

ZONING BOARD OF APPEALS

**Town of Salina
June 6, 2022
Final Minutes**

1 A regular meeting of the Zoning Board of Appeals was held on Monday, June 6, 2022
2 the Salina Town Hall, 201 School Road, and Liverpool at 7:00 P.M. Those present
3 were:

4	Chairman	Mike Gunther
5	Member	Edward Puma
6	Member	Richard Hunter
7	Member	John Muldoon
8	Member	Bill Tassone
9	Member	Michael Brigandi
10	Member	Bill McGillivray
11	Attorney	Joseph Frateschi Esq.
12	Secretary	Denise Wilhelm
13	Code Enforcement Officer	Peter Mitchell
	Zoning Board Engineer	Cosmo Pagano III

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 will announce each case. He 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 tonight's cases. 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. Mr. Gunther went on to state that the first matter before the board is to approve the minutes from the May 16, 2022 meeting.

14
15 **APPROVAL OF MINUTES**

16
17 Mr. Gunther entertained a motion to approve the minutes of May 16, 2022. Mr. Muldoon
18 made the motion and the motion was seconded by Edward Puma. It was unanimously
19 carried by the remaining board members with the exception of Bill Tassone and Bill
20 McGillivray. They abstained due to their absence at the May 16, 2022 meeting.

21
22 **SEQR RESOLUTION:**

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

27
28 **NEW BUSINESS**

29
30 **020.-03-39.0 CHRISTINE MASLONA, 105 CALYPSO CIRCLE**
31 **ZONED R-1, 1ST WARD**

32
33 **CASE 22-11 Applicant is requesting an Area Variance from Zoning**
34 **Ordinance 115-6 C to install a 4' high fence on top of**
35 **an existing deck, which is approximately 5' above grade,**
36 **creating a fence that is approximately 9' above grade**
37 **where maximum of 6' is allowed.**

38
39 Christine Maslona provided the Burden of Proof. Ms. Maslona stated that the benefit
40 sought could not be achieved by other feasible means because I originally was going to
41 replace the 8' fence with an 8' fence but it was against code. So the alternative was a 4'

42 fence on top of a deck. Granting the variance will not produce an undesirable change in
43 the character of the neighborhood or detriment to nearby properties because there is an
44 existing 8' cedar fence now which is deteriorating and needs replacing. The variance
45 requested is not substantial. I have an existing fence now in need of repair and a
46 swimming pool with a deck that has a 4 ½' drop off in the back of the deck to the
47 neighbor's yard. I need the fence to keep people safe while on the deck. It will not have
48 an adverse physical or environmental effect on the neighborhood because there is an
49 existing 8' fence there now. The alleged difficulty was not self-created because of the land
50 grade of my property to the neighbors. Ms. Maslona presented the Board with a letter
51 from the neighbor and pictures, for the record. Mr. Gunther read the letter to the Board
52 and passed the pictures around to the Board. The letter and pictures were put in the file.

53

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

55

56 Mr. McGillivray stated that the in ground pool is grade level but has a 6' drop off in the
57 back. Mr. Muldoon stated he understood what she wanted to do. Mr. Hunter asked if it
58 was an in ground pool. He stated he tried looking over the fence to see. Ms. Maslona
59 replied yes and that there is a ravine in the back. Mr. Hunter adds so you'll have 2
60 separate fences? You'll put back the 8' fence and a 4' fence? Ms. Maslona replied the 8'
61 fence has been cut and that will become the skirting for the deck. She went on to say
62 there was an 8' fence there and because it was not to code the fence company said they
63 could put a 4' fence on the top of the deck. It's a safety issue for the people in my yard
64 and privacy for my neighbor. Mr. Hunter still wasn't clear on what she was doing. Mr.
65 Muldoon explained to Mr. Hunter that underneath the deck the fence is cut off and is being
66 used for skirting the deck and the 4' fence will go on top of the deck. Mr. Tassone wanted
67 to make clear that she was asking for a 4' fence on top of your deck. Ms. Maslona replied
68 yes, for safety reasons. Mr. McGillivray stated you're putting the 4' fence on just one side.
69 Ms. Maslona answered that the 4' fence will go on top of the deck on one side and there is
70 a 6' fence on the other side and the back fence is a chain link. Mr. Brigandi added the
71 backside is a ravine, a drop off. The 4' fence on the deck which is suspended is,
72 technically speaking, at grade level with the in ground pool but then the grade level drops
73 in the back 6-8 feet.

