

**WILTON ZONING BOARD OF APPEALS
THURSDAY, MAY 28, 2020**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, May 28, 2020 via a ZOOM webinar and was called to order by Vice Chairman Ramsdill at 7:02 p.m.

PLEDGE OF ALLEGIANCE

PRESENT: Vice Chairman Christopher Ramsdill, Robert Barrett, Jim Deloria, Scott Kingsley, and Gerard Zabala. 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, Dean Kolligian, David Querrard, 1st alternate, and Jay Rifenburg, 2nd alternate.

MINUTES: The minutes of the last meeting, held on February 27, 2020 were approved, as submitted, on a motion made by Mr. Barrett seconded by Mr. Deloria. Roll call showed all board members were in favor.

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

OLD BUSINESS:

EXTENSIONS: * **Special Use Permit Extensions Are Not Subject to Public Hearing.**

SUP NO. 1990-18 Vicki Bachmann, 4 Newington Avenue, Gansevoort, New York 12831. Request for the extension of a Special Use Permit, pursuant to §129-21 (A) of the Zoning Ordinance, for a home occupation as a law office; property located on 4 Newington Avenue, Tax Map No. 140.6-2-9, zoned R-1, in the Town of Wilton. SUP No. 1990-18, originally granted on June 28, 1990 for a period of six months, increased to a year on January 24, 1991, decreased to every six months until July 24, 1994, increased to a year until June 22, 1995, increased to two years until June 26, 2003, increased to three years until June 22, 2006, then decreased to every two years since, is due for review and extension on or before June 28, 2020.

Mr. Ramsdill read correspondence from Vicki Bachmann requesting her special permit to be extended. Mr. Ramsdill reminded the board members present that Special Use

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Permits that have been extended multiple times may be extended for three years rather than two. Mr. Deloria questioned the previous extensions and if clients came to the property. Mr. Mykins explained she does not have clients come to her property. Mr. Zabala made a motion to approve the extension of Special Use Permit No. 1990-18, Vicki Bachmann, 4 Newington Avenue, Gansevoort, New York 12831. Request for the extension of a Special Use Permit, pursuant to §129-21 (A) of the Zoning Ordinance, for a home occupation as a law office; property located on 4 Newington Avenue, Tax Map No. 140.6-2-9, zoned R-1, in the Town of Wilton, for a period of three years, and will be due for review and extension May 28, 2023.

Mr. Barrett seconded the motion. Roll call showed all board members present in favor. The motion passed.

SUP NO. 2010-11 William Durrin, 124A Ingersol Road, Saratoga Springs, New York 12866. Request for the extension of a Special Use Permit, pursuant to §129-176 V of the Zoning Ordinance, for a private stable; property located at 124A Ingersol Road, Tax Map No. 154.-1-58.1, zoned R-2 in the Town of Wilton. SUP No. 2010-11, originally granted on April 22, 2010 for a period of two years, and continually extended every two years, is due for review and extension on or before April 26, 2020.

Mr. Ramsdill read an administrative Notice of Action taken upon the extension of SUP No. 2010-11 due to COVID-19 restrictions, extending the Special Use Permit until such time as the Wilton Zoning Board of Appeals has the opportunity to formally consider and rule upon the request for extension. Mr. Barret made a motion to approve the administrative extension. Mr. Kingsley seconded the motion. All were in favor. The motion passed.

Mr. Ramsdill read correspondence from Mr. Durrin explaining he would like to have his Special Permit extended. Mr. Mykins stated there have been no issues with the private stable. Mr. Barret made a motion to approve the extension of Special Use Permit 2010-11, William Durrin, 124A Ingersol Road, Saratoga Springs, New York 12866. Request for the extension of a Special Use Permit, pursuant to §129-176 V of the Zoning Ordinance, for a private stable; property located at 124A Ingersol Road, Tax Map No. 154.-1-58.1, zoned R-2 in the Town of Wilton, for a period of three years, and will be due for renew and extension May 28, 2023. Mr. Kingsley seconded the motion. All were in favor. The motion passed.

