

Wilton Zoning Board of Appeals
Regular Meeting August 23, 2018



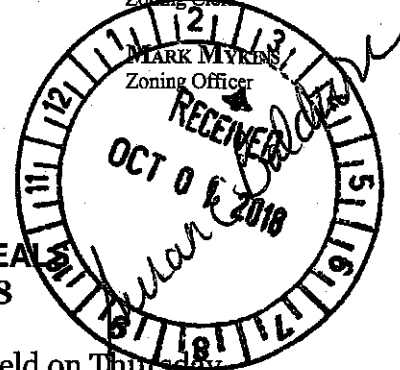
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MARK MYKINS
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WILTON ZONING BOARD OF APPEALS
THURSDAY, August 23, 2018

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, August 23, 2018 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Vice Chairman Ramsdill at 7:02 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Gerard Zabala, Scott Kingsley, Robert Barrett, Dean Kolligian, and Christopher Ramsdill. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

ABSENT: Chairman O'Brien, Charles Foehser, and James Deloria

MINUTES: The minutes of the last meeting, held on July 26, 2018 were approved, as submitted, on a motion made by Mr. Kingsley, seconded by Mr. Zabala. All board members were in favor.

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

RENEWALS:

Vice Chairman Ramsdill stated, "With no Old Business, I'm going to make notice that the renewals, for special permit renewals, are not subject to a Public Hearing."

APPEAL NO. 08-27 Stanley and Maria Brackett, 138 Ernst Road, Gansevoort, New York 12831. Request for the renewal of a Special Permit, pursuant to Schedule A and Section 129-176 C (1), (2), (3) and (4) of the Zoning Ordinance, for a home occupation for a small engine repair shop; property located at 138 Ernst Road, Tax Map No. 127.-2-15.2, zoned R-1, in the Town of Wilton. Special Permit originally granted on August 28, 2008 for a period of two years, is due for review and renewal.

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Mr. Brackett asked to have his Special Permit renewed.

Vice Chairman Ramsdill asked Mr. Mykins, "Do we have any issues or concerns, Mark?"

Mr. Mykins "No, I did an inspection of the property and everything looks the same."

Vice Chairman Ramsdill stated, "We don't have public comments..."

Mr. Rosenberg interrupted, "Chris, I am not going to buy it this time. You just said that you are supposed to be reviewing these applications for renewal."

Vice Chairman Ramsdill said, "Sir please."

Mr. Rosenberg said, "There is nothing for you to resume, review in the file. How are you passing these applications without any verification of anything?"

Mr. Kolligian said, "Time out, first of all, state your name and address so we have it for the record."

Mr. Rosenberg said, "Eric Rosenberg, 16 Craw Lane. I've looked at these files. I've looked at all of these, a lot of these other files. The only piece of paper, and it's nothing against these people [pointing to the applicants], it's not their job. There's nothing in these files other than the letter that says your file is up for renewal. What are you reviewing?"

Vice Chairman Ramsdill said, "Mr. Rosenberg, this is not the time to address this."

Mr. Rosenberg said, "I'm not going for it this time, Chris. You guys have a responsibility to this town. The town attorney, apparently, doesn't want to address the issue. You are granting illegal permits."

Vice Chairman Ramsdill stated, "Sir, if you continue, we are going to have to ask you to leave."

Mr. Rosenberg said, "Well, I'm not going to leave. On behalf of the citizens of this town, explain to me how you are renewing permits without reviewing a single bit of documentation."

Mr. Kingsley said, "Mr. Chairman..."

Mr. Kolligian said, "So, here's two things that are going to happen. Two things. Don't do it just yet. Two things. I'm going to tell you what the law says, based upon the fact of the application. You're going to accept the response that we provide for you this evening, or you can remove yourself from the public meeting."

Mr. Rosenberg said, "I just have one question."

Mr. Kolligian said, "Time out, I'm not done yet."

Mr. Rosenberg said, "Because you are not going to answer the question. Why are the permits renewable? If there is no intention to do anything to check to make sure people are still in compliance? Why are they renewable?"

Mr. Kolligian said, "Here's the deal. The next thing we do, we contact the Sheriff's Department. What would you like to have happen?"

Mr. Rosenberg said, "Ok."

Mr. Kolligian said, "No, no..."

Mr. Rosenberg said, "What you are forcing me to do is start appealing these things because you guys just don't want to discuss these things. Why are you making these renewals without any information before you? That's my last question."

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Vice Chairman Ramsdill addressed Mr. Brackett, "You're all set with everything?" Mr. Brackett said, "I'm all set. Mark came out and did an inspection; he's good with it."

Vice Chairman Ramsdill asked, "Do we have any questions from anybody?"

Mr. Barrett said, "Nope."

Vice Chairman Ramsdill asked the Board, "Would anyone like to make a motion for renewal?"

