

WILTON ZONING BOARD OF APPEALS
THURSDAY January 22, 2015

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, January 22, 2015 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, Rocco Angerami, James Deloria, Dean Kolligian, Gerard Zabala, and Scott Kingsley. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

ABSENT: Robert Barrett and Tony McCracken

MINUTES: The minutes of the last meeting, held on October 23, 2014 were approved, as submitted, on a motion made by Mr. Angerami seconded by Mr. Kolligian. All board members were in favor.

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

OLD BUSINESS:

APPEAL NO. 12-31 Laura Fogg and Shane Pratt, 256 Gurn Springs Road, Wilton, 176 V of the Zoning Ordinance for a private stable; property located at 256 Gurn Springs Road, Tax Map No. 116.-1-2.11, zoned R-2, in the Town of Wilton. Amendment to the Special Permit originally granted on July 26, 2012, reviewed and renewed on June 26, 2014 for a period of two years.

Chairman O'Brien asked Mr. Mykins if there were any problems or concerns. Mr. Mykins said there were none. Chairman O'Brien asked the applicants if there

were any problems. The applicants said no. Chairman O'Brien asked the applicants if they would like the Special Permit renewed. The applicants said yes and they would like to add a horse. Chairman O'Brien said that was up to The Board. Chairman O'Brien asked if there were any questions or concerns. Mr. Kolligan asked Mr. Mykins if he had any concerns. Mr. Mykins said no and explained they had more than enough acreage and pastureland. Mr. Kolligan asked Attorney Schachner if he would advise for the next two years The Board would just condition upon a maximum of three horses that we would grant for the next two-year period. Attorney Schachner stated that was consistent with The Boards past practice and seemed appropriate. Chairman O'Brien asked Attorney Schachner if a vote was needed. Attorney Schachner said yes. Mr. Kolligan clarified that a motion needed to be made first to increase the number of horses the applicants were allowed to have.

Mr. Kolligan made a motion to approve Appeal No. 2012-31 Laura Fogg and Shane Pratt, 256 Gurn Springs Road, Wilton, New York 12831. Request for a Special Permit pursuant to Schedule B and Section 129-176 V of the Zoning Ordinance for a private stable; property located at 256 Gurn Springs Road, Tax Map No. 116.-1-2.11, zoned R-2, in the Town of Wilton, the request for an amendment of a Special Permit, for a maximum of three horses was granted, in consideration of all findings in Section 129-175 (D) for a period of two years. This permit will be due for review and renewal on or before January 22, 2017.

Mr. Angerami seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Kolligan, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor the motion passed.

RENEWALS:

APPEAL NO. 07-03 James and Kate Fontaine, 28 King Road, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit pursuant to Section 129-26, 129-176 (P) and Schedule B of the Zoning Ordinance, for an existing accessory apartment; property located at 28 King Road, Tax Map No. 128.-1-37.2, zoned R-2, in the Town of Wilton. Special Permit was originally granted on January 25, 2007 for a period of two years, is due for review and renewal.

Mr. Fontaine approached the Board and introduced his son Paul. Mr. Fontaine explained he was not renting the apartment, his son and his family was residing in the apartment. Mr. Fontaine stated he would like to renew for two years.

Chairman O'Brien asked if there were any issues. Mr. Mykins said no.

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

Mr. Ramsdill made a motion to renew Appeal No. 2007-03 for James and Kate Fontaine, 28 King Road, Saratoga Springs, New York, 12866, for the renewal of a Special Permit, pursuant to Sections 129-96 and 129-176 (P) and Schedule B, of the Zoning Ordinance, for an existing accessory apartment; property located at 28 King Road, Tax Map No. 128.-1-37.2, in the Town of Wilton, zoned R-2, was granted for a period of two years. This permit will be due for review and renewal on or before January 22, 2017.

Mr. Kolligian seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Kolligian, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor the motion passed.

NEW BUSINESS:

Chairman O'Brien explained the Board was going to change the order of the appeals due to the illness of the applicant.

