

WILTON ZONING BOARD OF APPEALS
THURSDAY June 25, 2015

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, June 25, 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, James Deloria, Robert Barrett, Tony McCracken, Charles Foehser, II and Gerard Zabala. Also present were Justin Grassi, Attorney and Mark Mykins, Zoning Officer.

ABSENT: Dean Kolligian, Scott Kingsley and Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney

MINUTES: The minutes of the last meeting, held on May 28, 2015 were approved, as submitted, on a motion made by Mr. Barrett seconded by Mr. Deloria. All board members were in favor.

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

RENEWALS:

APPEAL NO. 13-28 Justin Bergin, 110 Ruggles Road, Saratoga Springs, NY 12866. Request for the renewal of a Special Permit pursuant to Section 129 Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agriculture use with animals. Permit originally granted on June 27, 2013 for a period of two years; property located at 110 Ruggles Road, Saratoga Springs, NY 12866 Tax Map No. 154.-2-41, zoned R-2 in the Town of Wilton. Special Permit is due for review and renewal.

Chairman O' Brien asked Mr. Bergin if he would like his permit renewed. Mr. Bergin said yes. Chairman O'Brien asked Mr. Mykins if there were any concerns. Mr. Mykins said there were none.

Mr. McCracken made a motion to renew Appeal No. 2013-38 for Justin Bergin, 110 Ruggles Road, Saratoga Springs, NY 12866, pursuant to Section 129

Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agriculture use with animals for a period of two years.

Mr. Zabala seconded the motion. All Board members were in favor. The motion passed.

APPEAL NO. 13-21 Thomas & Joanne Klepetar, 101 Parkhurst Road, Gansevoort, NY 12831. Request for the renewal of a Special Permit pursuant to Section 129 Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agriculture with animals. Permit originally granted on June 27, 2013 for a period of two years; property located at 101 Parkhurst Road, Gansevoort, NY 12831. Tax Map No. 114.-1-32.2, zoned R-2 in the Town of Wilton. Special Permit due for review and renewal.

Chairman O' Brien read a correspondence from Mrs. Klepetar.

Hi Amy, I was in Town Hall yesterday morning and told Mark that we would not be available to come to the Zoning Board meeting on June 25th. He told me to write you an e-mail to tell you that.

We are interested in renewing our permit once again and nothing has changed in the past 2 years. We still have 4 hens and everything is still exactly the same as before.

If you feel that we should come in for the meeting we would be available in July or August.

Thank you for your time,

Joanne and Tom Klepetar
101 Parkhurst Road
Gansevoort, NY 12831

Appeal No. 13-21

Chairman O'Brien asked Mr. Mykins if there had been any problems. Mr. Mykins said there had been no problems or issues.

Mr. Barrett made a motion to approve Appeal No. 2013-21 for Thomas and Joanne Klepetar, 101 Parkhurst Road, Gansevoort, NY 12831. Request for the renewal of a Special Permit pursuant to Section 129 Attachment 8 Schedule B and Section 129-176 (V) of the Zoning Ordinance, for agriculture with animals,

for a period of two years; Tax Map No. 114.-1-32.2, zoned R-2 in the Town of Wilton.

Mr. Deloria seconded the motion. All Board members were in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 2015-17 Peter Maynard, 3 Waller Road, Wilton, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157, projection into required yards, for a front yard setback, relief requested is 15 ft., for a proposed garage; property located at 3 Waller Rd, Wilton, New York 12831, Tax Map No. 140.10-1-20 zoned R-1 in the town of Wilton.

Chairman O'Brien noted that there were two of the green cards that had not been returned. Mr. Maynard said he hadn't received them but he had the white receipts. Mr. Mykins stated they had all the cards that show the certified letters were sent. Mr. Mykins said some people won't sign for them and they don't have any control over that side of it.

