

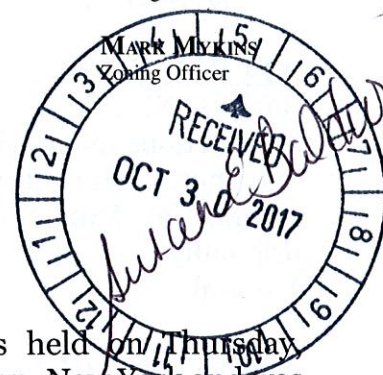


TOWN OF WILTON
22 Traver Road
Gansevoort, New York 12831-9127

(518) 587-1939, Ext. 224
FAX (518) 587-2837
www.townofwilton.com

JOSEPH O'BRIEN
Zoning Board Chairman

LISA MULLER
Zoning Clerk



WILTON ZONING BOARD OF APPEALS
THURSDAY September 28, 2017

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, September 28, 2017 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, 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, Dean Kolligian, Joseph Sabanos and Scott Kingsley.

MINUTES: The minutes of the last meeting, held on August 24, 2017 were approved, as submitted, on a motion made by Mr. Ramsdill seconded by Mr. Deloria. All board members were in favor.

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

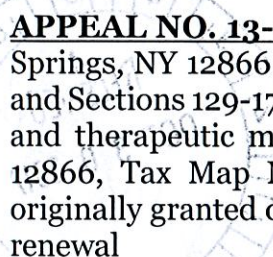
OLD BUSINESS:

APPEAL NO. 2017-14 Christine Beattie, 87 Old Gick Road, Saratoga Springs, NY 12866. Clarification/confirmation of August 24, 2017, decision for an Area Variance, pursuant to §129-157B of the Zoning Ordinance; to replace an existing single wide manufactured home with a new double wide manufactured home on the property located on 87 Old Gick Road, Saratoga Springs, New York 12866, Tax Map No. 153.-3-21, zoned C-2 in the Town of Wilton.

Mr. Ramsdill made a motion to table this appeal until next month's agenda. Mr. Zabala seconded the motion. All were in favor. The motion passed.

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RENEWALS:



APPEAL NO. 13-35 Michael G. Dobis and Lesley Waters, 21 Bullard Lane, Saratoga Springs, NY 12866. Request for the renewal of a Special Permit pursuant to Schedule B and Sections 129-175 D (a-e) and 129-176 C (1-4), for a home occupation for aromatherapy and therapeutic massage; property located at 21 Bullard Lane, Saratoga Springs, NY 12866, Tax Map No. 128.-1-64, zoned R-2, in the Town of Wilton. Special Permit originally granted on September 26, 2013 for a period of two years, is due for review and renewal

Mr. Dobis approached the Board to ask for another two year renewal for the same Special Permit at the same address. Chairman O'Brien asked if there were any questions or concerns. Mr. Mykins said there were no complaints or issues with this home occupation. Chairman O'Brien asked if someone would like to make a motion. Mr. Ramsdill made a motion to renew Appeal No. 13-35 for an additional period of two years. Mr. Foehser seconded the motion. All were in favor. The motion passed.

APPEAL NO. 13-36 Joseph Greco, 30 Mt. McGregor Road, Gansevoort, NY 12831. Request for the renewal of a Special Permit for a private stable pursuant to Sections 129-175 D (a-e), 129-176 V (1-7), and Schedule B; property located at 30 Mt. McGregor Road, Gansevoort, NY 12831, Tax Map No. 101.-1-52, zoned R-2, in the Town of Wilton. Special Permit originally granted on September 26, 2013 for a period of two years, is due for review and renewal.

Chairman O'Brien asked Mr. Greco if he would like to have the Special Permit renewed. Mr. Greco said he would like to request the Special Permit be renewed at this time. Chairman O'Brien asked if anyone had any questions. Mr. Mykins said there were no complaints in regards to this Special Permit or this property. Mr. Ramsdill made a motion to renew Appeal No. 13-36 for an additional period of 2 years. Mr. Zabala seconded the motion. All were in favor. The motion passed.

APPEAL NO. 13-38 John A. DeSimone, 360 Wilton Gansevoort Road, Gansevoort, NY 12831. Request for the renewal of a Special Permit pursuant to Sections 129-175 d (a-e), 129-176 V (1-7), and Schedule B for private stable; property located at 360 Wilton Gansevoort Road, Gansevoort, NY 12831, Tax Map No. 102.-1-49.12, zoned R-2, in the Town of Wilton. Special Permit originally granted on 9/26/2013 for a period of two years, is due for review and renewal.