Mr. Kolligian made a motion to approve Appeal No. 08-27 for Stanley and Maria Brackett, 138 Ernst Road, Gansevoort, New York 12831. Request for the renewal of a Special Permit, pursuant to Schedule A and Section 129-176 C (1), (2), (3), and (4) of the Zoning Ordinance, for a home occupation for a small engine repair shop; property located at 138 Ernst Road, Tax Map No. 127.-2-15.2, zoned R-1, in the Town of Wilton. Special Permit originally granted on August 28, 2008 for a period of two years, is due for review and renewal. We will provide this permit for an additional two years. Mr. Barrett seconded the motion. All were in favor. The motion passed.

APPEAL NO. 2014-21 Joseph and Colleen Patterson 210 Gurn Springs Road, Gansevoort, NY 12831. Request for the renewal of a Special Permit pursuant to Sections 129 Attachment 8, Schedule B of the Zoning Ordinance for a private stable, and Section 129-176 V (1-7), Agricultural with animals and private stable; property located at 210 Gurn Springs Road, Gansevoort, NY 12831, Tax Map No. 102.-1-35.111 zoned R-2, in the Town of Wilton. Special Permit originally granted on August 28, 2014 for a period of two years, is due for review and renewal.

Vice Chairman Ramsdill asked, "Joseph or Colleen Patterson?"

Mr. Patterson answered, "That's a mouthful."

Vice Chairman Ramsdill asked, "You guys would like to see this renewed for another two years?"

Mr. Patterson said "Yes, we would."

Vice Chairman Ramsdill asked, "Ok, Mark? Are there any concerns or complaints?"

Mr. Mykins said, "I was out on the property. Everything was clean. Everything looks good. There are no complaints on the property."

Vice Chairman Ramsdill asked, "Anybody have any questions?"

Mr. Zabala said, "And absolutely no complaints".

Vice Chairman Ramsdill asked, "Does anyone want to make a motion?"

Mr. Barrett made a motion to approve Appeal No. 2014-21, for Joseph and Colleen Patterson, 210 Gurn Springs Road, Gansevoort, NY 12831. Request for a renewal for a Special Permit pursuant to Sections 129 Attachment 8, Schedule B of the Zoning Ordinance, and Section 129-176 V (1-7) for a private stable; property located at 210 Gurn Springs Road, Gansevoort, NY 12831, Tax Map No. 102.-1-35.111 zoned R-2, in the Town of Wilton. This special permit originally granted on August 28th, 2014 for a

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period of two years and will be renewed for two more years. Mr. Zabala seconded the motion. All were in favor. The motion passed.

Vice Chairman Ramsdill said, "We're going to move on to new business now."

Mr. Rosenberg said, "Are you going to answer what you are going to do about the illegal permit of Zwirn?"

Mr. Kolligian said to Mr. Ramsdill, "Just keep going."

Mr. Rosenberg interrupted Mr. Ramsdill, "This time throw me out. You guys have approved an illegal permit. Mark Schachner, please, they've approved an illegal permit."

Attorney Schachner said, "Mr. Rosenberg I'm going to tell you my recommendation."

Mr. Rosenberg said, "Yeah."

Attorney Schachner said, "My recommendation to the Town of Wilton is that we call the Deputy Sheriff and have you physically removed from the meeting..."

Mr. Rosenberg said, "That's fine."

Attorney Schachner said, "...and arrested as necessary."

Mr. Rosenberg said, "OK."

Attorney Schachner said, "The reason, let me tell you the reason for my recommendation."

Mr. Rosenberg said, "Yeah."

Attorney Schachner said, "OK, the reason for my recommendation is that you show a gross disrespect for the Town of Wilton, the Town of Wilton's officials, myself and the ZBA."

Mr. Rosenberg said, "You think so? I wrote letters. Why are you not just addressing the terms in the letters?"

Attorney Schachner said, "That's my recommendation."

Mr. Rosenberg said, "Why are you not addressing the illegal permit? I wrote a letter! You don't want to talk about it! You don't want to fix it! OK? If you don't want to do your jobs, don't accept the position on the board, and if you have an employee who is not willing to do his job, then you fire him!"

Mr. Kingsley said, "Mr. Rosenberg, the item on the agenda right now..."

Mr. Rosenberg interrupted, "OK, I'm just letting you know. Chris, this isn't going to go away. I cut you a break! This is not going to go away! You've issued an illegal permit! And it's not debatable. It is not debatable! Zwirns' don't own that property. You can't just trade up properties. I sent you a letter. You want gross disrespect? How about the courtesy of responding to the legal issues I raised in a letter! You don't want to talk about it. You might have to say, you know what, they're not doing their jobs. So call the Sheriff, but I'm telling you, this one isn't going away 'cause this was a disgusting display by this Board for their job and the residents of Wilton! And I'll leave voluntarily. And shame on all of you for sitting there all high and mighty absolutely just not doing your job!"

NEW BUSINESS:

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Vice Chairman Ramsdill said, "Ok, Appeal No. 2018-12, Schuyler, LLC. We're going to have to get Dean back."

Mr. Barrett said, "I think he's on a phone, calling the Sherriff."

Mrs. Muller left to get Mr. Kolligian.