APPEAL NO. 15-04 George & Sandra Catandella 29 Quail Court, Saratoga Springs, NY 12866. Request for Area Variances pursuant to Section 129-157 projections into yards and Schedule "A" R-1 Residential District of the Zoning Ordinance for requested relief of 41.3 ft. front yard setback, 22.5 ft. side yard setback and 6.1 ft. rear yard setback; property located at 29 Quail Court, Saratoga Springs, New York 12866 Tax Map No. 153.11-2-34 zoned R-1 in The Town of Wilton.

Chairman O'Brien asked the Catandellas if they wanted to build a garage. They said yes. Mr. Catandella was unsure what to read to The Board. Chairman O'Brien explained to Mr. Catandella he didn't have to read anything; he should tell The Board what his intentions were. Mr. Catandella read from page 2, of the application for an Area Variance 1-5 (see file).

Mr. Zabala asked if there was a homeowner next to where the garage was going to be located. Mr. Catandella said no. Mr. Zabala then asked if the adjacent property was part of The Saratoga Country Estates general property a homeowners association. Mr. Catandella said yes. Mr. Zabala asked if the homeowners

association was OK with the garage. Mr. Catandella said yes. Chairman O'Brien asked if any of the Board members had any questions. Mr. Kingsley asked if the proposed driveway leads from the parking lot into the garage. Mr. Catandella said yes. Mr. Kingsley asked if the parking lot was communally owned. Mr. Catandella said yes. Mr. Kingsley asked what would stop an individual from parking in front of the garage and blocking you in. Mr. Zabala stated common courtesy would prevent it. Mr. Catandella said it could happen to anyone's garage or driveway. Chairman O'Brien asked how many houses were in Saratoga Country Estates. Mr. Catandella was not sure; he suggested a member of the HOA Board would know. The answer was thirty-six. Chairman O'Brien asked if any of the houses had garages. The answer was none. Mr. Ramsdill stated it appeared on the map that the Catandella's property line didn't extend all the way to the pavement. Mr. Ramsdill asked who owned the piece of property between the pavement and the Catandella's property line. Mr. Kolligian thought it was the HOA. Mr. Catandella said it was Kami Young. Mr. Ramsdill stated it looked like Kami Young's property was on the left and the Saratoga Country Estates HOA owned the piece he was referencing. A member of the audience interjected, stating he just wanted to answer Mr. Ramsdill's questions. Chairman O'Brien said The Board would recognize him later. The member of the audience stated he just wanted to answer the question; he was not going to say anything else. Chairman O, Brien said OK. The member of the audience began speaking then introduced himself as Stuart Thomas. Mr. Thomas wanted to explain the homeowners association that was being discussed. Mr. Thomas referenced a map of the subdivision of Saratoga Country Estates that he posted on the board. Mr. Thomas stated there were 36 houses and showed the location of the Catandella's house. Mr. Thomas explained where the Town owned land and HOA owned land were located. Mr. Thomas explains there is fee simple ownership of each lot, but there is also fee ownership by one thirty sixth of every homeowner of all the common areas, in the covenant no one has exclusive right over common areas but they are allowed egress. Mr. Thomas explains there are no assigned parking spots and the parking lot is owned by the homeowners association and Mr. Catandella owns one thirty sixth of the lot. Mr. Thomas explains Mr. Catandella owns the fee simple because the houses are detached town houses; he owns the fee simple of his land but has no access or frontage at all. Mr. Thomas said this was approved in 1974-1975 and he did not think the variance relief being sought was proper. Mr. Thomas said he spoke to Mr. Mykins and there is not a clear distinction, 1980 a letter from the town attorney said that it was grandfathered and met all zoning. Mr. Thomas stated the issue was the R-1 Zoning happened after the fact; the Planning Board in 1974 approved the subdivision as it was prior to zoning. Mr. Thomas said when the town created zoning they forgot that this existed and it was not supposed to be R-1. Mr. Mykins said to Mr. Thomas that it was not forgotten and was never mentioned in meeting minutes from that time period that state it was pre-existing, pre-existed zoning, it was never processed as a Planned Unit Development. Mr. Thomas referenced the letter from 1980 from the town

