

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY August 22, 2013**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, August 22, 2013, at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman Joseph O'Brien at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Joseph O'Brien, Dean Kolligian, James Deloria, Dean Kolligan, Tony McCracken, and Dave Buchyn. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

**ABSENT:** Christopher Ramsdill, Robert Barrett, and Rocco Angerami.

**MINUTES:** The minutes of the last meeting, held on July 25, 2013, were approved, as submitted, on a motion made by Jim Deloria seconded by Dean Kolligan. All board members were in favor.

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

**RENEWALS:**

**APPEAL NO. 81-14** Renewal of a Special Permit for the Wilton Rod & Gun Club, 153 Edie Road, Gansevoort, New York, 12831, pursuant to Section 129-176 (Q), formerly Section 129-36 (E), of the Zoning Ordinance, for the temporary placement of a mobile home on property located on Edie Road, Tax Map No. 128.00-1-6, in the Town of Wilton, zoned R-2.

Mark Mykins stated the applicant asked the special permit be removed. The mobile home has been demolished and removed from the property.

**APPEAL NO. 93-18** Diane Esposito, 61 Davidson Drive, Saratoga Springs, New York 12866. Request for the renewal for a Special Permit for the temporary placement of a mobile home, to resolve a personal hardship: property located at 61 Davidson Drive, Tax Map No. 140.14-1-34, zoned R-1. Special Permit originally granted August 23, 1993, and has been renewed several times.

Diane Esposito appeared before the board.

Chairman O'Brien asked Mrs. Esposito if she would like to renew the special permit. Mrs. Esposito said she would.

Chairman O'Brien asked if there were any complaints. Mr. Mykins said there have been none.

Mr. Kolligian made a motion that Appeal No. 93-18, the request for the extension of a Special Permit originally granted on August 26, 1993, be granted for a period of two years. Mr. McCracken seconded the motion. Mr. Kolligian, Mr. Buchyn, Mr. McCracken, Mr. Deloria and Chairman O'Brien were all in favor. The motion passed. This permit will be due for review and renewal on or before August 26, 2015.

**APPEAL NO. 09-15** Debra Pechette, 22 Amy Lane, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit, pursuant to Schedule B and Section 129-176 (C) of the Zoning Ordinance, for a home occupation for a floral business; property located at 22 Amy Lane, Tax Map No. 141.15-1-50, zoned R-2, in the Town of Wilton. Special Permit originally granted on August 27, 2009 for two years.

Gary Pechette appeared before the board. The clerk noted an email was sent from Debra Pechette allowing her husband to represent her.

Chairman O'Brien asked Mr. Pechette if he would like to renew the appeal. Mr. Pechette said he would.

Chairman O'Brien asked if there were any complaints. Mr. Mykins said there have been none.

Chairman O'Brien asked if there were any questions. There were none.

Mr. McCracken made a motion that Appeal No. 09-15, the request for the extension of a Special Permit, be granted for a period of two years. Mr. Kolligian seconded the motion. Mr. Kolligian, Mr. Buchyn,, Mr. McCracken, Mr. Deloria and Chairman O'Brien were all in favor. The motion passed. This permit will be due for review and renewal on or before August 27, 2015.

**APPEAL NO. 11-22** Renewal of a Special Permit for Jacob Wolhart, 7 Carr Road, Saratoga Springs, New York, 12866, pursuant to Schedule A and Section

129-176 (C) of the Zoning Ordinance, for a home occupation as a gunsmith/firearms dealer; property located at 7 Carr Road, Tax Map No. 140.-2-38, zoned R-1, in the Town of Wilton.

Mark Mykins stated the applicant asked that the Special Permit be removed. The applicant has moved out of the area.

### **OLD BUSINESS:**

**APPEAL NO. 13-26** Rucinski Hall Architecture, 627 Maple Ave, Saratoga Springs, NY 12866. Request for an area variance pursuant to Schedule A, R-1 Residential District to convert a single family dwelling into a two-family dwelling for a proposed two-family dwelling and garage; at above said address. Tax Map No. 127.12-1-14, zoned R-1 in the Town of Wilton.

Mark Mykins stated that Rucinski Hall will be tabled until the next meeting.

Mr. Deloria made a motion to table Appeal No. 13-26 until September 26, 2013. Mr. McCracken seconded the motion. All board members were in favor. The motion passed 5-0.

