

**TOWN OF SARATOGA
ZONING BOARD OF APPEALS DRAFT MEETING MINUTES
JUNE 27, 2022**

***Meeting Minutes are not verbatim**

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, Christopher Benn – present, Steve Mehan – present, Mark Solan – present, Alternate Rick Burke – present.

Also present: Zoning Officer Gil Albert, Town Counsel Jacquelyn Poulos White, Stephanie Bitter, Paul & Debra Carkner, Justin Grassi, Max Freedman, Ross Pusatere, Edward & Dawn Crusado, Eric & Melissa Jackson, Donna Hladek, Maritza Vega, Bob Flansburg and other interested persons. (Sign-in sheet is on file in the Clerk’s office.)

Approval of Minutes: **A motion was made by Christopher Benn, seconded by Mark Solan, to accept the minutes of April 25, 2022 as written.** Chairman William Moreau – aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carrangi – aye, Clifford Hanehan – absent.

Carried 6 - 0

Public Hearing

**Max & Juliette Freedman #22-09
419 East 84th St. Apt. J
New York, NY 10028
S/B/L 167.-1-18 Rural District
Location: 104 Co Rd. 68**

Applicants seek a 50’ front setback variance in order to remove attached garage and construct an addition to the existing house.

Applicant Max Freedman appeared before the Board. He said he’d like to remove the garage and add an addition to his home on the same footprint of the garage.

Christopher Benn questioned if he planned on building another garage in future.

Applicant Max Freedman replied no, he’s got no room.

Mark Solan questioned if he had enough room for parking without the garage.

Applicant Max Freedman responded he has enough room for three cars in his driveway without a garage. He said setbacks remain the same. He wants to put in a new foundation where the garage is and build on that. It’ll not be any closer to the road than the garage is.

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

Proof of Notice having been furnished by newspaper on June 17, 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* – Christopher Benn said no due to size of property and the location to the water; Board members agreed.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – Chairman William Moreau said no, Board agreed.
3. *Whether request is substantial* – Mark Solan, Rick Burke, Christopher Benn, Steve Mehan, Tom Carringi and Chairman William Moreau said no.
4. *Whether request will have adverse physical or environmental effects* – All Board members said no.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Rick Burke said no, Chairman William Moreau agreed, adding he’s staying within the confines of the footprint and believes he’s making it better with a more sound structure. The Board members agreed.

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

Chairman William Moreau asked for the opinion of the Zoning Officer; Zoning Officer/Building Inspector Gil Albert stated he thinks it’s a good fit and is okay with this.

Chairman William Moreau asked for the opinion of Town Counsel. Attorney Jackie P. White said no comment.

A motion was made by Mark Solan, seconded by Rick Burke, to accept the application as presented. Chairman William Moreau – aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carringi – aye, Clifford Hanahan - absent
Carried 6 – 0

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

**Representative: Stephanie Bitter, Atty.
Bartlett, Pontiff, Stewart & Rhodes PC
1 Washington St.
Glens Falls, NY 12801**

Returning Applicant seeks a 27’4” front setback, 6’ two-sides setback and a 5’9” side setback variance in order to lift the Stop Work Order and Notices of Violations.

Attorney Stephanie Bitter appeared on behalf of the Applicant. She went through the history of the application with the Board. She said they’re before the Board for the bump-out, not the foundation, as they maintained the setback even with the bump-out. They’re not here for the

back deck variance or the second story. It is for the bump-out. The Applicant met with the Building Inspector and thought he was doing everything correctly. He asked to put in the furnace and put the siding up for the winter. He relied on the process. His building permit was legally obtained. He built according to plans. He did not need a survey at the time he applied for the building permit and he did obtain one, once the stop work order was issued. The Board will evaluate the variances and go through the balancing test. This shouldn't be looked at as substantial, as the neighbor has the same variances that the Applicant is seeking. That street has evolved and what the Applicant is seeking is consistent with neighboring properties. There's been a petition submitted by the neighbors supporting the Applicant's request. She believes the benefits outweigh any detriment brought forth. She reiterated the Applicant did have a legal building permit and built according to plans.

Attorney Jackie Poulos White questioned if anything changed from the first 2022 submitted application for this Applicant.

Attorney Stephanie Bitter responded no it's not changed.

Chairman William Moreau asked if there were any Board questions.

Mark Solan questioned since they significantly increased the amount of roof space, was there any study required for runoff.

Zoning Officer/Building Inspector Gil Albert responded no. In reality, it didn't significantly increase the roof space, he just extended the roofline on that one wall.