SUP NO. 2012-27 Jody Cracco, 7 Greenwood Road, Lake George, New York 12845. Request for the extension of a Special Use Permit pursuant to Schedule N and §129-176 T, 1,2,3,4 and 5 of the Zoning Ordinance for a Day Use Dog Kennel; property located at 474 Route 9, Tax Map No. 153.13-1-4.2, zoned CR-1, in the Town of Wilton. SUP No. 2012-27, originally granted on June 28, 2012 for a period of two years, and continually extended every two years, is due for review and extension on or before June 28, 2020.

Mr. Ramsdill asked if Jody was present. Jody spoke to the board requesting her Special Use Permit to be extended. The board asked Mr. Mykins if the Kennel was still open and if there has been any issues. Mr. Mykins said it is still a business but is currently closed due to COVID-19, and no issues. Mr. Deloria made a motion to approve the extension of

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Special Use Permit 2012-27, Jody Cracco, 7 Greenwood Road, Lake George, New York 12845. Request for the extension of a Special Use Permit pursuant to Schedule N and §129-176 T, 1,2,3,4 and 5 of the Zoning Ordinance for a Day Use Dog Kennel; property located at 474 Route 9, Tax Map No. 153.13-1-4.2, zoned CR-1, in the Town of Wilton, for a period of three years, and will be due for review and extension June 28, 2023. Mr. Zabala seconded the motion. All were in favor. The motion passed.

SUP NO. 2016-06 James L. Zeigler, 256 Wilton-Gansevoort Rd., Gansevoort, New York 12831. Request for the extension for a Special Use Permit, pursuant to §129 Attachment 8 and §129-176, Schedule B of the Zoning Ordinance, for the raising of 24 chickens and 2 pigs; property located at 256 Wilton-Gansevoort Road, Tax Map No. 102.-1-32.113, zoned R-2 in the Town of Wilton. SUP No. 2016-06, originally granted February 25, 2016 for a period of two years, reviewed and extended February 22, 2018 for a period of two years, and amended on April 26, 2018 for 100 chickens, 12 turkeys and 10 pigs, for a period of two years, is due for review and extension on or before April 26, 2020.

Mr. Ramsdill read an administrative Notice of Action taken upon the extension of SUP No. 2016-06 due to COVID-19 restrictions, extending the Special Use Permit until such time as the Wilton Zoning Board of Appeals has the opportunity to formally consider and rule upon the request for extension. Mr. Zabala made a motion to approve the administrative extension. Mr. Deloria seconded the motion. All were in favor. The motion passed.

Mr. Ramsdill read correspondence from Mr. Ziegler stating he would like to extend his special permit. The board asked Mr. Mykins if there were any problems. Mr. Mykins said none. Mr. Zabala made a motion to approve the extension of Special Use Permit 2016-06, James L. Zeigler, 256 Wilton-Gansevoort Rd., Gansevoort, New York 12831. Request for the extension of a Special Use Permit, pursuant to §129 Attachment 8 and §129-176, Schedule B of the Zoning Ordinance, for the raising of 24 chickens and 2 pigs; property located at 256 Wilton-Gansevoort Road, Tax Map No. 102.-1-32.113, zoned R-2 in the Town of Wilton, for a period of three years, and will be due for review and extension May 28, 2023. Mr. Deloria seconded the motion. All were in favor. The motion passed.

SUP NO. 2017-11 Marissa Mackay, 25 Ernst Road, Gansevoort, New York 12831. Request for the extension of a Special Use Permit, pursuant to §129-176 (V) of the Zoning Ordinance for an agricultural use with animals conditioned upon 6-12 chickens and 2 alpacas or 2 pigmy goats with a maximum of 13 animals; property located at 25 Ernst Road, Tax Map Nos. 114.-2-5.2, zoned R-2 in the Town of Wilton. SUP No. 2017-11, originally granted on April 27, 2017 for a period of one year, increased to two years on April 27, 2018, is due for review and extension on or before April 27, 2020.

Mr. Ramsdill read an administrative Notice of Action taken upon the extension of SUP No. 2017-11 due to COVID-19 restrictions, extending the Special Use Permit until such time as the Wilton Zoning Board of Appeals has the opportunity to formally consider and rule upon the request for extension. Mr. Kingsley made a motion to approve the administrative extension. Mr. Deloria seconded the motion. All were in favor. The motion passed.

