

**WILTON ZONING BOARD OF APPEALS**  
**THURSDAY, November 29, 2018**

A meeting of the Wilton Zoning Board of Appeals was held on Thursday, November 29, 2018 at the Wilton Town Hall, 22 Traver Road, Wilton, New York and was called to order by Chairman O'Brien at 7:00 p.m.

**PLEDGE OF ALLEGIANCE**

**PRESENT:** Chairman O'Brien, Christopher Ramsdill, Robert Barrett, James Deloria, Gerard Zabala, and Scott Kingsley. Also present were Mark Schachner, Town of Wilton Zoning Board of Appeals Attorney and Mark Mykins, Zoning Officer.

**ABSENT:** Dean Kolligan.

**MINUTES:** The minutes of the last meeting, held on September 27, 2018 were approved, as submitted, on a motion made by Mr. Zabala seconded by Mr. Barrett. All board members were in favor.

Resident, 16 Craw Lane, made a statement that the minutes were not correct, the resident further explained that he had presented letters at the previous meeting that were not read and were not put into the minutes like he expected. Chairman O'Brien turned to Mr. Schachner and asked if he had a comment. The Resident interrupted Mr. Schachner as he was explaining to Chairman O'Brien and Mr. Schachner stated: "I'm not done. I don't interrupt you, you don't interrupt me". Mr. Rosenberg asked to not be spoken to that way. Chairman O'Brien then asked for the nonsense to stop. Mr. Schachner continued to say there was no obligation to read the letters into the record nor include them in the minutes, this is at the Board's discretion.

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

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**EXTENSIONS:**

**APPEAL NO. 10-33** Mohawk Hudson River Humane Society, 3 Oakland Avenue, Menands, New York, 12204. Request for the extension of a Special Permit pursuant to Schedule E and Section 129-175 of the Zoning Ordinance for a low cost spay and neuter clinic/veterinary services; property located at 4253 Route 50, Tax Map No. 141.-2-31, zoned RB-1, in the Town of Wilton. Special Permit originally granted on November 30, 2010 for a period of two years, is due for review and extension.

Chairman O'Brien said, "We have received a letter from Mr. Rosenberg that addresses the procedures used by the Zoning Board of Appeals. Since this letter contains no pertinent information concerning the property that is up for extension of a Special Permit, the letter will not be read into record. He then asked if there were any questions or comments on the extension, and resident stated that his letter did have pertinent information.

Chairman O'Brien asked Mr. Mykins about the property and Mr. Mykins stated that he did an inspection, and found some electrical problems, but no zoning violations. Mr. Zabala made a motion to approve the extension of Appeal NO. 10-33, Mohawk Hudson River Humane Society, 3 Oakland Avenue, Menands, New York, 12204. Request for the extension of a Special Permit pursuant to Schedule E and Section 129-175 of the Zoning Ordinance for a low cost spay and neuter clinic / veterinary services; property located at 4253 Route 50, Tax Map No. 141.-2-31, zoned RB-1, in the Town of Wilton, be granted for an additional two years. Mr. Kingsley seconded the motion. All were in favor. The motion passed.

**NEW BUSINESS:**

**APPEAL No. 2018-15** Jeremy Walsh, 6 Connor's Way, Saratoga Springs NY 12866, request for an Area Variance pursuant to §129-157 B., (2), (a) of the Zoning Ordinance; property located on 6 Connor's Way, Saratoga Springs, New York 12866, Tax Map No. 140.11-2-3, zoned R-1 in the Town of Wilton.

Chairman O'Brien addressed Mr. Walsh and asked him to come up and address the board and explain what he was looking to do on his property. Mr. Walsh explained that he and his wife are looking to install a pool in their backyard as well as a pool house structure. Mr. Walsh explained they were looking for a rear and side yard setback variances. The board discussed Mr. Walsh's property and Mr. Walsh explained where the property lines were, the driveway, the easement, and that there is an existing fence which runs on the neighbor's property line. Chairman O'Brien asked if the board had any questions. Mr. Deloria asked if both the pool and pool house can be put on one variance. Mr. Mykins said "yes, we will be specific to the pool and for the pool house". The board asked Mr. Walsh if there was another way to get either of these in there and still meet setbacks. Mr. Walsh acknowledged the question and went on to present that he did look at a number of configurations, came in to the Town Hall to understand the code better, and went through a number of

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illustrations in order to present what he had in front of the board, as well as it being intended to be a family pool as his in-laws are right next door, and needed to take a look at safety perspectives as well.

