

**WILTON ZONING BOARD OF APPEALS
THURSDAY, March 22, 2018**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, March 22, 2018 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, Scott Kingsley, Dean Kolligian, Gerard Zabala, and Charles Foehser. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer

ABSENT: Robert Barrett and Joseph Sabanos

MINUTES: The minutes of the last meeting, held on February 22, 2018 were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Kolligian. All board members were in favor.

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

RENEWALS:

APPEAL NO. 06-15 Jeffrey Klein, 122 Edie Road, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit, pursuant to Section 129-176 (V) of the Zoning Ordinance, for the keeping of chickens with the maximum of 50 chickens and no roosters; property located at 122 Edie Road, Tax Map No. 141.-2-22, zoned R-2 in the Town of Wilton. Permit originally granted on March 23, 2006 for a period of two years, is due for review and renewal.

Chairman O'Brien read an e-mail sent by the applicant stating that they no longer have a need for their Special Permit for chickens. Chairman O'Brien said the Board will just let this renewal drop.

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APPEAL NO. 2014-03 Kenneth West, 6 West Lane, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit for a private stable pursuant to Sections 129-175 Attachment 8, Schedule B, R-2 Residential District and Section 129-176 V (1-7), Agricultural with animals and private stable; property located at 6 West Lane, Tax Map No. 128.-1-29.1, zoned R-2, in the Town of Wilton. Permit was originally granted on January 23, 2014 for a period of two years, is due for review and renewal.

Chairman O'Brien asked if Mr. West was present. Mrs. West said she was present and would like to renew her Special Permit. Chairman O'Brien asked Mr. Mykins if there has been any problems regarding this property and permit. Mr. Mykins stated there were no problems. Mr. Kolligian made a motion to approve Appeal No. 2014-03 for Kenneth West, 6 West Lane, Saratoga Springs, New York 12866. Request for the renewal of a Special Permit for a private stable pursuant to Sections 129-175 Attachment 8, Schedule B, R-2 Residential District and Section 129-176 V (1-7), Agricultural with animals and private stable; property located at 6 West Lane, Tax Map No. 128.-1-29.1, zoned R-2, in the Town of Wilton, be granted for an additional two years.

Mr. Foehser seconded the motion. All were in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 2018-01 The Adirondack Trust Company, 473 Broadway, Saratoga Springs, New York 12866. Request for an Area Variance for a 60 day extension to begin construction, pursuant to Section 129-110 of the Zoning Ordinance; property located on 650 Route 9, Saratoga Springs, New York 12866, Tax Map No. 140.13-1-19, zoned H-1, in the Town of Wilton.

Mr. Kolligian recused himself for this application and for the Key Bank application.

Chairman O'Brien stated that there is correspondence regarding this appeal. He read the correspondence from Michael G. Dobis, Chairman of the Wilton Planning Board dated February 26, 2018.

Chairman O'Brien then read correspondence from the Saratoga County Planning Board dated March 16, 2018.

Mr. Ramsdill started to read correspondence from resident Eric Rosenberg then stopped to ask the Town of Wilton Attorney Schachner if this letter had to be read at this meeting since it was addressed to the Chairman of the Town of Wilton Planning Board. Attorney Schachner said that he did not have to read it but that they could if they wanted to read it. Chairman O'Brien said we don't have to read it. A resident injected that he did copy the chairman of this board on his letter. Chairman O'Brien asked the resident to identify himself. The resident apologized and stated that he was Eric Rosenberg of 16 Craw Lane. He said that he did copy Chairman O'Brien on the letter.

Mr. Schachner said that the Board has the letter as part of the record and that like any other letter, it can be read aloud but it doesn't have to be read aloud. Chairman O'Brien

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said that they don't have to read it. A resident (Mr. Rich Gaylord, 11 Amelia Court) interrupted and asked what the content of the letter was since the Board is not going to read the letter. Chairman O'Brien reiterated that the Board does not have to read the letter so he is not reading it. Mr. Gaylord interjected asking what the general content of the letter is. Chairman O'Brien asked if Attorney Schachner wanted to explain the letter.

