

ZONING BOARD OF APPEALS

Town of Salina

May 2, 2022

Final Minutes

A regular meeting of the Zoning Board of Appeals was held on Monday, May 2, 2022 the Salina Town Hall, 201 School Road, and Liverpool at 7:00 P.M. Those present were:

Chairman	Mike Gunther
Member	Edward Puma
Member	Richard Hunter
Member	John Muldoon
Member	Bill Tassone - Excused
Member	Michael Brigandi
Member	Bill McGillivray
Attorney	Joseph Frateschi Esq.
Secretary	Denise Wilhelm
Code Enforcement Officer	Peter Mitchell

Mr. Gunther welcomed those in attendance and explained the purpose of our meeting tonight is to hear the cases before the Zoning Board of Appeals for Area and Use Variances. We will also, render interpretation of zoning laws, consider all Planning and Subdivisions and if needed to consider all Special Use Permits. Mr. Gunther introduced the Board Members. He announced the addition of two members to the Zoning Board, Mr. Mike Brigandi and Mr. Bill McGillivray. He welcomed our new Town of Salina engineer, Mr. Cosmo Pagano. Mr. Gunther also wanted to thank Mr. Joe Kelly for his service on the Zoning Board. He continued that his input was valued and we appreciate the time he did serve with us. We do want everyone to know that all Board Members have visited your properties and inspected them. Some may have spoken to you. You will have the opportunity to discuss your project this evening. The procedures we will use are: I will announce the case and other pertinent information in the file. The person asking for the variance or project will come to the podium. We ask that you speak clearly into the microphone, giving your name and address as this is being recorded for the purpose of the minutes we are required to file. He went on to explain the procedure for requesting an Area Variance or Planning Case. Mr. Gunther will read for the record the Staff Reports from the Director of Planning and Development, the affidavit of mailings to the neighbors and submitted exhibits for the cases. The first matter before the board is to approve the minutes from the March 21, 2022 meeting.

APPROVAL OF MINUTES

Mr. Gunther entertained a motion to approve the minutes of March 21, 2022. Mr. Muldoon made the motion and the motion was seconded by Mr. Puma. Bill McGillivray and Michael Brigandi abstained because they were not at the last meeting. It was unanimously carried by the remaining board members.

SEQR RESOLUTION:

Mr. Gunther stated that for the Zoning Board Cases before us tonight, the Board has declared itself the lead agency for these actions. Mr. Gunther declared the proposed actions to be Type II actions under the New York State Environmental Quality Review Act and requiring no further action by the Zoning Board.

NEW BUSINESS

**034.-08-16 JAMES ISSAKAINEN, 98 JEWELL DRIVE
ZONED R-1, 2ND WARD**

CASE 22-3 Applicant is requesting an Area Variance from Zoning Ordinance 235-33A (2) to construct a utility shed with an overall height of 20 feet from grade to the roof peak, where a maximum height of 15' is allowed.

Mr. Gunther read for the record the Staff Reports from the Director of Planning and Development, the affidavit of mailings to the neighbors and submitted exhibits for tonight's cases before each case.

James Issakainen provided the Burden of Proof. Mr. Issakainen stated that the benefit sought could not be achieved by other feasible means as he designed this shed with storage in mind and a loft but wanted to have more than a crawl space and needs to build it higher than 15' for space utilization. He said he considered buying land. The requested variance will not produce an undesirable change because his back yard is surrounded by 30' tall cedar trees and the neighbors wouldn't be able to see it. It is not substantial. It's a 5' variance and the extra height will provide me with extra loft space. It does not change the view and neighbors can't see it. It will not have an adverse physical or environmental effect on the neighborhood because the 4' difference and the foundation will be 10' from the property line and will not be seen by the neighbors because of his surrounding cedar trees. Again, it's a shed for storage. It is self-created. It wasn't an accident. I am building this structure and have designed it with storage in mind. Mr. Gunther stated that he viewed the property and the first thing he noticed when he pulled up is that you can't see the back yard. It's not going to affect anyone but you and your view of your back yard. He asked if he received any comments from your neighbors. Mr. Issakainen answered no.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Hunter asked if he was doing the work himself and Mr. Issakainen answered yes. Mr. Muldoon asked what the outer shell will be made of. Mr. Issakainen replied 3 x 8 plywood and it will be insulated inside. Mr. Muldoon asked if it will be painted the same color to match your house. Mr. Issakainen replied no it is an Adirondack style shed. Mr. Muldoon asked if there will be any power to the shed. Mr. Issakainen replied he hasn't decided yet. Mr. Brigandi asked if he will be installing rain gutters. Mr. Issakainen asked if that was necessary because it's so far off my property from the neighbors. Mr. Gunther stated that if it becomes an issue, we would ask you to put the rain gutters on. Mr. Frateschi agreed. Mr. Brigandi asked if it would make sense to make it wider because he is making it taller. Mr. Issakainen replied no, I just wanted to be able to walk into the loft and not crawl. Mr. McGillivray asked if the shed was potentially 2 floors. Mr. Issakainen replied it's a loft with a rafter system. Mr. Frateschi spoke to clarify that no one will be living in this shed. You can put electricity to it but no one is to live there. Mr. Issakainen understood. Mr. Mitchell added that we can address the gutters at the time if it becomes an issue. The only thing, he added, is that gutters will help preserve the shed.