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Mr. Ramsdill read correspondence from Ms. Mackay explaining she would like her Special Permit extended. The board asked Mr. Mykins if there were any concerns and he replied that there are no issues. Mr. Deloria made a motion to approve the extension of Special Use Permit 2017-11, Marissa Mackay, 25 Ernst Road, Gansevoort, New York 12831. Request for the extension of a Special Use Permit, pursuant to §129-176 (V) of the Zoning Ordinance for an agricultural use with animals conditioned upon 6-12 chickens and 2 alpacas or 2 pigmy goats with a maximum of 13 animals; property located at 25 Ernst Road, Tax Map Nos. 114.-2-5.2, zoned R-2 in the Town of Wilton, for a period of three years, and will be due for review and extension May 28, 2023. Mr. Zabala seconded the motion. All were in favor. The motion passed.

NEW 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 for the hearing of Appeal No. 2020-04. Mr. Kingsley asked if Mr. and Mrs. Gerber were present. John Wright, attorney for Charles Gerber, explained that Mr. and Mrs. Gerber were dialed in. Mr. Wright asked how many voting members were on the ZOOM call. Mr. Kingsley stated there are four voting members with the recusal. Mr. Wright explained that Mr. and Mrs. Gerber owned a mixed use building in RB-1 zone, and it was a pre-existing non-conforming building which was a complete loss in a fire in August of 2019, and that the Gerber's are proposing to rebuild the mixed-use building and also to expand it. Mr. Wright made his interpretation of two sections of the zoning code, §129-109 and §129-110. He explained that in the latest set of plans for the new build, there would be less than 100% expansion of the building. The new build would be less than double the size of the original 2790 sq. ft., just that there would be an additional apartment upstairs from the downstairs apartment. There will not be a new use put in, just simply the expansion of the square footage. Mr. Wright explained there was some ambiguity in the interpretation of the code, and that it should be resolved in the favor of the land owner. Mr. Barrett questioned the addition of an apartment as a new non-conforming existing use. Mr. Wright explained that the number of apartments should not matter, but if a veterinary clinic was to be put in, that would make it a new use, so if the mixed use was one office and one apartment, two offices and two apartments should still be the same uses for the mixed-use building. Mr. Deloria stated that §129-110 says that the rebuild has to be finished within two years and also says that it cannot exceed its original dimensions. Mr. Wright explained that it has to be read with the expansion provisions. Mr. Barrett stated that if an apartment is being added above, a second floor will be changing the dimensions. Mr. Wright said the day before the fire, they could have expanded under §129-109. Mr. Mykins explained, in his opinion, that each use in the building is considered. Another apartment will add another single family residence to the

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property. Mr. Barrett agreed with Mr. Mykins. Mr. Zabala shared that his thought is that one apartment could be expanded, but one apartment cannot be split into two without considering uses. Mr. Kingsley opened public comment at 7:42 p.m. Mr. Kingsley explained to Mr. Wright that with the amount of voting board members present, the decision to carry a vote or to table the appeal is up to the applicant. Mr. Barrett made a motion to table, at the applicants request, 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, until the next meeting. Mr. Zabala seconded the motion. All were in favor. The motion passed.

SUP NO. 2020-02 Robert Dessormeau, 52 Tannery Hill Road, Porter Corners New York 12859. Request for a Special Use Permit for a Two-family dwelling, pursuant to 129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 54 Ernst Road, Gansevoort, New York 12831, Tax Map No. 114.-2-75, zoned R-2 in the Town of Wilton.

Mr. Ramsdill read correspondence from SCPB. Mr. Robert Dessormeau was present and presented his proposed project of building a single level duplex on Ernst road, with provisions of the setbacks. Mr. Ramsdill opened public comment at 7:51 p.m. there was no one present to comment. The public hearing closed at 7:52 p.m.