**APPEAL NO. 13-27** Rucinski Hall Architecture, 627 Maple Ave, Saratoga Springs, NY 12866. Request for a special permit to §129-176 P, R-1 Residential District to convert a single family dwelling into a two-family dwelling and garage; at above said address. Tax Map No. 127.12-1-14, zoned R-1 in the Town of Wilton.

Mr. Deloria made a motion to table Appeal No. 13-27 until September 26, 2013. Mr. McCracken seconded the motion. All board members were in favor. The motion passed 5-0.

### **NEW BUSINESS:**

**APPEAL NO. 13-30** William and Judy Morris, 36 Old Gick Road, Saratoga Springs, NY 12866. Request for an area variance pursuant to Schedule A, R-1 District for a corner lot in a proposed subdivision; property located on Traver Road, Gansevoort, NY 12831, Tax Map No. 115.-1-26, in the Town of Wilton.

Chairman O'Brien stated we have a letter a letter from the Planning Board dated July 17, 2013.

"Please be advised that the Wilton Planning Board reviewed the above-referenced application by William J. Morris for an area and frontage variance at its meeting held on July 17, 2013. The applicant is seeking these variances due to a request from the Wilton Planning Board to align the entry road to the proposed Morris Subdivision with Kings Mills Road to enhance safety of the traveling public as well as a safety consideration for the Wilton Highway Department when plowing snow at the intersection.

The following action was taken:

Harold VanEarden moved for a positive recommendation to the ZBA regarding applicant's request for an area variance and for a frontage variance pursuant to Schedule A, R-1 Residential District for the proposed 19-lot conventional subdivision being proposed by William J. Morris. Donald Needham seconded the motion which passed with all board members in favor.

If you have any questions, please contact me, Michael G. Dobis Chairman, Planning Board".

Bill Morris appeared before the board and explained there proposing a subdivision on thirteen acres of land on the south side a Traver Road. Wilton Planning Board requested the alignment of the proposed road with Kings Mills Road. The subdivision has been re-drawn with the roads aligned. Wilton Planning Board liked this new design. The land is being purchased based on what is allowed. The corner lot as a requirement is more than an interior lot for area and for frontage. The lot has to have 150 ft. on each street and 30,000 sq. ft. on all interior lots, which it meets or exceeds. The lot on Traver Road needs relief on the area and frontage. This lot still would exceed all of the interior lots in area and frontage.

Chairman O'Brien asked if there were any questions for Mr. Morris.

Mr. Deloria questioned the square footage of the interior lots being less than 30,000 sq. ft. Mr. Morris clarified that only corner lots have to have 30,000 sq. ft., interior lots have to be 20,000 sq. ft.

Mr. Kolligan questioned the square footage of the corner lot on the map showing an area of 25, 047 sq. ft. and the application showing 24,347 sq. ft. Mr. Morris

stated the current survey map shows the correct square footage as being 24,347 sq. ft. the same as shown on application.

Chairman O'Brien asked if there were any more questions. There were none.

Mr. McCracken made a motion that Appeal No. 13-30, William and Judy Morris, 36 Old Gick Road, Saratoga Springs, NY 12866. The request for an Area Variance 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 or a detriment to nearby properties will not be created by granting of the area variance because: The lot will still be larger than most in the neighborhood. The lot is still smaller than what the requirement is. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some methods feasible for the applicant to pursue, other than an area variance because: A Planning Board request for the two intersections to line-up. 3. The applicant has demonstrated that the requested area variance is not substantial because: The lot will still be larger than most in the neighborhood and there for is the same as No. 1. 4. The applicant has demonstrated that the requested area variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because: The lot will still be larger than most in the neighborhood. 5. The applicant has demonstrated that all alleged difficulty was not self-created because: The request was made by the Planning Board to realign the roads.

Mr. Deloria seconded the motion. Mr. Buchyn, Mr. McCracken, Mr. Kolligan, Mr. Deloria, and Chairman O'Brien were all in favor. The motion passed 5-0.

**APPEAL NO. 13-31** Christopher Becktoft, 54 Woodard Rd., Gansevoort, NY 12831. Request for area variances pursuant to Section 129-157 and Schedule B, R-2 Residential District for an addition to an existing home; property located at 54 Woodard Road, Gansevoort, NY 12831, Tax Map No. 101.-1-76, in the Town of Wilton.