Chairman O'Brien asked if Mr. DeSimone or anyone representing Mr. DeSimone was present. Chairman O'Brien asked Mrs. Muller if she heard from the applicant. She said the applicant did not call. Mr. Mykins said that he believed Mr. DeSimone was no longer at that address and he thought Mr. DeSimone got divorced. Mr. Mykins said that he would check into this renewal. Chairman O'Brien asked if anyone wanted to make a motion to table the appeal. Mr. Deloria made a motion to table this appeal until next month's meeting. Mr. Ramsdill seconded the motion. All were in favor. The motion passed.

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APPEAL NO. 2015-25 B Susan & Bernard Friday, 22 Scout Road, Gansevoort, N.Y. 12831. Request for the renewal of a Special Permit for horses, pursuant to Section 129-175 D. (1) – (7) and Section 129-176 Y. (1) – (7) Boarding of horses/Riding Stables; property located at 22 Scout Road, Gansevoort, N.Y. 12831, Tax Map No. 128.-1-14 zoned R-2, in the Town of Wilton. Special Permit originally granted on September 29, 2015 for a period of two years, with a limit of 65 horses, is due for review and renewal.

Mrs. Friday approached the Board to request that her Special Permit be renewed. Chairman O'Brien asked if there were any questions. Mr. Deloria asked Mrs. Friday how many horses she has on the property. Mrs. Friday said she has 62 horses. She said, "Trust me, there aren't going to be any more than 65. I did that once. I'm not doing that again." Mr. Deloria made a motion to renew Appeal No. 2015-25B for an additional two years with a limit of 65 horses. Mr. Foehser seconded the motion. All were in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 2017-21 Nicholas and Elizabeth Grolley, 36 Cider Mill Way, Saratoga Springs, New York 12866. Request for an Area Variance, pursuant to Section 129-157, B., (2), (a) to place an in-ground swimming pool and related equipment, property located at 36 Cider Mill Way, Saratoga Springs, New York 12866, Tax Map No. 140.14-4-37, zoned R-1, in the Town of Wilton.

Mrs. Bonnie Grolley approached the Board and said that four of them own the home together. Chairman O'Brien asked if Mrs. Grolley would like to make her presentation to the Board. Mrs. Grolley said that basically they made a human error. Her son was the one handling all the paperwork for the contract and did not read that they were responsible for obtaining the building permit. She said that was a first for her at 40 years of owning homes that they would be responsible so it wasn't even a thought in her mind. Her contractor arrived on day two and the contractor asked if Mrs. Grolley got her permit. She said the long and short of it was that she rushed up to the Town Hall to obtain the permit. The applicants had submitted everything to their H.O.A. to Belmonte and submitted it all based on the parameters of the H.O.A. The H.O.A. was set up as 7 feet off of the line and she said that, unbeknownst to her, the setback is 20 feet for the pool which she is a foot and a half on one side and three feet on the other side where the pool will infringe on the 20 foot setback on each side of the property.

Mrs. Grolley said that she has two letters from her adjacent neighbors stating that they totally understand the situation and are completely in agreement and they have no issues with the applicant putting the pool in. She said it was a fall on the sword mistake on her behalf. Chairman O'Brien asked if there were any questions.

Mr. Zabala asked if the pool is completely or partially installed. Mrs. Grolley said that it was partially installed. She said that she came to the Town Hall and one of the inspectors

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came over to her house and they talked about what to do. Mr. Mykins said that he issued a Stop Work Order on the pool. Mrs. Grolley said she complied. Mr. Ramsdill asked if the steel frame was in. Mrs. Grolley said yes that it is in. She stated as soon as she knew she was in a situation where she hadn't done the appropriate thing, she stopped work and took care of that and did everything to get to the meeting.

Mr. Zabala asked about the two adjoining yards and if there were any structures in those yards. Mr. Zabala asked if there were septic fields located there. Mrs. Grolley said there was not. Mr. Mykins said they were on water and sewer. Mr. Ramsdill stated that Mrs. Grolley has the road that cuts in on the north side which pushes the next house away; it is not lined up. Mr. Mykins said there is an easement for the drainage. Mrs. Grolley said that between her and her neighbor there is a greenspace and the neighbor on the other side are in the process of building and won't be in until January.

Mrs. Grolley asked Chairman O'Brien if he'd like a copy of the letters written by the adjacent neighbors. Chairman O'Brien said that the Board would put them into the record. Mrs. Grolley said that one letter was from Mr. Campbell, the neighbor who is currently building and the other letter was from Mr. Hefner at 40 Cider Mill who is on the other side. Mrs. Grolley said that she spoke to all the other neighbors, too. Chairman O'Brien asked Mr. Schachner if he needed to read the letters. Mr. Schachner said that he did not. Chairman O'Brien said that the letters will be kept for the record.

