

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY October 24, 2013**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, October 24, 2013, 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:** Chairman O'Brien, Christopher Ramsdill, James Deloria, Dean Kolligian, Robert Barrett, and Dave Buchyn. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

**ABSENT:** Tony McCracken and Rocco Angerami

**MINUTES:** The minutes of the last meeting, held on September 26, 2013, were approved, as submitted, on a motion made by Mr. Kolligian seconded by Mr. Barrett. All board members were in favor.

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

**OLD BUSINESS:**

**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.

Mr. Joe Dannible of Environmental Design Partnership appeared before the board. Mr. Dannible stated he was here on behalf of Saratoga Health and Wellness and their application for a 15,000 sq. ft. mixed use commercial facility on Route 9. Mr. Dannible stated he was there with the owners of the facility, Michael Lapolla and Nicholas Galuadi. Mr. Dannible explained this was the third time they had been in front of the board seeking these three variances. He explained they had been asked to provide additional information on some concerns, and they had provided the information that had been requested. Mr.

Dannible explained he was going to give a brief overview using an overall vicinity map; Maple Avenue School, Route 9, the proposed sight was highlighted in brown grey and green, Loughberry Lake Road, and Loughberry Lake. Mr. Dannible continues to explain stating the site itself is 2.2 acres zoned CR-1 and they are proposing to construct a 15,000 sq. ft. building with approximately seventy five parking spaces. Saratoga Health and Wellness will occupy sixty to seventy five percent of the building; the remainder of the building will be leased out until there comes a time when Saratoga Health and Wellness will occupy the entire facility themselves. There will be on site storm water management; it will be connected to Saratoga County Sewer Mains on Loughberry Lake Road. A well will be drilled and will comply with all New York State DOH standards. A landscape buffer will be provided along the southern edge of the property that will be continued into an evergreen buffer as it reaches around the back of the property and extends north. In our initial meeting there was a request to screen the area to the east of the sight because of some driveway issues. The screen buffer that was requested at that meeting has been provided. Mr. Dannible shows a blown up picture of the screen buffer showing a row of evergreen trees planted with a sufficient density to provide the screening within the first couple years of the project. Mr. Dannible continues to explain that in addition at the first meeting they were asked to acquire some information about the traffic and the traffic situation that exists on Route 9 at the Maple Avenue Middle School they spoke with Chad Corbett from the New York State Department of Transportation at the Saratoga Maintenance facility and to Kevin Novak from the New York State DOT Safety Division. Both of these men spoke with Mr. Dannible about the proposed project and the traffic. Kevin Novak said there is not going to be any impact associated with this project due to the short duration of potential conflict at the intersection. There is a twenty to thirty minute range in the morning and the evening that the area is congested due to people bringing their children to school and school buses arriving and leaving. Mr. Dannible stated in addition to that at the last meeting there was still a little bit of concern about the issue of the traffic in that area. To address that concern a traffic engineer was hired to assess the situation. Mr. Dannible explained Creighton Manning Engineering prepared a traffic assessment; they have done a lot of studies on the Route 9 corridor for various projects that have been proposed and constructed along that corridor. They completed a trip generation assessment to evaluate the existing traffic on Route 9. Mr. Dannible explained the existing traffic on Route 9 at its peak trip generation, doesn't necessarily coincide with the hours that at the school has the twenty to thirty minute duration in the morning and afternoon. During their peak duration it is only at about sixty percent of the capacity of Route 9 as it exists today. There would have to be a significant number of more trips by vehicles would have to be generated in order to have any type impact on the road system. That is what the trip generation assessment that Creighton Manning looked at not only for the town but also for Saratoga Health and Wellness. Mr. Dannible stated Saratoga Health and Wellness wanted to know if the traffic that everyone

is concerned about wasn't going to have an impact on their business. Saratoga Health and Wellness and Environmental Design Partnership have looked at the study, and have gone over it with the traffic engineers and the feeling is there isn't going to be any issue with traffic that would detour people from coming to their project. Mr. Dannible stated one of the reasons for that is there will be no appointments as this location; people will come in, check in with their card, sign in, do their exercise and leave. This is done in the hours and duration that they want. If members find out they can't get into the facility between 7:20am and 7:50am because of the school, they are going to show up at 7:10am before the traffic gets busy or they will show up at 8:00am., when the traffic has broken up at that intersection. Mr. Dannible stated the proposed project has self-mitigating use which is almost ideal for this area. Mr. Dannible explained the traffic has been one of the main concerns of this board so far and he believes that what has been done by talking to the DOT, getting the trip generation study completed, they have addressed the traffic concern to the greatest extent possible with this board.

