WILTON ZONING BOARD OF APPEALS
THURSDAY, December 14, 2023

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, December 14, 2023, at Wilton Town Hall and was called to order by Chairman O'Brien at 7:00 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Chairman O'Brien, Vice Chairman Christopher Ramsdill, Nicholas Collins, Scott Kingsley, Amanda Pelfrey, Christopher Iwinski, 1st Alternate, and Andrew Bobbitt, 2nd Alternate. Also present were Mark Mykins, Zoning Officer, and Lisa Closson, Zoning Clerk.

ABSENT: Scott Duffy and Jay Rifenbary.

MINUTES: The minutes of the last meeting, held on October 26, 2023, were approved, as submitted, on a motion made by Mr. Kingsley seconded by Mr. Collins. 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***

SUP NO. 2017-02 Jessica Schwartzman, 26 Fairmount Drive, Gansevoort, NY 12831. Request for an extension of a Special Use Permit pursuant to §129 Attachment 7 Schedule A, §129-175 D and §129-176 C. (3) and (4), for a home occupation of a consulting and advisory service; property located at 26 Fairmount Drive, Tax Map No. 128.9-1-44, zoned R-1 in the Town of Wilton. SUP No. 2017-02, originally granted on January 26, 2017 for a period of two years, and continually extended every two years, then extended for three years on October 22, 2020, is due for review and extension on or before January 26, 2024.

Mr. O'Brien read correspondence from Jessica Schwartzman, 26 Fairmount Drive, stating she would like her Special Use Permit extended. Mr. Mykins explained there has been no issue with the property.

Mr. Ramsdill made a motion to approve the extension of SUP No. 2017-02, Jessica Schwartzman, 26 Fairmount Drive, Gansevoort, NY 12831. Request for an extension of a Special Use Permit pursuant to §129 Attachment 7 Schedule A, §129-175 D and §129-176 C. (3) and (4), for a home occupation of a consulting and advisory service; property located at

26 Fairmount Drive, Tax Map No. 128.9-1-44, zoned R-1 in the Town of Wilton, for an additional 3 years. SUP No. 2017-02 will be due for review and extension on or before January 26, 2027. Mr. Iwinski seconded the motion. All Board members present were in favor. The motion passed.

SUP No. 2021-35 Leslie Paddock and Jamie Gagne, 363 Ruggles Road, Gansevoort, New York 12831. Request for an extension of a Special Use Permit for Agriculture with animals, for chickens, pursuant to Schedule B, R-2 District and §129-175 D (1)-(7) of the Zoning Ordinance; property located at 363 Ruggles Road, Tax Map No. 129.-1-72.2, zoned R-2, in the Town of Wilton. SUP No. 2021-35, originally granted January 27, 2022, for one year, and extended for an additional year on January 26, 2023, conditioned on a max of 12 chickens and no roosters with a maintained fence to keep chickens on the property, is due for review and extension on or before January 26, 2024.

No one was present for the extension. Mr. Mykins explained there have been no complaints on the property.

Mr. Collins made a motion to approve the extension of SUP No. 2021-35, Leslie Paddock and Jamie Gagne, 363 Ruggles Road, Gansevoort, New York 12831. Request for an extension of a Special Use Permit for Agriculture with animals, for chickens, pursuant to Schedule B, R-2 District and §129-175 D (1)-(7) of the Zoning Ordinance; property located at 363 Ruggles Road, Tax Map No. 129.-1-72.2, zoned R-2, in the Town of Wilton, for an additional two years. SUP No. 2021-35 will be due for review and extension on or before January 26, 2026. Mr. Iwinski seconded the motion. All Board members present were in favor. The motion passed.

OLD BUSINESS:

Appeal No. 2023-02 David Lemen, for Dale Charbonneau, 184 Phila Street, Saratoga Springs, New York, 12866. Request for an Area Variance pursuant to Schedule E, RB-1 District, of the Zoning Ordinance; property located at 4205 Route 50, Saratoga Springs, New York, 12866, Tax Map No. 141.-1-8, zoned RB-1, in the Town of Wilton.

***Tabled pending submission of additional information**

NEW BUSINESS:

Appeal No. 2023-28 Annie Moniz (Moniz Enterprises, LLC) 4 Mountain Ledge Drive, Gansevoort, New York, 12831. Request for Area Variances pursuant to §129-157 and Schedule E, RB-1 District, of the Zoning Ordinance; property located at 4 Mountain Ledge Drive, Gansevoort, New York, 12831, Tax Map No. 140.-1-68.112, zoned RB-1, in the Town of Wilton.

Mr. O'Brien read correspondence from WPB (Wilton Planning Board) for a favorable recommendation to the Zoning Board.