74

75 Mr. Gunther asked if anyone in the audience wanted to speak for or against this project.
76 The minutes will note that no one spoke up.

77

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

79

80 Mr. McGillivray summarized Case 22-11 Cristine Maslona, 105 Calypso Circle, Tax Map
81 020.-03-39.0, R-1, 1st Ward

82 The applicant is asking for area variance from the Zoning Ordinance 115-6 C to install a 4'
83 high fence on top of an existing deck. Based upon the testimony given in this matter and
84 the exhibits offered, it is hereby resolved the applicant has met the requirements by
85 providing the following: an undesirable change will not be produced in the character of the
86 neighborhood or a detriment to nearby properties. The neighbors are in favor. It's needed
87 and is a matter of safety. The benefit sought by the applicant cannot be achieved by
88 some other method feasible for the applicant to pursue other than area variances. The
89 requested variance is not substantial. The proposed variance will not have an adverse
90 physical or environmental effect on the neighborhood or district. The alleged difficulty is
91 not self-created. . I therefore move based upon the forgoing that the variance applied for
92 be granted. Of granting the above variance is conditioned upon the following: 1) All
93 improvements to be constructed and located in accordance with the exhibits submitted
94 herewith in support of the application. 2) That the building permit must be obtained within
95 30 days of the date of the variance approval. 3) That all work must be completed within
96 the time that the permit is granted for. 4) Unless these conditions are complied with, the
97 variance shall expire. Mr. Gunther added that the unique characteristics of the property
98 itself lead to the need for this variance.

99 Mr. McGillivray made a motion. Mr. Muldoon seconded it. Mr. Gunther polled the board
100 members.

101 Mr. Tassone Yes

102 Mr. Puma Yes

103 Mr. Hunter Yes

104 Mr. Muldoon Yes
105 Mr. Brigandi Yes
106 Mr. McGillivray Yes
107 Mr. Gunther Yes

108
109 Mr. Gunther stated it is adopted and passed.
110

111 **NEW BUSINESS**

112
113 **069.-04-11.0 STEPHANIE VANHOOVER, 201 SCHAFFER AVE**
114 **ZONED R-3, 4TH WARD**

115
116 **CASE 22-12 Applicant is requesting an Area Variance from Zoning**
117 **Ordinance 235-8 D(6) to install a swimming pool less than**
118 **6' from the dwelling where 10' is required.**
119

120 Stephanie VanHoover provided the Burden of Proof. Ms. VanHoover stated that the
121 benefit sought cannot be achieved by other feasible means because she is getting the
122 smallest width pool available and it cannot be put in the front or side yards since they are
123 on a corner lot. Granting the variance will not produce an undesirable change in the
124 character of the neighborhood or a detriment to nearby properties. Adding a pool is
125 common as other neighbors have pools. She has also, talked with the neighbors. The
126 requested variance is not substantial. The pool will be in my fenced in backyard and we
127 are only requesting a 4' variance. The requested variance will not have an adverse
128 physical or environmental effect on the neighborhood or district because the pool will be in
129 my back yard. The alleged difficulty was not self-created. The previous owners did an
130 addition on the back of the house which altered the dimensions of the back yard. Mr.
131 Gunther stated that not only did you go with the smallest width pool, an oval, you're also
132 keeping it 5' from the back lot line which is required by code. In order to have this pool,
133 either way you would have needed a variance to put it closer to the rear lot line or closer to
134 the house. You chose to put it closer to your house. You were in a no win situation. Ms.
135 VanHoover wanted to note that they moved the shed that appears on their survey. Mr.
136 Gunther acknowledged it.

137
138 Mr. Gunther asked for questions from the Zoning Board Members.
139

140 Mr. Muldoon asked if it was an in ground or above ground pool. Ms. VanHoover replied
141 that it is an above ground. Mr. Tassone and Mr. Hunter agreed after looking at the
142 property that this is the only place to put the pool.
143