attorney. Mr. Mykins stated the letter said for those lots in that subdivision were grandfathered in; that means that they don't have to strictly meet the zoning as built but if anything increases on those lots those variances to the side yard, front yard, those have to be met, frontage and area requirement do not have to be met under our zoning law. Mr. Mykins explained that was what was in the Town Code; the only thing ever mentioned in the meeting minutes from the Town Board is the covenant, approval from the Attorney Generals Office on the HOA. Mr. Mykins said that was it; there was no PUD legislation what so ever. Mr. Thomas explained what PUD meant that the Town Board makes the zoning change and only the town. Mr. Mykins said they legislate it. Mr. Thomas said it has to be a law that creates the PUD. Mr. Thomas stated his problem was according to the letter we agree on exists; this pre-dates zoning but the problem with it pre-dating zoning is usually the developer brings the local law to the town because zoning didn't exist. Mr. Mykins said zoning did exist. Mr. Thomas stated the zoning law made it R-1; there is some research that needs to be done and there is no frontage or anything. Mr. Thomas addressed Mr. Ramsdill and wanted to answer his question. Mr. Ramsdill said he hadn't asked the question because Mr. Thomas started speaking and if he could, he would love to ask the question. Mr. Thomas apologized and sat down. Mr. Ramsdill stated his question was, if the property that separates the parking lot from the Catandella's property was owned by the homeowners association did the Catandellas have permission from the homeowners association to use the property as a driveway. Mr. Catandella said he thought it was about 6 ft. and spoke about what he called an out dated survey. Mr. Ramsdill stated he was looking for a yes or no answer to the question of do you have permission from the homeowners association to use the 6 ft. as a driveway. Mr. Catandella said yes, I do. Mr. Kolligian said he didn't think the Board would be able to extend the conversation any further or make a decision until they had something in writing from the homeowners association that would provide an easement to go through for the driveway. Attorney Schachner said he thought that was a very reasonable question and a very reasonable comment. Mr. Kolligian said he didn't think the Board could go any further. Mr. Catandella commented. Mr. Kolligian stated he respectful understood but the bottom line was homeowner's association property that will be in between the parking areas and the proposed driveway and garage area. Mr. Kolligian further stated until the Board sees something in writing from the homeowners association that allows you an easement to access that area, the Board would not be able to say yes or no. Mr. Kolligian explained the Board was not saying no, they were not able to make a decision. Mr. Catandella stated that the Board was saying the association could dictate to the town of Wilton whether or not he gets a variance. Mr. Kolligian answered no he didn't; what the association dictates is the common ground, the land the homeowners association owns which is the piece of property that Mr. Catandella will have to cut through. Mr. Kolligian further explains to Mr. Catandella that the Board was in no position to say yes or no until we see a letter from the homeowners association that will allow him to utilize their piece of

property for his use. Mrs. Catandella stated they were talking about 6 ft. Mr. Deloria stated the Catandellas were asking the Board to build a garage that they might not be able to get to or have the right to get to; the Board needs to know that if they build the garage they could get into it. Mr. Catandella stated isn't that what a request for a variance is. Mr. Deloria said no. Mr. Angerami said that was not their property to be asking for. Mr. Deloria said the Board needs to establish first that if a garage is built the Catandellas will have the right to drive their car into the garage across common property. Mr. Angerami stated there were no designated parking spots; Mr. Catandella would have to have a designated parking spot. Mr. Kingsley stated that if someone parks in front of the Catandella's house there is no legal recourse to get the car moved. Mr. Angerami stated he agreed with exactly what Mr. Kolligian, that the Board would need some kind of approval from the homeowners association. Mr. Kingsley asked if the homeowners association elected a governing body. The members of the homeowners association that were present at the meeting said yes. Mr. Kingsley said the Board would need the governing body of the homeowners association to issue a letter saying they would approve the easement of 6 ft. to allow the Catandellas to cross from the parking lot into the garage. Attorney Schachner said he didn't think it was appropriate for The Board to decide what type of proof or what type of document the Board would need. Attorney Schachner further stated the Board might end up with a situation where the applicant can produce a document that seems to authorize the access and someone else from the HOA has a different document that does not give access; this Zoning Board should not sit as judge of competing private claims among the neighbors and among the neighbor and the HOA. Attorney Schachner said what the Board has the right to do is make sure the applicant has at least the color of right; something that demonstrates the right. Attorney Schachner said the Board would not ultimately judge it is up to them to judge if there are competing rights, nothing had been demonstrated to show any right to get to that facility. Attorney Schachner stated he thought the Boards questions and comments were appropriate but it was not appropriate to dictate what type of proof the applicant must bring. Mr. Catandella asked where this left him. Mr. Kolligian addressed Chairman O'Brien stating he thought the appeal should be tabled until the applicant could come in with further evidence, moving forward would be appropriate. Attorney Schachner said some evidence of access. Mr. Catandella asked what kind of evidence the Board was looking for. Attorney Schachner stated it was not appropriate for the Board to dictate what kind of evidence. Mr. Kolligian stated he thought the Board could say there was going to be an issue with the homeowner's association grounds and the parking spot that was going to be in front of the driveway they were looking to put in as well. Attorney Schachner addressed Mr. Catandella and said that certainly something from the homeowners association addressing the issues would presumably go a long way to helping you in your application. Mr. Ramsdill addressed Mr. Catandella and said those issues would just be the first issues that would allow the Board to feel comfortable; then hearing the rest of