Nick Zeglen with EDP (Environmental Design Partnership) and Annie Moniz, 4 Mountain Ledge Drive, were present. Mr. Zeglen explained the project to the Board.

There was discussion about the previous variances granted from 2002 when the lot was subdivided between Mr. Ramsdill and Mr. Mykins.

Mr. Bobbitt asked what the percent increase in enrollment is and Ms. Moniz answered about a 20% increase.

Mr. Ramsdill discussed with Ms. Moniz the outside play space.

Mr. O'Brien opened and closed the public hearing at 7:10 p.m. due to lack of public comment.

Mr. Ramsdill made a motion to approve Appeal No. 2023-28, Annie Moniz (Moniz Enterprises, LLC) 4 Mountain Ledge Drive, Gansevoort, New York, 12831. Request for Area Variances pursuant to §129-157 and Schedule E, RB-1 District, of the Zoning Ordinance; property located at 4 Mountain Ledge Drive, Gansevoort, New York, 12831, Tax Map No. 140.-1-68.112, zoned RB-1, in the Town of Wilton, be granted, for 20 ft. south side yard setback relief, and 94 ft. rear yard relief, for a proposed addition; property located at 4 Mountain Ledge Drive, Gansevoort, New York, 12831, Tax Map No. 140.-1-68.112, zoned RB-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 this is a very unusual piece of property that was carved out of the overall larger development, it's surrounded by parking lots and wouldn't exceed the established footprint as it is currently, it would actually be consistent with the other properties that are on the development 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 this is a very unusual lot carved out with very minimal land surrounding it to the parking lot dimensions, it really has no ability to be expanded at all without a variance and was granted substantial variances in the first place to exist as a lot. 3. The applicant has demonstrated that the requested Area Variances are substantial. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it's not going to expand beyond their current footprint and it will not impact any of the parking or traffic flow. They are going to replace their playground area with a nature outdoor area and is an improvement to the overall environmental conditions. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Ms. Pelfrey seconded the motion. All board members present were in favor. The motion passed.

Appeal No. 2023-29 Tri-City Associates, P. O. Box 617, Saratoga Springs, New York, 12866. Request for Area Variances pursuant to §129-157 and Schedule A, R-1 District, of the

Zoning Ordinance; property located at 157 Jones Road, Gansevoort, New York, 12831, Tax Map No. 140.-1-31, zoned R-1, in the Town of Wilton.

Mr. O'Brien read correspondence from John Kalil, 1 Meghan Court, expressing concern about privacy, impact on water source, and the use (commercial or residential) of the property.

Mr. Ramsdill confirmed with Mr. Mykins that the lot is pre-existing non-conforming, and about 4 to 5 years ago there was a mobile home on the lot which had septic and well.

Mr. Kinglsey, Mr. Mykins, and Mr. Ramsdill discussed the deeded right-of-way, 0 ft. road frontage, and orientation of the property.

Mr. O'Brien opened the public hearing at 7:23 p.m.

Michael Bouchard from Schuyler, LLC, an affiliated company to Tri-City Associates, explained the project to the Board and explained the deeded right-of-way.

Mr. Ramsdill asked if a brand new well and septic will be placed. Anthony Vaccarielli with Tri-City Associates explained a new well will be needed and that there is plenty of room for expansion on the septic, however he had spoken to Saratoga County Sewer and there is possibility to connect to sewer. There was discussion on lot size in R-1 for septic versus sewer.

John Costello, 3 Meghan Court, explained his property looks right at this building site. He expressed concern about the size of the lot being about 17,000 sq. ft. when a building lot is 40,000 sq. ft. Mr. Mykins shared that under the Town Code, pre-existing non-conforming lots are not subjected to area or frontage requirements, and that getting variances will reflect the lot as a regulated building lot for financing purposes. Discussion continued regarding the lot size and the zoning code.

Mr. Costello mentioned the footprint of the proposed home versus the footprint of the previous mobile home on the lot, and that a much larger structure is going to be placed.

Mr. Vaccarielli confirmed with Mr. Mykins that if the lot was purchased immediately after the mobile home was removed, another mobile home could have been placed without variances or restrictions within two years of the removal of the mobile home.

Mr. Costello made mention that 26 ft. (proposed placement of house from property line) is only 8 steps from the driveway, and the house will be enjoying the parties on his deck because it is so close, and the second story will be able to look down into the pool area.

Mr. Ramsdill shared that the right-of-way is 60 ft. wide according to the deed which would make the proposed home 86 ft. from the next property. Mr. Costello said the right-of-way is only 10 ft. long. Mr. Iwinski said the right-of-way is 60 ft., the stone and dirt is only 12 ft. Mr. Vaccarielli added that the proposed home was placed in line with what is existing on the surrounding properties. Discussion continued about lot size, house size, and variances.

