

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting May 4, 2016

At 7:31 Chairman Lesniak addressed the public on the first Wednesday of the month when the Zoning Board convenes to hear requests for Variances and Special Use Permits.

Chairman Lesniak asked everyone to please stand and led the Pledge of Allegiance.

Chairman Lesniak asked the Secretary for a Roll Call:

Mike Lesniak, Chairman	Present
Marilyn Bell	Present
Ellen Brown	Present
Robin Kane	Present
Steve Merchant	Present
Dan Mertzlufft	Present
Dan Russell	Absent
Tim Long, Alternate	Present

Chairman Lesniak announced that the minutes for the April meeting have not yet been written so approval will be had at the June meeting.

Old Business- None.

New Business:

1) Kathleen Sanvidge – Public Hearing

Application for a shed at 21 Midline Rd, Ballston Lake, SBL # 257.12-1-10

Special Use Permit made under Section 138-6C

Variance requested under Section 138-8.1

Chairman Lesniak read the request from Applicant Kathleen Sanvidge in which she requests a side and rear setback for shed placement. She states that she did speak to all of her adjacent neighbors and they are okay with her plans. She discussed her plans to make it a cute shed and dress it up with pebbles to enhance the property. Applicant Sanvidge described her plan to place the shed at an angle in her back yard.

Chairman Lesniak stated that two setbacks plus an area variance would actually be required.

The Applicant addressed the Board and explained she has done some excavating in her back yard and would like to remove an old shed and replace it with a new shed in a different spot in a back corner of her yard. This location would be back to back with an a shed of the adjacent

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neighbor. She would like to put the shed where the fence comes together at a 90 degree angle to save space.

Ms. Bell read the letter from Saratoga County Planning Board who reviewed the plans and found no significant or county impact. The County also found that if the applicant were to relocate the shed then this application could be avoided. The Town may wish to have the Applicant explore other locations. The County had no opposition to this request.

Chairman Lesniak opened the discussion up to the Board.

Mr. Long had no questions for the Applicant.

Ms. Kane commented on the new fence and asked the Applicant if this would be in front of the pool. Applicant stated yes, it will go all the way down the property and encompass the pool. The fence will go around the whole perimeter from the existing garage and the requested shed will be within that fence. Ms. Kane asked how tall the shed and fence will be. Applicant answered 8' standard shed, it is a prefab shed and there will be a 6' fence. Ms. Kane stated she had no objection.

Mr. Mertzluft asked the Applicant if any chemical were going to be stored in the shed. The Applicant stated no, there would not be any chemicals stored with the shed.

Ms. Bell asked the Applicant if the purpose would be for business storage. The applicant stated no, the shed would be used to house a snow blower, rakes, etc. No living quarters.

Mr. Merchant stated this was a good fit.

Chairman Lesniak stated an Area Variance is needed; a 15' rear setback is required where only a 2' setback is proposed; also need a 12' setback for the side yard where only a 4' setback is proposed. Chairman Lesniak pointed out that 2' with a fence is a tight fit to manage grass cutting and maintenance. The Applicant wants to leave it at 2' and believes she can manage the necessary grass clippings with a weed whacker.

At 7:43pm Chairman Lesniak opened the hearing up to the public. There were no questions from the public. Chairman Lesniak closed the public hearing at 7:44pm.

The 5 criteria were read by Ms. Bell:

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, in fact it will be an improvement.
2. Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;
No.

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3. Whether the requested area variance is substantial;
Yes because it is 2' rather than 15'.
4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
No, and
5. Whether an alleged difficulty is self-created.
Yes it is self-created but the Applicant is merely moving a shed from one part to another.

Ms. Bell made a Motion that the ZBA is the Lead Agency and Resolve to make a determination of a Negative Declaration. All in favor.

Mr. Merchant made a Motion to approve the Area Variances pursuant to Zoning Ordinance Section 138-8.1 at 21 Midline Rd includes an 8' side yard setback and a 13' rear side yard setback. The lot area variance difference being 12,222'. Stipulated that the shed will be a 10'x6' shed and will not be used for business storage, no chemicals shall be stored in said shed and it shall not be used for any living quarters. Additionally, it is so stipulated that the old shed be removed.

Second by Ms. Kane. All in favor.