Mr. Dannible explained to the board the variances they were here for are; 30 ft. to 13 ft. side yard setback along the northern property line, 50 ft. to 19ft. setback along the southern property line, that is only for a portion it they have tried to maintain the largest buffer possible in the front of the sight that is closest to the residence to the south. The third variance is the reason for all of these variances; this is a lot that is a pre-existing no-conforming lot that is 170 ft. wide the zoning is set up for lots that are meant to be 200 ft. wide and side yard setbacks that are associated with that are set up for a lot to be 200 ft. wide. We have pre-existing non-conforming lot that is narrow; we need a frontage variance for that. We need to go from 200 ft. to 170 ft. Mr. Dannible states some of the things we have looked at while going for the variances, one of the things the board needs to look at; 1. Is there undesirable change produced in the character of the neighborhood or is it a detriment to the neighboring properties. Mr. Dannible said "We are saying no" This is a pre-existing lot that is 170 ft. wide it has existed that way for many years. Secondly the existing building residence on that house is only 7 ft. or 8 ft. from the right of way. We are going to providing a building that is going to be pushed back from the right of way and the street scape will be able to be developed that coincides with the desires of this town to have a street scape planted buffers, area for future utilities, and expansions of the highway itself. The development of the sight will create a sight that is more consistent with the street scape and vision by the CR-1 zoning. 2. The benefit sought cannot be achieved by any other methods, the lot is too narrow and that the reason for all the variances that are needed. The land owner to the north, his parcel needed variances to be constructed; it's extremely narrow it would have front yard setbacks all the way around. Saratoga Health and Wellness cannot obtain any land from that land owner for that reason, his building is new and it's established nothing can be done there. They spoke with the land owner to the south and

agreement on price could not be met. There was not any way to purchase the land for a value that was economically feasible for the area. There is no other way to achieve what needs to be done other than seeking variances. 3. The requested variance is not substantial the lot is 170 ft. wide lot all setbacks are set up for 200 ft. wide lots. When they say the request is not substantial, there was a project that was approved five years ago just up the road. Mr. Dannible pointed out the parcel of land he was referring to on the map, saying it is almost identical to what is being proposed except the lot itself is substantially smaller, by almost an acre. Mr. Dannible explained the property has a 12,000 sq. ft. building, 2,400 sq. ft. garage, and fifty parking spaces. It's just like our property; it has a commercial use to the north and a residential use to the south. Their pavement is 10 ft. off the residential property line nowhere near the 50 ft. landscape buffer required in the zone. These variances were not considered substantial, therefore Saratoga Health and Wellness's variances should not be considered substantial. The proposed project's closest pavement is 20 ft. away and as you approach the front of the property closest to the residence it's in excess of 30 ft. away. 4. Requested area variance does not have an adverse effect or impact on the physical environment or conditions of the neighborhood. Mr. Dannible stated we say "no" because it is consistent with the zoning within the CR-1 zoning. Substantial landscape buffer will be provided along the edge and green space will be provided along the right of way. Mr. Dannible uses the map to describe the existing house and where it is located. Mr. Dannible states the existing house is very close to the right of way and you don't have any greenery out in front of the building, there is no room to put in some of the utilities for future infrastructure that are envisioned in that corridor. 5. The alleged difficulty was not self-created; Mr. Dannible stated the lot is 170 ft. wide and has been that way for quite some time; the zoning in this district is set up for lots that are 200 ft. wide. There is no way we can ever comply with that without needing variances. The difficulty was not self-created; the lot has been this way for many years before the applicants had looked at doing anything with the property.

Mr. Dannible asked if the board had any questions. Chairman O'Brien asked if anyone had any questions. Mr. Barrett addressed Chairman O'Brien and explained he was going to recuse himself because he was a member of Saratoga Health and Wellness.

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

Mr. Ramsdill made a motion that Appeal No. 13-32, Saratoga Health and Wellness, for Area Variances for the construction of a fitness center, property located at 538 Route 9, Saratoga Springs, NY 12866 granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons; the variances will be for 30 ft. of frontage, 17 ft. on the side yard, and 31 ft. for landscape buffer. 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 is consistent with the CR-1 zoning and the lot is pre-existing non-conforming. 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 property is a pre-existing non-confirming lot; they have done a nice job of positioning the building off the road. 3. The applicant has demonstrated that the requested area variances are not substantial because: The existing width of the lot cannot be changed. 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 proposed use is consistent with the CR-1 Zoning. There has been a traffic study done that does not show an excess amount of traffic generated. They have done a nice job with the buffer in respect to the other properties that are abutting that piece of land. 5. The applicant has demonstrated that the alleged difficulty was not self-created: because it is a pre-existing non-conforming lot.

