded she had no input for this application.

Chairman William Moreau stated they've gone as far as they can tonight and we'll advertise for a public hearing when the Applicant is ready to go forward.

Jim Vianna thanked the Board.

### **Retuning**

*Chairman William Moreau stated due to professional and personal ties to the law firm of Snyder, Kiley, Toohey, Corbet & Cox, LLP and to Attorney Justin Grassi, three members of the Board must recuse themselves from this application. Board Member Clifford Hanehan will preside. Chairman William Moreau, Rick Burke and Thomas Carrangi recused themselves from this application.*

**Edwin Crusado #22-02  
164 Franklin Beach Rd.  
Saratoga Springs, NY 12866  
S/B/L 180.17-1-10 Lake Residential**

**Representative: Atty. John Cannie,  
(Snyder, Kiley, Toohey, Corbett & Cox, LLP)  
160 West Ave., P.O. Box 4367  
Saratoga Springs, NY 12871**

Applicant seeks a 27.4' front setback, a 6' two sides setback and a 5.9' side setback variances in order to keep the newly constructed addition on the side of the house and the front porch.

Attorney John Cannie appeared on behalf of the Applicant. He stated they are here seeking a 27.4' front setback, a 6' two sides setback and a 5.9' side setback variances in order to keep the addition on the side of the house and the front porch. He said the new house is similar in footprint to the original structure. The additions were to update the home, it's similar to others in the area and the preexisting numbers are the same as others. A permit was given, they were supposed to build in the same footprint but couldn't, there was no other option to expand aside from what they did.

Clifford Hanehan said we have a minimum quorum of the Board and the Applicant needs to keep in mind if they lose one vote, it's over. He then asked if there were any Board questions.

Steve Mehan questioned if the house was built outside the variances.

Attorney John Cannie responded they did not get a variance. They built outside the original footprints.

Steve Mehan questioned the overlay on the map and was told the overlay is the original structure. Steve Mehan noted it shows a porch there, but in a different position – it's moved forward.

Attorney John Cannie replied there was a 5' stoop previously.

Mark Solan questioned if the rear setback is met and was told yes.

Clifford Hanehan questioned why the map submitted was so small?

Attorney John Cannie responded that's what the surveyor sent. He said they have a larger one.

Clifford Hanehan stated it's very difficult to read.

Mark Solan questioned if the lines on the new structure are the drip edges and was told yes. He then questioned where the off-street parking was located.

Attorney John Cannie responded on the opposite side of the road.

Clifford Hanehan asked if there were further questions of the Board; there were none.

Clifford Hanehan asked for the opinion of the Zoning Officer.

Zoning Officer/Building Inspector Gil Albert responded mistakes have been made, some were his. He granted a permit in the shaded area, he allowed him to build in the setback, he asked him to go behind the line and he did. There's a permit issued for him to turn the deck into the three season room and for the 4' porch with stairs.

The Board reviewed the larger map offered by Attorney John Cannie.

Mark Solan stated the Applicant should have had an area variance; he built outside the original footprint.

Zoning Officer/Building Inspector Gil Albert responded no.

Steve Mehan questioned if construction of the porch was done during that time.

Zoning Officer/Building Inspector Gil Albert responded yes; he didn't catch it in time.

Clifford Hanehan asked for the opinion of the Attorney.

Attorney Jackie White responded she had nothing to add at this time.

**Proof of Notice having been furnished by newspaper on January 14, 2022, Board Member Clifford Hanehan opened the Public Hearing at 7:32 p.m.,** asking those wishing to speak to please stand, state their name and address and address the Board with their concerns of this application:

Attorney Justin Grassi, Jones Law, spoke on behalf of his clients, Mr. and Mrs. Carkner, next door neighbors on the southerly side of the Crusado property. He handed information packets to the Board prior to the opening of the meeting. He stated the Applicant has owned the property for 12 years. This is a self-created hardship with a complete and utter lack of responsibility to meeting criteria. The survey shows the expansion of non-conforming use. He could have built on the other side of the property as there is 20' on that side. He went through the information he handed to the Board and said the Applicant can expand on the other side and maintain the distances between his property and the neighbors' property and it eliminates the side yard setback. Or they can keep it on the same footprint and build up. The Applicant did not get a variance, the stormwater runs onto the Carkner property and their sump pump burned out as it runs 100% of the time due to the neighbor's addition. He then continued going through the submitted

information with the Board. He stated the criteria of the Balancing Test cannot be met. The Applicant built, then asks for forgiveness. This was created by the owner. He asked the Board to please deny the request and to please take the time and review his submittals. There are other needs to be addressed as well, such as the fence going over the front boundary line, in 2014 they were denied a variance for multi-family structure yet they did it anyway. Please deny.

Debra Carkner, 162 Franklin Beach Rd., stated she has no issue with the camps being updated. She said they're upset with the stormwater runoff onto their property. The Applicant could have built 20' in the other direction. They now have constant issues with water, they lost a good portion of their lake view due to the Crusado's turning the deck into an additional room. Her property is 36' wide, they got the proper variances for the steps and pitched everything so water does not affect their neighbors. She said the Crusado application is incorrect as they have 20' on the other side of their property on which they could have built. She's filed complaints with the Zoning Officer, he issued a Stop Work order, but despite the order, the Zoning Officer allowed them to build at their own risk for the past three and a half months. The Board has criteria that should be maintained; financial hardships can be overcome, but for themselves, this would be a permanent loss.