Sally Harder, 159 Jones Road, stated she is the owner of the right-of-way and submitted a letter to the Board expressing concern on the lot size, requesting conditions of placement, and restoring the right-of-way to the previous condition at the expense of the applicant. This has been placed in record. Ms. Harder would like to see the home placed more in the middle of the property. There was discussion on the location of the proposed home in respect to the right-of-way, driveway on the right-of-way, and property lines.

Mr. Iwinski asked Mr. Vaccerielli if this would be a resale and Mr. Vaccerielli does not want to rule that out, but has intent to move over there.

There was discussion on uses allowed in the R-1 zone, commercial is not an allowed use.

Angelique Emery, 153 Jones Road, stated she did not get a letter or a copy of the drawing. She would like to know how far off her property line it is going to be. Mr. Ramsdill said 52 ft.

There was discussion regarding lot sizes in cities versus towns with sewer and water, and placement of the house.

Mr. Ramsdill asked about the road maintenance agreement and Mr. Bouchard answered there is no road maintenance agreement per the deed. Ms. Harder shared that she thought there was. Discussion on the literature of the deed, filing of a maintenance agreement, and multiple properties benefiting from the right-of-way continued.

Mr. Iwinski asked if a smaller home could be placed on the lot and Mr. Vaccerielli explained he decided on a two story home for the purpose of keeping the footprint smaller, where a ranch with a two car garage would probably have a larger footprint. Discussion continued about pre-existing non-conforming lots, building size, and placement of home.

John Kalil, 1 Meghan Court, brought up the issue of being a corner lot, line of sight along Jones Road, increasing usage on the private road (right-of-way), and increased traffic from the new Forest Grove project. He wondered what the Town was going to do about it. Mr. Mykins explained the round-a-bout has slowed traffic down. Mr. Mykins also explained that the right-of-way served three homes at one time and now only serves two homes because the other home was removed. Discussion continued.

Mr. Costello wondered if a footprint could be seen on a single story home versus a two story home, and that the proposed home will not fit with The harmony. Mr. Kingsley explained that the Board is only looking at the setbacks because it fits in the height of structures in the R-1 zone. Discussion continued.

Mr. O'Brien closed the public hearing a 8:00 p.m.

Mr. Ramsdill made a motion to approve Appeal No. 2023-29, Tri-City Associates, P. O. Box 617, Saratoga Springs, New York, 12866. Request for Area Variances pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 157 Jones Road,

Gansevoort, New York, 12831, Tax Map No. 140.-1-31, zoned R-1, in the Town of Wilton, be granted, conditioned on the right-of-way being restored to present condition upon completion of construction, for 24 ft. front yard setback relief, 22,900 sq. ft. lot size relief, and 150 ft. frontage relief, for a proposed single family home; property located at 157 Jones Road, Gansevoort, New York, 12831, Tax Map No. 140.-1-31, 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 there was a trailer on this pre-existing non-conforming lot, two amounts are related to the pre-existing non-conforming conditions; lot size and frontage. The 24 ft. front yard setback will not create a detriment because the right-of-way is substantial at 60 ft. and the current gravel driveway sits more than halfway across that 60 ft. in appearance or close to that. The current gravel driveway would have the appearance of a 50 ft. setback and would not produce an undesirable change. 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 pre-existing non-conforming lot is very narrow in the direction of the front to the rear and would allow only for a 14 ft. wide building unless a variance was granted. 3. The applicant has demonstrated that the requested Area Variances are substantial. 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 proposed is a nicer newer home which will improve the condition of the neighborhood. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Iwinski seconded the motion. All board members present were in favor. The motion passed.

Appeal No. 2023-30 Michael Whitehead, 17 Harvest Lane, Gansevoort, New York, 12831. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 17 Harvest Lane, Gansevoort, New York, 12831, Tax Map No. 140.8-3-47, zoned R-1, in the Town of Wilton.

Lora Toma, Michael Whitehead's wife, was present and explained the appeal to the Board.

Mr. O'Brien opened and closed the public hearing at 8:06 p.m. due to lack of public comment.

Mr. Ramsdill recognized the drainage easement in the rear of the proprperty.

Mr. Iwinski made a motion to approve Appeal No. 2023-30, Michael Whitehead, 17 Harvest Lane, Gansevoort, New York, 12831. Request for an Area Variance pursuant to §129-157 and Schedule A, R-1 District, of the Zoning Ordinance; property located at 17 Harvest Lane, Gansevoort, New York, 12831, Tax Map No. 140.8-3-47, zoned R-1, in the Town of Wilton, be granted, for 30 ft. rear yard setback relief, for a proposed deck; property located at 17 Harvest Lane, Gansevoort, New York, 12831, Tax Map No. 140.8-3-47, 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 will be similar to all others currently existing. 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 yard does seem to slope down. 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. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Collins seconded the motion. All board members present were in favor. The motion passed.

