

WILTON ZONING BOARD OF APPEALS
THURSDAY, February 28, 2019

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, February 28, 2019 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Christopher Ramsdill at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Christopher Ramsdill, Robert Barrett, James Deloria, Gerard Zabala, and Scott Kingsley. Also present was John Herlihy, Building Inspector. Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, arrived after the roll was taken at 7:02 p.m.

ABSENT: Chairman O'Brien, Dean Kolligan, and David Querrard

Mr. Ramsdill addressed the public referring to the amount of Board Members present, letting the applicants know that an appeal needs 4 votes to carry, and that there were only 5 members of the board present. Mr. Ramsdill gave the applicants the choice of tabling their Appeal until the next meeting. All applicants chose to present their appeal.

Resident addressed Mr. Ramsdill about an email he received from Mr. Mykins in response to a letter he had sent about ZBA procedures. Resident stated that there does not seem to be any forum for him to engage in discussion of his concerns. Mr. Ramsdill suggested he continue his communication with Mr. Mykins regarding this.

MINUTES: The minutes of the last meeting, held on November 29, 2018 were approved, as submitted, on a motion made by Mr. Kingsley seconded by Mr. Barrett. All board members were in favor.

CORRESPONDENCE: A letter from Resident will be submitted into record. None other than those relating to current applications before the board.

EXTENSIONS:

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APPEAL NO. 2007-03 James and Kate Fontaine, 28 King Road, Saratoga Springs, NY 12866. Request for the extension of a Special Permit pursuant to §129-26, 129-176 (P) and Schedule B of the Zoning Ordinance, for an existing accessory apartment; property located at 28 King Road, Tax Map No. 128.-1-37.2, zoned R-2, in the Town of Wilton.

Mr. Ramsdill asked if the Fontaines were present. James Fontaine announced he was present. Mr. Ramsdill asked John Herlihy if Mark Mykins has been out on the property. John said he had and everything is in compliance. Mr. Ramsdill addressed the board and Mr. Fontaine about policy referring to Accessory Apartments. The Board has not been conditioning apartments for two years any longer because the ZBA cannot ask residents to take down a structure after it has been approved. Mr. Ramsdill explained tonight would result, if approved, in a permanent extension as the ZBA would for a standard renewal. Mr. Ramsdill asked the board if they would like to make a motion. Mr. Barret added that the Special Permit will become a permanent extension.

Mr. Zabala made a motion to permanently extend Appeal Number 2007-03, James and Kate Fontaine, 28 King Road, Saratoga Springs, NY 12866. Request for the extension of a Special Permit pursuant to §129-26, 129-176 (P) and Schedule B of the Zoning Ordinance, for an existing accessory apartment; property located at 28 King Road, Tax Map No. 128.-1-37.2, zoned R-2, in the Town of Wilton.. Mr. Barret seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2012-31 Laura Fogg and Shane Pratt, 256 Gurn Springs Road, Wilton, New York 12831. Request for an extension of a Special Permit pursuant to Schedule B and § 129- 176 V of the Zoning Ordinance for a private stable; property located at 256 Gurn Springs Road, Tax Map No. 116.-1-2.11, zoned R-2, in the Town of Wilton.

Mr. Ramsdill asked if Laura Fogg or Shane Pratt were present. Shane Pratt and Laura Fogg announced they were present and stood before the board. Shane Pratt stated that everything is the same at the private stable. Mr. Ramsdill asked Mr. Herlihy if Mr. Mykins has inspected the property. Mr. Herlihy explained Mr. Mykins had inspected the property, and found no violations, no changes, and no complaints.