Mr. Gunther noted there was no one in the audience to speak for or against this.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-3 James Issakainen, 98 Jewell Drive, Tax Map 034.-08-16.0, R-1, 2nd Ward

The applicant is asking for area variances from the Zoning Ordinance 235-33A (2) to construct a utility shed with an overall height of 20 feet. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. No one can see it. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than area variances. He has his particular benefits he's seeking. The requested variances are not substantial. It's only 5' or less. The proposed variances will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is self-created. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit

must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Unless these conditions are complied with, the variance shall expire.

Mr. Hunter made a motion. Mr. Muldoon seconded it. Mr. Gunther polled the board members.

Mr. Brigandi	Yes
Mr. Muldoon	Yes
Mr. Hunter	Yes
Mr. McGillivray	Yes
Mr. Puma	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

Mr. Gunther wanted to acknowledge that Mr. Nick Paro, Town Supervisor and Mr. Daniel Ciciarelli our representative from the 3rd Ward are here to see these proceedings. He stated he wanted to mention for clarification that the Town Board just passed a law local to the Town of Salina that rolled the responsibilities of the Planning Board into this Zoning Board as a savings cost to the town. They are here to observe as this is our 1st meeting with new members. We thought it would be easier to handle the matters of the Zoning Board 1st as the Planning Board may take longer.

NEW BUSINESS

**029.-05-57.0 PETE CAROCCI, 122 CRANBERRY DR
 ZONED R-1, 2ND WARD**

**CASE 22-4 Applicant is requesting an Area Variance from Zoning
 Ordinance 235-7D (4) & 235-7D (5) to construct a carport on the
 front of the dwelling with a 9' front yard setback where a 25'
 setback is required and a side yard setback of 3.9' where 5'
 is required.**

Mr. Peter Carocci of 99 Lynnhaven Drive N. Syracuse, NY provided Burden of Proof for Mr. Pasquale Galteri. Mr. Carocci stated that the benefit sought cannot be achieved by other feasible means. It is an extension of the garage roof. There's already a breezeway there and I'm going farther that 3 1/2 '. Mr. Gunther explained that we understand the existing structure would be grandfathered in. But once we do a new project, that has to be considered a variance because now you're extending that. Mr. Carocci stated he did a measurement today and it is 6' off the property line. Mr. Gunther asked if he measured it off the actual property line of a fence that's there because often they're not one and the same. The fence could be 2' off the property depending on who installed it. What the Planning and Development Department does is go directly off the surveys but if that is a matter of contention or if it becomes an issue that could be continued and reviewed but if I had a suggestion it would be to move forward with project as it was announced. Mr. Carocci stated the variance is off the roadside and I'm asking for 6'. Mr. Carocci moved on to the next question. Mr. Carocci stated that the granting of the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties. The variance is substantial because I am requesting an additional 16'. The variance will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty was self-created.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Muldoon asked what is it constructed of. Mr. Carocci responded he will be using pressure treated wood that's up to code. The roof will be aluminum to match the existing roof. Mr. Bragandi asked is there will be a pitch to the roof. Mr. Carocci stated it will be the same pitch as the existing breezeway. Approximately 24" around there. Mr. Bragandi asked if the neighbors made any comments on the carport where it is protruding. Mr. Carocci answered no, they are fine with it. He's my uncle who walks with a cane so he doesn't get out of his car and slip on the ice. Mr. Gunther stated this could be considered

an answer to a safety issue with your uncle. That's important to consider. Mr. Puma asked who will be doing the work. Mr. Corocci stated that he was. Mr. Hunter stated this carport won't go any further than the breezeway that's there. Mr. Corocci answered correct. Mr. Hunter needed clarification on how far the building line to the street as the numbers on the survey weren't clear. It was stated that it was 28.9' from the building line to the front yard setback. Mr. Hunter continued that he drove around the neighborhood and there were no other carports. He thought it would stick out. Mr. Gunther stated that it's not going to stick out any farther than what is already there. Mr. Carocci agreed. Mr. Carocci stated that his uncle is 90 years old and this is a safety issue.

