

WILTON ZONING BOARD OF APPEALS
THURSDAY February 27, 2014

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, February 27, 2014 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Christopher Ramsdill, James Deloria, Dean Kolligian, Robert Barrett, Tony McCracken, Dave Buchyn and Gerard Zabala. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

ABSENT: Chairman O'Brien and Rocco Angerami

MINUTES: The minutes of the last meeting, held on January 23, 2014 were approved, as submitted, on a motion made by Mr. Kolligian seconded by Mr. Deloria. Mr. Ramsdill, Mr. Barrett, Mr. McCracken Mr. Kolligian, Mr. Deloria and Mr. Buchyn were all in favor.

CORRESPONDENCE: None other than those relating to current applications before the board.

RENEWALS:

APPEAL NO. 06-15 Jeffrey Klein, 122 Edie Road, Gansevoort, New York, 12831. Request for the extension of a Special Permit, for the keeping of chickens with conditions; property located at 122 Edie Road, Tax Map No. 141.-2-22, zoned R-2, in the Town of Wilton. Special Permit originally granted on March 23, 2006 for a period of two years, is due for review and renewal.

Mr. Klein approached the board and stated he had thirteen hens that were fenced in, no roosters, and there had been no changes. Mr. Mykins stated there had been no issues. Mr. Kolligian asked Mr. Mykins if the same conditions apply to the continuation of the permit. Mr. Mykins said that was correct.

Mr. Kolligian made a motion to approve appeal No. 06-15 for Jeffery Klein, 122 Eddie Road, Gansevoort, New York, 12831. Request for the extension of a Special Permit, for the keeping of chickens with conditions; property located at 122 Edie Road, Tax Map No. 141.-2-22, zoned R-2, in the Town of Wilton. Special Permit originally granted on March 23, 2006 for a period of two years, renewed for another two years.

Mr. Deloria seconded the motion. Mr. Ramsdill, Mr. Barrett, Mr. Buchyn, Mr. McCracken, Mr. Kolligian, Mr. Deloria, and Mr. Zabala were all in favor. The motion passed. This permit will be due for review and renewal on or before March 23, 2016.

APPEAL NO. 12-14 Adam D. Parnham, 367 Ruggles Road, Gansevoort, New York 12831. Request for a Special Permit, for a home occupation for an internet based used car dealership; property located at 367 Ruggles Road, Tax Map No. 129.1-25.1, zoned R-2, in the Town of Wilton. Special Permit originally granted on March 22, 2012 for a period of two years, is due for review and renewal.

Mr. Ramsdill asked if Mr. Parnham was present Mr. Mykins explained he withdrew the Special Permit and is now located on Ballard Road. Mr. Ramsdill asked if it needed to be closed out. Attorney Schachner explained if the application had been withdrawn it was all set. Mr. Mykins stated it had been withdrawn. Mr. Ramsdill stated the application had been withdrawn at the applicant's request.

NEW BUSINESS:

APPEAL NO. 14-06 Jeffrey D. Pietrosanto, 4265 Route 50, Saratoga Springs, NY 12866. Request for an Area Variance for frontage for a two sided sign pursuant to Section 129-181(2), (D), (2) D. Specific regulations to sign types. (2) Detached signs. (b) Detached signs shall be set back a minimum of 30 ft. from the front property line, proposed relief of 29.00 ft.; property located at 4265 Route 50, Saratoga Springs, NY 12866, Tax Map No. 141.-2-33.12, in the Town of Wilton.

Mr. Ramsdill read a correspondence from the Saratoga County Planning Board for a favorable recommendation. The decision was; No Significant Countywide or Inter Community Impact.

Mr. Pietrosanto approached the board and explained he would like to put his sign closer to the road, at the present time the sign is so far back customers drive right by and don't know where he is located. Mr. Zabala asked how long the current