Mr. Kingsley made a motion to approve the extension of Appeal Number 2012-31 for a period of two years, pursuant to Schedule B and § 129- 176 V of the Zoning Ordinance for a private stable; property located at 256 Gurn Springs Road, Tax Map No. 116.-1-2.11, zoned R-2, in the Town of Wilton. Mr. Barret seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2017-02 Jessica Schwartzman, 26 Fairmount Drive, Gansevoort, NY 12831. Request for an extension of a Special Permit pursuant to § 129 Attachment 7 Schedule A, § 129-175 D and § 129-176 C. (3) and (4), for a home occupation of a consulting and advisory service; property located at 26 Fairmount Drive, Gansevoort, NY 12831, Tax Map No. 128.9-1-44, zoned R-1 in the town of Wilton.

Mr. Ramsdill informed the board that Jessica Schwartzman requested her appeal, Appeal Number 2017-02, be tabled until the next meeting to be held on March 28, 2019.

Mr. Kingsley made a motion to table Appeal Number 2017-02 Jessica Schwartzman, 26 Fairmount Drive, Gansevoort, NY 12831. Request for an extension of a Special Permit

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pursuant to § 129 Attachment 7 Schedule A, § 129-175 D and § 129-176 C. (3) and (4), for a home occupation of a consulting and advisory service; property located at 26 Fairmount Drive, Gansevoort, NY 12831, Tax Map No. 128.9-1-44, zoned R-1 in the town of Wilton. Mr. Zabala seconded the motion. All were in favor. The motion passed.

NEW BUSINESS:

APPEAL NO. 2019-01 Chris and Lesa Farrell, 45 Grange Road, Greenfield Center, NY 12833. Request for Area Variances pursuant to §109-5 A, §129-157 and Schedule A of the Zoning Ordinance; property located at 166 Jones Road, Saratoga Springs, NY 12866, Tax Map No. 140.-1-26, zoned R-1 in the Town of Wilton.

Mr. Ramsdill asked if Chris and Lesa Farrell would announce their presence. Chris and Lesa Farrell, 45 Grange Road, Greenfield Center, NY 12833, announced their presence and stood before the board. Chris Farrell explained that they purchased 166 Jones road and would like to divide it into two sections. Chris Farrell added that they were looking to possibly put some additional family members on the property and that they would like to have some options available to allow this. He also added that the property might also stay as is. Mr. Zabala discussed the old farm house on the property and how the property abuts Brookfields Estate, which is an existing residential area. Mr. Ramsdill added that the farm house is pre-existing non-conforming, and the relief is to bring the farm house in compliance with the newer presence of county sewer, creating the frontage and side relief requested.

Mr. Ramsdill opened public comment at 7:12 p.m.

Eric Rosenberg, resident, 16 Craw Lane, asked about the special permit requested. The board stated this appeal was for Area Variances to subdivide a lot. Eric Rosenberg apologized, he was confused and was reading from another appeal on the agenda.

Sherri Parslow, 4 Briar Lane, stated she lives behind the property in question. She was wondering if the lot, once divided, could be sold and developed by someone else. The board explained that the only issues present before the board at this meeting are the Area Variances of the land, which, if approved, allow the land to be eligible for subdivision. The subdivision of the property itself would take place in a different setting. Chris Farrell asked about the sewer connection and if the new lot that will be created would need to be connected even if no structure is on the vacant proposed lot. The board stated that once a structure is put on that property, it will have to connect to public sewer. The existing farmhouse will have to connect to public sewer once the property is subdivided. Public comment closed at 7:20 p.m.

Mr. Zabala made a motion to approve Appeal No. 2019-01, Chris and Lesa Farrell, 45 Grange Road, Greenfield Center, NY 12833. Request for Area Variances pursuant to §109-5 A, §129-157 and Schedule A of the Zoning Ordinance; property located at 166 Jones Road, Saratoga Springs, NY 12866, Tax Map No. 140.-1-26, zoned R-1 in the Town of Wilton be granted for Area Variances for the existing farm house to be front set back relief of 3.3 ft., south side setback relief of 1.10 ft., and frontage relief of 39 ft. 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

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will not be created by the granting of the Area Variances because the property possibly could remain vacant or the possibility exists that a new residential unit be constructed adjacent to the current property. The property abuts the current Brookfield housing residential development, and would not change the character which is already present in the neighborhood. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the area variances would allow the applicant to meet the goals of creating an additional lot. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it is the least amount needed to achieve the subdivision. 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 conforms to the present use of the general area, which is zoned R-1. 5. The applicant has demonstrated that the alleged difficulty is self-created because if they did not subdivide, the property would remain with pre-existing non-conforming uses.