the project would not be a determining factor or an automatic approval of the project. Mr. Ramsdill stated he didn't think at that moment the Board could move forward until they felt that Mr. Catandella could use the piece of property. Mr. Ramsdill further stated, before they could review the garage and setback variances that were being requested; they would have to take place after the Board felt there was even a feasibility of Mr. Catandella's use of the property to get to the garage. Mr. Catandella asked if the two parking spots they had, were lined up where the driveway would be and it was something they were already using, would that enter into the problem that would come up if someone wanted to park in that space. Attorney Schachner asked if the parking space was assigned to Mr. Catandella. Mr. Catandella said it was not assigned, but none of the spaces were assigned. Mr. Angerami stated if someone moved in next-door and decided it was more convenient to park there what was going to stop them. Mr. Catandella said you couldn't. Mr. Angerami said then how are you going to get to your garage. Attorney Schachner said The Board had to be careful that they not try to be a judge of competing claims because if he was not mistaken the Board has nothing from the applicant that even purports to demonstrate the ability to act on this. Attorney Schachner said he thought what the Board was asking was a reasonable request, for some sort of documentation. Attorney Schachner didn't think it was up to the Board dictate what level or what sort of documentation; some sort of documentation demonstrating that Mr. Catandella has the right to access that area. Attorney Schachner asked the Board if that was a fair statement. the Board said yes. Mr. Catandella asked when the next Board Meeting was. Chairman O'Brien answered the fourth Thursday of every month, February 26, 2015. Mr. Catandella stated he had a lot of things on the fire; on January 26th, he was having a heart valve replacement, at the time he had caught acute bronchitis, and was having a tough time presenting. Mr. Angerami said to Mr. Catandella, he didn't necessarily have to be the one presenting. Attorney Schachner said there was a lot of flexibility and Mr. Catandella could table it until March. Mr. Catandella stated they had to get back to Florida and asked if he could read one last page of his application. Mr. Catandella read from the last page of his application (see file). Mr. Catandella said the statement he read was an emotional reason for needing a garage. Chairman O'Brien stated he was sure everyone felt sorry for Mr. Catandella's physical problems; but the Board had to be careful as far as the legal problems are concerned and that was what The Board was looking out for. Mr. Catandella asked Chairman O'Brien if Attorney Schachner was the town's legal spokesperson. Chairman O'Brien said yes. Mr. Catandella asked Attorney Schachner if he could get together with him because he was not a legalese person. Attorney Schachner stated he was not able to help Mr. Catandella. Chairman O'Brien stated Attorney Schachner represented The Board.

Chairman O'Brien said they were going to table this until the Catandellas were ready to come back and appear before the Board, with the documentation they were looking for. Chairman O'Brien explained the Board met the fourth Thursday

of every month and they could let them know now or wait and contact them at a later date. Mr. Catandella said he would contact the Zoning Clerk to set a date.

Chairman O'Brien said The Board would table the appeal until further notice.

Mr. Kolligain made a motion to table Appeal No. 2015-04, until further notice, at the applicant's request. Mr. Deloria seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Kolligian, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor the motion passed.