Mr. Maynard said he bought his house in October last year and it needed a lot of work and that was probably how he could afford it. Mr. Maynard stated he had gone through the whole interior, new roof, and new gutters. He showed the Board a picture of his home from the Waller Road perspective and explained it didn't have a driveway. Mr. Maynard further explained that from Newport Road, the side street of his corner lot he measured from where the corner of the garage would be closest to Newport and put a garbage can there and took a picture from Newport. Mr. Ramsdill asked if Mr. Maynard would lose the nice tree. Mr. Maynard said no, there was some trimming that would have to be done but he would not lose the tree. He explained he was going to be quite a ways from Newport. Mr. Maynard showed the Board a picture, the backyard was shot from towards Waller with Newport on the left with the garbage can as a reference point. Mr. Maynard said esthetically there was quite a bit of room and it was a half-acre lot. He said once he got the garage, driveway, etc. he would have a total of \$42,000.00 beyond the purchase price which he thought was going to be good for the neighborhood. Mr. Maynard said a two car garage was fairly common in his neighborhood and he would prefer a two car garage for the snow blower and everything else that he had. He further explained he thought it would increase the property value in his neighborhood, not having it look the way it looks now. Mr. Maynard explained the house was going to be sided with same siding as the garage, so they would look the same on the exterior. Mr. Maynard said he tried to

turn the garage ninety degrees to see if he could access from Newport but because the garage is 24' x 24' it wouldn't help him at all. He further explained the fifty feet that was required was from the right of way. Mr. Mykins said no it was from the property line. Mr. Maynard questioned the property line being six to eight feet from the edge of the asphalt. Mr. Mykins said he thought it was close to eight ft. Mr. Maynard said he would be forty some feet from the edge of Newport. He continued to explain that from the Wallar Road he met the requirement of fifty feet and the fifteen feet was what he was asking for. Mr. Maynard said that nothing else was being done, the garage will be done with a concrete slab and when that was finished the asphalt driveway will be put in and it will look really nice. Mr. Ramsdill stated Mr. Maynard only needed this because it was a corner lot. Mr. Mykins said correct. Mr. Maynard said it would be really nice to dress up the corner as you come into the neighborhood and going to look esthetically pretty good.

Chairman O'Brien asked the Board if there were any questions. Mr. Zabala asked Mr. Maynard what the structure was in the back of the photos. Mr. Maynard said it was a small shed. Mr. Zabala asked if it was located by the house. Mr. Maynard said no. Mr. Deloria asked if the shed was located on his plan. Mr. Maynard said no. Mr. Deloria asked if the current driveway was a dirt driveway. Mr. Maynard said correct. Mr. Deloria asked if the driveway would be moved over. Mr. Maynard said that once they were done there would be a walkway and they would see what would have to be done for an asphalt driveway to come up to the garage. Mr. Ramsdill said it was a very small driveway as it stands now and was hardly noticeable in the grass. Mr. Barrett said it was a driveway over the grass.

Chairman O'Brien asked for the photos for the record. Chairman O'Brien asked if there were any questions or concerns from anyone in the audience. There were none.

Mr. Ramsdill made a motion to approve Appeal No. 2015-17 for Peter Maynard, 3 Waller Road, Wilton, New York 12831. Request for an Area Variance pursuant to Schedule A, R-1 District, Section 129-157, projection into required yards, for a front yard setback, relief requested is 15 ft., for a proposed garage; property located at 3 Waller Rd, Wilton, New York 12831, Tax Map No. 140.10-1-20 zoned R-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 the garage would be consistent with other properties in the area and because it's a corner lot the requirement is more substantial than it would be if it were not a corner lot, for the way it would be laid out. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method

feasible for the applicant to pursue other than by an Area Variance because it's not an overly large garage and the layout with the main driveway coming in from the front doesn't allow him to place it on the other side of the house. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it's not an overly large garage and it would be the minimal amount for the structure he would like to build. 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's consistent with other properties in scale and size with that area. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Deloria seconded the motion. Mr. Zabala, Mr. Barrett, Mr. McCracken, Mr. Foehser, Mr. Deloria, Mr. Ramsdill and Chairman O'Brien were all in favor. The motion passed.

APPEAL NO. 2015-18 Balzer & Tuck Architecture, 468 Broadway, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to Schedule A R-1 District, Section 129-157B, projections into yards, for a south side yard setback, relief requested is 20.50 ft. for a proposed new single family home; property located at 33 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.-18-1-40.1 zoned R-1 in the town of Wilton.

Chairman O'Brien read a correspondence from Betty Gallagher the owner of 27-29 Loughberry Lake Road.

From: Betty Gallagher <bettygallagher27@yahoo.com>

Subject: variance for 33 Loughberry Lake Road

To: "David Gallagher" <drgall44@yahoo.com>

I appreciate the opportunity to speak to the issue of an additional variance for the property at 33 Loughberry Lake Road. I am the owner of 27 -29 Loughberry Lake Road. My property abuts # 33 on the south by roughly 350 feet. My Name is Betty Gallagher, and my family has lived here since 1960. Our house. built in the early 1800's, has considerable historical significance and is on the Wilton historic register.