sign had been in place. Mr. Pietrosanto explained they purchased the property in January of 2014 and the main reason for purchasing the property was to have exposure on the road for his business. Mr. Kolligian asked if there was a sign there currently. Mr. Pietrosanto said there was a sign there originally apparently the gentleman who owned the business before he did didn't have a variance and he was unaware of this situation. Mr. Pietrosanto explained they replaced the existing sign with their sign and then he was informed he needed to apply for an Area Variance. Mr. Barrett commented on the position of the sign and its location being at the back of the driveway. Mr. Barrett stated the placement of the sign was going to be very close to the road. Mr. Barrett questioned the placement being so close to the road and asked if there was a compromise where it could be visible but not so close. Mr. Pietrosanto made a comment as to the placement of the other signs on the road and how close they were to the road. He explained that the sign person measured the placement of the other signs on the road and some were closer than the sign he was proposing. Mr. Pietrosanto explained that if he placed the sign back any further the trees would be in the way and he wouldn't get the visibility. He went on to explain that on the other side there is a hill and people coming from the other direction would not be able to see the sign. Mr. Mykins stated the sign would actually be 16 ft. off the edge of pavement. Mr. Kolligian asked if the proposed sign was going to be 16 ft. off the edge of pavement. Mr. Mykins said that was correct. Mr. Deloria asked if that was what the 15 ft. represents from Route 50 that is basically the edge of pavement, or the highway boundary, or the lot line. Mr. Mykins stated it was between the edge of pavement and the property line that is considered the right of way.

Mr. Ramsdill asked if there were any questions or public comment. There were none. Mr. Ramsdill stated he was recusing himself from voting on this appeal.

Mr. Kolligian asked Mr. Mykins if there were any other issues with signs on Route 50. Mr. Mykins said there were none. Mr. Barrett stated it was a real rural part of Route 50. Mr. McCracken asked if that was the average distance, from the edge of the road for the signs on that part of Route 50. Mr. Mykins stated the distance depends on the lot. He explained some of the lots run much closer to the road and to have the sign back 30 ft.; some of the signs have been there prior to the zoning and sign laws, such as Adopt a Soldier.

Mr. Deloria made a motion that Appeal No. 14-06 Jeffrey D. Pietrosanto, request for an Area Variance for front yard setback, detached, two sided sign, pursuant to Section 129-181(2), (D), (2) D. Specific regulations to sign types. (2) Detached signs. (b) Detached signs shall be set back a minimum of 30 ft. from the front property line, proposed relief 29.00 ft.; property located at 4265 Route 50, Saratoga Springs, NY 12866, Tax Map No. 141.-2-33.12, in the Town of Wilton be granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The

applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because: In reality it's 16 ft. from the highway boundary and there are other signs in proximity to the roadway in that corridor. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by area variances because: Limitations of sight based on topography and trees. 3. The applicant has demonstrated that the requested Area Variances are not substantial because: Other than putting in the sign there are no other major changes to the property. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: This is the only change that will be made to the property. 5. The applicant has demonstrated that the alleged difficulty was self-created in this case because he is asking for relief to relocate the sign for his own benefit and with any other conditions that need to be adhered to.

Mr. McCracken seconded the motion. Mr. Deloria, Mr. Kolligian, Mr. Barrett. Mr. McCracken, and Mr. Zabala, were all in favor. Mr. Buchyn was opposed, Mr. Ramsdill recused himself.

APPEAL NO. 14-07 Stewart Construction Inc., PO Box 42, Burnt Hills, NY 12027. Request for Area Variance for lot located on a cul-de-sac, front and rear setbacks are 50.00 ft., proposed relief for front and rear setbacks of 4.00 ft.; pursuant to Schedule "A" Residential District and Section 129-157, projections into required yards; property located at 6 Connors Way, Saratoga Springs NY 12866, Tax Map No. 140.11-2-3, in the Town of Wilton.

Ms. Stewart approached the board. Mr. Ramsdill asked Ms. Stewart what she would like to do. Ms. Stewart explained they were asking for a variance for a lot line setback for 4 ft. on the front and 4 ft. on the rear, in order to put a plan together for their customers that have had their heart set on this for some time.

Mr. Ramsdill asked if there were any questions from the board. Mr. Zabala asked about part of the proposed driveway coming very close to the lot line and wanted to know if that was acceptable. Mr. Mykins stated yes, the driveway was 5 ft. Mr. Zabala explained he couldn't tell the distance on the proposed survey. Mr. Barrett stated they were basically asking for the variance because of the weird shape of the front of the lot and it's on a cul-de-sac so you are on the inside of the outside diameter of the curve and going to shorten up the lot artificially in the center. Ms. Stewart explained that it limits the size of the buildable lot and the plans that are available to be put on the lot in this particular neighborhood. Ms. Stewart further explained that the way the setbacks are, 50 ft. on the front and back, and it being