144 Mr. Gunther noted there was no one in the audience to speak for or against this project.
145

146 Mr. Gunther closed the Public Hearing and asked for determination.
147
148

149 Mr. Gunther summarized Case 22-12 Stephanie VanHoover, 201 Schaffer Ave, Tax Map
150 069.-04-11.0, R-3, 4th Ward

151 The applicant is asking for an area variance from the Zoning Ordinance 235-8 D (6) to
152 install a swimming pool less than 10' feet from the dwelling. Based upon the testimony
153 given in this matter and the exhibits offered, it is hereby resolved the applicant has met the
154 requirements by providing the following: an undesirable change will not be produced in the
155 character of the neighborhood or a detriment to nearby properties. They have brought it in
156 to 5' from the rear property line and there are other pools in the area. The benefit sought
157 by the applicant cannot be achieved by some other method feasible for the applicant to
158 pursue other than an area variance. They have made every effort to minimize the
159 variance. The requested variance is not substantial. It's only 4' closer to the house than
160 what is allowed. The proposed variance will not have an adverse physical or
161 environmental effect on the neighborhood or district. It is in their back yard. The alleged
162 difficulty is not self-created. Lots in that area are smaller and it's on a corner. . I therefore
163 move based upon the forgoing that the variance applied for be granted. Of granting the
164 above variance is conditioned upon the following: 1) All improvements to be constructed
165 and located in accordance with the exhibits submitted herewith in support of the

166 application. 2) That the building permit must be obtained within 30 days of the date of the
167 variance approval. 3) That all work must be completed within the time that the permit is
168 granted for. 4) Unless these conditions are complied with, the variance shall expire.

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

171 Mr. Tassone Yes
172 Mr. Puma Yes
173 Mr. Hunter Yes
174 Mr. Muldoon Yes
175 Mr. Brigandi Yes
176 Mr. McGillivray Yes
177 Mr. Gunther Yes

178

179 Mr. Gunther stated it is adopted and passed.

180

181 **NEW BUSINESS**

182

183 **054.-03-17.0 JEFFREY SPOTO, 306 LEONARD ST**
184 **ZONED R-1A, 3RD WARD**

185

186 **CASE 22-13 Applicant is requesting an Area Variance from Zoning**
187 **Ordinance 235-8 D (6) to install a utility shed 5' from the**
188 **rear yard setback where 20' is required.**

189

190 Jeffrey & Patricia Spoto provided the Burden of Proof. Ms. Spoto stated that the benefit
191 sought cannot be achieved by other feasible means because they do not have a
192 basement and needed additional storage. Granting the variance will not produce an
193 undesirable change in the character of the neighborhood or a detriment to nearby
194 properties because our yard is fenced in and not visible to others. The requested variance
195 is not substantial as the current shed leaks, has rotted wood and some yard equipment is
196 being stored outside at present time. The requested variance will not have an adverse
197 physical or environmental effect on the neighborhood or district because our yard is fenced
198 and not visible to others. The existing shed is an eyesore. The alleged difficulty is not self-
199 created because our house does not have a basement therefore storage has been
200 difficult. Mr. Gunther stated so the new shed is going where the existing shed is. Ms.
201 Spoto replied yes.

202

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

204

205 Mr. Tassone stated that their property looks great. Mr. Muldoon recommended that they
206 make sure the bottom is covered to prevent any animals from getting under. He added
207 that the 5' on the back needs to be maintained and free of clutter. Also, he mentioned that
208 rain gutters needed to be put on the shed.

209

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

211

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

213

214 Mr. Gunther summarized Case 22-13 Jeffrey Spoto, 306 Leonard St, Tax Map 054.-03-
215 17.0, R-3, 4th Ward

216 The applicant is asking for an area variance from the Zoning Ordinance 235-8 D (6) to
217 install a utility shed 5' from the rear lot line. Based upon the testimony given in this matter
218 and the exhibits offered, it is hereby resolved the applicant has met the requirements by
219 providing the following: an undesirable change will not be produced in the character of the
220 neighborhood or a detriment to nearby properties. They are replacing the dilapidated shed
221 already there. They have agreed to put gutters on it to direct the rain water. The benefit
222 sought by the applicant cannot be achieved by some other method feasible for the
223 applicant to pursue other than an area variance. Their house does not have a basement.
224 The requested variance is not substantial as it is replacing the existing shed. The
225 proposed variance will not have an adverse physical or environmental effect on the
226 neighborhood or district. This is common in the Town of Salina especially in the Mattydale
227 area. The alleged difficulty is not self-created. I therefore move based upon the forgoing

228 that the variance applied for be granted. Of granting the above variance is conditioned
229 upon the following: 1) All improvements to be constructed and located in accordance with
230 the exhibits submitted herewith in support of the application. 2) That the building permit
231 must be obtained within 30 days of the date of the variance approval. 3) That all work
232 must be completed within the time that the permit is granted for. 4) That rain gutters be
233 installed to prevent storm water from discharging onto neighborhood properties. 5)
234 Unless these conditions are complied with, the variance shall expire.

