

WILTON ZONING BOARD OF APPEALS
THURSDAY, July 23, 2020

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, July 23, 2020 via a ZOOM webinar and was called to order by Vice Chairman Ramsdill at 7:03 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Vice Chairman Christopher Ramsdill, Robert Barrett, Jim Deloria, Scott Kingsley, Gerard Zabala, and Jay Rifenburg, 2nd alternate. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney, Mark Mykins, Zoning Officer, Lisa Closson, Zoning Clerk, and Joshua Carlsson, ZOOM Meeting Coordinator.

ABSENT: Chairman O'Brien, and Dean Kolligian.

MINUTES: The minutes of the last meeting, held on June 25, 2020 were approved, as submitted, on a motion made by Mr. Deloria, seconded by Mr. Barrett. All board members present were in favor. The motion passed.

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

OLD BUSINESS:

Appeal No. 2020-04 Charles and Elaine Gerber, 40 Bullard Lane, Saratoga Springs New York, 12866. Request for an Interpretation of the Determination from the Code Enforcer; property located at 4281 Route 50, Saratoga Springs, New York 12866, Tax Map No. 141.-2-36, zoned RB-1 in the Town of Wilton.

Mr. Ramsdill recused himself from Appeal No. 2020-04.

Mr. Kingsley explained that the public hearing closed at the last meeting held on June 25, 2020. Mr. Kingsley read two draft motions into record; one to reverse the Zoning Enforcement Officers decision, and one to uphold the Zoning Enforcement Officers Determination. Mr. Kingsley asked if there were other draft motions to consider and if there was discussion about either draft resolutions. There was discussion among the board regarding the draft motions.

Mr. Kingsley made a motion to approve the draft resolution reversing the Zoning Enforcement Officers decision. There was not a second on the motion. The motion failed. Mr. Zabala made a motion to uphold the determination of the Zoning Officer because §129-110 allows a nonconforming building that is destroyed by fire or other causes to be

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rebuilt so long as construction begins within 1 year and is completed within two, and the structure does not exceed the original dimensions. This doesn't seem to be in debate. §129-109 allows any nonconforming use that existed prior to May 6, 1974, non-residential or residential, to be expanded up to 100% of the square footage that existed. It does not say that those uses that existed may be increased in number, but only that they may be expanded in square footage. Nor does it say that additional uses can be added as a part of the expansion, which would make the property more nonconforming. §129-105 Continuation of lawful uses. [Amended 11-7-2002]. The lawful use of any building or land existing at the time of the enactment of this chapter may be continued although such use does not conform with the provisions of this chapter. Normal maintenance, repairs and alterations incidental to a building or other structure containing a nonconforming use are permitted, provided that they do not extend the area or volume of space occupied by the nonconforming use. The above section, a part of the same chapter addressing Non-Conforming Uses in the zoning code, states that normal maintenance can occur but that you cannot extend the area or volume of space occupied by the non-conforming use. If it had said 'or increase the number of non-conforming uses' that would bring a consideration that the number of nonconforming uses could be increased. Based on what the code says and what is being asked for, the increase in the number of uses within a property then all the uses within the property could be increased in volume without the need for variances but the Town code requires additional parking for the additional uses (ref: §129-161) and additional square footage (area of land) for the additional uses (ref: §129-170). This has been hashed over in two meetings and there doesn't seem to be ambiguity in the law it states that the use that existed may be expanded upon not that additional uses may be added.

Mr. Deloria seconded the motion. A roll call vote showed Mr. Rifenbary, Mr. Zabala, Mr. Barrett, and Mr. Deloria in favor. Mr. Kingsley was opposed. The motion passed.

Appeal No. 2020-13 Roger Goldsmith, 10 Poe Road, Saratoga Springs, New York 12866. Request for an Interpretation of §129-4 of the Zoning Ordinance; Property located at 4284 Route 50, Saratoga Springs, New York 12866, Tax Map No. 141.-2-12.2, Zoned RB-1 in the Town of Wilton.

Mr. Ramsdill recused himself from Appeal No. 2020-13.

Mr. Kingsley confirmed receipt of correspondence for this appeal which will be placed into the file because the public hearing was closed at the last meeting held June 25, 2020. Mr. Kingsley thanked Mr. Goldsmith for providing a list of activities that would be performed at his shop as the board asked last meeting and was placed into record.

Gregory Teresi from Bartlett, Pontiff, Stewart, and Rhodes, explained he has been retained to represent Mr. Goldsmith.

Mr. Goldsmith summarized his submission, and explained that some of the parts that would be retail are mandated by New York State to be done by a shop that has a motorcycle repair license. He also explained that any service or repair that they will perform is incidental to the retail sale of the product.