Mr. Zabala asked Mr. Mykins if the only thing not in compliance was the setbacks. Mr. Mykins said that was correct and that the applicant actually came in for the permit thinking it would be easy but it didn't turn out that way. He said that when the subdivision was set-up; it was set-up with seven foot setbacks. He stated that the applicant assumed the seven foot setback was the setback for anything on the property. Mr. Mykins said the code states pool setbacks are 20 feet, specific for swimming pools. Mr. Deloria asked if Mr. Mykins had read the letters from the adjacent neighbors. Mr. Mykins said he did not. Chairman O'Brien said the neighbors both approve of the pool. Mr. Foehser stated that these properties are tight on each other, if someone has a pool, their entire backyard is a pool. Mrs. Grolley said there are two neighbors, not her direct neighbors, in the development that have pools. She said one of them is a very small pool owned by an older couple and the other couple has a pool similar to her pool.

Chairman O'Brien asked if anyone in the audience had any questions or concerns. Ms. Nancy Dwyer, resident of Wilton, asked if there is any way to reduce the size of the pool so that it would fit the setbacks. Mrs. Grolley said there are already walls up and that if they could have accommodated that they would have but their contractor that had already ordered supplies. She said it was an honest mistake; she thought she had done something within the parameters and then she learned that there was a little hiccup in that scenario. Chairman O'Brien asked Ms. Dwyer if that answered her question. Ms. Dwyer said that it did.

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Mr. Ramsdill made a motion to approve APPEAL NO. 2017-21 for Nicholas and Elizabeth Grolley, 36 Cider Mill Way, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to Section 129-157 B., (2),(a) to place an in-ground swimming pool for a north side yard setback relief of 1.50 feet and a south side yard setback relief of 3.00 feet on the property located at 36 Cider Mill Way, Saratoga Springs, New York 12866, Tax Map No. 140.14-4-37, 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 several properties have swimming pools. The area to the left of the property has an easement so that it doesn't intrude on that side substantially and it looks like it is going to be a beautiful pool. 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 lot is tapered, the pool setback was more substantial than the applicant thought and a large portion of the install has been conducted. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is a small amount on both sides. The applicant has the area to the left where there is an easement; the property is set back. The applicant has a tapered lot so it draws itself a little narrower in the back creating some of the infringement and the other properties do have the seven foot setback for the houses so the pool itself does not appear to be substantial in the back yard. 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 does appear consistent with other properties. It does not appear substantial from the road or the side of the property. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

Mrs. Grolley asked if she still needed to get any paperwork and if she could call the contractor to continue. Mr. Mykins said that she needs the pool permit. Mrs. Muller said that she would contact Mrs. Grolley the following day.

APPEAL NO. 2017-22 Building Concepts, 371 Wilton Road, Greenfield, New York 12833. Request for an Area Variance, pursuant to Section 129-157, Schedule A, R-1 Residential District, to construct a covered front porch, property located at 47 Cardinal Court, Saratoga Springs, New York 12866, Tax Map No. 153.11-2-42, zoned R-1, in the Town of Wilton.

Chairman O'Brien asked Mr. Jason Petralia if he was representing Building Concepts. Mr. Petralia said that he was the representative.

Chairman O'Brien read a letter from Saratoga Country Estates Homeowners Association, Inc.: "To Whom It May Concern: Saratoga Country Estates Board of Directors approves

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of the Sutin-Federlin plan to add a porch on to the front of their home as set forth in the building permit application. Please feel free to contact me at 583-4178, if you have any questions. Best regards, Philip Mechlowitz (2017-18 President)."

Mr. Petralia stated the letter was from the homeowners association. Chairman O'Brien asked Mr. Petralia if he was building a porch. Mr. Petralia said it was a small front porch. He said that for his client it was a safety issue; the client has already fallen once and injured herself. Mr. Petralia said that there are open steps up to the front door as Mr. Mykins knows the neighborhood. He said he is basically looking to cover that front porch area to keep it clean, to keep the snow off of it. He said that it doesn't intrude on anything.

Mr. Ramsdill said he saw that someone tried to put some flashing up to divert the water off. Mr. Petralia said that they are just trying to cover that area to make it more accessible in the wintertime. He said that it was a difficult slope going up there and it is a tricky area. Mr. Petralia asked if all the area is non-conforming. Mr. Mykins said that it was one of the first complexes that we have in the town. Mr. Petralia said basically none of the structures in that area meets the setbacks. He said that the home itself is non-conforming. He stated that he is looking for approval to put in a small front porch.

Chairman O'Brien asked if there were any questions from the Board or the audience. Mr. Zabala asked if there were any objections from the neighbors on either side of the property. Mr. Petralia said there were no objections, all the letters went out, were received for all five adjoining neighbors. Chairman O'Brien said we have the returned receipts.