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

Proof of Notice having been furnished by newspaper on June 17, 2022, Chairman William Moreau opened the Public Hearing at 7:26 p.m., asking those wishing to speak to the Board to please stand, state their name and address:

Justin Grassi, Jones Steves Attorneys at Law, stated he is representing and speaking on behalf of Paul and Debra Carkner, neighbors southwest of the Applicant's parcel. He stated the Applicant submitted for a permit in November of 2021, to rebuild on the foundation. He didn't provide a plot plan, no stamped engineered plans, no way the Building Inspector could issue a permit without those and they did not build on the same footprint. A variance is needed for the front porch and the 54' rear deck was expanded without a permit. They never had a variance for the original deck (2009 – 2021), and that required a variance. It was an open deck – no plot plan was submitted and it was turned into additional living space, not just an enclosed deck and no plan was submitted for that. Without a doubt a variance was needed for the side yard setback and deck. It is not the Board's purview to determine vested rights; these permits issued are unlawful as they never supplied plot plans, etcetera. The application submitted had an estimate of \$60,000 and \$7,000 for the porch, which is nowhere near the amount of money that Attorney Stephanie Bitter said they've invested. He then said this is a detriment to his client's property, it has removed some of their lake views and the roofline now sweeps toward his client's home. The Applicant could have achieved this on the north side of his property, as he's got 20' there and the benefit could've been achieved by doing that and his clients would've been fine. This is a substantial request and asks the Board to deny the request.

Stephanie Bitter, Bartlett, Pontiff, Stewart & Rhodes P. C., attorney for the Applicant,

reviewed the variances of the Carkner's property, as they received similar variances as those the Applicant is seeking. The building permit application submitted was exactly what the Applicant built. She said there was a 2009 survey on file in the Zoning Officer's office and it shows the previous house was closer to the neighbor than the current one. The Applicant didn't set out to ruin their views from a couple of windows, they have views straight to the lake from all other windows in their home.

Rick Burke responded that she said the neighbor was granted variances that were required and questioned what those variances were.

Attorney Stephanie Bitter stated they actually had six variances in their application and she gave copies of those variances to him to review.

Zoning Officer/Building Inspector Gil Albert stated this has nothing to do with the 2009 survey; that was done to raise the house out of the flood plain. This particle project has nothing to do with that. He said he gave them permission to bump out that porch area. He made a mistake and shouldn't have permitted that. The Applicant wasn't out of character and wasn't doing anything without first talking to him about it. He said, in hind sight, he shouldn't have permitted it. The front setback he's asking for, well you go down the road and look straight down and others are closer to the road than this. We have no regulations for viewshed and anyone on the lake has a right and can put a 6' fence up if they show a survey and keep it on their own property.

Rick Burke questioned if the porch is dumping stormwater onto the neighbor.

Zoning Officer/Building Inspector Gil Albert said he doesn't think it is, he'd call it equal.

Steve Mehan responded, in all honesty it looks like the water's coming from the neighbor's house, not the Applicant's. That's in the flood plain and most homes there use sump pumps. He doesn't believe the roof has affected this in anyway.

Chairman William Moreau said in 2009 a new foundation went in, which established the footprint that they built over for the front porch. It looks like there's a foundation there on the diagonal.

Zoning Officer/Building Inspector Gil Albert reviewed the 2009 prints, showing the house is now smaller.

Chairman William Moreau said in 2009 the footprint was established as shown on the survey and they shrunk the size of the footprint.

Zoning Officer/Building Inspector Gil Albert said decks are included in square footage, but not stoops or stairs. And as the footprint of the house is smaller, that's why he issued the permit. The Applicant cut back the deck one foot further from the neighbor side of the property.

Board discussion continued.

Chairman William Moreau asked if anyone else would like to speak to the Board.

Debra Carkner, 162 Franklin Beach Rd., southside of this property. She said she tried to address this in March 2021 and was told everything was compliant. Before demolition, the water runoff was only a 17' section toward the rear of the property, now shedding is within 4' of the

property line. She said the land is over saturated and she had supplied photos with ice buildup. Ice buildup didn't happen to her, as she has 8' of yard compared to the Applicant's 4'. They have multiple sump pumps to protect their home, as their initial one burned out as it ran constantly. This Applicant has no concern for the impacts to her property, blocking some of her views from a couple of windows and part of her deck. The Applicant's deck enclosure is not an enclosed porch as stated on the building permit. It is an addition to their home, with no wall separating the 'porch' and living space in the home. She said stop work means stop work, suspend all activity. It doesn't mean allowing any work to continue. Zoning Officer/Building Inspector Gil Albert told them they could, *at their own risk*, put in the furnace and side it. She said they could have utilized the 20' on the north side of their property instead of crowding toward her property. The people who signed that petition are not impacted by this. It is detrimental to her home. At the January meeting Zoning Officer/Building Inspector Gil Albert said mistakes were made. Why should she suffer for those errors? She went through her permit, how they pitched their roof away from the neighbor and pulled their staircase back 2'. She said the Applicant put their fencepost on her property and screwed into their seawall. She asks the Board to deny the variances and instruct the Applicant to remove the expansions.