Mr. Zabala added that the following conditions must be met; 50 ft. front setback is required, proposed is 46.7 ft., applicant requesting 3.30 ft. relief, 25 ft. side set back required, proposed is 23.90 south side, applicant requesting 1.10 ft. south side relief, and required is 150 ft. road frontage, proposed is 111 ft. frontage, applicant requesting 39 ft. frontage relief. Sewer connection is required for the existing lot, and will be required of the second lot, if subdivided, and when developed.

Mr. Ramsdill and Mr. Zabala also added that the farm house is a pre-existing non-conforming structure which was there long before zoning was provided for the town, which has created the conditions before the board.

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

Appeal No. 2019-02 David and Alice Coley, 3 Washburn Road, Gansevoort, NY 12831. Request for a Special Permit for a Two Family Dwelling, pursuant to § 129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 3 Washburn Road, Gansevoort, NY 12831, Tax Map No. 102.-1-56.2, zoned R-2 in the Town of Wilton.

Mr. Ramsdill read 2 pieces of correspondence that were presented before the board, Saratoga County Planning Board approval and an adjacent landowner's positive favor. Both letters will be placed in the file.

Mr. Ramsdill asked if David or Alice Coley were present. David Coley stood before the board and explained his interest in a detached two family dwelling for his 7 acre parcel, and is interested in putting a small single family home for a family member up at the front of the parcel which complies with the setback requirements. The board acknowledged the structure would be like an in-law apartment. The board asked Mr. Herlihy if they met all the requirements as far as setbacks, and Mr. Herlihy agreed.

Mr. Ramsdill opened and closed public comment at 7:27 due to lack of public comment. Mr. Barret made a motion to approve Appeal No. 2019-02 David and Alice Coley, 3 Washburn Road, Gansevoort, NY 12831. Request for a Special Permit for a Two Family Dwelling, pursuant to § 129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 3 Washburn Road, Gansevoort, NY 12831, Tax Map No. 102.-1-56.2, zoned R-2 in the Town of Wilton.

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

APPEAL NO. 2019-03 Diverse Holdings Group, Inc., 1 Oakwood Drive, South Glens Falls, NY 12803. Request for Area Variances, pursuant to § 129 Attachment 8, Schedule B of the Zoning Ordinance; properties located at Gurn Springs Road, Gansevoort, NY 12831, Tax Map No's. 115.-2-54.1, 115.-2-54.3, and 115.-2-54.2, zoned R-2 in the Town of Wilton.

Mr. Ramsdill asked the parties present to come before the board.

Tim Schuler, attorney with McPhillips, Fitzgerald, Cullum, LLP, and Leroy Sweet, Principal of Diverse Holdings, Inc. stood before the board. Mr. Schuler explained that Diverse Holdings, Inc. purchased the property in December of 2018, and that two 35ft driveways were present at time of purchase. Mr. Schuler explained that they were trying to create three more equal size parcels, and to optimize road frontage. Leroy Sweet explained that they were trying to move property lines so that the two other lots, 363 Gurn Springs Road belonging to Jacob and Abbey DeBenedetti, and 373 Gurn Springs Road belonging to Scott E. Willeburgher, will have ownership to their driveways because the driveways are currently owned by Diverse Holdings, Inc. The board asked if the two other owners, Mr. DeBenedetti and Mr. Willeburgher, which were both present, were on board with these variances. Both agreed. Mr. Deloria questioned the name of the owner on the Determination of Zoning Enforcement Officer, which was John C. Lantz. Leroy Sweet explained that John C. Lantz was the previous owner of the property, and that Diverse Holdings, Inc. has a deed for the sale in December of 2018 recorded sometime in early January. Mr. Zabala questioned a boundary line on the Map of a Proposed Boundary Adjustment presented by the applicant. Leroy Sweet explained that the boundary line in question by the board is not pertinent to the Area Variances requested. It is a Boundary Line Adjustment that is to be amended by a different neighbor administratively, and will be transferred to that said neighbor at a later time. The board explained the relief on the application is not affected by this southwest boundary line.