Mr. Barrett spoke of an ad placed for full time mechanics at his retail shop. He then asked if full time mechanics were required to install accessories.

Mr. Goldsmith explained that he will need to fill positions.

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There was discussion held between Mr. Teresi, Mr. Goldsmith, and Mr. Mykins regarding Wilton Planning Board approval upon the project.

Mr. Teresi explained that Mr. Goldsmith's project is 98 percent complete. For the Zoning Board to come and say this isn't what's allowed implies that these municipal offices that went through this application and his requests, which all delineated he wanted to do service, and in fact the minutes from the planning board indicate that he will need a license to conduct repairs. He also stated that he searched for Case Law.

Mr. Mykins explained that it was explained to Mr. Goldsmith even during the subdivision stage of the process that he could not have a repair shop and it was not an allowed use in that zone.

Discussion transpired between Mr. Mykins, Mr. Teresi, and Mr. Goldsmith.

Mr. Schachner counseled the board to not make a decision based on whether there is or isn't case law.

Mr. Teresi posed some questions regarding customers and problems with their bikes, such as putting a bike back together or re-wiring.

There was discussion held between Mr. Teresi, Mr. Goldsmith, Mr. Mykins, and Mr. Kingsley regarding how NYS distinguishes parts which need repair licenses and parts that do not.

Mr. Rifenburg asked Mr. Goldsmith if he brought in his Harley Davidson and it fails inspection, and it's a brake line on the motorcycle, do you then share with the customer that they need to take their motorcycle to a different establishment to have it repaired?

Mr. Goldsmith stated he would let the customer know what the failure is and it is up to the customer to decide what they want to do with their Harley Davidson.

More discussion occurred between Mr. Goldsmith, Mr. Deloria, Mr. Rifenburg, Mr. Barrett, and Mr. Schachner regarding New York State Inspection and Repair Licensing.

Mr. Mykins explained that, his dilemma is that he would have to write a letter to NYS DMV showing that repair shop is not an allowed use in the zone, but the ZBA is allowing the following.

Mr. Schachner counseled that he does not think that there is any possibility that a reasonable legal outcome of this preceding is that Mr. Mykins writing a letter to DMV saying that it is an allowed use in the zone.

Mr. Teresi asked if the board is asking them to breakdown what they are going to install. Mr. Kingsley stated he believes this problem is not with us, it is with NYS regarding what NYS defines what a repair shop is. He then read into record Section 82.3 of the Motor Vehicle Regulations.

Mr. Schachner counseled that the ZBA could say 'we interpret the use of the term incidental in the Town of Wilton Zoning Law as applied to this particular type of retail service to include A, B, C, and D, but not include E, F, G, H, and I'. That is a long winded way of answering Mr. Teresi's question in the affirmative.

Mr. Deloria questioned motor vehicle sales being allowed in an RB-1 district, and what the term otherwise meant in Mr. Goldsmith's submission stating that the occasional sale of used motorcycles, consigned or otherwise.

Mr. Goldsmith explained if he had a customer who would want to put their bike up for sale, technically, he would not be selling it. It would be sold from one individual to another and it would just be on display at his shop.

Mr. Rifenburg questioned the liability of the repair, if made, and if he was authorized or not authorized to repair.

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Mr. Goldsmith explained his is asking for the interpretation that allows him to install the parts that are sold through my retail sales, some of which then fall under the caveat of NYS repair and is asking for that interpretation which allows him to do those incidental services.

Mr. Rifenburg and Mr. Zabala stated they were not comfortable making a decision tonight. There was no action taken.

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

SUP NO. 2008-27 Stanley and Maria Brackett, 138 Ernst Road, Gansevoort, New York 12831. Request for the extension of a Special Permit, pursuant to Schedule A and §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, and continuously renewed every two years, is due for review and extension.

Mr. Ramsdill re-entered the meeting and read correspondence from Stanley and Maria Brackett expressing they would like their Special Use Permit extended.

Mr. Zabala asked Mr. Mykins about issues with the property or complaints.

Mr. Mykins explained there are no issues and the property is well kept.

Mr. Zabala made a motion to approve the extension of SUP No. 2008-27, Stanley and Maria Brackett, 138 Ernst Road, Gansevoort, New York 12831. Request for the extension of a Special Permit, pursuant to Schedule A and §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, for a period of three years, and will be due for review and extension on August 26, 2023. Mr. Deloria seconded the motion. All board members were in favor. The motion passed.