Chairman O'Brien asked if there were any other questions. Mr. Zabala asked if the 10' x 12' shed was existing and asked Mr. Mykins if it was in compliance. Mr. Mykins stated, "Yes it is allowed within five feet of the rear and side property lines".

Chairman O'Brien opened the public hearing at 7:10 p.m.

Resident, 16 Craw Lane, asked about the procedure of a decision based on the Determination of the Zoning Officer, and how the decision was made.

Mr. Ramsdill answered, "I did go out and inspect the property, and the initial determination, I believe, if the project cannot be completed in compliance of our zoning code, the determination is made that it would require a variance. I do not believe that we are being told by Mr. Mykins what we need to do, just simply the resident is making a request for a project and it cannot be completed with compliance of our code without a variance. Then it's our determination based on our 6 prong test and doing our balancing according to these criteria, whether or not we feel that it is going to be appropriate to provide that variance and it's a decision that's determined by the board as to the outcome in the end. Mr. Mykins' Determination is simply that it requires a variance for the project to be engaged in the first place. It's simply our discretion to judge what we believe is consistent to meet the standards as to whether or not we feel the variance is appropriate".

Resident thanked Mr. Ramsdill for the answer.

Chairman O'Brien asked if there were any other questions or concerns. The public hearing closed at 7:17.

Mr. Ramsdill made a motion to approve APPEAL No. 2018-15 Jeremy Walsh, 6 Connor's Way, Saratoga Springs NY 12866, request for an Area Variance pursuant to §129-157 B.,(2),(a)of the Zoning Ordinance; property located on 6 Connor's Way, Saratoga Springs, New York 12866, Tax Map No. 140.11-2-3, zoned R-1 in the Town of Wilton be granted in relief amounts of 12 feet in the rear for the pool, 39 feet for rear property line for pool house, and 5 feet on the side property line for the pool house 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 lay out of the property with the cul-de-sac creates a wide and narrow lot that does not allow for a lot of distance in the rear with a wooded area behind the property that allows it not to abut the neighbor's property. 2. The applicant has demonstrated that the benefit sought cannot be achieved by some method feasible for the applicant to pursue other than by Area Variance because the shape of the lot creates a condition where the rear yard is not very large. 3. The applicant has demonstrated that the requested Area Variance is not substantial because it offers reasonable egress from the

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property boundaries. 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 improve the use of the property for the family, and will be tastefully built consistent with the finishes on the house. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Deloria seconded the motion. All were in favor. The motion passed.

**APPEAL No. 2018-16** Christine and Nathan LaFrance, 51 Glenburnie Drive, Wilton, NY 12831, request for an Area Variance pursuant to §129-157 A of the Zoning Ordinance; property located on 51 Glenburnie Drive, Tax Map No. 128.17-2-4, zoned R-1 in the Town of Wilton.

Chairman O'Brien addressed Mrs. LaFrance. Mrs. LaFrance explained that she is here because her property line is too close to where we want to install the pool house, and that the back of her property is in need of a 14 foot relief to the rear setback.

Chairman O'Brien asked if there were questions from the board. Mr. Zabala inquired if neighbors had been notified and if there were any concerns.

The public hearing opened at 7:20.

Resident, 6 Greylock Drive, stated he wished he had more time to review the information, and that the notification letter came during the Thanksgiving holiday. He also shared that a lot of trees were taken down, and that they help to buffer noise from the Northway.

Mr. Barret asked if the trees were in her yard. Mrs. LaFrance explained that there were a couple dead trees that the rear Resident and Mrs. LaFrance spoke about prior. She also explained that she did inform the neighbor's about her project. Mr. Barret stated the trees are not part of the issue before the board.