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

**APPEAL NO 13-37** Berkshire Bank, 99 North Street, Pittsfield, MA 01201. Request for an Area Variance for signage, pursuant to Sections 129-181 B (1-3), 129-181 C (1) 129-182 B 1 or 2 and Schedule H; property located at 3035 Route 50, Saratoga Springs, NY 12866, Tax Map No. 153.-3-48.1, zoned C-1, in the Town of Wilton.

Mr. Mykins stated the appeal has been tabled at the applicant's request, until the next meeting.

Chairman O'Brien asked for a motion to table the appeal. Mr. Barret made a motion and Mr. Kolligian seconded the motion. All board members were in favor.

**NEW BUSINESS:**

**APPEAL NO. 13-39** Otis H. Groff, 433 Northern Pines Road, Gansevoort, NY 12831. Request for an area variance pursuant to Schedule A and Sections 129-157, for a detached garage; property located 433 Northern Pines, Gansevoort, NY 12831, Tax Map No. 140.14-1-29, zoned R-1, in the Town of Wilton.

Mr. Groff approached the board stating he owns the property. Mr. Groff stated he needed 15 ft. on the western border; the lot is 109 ft. wide the building will be 50 ft. Mr. Groff stated he can meet the side yard setbacks now but would like to move the building down in order to put the driveway on the northern boundary so he can make a turn into the garage. Mr. Groff stated he was asking for 15 ft. in order to have 10 ft. on that side.

Chairman O'Brien asked if there were any questions or concerns. Mr. Ramsdill asked Mr. Groff if was going to extend the driveway down around on the left. Mr. Groff stated his driveway would be on the eastern boarder because he needs a little extra room to make the turn with his trucks and trailer. Mr. Groff stated there is another garage on his western boarder that is a Morton Building and his building is also a Morton Building. The buildings will be similar, only turned ninety degrees. Mr. Barrett asked Mr. Groff if it was an addition to the building he already has. Mr. Groff explained it was a detached garage. Mr. Barrett asked if it was an addition to the garage you already have. Mr. Groff explained that garage was on his next door neighbor's property. That garage is on Bertha Stone's property it's a similar building and about the same size.

Chairman O'Brien asked if there were any questions. Mr. Deloria asked if Mr. Groff was moving the driveway farther east, the driveway goes into the garage now, will it then go into the east side of the existing garage? Mr. Groff explained yes, he will be going by it and then turning in. When he plows snow he would like to plow right past the doors and the garage doors will be on the eastern border. Mr. Groff explained he would like to be able to plow snow and still make his turn into the garage. Mr. Mykins asked Mr. Groff if he was doing another curb cut. Mr. Groff said no.

Chairman O'Brien asked if there were any comments from the audience. There were none.

Mr. Ramsdill made a motion that Appeal No. 13-39 for an Area Variance for 15 ft. on the west side yard setback, property located 433 Northern Pines Road, Gansevoort, NY 12831 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 is consistent with other buildings in the area and is set back off the road far enough to not present a problem. 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 narrow and the applicant needs the extra room to improve the turning radius for his vehicles to make the turn into the garage. 3. The applicant has demonstrated that the requested area variances are not substantial because: It is a minimal amount requested to improve the turning radius. 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: It is consistent with other properties in that area. 5. The applicant has demonstrated that the alleged difficulty was not self-created.

Mr. Kolligian seconded the motion. Mr. Buchyn, Mr. Barrett, Mr. Kolligian, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor. The motion passed 6-0.

**APPEAL NO. 13-40** Wilton Baptist Church, 755 Route 9, Gansevoort, NY 12831 Request for an area variance for signage, pursuant to Schedule 129-181, 2. (b) [3], for the replacement of existing signage with new signage; property located 755 Route 9, Gansevoort, NY 12831, Tax Map No. 127.-3-67.2, zoned RB-1, in the Town of Wilton.

Chairman O'Brien stated we have a letter from the Planning Board dated October 16, 2013.

**MEMO TO:                      ZONING BOARD OF APPEALS MEMBERS**

**FROM:                         MICHAEL G. DOBIS, CHAIRMAN, PLANNING BOARD**

**SUBJECT:                    ZONING BOARD OF APPEALS**  
**APPLICATION NO. 2013-40**

**DATE:                         October 16, 2013**

Please be advised that the Wilton Planning Board reviewed the above-referenced application by Timothy Jackson for sign variances for a new sign at the Wilton Baptist Church at its meeting held on October 16, 2013, and the following action was taken:

William Rice moved for a positive recommendation to the ZBA regarding the request for variances: first for 18' of relief for front yard setback and, second for 32 SF per side of

square foot relief for a new sign. Ron Slone seconded the motion recommending that relief which passed with all board members in favor.