Mr. Deloria made a motion to approve SUP NO. 2020-02, Robert Dessormeau, 52 Tannery Hill Road, Porter Corners New York 12859. Request for a Special Use Permit for a Two-family dwelling, pursuant to 129 Attachment 8, Schedule B of the Zoning Ordinance; property located at 54 Ernst Road, Gansevoort, New York 12831, Tax Map No. 114.-2-75, zoned R-2 in the Town of Wilton. Mr. Zabala seconded the motion. A roll call showed all board members in favor. The motion passed.

Appeal No. 2020-03 John and Michele Tellstone, 105 Cobble Hill Drive, Gansevoort, New York 12831. Request for an Area Variance, pursuant to §129-157 of the Zoning Ordinance; property located at 105 Cobble Hill Drive, Gansevoort, New York 12831, Tax Map No. 140.12-2-22, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed Mrs. Tellstone and asked if she would like to present her project. She explained that her lot is a corner lot, so she is looking for a 10 foot variance from one of the fronts. She also explained that there is a swing set and a fire pit located in the back yard, restricting where the pool can be placed. Mr. Ramsdill made a comment on the fire pit and the tiering of the soil and how it did not look easy to move. Mr. Zabala confirmed all mailings have been submitted. Mr. Ramsdill opened and closed public comment at 7:51 p.m. due to lack of comment.

Mr. Zabala made a motion to approve Appeal No. 2020-03, John and Michele Tellstone, 105 Cobble Hill Drive, Gansevoort, New York 12831. Request for an Area Variance, pursuant to §129-157 of the Zoning Ordinance; property located at 105 Cobble Hill Drive, Gansevoort, New York 12831, Tax Map No. 140.12-2-22, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 10 ft. west front setback, 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

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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 there are in-ground pools elsewhere in the surrounding neighborhood, and will be a benefit to the applicant. 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 they have an existing play area including a swing set and a large in-ground fire pit that would produce financial difficulties to move. 3. The applicant has demonstrated that the requested Area Variance is not substantial because they are only asking for relief of 10 feet and all other setbacks will be met. 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 be an in-ground pool like others in the area. 5. The applicant has demonstrated that the alleged difficulty is self-created due to the existing structures in the backyard.

Mr. Barrett seconded the motion. Roll calls showed all board members in favor. The motion passed.

Appeal No. 2020-05 Scott Neverett, 127 Cobble Hill Drive, Gansevoort, New York 12831. Request for an Area Variance, pursuant to §129-157 B. (2), (a) of the Zoning Ordinance; property located at 127 Cobble Hill Drive, Gansevoort, New York 12831, Tax Map No. 140.11-3-6, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed Mr. Neverett and asked if he would like to present his project. Mr. Neverett explained he needs two variances on the east side of the property. Mr. Mykins explained that he only needs the lesser of the two for the variance on the one side. Mr. Zabala confirmed all mailings have been returned and no objections. Mr. Ramsdill opened and closed public comment at 7:58 due to lack of comment.

Mr. Zabala made a motion to approve Appeal No. 2020-05, Scott Neverett, 127 Cobble Hill Drive, Gansevoort, New York 12831. Request for an Area Variance, pursuant to §129-157 B. (2), (a) of the Zoning Ordinance; property located at 127 Cobble Hill Drive, Gansevoort, New York 12831, Tax Map No. 140.11-3-6, zoned R-1 in the Town of Wilton, be granted in the amount of relief of 9 ft. east side setback, 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 many of the homes in the neighborhood around the golf course and surrounding neighborhoods have in-ground pools, and it will not be visible to the road.

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 shape of the lot constricts where the pool can be placed. The lot is semi pie sliced shaped and narrows as it extends further towards the back.

3. The applicant has demonstrated that the requested Area Variance is not substantial because it is the minimal amount that can be achieved to place the pool. 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 pool will be fenced in as there are others in the neighborhood, and it would be on the back lawn area.

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5. The applicant has demonstrated that the alleged difficulty is self-created because the applicant is requesting a pool that does not meet the current building lines. Mr. Kingsley seconded the motion. Roll call showed all board members in favor. The motion passed.

Appeal No. 2020-06 Jason and Brandy Lant, 29 Smith Bridge Road, Saratoga Springs, New York 12866. Request for Area Variances, pursuant to §129-157 and 129 Attachment 7, Schedule A of the Zoning Ordinance; property located at 29 Smith Bridge Road, Saratoga Springs, New York 12866, Tax Map No. 153.6-2-4.2, zoned R-1 in the Town of Wilton.