Attorney Schachner said he did not want to characterize the general content of the letter. He said the gentleman's question is of Mr. Rosenberg and if he wanted to ask Mr. Rosenberg about the letter that's fine and Mr. Rosenberg could respond if he wished to respond. Attorney Schachner said that this is a Zoning Board of Appeals meeting so the Board should proceed in accordance and if anyone has a comment to make in public hearing they can do so. He said dialogue between members of the audience should not be encouraged; the audience would be able to speak at the public hearing. Mr. Gaylord asked if the Board could read the letter. Chairman O'Brien stated that the letter was not going to be read. Another resident, (Ms. Joyce Heckler, 550 Wilton/Gansevoort Road) asked why the letter wasn't going to be read. Mr. Ramsdill clarified at the ending of the Board's initial review there would be public comment where people would be able to ask questions and voice their concerns.

Mr. Ramsdill read Eric Rosenberg's letter into the record.

Jon Lapper, the project attorney with the law firm of Bartlett Bontiff in Glens Falls, introduce himself and introduced Mike Phinney, the project architect. Attorney Lapper said he would like to quickly explain the site and why some of the decisions were made and address the Rosenberg letter which he completely disagrees with. Attorney Lapper said that they are asking for a sixty day extension because of weather and other factors so the building couldn't be rebuilt within one year. He stated that the applicant hired Mike to design a beautiful, very expensive site renovation replacement. He said unfortunately because this was approved in 1990, under the C-1 zoning there isn't room in front of the site for the H-1 improvements. He thinks this is a very expensively, very nicely redeveloped site. The applicant needed relief for the prior developed site and there isn't room with the location of the stormwater facilities by the road.

Mr. Lapper said that Mr. Phinney would orient everyone with the site plan. Mr. Phinney said that most people are familiar with the existing property. Mr. Ramsdill stated that the only issue before the Board is an extension of time and there are no variances concerning construction details. Mr. Phinney said that was correct but he thought the Board might want to be oriented to what they were doing on the site. Mr. Ramsdill said that nothing regarding the building is before the Board tonight just the extension of time.

Mr. Kingsley asked Mr. Mykins if the drawing as submitted would meet the zoning for when the bank was built in 1990. Mr. Mykins said yes they would meet that zoning. Mr. Ramsdill said that this is not an issue before the Board; it would go back to the Planning Board. He added the only issue before the Board tonight is the sixty day extension related to building. Mr. Schachner said, "If the answer was no, then there could be variances, if that was the case." Chairman O'Brien asked if Mr. Phinney would like to continue presenting. Mr. Phinney said that he would, if the Board would like him to continue but

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he doesn't have to. Mr. Deloria said that this presentation is not relevant to the issue at hand. Mr. Ramsdill said that he didn't believe it would be relevant to get into the building construction and the layout issues that he believes... Mr. Kingsley said the applicant already had site plan review.

Mr. Lapper said that he would like to address the Rosenberg letter. Mr. Deloria said he wanted to interject to ask if there would be a Public Hearing and if that would only be relevant to the application at hand only. Chairman O'Brien said that was correct. Mr. Mykins said the Planning Board would have its own Public Hearing. Mr. Deloria stated the site information is not this Board's function this evening. Chairman O'Brien said that was correct, only the time extension. Mr. Lapper said that he was looking at the same section that was quoted, Chapter 129, article 20 – Nonconforming Uses. He said, "It starts out very simply, 'The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter.' That language 'such use', Mr. Rosenberg is trying to say that this only applies to a use variance not an area variance, area requirements. The language, I just read, the preamble to this section, such use does not conform with the provisions of this chapter. The provisions of this chapter, the Wilton Zoning Code doesn't just cover uses but also covers area issues. The issue here, simply, is that some of the design changes in this H-1 district, can't be complied with this pre-existing site but this language is broad enough to cover when it says 'nonconforming use'. It is talking about the use of the site not just the nonconforming use, meaning how it is used, in terms of the area and the use. I think it is clear in this section, it is talking about both because it says 'does not conform with the provisions of this chapter and the provisions of the zoning code is area and use. I think that the idea of limiting this to say that when we are talking about the use, area nonconformities, this is broad enough. Mr. Schachner would agree with me that the standard interpretation of the zoning code, is that if there is any ambiguity, and I don't think there is, that would be in favor of the property owner because it goes against the common law. We think this is very clear. Mark Mykins thought this was very clear. The right thing to do was to come and ask you for a sixty day extension so that they can get this thing in the ground as soon as winter is over. We are simply trying to replace that building and make the site better."