**Clifford Hanehan asked if anyone further wished to speak; seeing none he closed the Public Hearing at 7:47 p.m.** He then asked if there were any further questions or comments of the Board. There were none.

Attorney John Cannie stated he wanted to address the neighbor's statement.

Clifford Hanehan said he felt overwhelmed with the last-minute materials submitted and thinks it would be a disservice if they rendered a decision at that time. The Board agreed.

Attorney Jackie White agreed and recommended the Board hold off and review the materials. She said one of the documents submitted is not addressing what is before the Board tonight. The document of the letter directed to Zoning Officer/Building Inspector Gil Albert is nothing for the Board to review, as it does not pertain to the application before them.

Attorney Justin Grassi stated if the Applicant is submitting information, we'd like to be able to address it; fencing must be reviewed as it is part of the site.

Mark Solan questioned if they adjourn, can they hold a second public hearing.

Attorney Jackie White responded if there is enough time you can re-notice and do so, the Board can talk to the Applicant concerning it.

Steve Mehan questioned what type of work did Zoning Officer/Building Inspector Gil Albert allow the Applicant to do, after issuing the Stop Work order.

Zoning Officer/Building Inspector Gil Albert responded he let him insulate and get the heat going at his own risk. And it was only to do the heat and insulation.

**A motion was made by Christopher Benn, seconded by Mark Solan to table the application for further consideration and allow the Board time to review and absorb the submitted information.** Chairman William Moreau – recused, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – recused, Thomas Carrangi – recused.  
**Carried 4 – 0 / 3 recusals**

**Interpretive Appeal of Determination 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.

Attorney Jackie White stated the initial concerns with this application may not be in the authority of the ZBA, not only interpretation, but this Board is not an enforcement body and it is not the Board's role to act as a court. She told the applicants that they can go ahead and present, the Board can open the public hearing, but recommended the Board not make a determination at this time.

Attorney Matthew Norfolk, Norfolk Law, appeared before the Board on behalf of the applicants. He said they are seeking an Appeal of Interpretation by Zoning Officer Gil Albert. They are not asking the Board to enforce, just appealing the Zoning Officer not enforcing the regulations or responding to the applicants request of interpretation. After a lengthy presentation, he stated no special use permit should have been issued as that wedding venue is not allowed. There is no permitted use for that in the Town regulations and no special use permit is allowed in that district. He then reviewed the history of the permit with that property and asked for an appeal of Zoning Officer Gil Albert's interpretation of the regulations.

Attorney Jackie White stated this is scheduled for a public hearing tonight but recommended no Board determination be made at this time.

Chairman William Moreau asked for the opinion of the Zoning Officer.

Zoning Officer/Building Inspector Gil Albert responded the Planning Board felt it was a good thing and they felt putting this under retail/restaurant would work. The original permit was for agriculture education with small weddings several times a year/conferences several times a year to support the costs of the ag. ed. program, but ended up solely being a venue for weddings.

**Proof of Notice having been furnished by newspaper on January 14, 2022, Chairman William Moreau opened the Public Hearing at 8:09 p.m.** Chairman William Moreau stated that the current owner is ill with covid, so they'll open the public hearing but will table it so the property owner can come speak to the Board next month and to give the Board time to talk with counsel. He then asked those wishing to speak to the Board to please stand and state their name and address:

Attorney Matthew Norfolk stated the Planning Board has discretion and their decisions are defined by the code. What's good for the community must always be in the code. He said he takes issue with the Planning Board making case by case decisions. It doesn't comply with regulations, which is why they gave a conditional permit. It's not a restaurant/retail business.

Mr. Farone stated the Planning Board felt the agriculture education business was a good fit, not the wedding venue. Maranville went from asking for a permit for agriculture education and

several small weddings as fund raisers for the education program, to just doing weddings. She knew they'd go for the education program and that is what they felt was a good fit and to be honest, so did he.

Chairman William Moreau asked if anyone further would like to speak; there was no one. **A motion was made by Chairman William Moreau at 8:16 p.m to table this application and leave the public hearing open until the February 28, 2022 meeting.** Chairman William Moreau – aye, Clifford Hanehan - aye, Thomas Carrangi - aye, Christopher Benn - aye, Steve Mehan - aye, Mark Solan – aye, Rick Burke - aye.

**Carried 7 - 0**

**Tabled**

**Old Business:** None

**New Business:** Clifford Hanehan questioned if the Board has a set precedent to direct applicants to tear down constructed buildings. After a short discussion it was determined yes, as they've made others tear down in the past.

**A motion was made by Christopher Benn, seconded by Mark Solan, to adjourn the meeting at 8:22 p.m.** Chairman William Moreau – aye, Clifford Hanehan - aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carrangi – aye.

**Carried 7- 0**

**Meeting Adjourned**

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

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

Respectfully submitted,

Linda McCabe  
ZBA Clerk