

WILTON ZONING BOARD OF APPEALS
THURSDAY January 23, 2025

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, January 23, 2025, at Wilton Town Hall and was called to order by Vice Chairman Ramsdill.

PLEDGE OF ALLEGIANCE

PRESENT: Vice Chairman Christopher Ramsdill, Scott Duffy, Scott Kingsley, Jay Rifenburg, Andrew Bobbitt, 1st Alternate, and Scott Dussault, 2nd Alternate. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Code Enforcement Officer, and Lisa Closson, Zoning Clerk.

ABSENT: Chairman O'Brien, Nicholas Collins, and Christopher Iwinski.

MINUTES: The minutes of the last meeting, held on November 21, 2024, were approved, as submitted, on a motion made by Mr. Rifenburg, seconded by Mr. Dussault. All board members present were in favor. The motion passed.

CORRESPONDENCE: None other than what is presented before the board.

EXTENSIONS: *SPECIAL USE PERMIT EXTENSIONS ARE NOT SUBJECT TO A PUBLIC HEARING*

None

OLD BUSINESS:

Appeal No. 2024-06 Quaker Springs PV I, LLC, 200 Portland Street, 5th Floor, Boston, Massachusetts, 02114. Request for a Use Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; properties located on Jones Road and Perry Road, Saratoga Springs, New York, 12866, Tax Map Nos. 140.-2-6.12 and 140.-2-55, zoned R-2, in the Town of Wilton.

***The public hearing has been left open from the March 28, 2024, ZBA meeting.**

Appeal No. 2024-06 was heard after New Business.

NEW BUSINESS:

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Appeal No. 2024-21 Zappone Property Management, LLC, 126 Fuller Road, Queensbury, NY 12804. Request for Area Variances pursuant to Schedule E, RB-1 District of the Zoning Ordinance; property located at 851 Route 9 and on Route 9, Gansevoort, NY 12831, Tax Map No.'s 114.-2-74 and 114.-2-51.112, zoned RB-1 in the Town of Wilton.

Mr. Ramsdill read correspondence listed below:

1. The Sgambettera Law Firm representing Joshua Kennedy and Gabrielle Borgor, owners of 845 Route 9, in opposition to the variances requested.
2. WPB (Wilton Planning Board) for a favorable recommendation to the Zoning Board.
3. SCPB (Saratoga County Planning Board) with no significant county wide or inter community impact with comments regarding additional buffering may be needed.
4. Bill Shea, Senior Real Estate Representative for National Grid, asking for the applicant to submit a Land Use application (PTR) to National Grid due to the potential danger crossing under the overhead power lines.

All correspondence has been placed in record.

Melissa Currier from CT Male Associates and Frank Zappone, 126 Fuller Road, Queensbury, NY, were present. Ms. Currier explained the application to the Board.

There was discussion about the layout of the plan, the current structure existing, and the visibility from Route 9 between the Board, Mr. Mykins, and Ms. Currier.

Mr. Ramsdill spoke of light pollution and buffering. Discussion continued with the Board, Mr. Mykins, and Ms. Currier.

Mr. Bobbitt asked if the L-shaped portion of the plan closer to 845 Route 9 could push back. Discussion continued with the Board and Ms. Currier. Ms. Currier said her client would be acceptable to removing two units on that south side (134 units to 132 units).

There was discussion amongst the Board about conditions and what would be addressed at the WPB meetings. Mr. Kingsley made mention of '§129-75 O. Self-Storage facilities (2.) All self-storage units shall be screened by a twenty-five-foot wide landscaped strip consisting of a densely planted barrier, as determined by the Planning Board, which limit the view of the structure. Front setbacks shall comply with the current setback for underlying zone'.

Mr. Ramsdill opened and closed the public hearing at 7:27 p.m. due to lack of public comment.

Mr. Rifenburg made a motion to approve Appeal No. 2024-21, Zappone Property Management, LLC, 126 Fuller Road, Queensbury, NY 12804. Request for Area Variances pursuant to Schedule E, RB-1 District of the Zoning Ordinance; property located at 851 Route 9 and on Route 9, Gansevoort, NY 12831, Tax Map No.'s 114.-2-74 and 114.-2-51.112, zoned RB-1 in the Town of Wilton, be granted, deviating from the original request, for relief of 15 ft. rear yard building setback, 1 ft. south side yard building setback, 15 ft. north side yard building setback, and a minimum 40 ft. rear pavement setback for a proposed self-storage facility, 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

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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 substantial natural buffers exist around the property and the former commercial use of the property utilized areas within the variance requested areas. 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 property is substantially encumbered by wetland and buffer areas thereby requiring the requested variances to enable a practical development. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it is far removed from adjacent property uses, especially with the decrease of two units, and thereby not undermining the intent of the required setback. 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 adjacent property uses will be minimally impacted by the proposed use on the subject site. 5. The applicant has demonstrated that the alleged difficulty was self-created.