SUP NO. 2014-21 Joseph and Colleen Paterson, 210 Gurn Springs Road, Gansevoort, NY 12831. Request for the extension of a Special Permit pursuant to §129 Attachment 8, Schedule B of the Zoning Ordinance for a private stable, and §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, and continually extended every two years, is due for review and extension.

Mr. Ramsdill read correspondence from Colleen Patterson expressing they would like their Special Use Permit extended and to include three horses.

Mr. Zabala asked about complaints and the number of horses.

Mr. Mykins stated there are no complaints and the original Special Use Permit is good for one to three horses.

Mr. Zabala made a motion to approve the extension of SUP No. 2014-21, Joseph and Colleen Patterson, 210 Gurn Springs Road, Gansevoort, NY 12831. Request for the extension of a Special Permit pursuant to §129 Attachment 8, Schedule B of the Zoning Ordinance for a private stable, and §129-176 V (1-7), Agricultural with animals and private stable; property located at 210 Gurn Springs Road, Gansevoort, NY 12831, Tax Map No.

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102.-1-35.111 zoned R-2, in the Town of Wilton, for a period of three years, and will be due for review and extension August 28, 2023. Mr. Barrett seconded the motion. All board members were in favor. The motion passed.

NEW BUSINESS:

Appeal No. 2020-14 Kirk and Amy Scott, 9 Donna Drive, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157, C and Schedule A, R-1 District, of the Zoning Ordinance; property located at 9 Donna Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-10, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed Amy Scott and asked if she would like explain what she would like to do.

Mrs. Scott, 9 Donna Drive, explained they were thinking of putting a pool in their backyard, but the back yard is considered a front yard.

There was discussion between the board, Mr. Mykins, and Mrs. Scott regarding the cul-de-sac.

Mr. Ramsdill open and closed the public hearing at 8:36 p.m. due to lack of public comment.

Mr. Rifenburg started a motion to approve, Mr. Kingsley took over the motion to approve Appeal No. 2020-14, Kirk and Amy Scott, 9 Donna Drive, Gansevoort, New York 12831. Request for Area Variances pursuant to §129-157, C and Schedule A, R-1 District, of the Zoning Ordinance; property located at 9 Donna Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-10, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 9.50 ft. east side setback and relief of 10 ft. north front setback; property located at 9 Donna Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-10, 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 Variances because the pool will be behind the house and there are other pools in the area. 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 of the unique shape of the lot and the placement of existing homes. 3. The applicant has demonstrated that the requested Area Variances are not substantial because it is the minimal amount needed to place the pool safely in the yard. 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 road is on one side and the pool is not different from other pools in the area. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Zabala seconded the motion. A roll call vote showed all board members were in favor. The motion passed.

Appeal No. 2020-15 Michael McIntire, 5 Harvest Lane, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157 A, and Schedule A, R-1 District, of the Zoning Ordinance; property located at 5 Harvest Lane, Gansevoort, New York 12831, Tax Map No. 140.12-1-5, zoned R-1 in the Town of Wilton.

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Mr. Ramsdill addressed Michael McIntire and asked if he would like to explain what he would like to do.

Mr. McIntire, 5 Harvest Lane, explained he would like to place a shed on his property, which is a corner lot.

Mr. Ramsdill expressed that the lot is unique because of the way Harvest and Fieldstone connect, it almost creates three fronts.

Mr. Barrett questioned the placement of the shed, and the ability to move the shed elsewhere.

Mr. McIntire explained that the location provided is the most attractive.

There was discussion among the board, Mr. Mykins, and Mr. McIntire regarding the property and the placement of the shed.

Mr. Ramsdill opened and closed the public hearing at 8:46 p.m. due to lack of public comment.

Mr. Deloria made a motion to approve Appeal No. 2020-15, Michael McIntire, 5 Harvest Lane, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157 A, and Schedule A, R-1 District, of the Zoning Ordinance; property located at 5 Harvest Lane, Gansevoort, New York 12831, Tax Map No. 140.12-1-5, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 23 ft. east front setback; property located at 5 Harvest Lane, Gansevoort, New York 12831, Tax Map No. 140.12-1-5, 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 the shed is matching in color of the home and is consistent with the architecture within the general neighborhood and will not cause any decrease in value to existing homes. 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 characteristics of the corner lot. It would be difficult and hard on the applicant to make changes to permanent fixtures on the lot to place it in another location. 3. The applicant has demonstrated that the requested Area Variance is not substantial because of the size of the lot versus the size of the shed that is being placed on the property. 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 located on the side of the house with the driveway and garage. The shed is custom built and will enhance the property. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Kingsley seconded the motion. A roll call showed all board members were in favor. The motion passed.