on the curve it ends up being very small buildable space for that particular lot. Mr. McCracken asked how many square feet the house was. Ms. Stewart stated the house was 3002 sq. ft. Mr. McCracken asked if that was a standard size within that community. Ms. Stewart said yes it was and that the house was actually on the small side. Mr. Ramsdill stated that there was a tiny bump out in the back that was also causing some problems and that it was not the full length of the house. Ms. Stewart agreed with Mr. Ramsdill. Mr. Barrett stated that he had driven over there that day and said the house would be roughly the same as any other house in the neighborhood. Mr. Kolligian asked Ms. Stewart if that was the last buildable lot in the subdivision. Ms. Stewart said it was. Mr. Kolligian asked if there had been any other variances for any other homes in the subdivision. Mr. Mykins said no, the other lots were slightly larger.

Mr. Ramsdill asked if there were any questions or comments. There were none.

Mr. Kolligian made a motion that Appeal No. 14-07 Stewart Construction, request for an Area Variance, lot locate on a cul-de-sac, front and rear setbacks are 50.00 ft., proposed relief for front and rear setbacks of 4 ft.; pursuant to Schedule "A" Residential District and Section 129-157, projections into required yards; property located at 6 Connors Way, Saratoga Springs NY 12866, Tax Map No. 140.11-2-3, in the Town of Wilton, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variances because: The design of the proposed home is in keeping with the character of the other homes in the neighborhood. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because: The lot is extremely shallow when taking into account the front and rear setbacks, in conjunction with the design from the architect and engineers. 3. The applicant has demonstrated that the requested Area Variances are not substantial because: The parts of the home that will protrude into the setback are narrow (15' wide) gable on the front of the garage (plus a bit of the porch) and a narrow section of the family room in the back. The main body of the home is within the setbacks. 4. The applicant has demonstrated that the requested area variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: The design of the home does not create any more storm water runoff than any home that might fit into the required footprint, and is not oversized in relation to any other design in the neighborhood. As Ms. Stewart mentioned it is actually on the smaller side for the homes that are in the little development. 5. The applicant has demonstrated that the alleged difficulty is not self-created because: Given the overall width of the approved subdivision and the required width for the cul-de-sac and right of way, and the

required front and rear setback of the lot, only 46' of depth was left for the home, thus requiring the 4 ft. of additional variance.

Mr. Barrett seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. McCracken, Mr. Buchyn, Mr. Barrett, Mr. Kolligian and Mr. Zabala were all in favor. The motion passed.

APPEAL NO. 14-08 Trojanski Builders Inc., 120 West Avenue, Saratoga Springs, NY 12866. Request for an Area Variance pursuant to special setbacks assigned for McGregor Estates subdivision and Section 129-157 projections into required yards; proposed setbacks are 9.70 ft. side on the east side, relief requested is 15.30 ft., side yard setback on the west side of the existing structure is 24.20 ft., relief requested is .80 ft., proposed rear yard setback is 18.30 ft., relief requested is 31.70 ft.; property located at 63 Fieldstone Drive, Wilton NY 12831, Tax Map No. 140.7-2-11, in the Town of Wilton.

Mr. Trojanski approached the board and introduced himself and explained he was representing Mr. and Mrs. Boggs. Mr. Trojanski stated that the Boggs purchased the house in April of 2013 and Trojanski Builders has been doing work for them since they moved in. Mr. Trojanski explained that the Boggs want to do an addition on the back, which would replace an existing structure. Mr. Trojanski further explained there was no existing survey of the property so they had one done and found out that all the setbacks were not met. He stated the proposed addition was going to be a 10 ft. x 14 ft. addition onto their kitchen with a covered area behind it, which would be a patio. Mr. Trojanski said when the survey was done it was discovered a lot of the setback violations were previously violated and a variance would be needed to put the addition on. Mr. Ramsdill asked if this was a pre-existing non-conforming issue. Mr. Mykins explained it really was not a pre-existing non-conforming issue because back then the town did not require a final survey, the builder would have had to build within the constraints of the lot and the builder didn't. Mr. Mykins said it was a pre-existing condition but it was not considered a pre-existing non-conforming use of the property. Attorney Schachner stated meaning not a valid one. Mr. Mykins said that was correct. Mr. Trojanski explained there was an existing 10 ft. x 14 ft. structure that was a covered porch. Mr. Barrett stated there is a structure where the 10 ft. x 14 ft. is and you want to make it a kitchen. Mr. Trojanski stated yes, and explained the structure was not structurally stable so it was taken down, but it did exist there. Mr. Barrett asked if it was going to be made a permanent part. Mr. Trojanski answered yes it will be. Mr. Barrett asked Mr. Trojanski if they were adding a ten foot deck out the back. Mr. Trojanski explained that it would be a covered patio area. Mr. Ramsdill clarified they were only altering the footprint by adding the 10 ft. x 10 ft. patio off the back from what is existing. Mr. Trojanski said that was correct. Mr. Deloria asked if area where the patio was going was lawn or landscaped, and if any trees had to come down. Mr. Trojanski answered yes it