APPEAL NO. 15-01 John J. Lant, 590 Maple Avenue (Route 9), Saratoga Springs, New York 12866. Request for Area Variances pursuant to Schedule N CR-1 Commercial- Residential One District and Section 129-170 Multiple Uses. A. Article XX. Nonconforming Uses Section 129-109 Expansion of the Zoning Ordinance for requested relief of 127,349 sq. ft. for combine area requirement of two uses on a property, requested relief of 15 ft. front yard setback and 15 ft. side yard setback; property located at 590 Maple Avenue (Route 9) Saratoga Springs, NY 12866 Tax Map No. 153.5-1-26 zoned CR-1 in The Town of Wilton.

Chairman O'Brien read a positive recommendation to the ZBA from the **Wilton Planning Board**.

Chairman O'Brien read a referral from the **Saratoga County Planning Board**.

Decision: No significant County Wide or Inter Community Impact

Comment: The variances being sought may appear to be excessive if viewed only from the perspective of aggregate numbers, but the property has functioned well with the demolition of the existing office and repair shop and its proposed relocation on site will enhance the appearance of the site and enhance internal movements of multiple uses operating on one lot. We encourage close review of the resulting site plan (the proposed auto display area) in regard to any obstruction to the sight distance afforded turn movements from Smith Bridge onto the state road.

David Smith was representing John Lant. Mr. Smith began by saying Mr. Lant was going to improve the look of his lot and the access to the lot by pushing the garage to one side. Mr. Smith explained Mr. Lant was going to add several bays because he is doing a very good business in the town and he wants to make the bay area safer; currently the bay is very cramped, very difficult to get cars in and out of the shop. Mr. Smith said by moving the garage to one side, the other house will now have a better view onto Route 9 and there will be a little bit more room to move cars around in the lot. Mr. Smith addressed the one concern which was discussed was sight drainage, there are two drainage basins on the sight; one operated by the state and the other operated by the town both appear to be quite functional. Mr. Smith said there would be no change in the amount of water

generated flowing onto either street. Mr. Smith said all of the adjacent properties had been notified, Mr. Lant has discussed it verbally with several of them, and they have had no objections that Mr. Smith was aware of.

Chairman O'Brien asked Mr. Smith if he had a Map he could put on the board. Mr. Smith said yes. Mr. Smith explained the map to the Board. Chairman O'Brien asked if there were any questions. Mr. Zabala asked if when the existing garage is demolished would there be paved parking or display for the vehicles. Mr. Smith said yes, Mr. Lant wants to rip the foundation out and repave it. Mr. Smith said one other item to be mentioned at the suggestion of The Planning Board and Code Enforcement they were going to try to relocate the well. Mr. Ramsdill asked if the county had concerns about sight lines or parked cars at the corner and if that was something that was considered. Mr. Smith said if there ever had been it was not expressed to Mr. Lant. Mr. Smith explained that there was a curb constructed by The State of New York that limits Mr. Lant's ability to park cars all the way out on his property; this provides a substantial sight line onto Route 9. Mr. Ramsdill said he was asking because it was mentioned in Michael Valentine's letter. Mr. Ramsdill read the portion of the letter that reflected his concern. Mr. Mykins said it was going to be addressed by the Town Engineer and Planning Board. Mr. Ramsdill said he wanted to make sure it was written in the minutes the Board had taken this into consideration. Mr. Smith said he didn't think there was a problem but if there was it would be taken into consideration. Mr. Angerami said it appears that it could make it worse, esthetically it was going to remain the same. Mr. Smith explained that up until a few years ago there was a very large hedge on the corner. Mr. Deloria asked if the buildings in the back were staying. Mr. Smith said yes.

Chairman O'Brien asked if anyone in the audience had any questions or concerns. There were none.