Mr. Ramsdill opened public comment at 7:35 p.m.

Eric Rosenberg, 16 Craw Lane, stated he was trying to understand how the layout of the property was owned because it looked to him like Diverse Holdings, Inc. was subdividing three lots. The board stated it already is three lots, it is just a boundary line adjustment to allow for the other two parcels belonging to this application to own their own driveway rather than using easements across the third lot of Diverse Holdings, Inc. The board went on to explain to Mr. Rosenberg, who is insisting that a third lot is being created for Leroy Sweet, that this is just a boundary line adjustment to create driveways for the current developed lots on the application.

Mr. Ramsdill closed the public comment at 7:40 p.m.

Mr. Zabala made a motion to approve APPEAL NO. 2019-03 Diverse Holdings Group, Inc., 1 Oakwood Drive, South Glens Falls, NY 12803. Request for Area Variances, pursuant to § 129 Attachment 8, Schedule B of the Zoning Ordinance; properties located at Gurn Springs Road, Gansevoort, NY 12831, Tax Map No's. 115.-2-54.1, 115.-2-54.3, and 115.-2-54.2, zoned R-2 in the Town of Wilton be granted for Lot 2 with 171.87 ft. frontage relief, and for lot 3 with 19.8 ft. frontage relief for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the

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neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because the road frontage and square footage of two out of the three lots will be increased and to accommodate the third lot, a slight relief is needed for road frontage. There are two smaller lots incorporated in a larger lot, and granting ownership to the driveways of the smaller lots to the owner of the parcel will occur. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the current location of improvements on two parcels including the 30 ft. wide driveways and homes, precludes same. 3. The applicant has demonstrated that the requested Area Variances are not substantial because the status quo is improved in the optimal manner when considering the current location of improvements. The current owners of the two lots incorporated in with the larger lot will be granted ownership of their driveways to access the road way. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because the requested area variances improves the current situations in terms of road frontage and square feet. 5. The applicant has demonstrated that the alleged difficulty is self-created because even though the current layout exist, they are asking that it be changed. They are asking to accomplish this through the following relief: Lot 1, Tax Map No. 115.-2-54.3, required frontage is 250', proposed frontage is 408.84', no relief requested; Lot 2, Tax Map No. 115.-2-54.2, required frontage is 250', proposed is 78.13', relief requested is 171.87' frontage; Lot 3, Tax map No. 115.-2-54.1, required frontage is 250', proposed is 230.2' relief requested is 19.8' frontage. Mr. Deloria seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2019-05 Ryan K. Riper, 225 Ruggles Road, Saratoga Springs, NY 12866. Request for Area Variances, pursuant to §129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 225 Ruggles Road, Saratoga Springs, NY 12866, Tax Map No. 141.-3-44.14, zoned R-2 in the Town of Wilton.

Mr. Ramsdill asked the applicant to present the project.

Ryan Riper, 225 Ruggles road, approached the board with a presentation of an aerial view of his parcel.

Mr. Ramsdill read correspondence from a neighbor and said correspondence will be placed in the file. Ryan Riper explained his area variances needed, lot size and north side setback, in preparation for obtaining his goal of a detached garage with an accessory apartment. The board questioned the Wilton Wildlife at the rear of the property, Ryan Riper explained it was much further back from the proposed variances. The board discussed with Ryan Riper the lay out of the property and driveway as it is, and how the proposed location of the proposed garage/accessory apartment is the optimal way to achieve his goal.