Mr. Becktoft addressed the board stating that he would like to put an addition on the back of the house. The addition would be accessible from the existing house and garage. Mr. Mykins stated that there are some pre-existing structures on the property that need variances. Attorney Schachner stated all the information is on the Zoning Officer's chart which is attached to the application located in your packet. Mr. Deloria questioned a number on the chart. Mr. Mykins clarified that it should be 19.5 ft. Mr. Kolligan stated because the addition will be connected to

the back of the house it will be granted already it's grandfathered in. Mr. Mykins said right now it's pre-existing but he is coming in for an expansion of the use. At this point we try and clean the property up so there aren't any problems.

Chairman O'Brien asked if there were any questions or concerns. Mr. Kolligian asked Mr. Mykins if we would be granting him more than one variance in order to clean up the property. Attorney Schachner answered he would suggest if the board is inclined to do this, as Mark said it would bring the property into compliance. If there is no objection, he said he would suggest going through each one or refer to the zoning chart and each of the reliefs requested without having to specify. This chart can be part of and attached to the motion of approval.

Mr. Kolligian made a motion that Appeal No. 13-31 Christopher Becktoft, 54 Woodard Rd., Gansevoort, NY 12831. The request for area variances pursuant to Section 129-157 and Schedule B, for a 102.43' frontage variance, 28.80' side yard setback variance for a pre-existing garage, west side, 37.7' side yard setback, northwest side for a pre-existing two story garage, 4.80' side yard setback variance for proposed addition, 40' side yard setback variance for pre-existing sheds, southeast side, 9.50' front yard setback variance for pre-existing home, 9.0' side yard setback for a pre-existing deck, southeast side, pursuant to for an addition to an existing home; property located at 54 Woodard Road, Gansevoort, NY 12831, Tax Map No. 101.-1-76, 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; It's an addition to an existing home, the requested relief is just under 5 feet 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; it could be eliminated by 5 feet but in this case that is not necessary. 3. The applicant has demonstrated that the requested area variances are not substantial because; of the amount of footage they are asking for in relief. 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; There have been no objections or concerns. 5. The applicant has demonstrated that the alleged difficulty was not self-created because; the addition is not detrimental to the physical environment and conditions of the neighborhood.

Mr. McCracken seconded the motion. Mr. Kolligian, Mr. Buchyn, Mr. McCracken, Mr. Deloria, and Chairman O'Brien were all in favor. The motion passed 5-0.

**APPEAL NO. 13-32** Saratoga Health and Wellness, 30 Gick Rd., Saratoga Springs, NY 12866. Request for area variances pursuant Schedule N, CR-1 Commercial/Residential One District and 129-174 C. for the construction of a fitness center; property located at 538 Route 9, Saratoga Springs, NY 12866, Tax Map No. 153.9-1-8, in the Town of Wilton.

Chairman O'Brien stated we have a letter from the Town of Greenfield.

"Dear Mr. Mykins: The town of Greenfield Planning Board and Town Board have each reviewed the proposed project for Saratoga Health and Wellness to be located at 538 Route 9.

The major concern expressed by each Board was for traffic and the impact to the already heavily traveled area of the Maple Avenue Middle School, which we are certain that the Town of Wilton Planning and Zoning Boards will be carefully reviewing."

Chairman O'Brien stated we have a letter from the Wilton Planning Board Dated August 21, 2013.

"Please be advised that the Wilton Planning Board reviewed the above-referenced application by Saratoga Health and Wellness for variances for frontage, landscape buffer and side yard setback at its meeting held on August 21, 2013

The following action was taken:

Ron Slone moved for a positive recommendation to the ZBA regarding applicant's request for variances for frontage, landscape buffer and side yard setback pursuant to Schedule N, CR-1 Commercial/Residential District for the proposed 15,000 sq. ft. building being proposed by Saratoga Health and Wellness. Donald Needham seconded the motion which passed with all board members in favor."