Mr. Ramsdill made a motion to approve Appeal No.2015-01 for John J. Lant, 590 Maple Avenue (Route 9), Saratoga Springs, New York 12866. Request for Area Variances pursuant to Schedule N CR-1 Commercial-Residential One District and Section 129-170 Multiple Uses. A. Article XX. Nonconforming Uses Section 129-109 Expansion of the Zoning Ordinance for requested relief of 127,349 sq. ft. for combine area requirement of two uses on a property, requested relief of 15 ft. front yard setback and 15 ft. side yard setback; property located at 590 Maple Avenue (Route 9) Saratoga Springs, NY 12866 Tax Map No. 153.5-1-26 zoned CR-1 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 he is improving the property, moving the building farther from

the road, allowing for better safety lanes and improving the safety at the corner. 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 of the multiple uses on the property and the location; it doesn't allow the garage to be set back further from the road without an Area Variance. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it's reasonable considering the location of the building that is being proposed. 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 residential neighborhood district because of the business that faces the rear of the new structure, and the hedge; it will open up sight lines for the home on the property. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Angerami seconded the motion. . Mr. Zabala, Mr. Kingsley, Mr. Kolligian, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor. The motion passed.

APPEAL NO. 15-02 Galarneau Builders, Inc. 526 Maple Avenue (Route 9), Saratoga Springs, NY 12866. Request for Area Variances pursuant to Section 129-181 B. (2) (b) Section 129-181 C. (1) Section 129-181 D. (2) (a) (b) (c) of the Zoning Ordinance for requested relief of 29 ft. for front yard setback and quantity for detached signage; property located at 526 Maple Avenue (Route 9), Saratoga Springs, NY 12866 Tax Map No. 153.9-1-16 zoned CR-1 in The Town of Wilton.

Chairman O'Brien read a referral from the **Saratoga County Planning Board**. **Decision:** No significant County Wide or Inter Community Impact

Mr. Tim Monahan was representing Galarneau Builders. Mr. Monahan said Galarneau Builders was looking to replace their existing sign with four detached signs, the four signs will be less than the code requires less than maximum. Mr. Monahan said the new sign would be farther from the road than the existing sign. Mr. Ramsdill asked Mr. Mykins if the sign was counted as two separate signs even though they were joined by a post in the middle. Mr. Mykins said yes they were separate signboards. Mr. Angerami asked if the center support was not there would it be counted as one sign. Mr. Mykins said if it was all one signboard. Mr. Kolligian clarified for the reason for four detached signs was because it would be duplicated on the other side of the building. Mr. Monahan said that was correct. Mr. Zabala asked if there was going to be any illumination. Mr. Monahan said yes, there would be ground illumination. Mr. Zabala asked if a variance was granted for the original signs. Mr. Monahan said he did not know. Mr. Kolligian asked if Galarneau Builders were the original owners of the building. Mr.

Monahan said no. Mr. Kolligian stated the sign was there when you purchased the property. Mr. Monahan said yes.

Chairman O'Brien asked if there were any questions or concerns. Mr. Deloria asked how far away from the structure the new sign was. Mr. Monahan said it was about 10 ft. from the structure.

Mr. Zabala made a motion to approve Appeal 2015-02 for Galarneau Builders, Inc. 526 Maple Avenue (Route 9), Saratoga Springs, NY 12866. Request for Area Variances pursuant to Section 129-181 B. (2) (b) Section 129-181 C. (1) Section 129-181 D. (2) (a) (b) (c) of the Zoning Ordinance for requested relief of 29 ft. for front yard setback and quantity for detached signage; property located at 526 Maple Avenue (Route 9), Saratoga Springs, NY 12866 Tax Map No. 153.9-1-16 zoned CR-1 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 change moves a large sign 8 ft. further from Maple Avenue, adjacent to the existing building; rather than in the minimal front yard space where it is presently located. 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 building exists and the buildings minimal setbacks cannot be adjusted. 3. The applicant has demonstrated that the requested Area Variances are not substantial because the sign already exists double sided. The new sign will be single sided but will conform to the zoning size requirements. 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 to the contrary now provides better sight distance up and down Maple Avenue, entering and existing all adjacent properties. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Kolligian seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Kolligian, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor. The motion passed.