Mr. Ramsdill made a motion to approve Appeal No. 2017-22 for Building Concepts, 371 Wilton Road, Greenfield, NY 12833. Request for an Area Variance pursuant to Section 129-157 and Schedule "A", R-1 Residential District, to construct a covered front porch on the property located at 47 Cardinal Court, Saratoga Springs, New York 12866, Tax Map No. 153.11-2-42, zoned R-1 in the Town of Wilton, was granted for the relief amount requested of 14.33 feet on the front yard setback 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 just a small covered porch across the front of the house and it appears it will fit and be consistent with the style of the home. 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 home currently does not comply with the setback because it is preexisting at 43.9 feet, any addition to the front of the home would require a variance. 3. The applicant has demonstrated that the requested Area Variance is not substantial because the porch is only 7.8 feet and it is a minimal amount. 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 should actually greatly improve the safety of the entrance into the home. The

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current appearance of the roof looks like it dumps off the snow and ice onto the front steps which follow the contour of the ground down a very steep sidewalk and the new roof will greatly enhance the safety of the use of the property. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

APPEAL NO. 2017-23 Jeffrey and Sandra Anthony, 55 Loughberry Lake Road, Saratoga Springs, NY 12866. Request for an Area Variance, pursuant to Section 129 Attachment 8, Schedule 1, R-1 for an accessory apartment, property located at 55 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.14-1-43, zoned R-1, in the Town of Wilton.

Chairman O'Brien read a letter from the Saratoga County Planning Board with the following decision, "No Significant County Wide or Inter Community Impact," with an additional comment, "In accordance with the Memorandum of Understanding (MOU) between the Town of Wilton Zoning Board of Appeals and the Saratoga County Planning Board, the above-noted area variance and special use permit have been reviewed by staff and with necessary concurrence has been deemed to present no significant countywide or intercommunity impacts. Michael Valentine, Senior Planner."

Chairman O'Brien asked Mr. Anthony if he would like to make his presentation. Mr. Anthony posted the plot plan with the project that he submitted on the bulletin board. Mr. Anthony indicated the location of Loughberry Lake Road and private road that services his home and the house behind his home. He stated that the road was previously Imperial Lane in the previous subdivision which was approved some 35 years ago which has been abandoned and the driveway is part of his neighbors lot and it is not a public right of way. Mr. Anthony said he actually has access off of that driveway and it comes around to our house. He pointed to the plot plan and said that his existing house is colored in brown and his driveway is the gray area. He said his house is about 2,800 square feet and two stories high and they are proposing to put in a slightly under 900 square foot, one story addition. He said the purpose of the house is for his wife and him to move into. He said that his daughter and her husband will occupy his existing house and that is his request.

Chairman O'Brien asked if it is an apartment for income rental. Mr. Anthony said it was not. Mr. Ramsdill asked if Mr. Anthony failed to meet the in-law apartment regulations because the utilities were undersized in the home and if that was the problem. Mr. Mykins said that there are a couple of reasons: they wanted separate utilities and basically the in-law apartment code, that portion of the code which isn't in the zoning code, states that if an applicant doesn't meet all the criteria for an in-law apartment, then he would have to be sent for a Special Permit. Attorney Schachner added a Special Permit for an accessory apartment.

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Mr. Zabala asked if the asphalt that is shown on the plot plan is existing now. Mr. Anthony showed what was existing and what portion would be added. Mr. Ramsdill asked if the Area Variance was done before the Special Permit. Mr. Mykins said yes because otherwise the Special Permit couldn't be done.

Chairman O'Brien asked if there were any other questions. Mr. Mykins said the other thing he shows is in the original plan there were two lots. He said that Mr. Anthony has since filed with the County to merge those two lots. Mr. Deloria asked if they were 6 and 7 indicated on the plot plan. Mr. Mykins said yes. Chairman O'Brien asked if someone would like to entertain a motion.

Mr. Ramsdill made a motion to approve Appeal No. 2017-23 for Jeffrey and Sandra Anthony, 55 Loughberry Lake Road, Saratoga Springs, NY 12866. Request for an Area Variance pursuant to Section 129 Attachment 8, Schedule 1, R-1 for an accessory apartment, property located at 55 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.14-1-43, zoned R-1, in the Town of Wilton, was granted in the amount of 10,197 square feet of relief because the benefit to the applicants outweighs the detriment to the health, safety and welfare of the community, for the following reasons:

1. The applicants have 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 property sits up on a substantial hill; it's very wooded, very secluded. The project won't even be visible from any position that you could enter, other than if you went up the side of the hill in the driveway.
2. The applicants have demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the applicant meets all the other requirements. The applicants' desire to have separate utilities is creating a need for the accessory apartment application. The merging of the two lots into one has caused the applicant to work with the one piece of property.
3. The applicants have demonstrated that the requested Area Variance is not substantial because the applicant is meeting all the other setbacks and is not asking for a substantial amount of relief.
4. The applicants have demonstrated that the requested Area Variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the applicants' property is in a very unique location on a hill where this would be extremely difficult for it to intrude on anyone else's property.
5. The applicants have demonstrated that the alleged difficulty is self-created.