Appeal No. 2020-16 Scott Kindl, 12 Newington Avenue, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157, §129-158, and Schedule A, R-1 District of the Zoning Ordinance; property located at 12 Newington Avenue, Gansevoort, New York 12831, Tax Map No. 140.6-2-5, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed Scott Kindl and asked if he would like to explain what he would like to do.

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Mr. Kindl, 12 Newington Avenue, expressed that he would like to do a front porch and addition on the second story.

Mr. Ramsdill asked Mr. Kindl if he would be changing the entrance to the front door, and if the stairs will be moved. Mr. Kindl said they would not.

Mr. Ramsdill opened and closed the public hearing at 8:51 p.m. due to lack of public comment.

Mr. Zabala made a motion to approve Appeal No. 2020-16, Scott Kindl, 12 Newington Avenue, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157, §129-158, and Schedule A, R-1 District of the Zoning Ordinance; property located at 12 Newington Avenue, Gansevoort, New York 12831, Tax Map No. 140.6-2-5, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 3 ft. front setback; property located at 12 Newington Avenue, Gansevoort, New York 12831, Tax Map No. 140.6-2-5, 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 they are adding a front porch where multiple homes in the neighborhood already have one. 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 dormer above the front porch will allow the proper roof pitch for the porch roof to direct rain and snow from that area. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it is only 3 ft. 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 will actually increase the look and value of the property and increase neighboring home values. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Deloria seconded the motion. A roll call showed all board members were in favor. The motion passed.

Appeal No. 2020-17 Francis Palumbo, CT Male Associates for KMDA LLC, 50 Century Hill Drive, Latham, New York 12110. Request for Area Variances pursuant to §129-181 D. 2. (b), of the Zoning Ordinance; property located at 1 Market Place Road, Saratoga Springs, New York 12866, Tax Map No. 153.-3-124, zoned C-1 in the Town of Wilton.

Mr. Kingsley recused himself from Appeal No. 2020-17.

Mr. Ramsdill read correspondence from SCPB, suggesting that the sign be placed 20 ft. from the property line rather than the proposed 10 ft.

Mr. Ramsdill addressed Francis Palumbo and asked if he would like to present the appeal. Mr. Palumbo, 50 Century Hill Drive, Latham, New York, explained the appeal. He further explained that the sign at a setback of 30 ft. would be virtually obscured if approaching from the Lowes direction, and that there are a substantial number of trees that come up to the right of way line.

There was discussion between Mr. Ramsdill, Mr. Mykins, and Mr. Palumbo about the parcel and previous variances.

Mr. Zabala and Mr. Palumbo discussed the sidewalk and the road.

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The board and Mr. Palumbo discussed the placement of the sign, and the existing trees on the Lowes property.

John Eckmann, from Aldi, made comment on the placement of the sign and Lowes.

Mr. Ramsdill opened and closed the public hearing at 9:19 p.m. due to lack of public comment.

Mr. Ramsdill asked how hard it would be to place a vehicle where it would be in a second slot, measured back where a car would be, and put that sight line on and let us know how much of the road would be obstructed.

Mr. Palumbo, Mr. Mykins, and Mr. Ramsdill discussed the timeline of the project and other variances Aldi's would need for their other signs, and how the two applications can be heard at the next month's meeting. Mr. Palumbo asked Mr. Eckmann for feedback. There was a problem with Mr. Eckmann's connection, and he left the meeting.

There was discussion among Mr. Zabala, Mr. Mykins, and Mr. Palumbo about a monument sign versus a pylon sign or a hybrid sign.

Mr. Rifenburg and Mr. Palumbo discussed the amount of trees that would need to be removed from Lowes property.

Mr. Eckmann rejoined the meeting. He explained the deal has been in the works since 2012, and a large portion of the delay has been Lowes.

Mr. Palumbo re-asked Mr. Eckmann for feedback upon moving the sign back to 20 ft. from the road or come back next month. Mr. Eckmann stated it was worth waiting.

Mr. Barrett made a motion to table, at the applicant's request, Appeal No. 2020-17, Francis Palumbo, CT Male Associates for KMDA LLC, 1 Market Place Road, Saratoga Springs, New York 12866. Request for an Area Variance pursuant to §129-181 D. 2. (b), of the Zoning Ordinance; property located at 1 Market Place Road, Saratoga Springs, New York 12866, Tax Map No. 153.-3-124, zoned C-1 in the Town of Wilton, until the next meeting.

Mr. Zabala seconded the motion. A roll call vote showed all board members in favor. The motion passed.