Chairman O'Brien asked if anyone in the audience has any questions. Resident Eric Rosenberg stated that he would like to speak. Mr. Schachner asked if the public hearing was being opened and that the minutes should reflect the time the public hearing was opened.

Chairman O'Brien opened the public hearing was opened at 7:22pm.

Mr. Eric Rosenberg of 16 Craw Lane addressed the Board.

He said, "My goal here is to look at the ordinance as it is written and determine whether or not the ordinance that they are trying to use applies. I think that if you read the ordinance, that is in fact being applied, the ordinance that is written does not apply. Now originally, first of all, maybe this a procedural matter but they are looking for a time extension not an area variance at this meeting. So, I'm not sure

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they have even followed the proper procedure because I don't believe an area variance is the same thing as a time extension. So the first thing is I object to the procedure they followed. However, if you want to move forward, even though they have followed the incorrect procedure, I want to address the issue of whether or not it is a nonconforming use. Because if it is a nonconforming, if you read statute number 129-110, if it is a conforming use going forward 129 does not apply then the issue of time is irrelevant. So if you look at the definition of use that is in the code, even though the gentleman representing the bank tried to extend it to cover other things, the definition of use is very clear. It is the purpose for which the property was used whether it is a bank or bakery or a convenient store. In fact Mr. Mykins, when the original project was put through with Stewarts, made it very clear. He said that the bank is a permitted primary use therefore to come back now and try to argue that it is a nonconforming use goes directly against the decision originally of the Code Enforcement Officer. From my position, if you read the statute, and I'd like to again read it as it is written. Any building damaged by fire or any other cause may be repaired or rebuilt for the same but not a different conforming use. That's it. That's what the statute applies to. If it is conforming use in the H-1 zone going forward, this statute doesn't apply, no need to talk about time. Yes it's a weird result but that is the way the statute, the ordinance was written. Okay. If you read it carefully, you have to agree with me on its face it says only if it's a nonconforming use going forward. So, I would suggest again, that there is no point of even talking about time because 129-110 does not apply. However, okay, if I can just look at my notes again. So and I object, by the way, to the fact they've made this application based on the fact that it is a nonconforming use. Again, it is an application of the statute but it is not a nonconforming use. The definition of use in the statute is very clear. It is the purpose for the statute. All that stuff about setbacks and construction requirements does not fit in to the definition of use as set forth in the Wilton Zoning Code. You just can't read into it what you want to read, it says what it says. So, my last point is if you want to move forward even though it is the improper procedure and it's the improper application of the zoning code and it doesn't meet the definition of a nonconforming use. I suggest that it doesn't meet Mark giving the variance based on the merits. Now, the bank make some business decisions. Okay? And they said, well they'd negotiate with Stewarts. Not our problem. That was a business choice they made. They should have been aware of the time limits, if they were going to go forward on that thing. Of course, they didn't intend to at first when they were going with Stewarts because they did a plan that was fully compliant with the H-1 zoning code. And in fact, the only reason they don't want to do this is because it is going to cost them a little extra money. And this whole argument about weather, I live in Craw Farm, a brand new development over here, my builder of the last two or three months, with the same snow, with the same weather, ok, has started 4 to 5 or 6 new homes with full basements. If the bank wanted to move forward, they very well could have. They just didn't. And, I don't think we should reward them. Whatever it is, it is their problem, not the residents of Wilton's problem. So I am asking you to one, conclude that it does not apply to begin with and even if you want to move forward on that, on the merits they should not be granted a variance. Thank you."

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Chairman O'Brien thanked Mr. Rosenberg.

Chairman O'Brien asked if anyone else has input.

Mr. Richard Gaylor, 11 Amelia Court said he would like to speak. Mr. Gaylord said, "One of my understandings about the zoning change from C-1 to H-1, I believe it is, would require sidewalks. That community over there is growing substantially in terms of houses, development. People are walking, going to be walking more in that area. There are older people in the area now. It seems to me that sidewalks is a fairly small request in the context of a modification to the site. Putting a sidewalk in so that people walk down the road, and eventually the next time some building goes in or the Town gets money to add sidewalks, sidewalks can be extended and make that little section of the community there more confined, confined is not the right word, more amenable to people who are walking or desire to walk to Stewarts or to walk to the bank. The bank is going to be a part of the community. I would think they would be very interested in conforming to the codes as they are written. Whether or not they consider the use..."