Mr. Zabala seconded the motion.

Chairman O'Brien asked if there was any further discussion. Mrs. Dwyer, Wilton resident, asked if the accessory apartment is rentable. Mr. Mykins said yes. Mrs. Dwyer stated that is like having a two family home. Mr. Mykins said that was correct. Mrs. Dwyer said it is an accessory apartment as opposed to an in-law apartment which can only have in-laws. Attorney Schachner clarified that an in-law apartment can have relatives; he said that is the distinction between an accessory apartment and an in-law apartment.

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All were in favor of the motion. The motion passed.

APPEAL NO. 2017-24 Jeffrey and Sandra Anthony, 55 Loughberry Lake Road, Saratoga Springs, NY 12866. Request for a Special Permit, pursuant to Section 129-175 D. (1-7) & Section 129-176 P. (1) for an accessory apartment, property located at 55 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.14-1-43, zoned R-1, in the Town of Wilton.

Mr. Zabala asked Mr. Anthony if he would be removing any trees or other vegetation and replacing them. Mr. Anthony said that he really doesn't remove trees from his property because his wife gets really upset with him. He stated that he will be removing 1,000 square feet of trees in the building footprint but other than that no more trees. Mr. Anthony said he has a completely wooded lot. Chairman O'Brien asked if there were any other questions.

Mr. Foehser said that even if they had the same electric, they would need a separate septic on this; he asked if it would still fall under the same guidelines. Mr. Schachner said that was correct. Mr. Mykins said that in an in-law situation, because they are adding a bedroom, they could always expand the present septic system. He said that didn't work in this case because of where the other septic system is located.

Mr. Deloria said that on the plot plan drawing Mr. Anthony submitted, Mr. Anthony was combining the two lots, so they are two separate tax parcel ID numbers. Mr. Mykins said that was correct. Mr. Deloria said that it states there are 1.51 acres on Lot 7 – under Lot 7, area east of the road, there is 65,873 square feet or 1.51 acres and wanted to know where the additional acreage is located. Mr. Schachner said it was the combined amount. Mr. Anthony said that they also purchased a few years ago, when the development Sydney Hill was going in, he bought the parcel to the south and across the street, adjacent to the lake. He said that added the remaining square footage that is listed. He said it is just under 70,000 square feet. Mr. Deloria said that it was 69,803 square feet. Mr. Anthony said that was their portion of this road right of way which was not used for Sydney Hill and the piece on the lakeside. Mr. Ramsdill pointed out that there is an arrow drawn on the diagram to the lakeside portion.

Mr. Ramsdill made a motion to approve Appeal No. 2017-24 for Jeffrey and Sandra Anthony, 55 Loughberry Lake Road, Saratoga Springs, NY 12866. Request for a Special Permit, pursuant to Section 129-175 D. (1-7) & Section 129-176 P. (1), for an accessory apartment, property located at 55 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.14-1-43, zoned R-1, in the Town of Wilton, was granted for an accessory apartment.

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

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APPEAL NO. 2017-25 Cumberland Farms, Inc., 165 Flanders Road, Westborough, Massachusetts 01581. Request for an Area Variance, pursuant to Section 129-181, B., (2), (a) and (b), C., (1), (6) and (7), Section 129-181 D., (2), (b), and Section 129-187 B., (1) to place multiple signs both attached and detached, property located at 571 Route 9 (Maple Avenue), Saratoga Springs, New York 12866, Tax Map No. 153.-1-4, zoned CR-1, in the Town of Wilton.

Chairman O'Brien read a letter from Saratoga County Planning Board, "Decision: No Significant County Wide or Inter Community Impact. Comment: In accordance with the Memorandum of Understanding (MOU) between the Town of Wilton Zoning Board of Appeals and the Saratoga County Planning Board, the concurrence have been deemed to present no significant countywide impacts. Michael Valentine, Senior Planner."

Ms. Stefanie Bitter, local counsel for Cumberland Farms, and Jim Gillespie from Bohler Engineering – the project engineer approached the Board. Ms. Bitter said that they were at the meeting hoping to get to the finish line with this project and that it has been a long time coming. She said that in June the Planning Board had approved the development of this site which included the subdivision and the construction of 5,275 square foot convenient store with an eight pump fueling island. She said as they were getting the building package together and part of it was the signage package. She said the signage package that they are proposing is very similar to what has been constructed at other sites in the area, South Glens Falls, Colonie, and Rotterdam, to name a few.