Mr. Dannible of Environmental Design Partnership appeared before the board. Mr. Dannible is representing Saratoga Health and Wellness and their application for a 15,000 sq. ft. mixed use building. Also present were Mr. Lapolla and Mr. Galuadi, owners of Saratoga Health and Wellness. Mr. Dannible cited the location of the property as being on Route 9 across from Maple Avenue Middle

School next to the Endodontic Office. Mr. Dannible stated the majority of the proposed 15,000 sq. ft. mixed use building would be occupied by Saratoga Health and Wellness for their medically minded fitness center. Proposed is the modification of the existing residential curb cut on Route 9 with a commercial curb cut accessing the parking lot that provides parking for 75 cars which meets all setbacks. The proposed variances are; 1. Northern property 30ft. to 13ft. = 17ft. side yard building setback area variance from the northern property boundary. 2. Southern property 50ft. to 15 ft. = 35 ft. variance from the planted landscape buffer to abutting residential properties along side property boundaries from the front of the building to the rear property line. 3. Frontage 200 ft. to 160 ft. = 40 ft. variance for minimum frontage adjacent to route 9. The frontage on Route 9 has since been surveyed and was verified to be 170 ft. as opposed to 160 ft. The variance would be for a lesser amount than first proposed. The amount would be for a 30 ft. variance as opposed to a 40 ft. variance. Mr. Mykins stated that the drawing shows a 19 ft. landscape buffer on one side. Mr. Dannible stated that is the accurate dimension if that's what is listed on the drawing. Mr. Mykins stated it would be a 31 ft. variance. Mr. Dannible agreed. Mr. Dannible explained the need for the buffers knowing the property is adjacent to residential property. This area of the property has about a 34 ft. to 36 ft. landscape buffer that will be installed as part of this project. The property to the south is the one that has the greatest possibility of having any potential impacts. There is a residence with a garage or shed structure this is where the 30 ft. – 36 ft. buffer would be placed. The 19 ft. buffer would be placed in the back. This would be the best way minimize any impacts to this property. For the frontage variance itself, the parcel is what it is; the applicant has it under contract, it's 170 ft. along the front of the property, no use could be put on this property without a variance. The minimum frontage within the zone is 200 ft. for commercial uses. The variance that would pertain to the northern property line is very similar to the variances that were granted for the dentist office on the corner. Currently this is a residential use on this property; the dentist office on the corner was constructed approximately 15 ft. from a residential property. That is why this is not a significant variance for the 13 ft. The 13 ft. would enable us to push the building and the parking up thus increasing the landscape buffer along the southern property line. This is one of the reasons this is not substantial and not going to be a detriment to the community. One of the criteria looked at was can we accomplish what we are looking to do by any other means. The adjacent land owner to the south does not have much land area to work with and substantial variances were granted all the way around this property. The property to the south was looked at and there is not a feasible option to purchase the property. The owner does not appear to be willing to sell at this time for a monetary value that would give the applicant the ability to build on that property. Mr. Blauvelt of Birchwood Drive (member of audience) stated small correction Mr. Dannible that is the property to the north not the south. Mr. Dannible said the owners of the property to the north had been spoken to and the property doesn't have enough



land to help out with these variances. The property owner to the south was also spoken to, may be willing to sell. A feasible price has not yet been achieved between the applicant and the land owner to the south at this time.

Chairman O'Brien stated we have a letter from the Saratoga County Planning Board.

**RE: SCBP Referral Review#13-127 Variances-Saratoga Health and Wellness**

New construction for an indoor fitness center. Two area variances  
Requested:

1. Lot width: 200 feet required vs. 160 feet existing
2. Side yard setback; 30 feet required vs. 13 feet it has

NYS Route 9/Maple Ave abutting town line (Town of Greenfield)

Received from the Town of Wilton Zoning Board of Appeals on August 6, 2013

Reviewed by Saratoga County Planning Board on August 15, 2013

**Decision:** No Significant County Wide or Infer Community Impact

**Comment:**

While not a requirement for the area variance, the site will require a new/commercial curb cut permit from NYS DOT. The applicant should contact Chad Corbett at the Saratoga Springs West Avenue Residency of DOT (584-3790).

The proposed project, which involves the demolition of the current structure (a nonconforming residence) to build a new 15,000 sq. ft. indoor recreation/fitness center, is located in the CR-1 District along NYS Rt. 9. The property is a pre-existing, nonconforming lot of 76,230 sq. ft. (where 40,000 sq. ft. is required) with insufficient lot frontage (160' vs. 200') which needs a 17-ft. variance to meet the required side yard setback. The record should show evidence of the applicant's efforts to purchase land from owners on north and south and verify that those efforts were not workable.

Mr. and Mrs. Rapant land owners of the south property approached the board. Mr. Rapant explained they had been approached by several businesses over the past few years regarding the purchase of their property, and were unable to come to terms. Mr. Rapant stated this proposal is overwhelming to us all we can say is "wow", to look out of our little tiny house that is one fifth of the building proposed. Mrs. Rapant tried to obtain further information on the process from the Wilton Building Department, and was very unhappy with the answers she received. Mrs. Rapant stated that the people she spoke with were not present at the meeting, and she did not know their names.