Chairman William Moreau stated the Board is here to look at the variances before them; nothing else is relative. He asked if anyone else wished to speak.

Derrek Jackson, Franklin Beach Rd., said people are building there all the time, removing camps and building larger homes. He's for the Board granting the variances. He said all the homes on the road are close to each other. He's in favor of Board approval for this.

Seeing as no one further wished to speak, **Chairman William Moreau closed the Public Hearing at 8:07 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* – Christopher Benn said possibly prior to raising the foundation, but not now. Mark Solan and Chairman William Moreau said he was working off the foundation, so no. The Board agreed.
2. *Undesirable change in neighborhood character or detriment to nearby properties* – The Board said no and Steve Mehan said that's what you get when buying there, we all know that.
3. *Whether request is substantial* – Chairman William Moreau, Mark Solan and Christopher Benn said the front porch lines up with the neighboring properties and the bump out is within the old footprint, so no; the Board agreed.
4. *Whether request will have adverse physical or environmental effects* – Mark Solan had concern with the water, but they're all so close to each other there at the lake, so no. Steve Mehan added everything's wet there and Chairman William Moreau said the amount of roof shedding is the same. Board members agreed.
5. *Whether alleged difficulty is self-created, relevant but not determinative* – Chairman William Moreau said he'd asked the Zoning Officer/Building Inspector Gil Albert about the porch and as it was allowed, no, he didn't think it was self-created. Steve Mehan agreed, adding maybe it should've been handled differently, but it's not self-created.

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

A motion was made by Mark Solan, seconded by Clifford Hanehan, to accept the application as presented for the 454 Rt. 32 South property. Chairman William Moreau – aye, Mark Solan – aye, Christopher Benn - aye, Steve Mehan - aye, Rick Burke – aye, Thomas Carrangi – aye, Clifford Hanehan – absent.
Carried 6 – 0

**Edward Pieper #22-10
230 Co. Rt. 68
Saratoga Springs, NY 12866
S/B/L 195.5-1-4 Hamlet District
Location: 443 Rt. 32 South**

Applicant seeks a 10' front setback variance in order to construct a new 5' x 23.4' porch.

Applicant was unable to appear.

**Ross Pusatere #22-11 Representative: Robert Flansburg, Dreamscapes
1294 Rt. 9P
Saratoga Springs, NY 12866
S/B/L 193.10-1-52 Lake Residential District**

Applicant seeks a 6' front setback variance, a 12.3' two sides variance and a 3' side variance in order to construct a single family residence.

Robert Flansburg appeared before the Board on behalf of the applicant. He said there are two structures on the property which will be removed in order to construct a new single family home. He stated the variances sought will be allowing the house to be centered on the property, with a driveway on the left side and keeping it in line with neighboring homes.

Chairman William Moreau suggested they slide the building envelope further back on the property, as there is room to do so. Steve Mehan agreed as there is plenty of room.

Robert Flansburg responded they'd lose a bit of view if they do that.

Zoning Officer/Building Officer Gil Albert said if they move back, they'll still have views.

Robert Flansburg said they want to be in line with the neighbors.

Chairman William Moreau and Steve Mehan stated they need to know the real measurements.

After a discussion with the Board, it was decided that the Applicant will need to provide the Board with more information and correct measurements.

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

Proof of Notice having been furnished by newspaper on April 15, 2022, Chairman William Moreau opened the Public Hearing at 8:34 p.m., asking those wishing to speak to the Board to please stand, state their name and address. No one spoke.

Robert Flansburg stated the Applicant would like to table the vote until they can provide accurate numbers.

Chairman William Moreau stated the Public Hearing will remain open and conclude at next month's meeting. He then asked if there were any further questions or comments of the Board; there were none.

Returning

**Shane Drumm #22-12
136 Hathaway Rd.
Schuylerville, NY 12871
S/B/L 182.-2-19.11 Rural District**

Applicant seeks a 45' front setback variance in order to construct a single family residence.

Applicant did not appear.

**Joshua Baranowski #22-13
300 Rt. 32 South
Schuylerville, NY 12871
S/B/L 182.-1-61 Rural District**

Applicant seeks a 12' front setback variance in order to keep his storage shed, which is being built without a permit.

Applicant did not appear.

Old Business: None

New Business: None

A motion was made by Thomas Caringi, seconded by Christopher Benn, to adjourn the meeting at 8:41 p.m. Chairman William Moreau – aye, Mark Solan – aye, Steve Mehan - aye, Christopher Benn - aye, Rick Burke – aye, Thomas Carringi – aye, Clifford Hanehan – absent.

Carried 6- 0

Meeting Adjourned

The next regular meeting will be July 25, 2022 at 7:00 p.m.

To be on the July agenda, all submittals must be to the Zoning Clerk's Office no later than 8:45 a.m., July 11, 2022.

Respectfully submitted,

Linda McCabe
ZBA Clerk