Mr. Gunther noted there was no one in the audience to speak for or against this.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-4 Peter Carocci, 122 Cranberry Dr, Tax Map 029.-05-57.0, R-1, 2nd Ward
The applicant is asking for area variances from the Zoning Ordinance 235-7D (4) & 235-7D (5) to construct a carport on the front of the dwelling with a 9' front yard setback and a 3.9' side yard setback. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than area variances. His uncle has to get in his car during icy winters. The requested variances are not substantial. Unfortunately, all those houses were built on top of the road with not much setback. The proposed variances will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is not self-created. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Unless these conditions are complied with, the variance shall expire.

Mr. Hunter made a motion. Mr. Puma seconded it. Mr. Gunther polled the board members.

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| Mr. Brigandi | Yes |
| Mr. Muldoon | Yes |
| Mr. Hunter | Yes |
| Mr. McGillivray | Yes |
| Mr. Puma | Yes |
| Mr. Gunther | Yes |

Mr. Gunther stated it is adopted and passed.

NEW BUSINESS

**044.-02-16.0 MEGAN SCHRYVER, 201 CRESTWOOD DR
 ZONED R-1, 2ND WARD**

CASE 22-5 Applicant is requesting an Area Variance from Zoning Ordinance 235-32E and 235-7D (4) to install an in ground pool less than 2' from the fence where a minimum of 4' is required and has a front yard setback of 14' where 25' is required.

Scott & Megan Schryver provided Burden of Proof. Ms. Schryver stated that the benefit sought cannot be achieved by other feasible means because we live on corner lot and have no back yard. It's the only place we can put the pool. Granting the variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because they had an above ground pool originally and we're replacing it with an in ground pool. The variance requested is not substantial. We're replacing a pool that was in the same area. The variance will not have adverse physical or environmental effects on the neighborhood or district because there are other pools in the neighborhood.

The alleged difficulty was self-created. We wanted a nicer pool. Mr. Schryver added that they have a lot of traffic and the above ground pool provided no privacy. The in ground pool will provide the necessary privacy. Mr. Gunther asked if there has been any issue with your neighbors except for the privacy issue. Mr. Schryver responded not that he knows.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. McGillivray stated so you had a pool there that was already fenced in. Mr. Schryver replied yes. Mr. McGillivray added just for curiosity how many feet was the fence from the existing pool. Mr. Schryver stated from the driveway it's about 3-4' and from the back of the pool there's more square footage and the other fence where my neighbor is about 6'. Mr. Hunter asked Mr. Mitchell for clarification. For the front yard setback are you talking about the existing fence. Mr. Mitchell responds no, to the water's edge. Mr. Hunter asked who will be putting in the pool. Mr. Schryver responded Liverpool Pool & Spa. Mr. Brigandi asked if his existing fence meets all safety codes. Mr. Schryver responded yes it does. Mr. Brigandi asked if they have any natural run off. Mr. Schryver answers the cement will be pitched so if I drain it, it will go towards the front of my house or it will go towards the back of the yard. Mr. Gunther states that these situations come up with a corner lot. If you were to put it on the corner, you'd have to fence in your whole property and wouldn't have the privacy.