Chairman O'Brien interjected that he thought the Planning Board could require them to do that. Chairman O'Brien stated the only thing the Zoning Board of Appeals is addressing tonight is the time limit.

Mr. Gaylord continued, "We got into a little more about this as a result of what he [Mr. Lapper] had to say about what he [Mr. Lapper] thought the use was..." Chairman O'Brien stated the Board was only addressing the time limit.

Chairman O'Brien asked if anyone else wanted to speak.

Mr. Lapper said, "His simple point is that the use of the site in a nonconforming manner is because the zoning code changed. It's not just the use, it's the other requirements of the zoning code and that is why Mark sent us here. It is not the building itself. I just have to correct for the record, the gentleman before was talking about trying to save money and this is a very expensive project, this isn't about saving money. There is just simply no room in the front to put sidewalks in because of the stormwater facilities but there is a sidewalk going to the adjacent Stewarts site so if somebody wanted to walk, they could walk through the parking lot to Stewarts on the sidewalk. No one is trying to save money here, there just wasn't room for it."

Mr. Deloria said, "I think a fair question is 'why we ended up in this situation that we are in'. Why within a year why didn't they commence construction within the year? It's a fair question." Mr. Lapper said, "They were doing land swaps with both of the adjacent property owners and they got into winter conditions. It's just that they didn't get it done in a year."

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Mr. Deloria asked if The Adirondack Trust Company was cognizant of the deadline. Mr. Lapper stated that they were. Mr. Phinney said it was easier to ask for an extension than to try to build in a snowstorm.

Mr. Lapper said, "I don't know the details of the negotiation with Stewarts but they did a good faith effort to see if combining it would be beneficial, unfortunately that didn't work out. All I can say is that immediately as soon as that happened, they hired us and we've been working very diligently. We have been meeting with them. Dean has been particularly sensitive to the community would like this bank back as soon as possible. There are a lot of customers and people that have been inconvenienced. I can tell you that the bank at no time was taking their time. Every conversation that I have ever had with them, has been 'we need to do this as soon as possible.' The reality is we are now a few weeks shy and now it has been because we have to go to this meeting that actually delays it a month from what it would have but time is of the essence. The message that has been given to me since the day I was hired." Mr. Deloria thanked Mr. Lapper.

Mr. Rosenberg asked if he could follow up with a question to what Mr. Lapper said. Mr. Rosenberg said, "I'm sorry because the gentleman has twice said that Mr. Schachner agrees with his interpretation. I'd like to know that in fact has Mr. Schachner agreed that in his legal...it does come down to a legal question. Is their definition of use or their attempt to broaden the definition of use that is written in the code? Does it in fact extend beyond the purpose for which the property is being used, such as a bank or whatever? And, I think that is something since he has apparently spoken to Mr. Schachner, if he is saying that Mr. Schachner has concluded that. I think we should be entitled to hear what Mr. Schachner has to say on this."

Attorney Schachner asked the Board if they would like him to respond to Mr. Rosenberg. Chairman O'Brien said yes they would like him to respond.

Attorney Schachner said, "First and foremost, Mr. Lapper, neither Mr. Lapper nor anyone else other than Mr. Mykins has discussed this appeal with me. Second, I sat here like the rest of us did and listened to Mr. Lapper and listened really carefully. I don't believe he or anyone else, correct me if I'm wrong, but I don't believe he said that he had conferred with me and I don't believe he said that I agreed with any proposition he stated. But he did say that he surmised that I would agree with the proposition he stated. I didn't hear him suggest that I would agree with any characterization of what sort of appeal we are dealing with. The only thing I heard him suggest that I would agree with is a general proposition of New York State Zoning Law which is, my words not his words, the general proposition of New York State Zoning Law to which he referred was the principle that if there's ambiguity in a local zoning law that the ambiguity is supposed to be resolved in favor of the private property interest. Although he and I have not discussed this in the context of this application, I absolutely agree that is an absolutely correct accurate statement of general principle of New York Zoning Laws. That's the only thing I heard him say that he surmised that I would

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agree with and although we have not discussed this or any other aspect of this application because I don't do that. I absolutely agree with that general proposition."