Mr. Ramsdill said, "I'm just going to read through this introduction and then we'll hold on moving forward beyond that until Dean returns to the room."

APPEAL No. 2018-12 Schuyler, LLC, P.O. Box 617, Saratoga Springs, New York 12866. Request for Area Variance, pursuant to Section 129-4 Definitions Lot Frontage, Section 109-8 Compliance with Zoning Ordinance, Section 129-157 and 129 Attachment 7 Schedule A R-1, Residential One Zone (attachment (1)) of the Zoning Ordinance; property located on 88 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.-2-23.2, zoned R-1 in the Town of Wilton.

Vice Chairman Ramsdill asked, "Dean, you're caught up on this intro, right?"

Mr. Kolligian said, "Yes."

Vice Chairman Ramsdill said, "OK, so do we have anybody here? Oh, we have correspondence. I'm going to move on here for one second."

Mr. Ramsdill said, "From the Saratoga County Planning Board, the decision was no significant county wide or intercommunity impact." SCBP Recognized the land locked parcel is in the R-1 district, for which a required lot size (0.902 acres, 32,391 sf) of 20,000 square feet w/w and sewer or 30000 ww or s as necessary. The proposed parcel cannot meet the 40000 square foot of a parcel that has no public water and sewer, public water is not readily available, surface will require a well and the proximity of the deed that Loughberry Lake prohibits the use of an onsite septic system. The applicant will be required to make a connection to the available force main on Loughberry Lake Road to obtain a building permit. For the proposed residence. Said connection will take away concern for septic within the 300 ft. of tribute to Loughberry Lake. We also recognize existence of an access easement which provides the frontage of a public right of way in which will also provide the means of the sewer connection from LLR to the parcel. It is the determination of the Saratoga County Planning board that the applicant be required to meet the condition noted by the town building inspector, zoning enforcement officer, that the applicant connect to the available sanitary sewer service in order to obtain a building permit for the construction of a single family residence on the subject land locked parcel. Mike Valentine, senior planner, Saratoga County.

Vice Chairman Ramsdill asked, "Do we have someone representing the project? So I just need to inform you before we get going here that we only have five people present tonight. You have to have a majority of four or the project is an automatic declination. If we can't..."

Mrs. Bush [88 Loughberry Lake Road] asked, "What does that mean?"

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Vice Chairman Ramsdill said, "It means that if we can't get four people to vote in the affirmative for you tonight, you might want to wait until you have a larger group of people here."

Mrs. Bush said, "You mean to tell him no?"

Vice Chairman Ramsdill realized Mrs. Bush was not the applicant and said, "Oh, I'm sorry. [addressing the applicant] It's just to let you know we only have five present, you'd have to have four affirmative votes and there could potentially be more people present at a future meeting. You really have a lower threshold. So we just want to make sure that you're aware of that, so that..."

The applicant said, "Got it."

Mrs. Bush said, "So he has to have four. The yes or the no's?"

Mr. Kingsley explained, "In order for a decision to be rendered, it would take four votes."

Mr. Barrett said, "Four yes's or no's"

Mrs. Bush said, "OK."

Vice Chairman Ramsdill said, "So could you could just initially, please stand, address the Board and identify yourself. Let us know what you want to do with the project"

Mr. Vaccarielli asked, "Can we present it and table it?"

Mr. Kolligian said, "Yes."

Mrs. Bush said, "What does that mean?"

Vice Chairman Ramsdill said, "It would just be delayed until a future meeting,"

Mr. Vaccarielli said, "Yeah, so we'll present. Michael Bouchard will represent me."

Mr. Bouchard said, "Good evening everybody, how are you?"

Board members said, "Good."

Mr. Bouchard said, "Good. I promise I am not going to yell at anybody. I'm Michael Bouchard; I'm a project assistant for Schuyler, and Schuyler is the applicant for this area variance. This is Mr. Vaccarielli, the owner of Schuyler. What's transpired here is Schuyler's applied for a building permit and it was denied because there was no frontage on the property. The parcel with the sewer does meet the minimum square footage requirement. The parcel is shown on a site plan map provided. It's a rectangle 139 feet by 278 feet. And there is, in the chain of title, an ingress and egress right of way from the property to Loughberry Lake Road. The only issue is it doesn't have specific frontage on the road which is why we are here for the area variance. I would like to note that Mr. Mykins' Determination indicated that. Otherwise Mr. Vaccarielli is representing that the property meets all the other requirements, and if the variance, by granting of the variance, the lot and the subdivision will be legal and permission to build can be granted. I do note, historically, there was a previous application for a variance back, I believe, in 1987."

Mrs. Bush said, "1988."

Mr. Kolligian said, "Ma'am, just let them present it first. OK?"

Mr. Bush said, "Sorry. Yes, ok."