Mrs. Rapant stated that they offered fair market value for their property to Mr. Lapolla and Mr. Galuadi, and have been in correspondence with them. Mr. Dannible asked Mrs. Rapant to elaborate on what the fair market value of the property was. Mr. Rapant said three years ago when they spoke with realtors they were told put the entire 5 acre block at about 4.5 million dollars. Mr. Rapant stated has spoken to his neighbor to the south Mr. Primeau and he was willing to sell if Mr. and Mrs. Rapant were going to sell. Mr. Rapant stated that everyone is willing to sell at the same time, and this would allow you to have a 5 acre parcel.

Chairman O'Brien asked Mr. Mykins if he was going to say something. Mr. Mykins explained he had not spoken with anyone regarding this parcel, and he was the one with all the information. Mrs. Rapant expressed she thought Mr. Mykins was on vacation. Mr. Mykins assured Mrs. Rapant that the Building Department was not trying to blow her off or not help her. The lack of information available to Mrs. Rapant was due to Mr. Mykins being on vacation and unavailable to address her concerns.

Mrs. Rapant stated she is concerned about the variance to the south. In this proposal their intent is to put a ditch on the property, she fears that this is too close to their property and it will cause damage to their house and shed. Mrs. Rapant stated the next concern was the tamping of the pavement, possibly cracking their foundation. There were prior issues when the school across the street paved their parking lot. Ken Merchant had to install some pilings in the Rapant's basement after the paving was done at Maple Avenue Middle School. Mrs. Rapant expressed she would like to see a guardrail on the driveway side to protect their family while playing in the yard.

Mr. Rapant stated that Mr. Dannible, Mr. Lapolla, and Mr. Galuadi have been very courteous and informative. They have expressed some other ideas as far as doing away with the ditch and trying to make things work.

Chairman O'Brien stated the board has given quite a few variances along Route 9 because of the size of the property we have been dealing with. There is so

much more commercial building going on, and it's going to continue to go on. Mrs. Rapant agreed with Chairman O'Brien's statement.

Mr. Dannible stated the use of the property being proposed is consistent with the CR-1 zoning to allow a commercial business at this sight. Several variances have been issued along Route 9 due to the lots being narrow. One of the variances was on Dr. Gabay's property. Mr. Dannible stated there is a building that was allowed to be constructed 15 ft. from a residential property. The pavement of the proposed property would be no closer than 30 ft. - 34 ft. along that property. The other pavement edge would be no closer than about 30 ft. – 34 ft. to the residential property. The building itself would be closer to 60ft. from any residential property. The side yard setbacks are met on the southern side and the side yard setbacks for pavement are also met. The landscape buffer can be made fairly substantial within 30 ft. The ditch along the property is something that can be addressed at site plan review level. There is a storm water management area that is being proposed at the back of the property. The majority of the water on the property would flow to the back of the property due to the general slope of the property from Route 9 down towards the Loughberry Lake.

Mrs. Mattison asked Mr.Dannible what was going to happen in the rear of the property. Mr. Dannible explained there is a parking lot with proposed sheet drainage to a storm management infiltration basin in the back. Mrs. Mattison asked how the drainage would work. Mr. Dannible explained water falls on the surface runs across the surface, probably would have a gravel diaphragm to help divert some of the sediment, such as sand from the parking lot that would go into an infiltration basin. The infiltration basin would comply with all the New York State regulations for an infrastructure. Mrs. Mattison asked if the parking lot in the back would be sloped toward the back. Mr. Dannible said yes the parking lot would be sloped toward the rear. Mrs. Mattison stated she owns property behind the proposed property, and the water is a concern for her. Mr. Dannible asked if the property wasn't National Grid Property. Mrs. Mattison stated her property was behind the National Grid Property. Mr. Dannible explained there would be an additional 50 ft. of wooded area between the rear of our property and your property. Mrs. Mattison voiced her concern regarding; the water being directed toward her property, the visual with no buffer on the back of the property, and the lots that she owns will be looking at a parking lot and trash.