Mr. Ramsdill addressed if Jason and Brandy Lant and asked them to explain what they would like to do. Mrs. Lant explained that they wanted to put up a 24' x 24' garage next to the house. Mr. Ramsdill asked the Lant's if they had the shed there as well, and Mrs. Lant answered that there is a shed in the front that is 12' x 12', there was a misunderstanding, and they were applying for the permit to correct it. Mr. Ramsdill also addressed the terrain on the property. Mr. Ramsdill opened and the closed the public hearing at 8:05 p.m. due to lack of comment.

Mr. Zabala made a motion to approve Appeal No. 2020-06, Jason and Brandy Lant, 29 Smith Bridge Road, Saratoga Springs, New York 12866. Request for Area Variances, pursuant to §129-157 and 129 Attachment 7, Schedule A of the Zoning Ordinance; property located at 29 Smith Bridge Road, Saratoga Springs, New York 12866, Tax Map No. 153.6-2-4.2, zoned R-1 in the Town of Wilton, be granted for the garage in the amount of relief of 18.50 ft. east side setback, and for the shed in the amount of relief of 14 ft. front setback and 15.70 ft. west side setback, 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 is a large ravine on the side with the shed and a large distance from the proposed garage to the neighbor's home. Once completed, they will accent the characteristics of the current home.
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 narrowness of the lot restricting where the two structures can be placed.
3. The applicant has demonstrated that the requested Area Variances are not substantial because it is the minimum requested variance to achieve placing the structures in a suitable location of the driveway and the home.
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 match the home in color and characteristics.
5. The applicant has demonstrated that the alleged difficulty is self-created because they needed the shed and do not have a garage.

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

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Appeal No. 2020-07 AJ Signs for Exit 16, LLC, 842 Saratoga Road, Burnt Hills, New York 12027. Request for an Area Variance, pursuant to §129-181 D. (2) of the Zoning Ordinance; property located at 163 Ballard Road, Gansevoort, New York 12831, Tax Map No. 115.-2-38, zoned C-3 in the Town of Wilton.

Mr. Ramsdill read correspondence from SCPB. Thomas Wheeler from AJ Signs was present to explain the appeal. He explained that Exit 16, LLC, would like to place a monument sign for the storage facility that is being built. He further explained that there is a heavy tree line on both sides of the driveway, which is why the variance to place the sign closer to the road is requested. Mr. Ramsdill recognized that the temporary sign, which is pretty close to the location of the proposed sign, was hard to see. Mr. Zabala asked about illumination, and Mr. Wheeler stated that it is internally illuminated. Mr. Ramsdill opened and closed the public hearing at 8:15 due to lack of comment.

Mr. Deloria made a motion to approve Appeal No. 2020-07, AJ Signs for Exit 16, LLC, 842 Saratoga Road, Burnt Hills, New York 12027. Request for an Area Variance, pursuant to §129-181 D. (2) of the Zoning Ordinance; property located at 163 Ballard Road, Gansevoort, New York 12831, Tax Map No. 115.-2-38, zoned C-3 in the Town of Wilton, be granted for the sign in the amount of relief of 14 ft. front setback, 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 Ballard Road is a very busy corridor with lots of ingress and egress, and the sign will make the business there more identifiable and safer for access.

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 to locate the sign further from the road will make it difficult to be seen.

3. The applicant has demonstrated that the requested Area Variance is not substantial because 14 feet is not substantial and the sign would not be visible otherwise.

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 sign will not have any impact on the environment and is consistent with the Ballard Road commercial corridor.

5. The applicant has demonstrated that the alleged difficulty is self-created because they want the sign closer to the road.

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

Adjournment:

Mr. Kingsley made a motion to adjourn. Mr. Barrett seconded the motion. All were in favor. The meeting was adjourned at 8:20 p.m.

Dated: May 29, 2020

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BOARD OF APPEALS

BY _____

Lisa Closson, Zoning Clerk

BY _____

Christopher Ramsdill, Vice Chairman