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Mr. Bouchard said, "The individuals at that time, it was a Timothy Bush who was seeking permission for placement of a mobile home on this same piece of property. It was denied as a non-conforming use, but, for the record, two of the board members back then, provided some historical support for what we are seeking to do now. Uh, specifically, back then, there was a Mr. Bien. I believe it's spelled B I E N, and the records of the board indicate that his concerns about the proper development of the land, or what he called prime single family land, and "there is potential here for development of single family homes" and further "this is what he based his decision on." After that, he also indicated that the reason he feels the way he does is that the land from a town viewpoint maybe best used for single family homes. And then another board member, Mr. Shantz indicated that if a conventional home is built within two years, the board could probably approve that, meaning that if the board approved it, and the home was built within two years of approval, that would be satisfactory. So, based on what's transpired, based on the history of the property and the fact that it meets all the other requirements. We are asking for the area variance. Well, the area frontage variance."

Attorney Schachner said, "Which is an area variance."

Mr. Zabala said, "I have a question. I know there are some members of the audience that also probably want to comment but before that. The well..."

Mr. Ramsdill injected, "So hold on, Gerard. We will open our public comment. When we say that, anybody in the audience has the right to speak on the project, but we ask people just to wait until we get there."

Mrs. Bush said, "That's fine honey. I understand."

Mr. Zabala said, "Thank you, Mr. Chairman. The City of Saratoga Springs, this is the reservoir in Lake Loughberry, and it might fall within a certain boundary of that. To drill a well for a municipal or household water supply, is there any procedure necessary with the City of Saratoga Springs, in that area?"

Mr. Vaccarielli said, "I don't believe we are going to be doing a well. There is public sewer along Loughberry Lake..."

Mr. Mykins said, "you'll need a well for water."

Mr. Vaccarielli said, "Oh, water. Sorry, yes."

Mr. Mykins said, "There is no municipal water."

Mr. Vaccarielli said, "Yes, we are beyond the 100 foot buffer."

Mr. Zabala said, "OK, thank you. Alright, now as for the sewer hookup. Have you contacted the Saratoga County Sewer District to seek the approval in advance? Is that something you were able to do?"

Mr. Vaccarielli said, "I have a relationship with them on numerous hookups throughout the county, and they provide me with an as-built. It is just a process of zoning with a map location, paying the fees, doing the hookup and having it inspected."

Mr. Zabala said, "OK, thank you. I don't know if other members have questions."

Mr. Kingsley said, "I'm just trying to connect the paper trail here. Schuyler LLC is the owner of this property?"

Mr. Vaccarielli said, "Yes, I'm the owner."

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Mr. Kingsley asked, "Did you purchase that from Nation Star Mortgage?"

Mr. Vaccarielli said, "Correct."

Mr. Bouchard said, "Well, it was an REO entity, a real estate owned company. Actually called Fifty by Fifty REO LLC, which I think was a servicer for Nation Star, or its successor interest."

Vice Chairman Ramsdill said, "Mark, anything that goes in has to follow the route, this right of way that's established with the loop through the property. So the sewer would have to follow that if it were to. And the right of way was established to allow this lot to exist in the rear of the property?"

Mr. Mykins said, "Correct. Sewer could also go down, if they got permission from the National Grid. They could possibly go down that way."

Mr. Zabala said, "I have a question on the right of way. Who is going to own it or maintain it? And, are there other pieces of property that also access that or have a right of way that connects to this?"

Mr. Bouchard said, "Well, the actual owner of the right of way would be Schuyler, even though it runs across the property in the front. The property in the front would be burdened by the easement so the obligation to maintain it would be by the beneficiary of the easement which is Schuyler. Could just repeat that second aspect of your question?"

Mr. Zabala said, "Who would maintain it?"

Mr. Bouchard said, "Schuyler would maintain that also."

Mr. Zabala said, "Alright, does another property owner or other property owners also have access to this right of way?"

Mr. Bouchard said, "Yes."

Mr. Zabala said, "And whom might that be, or those individuals? Have you contacted them or been in communication with them?"

Mrs. Bush said, "I'm at the same address since 1986, 88 Loughberry Lake Road."

Mr. Zabala said, "OK."

Mrs. Bush said, "I never got a letter because I'm at the same address. There is also..."

Mr. Kolligian said, "Hold on one second."

Mrs. Bush said, "I thought you wanted to know who the people were."

Mr. Zabala said, "Right. We have that identified. You'll be given an opportunity to speak if you desire."

Mr. Kingsley asked, "This right of way, is it recorded on the deed for the property that you're building on? Or is it recorded on the deed that is on the other properties?"

Mr. Bouchard said, "It is actually recorded on the current deed into Schuyler. And then it also was originated back in approximately 1987 when it was created. So the language in Schuyler's deed does reference the original easement that was created in 1987, so when the easement is created in a deed, it doesn't necessarily have to be repeated in subsequent deeds because it runs with the land forever, but in this instance it is mentioned in Schuyler's deed. Yes."

Vice Chairman Ramsdill asked the Board, "Any other questions?"

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Mr. Zabala said, "Not at this time."

Mr. Barrett said, "There were some issues with property lines, I think in 1988, when it was originally denied? Some corners weren't defined, and it was mentioned that the parties should get together and define the actual property line on one side?"

