

Town of Ballston  
Zoning Board of Appeals

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting: April 6, 2016**

**ATTENDEES:** Michael Lesniak, Chairman  
Marilyn Bell, Vice Chair  
Ellen Brown  
Robin Kane  
Stephen Merchant  
Dan Mertzlufft  
Daniel Russell  
Tim Long, 1<sup>st</sup> Alternate  
Thomas Johnson, Building Inspector  
Peter Reilly, Attorney  
Members of the General Public

Chairman Lesniak called the February 3, 2016 meeting at 7:30 p.m. and Mr. Mertzlufft led the Pledge of Allegiance.

Chairman Lesniak asked for corrections to the February 3, 2016 minutes.

Page 1 strike "Jim" add "Tim" and strike "Jim (Tim) Long will be a permanent member upon the resignation of Dan Mertzlufft."

**MOTION:** Ms. Kane made a motion to approve the February 3 2016 minutes as amended. Mr. Merchant seconded the motion and all present voted in favor **CARRIED**. Mr. Mertzlufft recused himself was not present at the February 3, 2016 meeting.

**NEW BUSINESS:**

**Patrick & Christine Daly, 3 Forestbrook Drive, Ballston Spa, NY 12020; 249.44-1-13.2 (Area Variance §138-10.1 (lot area) to allow a 2.6 ft. addition to existing deck.**

Patrick Daly was present on behalf of the above said application.

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Chairman Lesniak read a portion of the applicant's narrative:

The side deck extends only 6' 6" from the house because of the 6' setback restriction from the side boundary. Allowing an expansion to 8' from the deck and an additional 1' for the roof overhang will shorten the setback to 2' 6" on the back side of the deck and to 3' 6" on the front side of the deck.

If the deck were to remain at 6' 6" from the house, adding a shed roof with a 1' overhang would shorten the setback to 4' on the back side of the deck. The front side would have a 5' setback.

The primary reason for the shed roof is for protection from both sun and wind.

The existing deck has a 6' side and 3' stairway going down so it cannot accommodate four adults on the existing deck. The deck was built before the applicant's purchased the house with that 5' setback in mind and the only house in the phase 1 development that has a side deck; all others a rear yard decks (drawings provided to board members for their review).

Chairman Lesniak stated as far as the overhang goes; they have those Sun Setter's that are advertised on television all the time. Mr. Daly stated he has looked at those and are located at the end of Forestbrook and has that westerly exposure and is like a wind tunnel; had two umbrellas with 60lb stands that lifted up over the railing and ended up in the backyard.

Mr. Daly stated the land that borders their side yard is HOA common land; nothing can be built there. Chairman Lesniak stated the HOA approved this request for the applicant.

Ms. Bell asked the size of the other decks in the first phase. Mr. Daly stated most decks are 10' x 10' or 12' x 10'; most of those decks were screened in before the actual purchase and a lot are being converted to screened porches.

The AC unit is located on the west side and was originally in the back next to the master bedroom and will not interfere and will be removed.

Mr. Merchant asked if the roof line will be 2'.6" over; not the deck itself. Mr. Daly stated the existing deck is within the setback so if the applicant goes out another 1'.6", then they are infringing on the 5' setback.

Ms. Brown asked if the proposed deck is off the kitchen or dining room. Mr. Daly stated both.

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Chairman Lesniak opened the public hearing at 7:43 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:44 p.m.

Ms. Bell read the criteria for an area variance:

1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; No.

2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; No.

3) whether the requested area variance is substantial; Yes, 12' required setback (TND 5') applicant request 2.6' requested.

4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district; and No.

5) whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. C) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, satiety and welfare of the community. Yes, applicant requesting to expand existing deck.

**MOTION:** Mr. Merchant motioned to declare this a Type II action under the SEQR process therefore exempt from further review.

**MOTION:** Ms. Bell made a motion for a side yard setback of 2'6" pursuant to §138-21.2 for the property at 3 Forestbrook Drive to construct a covered side yard deck (8' x 19'), but with the overhang is now (9' x 20'). Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

Chairman Lesniak stated that these applications are handled on a case by case basis and the reason why he (Chairman Lesniak) is in favor of it is because of the side that is being discussed borders the HOA where no other homes can be built.

**Kathryn Groski, 1200 Route 50, Ballston Spa, NY 12020; 239.-1-12 (Special Use Permit §138-6C/Change preexisting non-conforming sign.**

Kathryn Groski and David Storti were present on behalf of the above said application.

Chairman Lesniak read the applicant's narrative:

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"We would like to obtain another special use permit on a non-conforming pre-existing sign. Currently the special use permit is for three businesses. We would like to use the entire space without limitations."

Ms. Groski stated there has been a growing interest in her business.