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

Appeal No. 2025-01 John Sullivan, 22 Dyer Circle, Saratoga Springs, NY 12866. Request for Area Variances pursuant to §129-43 A., B., §129-157, and Schedule B, R-2 district of the Zoning Ordinance; property located at 19 Nichols Road, Gansevoort, NY 12831, Tax Map No. 114.7-1-9, zoned R-2 in the Town of Wilton.

John Sullivan, 22 Dyer Circle, Saratoga Springs, explained his applications to the Board.

Mr. Ramsdill discussed with Mr. Mykins the compliance of setbacks on this property, the need for frontage and lot size variances due to the requirements for a Special Use Permit, and that it is a pre-existing non-conforming lot.

There was discussion about the area of the land that was cleared and foundations for the manufactured home.

Mr. Ramsdill opened and closed the public hearing at 7:37 p.m. due to lack of public comment.

Mr. Dussault made a motion to approve Appeal No. 2025-01, John Sullivan, 22 Dyer Circle, Saratoga Springs, NY 12866. Request for Area Variances pursuant to §129-43 A., B., §129-157, and Schedule B, R-2 district of the Zoning Ordinance; property located at 19 Nichols Road, Gansevoort, NY 12831, Tax Map No. 114.7-1-9, zoned R-2 in the Town of Wilton, be granted, for relief of 6,746 sq. ft. lot size and 50.21 ft. frontage for a proposed placement of a manufactured (mobile) home, 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 Variances because the applicant is building a house. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method

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feasible for the applicant to pursue other than by Area Variances because the lot is pre-existing. 3. The applicant has demonstrated that the requested Area Variances are not substantial because the applicant only needs frontage and lot size variances. 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. 5. The applicant has demonstrated that the alleged difficulty was self-created.

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

SUP No. 2025-02 John Sullivan, 22 Dyer Circle, Saratoga Springs, NY 12866. Request for a Special Use Permit for the placement of a Mobile Home pursuant to 129 Schedule B, R-2 District of the Zoning Ordinance; property located at 19 Nichols Road, Gansevoort, New York 12831, Tax Map No. 114.7-1-9, zoned R-2 in the Town of Wilton.

Mr. Kingsley referred to the determination where it stated the applicant has to provide proof of adequate water supply and confirmed with Mr. Mykins that the well information has been received.

Mr. Ramsdill opened and closed the public hearing at 7:42 p.m. due to lack of public comment.

Mr. Ramsdill made a motion to approve SUP NO. 2025-02, John Sullivan, 22 Dyer Circle, Saratoga Springs, NY 12866. Request for a Special Use Permit for the placement of a Mobile Home pursuant to 129 Schedule B, R-2 District of the Zoning Ordinance; property located at 19 Nichols Road, Gansevoort, New York 12831, Tax Map No. 114.7-1-9, zoned R-2 in the Town of Wilton, was granted for the permanent placement of a Manufactured (Mobile) Home. Mr. Rifembary seconded the motion. A roll call showed all board members in favor. The motion passed.

Appeal No. 2025-03 David Peck, 320 Loudon Road, Saratoga Springs, NY 12866. Request for an Area Variance pursuant to §129-157, and Schedule B, R-2 district of the Zoning Ordinance; property located at 320 Loudon Road, Saratoga Springs, NY 12866, Tax Map No. 154.-1-36, zoned R-2 in the Town of Wilton.

David Peck, 320 Loudon Road, explained his project to the Board.

Mr. Ramsdill confirmed with Mr. Peck that there is a pool on the right back side of the property and that there is only 52 ft. on that side as well. They also discussed the slope on the property.

Mr. Ramsdill opened and closed the public hearing at 7:45 p.m. due to lack of public comment.