We believe that the previous owners of #33, close friends of ours, received a variance of about 17.7 feet on the southern property line.in order to build their home in the early '60's. We do not know if that variance applied only to their house plan, or if it included the entire property line. Naturally we have been concerned that a new home may be built within 4 1/2 feet of our property line. Furthermore, we did not know if this new variance would extend along the entire property line. This would be completely unacceptable!

This morning (6/22/15) my son, David, and I had a cordial meeting with the new owners of 33 Loughberry Lake Road, Mr. and Mrs. Carbone and their architect Mr. Balzer. This

meeting, in addition to several conversations with the Zoning Board, has clarified most of our concerns.

We now understand that the additional variance requested will only be applicable to the side porch in the building plan already submitted to the Building Department, and approved, but for the variance required. It will not apply to the entire south-facing property line. In the event that the approved home is not built the variance would virtually disappear unless another owner could come up with an identical need for that particular space. We assume that the actual length of the variance would be quite small. We would like to know its exact length.

We are pleased that the main orientation of the proposed house will be farther from the property line than the previous home. The presence of large trees on the property line has been discussed amicably, as well as other landscaping possibilities.

Provided that we are correct in assuming the variance requested would apply only to the proposed structure, we are happy to give approval to this request.

Betty Gallagher
27 Loughberry Lake Road
Wilton, NY
518-584-4634bettygallagher27@yahoo.com

Chairman O'Brien read a favorable correspondence from Greg Franzone of 33 A Loughberry Lake Road.

June 22, 2015

Angelo & Mary Kay Calbone
33 Loughberry Lake Road
Saratoga Springs, NY 12866

Dear Mr. Calbone and Members of the Wilton Zoning Board of Appeals,

Please allow this letter to serve as written documentation for my support for the requested area variance in Appeal No. 2015-18. I am writing today, as I am regretfully unable to attend the upcoming hearing on June 25. As the Calbone's neighbor on their northern property line, I wish to receive notification of any other setback variance requests.

Warm Regards,



Greg Franzone

Mr. Balzer approached the Board and introduced himself as Brett Balzer from Balzer and Tuck Architecture and he was representing his clients Angelo and Kate Calbone. Mr. Balzer said his clients had purchased the property last fall and hired their firm shortly thereafter to design a new residence to go on the property. Mr. Balzer said the existing home was an older home and had some water issues in the existing foundation, along with what would be inadequate framing for a structure they would build today. Mr. Balzer said they played around with plans on the existing structure a little bit by adding to and adding up none of that added up to any desirable residence. He further stated shifting gears they designed a new home. Mr. Balzer explained why they were there, he said they were in an R-1 zone, it's a one acre zone in the Town of Wilton and they were handcuffed a bit right out of the gate because they had roughly a twenty five thousand square foot parcel with 2 twenty foot side yard setbacks and two fifty foot front and rear yard setbacks and that sets up for a long lineal lot. Mr. Balzer said their reaction to that was to set up a long lineal house; a couple of the key design drivers were to obtain the existing driveway and if you had been by the site at all you know the topography changes significantly as you go from Loughberry Road to the top of the sight. Mr. Balzer explained they didn't want to disrupt the site anymore than it currently was with that driveway their goal was to retain the existing driveway and actually keep circulating to the north of the property to what would be a new garage. Chairman O'Brien asked Mr. Balzer to turn the board with the plans more toward the people in the audience. Mr. Balzer explained the plans by saying; highlighted in red was the existing structure as Mrs. Gallagher pointed out they were setting the new house further back than where the existing structure currently was. Mr. Balzer further explains the driveway comes up off of Loughberry and runs along the north of the property line they were proposing a driveway that would bring them back to a new two car garage in the rear of the property. He explained one of the goals was they didn't want to see the garage from the street, so it pushed it further back on the property. Mr. Balzer said none of us are getting younger, including Angelo and Kate, Kate has some mobility issues that prohibit her from using stairs on a daily basis which set-up a one story residence. He further explained they were not looking for two stories this was a one story residence that had a basement that would be habitable with two walkout bedrooms for guests but it really is just Angelo and Kate living in this house. Mr. Balzer explained that all of the living areas and sleeping areas for them were on the first floor and so was the garage. Mr. Balzer said one of the key factors was the existing residence the corner measures 7.9 ft. from existing property line the part they were seeking the variance for was, the screened porch to the south of the property looks out into the woods and there was a nice wooded buffer between this property and the Gallagher's home. Mr. Balzer explained they stood on the Gallagher's property the other day trying to see where the porch might land and he thought that's where Betty (Mrs. Gallagher) had some comfort knowing that this thing wasn't going to be in her face, he said he didn't want to speak for her and her son was