Mr. Gunther asked for comments from the audience. Mr. Gunther acknowledged a person in the audience and asked her to approach the podium. He asked her to state her name and address. Ms. Luanne Vendetti who resides at 200 Carlton Drive stated that her back yard butts up to the Schryver's back yard and they have a drainage issue. She continued that everytime it rains, her yard floods and her mulch goes into her grass. Then the water just sits there. Her concern is that it floods now and with the Schryver's putting cement there for the pool it will flood even more. Her suggestion was to place a french drain in. Mr. Gunther stated the Zoning Laws is what we have control of. We can't require this gentleman to do something to his property regarding the rain. Mr. Gunther requests the input of Mr. Frateschi our attorney. He states that the Zoning Board has creditability to decide who is and is not telling the truth. You can either move forward with this case or ask for someone from the pool company to get clarification. Mr. Mitchell states that we don't have any existing reports of water on these properties. Mr. Gunther asks Mr. Schryver if it is possible he could put stone down on the side where her fence is as part of the project. Mr. Schryver replies that he can. Mr. Gunther asks Ms. Vendetti if this solution would satisfy her. Ms. Vendetti replies yes. Mr. Gunther states that this is not going to be a condition of this variance. Mr. Gunther asks the Board if anyone objects moving forward on this resolution this evening. Mr. Muldoon says he has no objections since the applicant has determined he would like to comply with the drainage stone which would help with the run off.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-5 Megan Schryver, 201 Crestwood Dr, Tax Map 044.-02-16.0, R-1, 2nd Ward

The applicant is asking for area variances from the Zoning Ordinance 235-32E & 235-7D (4) to install an in ground pool less than 4' from the fence with a front yard setback of 14'. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. They are on a corner lot and this is their only yard. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than area variances. It's the only place they can put the pool. The requested variances are not substantial. They are replacing an above ground pool with an in ground pool. The proposed variances will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is self-created. They wanted a pool. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of

the variance approval. 3) That all work must be completed within the time that the permit is granted for. 4) Unless these conditions are complied with, the variance shall expire. Mr. Hunter made a motion. Mr. Brigandi seconded it. Mr. Gunther polled the board members.

Mr. Brigandi	Yes
Mr. Muldoon	Yes
Mr. Hunter	Yes
Mr. McGillivray	Yes
Mr. Puma	Yes
Mr. Gunther	Yes

Mr. Gunther stated it is adopted and passed.

NEW BUSINESS

**044.-14-06.0 NICK PAVENTE, 105 CARLTON DR
 ZONED R-1, 2ND WARD**

**CASE 22-6 Applicant is requesting an Area Variance from Zoning
 Ordinance 235-33A (3) to allow a second shed on the premises
 where only one shed is allowed.**

Nick Pavente provided the Burden of Proof. Mr. Pavente stated that the benefit sought could not be achieved by other feasible means as he needs another shed for the storage of his motorcycles. The requested variance will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties because it will be on his property in the back yard. It is not substantial. It's an 8 x 10 shed. It will not have an adverse physical or environmental effect on the neighborhood or district. It is self-created because he needs storage for his motorcycles. Mr. Gunther asked if Mr. Pavente if he has had any negative feedback from the neighbors. Mr. Pavente replied no; in fact my neighbors asked me where I got it because it is a nice shed.

Mr. Gunther asked for questions from the Zoning Board Members.

Mr. Brigandi asked if there will be power to the shed. He added it's not going to be a mechanics shop where you are building and fixing motorcycles. Mr. Pavente replied no, there will be no power. It's just for storage. Mr. Muldoon suggested that he enclose the bottom to keep any animals from getting underneath. Mr. Pavente replied that he will be putting wood all around the bottom with some river rock. Mr. Gunther added that for consideration if you're ever in this situation again, to become before the board first.

Mr. Gunther noted there was no one in the audience to speak for or against this.

Mr. Gunther closed the Public Hearing and asked for determination.

Mr. Hunter summarized Case 22-6 Nick Pavente, 105 Carlton Dr, Tax Map 044.-14.06.0 R-1, 2nd Ward

The applicant is asking for area variances from the Zoning Ordinance 235-33A (3) to allow a second shed on the premises. Based upon the testimony given in this matter and the exhibits offered, it is hereby resolved the applicant has met the requirements by providing the following: an undesirable change will not be produced in the character of the neighborhood or a detriment to nearby properties. There's a lot of new sheds in the back yards in that area. The benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than area variances. He doesn't have a garage. The requested variances are not substantial. It's only an 8 x 10 shed. The proposed variances will not have an adverse physical or environmental effect on the neighborhood or district. The alleged difficulty is self-created. He needs more storage room. I therefore move based upon the forgoing that the variance applied for be granted. Of granting the above variance is conditioned upon the following: 1) All improvements to be constructed and located in accordance with the exhibits submitted herewith in support of the application. 2) That the building permit must be obtained within 30 days of the date of the variance approval. 3) That all work must be completed within the time that the

permit is granted for. 4) Unless these conditions are complied with, the variance shall expire.