Ms. Bitter stated the signage package that they are proposing includes two freestanding signs because as noted this parcel is on the corner of Maple Avenue and Daniels Road, and has a great deal of frontage on Daniels Road; three wall signs which are on the north, the east, and the south; three canopy signs on the north, the east, and the south; six directional signs – "we refer to these as directional signs because they are on all of the access points." She said their directional signs say "Welcome" as opposed to "Enter" and "See You Soon" as opposed to "Exit" but they are not classified within the exemption because they have a little picture, the corporate logo on them. Ms. Bitter said if they would be considered directional, they would be considered exempt but she has classified them as part of the signage package.

Ms. Bitter said what she has detailed in the cover letter is that they do have a number of variances because the signage package as a total hits a couple of the sign code elements which she will review for the Board. She stated the first is the attached signs – they are seeking 6 which total 145.8 square feet, only 2 are allowed but they are under the square footage of 150 with the justification this is a corner lot and it's a tricky lot because of the frontage on Daniels Road and because with this being part of a subdivision, there will be shared access points. She said that they wanted to make sure that the location of the store, those directional signs – everything is very visible to patrons. She stated, "The detached signs – there are two freestanding signs and six directional signs with total square footage of 444.08. The code allows for one sign 294 square footage. The justification is it is a corner lot. We feel those freestanding signs will be helpful with patrons identifying the site and if

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those directional signs were considered exempt, they would be removed from that calculation. The total square footage of the signage package as a whole is 589.88 square feet. A corner lot only allows for 350 square feet, again similar justifications that I mentioned before. We feel that this would be assisting with the visibility and also making sure that the patrons are using these access points and not passing them, so they are not having to enter the intersection and having to use the second access points."

She said, "The location of the directional signs, again because they are not deemed exempt, they are deemed encroaching upon each other, they have to be setback 50 feet from another sign. Then obviously because they are near each other, to get people to access those access points, they don't meet that setback requirement. The location of the detached directional sign on the south is supposed to be 30 feet from the property line; it is only 2 feet, again because it is trying to show people that is the entrance and the exit. The location of the freestanding sign – the setback is 5 feet, 3 feet is required – this is on the south side and again it is trying to note that this the Cumberland Farms and use this access point. The location of freestanding sign and directional on the east side, this setback is 15 feet as proposed and it is supposed to be 30. Again we are looking it in the sense that if we push those freestanding signs back, it is going to interfere with the drive aisles and the circulation of the site, so having it in those locations would not only assist visibility and site layout. The height of the freestanding sign being proposed is 25 feet, 20 feet is allowed. Our argument for this freestanding sign is like many fueling stations, the driving business source is the fuel prices, so having those fuel prices be as legible as possible is helpful and the height assists with that visibility. The last one is relative to having sign compliance along the Route 9 corridor, although this sign package does incorporate a number of requests, you will see that it does incorporate the color schemes and the designs of the Cumberland Farms store. It complements all of the architecture as well as the stone work and things that are incorporated in the signage. It is not just a plain simple sign. It does have some characteristics that ties it in with the scheme of the project."

Ms. Bitter said, "This provides a benefit as a whole and will outweigh any of those negative elements that could be deemed to exist with the variances being sought. This coupled with the curve of Daniels, the shared access points and the fact that if I took off that logo, those directional signs would be deemed exempt. We feel these could be deemed reasonable requests."

Mr. Ramsdill stated that he thinks it is a substantial amount that they are asking for. He said he will ask a couple of questions about things he wondered how she would feel about not including in the package. He said on the 25 foot height that they requested, the initial proposal included 2.5 foot digital media that was removed from the application. Ms. Bitters said yes, the message board. Mr. Ramsdill wondered why they wouldn't just shrink the height by 2.5 feet – we are taking out 2.5 feet additional media sign there. Mr. Zabala asked Ms. Bitter what the height of the canopies over the gas pumps and the peak of the roof of the building were. He said this answer will give us some visual light as how it would compare. He said that there isn't an elevation listed. Mr. Gillespie said that the ridge [on the building] is 32 feet 9 inches. Mr. Zabala asked about the height of canopy over the

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pumps. Mr. Gillespie said the canopy is 24 feet 6 inches to the very top. Mr. Zabala said the peak is 32. Mr. Gillespie said it has to be about the height of the canopy. Mr. Ramsdill said that reducing that component of the signage itself, dropped it from 14' 1" to 11' 8" and reduces the square footage per side down to 94.79, which will put you at 379.17, which is a substantial reduction right off the top without modifying your initial drawings other than removing that digital signage. Mr. Ramsdill said that he didn't know how Ms. Bitter would feel about that reduction. Mr. Gillespie said they already removed the digital part. Mr. Ramsdill said the plan he had in front of him was different. Mr. Mykins said that what was submitted originally was with the digital and the Board would have to go with what was originally submitted.