If you have any questions, please contact me.

A handwritten signature in black ink, appearing to read "M. Dobis", written over a horizontal line.

Michael G. Dobis  
Chairman, Planning Board

MGD: lbh

Chairman O'Brien stated we have a letter from the Saratoga County Planning Board dated October 18, 2013.

**RE: SCPB Referral Review # 13-168-Area Variance-Wilton Baptist Church**  
Replacement of existing signage with new signage.  
NYS Route 9

Received from the Town of Wilton Zoning Board of Appeals on October 11, 2013  
Reviewed by Saratoga County Planning Board on October 17, 2013.

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

**Comment:** In accordance with the Memorandum of Understanding (MOU) between the Town of Wilton's Zoning Board of Appeals and the Saratoga County Planning Board (SCPB), the above-noted referrals have been reviewed and deemed to present no countywide impact. This file was taken up as a Memorandum of Understanding due to a lack of a quorum at the October Planning Board meeting.

Michael Valentine, Senior Planner  
Authorized Agent for Saratoga County



Chairman O'Brien stated we have a letter from Thomas J, Ferone Jr. dated October 24, 2013.

Town of Wilton  
22 Traver Road  
Gansevoort, NY 12831

Ladies and Gentlemen:

Regarding the new sign placement along State Route 9, Gansevoort, NY by The Wilton Baptist Church I have no opposition to this project being approved by the Town.

Sincerely,

Thomas J. Ferone, Jr.  
President

Tim Jackson approached the board stating he was a member of the Wilton Baptist Church. Mr. Jackson introduced Pastor Steve Harness and said he was going to make a presentation. Pastor Harness stated he would like to say thank you for supporting and serving our community the Wilton Baptist Church appreciates community mindedness. The sign will be an improvement over our current sign. Pastor Harness showed a picture of the current sign to the board and explained that it is close to the road. The town code placement would have the new sign towards the parking lot. Pastor Harness explains Wilton Baptist church is asking for an exception to put the new sign in the middle of the yard. Pastor Harness states it would have better esthetic value right in the center. The new design is going to be classy and has a timeless look to it. It has a sharp clean elegant look, with the stone masonry. It will benefit passersby by being closer to the road, than further back. It will also be more visible from a distance; there are trees and an area of things that could prevent it from being seen easily if it were further back by the trees. Wilton Baptist Church would appreciate the opportunity to put the sign in the center rather than towards the back of that front grassy lawn.

Chairman O'Brien asked if there were any questions. Mr. Ramsdill asked how much more substantial is the new sign in square footage than the current sign. Pastor Harness replied it was 18 ft. of relief. Mr. Ramsdill asked if the current sign already exceeds what the code asks for. Pastor Harness replied it is, this was before our current building was built and it has been there for some time. It was approved in the mid to late nineties. Mr. Ramsdill stated compared to what is

there already it's not going to be much larger. Mr. Jackson stated it would have the stone and it would look classy.

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

Mr. Kolligian made a motion that the application for Appeal No. 13-40, Wilton Baptist Church, 755 Route 9, Gansevoort, NY 12831 Request for an area variance for signage, pursuant to Schedule 129-181, 2. (b) [3], for the replacement of existing signage with new signage; property located 755 Route 9, Gansevoort, NY 12831, Tax Map No. 127.-3-67.2, zoned RB-1, 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: There is a total of 18 ft. Relief requested on the front yard setback and 32 sq. ft. per side of the sign. The existing signage is going to be improved with additional signage and the stone work. 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: With the addition of the stone wall and the signage is what is making this sign larger than what currently exists. 3. The applicant has demonstrated that the requested area variances are not substantial because: The existing signage is being back from the road slightly, they are requesting a minimal variance for the setback. 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: They are moving the sign a little further back from where the current sign exists. It will still provide the passersby by to see the great words that are put on the sign. 5. The applicant has demonstrated that the alleged difficulty was not self-created; it is but measures have been taken to compromise with the request that is being asked.

Mr. Ramsdill seconded the motion. Mr. Buchyn, Mr. Barrett, Mr. Kolligian, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor. The motion passed 6-0.

Chairman O'Brien stated that for November and December we only have one meeting. November 21<sup>st</sup> is the Thursday before Thanksgiving would be the best date. The meeting was scheduled for November 21, 2013.

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**ADJOURNMENT:**

Mr. Kolligian made a motion to adjourn the meeting at 7:33 p.m. Mr. Ramsdill seconded the motion. All board members were in favor. The motion passed.

Dated: \_\_\_\_\_

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Amy DiLeone  
Zoning Clerk