Mr. Bourchard asked, "For this particular parcel? Well, I do have the minutes of two different prior proceedings. I could take a look at those briefly, and hopefully address that question."

Mr. Mykins said, "The deed is the description. The deed is filed with the county."

Mr. Kingsley said "When this property was purchased, and not that I think they had to, but did they mention the fact that this was an unbuildable lot absence an area variance?"

Mr. Vaccarielli said, "No."

Vice Chairman Ramsdill said, "Do we have any other questions at all? Ok, open the public hearing. [7:25 pm] Can you please identify yourself?"

Mrs. Bush said, "Karen Bush."

Mr. Kolligian said, "And your address, too, please."

Mrs. Bush said, "88 Loughberry Lake Road. I'm Timothy Bush's wife, 37 years now. We came in front of the town board back in 1986, my son was born in 1987, I was nine months pregnant is when we got our building permit, before my son was born. We've lived on this parcel that our mother-in-law had given us since 1986. I became disabled in 2008, is when he purchased the property. I am totally disabled, but I don't have a very good memory so I have to...but anyways, the facts are...there's a right of way, but the right of way goes from 91 Loughberry Lake Road, what happened to 93? 93, you have to come in at number 93 in order to get to number 91, and then you have to go from 91 to 88 which is right past my house. I didn't know that we were on the wrong property. After all these years. Yup, so the right of way does not give him access from 93-91, and that's the main road of Loughberry Lake Road. He cannot use the power line road because Peter Gailor will not give him access or a written right of way to cross his property to get to his road. He planned on destroying a lot of trees, making a total mess, we have a dirt driveway. So when you're talking about big trucks coming in and wells, and all that other stuff, and then let's talk about sewers. My husband worked in the sewer lines forever, ok, and I talked to a lot of sewer people, Dolan particular. They said that there were sewer lines put in back in 1996 that came from Maple Avenue Middle School down this side of Loughberry Lake Road, which is Wilton, then it crossed the road to Saratoga Springs, then went underneath the Saratoga Creek that goes into the Saratoga Schools water supply, then it goes all the way up, well, let's see if it's there, it goes up to Wellington to Hillcrest to Wilmington then to Wellington Court. There are no manholes. None except for at the fourth road which has three. They were built in 1993. So you want to tell me where all these septic systems are going if there are no manholes? How do you expect to clean it? Who is cleaning them? Where are they installed and how can you install a septic line on the same side of Loughberry Lake Road as the gas lines that were just put in? So, to me,

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whoever got it contracted out, I don't see any manhole covers. I want to know how y'all cleaning them. And if he thinks he is going to tie into that..."

Mr. Mykins said, "They are not septic tanks. It is a forced main. Forced mains are taken to a pump station."

Mrs. Bush asked, "So where is the pump station that comes all the way down Loughberry Lake Road, up the other road, up the other road, up the other road and the only manhole is on top?"

Mr. Mykins said, "The pump station is on Wellington Court."

Mrs. Bush said, "There's only four and they were built in 1996."

Mr. Mykins said, "It's not a manhole; it's a pump station. Pump stations are completely different. There are several of them on Jones Road."

Mrs. Bush said, "What does Jones Road have to do with Loughberry Lake Road?"

Mr. Mykins said, "It pumps all the way there through county sewer. It's not that type of a sewer."

Mr. Kolligian said, "Ma'am, with all due respect, what does this sewer line have to do with this?"

Mrs. Bush said, "Well, that's where he is going to be tapping into. Across the right of way, which is going to tear up my road. The only access I have. And, there is no right of way from 93 to 91 coming in the main road. You can't get to 91 without going past 93. So my right of way is from my mother-in-law's house, who is deceased now, to my house which I thought was on my correct parcel. It was never caught. We never knew, we were young."

Vice Chairman Ramsdill said, "But this right of way, currently does exist, loop and then straight to the back."

Mr. Mykins said, "There is an abstract title in there that confirms the right of way from Loughberry Lake Road."

Mrs. Bush asked, "So where is it coming from 93? Doesn't it have to have a right of way from 93 to 91?"

Mr. Kolligian said, "This right of way that has been dotted on this map looks like it intersects a couple of parcels of land."

Mr. Bush said, "One. Well, two, Pete Gailor's and ours."

Mr. Kolligian said, "Potentially, even a third. Right?"

Mrs. Bush said, "Who is the third?"

Mr. Kolligian said, "It's on the map."

Mr. Mykins said, "The file we have. We just didn't give that to you. There is an abstract title in that file. Saratoga Abstract Company did a deed search and found a deeded right of way from that parcel out to Loughberry Lake Road. I can't identify that just by points."

Vice Chairman Ramsdill said, "That exists from the road back to the property. They would have to, if they were going to do any work on the property, follow the established route outlined in the abstract and the deeds."

Mrs. Bush said, "But it states from 91, what happens from 93 to 91? He has that frontage? That right of way is included in that? Where is it in the document?"

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Mr. Kolligian said, "Just a quick question to the applicant, did you send out your notifications to neighbors?"

Mr. Vaccarielli said, "Yes. And she is actually not an owner."