Chairman O'Brien recognized Mr. Blauvelt. Mr. Blauvelt stated New York State Law does not allow them to pass any water from their surface onto your properties. It has to be maintained on theirs, if the basin is in the back, and the water is flowing to the back, it has to stay there. It can't go onto National Grids land or onto your land. Mrs. Mattison asked where the water was going to go. Mr. Mykins explained it goes into a basin and seeps into the ground. Just like the water off your driveway seeps into the ground, it's the same scenario. Mrs.

Mattison stated that there is already backup of water there. Mr. Mykins explained that there isn't a drainage basin back there, there isn't an area to collect that water and give it time to seep into the soil.

Mr. Dannible explained that these are all issues that need to be worked through and be engineered during the Site Plan review portion. They would have to comply with town regulations and New York State regulations. What we are doing here will comply with all regulations, or it will not be signed off on.

Mr. Rapant questioned the effects of the water issue pertaining to the drinking water supply at the bottom of the hill, toward Loughberry Lake. He explained the creek at the bottom right behind there runs into Loughberry which is also Saratoga's drinking water. Mr. Mykins stated Dr. Turco's property does the same thing. His parking lot basically runs off into an area in the woods where his collection area is. Mrs. Mattison stated with all due respect he has quite a bit of land between his parking lots. Mr. Mykins explained the effect, as far as your concern, is there would be no effect on the water supply. It's the same as the run off on Route 9 or anywhere else. Basically it's going to run to that basin and as it seeps through the soil it's filtered. That is the norm and it's no different than anyone's driveway or road. Mr. Dannible stated New York State DEC wants the filtration to occur on the site that is their big push for green infrastructure practice. Mr. Rapant expressed concern regarding getting water on his property in the spring, between the house and shed area. The amount of water that collects there could probably fill a water truck. The grade will be going towards the rear so the front of the property is going to be high enough to create more issues with water in that same area in the front. Mr. Rapant stated had spoken to a landscaper and his suggestion was to pipe the water from the front parking lot to the back instead of doing a ditch. Mr. Dannible stated that's an issue we would have to work out at the site plan review level. There are certain regulations about where we can place these basins, what impacts we can have, and how much water we can manage. All of those code regulations will be met.

Chairman O'Brien asked if there were any other questions from the audience or board members.

Mr. Kolligian referenced the letter from the Saratoga County Planning Board and asked if they had gotten in touch with the New York State DOT. Mr. Dannible stated the initial call had been made and essentially they are aware of the traffic at this intersection. There is a half an hour in the morning and a half an hour at night they have their main traffic. They have started to talk with a traffic engineer and have put together a chart of all the check-in times for the proposed business. Mr. Dannible explained, the school itself; traffic pattern is most prevalent 7:20 AM. – 7:50 AM. in the morning. There has been six months of data during week day check-in time and there are seven people in that 7:00AM. hour, that would

enter the proposed facility. It would be adding no more than twelve trips during the peak hour when the traffic is bad in that area. The business is not run on appointments, clients can come when they like. If traffic is bad at certain times of the day people will probably avoid those times. It will have no major contribution to the traffic issue that exists and has existed at the intersection of Loughberry and Maple Avenue School. It will be looked at further as we move forward on the site. Mr. Kolligian asked about the ingress and egress being outlined as such, that's before you consulted with the DOT. Mr. Dannible stated the DOT has said the property has only one point of access and will have to be allowed a curb cut, whether it will be a full right in right out is to be determined. It will not be allowed to move closer to the intersection it is down to the property line to the edge of pavement it has to be at least 5 ft. from there. The detailed engineering has not been done yet. The intent is to push the entrance as far away from the intersection as possible to minimize any of the impacts. Mr. Deloria stated if the buffer is kept, you really can't move it closer to the school intersection and you can't go closer to the south, it has to stay where it is. Mr. Dannible agreed.

Chairman O'Brien asked if there were any other questions.

Mr. DeLoria asked about lighting. Mr. Dannible explained there would be some lighting. Dr. Deloria asked if the lighting would be the same as the school. Mr. Dannible said it was going to be a much lower light and would have froth luminaires that block any light from bleeding of the property. If a light pole were to be used there would be a shield on it, all the light would be directly thrown to the north.