Mr. Rosenberg said, "Well then I apologize that I misunderstood."

Attorney Schachner said, "Not a problem."

Chairman O'Brien asked if there was any other discussion. Ms. Joyce Heckler, 550 Wilton/Gansevoort Road, said, "Just for clarification, because this is not a particular area of my expertise. If you grant the sixty day extension based on his saying it is a nonconforming use. Does that mean then that he does not have to abide by the H-1 regulations which are there new regulations?"

Chairman O'Brien asked Attorney Schachner if he would answer this question.

Attorney Schachner answered, "The one word answer is no but the reason is not exactly what you said. By no, I mean, doesn't have to comply. The reason is not the reason that you stated. It has nothing to do with what this Board does or doesn't decide and here is why: this Board is facing only one issue and one potential decision tonight and the sole issue and potential decision this Board is facing tonight is whether or not to grant the sixty day extension. Our building inspector, who I call our zoning officer - but I think he calls himself the building inspector, has made a determination that the application/project falls within this section of the zoning law that's been discussed. That's the Determination. That means the applicant would not have to comply with the new provisions of the revised zoning laws. Does what I said make sense?"

Ms. Heckler said, "I understood what you said but it doesn't make a lot of sense to me. So, in other words, the Determination, there is no further discussion about whether sidewalks need to be put in there because it has already been determined that they don't have to abide by the H-1 regulations. Is that what I'm hearing?"

Attorney Schachner said, "Not from me, you are not. No, to the second part. I don't know what the Planning Board will require."

Ms. Heckler asks, "Is there going to be another public hearing?"

Mr. Rosenberg interjects, "Yes, there is going to be another public hearing. I was at the Planning Board. The intention is to have another public hearing."

Chairman O'Brien addressed Mr. Rosenberg, "Wait a minute. When you talk, address the Board. We are not going to address individuals."

Mr. Rosenberg said, "That's fine. I'm sorry. I was just at the meeting when the Board was dealing with that and they said "yes" there would then be, depending

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on what you decided here, if you went forward with the variance, they would then have their public hearing.”

Mr. Ramsdill said, “Just so that I can state my understanding of what we are looking at. We are simply, tonight looking at the extension. We are not looking at a determination of whether or not this property is appropriate or that sidewalks are good or bad. Any factor or consideration of the layout or structure of the building, that’s a planning board issue that would be resolved at the planning board meeting. Our issue tonight is strictly limited just to the fact that, it is appropriate to give a sixty day extension.”

Mr. Rosenberg said, “Assuming with, all due respect, sir, assuming that the statute that they are relying on even applies. I think that is a legal question. If there is no point of you even addressing the issue of time, if on the face of the statute it does not apply as it is written.”

Chairman O’Brien said that the Board is going to address the issue of time and act upon that.

Mr. Kingsley said, “Mr. Chairman, Mr. Rosenberg has spoken numerous times during this public hearing. I don’t think we should be having a debate between the Board and the audience at this time. I think if everybody who wishes to speak, has spoke, I believe it is time to close the public hearing.”

Ms. Heckler asked if she can finish her comment. Ms. Heckler said, “It was a question. So will there be at some point with the planning board, a public hearing where we can voice concerns about...”

Chairman O’Brien said, “Yes. You can find out when the planning board meetings are and you can attend a planning board meeting.”

Ms. Heckler said, “Okay and when that’s on the agenda then we will know. This is a very particular concern of mine about access in that particular neighborhood.”

Mr. Gaylord said, “Does the extension, if granted imply acceptance of the zoning change?”

Mr. Schachner said, “You are looking at me. I don’t understand the question. There has been a zoning change.”

Mr. Gaylord said, “I’m sorry. The approval of this particular building to not have to meet the letter of the zoning, of where it sits today.”

Attorney Schachner asked if the Board would like him to answer this question. Chairman O’Brien said he would like Attorney Schachner to answer.

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Attorney Schachner said, "I tried to answer this earlier but not effectively. That determination has already been made by our Building Inspector/Zoning Officer; it's not for this Board to make that determination. Or the planning board, by the way."