Mrs. Bush said, "My address since 1986."

Mr. Kolligian said, "So Peter Gailor would have received one as well, right?"

Mr. Mykins said, "Yes."

Mrs. Bush said, "He has also denied him crossing his property. That is word of mouth."

Vice Chairman Ramsdill said, "I'm just going to end this by saying, there is a description in the deed of a route that is approved as a right of way to get back to his property and it exists and we have a copy of it. If he complies with using this particular pathway then that is in a pre-established deed that we have a copy of. I can't tell you the number of the exact property but I can just say that we'll just summarize by saying that we recognize that there is an established path that has to comply with these instructions in order if it to be a proper pathway."

Mrs. Bush said, "I'm just saying that 93 is out here."

Vice Chairman Ramsdill said, "We aren't going to address the issue of which number because we are going to say that it is exactly as it is written is how he would have to move back to his property along that route."

Mrs. Bush said, "But there isn't any road frontage."

Vice Chairman Ramsdill said, "But that is why he is in front of the Board."

Mr. Kolligian said, "That is what he is requesting."

Mrs. Bush said, "But he has to cross 93 to get to 91."

Mr. Kolligian said, "He is going to cross through the deeded easement, right of way."

Mr. Zabala said, "Whatever those numbers are, is not an issue."

Mr. Kingsley said, "He needs the variance to build the house. He has a legal right on that right of way to get to his property however if he needs to with trucks or whatever."

Mrs. Bush said, "And destroying other people's property doing it?"

Mr. Kingsley said, "Because back in the 1980's the owner of that property gave them the right to do that."

Attorney Schachner said, "As far as we know."

Mr. Kolligian said, "The applicant has to follow the right of way for the accessibility into his property. But again, subsequent to building the home, he can drive tractor trailers back on the right of way right now. And go back there and do whatever he wants to do."

Mrs. Bush said, "Me and my husband are totally disabled so you are going to tear up our road? The only access we have in and out. How long is it going to take?"

Mr. Vaccarielli said, "That road is in the worst shape that I have ever seen in my life."

Mrs. Bush said, "Yes, it is."

Mr. Vaccarielli said, "I plan on improving it and building something that is nice. That road you can't even navigate in the wintertime."

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Mrs. Bush said, "We do just fine with a four-wheel drive, thank you."

Mr. Vaccarielli said, "You are telling me that I am going to tear it up. I am actually going to improve it."

Mrs. Bush said, "Them big trucks are..."

Mr. Kolligian said, "Ma'am, we are not going to go back and forth."

Vice Chairman Ramsdill said, "I'm going to let you take a couple minutes to wrap up your concerns and actually move on."

Mrs. Bush said, "My thing is, too, the public sewer lines. If anybody knew there was access to public sewer lines back in 1996, you don't think any of us on Loughberry Lake Road would tap into it? The people that just built and bought the house at 105 Loughberry Lake Road just bought a new sewer system because there was no public sewer."

Mr. Vaccarielli said, "There were never public sewers. She has to..."

Mrs. Bush said, "She never got any letters either. C.C. Crask has lived there since 1970. There are no septic lines and she has always had septic. We've lived there since 1987. Mother has lived there since 1962."

Mr. Kingsley said, "That is an issue between the property owners and the sewer district. Something they would have to deal with. They could apply."

Mrs. Bush said, "Don't you think people should have got notification of it?"

Mr. Kingsley said, "That is not really purview before the Board at this time."

Mrs. Bush said, "That's what the bottom line is about him getting his water. And then he is going to have cross over our property, Tina Duff's property."

Vice Chairman Ramsdill said, "Over the right of way."

Mrs. Bush said, "So he is going to go all the way down the whole driveway."

Vice Chairman Ramsdill said, "We are going to move on from the sewer and water issue."

Mrs. Bush said, "Oh my God. So back in 1988 when we bought, 1987, 1986 when we got the property, we went in front of the Town Board just like you guys. We got denied twice."

Mr. Kolligian said, "For what?"

Mrs. Bush said, "Um, I don't remember what it was, I don't remember, might have to read why it got denied by you. I wasn't able to get them papers."

Mr. Kolligian said, "Is it pertinent to the..."

Mrs. Bush said, "Yes, it is."

Mr. Kolligian asked, "It's in the file?"

Vice Chairman Ramsdill said, "It's in here."

Mr. Kolligian said, "It referenced that you were building..."

Mrs. Bush said, "Don't you think somebody would have found out then that we were on the wrong site? I mean, come on now, we've lived there since 1987, 86, and then all of a sudden, you're on the wrong parcel?"

Vice Chairman Ramsdill said, "Yes, ma'am."

Mrs. Bush said, "And someone wants to take down all the trees in the back, and build houses?"

Vice Chairman Ramsdill said, "Did you have anything else?"

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Mr. Kolligian said, "When was that? Do you have minutes from this denial?"

Mrs. Bush said, "Yeah, the Blue Karner Butterfly, which is an endangered species."

Mr. Kolligian said, "Yeah, I just want to make sure..."