Mr. Ramsdill opened public comment at 7:50 p.m.

Eric Rosenberg, 16 Craw Lane, questioned procedures for approving appeals. Mr. Ramsdill explained the board receives the applicants appeal well in advance of the meeting, and have time to review and access the information given. Eric Rosenberg went on to state that he feels there has been no effort by the town to listen and meet with him regarding his concerns. Mr. Barret explained this had nothing to do with the appeal in

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public comment. Mr. Ramsdill stated the conversation is not pertaining to Ryan Riper's application, and that the board is going to move on with the hearing. Eric Rosenberg then asked about the lot size pertaining to Ryan Riper's Area Variances. Mr. Kingsley went on to explain the standard that is set out in state law says the variance shall be granted if the board finds that the benefit to the applicant outweighs the detriment to the community, and the state lays out the 5 prong test that is heard in every meeting we sit through, and every member on the board has to make a decision based on the information provided. The board has to show, through the record, in our deliberations, that each board member has decided if the benefit of the applicant outweigh the detriment to the community, they must grant the variance.

Mr. Ramsdill closed the public comment at 7:57 p.m.

Mr. Zabala made a motion to approve APPEAL NO. 2019-05 Ryan K. Riper, 225 Ruggles Road, Saratoga Springs, NY 12866. Request for Area Variances, pursuant to §129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 225 Ruggles Road, Saratoga Springs, NY 12866, Tax Map No. 141.-3-44.14, zoned R-2 in the Town of Wilton be granted for 40,000 sq. ft. lot size relief and 30 ft. north side relief because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because it will fit within the character of the neighborhood. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variances because the layout of the driveway, location of the pool, underground utilities, and access to the shed and yard. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it is not impacting adjacent neighbors in a detrimental way, and the neighbor adjacent to the property has commented favorably. 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 will match and enhance the property and provide a buffer for the neighbors, and match the existing home on the property. 5. The applicant has demonstrated that the alleged difficulty is self-created because of the original layout of the property did not provide area for future structures. The required lot size is 120,000 sq. ft., proposed is 80,000 sq. ft., relief requested is 40,000 sq. ft., and north side setback required is 40 ft., applicant proposing 10 ft. north side, relief requested is 30 ft. north side. Mr. Kingsley stated the area variance for the lot size is substantial, and should be read into record. Mr. Barret seconded the motion of approval. All were in favor. The motion passed. Mr. Zabala made a motion to approve the change in record to substantial amount of lot size relief being requested. Mr. Kingsley seconded the change in record on the area variance being substantial. All were in favor. The motion passed.

APPEAL NO. 2019-04 Ryan K. Riper, 225 Ruggles Road, Saratoga Springs, NY 12866. Request for a Special Permit for a detached garage with an accessory apartment, pursuant to §129-175 D. (1)-(7), §129-176 P. (1)-(3), §129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 225 Ruggles Road, Saratoga Springs, NY 12866, Tax Map No. 141.-3-44.14, zoned R-2 in the Town of Wilton.

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Ryan Riper explained his parents and his son would benefit from having an accessory apartment on the parcel.

Mr. Ramsdill opened and closed public comment at 7:59 p.m.

Mr. Kingsley made a motion to approve APPEAL NO. 2019-04 Ryan K. Riper, 225 Ruggles Road, Saratoga Springs, NY 12866. Request for a Special Permit for a detached garage with an accessory apartment, pursuant to §129-175 D. (1)-(7), §129-176 P. (1)-(3), §129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 225 Ruggles Road, Saratoga Springs, NY 12866, Tax Map No. 141.-3-44.14, zoned R-2 in the Town of Wilton. Mr. Zabala seconded the motion. All were in favor. The motion passed.

ADJOURNMENT:

Mr. Barret made a motion to adjourn. Mr. Zabala seconded the motion. The meeting was adjourned at 8:04 p.m.

Dated: February 28, 2019

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Chris Ramsdill, Vice Chairman