Resident, 16 Craw Lane, asked what the code requirement in terms of time frame for sending out notices to neighbors, and what the ordinance is for removing trees. Mr. Mykins explained that the notices are sent out a minimum of 10 business days before the meeting, and that there is no ordinance on cutting trees on your property.

There was discussion from the board about the size of the existing shed and if it was non-conforming. Mr. Mykins and Mrs. LaFrance stated that it is in compliance, it is 10' x 10', and more than 5 feet from neighboring property lines.

The public hearing closed at 7:30 p.m. Mr. Zabala made a motion to approve Appeal No. 2018-16, Christine and Nathan LaFrance, 51 Glenburnie Drive, Wilton, NY 12831, request for an Area Variance pursuant to §129-157 A of the Zoning Ordinance; property located on 51 Glenburnie Drive, Tax Map No. 128.17-2-4, zoned R-1 in the Town of Wilton, be granted with relief amount of 14 feet on the rear setback of the property because: 1. The applicant has demonstrated that an

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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 house will be tastefully built and follow the color scheme of the house and neighborhood. It will not change the character of the neighborhood. 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 layout of the property and the placement of the existing pool. 3. The applicant has demonstrated that the requested Area Variance is not substantial because there are other pool houses, sheds, and pavilions in the neighborhood. 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 tastefully built and follow the color schemes of the home. 5. The applicant has demonstrated that the alleged difficulty is self-created.

Mr. Barret seconded the motion. All were in favor. The motion passed.

**APPEAL No. 2018-17** Matt Jones for Country Realty Co., 358 Broadway, Suite 403, Saratoga Springs, NY 12866. Request for a Special Permit for attached display panels; two 294 square feet, and one 278 square feet, pursuant to §129-187 B (1) and §129-188, of The Zoning Ordinance; property located at 3002 Route 50, Saratoga Springs, NY 12866, Tax Map No. 153.-3-84.11, zoned C-1 in the Town of Wilton.

The public hearing opened at 7:31 p.m. Chairman O'Brien addressed Matt Jones and Daniel Tompkins, representing New Country. A power point and display pictures were shown by Mr. Jones and Mr. Tompkins as they spoke of their case. Discussion occurred between the board, and Mr. Jones and Mr. Tompkins about the display panels and the location and visibility of them because of where they will be placed. The board recognized that the panels will not be backlit. The board questioned if the panels will be able to be seen on both north bound ramp and south bound ramp of I-87, and if they will be able to be seen going 65 miles an hour on I-87. Mr. Tompkins mentioned that lighting them may be a factor later in time. Mr. Mykins informed them that if there was lighting added, the site plan would need to be amended, it would have to go to planning.

Resident, 16 Craw Lane, recognized that the panels would not be able to be backlit. The Board agreed.

Mr. Ramsdill made a motion to approve Appeal No. 2018-17 Matt Jones for Country Realty Co., 358 Broadway, Suite 403, Saratoga Springs, NY 12866. Request for a Special Permit for attached display panels; two 294 square feet, and one 278 square feet, total of 866 square feet, pursuant to §129-187 B (1) and §129-188, of The Zoning Ordinance; property located at 3002 Route 50, Saratoga Springs, NY 12866, Tax Map No. 153.-3-84.11, zoned C-1 in the Town of Wilton for consideration with all findings in §129-175 D, 1-7 that a Special Sign

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Permit be granted with the following conditions: no branding or corporate logos allowed, no backlighting of the panels, no lettering or narrative copy, and it will improve the appearance of the building and will improve the visual perspective of the building driving in from Route 50 and along the Northway corridor.

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

**ADJOURNMENT:**

Mr. Ramsdill made a motion to adjourn. Mr. Kingsley seconded the motion. The meeting was adjourned at 7:55 p.m.

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**Dated: November 30, 2018**

**BOARD OF APPEALS**

**BY** \_\_\_\_\_

**Lisa Closson, Zoning Clerk**

**BY** \_\_\_\_\_

**Joseph O'Brien, Chairman**