Mrs. Bush said, "And what about our disability rights. I have high anxiety, I'm not going to be able to handle all this. And, all them trucks are going to make such a mess in that road and if those trees fall or something happens to..."

Mr. Kolligian said, "We just want to find out what the application says..."

Mrs. Bush said, "There's going to be a lot of issues and no one is going to give him permission to... Nevermind. It has nothing to do with anything. But no, we don't want anybody back there."

Mr. Kolligian said, "So first, it was a mobile home?"

Vice Chairman Ramsdill said, "Yes, there was a doublewide..."

Mr. Barrett said, "Doublewide."

Vice Chairman Ramsdill said, "They were trying to put in and there were comments that were referenced."

Mrs. Bush said, "We had to draw pictures."

Vice Chairman Ramsdill said, "They were wanting to reserve it for a possible single family home in the future, that some of the board members made at the time, and..."

Mrs. Bush said, "Ok."

Vice Chairman Ramsdill said, "There were issues. I don't believe that the sewer issue was addressed."

Mr. Kolligian said, "If I, yeah..."

Vice Chairman Ramsdill said, "At that point in time as well."

Mr. Kolligian said, "If I'm reading the map accurately, their home is in the back corner of the parcel that has the frontage. Correct? On Loughberry Lake Rd?"

Mrs. Bush said, "We have no frontage."

Mr. Kolligian said, "There is. Theirs is. [Addressing Mrs. Bush] Your home is in the back corner..."

Mrs. Bush said, "Next to his property."

Mr. Killigian said, "Of a parcel that has frontage on Loughberry Lake Rd."

Mrs. Bush said, "No."

Mr. Kolligian said, "Yes."

Mrs. Bush said, "I'm in the back of...I have no road frontage. Two houses on that place have no road frontage, the only one that has road frontage is 93. Loughberry Lake Rd road frontage."

Mr. Kolligian said, "With all due respect, ok, this is your home right here, correct?"

Mrs. Bush said, "Are you talking about his property or mine?"

Mr. Kolligian said, "Nope, I'm talking about you."

Mrs. Bush said, "Ok, ok."

Mr. Kolligian said, "I'm talking about Mrs. Bush."

Mrs. Bush said, "Ok, thank you."

Mr. Kolligian said, "This is your home right here."

Mrs. Bush said, "Yeah."

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Mr. Kolligian said, "This is the property line."

Mrs. Bush said, "Ok, yeah, and this is his parcel."

Mr. Kolligian said, "This is road frontage."

Mrs. Bush said, "Ok."

Mr. Kolligian said, "So whether or not you were denied for a variance request 30 years ago or not, it's not the same application that's before the board this evening. This gentleman is looking for a variance because this parcel of land does not have any road frontage. With the exception of an opportunity for him to navigate back here through a right of way that was granted long before, maybe even you, alright?"

Vice Chairman Ramsdill said, "Dean, just to clarify, she asked for that property that he now owns to get a variance in 88"

Mr. Kolligian said, "She, that's yeah, so this was, oh I'm sorry."

Mr. Mykins said, "It was for the exact same parcel."

Mr. Kolligian said, "It was for the exact same parcel, ok. My apologies, I thought you were talking about..., I'm sorry."

Mrs. Bush said, "We got approved, and then I had my son in 1987 and we've lived there ever since."

Vice Chairman Ramsdill said, "So we're going to take into consideration everything that you said when we have our discussion, and at this point, did you have any other things that you wanted us to be aware of?"

Mrs. Bush said, "no."

Vice Chairman Ramsdill said, "So does anybody, we have other people too..."

Mrs. Bush said, "So you don't make a decision now?"

Vice Chairman Ramsdill said, "We have to go through the process. Does anyone have any more comments as part of the public hearing?"

Mr. Bouchard said, "It was his understanding there are only two parcels in question. One would be 88 Loughberry Lake Road, owned by Schuyler LLC. The front property, 91 Loughberry Lake Road is owned by parties named Duff. Those two pieces together were the original piece. In 1987 former owners Eugene and Jean Bush carved out the piece in the back and granted an easement across the remaining piece."

Mr. Mykins and Vice Chairman Ramsdill said, "A right of way."

Mr. Bouchard said, "A right of way which is now the piece that's owned by Duff. So that does exist and it runs with the land forever. But my understanding is there is only 88 and 91 Loughberry Lake Rd. I'm unfamiliar whatever 93 would be."

Vice Chairman Ramsdill said, "Ok. So, at this point, I'm just going to bring up again that you had said you want to table this."

Mr. Vaccarielli said, "No, we're going up for a vote."

Vice Chairman Ramsdill said, "You want to go with a vote tonight? Alright."

Mr. Vaccarielli said, "Because it's very objective what we are given here, there's no shades of gray at all."

Vice Chairman Ramsdill said, "Ok."

Mr. Zabala said, "I have one final question. You had a survey done recently, I believe, have you?"

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Mr. Vaccarielli said, "Well, we are going off the meets and bounds of the deed."

Mr. Zabala said "I see."