Mr. Gaylord said, "So the answer is that it has already been accepted as a building with the current zoning. Is that correct? The current zoning in that area is H-1. Is that correct?"

Mr. Mykins said that was correct.

Mr. Gaylord asked, "So is this building already approved to be built with H-1 zoning?"

Attorney Schachner said, "Essentially no; it is grandfathered. Is that helpful?"

Mr. Rosenberg said, "Is that the conclusion of the Town's attorney? That it is grandfathered in."

Attorney Schachner said, "That is not my call. It has been determined by our Building Inspector/Zoning Officer."

Chairman O'Brien asked if anyone else has any questions. Chairman O'Brien closed the public hearing at 7:37 pm.

Mr. Ramsdill made a motion on Appeal No. 2018-01 for The Adirondack Trust Company, 473 Broadway, Saratoga Springs, New York 12866. Request for an Area Variance for a 60 day extension to begin construction, pursuant to Section 129-110 of the Zoning Ordinance; property located on 650 Route 9, Saratoga Springs, New York 12866, Tax Map No. 140.13-1-19, zoned H-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 Variance because this is a simple extension on the one year rebuild time. The issue came before the planning board prior to the one year time and has been delayed due to having to go through the procedure of site planning and review by the different boards.
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 the review that has been occurring is going to push them beyond the one year window.
3. The applicant has demonstrated that the requested Area Variance is not substantial because the weather this year has been extremely cold in the wintertime and it has pushed back construction projects and it is only a sixty day extension on the one year window.
4. The applicant has demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical

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or environmental conditions in the neighborhood district because it is only extending the rebuild time; it is not modifying the environment. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

APPEAL NO. 2018-02 Bohler Engineering for Key Bank, 17 Computer Drive West, Albany, New York 12205. Request for an Area Variance for increase and change layout of bank parking, pursuant to Section 129-52 G and Section 129-161 G of the Zoning Ordinance; property located on 3016 Route 50, Saratoga Springs, New York 12866, Tax Map No. 153.-3-49, zoned C-1, in the Town of Wilton.

Chairman O'Brien stated that there is correspondence. He read the correspondence from Michael G. Dobis, Chairman of the Wilton Planning Board dated February 26, 2018.

Chairman O'Brien then read correspondence from the Saratoga County Planning Board dated March 22, 2018.

Mr. Steve Vukas from Bohler Engineering and Mr. Chris Boyea introduced themselves to the Board.

Mr. Vukas said, "We are representing Key Bank this evening for the two minor parking variances. A little bit of background, the bank is located on NYS Route 50, the western corner of the intersection with Old Gick Road. Some of the project history was, talked about, to reiterate we had submitted to the planning board in January. We met with the Planning Board in February and they made a positive recommendation for these variances. The plan is just to simply extend the parking from where it currently is now about six feet to the south there on NYS Route 50 and about ten feet to the north here on Old Gick Road. Understand that if we secure the variances tonight, we would move back to the planning board. I would like to answer any questions that you might have."

Mr. Ramsdill said, "On the Old Gick Road end there is a row of trees, right now that screen out the parking. Will those be removed?"

Mr. Vukas said, "We are going to try to maintain as many of those as possible. They are shown on the site plan grade out here. We are going to try to keep as many as possible."

Mr. Ramsdill asked how much further would the blacktop be moving from where it currently is. Mr. Vukas said it would be about ten feet. Mr. Ramsdill said it doesn't seem like there is ten feet between the trees and the edge of the blacktop. He said, "The front looks like you have a great amount of room and have the rise in the property. I guess my concern over here is 'are you going to have people's

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lights shining in everybody's eyes that are coming down the road. Because you are going to be right up on the edge. If you remove those trees on the end."

Mr. Vukas said, "We did have a topographic survey done and they located the trees out there and I do believe that there's going to be a few that we are able to save."

Chairman O'Brien asked if they have their parking diagram to look at. Mr. Vukas put the diagram next to the site plan.

Mr. Zabala said, "I have two questions: one relating to what Mr. Ramsdill said. The parking that you are proposing it would face onto Old Gick Road there. The parking lot elevation from the road; is that substantial?"