there. Mr. Balzer said there were some existing structures on their property that mask what would be their structure. Mr. Balzer said ask if you will the same 7.7 ft. goes 4.6 ft. at the screened porch the majority of the house, the one story piece which is the living area is set back 18 ft. from the property line and the garage is 13 ft. from the property line. Mr. Balzer said that was how they ended up with their plan and turned it over to the Board for questions.

Mr. Zabala asked where Mrs. Gallagher's residence was in regards to the proposed residence. Mr. Balzer explained Loughberry Lake Road comes down and turns into Howe they have driveway access off of Howe and off of Loughberry so they are closer to Howe and there was an existing guest residence. Mr. David Gallagher (Betty's son) said it was a small house that was built on the property and was probably 150 ft. from that and a garage that was probably 125 ft. Mr. Balzer explained there was a garage, the guest residence and the historic home was the furthest structure away of the three. Mr. Zabala said so from the porch projection the nearest structure would be 150 ft. Mr. Barrett said he didn't even think you could see it through the woods. Mr. Gallagher identified himself as Betty's son he asked if a specific variance for the porch that would be roughly 4.5 ft. from their property it would be a 29.5 ft. set back and he asked if there would be another variance for the length of the structure. Mr. Mykins said there was already a variance on this property so they can encroach to 7.9 ft. from the property line. He continued to say the zoning board could possibly condition it; that would be a question for Attorney Grassi on the additional variance just for the porch. Mr. Gallagher said their understanding was that if the house was torn down the original variance goes away. Mr. Mykins said no. Attorney Grassi said a variance runs with the land it doesn't bind to the owner so it does run with the land but you can choose to add whatever restrictions on the variance that you wanted to. Mr. Gallagher said the main part they were uncomfortable with was giving up the variance of 4 ft. for the whole length of the property 350 ft. He further stated they would have an issue with that, if they could have a variance that was structure specific they would be agreeable to that. Mr. Barrett said you mean just for the screen porch. Mr. Gallagher said well, how long is the house. Mr. Balzer said he thought if spoke for clients it would be amenable to a conditional variance that went with the screened porch, this was the most aggressive this plan would ever get they were not looking to take advantage of the 4.6 ft. variance and build outward. He continued to say they had settled they had been working for six months on the plan and they were very happy with it so conditional approval could be a possibility in saying it would apply only to the screened porch structure. Mr. Barrett asked the length of the screened porch. Mr. Balzer said 20 ft. plus or minus. Mr. Ramsdill asked if it would be smarter to lay it down by distance then by structure in case that would be something that would change. Mr. Mykins questioned what Mr. Ramsdill said. Mr. Ramsdill asked if it would be smarter for the Board to say it could be altered between 50 ft. and 60 ft. from the property line than to say that it's conditionally based upon the