Mrs. Mattison voiced her concern about a buffer being placed on the back of the property to block the view of the parking lot and the building from their property. Mr. Dannible explained we are going to landscape and make the property as attractive as possible. There will be shade trees in the lot; something will be done along the rear property line to help soften the views from the property in the back. The existing property in the back is fairly open; there are some trees, for the most part it is an open lawn area with some pine trees. A significant amount of vegetation will not be removed from this area. Mrs. Mattison stated you are going right to the National Grid line. Mr. Dannible said yes. Mrs. Mattison stated that is taking out what is there. Mr. Dannible stated what is there is mostly lawn with some evergreen trees on it. Mrs. Mattison said that was correct and it is a nice buffer with some wildlife, and a woodsy effect. She would like to see a nice buffer similar to what is being proposed on the south side. Mr. Dannible said it would be worked on during the Site Plan process and the Planning Board would probably like to see some kind of a buffer in the back. These plans are going to go through a completely different design phase; this is a concept view that was presented to the Planning Board to see what they thought initially. Variances are required

because the lot is so narrow. All issues such as buffers, storm water management, lighting, grading and drainage will be addressed in detail.

Chairman O'Brien asked if there were any concerns.

Chairman O'Brien asked if anyone would like to make a motion or requests more information.

Mr. Deloria asked if the decision could be tabled so some of the concerns from the adjoining land owners could be addressed. He also asked for a revised sketch. Mr. Dannible stated the questions that need to be addressed were more site plan related and not necessarily related to the variances. Chairman O'Brien recognized Mr. Blauvelt. Mr. Blauvelt stated that everything being discussed such as, water staying on the property, and buffering meeting all of the requirements, are site plan issues. The Planning Board takes into consideration the comments of the neighbors. There will be another public hearing after this with the Planning Board where they can voice their concerns again. Chairman O'Brien stated we can require buffering if we want to. Mr. Blauvelt agreed. Chairman O'Brien said we could ask them to show it on a map. Attorney Schachner stated that some of criteria that must be weighted in judging the area variance application are the impact on surrounding neighbors and community character. It's not fair to characterize your decision as not having had blinders on and not taking into account some of these concerns. If you as the board feels that the impact on neighborhood character is detrimental and not out weighted by the benefit of the applicant you would have to deny the area variances. Therefore the applicant would never get to the planning board site plan stage. Mr. Deloria suggested some of these in a revised plan before the ZBA, other ZBA members didn't weigh in on that to the extent that people are dismissing that suggestion as to wait for site plan review and the applicant might not get the variance from this board. Consider some of these factors.

Chairman O'Brien asked if the board would like to see a more detailed map as far as buffering or anything you would like to see it can be requested. Mr. Deloria stated he would like to see a more detailed map based on some of the comments from the neighbors. Chairman O'Brien asked Mr. Deloria what he would like to see. Mr. Deloria would like to see a revised site plan to show an increase in buffering on the rear of the proposed developed area to allow for more screening to the southeast.

Chairman O'Brien asked if any other board members have any requests. There were no requests.

Attorney Schachner asked if the board was comfortable with Mr. Deloria's request. Mr. Buchyn agreed. Mr. McCracken agreed, and added it would give Mr.

and Mrs. Rapant a chance to speak with Mark since he was on vacation. Mr. Dannible offered a 1 ft. landscape buffer to be included. Chairman O'Brien stated that Mr. Deloria would like to see it. That is the request that we are making. Mr. McCracken stated he would like to expand on it and have a report that you have talked to DOT about the ingress and egress. Mrs. Mattison questioned the meaning of ingress, egress and stated she was still concerned about the water issue in. Chairman O'Brien explained it was the curb cut, and they have to keep the water on their property.

Mr. Lapolla asked Mr. Dannible if he had a larger satellite image to get a sense for where the residences in question, the buffers, and the line of sight. He stated he knew the Rapants lived right next door. Mr. Dannible explained to Mr. Lapolla where the other residences were. One was to the south, the other was the residence to the rear, stating the driveway comes into National Grid and swerves onto the property below. Mrs. Mattison stated the property Mr. Dannible was referring to were her two lots. Mr. Dannible stated the lots did not show up on the areal. Mr. Mykins said that were not built upon yet.

Chairman O'Brien asked Mr. Lapolla if he was clear about the location of the residences. Mr. Lapolla answered yes.

Attorney Schachner explained the public hearing should be left open so members of the public would have an opportunity to comment on the revised plans if there are revised plans submitted. The public should know that if this board approves the variances and the application moves forward it is subject to site plan review by Wilton Town Planning Board at which time you would have an opportunity to participate in that process as well. If you are not aware of that it's important that you be aware of that. Mr. Blauvelt stated the Planning Board and Zoning Board can always ask for more. Attorney Schachner agreed.