Mr. Ramsdill said, "The Old Gick Road and the parking lot are almost the same."

Mr. Zabala said, "I know that on Route 50, it is a little higher. And, on both spots if you have the light shining this way and at night or something or say in the wintertime when the bank is still open to 5 o'clock, those lights can be discerning to the people who are not familiar with that intersection. As Chris said, perhaps trees or something to mitigate that. It's just a concern now that I raise this possibility. One other thing, how many handicap spots are there currently?"

Mr. Vukas said, "Currently there are two handicap spaces just to the southwest corner of the building and we are going to maintain those spaces."

Mr. Zabala asked, "According to state requirements, you aren't allowed to increase that?"

Mr. Vukas said, "There are going to be 38 spaces. When you are in between 25-50, you are required to have two handicap spaces." Mr. Zabala stated that they are meeting the minimum. Mr. Vukas said that was correct.

Chairman O'Brien asked, "Coming off Route 50, why do you need those two parking spaces right on the edge?"

Mr. Vukas said, "We are trying to get as many spaces as we can in here. We looked at other options and run this by the planning board and the fire department for circulation purposes. These are now designated as Employee Spaces so there would be less backup maneuver. That was a concern they had."

Chairman O'Brien asked, "Someone coming off there, making a sharp turn or something like that, might run into them. Is it necessary that you have those?"

Mr. Vukas said, "I believe it is for our operation. We did designate them as Employee Spaces so there won't be too much backup maneuvers during the day there."

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Chairman O'Brien clarified by asking if it would be Employee only. Mr. Vukas said that was correct; it was designated as Employees only.

Mr. Deloria said, "On the west side there is a shared parking, and I can't remember next to Dunkin' Donut, is there a separation between the two lots or they just striped?"

Mr. Vukas said, "There is a curb there."

Chairman O'Brien asked if there were any other questions or concerns or if anyone in the audience had any questions or concerns.

Mr. Deloria asked what was bringing this change on. He asked if there was an issue with parking now and that usually the lot is not full when he is around there.

Mr. Vukas said, "There is some empty space within the building, empty desks. There are going to be employees occupying them now. So with that, we don't want to take away from customer parking. We are now going to increase the amount of spaces that..."

Mr. Deloria said, "So essentially you are adding employee parking." Mr. Vukas said yes that is a part of this.

Mr. Zabala said, "Again going back to my questions about the headlights. I just raise that issue and you made a suggestion. I'm not saying it is required. Is there a possibility that you might be able to ameliorate that in some manner?"

Mr. Vukas said, "He could take it to the developer, Key Bank, about possibly planting some shrubs at a height that would block headlights going on to Old Gick Road."

Mr. Ramsdill asked if he said plantings could do that. Mr. Vukas said that was correct landscape or shrubs.

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

Mr. Ramsdill made a motion on Appeal Number 2018-02 for Bohler Engineering for Key Bank, 17 Computer Drive West, Albany, New York 12205. Request for an Area Variances for increase and change layout of bank parking, pursuant to Section 129-52 G and Section 129-161 G of the Zoning Ordinance; property located on 3016 Route 50, Saratoga Springs, New York 12866, Tax Map No. 153.-3-49, zoned C-1, in the Town of Wilton be granted for the Route 50 front in the amount of 27.3 feet of relief and the Old Gick Road front in the amount of 7.6 feet relief with the condition of landscape barrier being planted to block out the headlights on the Old Gick Road side, be granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons:

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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 parking lots exist; it is only 7.6 feet on the Old Gick Road side and the frontage along Route 50 is protected from the road by a large increase to the grade on Route 50 which would not cause it to be intrusive to the people driving on Route 50 and there are guardrails along those sections. 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 they have two frontages and they have a limited amount of space provide for additional parking for employees. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it is not expanding the current parking by a substantial amount. 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 remains consistent with the current appearance of the bank and consistent with multiple other properties within the C-1 zone at the Exit 15 interchange. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

ADJOURNMENT:

Mr. Ramsdill made a motion to adjourn the meeting at 7:55 pm. Mr. Kingsley seconded the motion. All were in favor. The motion passed.

Dated: _____

BOARD OF APPEALS

BY _____

Lisa Muller, Zoning Clerk

BY _____

Joseph O'Brien, Chairman