Appeal No. 2020-18 Michael Veitch, 13 Margaret Drive, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157, §129-158 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 13 Margaret Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-16, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed Michael Veitch and asked if he would like to present what he would do.

Mr. Veitch, 13 Margaret Drive, explained they would like to construct a deck in their backyard.

Mr. Ramsdill pointed out the drop on both sides of the house.

Mr. Rifenburg and Mr. Veitch discussed the property behind his.

Mr. Ramsdill opened and closed the public hearing at 9:41 p.m. due to lack of public comment.

Mr. Deloria made a motion to approve Appeal No. 2020-18, Michael Veitch, 13 Margaret Drive, Gansevoort, New York 12831. Request for an Area Variance pursuant to §129-157, §129-158 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 13 Margaret Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-16, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 28 ft. rear setback; property located

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at 13 Margaret Drive, Gansevoort, New York 12831, Tax Map No. 128.5-1-16, 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 it is a single family home, it will be in the backyard, and it will be an improvement to 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 of the amount of property that the applicant currently has.
3. The applicant has demonstrated that the requested Area Variance is not substantial because the deck is in the back yard, and it is still 22 ft. from the property line.
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 deck will improve the yard, and will not impact the environment and the woods and the surrounding yards.
5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Kingsley seconded the motion. A roll call showed all board members were in favor. The motion passed.

Appeal No. 2020-19 Lumens Holdings 3 LLC, 830 Morris Turnpike Unit # 204, Short Hills, New Jersey 07078 for the Estate of Michael Frawley. Request for an Area Variance pursuant to Schedule B, Residential Two zone of the Zoning Ordinance; property located at 24 Sherman Road and King Road, Saratoga Springs, New York 12866, Tax Map No.'s 128.-1-36.2 and 129.-1-29, zoned R-2 in the Town of Wilton.

Mr. Ramsdill read 2 pieces of correspondence from SCPB, and then addressed the applicant.

Frank Ruffolo, representing the applicant from Lumens Holdings 3 LLC, Nicholas Vamas, and John McDonough were present.

Mr. Zabala questioned if notification to surrounding owners had been sent and if there were any concerns. Mr. Ruffolo explained that notification was sent out and no comments have come back. Mr. Zabala also questioned the glare from the panels. Mr. Ruffolo expressed that the panels are tilted, and with sunrise and sunset the sunlight would reflect up, and that they do not see any visual impact there.

There was discussion about battery storage, transmission lines, and life expectancy of the solar panels between Mr. Zabala and Mr. Ruffolo.

Mr. Ramsdill and Mr. Ruffolo spoke about the frontage and the lot line adjustment.

Mr. Ramsdill opened and closed the public hearing at 9:57 p.m. due to lack of public comment.

Mr. Zabala made a motion to approve Appeal No. 2020-19, Lumens Holdings 3 LLC, 830 Morris Turnpike Unit # 204, Short Hills, New Jersey 07078 for the Estate of Michael Frawley. Request for an Area Variance pursuant to Schedule B, Residential Two zone of the Zoning Ordinance; property located at 24 Sherman Road and King Road, Saratoga Springs, New York 12866, Tax Map No.'s 128.-1-36.2 and 129.-1-29, zoned R-2 in the Town of Wilton, be granted in the amount of frontage relief of 165 ft. for Lot #1, and frontage relief of 152.44 ft. for Lot #2; properties located at Sherman Road and King Road,

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Saratoga Springs, New York 12866, Tax Map Nos. 128.-1-36.2 (Lot #1) and 129.-1-29 (Lot #2), zoned R-2 in the Town of Wilton, was granted, conditioned on Site Plan Approval from the Wilton Planning Board, 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 proposed lot fabric exists, and the proposed reconfiguration of the lot lines keep the existing frontage on Sherman Road and King Road. Adjusting the lot lines will not change the frontage. 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 lot frontage associated with these lands have been established. 3. The applicant has demonstrated that the requested Area Variances are not substantial because the existing frontage provides adequate space from access roads to the proposed solar array. 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 lot fabric and frontage exists and it will not alter the character of the neighborhood. There will also be a buffer between the property and the solar array. 5. The applicant has demonstrated that the alleged difficulty is self-created because the conditions are existing and an internal lot line adjustment between two properties will be taking place. Mr. Barrett seconded the motion. A roll call showed all board members were in favor. The motion passed.

Adjournment:

Mr. Rifembary made a motion to adjourn. Mr. Deloria seconded the motion. All board members were in favor. The meeting was adjourned at 10:00 p.m.

Dated: July 31, 2020

BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Christopher Ramsdill, Vice Chairman