construction of the screened porch. Mr. Ramsdill said he was just asking which was a better way. Mr. McCracken said if you said it was 20 ft. long you could put any structure that was 20 ft. long and go the other way. Mr. Mykins that was right and that was not what they were looking for. Mr. McCracken said correct. Mr. Ramsdill said Mr. Gallagher didn't want something built the entire distance of the property. Mr. Gallagher said they think it was in their best interest to give up 350 ft. of a variance, when the house might be 40 ft. or 60 ft. whatever the number is they didn't feel it was in their best interest up that much. Mr. Ramsdill said his question was if you said screened porch and decided to add onto the screened porch later, he would have to condition it to as it is constructed within that plan. Mr. Mykins said yes. Mr. Ramsdill said and then we are ok. Mr. Mykins said conditioned upon the plan that was provided. Mr. Gallagher asked if a new owner came in at some point would they have to apply to do anything within that variance level. Mr. Mykins said yes if they wanted to do anything beyond that variance level they would have to. Mr. Gallagher said so essentially within the length of the house they could come in 4 ft. Mr. Mykins said no, basically they were saying based on this drawing of the structure that is what's allowed. Mr. Gallagher asked about the initial variance the neighbor got. Mr. Mykins said it was for the entire property. Chairman O'Brien said that was back in 2005. Mr. Mykins said that was 7.9 ft. Mr. Gallagher said that never goes away. Mr. Mykins said no, it runs with the property. Mr. Ramsdill said we are conditionally applying it only to the screened porch area in the amount of 3.5 additional feet beyond the old variance. Mr. Barrett said as the plans are submitted now. Mr. Mykins said correct. Mr. Ramsdill said that no one could change that in the future. Chairman O'Brien said they would have to come back in for a variance. Mr. Gallagher asked how long the porch was. Mr. Balzer said about 22 ft. to the overhangs which would probably be 19 ft. along Mr. Gallagher's property line. Chairman O'Brien asked if there were any other questions. A member of the audience said he had a question. Chairman O'Brien asked the man to identify himself. He identified himself as Peter Deering a neighbor that touches his property. Mr. Deering said his main concern was the big trees, they were just trying to understand what was going to happen and they were in favor and was a good thing and can't wait for the campers that were there to get out so they would like to know he timing of the construction and will there buffer remain. Mr. Balzer said they would probably need a new septic system and when you look at the piece of property for location of the system they would keep it close to the house. Mr. Balzer said it was in Angelo's and Kate's interest to keep that buffer too, they want to live in the woods. Mr. Balzer said one of the goals that they charged them with early on was they didn't want a lawn, they didn't want to mow anything they wanted to live in the woods and they wanted it simple. Mr. Balzer said that their goal was to keep as many trees as possible he said he couldn't promise that they were all going to stay that they needed to put a septic system in. Mr. Deering asked Mr. Balzer to show exactly where his property touches theirs. Mr. Deering asked what the time frame of the construction was. Mr. Balzer said

they hope to start construction next spring and the duration of the construction would be plus or minus 4 months. Mr. Gallagher asked if this was approved would it go away if nothing happens in two years or would it have to be reapplied for. Attorney Grassi said they could put a time duration on it. Chairman O'Brien said that it would have to be built within a certain period of time. Attorney Grassi said yes otherwise it would go with the land. Mr. Ramsdill said it could only be built on these plans if it was ever to be done in the future. Mr. Gallagher said his gut feeling was to put maybe a three year time frame on the project. Mr. Balzer said if a time frame happened their preference would be 5 years because they would like to start next spring but it could happen the spring after. He continued to say there was no rush to start they were trying to sell their home, so asking for 5 years would be our request because he didn't know if it would happen in 3 years. Mr. Mykins explained that the variance was tied to this plan and this structure the porch structure only was what it would be conditioned upon; it's not like someone could come in with another plan that would encroach closer. He further explained if it's that way it's only for what was provided. Mr. Ramsdill said the porch has a chimney that extends off that side so the porch itself would sit back farther than the chimney so it was really only the chimney that requires the setback. Mr. Balzer agreed and said thank you. Mr. Gallagher said he would probably be agreeable to 5 years, he said he just wanted to have some kind of time frame.

Chairman O'Brien asked if there were any other questions or concerns from anyone. There were none.

Mr. Ramsdill made a motion to approve Appeal No. 2015-18 Balzer & Tuck Architecture, 468 Broadway, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to Schedule A R-1 District, Section 129-157B, projections into yards, for a south side yard setback, relief requested is 20.50 ft. conditioned upon on the plans that have been submitted to the Board and the project being completed within five years, for a proposed new single family home; property located at 33 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.-18-1-40.1 zoned R-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 a current structure exists in poor condition, that is relatively close to the same variance amount that is being requested and it's only going to be limited to the area that the porch would cover. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by an Area Variance because of the orientation of the current driveway and the need to access the rear of the property because the long narrow lot shifts the structure over to the right

more. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is substantial but it's only substantial for the smaller amount of the porch. 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's going to improve the property dramatically based on the plans. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. McCracken seconded the motion. Mr. Zabala, Mr. Barrett, Mr. McCracken, Mr. Foehser, Mr. Deloria, Mr. Ramsdill and Chairman O'Brien were all in favor. The motion passed.

ADJOURNMENT:

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

Dated: _____

Amy DiLeone
Zoning Clerk