SUP No. 2023-31 Carrie Corrigan, 2 Old Deer Camp Road, Saratoga Springs, New York, 12866. Request for a Special Use Permit pursuant to Schedule A, R-1 District, §129-175 D. 1-7 and §129-176 C. (3) and (4), of the Zoning Ordinance, for a Home Occupation, detached office space; property located at 2 Old Dear Camp Road, Saratoga Springs, New York, 12866, Tax Map No. 153.11-3-1, zoned R-1, in the Town of Wilton.

Carrie Corrigan, 2 Old Deer Camp Road, was present. She explained that she is a Christian Science practitioner and is looking for a quiet place to take phone calls and to study/read.

Mr. O'Brien opened and closed the public hearing at 8:12 p.m. due to lack of public comment.

Mr. Kinglsey made a motion to approve Special Use Permit No. 2023-31, Carrie Corrigan, 2 Old Deer Camp Road, Saratoga Springs, New York, 12866. Request for a Special Use Permit pursuant to Schedule A, R-1 District, §129-175 D. 1-7 and §129-176 C. (3) and (4), of the Zoning Ordinance, for a Home Occupation, detached office space; property located at 2 Old Dear Camp Road, Saratoga Springs, New York, 12866, Tax Map No. 153.11-3-1, zoned R-1, in the Town of Wilton, for a detached home office, and will be due for review and extension on or before December 14, 2025.

Ms. Pelfrey seconded the motion. All Board members present were in favor. The motion passed.

Appeal No. 2023-32 Mark Concilla, 48 Fieldstone Drive, Gansevoort, New York, 12831. Request for Area Variances pursuant to Schedule A, R-1 District, and §129-157 of the Zoning Ordinance; property located at 48 Fieldstone Drive, Gansevoort, New York, 12831, Tax Map No. 140.7-2-34, zoned R-1, in the Town of Wilton.

Mark and Brigit Concilla were present. Mrs. Concilla explained the project to the Board. She explained there was a deck off the back of the house when they purchased the house and wanted to potentially screen it in, but when they came in to check for permits they found there was not a permit for the existing deck. She also explained that they have 51 ft. from

the back of the house and that they only have 1 foot to do anything with before they are in the 50 ft. setback.

Mr. Ramsdill confirmed that they are only asking for 1.5 ft. more than what is currently existing.

Mr. O'Brien opened the public hearing at 8:17 p.m.

Jill Litchfield, 46 Fieldstone Drive, asked if they were going to use the new slab and the old deck to put in the screened deck, what they were going to do with the old deck, and how far it will be from the Golf Course. Mrs. Concilla said they were going to screen in only the new deck, the old deck is behind the garage, and they will be 17 ft. from the back of their house.

Mr. O'Brien closed the public hearing at 8:18 p.m.

Mr. Ramsdill made a motion to approve Appeal No. 2023-32, Mark Concilla, 48 Fieldstone Drive, Gansevoort, New York, 12831. Request for Area Variances pursuant to Schedule A, R-1 District, and §129-157 of the Zoning Ordinance; property located at 48 Fieldstone Drive, Gansevoort, New York, 12831, Tax Map No. 140.7-2-34, zoned R-1, in the Town of Wilton, be granted, for 9.30 ft. north side yard setback relief, 9.80 ft. south side yard setback relief, and 12.33 ft. rear yard setback relief, for a proposed porch; property located at 48 Fieldstone Drive, Gansevoort, New York, 12831, Tax Map No. 140.7-2-34, 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 most of these conditions currently exist either as pre-existing non-conforming or long standing non permitted prior uses that were all in effect when the applicants purchased the property except for the screened and portion of the area behind the house which will actually only extend one and a half feet further than the current deck, it's in the rear of the property it's very difficult to see from the road and it's abutted on the rear by the golf course. 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 home sits so far back on the lot that there really is no ability to do any construction on the rear of the building without a variance. 3. The applicant has demonstrated that the requested Area Variances are substantial. 4. The applicant has demonstrated that the requested Area Variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood district because it will be an improvement to the property, won't intrude on anybody else in the area, and it's unfortunately due to the location of the house on the lot. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Collins seconded the motion. All board members present were in favor. The motion passed.

<u>Adjournment:</u>

Mr. Collins made a motion to adjourn. Ms. Pelfrey seconded the motion. All board members were in favor. The meeting was adjourned at 8:20 p.m.

Dated: December 15, 2023 **BOARD OF APPEALS**

BY_____

Lisa Closson, Zoning Clerk

BY_____

Joseph O'Brien, Chairman