Mr. Gillespie said that it was 100 square feet on the drawing. Mr. Ramsdill said that he has 94.79 which if you just go to your original proposal and remove the 2.5, it will push it down to 94.79, which seems like an appropriate drawing in that respect. He thought it would be workable to Cumberland Farms. He would like to entertain their thoughts on this. Mr. Ramsdill said that was his calculation; he took the height as they have drawn it on the original submission, 7' Price Face and the 4' 8" rise to the top which totals 11' 8" and it is 8' 1 1/2" across which pushed it to 94.79. Mr. Gillespie said that he thinks they are thinking about the same thing, this sign is the same sign with removing the message board. Mr. Ramsdill asked if it would be okay to change it to 94.79 square feet. Ms. Bitter said as long as they are talking about the same calculation. Mr. Mykins said that it was the same. Ms. Bitter said that 94.79 square feet would be fine. Mr. Ramsdill stated that the sign they had on the upper right, the north side of the building, is currently a vacant lot. He said that this signage also adds more substantial overage and in his opinion, it isn't really gaining them a lot of visibility but maybe they are thinking about a future project. He said that the applicant can always come back and propose something if the applicant thought it was essential in the future. Mr. Gillespie said he thought it would be beneficial if this was developed but he said they want to be flexible.

Mr. Ramsdill asked if they would mind losing that one sign and also taking the logo off the directional signs. Ms. Bitter said it would be better to keep the logo. Mr. Ramsdill said that he drove around and looked at multiple stores and the majority do not have logos on them. He said that Stewart's shops do not have logo on them and other properties on Route 50 and Route 9 corridor that have directional signs only have enter and exit on them. He didn't see anything branded as he was looking for comparable properties. Mr. Gillespie said that the branding is so attractive. Mr. Deloria said that his problem with this is as it is they are going to be closer to the road than what is allowed. Ms. Bitter said that she understands. Mr. Deloria said it makes some sense to him when people are turning right hand from Route 9 on to Daniels Road. He said he could see a scenario where the customer can see there is another way to get into the store. Mr. Ramsdill asked if these signs can go in as directional signs without counting in the total signage. Ms. Bitter said that was correct if they remove the logo. Ms. Bitter asked if they had to say "Enter" and "Exit". Mr. Mykins said they could say "Welcome." Ms. Bitter said just as long the logo is removed. Mr. Mykins agreed and said he thought the words are more important than the logo. Mr. Deloria said they aren't going to recognize the logo. Mr. Ramsdill said that he knows that other people

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have appeared to use consistent color schemes for their signs but haven't used logos for their business under signage.

Mr. Deloria said that the Board had an applicant not that long ago in a similar situation that dug in hard to try to get that. He said the Board didn't want to set a precedent, and in his opinion, doesn't want to set a precedent with this signage. Ms. Bitter said that she understands. Mr. Deloria said that during the applicant's presentation, she mentioned shared access but he didn't know what she meant by that. Ms. Bitter said that when that adjacent land is developed, a part of that subdivision will be utilizing these access points. Mr. Mykins said that within 90 days there would be a shared access point in the front and rear of the property. He said that was on the planning side and part of the site plan. Mr. Schachner said that would avoid having lots of curbside cuts on Maple Avenue.

Chairman O'Brien asked if a member of the audience had a question. Mr. George Bull, resident who lives straight across from proposed property, said he is in favor of the project. Mr. Bull said, the subdivision they discussed, he didn't understand the 90 days. He said that if in 2 years, they put in an Aldi's as an example, they would go through Cumberland Farms or would they have another road into that subdivision. Mr. Mykins said that it would be a shared access so that they don't have 20 curb cuts on Route 9. He said that within 90 days of site plan approval, once the new site gets approved not the applicant's site. Mr. Deloria asked Mr. Bull if his question was whether you can get in and out from Route 9 or if you have to go to the gas station. Mr. Mykins said that it won't be determined until it goes to planning for the new site. Mr. Bull said that answered his question. He said, the way it was presented, he thought that they were always going to have to go through Cumberland Farms to go into the second part which is split right in half. Mr. Deloria said that the answer is that the Board doesn't know yet; the Board can't give him an answer. Mr. Mykins said that was correct. Mr. Deloria said there is an existing easement there that they wouldn't be able to use. Mr. Mykins said that was correct. Mr. Ramsdill said that the current thinking on this project was that there would be both a shared entrance and access points so that they are not increasing the number of curb cuts on Route 9 or Daniels Road.