Chairman O'Brien asked for a motion to table the appeal until the September 26, 2013 meeting. Chairman O'Brien asked Mr. Dannible if that was enough time to provide the information, his response was absolutely.

A motion to table Appeal No. 2013 – 32 until the September meeting was made by Mr. Deloria. He stated the applicants would need to provide an update from NYS DOT and a revised Site Plan.

Mr. McCracken seconded the motion. Mr. Kolligian, Mr. Buchyn, Mr. McCracken, Mr. Deloria, and Chairman O'Brien were all in favor. All board members were in favor. The motion passed 5-0.

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**APPEAL NO 13-33** Robert Holm, 1 Cambridge Ct., Saratoga Springs, NY 12866. Request for area variances for the construction of a gazebo on the front of the property, pursuant to Sections 129-156, 129-157 and Schedule A, R-1 Residential District. Property located at 1 Cambridge Ct. Saratoga Springs, NY 12866, Tax Map No. 153.14-1-31, in the Town of Wilton.

Mr. Holm approached the board and explained he was requesting an area variance for 1 Cambridge Ct. for a gazebo on the front of his property. The gazebo is about 8 ft. in diameter it's stained brown with black rubber slate roof. It will be made as inconspicuous as it possible. The lot is rectangular and three of the four sides are surrounded by streets. The fourth side has a 25 ft. setback and the house occupies all of the land inside the setbacks, with the exception of a small portion behind the garage. The only location the gazebo could be placed without a variance would be against the garage.

Mr. McCracken asked for the total square footage of the gazebo and Mr. Mykins said it was an 8 ft. octagon.

Mr. Deloria stated he drove by the property and saw flags that Mr. Holm placed in the area of the proposed gazebo.

Mr. Holm stated he had spoken with three of the neighbors and they had no objections to the gazebo.

Chairman O'Brien asked if there were any other questions of concerns. There were none.

Appeal No. 13-Anthony McCracken made a motion that the request for a 47' front yard setback variance on the west side of the property and a 30' front yard setback variance on the south side of the property, pursuant to Schedule A, R-1 District for the construction of a gazebo on the front of the property be granted 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 variance because the gazebo will be aesthetically appealing 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 variance because it would have to be placed directly behind the garage. 3. The applicant has demonstrated that the requested area variance is not substantial because the gazebo is shielded from the view of people going by and other neighbors by the foliage and trees that will surround it. 4. The applicant has demonstrated that the requested area variance will not have an adverse effect or impact on the



physical or environmental conditions in the neighborhood district because it will fit in with the character of the neighborhood. 5. The applicant has demonstrated that the alleged difficulty was not self-created because the lot is surrounded by three streets and the set back is 50 ft. Mr. Deloria seconded the motion. All board members were in favor.

**APPEAL NO. 13-34** Kimberly VanHeste, 27 Suffolk Ln., Gansevoort, NY 12831. Request for Special Permit for a Home Occupation pursuant to Section 129-175 D. (1) – (5) and 129-176 C. (1), (2) and (3) for the property located at 27 Suffolk Ln., Gansevoort, NY 12831, Tax Map No. 115.3-3-16, in the Town of Wilton.

Mrs. VanHeste approached the board and explained she would like to make jams and jellies from her home. The jams and jellies would be sold at farmers markets and craft fairs. The supplies would mostly be purchased locally, only a few things would arrive by UPS. The products would not be sold online or out of state. The Agriculture Department has granted Mrs. VanHeste a permit for the sale of jam and jelly.

Chairman O'Brien asked Mrs. VanHeste if she would be selling the products from the house. Mrs. VanHeste explained she would not have customers come to her home, the jams and jellies would only be sold outside the home.

Mr. McCracken made a motion to approve Appeal No. 13-34 request for a special permit for a home occupation for jam and jelly making.

Mr Kolligian seconded the motion. Mr. Kolligian, Mr. Buchyn, Mr. McCracken, Mr. Deloria, and Chairman O'Brien were all in favor. All board members were in favor. The motion passed 5-0. This permit is subject to review and renewal on or before August 22, 2015.

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**ADJOURNMENT:**

Mr. Deloria made a motion to adjourn the meeting at 8:20 p.m. Mr. McCracken seconded the motion. All board members were in favor. The motion passed.

Dated: 9/26/2013

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Amy DiLeone  
Zoning Clerk