APPEAL NO. 15-03 Nigro Group, LLC, 18 Computer Drive East, Suite 201, Albany, New York 12205. Request for an Area Variance pursuant to Schedule H

C-1 Commercial District of the Zoning Ordinance. Senior Living Communities falls under special permitted uses and notes 1 and 3 in this case. The side yard setback is required to be 100 ft. when abutting any residential district, the present proposed structure on lot 1 has a setback of 29 ft., relief requested is 71 ft.; property located on Perry Road, Saratoga Springs, NY 12866 Tax Map No. 153.-3-32.12 zoned C-1 in The Town of Wilton.

Chairman O'Brien read a positive recommendation to the ZBA from the **Wilton Planning Board**.

Chairman O'Brien read a referral from the **Saratoga County Planning Board**.
Decision: No significant County Wide or Inter Community Impact

Mike Tucker from VHB introduced himself stating they were the Civil Engineer on the project. Mr. Tucker explained the project as a senior community with one hundred and ten unit independent living apartment building located towards the front of the sight and a ninety-two unit assisted living facility towards the rear. Mr. Tucker said as part of the project they were taking the existing parcel and subdividing it into two pieces. One piece was going was going to be for the apartment building and the second was going to be the assisted living facility towards the rear. Mr. Tucker explained their parcel is zoned C-1 and the adjacent parcel is zoned R-1; there is a 100 ft. setback requirement from a residential zone to a building that is in the C-1 zone for the senior use. Mr. Tucker said that requirement is from the outside property line to the wing of the building; the wing of the building that is closest to the existing single family home meets the 100 ft. setback, the building was laid out so it's the piece that is the furthest away from the single family home that does not meet the 100 ft. setback. Mr. Tucker explained that by creating the second lot to the rear they provided the frontage on Perry Road, it's a 50 ft. flag lot back to the second piece and when that was done it created the need for a variance. Mr. Tucker said they are 29 ft. from the proposed property and need 50 ft. by zoning and 79 ft. the outside property line where 100 ft. is required. Mr. Angrami asked why it wasn't one big lot. Mr. Tucker said from a financing standpoint they are being built at separate times. Mr. Mykins addressed Mr. Angerami and said that it wasn't unusual the same thing happened with the Paddocks, they had to come back in to do the subdivision in the middle of the project. Mr. Ramsdill asked if both variances were before the Board today, there was only one in the packet. Mr. Mykins said just one. Attorney Schachner said just side yard setback. Mr. Angerami said 71 ft. Mr. Mykins said correct. Mr. Tucker explained the relief they were looking for was from the 100 ft. and the 50 ft. Mr. Mykins said you are getting the max relief there you wouldn't need the other one, it didn't equate in there. Mr. Deloria asked if they were asking for relief on the parcel knowing that it was going to be subdivided and hasn't been subdivided yet. Mr. Mykins said that had nothing to do with it, the subdivision wasn't in front of the Board; the variance that is front

of the Board is the setback from the property line to the building, side yard setback. Mr. Angerami said it's a proposed property line of lot one. Mr. Mykins said no the building. Mr. Angerami said proposed building corner to proposed property line of lot one not lot two, lot one will still be zoned residential. Mr. Mykins said correct. Mr. Tuckers stated the variance was for 100 ft. setback from the residential zone they are 79 ft. from there, when the proposed subdivision goes in, they won't meet the required setback of 50 ft. from the side yard. Mr. Ramsdill questioned the amount of relief being sought as 71 ft. Mr. Tucker said that was not correct. Mr. Mykins said you can give one setback you can't give the other because they haven't applied for the subdivision. Attorney Schachner also said they haven't applied for the subdivision yet. Mr. Mykins said they were there just for the side yard setback. Mr. Angerami stated that was for the larger variance and if they didn't get this variance there would be no reason for them to apply for the subdivision. Mr. Mykins said that was correct. Mr. Kolligian questioned the amount of relief they were looking for, as did Mr. Ramsdill. Mr. Kolligian referred to the application and the numbers on it. Mr. Mykins explained they didn't have the subdivision but it was included in the application. Mr. Tucker said the relief is not 71 ft. Mr. Kingsley said in the letter from Mr. Mykins lot one setback was 29 ft. and the amount of relief was 71 ft. Mr. Mykins said it was flip flopped. Mr. Tucker said they were 79 ft. from the proposed property line the relief they were looking for was 21 ft.