Chairman O'Brien asked if anyone else had any questions or concerns. Mr. Deloria said that there is a proposed extra lane on Route 9 according to the plan; he asked if that was contingent on the store going in or is that going to happen anyway. Mr. Mykins said that was part of the development and if Cumberland Farms doesn't go in, then it won't happen. Mr. Mykins added that there would be no need for it. Mr. Deloria asked if Cumberland Farms will be putting in a turning lane on Route 9. Mr. Mykins said that is what D.O.T. said. Mr. Schachner said that D.O.T. will likely do it but Cumberland will pay for it. He said that if your concern is that a private company is doing it, it will only be with D.O.T. Mr. Deloria said he understands. Chairman O'Brien asked if there were any other questions. Mr. Bull asked if that turning lane, the one at Daniels was on the south side. Mr. Gillespie said, "This is a two-way turning lane, you could turn left or right." Mr. Bull said, "If you are coming south on Route 9 towards Daniels Road, you can turn..." Mr. Ramsdill said that it was like in front of Burger King on Route 50. Mr. Deloria said it is a center turning lane. Mr. Mykins said it was similar to what is in front of Market 32. Mr. Bull said that he is for

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this project. Ms. Dwyer asked if that center turning lane – turn left has already been approved. Mr. Mykins said that is site plan and the Board isn't even discussing that, they are discussing signage. Mr. Mykins said that was approved in June by the Planning Board.

Ms. Bitter said she had a quick question that she failed to ask before. Mr. Gillespie said they need a determination – originally Cumberland Farms had a message board that was deemed non-compliant, not code compliant, there was also... Ms. Bitter said they have a Smart Pay and asked if that was acceptable. Mr. Mykins said it is acceptable and that almost every gas station in town has that, they have all switched over. Mr. Gillespie said that it goes from non-member to Smart Pay. Mr. Mykins said that Sunoco had the same thing. Mr. Gillespie said that it is a great service that they would like to advertise. Ms. Bitter said that she wanted to make sure because the sign changes.

Mr. Ramsdill made a motion to approve Appeal No. 2017-25 for Cumberland Farms, Inc., 165 Flanders Road, Westborough, Massachusetts 01581. Request for an Area Variance, pursuant to Section 129-181, B., (2), (a) and (b), C., (1), (6) and (7), Section 129-181 D., (2), (b), and Section 129-187 B., (1) to place multiple signs both attached and detached, property located at 571 Route 9 (Maple Avenue), Saratoga Springs, New York 12866, Tax Map No. 153.-1-4, zoned CR-1, in the Town of Wilton, were granted in consideration of:

a. Section 129-181, C., (1) variance in the amount of 3 attached signs - parcel fronts two roads. The north side sign will be removed from the application – giving a total relief amount requested of 3 attached signs.

b. Section 129-181, B., (2) (b) for signs detached the relief amount will now be 137.37 square feet – down from the initial request of 339.77 square feet.

c. Section 129-181, B., (2) (a) relief of 1.05 square feet for attached signage that exceeds the 15% or 150 square feet, whichever is less, of the building façade.

d. Section 129-181, C., (1) relief of one detached sign which will be the other large freestanding sign. Directional signs do not need variances because the branding will be removed from the directional signs.

e. Section 129-181, C. relief of 2.5 feet from the detached pylon signs reducing the proposed height of the freestanding signs from 25.0 feet minus the initial submission of the digital sign of 2.5 feet. The relief will be the 2.5 feet. The new elevation above grade for the two freestanding signs are a height of 22.5 feet each.

f. Section 129-181, D., (2) (b) the freestanding east side sign will have the relief amount of 18.0 feet from the front property line. The freestanding south side sign will have the relief amount of 28.0 feet from the front property line,

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 property is currently in a state of disrepair with the abandoned home. It looks like it was burned down at some point in the past. It should actually provide an improvement on the road out front and the signage will allow people coming off of the bad curve on Daniels Road and with the traffic on Route 9 more easily identify the property and be able to enter it safely. 2. The applicant has demonstrated that the benefit sought cannot

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be achieved by some method feasible for the applicant to pursue other than by Area Variance because with the nature of the corner and the traffic flow the signage is very important for the safety and recognition of the business and to avoid people from potentially making quick moves at the last second. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is a minimal amount considering the difficulty with picking up on the presence of the building and being able to recognize what is coming around the Daniels Road corner and with the bridge and the traffic on Route 9. 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 is consistent with the district with other projects of similar services offered in that district and it will be an improvement for the property. 5. The applicant has demonstrated that the alleged difficulty is self-created.

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

ADJOURNMENT:

Mr. Ramsdill made a motion to adjourn at 8:05pm. Mr. Foehser seconded the motion. All were in favor. The motion passed.

Dated: 10/27/17

BOARD OF APPEALS

BY Lisa Muller

Lisa Muller, Zoning Clerk

BY Joseph O'Brien /sm

Joseph O'Brien, Chairman