Mr. Vaccarielli said, "Which was surveyed."

Mr. Zabala said, "Yes, ok, does that include the right of way, or the easement there?"

Mr. Vaccarielli said, "When we go to pull a permit and do all the work, we'll describe the..."

Mr. Mykins said, "They'll have to describe that with the permit and for the..."

Mr. Kolligian said, "And the driveway has to follow that right of way, right?"

Mr. Mykins said, "yes, that's their way of getting back to that corner."

Mr. Kolligian said, "Mark."

Mrs. Bush said, "May I add something"

Mr. Kingsley said, "Sure, I have a question for the building inspector. Are we reading this right? The right-of-way here, that is below the property line of Peter Gailor. Right, that's not on his property?"

Mr. Mykins said, "Without a tax map in front of me, I couldn't really tell you. I think it is."

Mr. Kingsley said, "It appears that way, but the lines are so close together."

Vice Chairman Ramsdill said, "So very quickly, ma'am, very quickly, please, cause we close the public hearing you had one comment?"

Mrs. Bush said, "Yeah, who should have caught that we were on the wrong property back then?"

Vice Chairman Ramsdill said, "I don't believe the Board tonight is going to be able to address that, but I don't know if we are..."

Mrs. Bush said, "Well we are trying to pay taxes on that property, so Im just asking what do you do with our record?"

Vice Chairman Ramsdill said, "I understand. So do people have any other questions or concerns?"

Mr. Mykins said, "We can work on addressing this, that's a 911 question."

Mrs. Bush said, "Yeah, and they 88 Loughberry Lake Rd."

Mr. Mykins said, "I can appoint, if I have to appoint a separate address."

Mrs. Bush said, "I don't know how you guys are going to do this."

Vice Chairman Ramsdill said, "Anybody have any issues or questions?"

Mrs. Bush said, "Very quickly, one more?"

Vicde Chairman Ramsdill said, "No, we're done ma'am, I'm sorry."

Mr. Barrett said, "I have one question. Ok. This right of way is long, it loops around. Can these people get together and maybe come up with another right of way that doesn't go in front of her home, maybe more direct to Loughberry Lake Rd?"

Mr. Vaccarielli said "she's not the owner and I would contact the property owner which I have been in contact in the past actually to negotiate the buy, all the parcel. And those negotiations failed. So my objective would be to minimize or improve, so yes I would like to pursue that. That would be my goal. Its in my favor and everone else's favor."

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Mr. Barrett said, "I was sitting here thinking maybe come up with a compromise."

Mr. Vaccarielli said, "That road is difficult to navigate."

Mrs. Bush said, "Can I say something please?"

Vice Chairman Ramsdill said, "We're done with the public hearing."

Mrs. Bush said, "But he got to speak. I just want to say one thing."

Mr. Kolligian said, "The applicant, the applicant can maintain."

Vice Chairman Ramsdill said, "He asked the question of the applicant."

Mr. Barrett said, "I asked the question of the applicant."

Mrs. Bush said, "No one is compromising and I'm sorry I had to say that."

Vice Chairman Ramsdill said, "I will just say the motion is made here that we do have the requirement of conditioning it with the hooking into municipal sewer here and is included in that."

Mr. Barrett said, "are we doing sewer and water or is it just a well?"

Mr. Mykins said, "It's just the sewer."

Vice Chairman Ramsdill said, "My mistake, I apologize."

Vice Chairman Ramsdill closed the public hearing at 7:42 p.m.

Mr. Zabala made a motion to approve Appeal No. 2018-12 for the request for an Area Variance pursuant to Section 129-4 Definitions Lot Frontage, Section 109-8 Compliance with Zoning Ordinance, Section 129-157 and 129 Attachment 7 Schedule A R-1, Residential One Zone (attachment (1)) of the Zoning Ordinance; property located on 88 Loughberry Lake Road, Saratoga Springs, New York 12866, Tax Map No. 153.-2-23.2, zoned R-1 in the Town of Wilton to be granted in the amount of 100 feet relief for frontage conditioned on hooking into municipal sewer because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variances because the applicant will build a beautiful single family home on the property.
2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the single family home cannot be constructed on the property without a variance.
3. The applicant has demonstrated that the requested Area Variance is not substantial because the property already has an unimpeded and irrevocable access to the road by virtue of an easement/right-of-way that runs with the property forever as filed with appropriate authorities with Saratoga County.
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

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district because the building project entails the construction of one single family home that conforms to all applicable building codes. As such, there will be no negative impact in the neighborhood district.

5. The applicant has demonstrated that the alleged difficulty is self-created. The applicant acquired the property in 2009. The existing lot and the easement/right-of-way were created by a former owner in 1987.

Mr. Barrett seconded the motion. Mr. Zabala, Mr. Barrett, Mr. Ramsdill, and Mr. Kolligian were in favor. Mr. Kingsley did not approve.


ADJOURNMENT:

Dated: 9/27/18

BOARD OF APPEALS

BY 

Lisa Closson, Zoning Clerk

BY 

Joseph O'Brien, Chairman