Mr. Rifembary made a motion to approve Appeal No. 2025-03, David Peck, 320 Loudon Road, Saratoga Springs, NY 12866. Request for an Area Variance pursuant to §129-157, and Schedule B, R-2 district of the Zoning Ordinance; property located at 320 Loudon Road,

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Saratoga Springs, NY 12866, Tax Map No. 154.-1-36, zoned R-2 in the Town of Wilton, be granted, for relief of 21.70 ft. east side yard setback for a proposed living and garage addition, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons:

1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the new addition will be inside the existing fence. There is a wooded area separating the proposed addition and adjacent 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 of the size and shape of the property.
3. The applicant has demonstrated that the requested Area Variance is not substantial because it is within the fence line and is fairly minimal.
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 the addition is replacing an existing front facing porch and will have minimal disruption to existing landscape.
5. The applicant has demonstrated that the alleged difficulty was self-created.

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

Appeal No. 2025-04 CIDC Wilton, LLC c/o BBL Construction, Services, LLC, 302 Washington Avenue Extension, Albany, NY 12203. Request for an Area Variance pursuant to §129-152, and Schedule J, C-3 district of the Zoning Ordinance; property located at 230 Ballard Road, Gansevoort, NY 12831, Tax Map No. 115.-1-4.1, zoned C-3 in the Town of Wilton.

Mr. Ramsdill read correspondence from SCPB stating no significant County-wide or intercommunity impact, and from WPB for a favorable recommendation to the ZBA.

Scott Lansing with Lansing Engineering was present to represent WSWHE BOCES (Washington, Saratoga, Warren, Hamilton, Essex Board of Cooperative Education Services, and Brandon Stabler and Matthew Dombrowski from BBL Construction Services. Mr. Lansing explained the project to the Board. Mr. Lansing said the project meets all other requirements, but the State Education Department requires 9 ft. floors, with three floors and room for mechanicals, it ends up with 37 ft. which is 2 ft. over the 35 ft. maximum height. They are asking for 2 additional feet of occupiable space.

Mr. Ramsdill discussed the heavy equipment portion of BOCES with Brandon Stabler, representing CIDC.

Mr. Rifenburg asked if the Henning Road Facility will still be operational, and Mr. Stabler said WSWHE BOCES intends to sell that parcel as well as the Meyers Center. Discussion continued.

Mr. Ramsdill opened and closed the public hearing at 7:59 p.m. due to lack of public comment.

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Mr. Kingsley made a motion to approve Appeal No. 2025-04, CIDC Wilton, LLC c/o BBL Construction, Services, LLC, 302 Washington Avenue Extension, Albany, NY 12203. Request for an Area Variance pursuant to §129-152, and Schedule J, C-3 district of the Zoning Ordinance; property located at 230 Ballard Road, Gansevoort, NY 12831, Tax Map No. 115.-1-4.1, zoned C-3 in the Town of Wilton, be granted, for relief of additional 2 ft. occupiable space for a proposed BOCES Educational and Training Facilities, was granted because the benefit to the applicant outweighs the detriment to the health, safety and welfare of the community, for the following reasons: 1. The applicant has demonstrated that an undesirable change will not be produced in the character of the neighborhood and a detriment to nearby properties will not be created by the granting of the Area Variance because the unconstrained lands of the subject tax parcel have frontage to the south along Ballard Road, the north along North Road and east along North Road. The western and northern portions of the parcel include constrained lands with mature wooded areas that will provide a natural buffer to adjacent parcels. 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 proposed buildings are designed to be 50 ft. in height, but due to the fact that the State Education Department requires 9 ft. floors, in order to get the third floor, the additional two feet of occupiable space is required. 3. The applicant has demonstrated that the requested Area Variance is not substantial. 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 the buildings will not exceed the maximum height of buildings withing the code of 55 ft. 5. The applicant has demonstrated that the alleged difficulty was self-created.

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

Appeal No. 2024-06 Quaker Springs PV I, LLC, 200 Portland Street, 5th Floor, Boston, Massachusetts, 02114. Request for a Use Variance pursuant to Schedule B, R-2 District of the Zoning Ordinance; properties located on Jones Road and Perry Road, Saratoga Springs, New York, 12866, Tax Map Nos.' 140.-2-6.12 and 140.-2-55, zoned R-2, in the Town of Wilton.