Ms. Kane stated you currently don't have anything on the back. Mr. Storti stated they are double sided signs; 2 ft. wide by 78" long. They thought that three would be enough, but still have a lot of space available. That particular signage comes in either 4ft. width or the 2ft. and the 4ft. is really expensive for the advertisers and needs more flexibility.

Chairman Lesniak asked if the existing signs have writing on both sides. Mr. Storti stated yes.

Mr. Merchant stated the bottom part of the sign cannot be used because it's too close to the ground. Ms. Groski stated there is still space in between and could be brought closer together and still be space on the bottom. Chairman Lesniak stated it needs to be 3' off the ground. Mr. Storti stated that it can be accomplished.

Mr. Reilly stated what you would envision is the maximum number of signs on one side. Ms. Groski stated two on each side; eight total.

A further discussion was held on the number and size of the signs.

Mr. Mertzlufft stated that signs are a distraction and tightly zoned in most communities right down to the fonts being used and feels when you mash them all together is an eyesore. It would be prudent that there is a limit on them.

Mr. Merchant stated if you move the bottom sign up 36", which will allow five more signs. Mr. Storti stated no, we cannot use the bottom one and was not aware of the 3' and would like four frames with the option of having multiple businesses.

Mr. Mertzlufft asked conceptually if the applicant were to limit it to four separate businesses; no more than four separate messages on one side. Mr. Storti stated yes, four on the north side and four on the south side; eight different advertisers on the double side.

Ms. Bell stated she feels it's too busy and understands the flexibility and there are a lot of small businesses in this area, but also understands it's a very busy intersection and understands it's the applicant's home, but not everybody can make money off the corner lot that they have and that they live on.

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Chairman Lesniak opened the public hearing at 8: 12 p.m.

**Kevin Draina** stated there does need to be limitation of advertisements on signs.

Chairman Lesniak closed the public hearing at 8: 14 p.m.

Chairman Lesniak stated the board is addressing whether or not the applicant can have two messages across the board or just one message. The applicant has writing on both sides whether they can be separate businesses or not.

Mr. Russell stated four separate business on each side; a total of eight different businesses.

Mr. Mertzlufft stated he agrees with Mr. Russell.

Ms. Bell stated that the applicant will be adding one more panel and the intent would be that each panel has one business per side; four panels and four businesses. Ms. Groski stated that would be max and as of right now, would not change.

Mr. Russell stated there are four separate businesses recognizing there are two sides to it per side.

Ms. Kane is in favor of having four separate businesses on each side.

Ms. Brown is in favor of having four separate businesses on each side.

Mr. Merchant is in favor of having four separate businesses on each side.

Ms. Bell stated you can still put two separate businesses instead of the same business on both sides.  
(For the consideration and the reading of the special use permit)

Chairman Lesniak feels this is a non-conforming use and went from one sign to now three and now going from three to potentially eight and this is a non-conforming use and is not in favor. Chairman Lesniak stated he can understand going one more panel up, but the same writing on both sides; four total businesses.

Mr. Merchant read the criteria for a special use permit:

1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of the adjacent districts. No

Mr. Storti stated the he spoke to Mr. Johnson who stated they were approved to use the existing space.  
Mr. Storti stated this is affordable advertising for small businesses.

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2) The location and size of the use, the nature and intensity of the operation involved or conducted in connection therewith, its site layout, and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. No

3) The location and height of buildings, the location, nature and height of walls and fences, and that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof. No

4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially or permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. No.

Mr. Storti stated there are four spots, double sided totaling eight.

**MOTION:** Ms. Bell motioned to declare this a Type II action under the SEQR process therefore exempt from further review.

**MOTION:** Ms. Bell made a motion for the property located at 1200 Route 50 to grant a special use permit pursuant to §138-6C of the zoning law for expansion of an existing non-conforming use to the following – one additional panel may be added to the existing billboard with a total square footage not to exceed 120 square feet and meet all other requirements for the town billboard (the bottom cannot be lower than 3' from off the ground) and the existing height of the existing billboard not be increased and an allowable up-to eight businesses, which would be four businesses per side – one per each of the four panels and the existing lighting won't change and the special use permit be granted. Mr. Mertzluft stated it should read maximum four businesses per side for a total of eight businesses. Mr. Mertzluft seconded the motion and all present voted in favor except Ms. Brown and Chairman Lesniak who voted against. **CARRIED.**

Chairman Lesniak voted against because it's a non-conforming use and has been expanded from one business and now to eight businesses and being a non-conforming use thinks we (the board) should not make such an expansion on.

**MOTION:** Ms. Kane made a motion to adjourn. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 8:35 p.m.

Respectfully submitted,

Michelle L Dingman

Zoning Board of Appeals Secretary