Michael Messenger approached The Board stating he owned property on Route 50. Mr. Messenger questioned the setbacks on one side of the property. Mr. Tucker said they meet the setbacks on the side of the property that Mr. Messenger had questioned. Mr. Messenger said thank you.

Bernard Pratt approached the Board stating he owned the single-family residence on the corner. Mr. Pratt asked Mr. Tucker if they were going to be more than 100 ft. from his property. Mr. Tucker said yes and explained they were maintaining a solid 50 ft. buffer of existing trees and it would be supplemented with plantings. Mr. Pratt asked Mr. Tucker about lighting. Mr. Tucker said there would be down lighting off the building for the parking. Mr. Pratt asked if the garages would be set back. Mr. Tucker said yes they would, they tried to push the building back off the road. Mr. Pratt questioned the two entrances on the plan; he thought there was only going to be one. Mr. Tucker said they had two for emergency. Mr. Pratt voiced his concern about the speed people travel down Perry Road; he had to be very careful pulling out of his driveway because people are traveling at a speed of 45-50 mph. Mr. Pratt was concerned about his property value; he stated he had a two-story residence and their building was going to tower over his residence. Chairman O'Brien said they were allowed to put the building there as long as it met all the requirements with the variances. Mr. Pratt said he was not notified about the Planning Board Meeting, only the Zoning Board Meeting. Mr. Tucker said there would be more Planning Board Meetings and they have not had their

Public Hearing yet. Mr. Mykins said they haven't even had conceptual approval and they were very early in the process. Attorney Schachner stated they were still having trouble sorting out the numbers. Attorney Schachner asked Mr. Tucker what their position was on side yard setback they were proposing and how much was required. Mr. Tucker said they were proposing 79 ft. and there was 100 ft. required with relief of 21 ft. Mr. Mykins said he had 71 ft. Attorney Schachner said Mr. Mykins stated they were proposing 29 ft. Mr. Mykins said they were proposing 29 ft. to their property line, correct. Mr. Angerami said no, they were requesting 21 ft. Mr. Tucker said they were proposing 29 ft. to the proposed property line and that could not be done. Mr. Mykins said because it wasn't there yet. Mr. Tucker said they have 79 ft. to the existing property line, which means they need 21 ft. from the existing line. The Board was clear that the amount of relief requested was 21 ft.

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

Mr. Ramsdill made a motion to approve Appeal No. 2015-03 for Nigro Group, LLC, 18 Computer Drive East, Suite 201, Albany, New York 12205. Request for an Area Variance pursuant to Schedule H C-1 Commercial District of the Zoning Ordinance. Senior Living Communities falls under Special Permitted Uses and notes 1 and 3 in this case, the side yard setback is required to be 100 ft. when abutting any residential district, the present proposed structure on lot 1 has a setback of 79 ft., relief requested is 21 ft.; property located on Perry Road, Saratoga Springs, NY 12866 Tax Map No. 153.-3-32.12 zoned C-1 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 Variance because it is in a commercial zone they have tried to create a 50 ft. buffer along the residential component in the area that could be impacted. They are situating the property in such a way to try to be more respectful of the setback across the front of the property and moving the shorter distance further to the rear of the property.
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 they are attempting to provide senior housing, the building is going to be large and will create issues with the layout on the long narrow piece of property.
3. The applicant has demonstrated that the requested Area Variance is not substantial because they have tried to move it back off of the road and away from the neighboring residential property and its 21 ft. which is not substantial in that area on the property.
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 its consistent with

many of the commercial buildings in the area. 5. The applicant has demonstrated that the alleged difficulty is self- created because of the way they want to position the building on the property.

Mr. Kolligian seconded the motion. Mr. Zabala, Mr. Kingsley, Mr. Kolligian, Mr. Angerami, Mr. Deloria, Mr. Ramsdill, and Chairman O'Brien were all in favor. The motion passed.

ADJOURNMENT:

Mr. Mr. Kolligian made a motion to adjourn the meeting at 8:07 p.m. Mr. Deloria seconded the motion. All board members were in favor. The motion passed.

Dated:_____

BOARD OF APPEALS

BY_____

Amy DiLeone, Zoning Clerk

BY_____

Joseph O'Brien, Chairman