Mr. Gunther stated if it becomes an issue, we will address gutters at that time.

Mr. Hunter made a motion. Mr. Gunther seconded it. Mr. Gunther polled the board members.

Mr. Brigandi Yes

Mr. Muldoon Yes

Mr. Hunter Yes

Mr. McGillivray Yes

Mr. Puma Yes

Mr. Gunther Yes

Mr. Gunther stated it is adopted and passed.

Mr. Gunther stated that for the new members, it is unusual to have all four actions before the board being in one ward. What we are going to do is split up the responsibilities because we will have more than one person from the wards. So we are not putting all the responsibility on one member.

Mr. Gunther went on to say that we will be headed into uncharted territory. You have all been provided with an arial view of the project on Brewerton Road.

NEW BUSINESS

**059.-02-68.0 JONNY SINGH, 2720 BREWERTON RD
ZONED C-3, 3rd WARD**

**CASE PB-22-2 Applicant is seeking Site Plan and Special Permit approval
for a motor vehicle fuel dispensing station and convenience
store.**

The applicant for this case was a no show. Mr. Gunther stated that since this is a preliminary plan review, he would like to get comments from the engineer. Mr. Frateschi stated that we do not have to take action on the Town of Salina being the lead agency at this time but would like to hear comments from our Town Engineer, Mr. Pagano. Mr. Pagano said he has concerns traffic flow particularly with emergency vehicle access, pedestrian flow and parking in general. He continued that this site is tight for traffic with parallel parking off the one way entrance and cars backing out. Mr. Muldoon expressed his concern is with not seeing a full site plan and the amount of space between the pumps, building and drive through. He stated that people leave their cars at the pump and go inside. He is concerned about the parked vehicles and the stalemate that creates. Mr. Pagano says this site is a little tight. Mr. Gunther states that we are going to be leaning heavily on Mr. Brigandi with his experience on the Planning Board. He continues that he is new to the Planning but we have received training on how it fits with the mission of the town and the direction of that community. In the 3rd Ward, the town is making a significant investment in that area to make it walkable to have a more cohesive mission on the way that community is going to work and I'm just not sure that a drive through convenience store is the right answer for that. Or do we really need another service station in that area. Is that going to be the best thing. I have discussed it with members of the Town Board and also with others in the area. That's not what we need in that area. There is going to be opportunity to buy conveniences but no grocery store. The Malden Market is being redone. I would be more interested in seeing something else happen with the property but again I'm not sure how that works. The Speedway is across the street and a Byrne Dairy is up the street. Another gas station in that area, I'm not sure if that's the right answer. One board member stated with the traffic flow in that area that they would like to see what type of buffer they are planning from the residents with the signs and noise. They voiced environmental concerns. Mr. Muldoon asked when do we send this to the county for their review. Mr. Frateschi stated he would send it to the county soon, as he is sure they would have concerns. Mr. Brigandi states the same concerns like the traffic flow in and out; the environmental impact. He asks what do we want there if we already have a Speedway and Byrne Dairy. Mr. Gunther states that the applicant should have been represented. One member asked if they bought this property. Mr. Mitchell stated he wasn't sure. Mr. Mitchell continued that he supposedly owns approximately 20 other gas

station/convenience stores in the area. Mr. Frateschi stated we will keep the public hearing opened for the next meeting. He went on to state that the Co-chairman and he discussed having a pre-agenda meeting at 6:30 pm before the regular Zoning Board meeting. Mr. Gunther asked if there were any other matters for the board for the next meeting. Mr. Mitchell replied we do. Mr. Gunther states that at some point we will have a training session where we can all get on the same page. We can discuss splitting up the duties of the Planning Board so we can all work together. Mr. Gunther asked if anybody had anything else to bring before this board this evening. Mr. Muldoon expressed he would like to thank you, Mr. Chairman, for bringing us together and organizing us for our first meeting. And for pulling us together before this meeting. He thinks it went very smoothly even though we had a little controversy. Thank you, Mr. Chairman. Mr. Gunther replies that he appreciates his comments in support of the board. Tonight was a little bit interesting and he thought the board handled it really well.

ADJOURNMENT

Mr. Gunther entertained a motion to close the Zoning Board of Appeals at 8:40 pm. Mr. Puma made the motion and it was seconded by Mr. Hunter and it was unanimously carried. The meeting was adjourned.

Prepared By: Denise Wilhelm
Denise Wilhelm, Secretary