***The public hearing has been left open from the March 28, 2024 ZBA meeting.**

Present were:

- Kyle Murphy with Quaker Springs
- Lucas Feria, Director of East Team for Galehead Development
- Xavier Page, Electrical Engineer with Pure Power Engineering
- Alecia Legland, Renewable Energy and Environmental Attorney with Hodgson Russ, representing Galehead Development.

Mr. Murphy explained the new submissions before the Board.

- Lease Agreement for parcel 140.-2-55
- Deed for parcel 140.-2-6.12
- Additional correspondence from Greenfield Fire Department

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- Additional Correspondence with CP (Canadian Pacific) Railroad
- Letter from Hodgson Russ (Alecia Legland)
- Template Right of entry License Agreement for CP Railroad
- National Grid Hosting Capacity Map Analysis, Smith Bridge Substation

Mr. Murphy expanded on correspondence from the fire department and the railroad regarding the crossing. He said there is a draft crossing agreement with CP Railroad and that the crossing can be easily and thoroughly mitigated with the use of flaggers or a spotter. Discussion continued with Mr. Ramsdill.

Mr. Ramsdill explained the new submission has a huge amount of information that was only received a week ago. He feels a lot of Board Members haven't been able to read through all of it and will need more time to go over the material. Mr. Faria acknowledged Mr. Ramsdill's comment. Mr. Rifenbary agreed.

Mr. Murphy shared a PowerPoint presentation for site selection which includes National Grids Hosting Capacity Map. Mr. Faria explained that the National Grid Hosting Maps is really the critical infrastructure that they (the applicant) are able to plug into their projects for site selection. Xavier Page explained the feeder level data and points. Discussion continued between Mr. Murphy, Mr. Faria, Mr. Page, Mr. Mykins, Mr. Rifenbary, and Mr. Ramsdill regarding capacity, feeders, and distribution of energy. Mr. Murphy and Mr. Faria continued to explain how Galehead's land command software facilitates site selection.

Mr. Bobbitt and Mr. Ramsdill discussed the three other viable sites (grey) populated by the land command software and the unviable sites (red) with Mr. Murphy and Mr. Faria.

Mr. Duffy discussed a filter for residential homes from the software with Mr. Faria.

Mr. Ramsdill asked if efforts were made to look for a specific property that could replace the parcels in the application when the solar law changed. Mr. Faria said if a landowner is not willing to lease or sell the land, it is not something they (the applicant) can enforce. Mr. Murphy added that for the public utility use variance they (the applicant) do not need to prove that there is no other possible location for this project.

Ms. Legland explained this exercise was a way for the Board to understand how this site was selected. She spoke of the Public Utility Use Variance and how New York Courts have determined that renewable energy projects are public utilities for the purpose of zoning and land use approvals. Is the facility a public necessity...required to render safe and adequate service, and that there are compelling reasons, economic or otherwise, which make it more feasible to grant the variance than to use alternative sources of power, or to use another site... The reason that we do the site selection analysis and demonstrate...how from this entire area, well actually, from looking at all the capacity across the state, how we whittled it down... The reason we demonstrate this is to demonstrate that compelling reason for putting the project on the property as proposed, rather than using an alternate site, an alternate facility. She said there was a letter provided to the Board explaining site selection analysis and case law. The letter speaks about an appellate division case saying that solar is

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a public utility for the purpose of variances, and this was put together because the Board requested information on how this is helping the Town and the neighbors.

Mr. Ramsdill clarified that it is more of the deleterious effects on the immediate community rather than wanting to know how it is helping in the immediate community.

Ms. Legland continued to explain site selection and case law from the letter submitted. She finished with one of the factors in the public utility variance standard is that where there's minimal impact, the standard is further reduced. Mr. Schachner shared that the Zoning Board of Appeals has not yet conducted SEQRA (State Environmental Quality Review Act) review and there are some issues that still need to be determined. Ms. Legland continued to speak about the standard.

Mr. Ramsdill said the public hearing will remain open but not going to take public comments tonight. There is a lot of material to read and will take public comments at the next meeting so they (the Board) will have a better understanding of any questions.

There was discussion about the area of site selection with Mr. Mykins, Mr. Faria, and Ms. Legland.

Adjournment:

Mr. Ramsdill made a motion to adjourn. Mr. Duffy seconded the motion. All Board members present were in favor. The meeting was adjourned at 9:01 p.m.

Dated: January 24, 2025

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Christopher Ramsdill, Vice Chairman