was lawn and no trees had to come down. Mr. Zabala asked if the neighbors had been shown the drawings. Mr. Trojanski made a reference to the all the neighbors that came to the public hearing. Mr. Kolligian asked if the neighbors where there in support. The neighbor's response was yes. Mr. Kolligian explained he was the backyard neighbor and his only question did not have anything to do with the fact that he would approve or deny the appeal at all. Mr. Kolligian stated they were replacing the 10 ft. x 12 ft. structure would they consider putting the 10 ft. x 10 ft. patio to the right, as opposed to going out the back. Mr. Trojanski explained that the septic system was located in that area. Mr. Trojanski continued to explain the home owners had been making improvements to the property since they had moved in, such as digging down the foundation because it had cracked substantially the house was built on top soil when they dug down the tree roots were 4 ft., below the ground. There will be no sump pump. A drain will be put around the existing foundation to give them some water protection. Mr. Kolligian explained that from the golf course's perspective you always have to be concerned about the neighbors that scream about the golf balls in the backyards. The golf course tries not to promote anybody getting any closer to the golf course. Mr. Boggs stated that's why he bought on the tee instead of by a whole. Mr. Kolligian answered Mr. Boggs saying you would be surprised. Mr. Boggs then stated there was a fairly good setback of trees behind our houses (referring to his neighbors). Mr. Ramsdill explained he was going to formally open the public comment, even though it had already started, to make sure it was stated for the record.

Mr. Ramsdill asked if there were any further questions. There were none.

Mr. Kolligian began to make a motion, Attorney Schachner explained he was going to interrupt to save time and suggested that Mr. Kolligian not be the movant because of his proximity. Mr. Kolligian explained that was why he was kind of waiting, thank you. Attorney Schachner stated he didn't want to interrupt but that was what he suggested.

Mr. Barrett made a motion that Appeal No. 14-08 Trojanski Builders , request for an Area Variance for special setbacks assigned for McGregor Estates subdivision and Section 129-157 projections into required yards; required setbacks are 30ft. front yard, 25 ft. side yard, and 50 ft. rear yard; proposed setbacks are 9.70 ft. on the east side, relief requested is 15.30 ft., 24.20 ft. on the west side, relief requested is .80 ft., 18.30 ft. rear yard, relief requested is 31.70 ft.; property located at 63 Fieldstone Drive, Wilton NY 12831, Tax Map No. 140.7-2-11, in the Town of Wilton was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the area variances because: It's replacing a covered porch that was already there, they are just closing it in and

making it a permanent part of the structure. They are adding a 10' x 10 patio out the back; it can't be added to the side because of the placement of the septic system. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because: The placement of the septic system and they are replacing of the existing covered porch. 3. The applicant has demonstrated that the requested Area Variances are not substantial because: The rear yard addition and kitchen are just replacing a structure that was previously there and that was a covered porch. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: The neighbors are going along with it and approve it. It's not going to be that much closer to the property line than the existing addition was. 5. The applicant has demonstrated that the alleged difficulty was not self-created because the house is forty years old and was not built to code at the time and can't be changed. The applicant has 18.3 ft. requirement is a 50 ft. rear yard setback relief requested is 31ft. the east yard setback requirement is 25 ft. the applicant has 9.7 ft. relief requested is 15.3 ft. and the west yard setback requirement is 25 ft. the applicant has 24.2 ft. relief requested is .8 ft. .

Mr. McCracken seconded the motion. Mr. Ramsdill, Mr. Deloria, Mr. Kolligian Mr. Buchyn, Mr. McCracken, Mr. Barrett, and Mr. Zabala were all in favor. The motion passed.

ADJOURNMENT:

Mr. Kolligian made a motion to adjourn the meeting at 7.25 p.m. Mr. McCracken seconded the motion. All board members were in favor. The motion passed.

Dated: _____

Amy DiLeone
Zoning Clerk