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

237 Mr. Tassone Yes
238 Mr. Puma Yes
239 Mr. Hunter Yes
240 Mr. Muldoon Yes
241 Mr. Brigandi Yes
242 Mr. McGillivray Yes
243 Mr. Gunther Yes

244

245 Mr. Gunther stated it is adopted and passed.

246

247 **NEW BUSINESS**

248

249 **081.-02-19.0 KATHLEEN GABOR, 113 GREENPOINT AVE**
250 **ZONED R-1, 4TH WARD**

251

252 **CASE 22-14 Applicant is requesting an Area Variance from Zoning**
253 **Ordinance 235-33A (1) & 235-33A (3) to construct a second**
254 **utility shed on the property where only one shed is allowed**
255 **and would be located directly adjacent to the dwelling, where**
256 **a 10' setback is required.**

257

258

259 David Louis from 113 Greenpoint Ave. provided the Burden of Proof for Kathleen Gabor.
260 Mr. Louis stated that the benefit sought cannot be achieved by other feasible means
261 because their current shed is in the farthest spot on their property and is not feasible to
262 house the snow blower there to be accessed in the winter as they don't have a garage to
263 store it. Granting the variance will not produce an undesirable change in the character of
264 the neighborhood or a detriment to nearby properties. It will be on the side of the house
265 where a garage would be. Their neighbors don't have any windows on that side of the
266 house so they would not have to look at it. The requested variance is not substantial. It is
267 in a place where the garage would normally be. The requested variance will not have an
268 adverse physical or environmental effect on the neighborhood or district because it is set
269 back far enough from our front yard and barely visible from the road. It will be built to fire
270 code. The alleged difficulty was not self-created as we bought the house with no garage.

271

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

273

274 Mr. Brigandi asked what the space difference between the new shed and the neighboring
275 property. Mr. Louis responded about 10-12 feet. Mr. Brigandi asked other board members
276 if that distance needed to be addressed. He was told that they are only required to be 5'
277 from the side lot line with that size shed. Mr. Brigandi asked if the new shed would be
278 connected to the old shed. Mr. Louis replied no, it will be a separate building and with fire
279 walls.

280

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

282

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

284

285 Mr. Brigandi summarized Case 22-14 Kathleen Gabor, 113 Greenpoint Ave, Tax Map 081.-
286 02-19.0, R-1, 4th Ward

287 The applicant is asking for an area variance from the Zoning Ordinance 235-33 A (1) &
288 235-33A (3) to construct a second utility shed on the property directly adjacent to the
289 dwelling, where a 10' setback is required. Based upon the testimony given in this matter

290 and the exhibits offered, it is hereby resolved the applicant has met the requirements by
291 providing the following: an undesirable change will not be produced in the character of the
292 neighborhood or a detriment to nearby properties. The benefit sought by the applicant
293 cannot be achieved by some other method feasible for the applicant to pursue other than
294 an area variance. The requested variance is not substantial. The proposed variance will
295 not have an adverse physical or environmental effect on the neighborhood or district. The
296 alleged difficulty is not self-created. I therefore move based upon the forgoing that the
297 variance applied for be granted. Of granting the above variance is conditioned upon the
298 following: 1) All improvements to be constructed and located in accordance with the
299 exhibits submitted herewith in support of the application. 2) That the building permit must
300 be obtained within 30 days of the date of the variance approval. 3) That all work must be
301 completed within the time that the permit is granted for. 4) Unless these conditions are
302 complied with, the variance shall expire. Mr. Brigandi made a motion. Mr. Puma
303 seconded it. Mr. Gunther polled the board members.

304 Mr. Tassone Yes
305 Mr. Puma Yes
306 Mr. Hunter Yes
307 Mr. Muldoon Yes
308 Mr. Brigandi Yes
309 Mr. McGillivray Yes
310 Mr. Gunther Yes

311
312 Mr. Gunther stated it is adopted and passed.

313
314 Mr. Gunther stated that if you haven't already completed, the Sexual Harassment Training
315 required by the state, you are encouraged to do so as an employee of the Town of Salina.

316
317 **ADJOURNMENT**

318 Mr. Gunther made the motion to close the Zoning Board of Appeals at 7:55 pm. It was
319 seconded by Mr. Muldoon and it was unanimously carried. The meeting was adjourned.

320
321 Prepared By: Denise Wilhelm
322 Denise Wilhelm, Secretary

323
324