MOTION PASSED.

2) Chris and Tamara Carney – Public Hearing

Application for an Area Variance at 96B West Side Drive, Ballston Lake, SBL # 257.8-2-1.1

Application for Area Variance made under Zoning Law Section 138-11.1 to allow for a new single family dwelling and demolition of existing home.

7:51 pm Chairman Lesniak called Applicant Chris Carney forward. Chairman Lesniak summarized the Applicants request that in essence he wants to remove the existing home and put in a new home. It meets all the zoning requirements except area variance, which you can't do much about, and lot width, which you need about a 75' variance for that.

Applicant Carney addressed the Board. Applicant stated there is currently an existing old home on the property, single story, no foundation, old septic. He states the plan is to build a new house, back on the property, put in a new septic that meets all requirements. When new house is done, the old house will be torn down. The existing attached garage will be torn down prior to construction of the new house.

Chairman Lesniak asked the Applicant if he has spoken to the neighbors. The Applicant has and everyone thinks it is great.

Chairman Lesniak opened it up to the Board.

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Mr. Long asked, where the existing dwelling is now, what the elevation above the water? Applicant states about 102' at the house; about 78' or 79' at level so looking at 23' – 25' above water level. The new house will be about the same. The lot is pretty flat.

Mr. Long said it looked like the contour was being changed on the north side. Applicant queried if he meant on the north side toward the lake? Mr. Long clarified on the north side toward his neighbor. Applicant answered those are the existing contours. It drops off in the northeast corner, which is lakeside, it drops off toward the neighbor's property there. That is the way it is existing. Their property, from our existing garage, is level with the front of our property and their property slopes toward the lake.

Chairman Lesniak asked if any other member has any questions for the Applicant. No one does.

Chairman Lesniak stated he likes that it will be further from the lake and will be a lot more aesthetically pleasing that way. Applicant agrees and states the green space will be more. Also the new septic will be going substantially back.

Chairman Lesniak stated the Applicant will need to go before the Planning Board for site plan review because there will be 1000 sq. ft. soil disturbance. This will be a Stipulation. Applicant agrees and states Building Inspector Johnson made him aware of this requirement and his application will be going in within the next few days.

Chairman Lesniak asked the Board again if they have anything else. No one does.

7:54 pm Chairman Lesniak opened it up to the public. The public has no questions or comments. The floor is closed at 7:55pm.

The 5 criteria for 9B Westside Drive were read by Mr. Merchant:

- 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, it is a great improvement.
- 2) Whether the benefit sought by the applicant can be achieved by some method which will be feasible for the applicant to pursue but would not require a variance;
No. Chairman Lesniak added the Applicant is meeting everything except the lot width and the area which he has no control over and no one will sell him any land there.
- 3) Whether the requested area variance is substantial;
Yes.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;
No, it will actually look better; and
- 5) Whether an alleged difficulty is self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of

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the area variance.

No. Chairman Lesniak stated this is a different situation because there is lot width and area and it is existing.

Ms. Bell made a Motion to Resolve that this is a Type II Variance under the SEQR review process and is, therefore, exempt from further review. There is no need for a Lead Agency.

Ms. Kane motioned that the property known as 96B Westside Drive variance to Zoning Law Section 138-11.1 for area variance of 47,300' and lot width variance of 74.12' for the construction of a home. Stipulation that the existing home will be removed and there be a certificate of occupancy for the new home and the Applicant must also get site plan review from the Town of Ballston Planning Board due to 1000 sq. ft. ground disturbance.

Ms. Brown seconded. All in favor. MOTION PASSED.

3) Stella Pasta Bar & Bakery – Public Hearing

Application for extension of pre-existing, non-conforming use at 166 Kingsley Rd, Burnt Hills, commonly known as FoCastle Farms, to include a bar with live acoustic music, wine, beer and dinner sales.

Special Use Permit Application made under Section 138-6C.

Chairman Lesniak asked Applicant Stella Pasta Bar & Bakery what they intend to do.

Applicant stated they want to use the existing FoCastle to remain open three nights per week and serve homemade pasta, homemade sauces and fresh bread. Thursday there will be "To Go" meals; Friday will be Restaurant in Dining room; Saturday will be Restaurant with acoustic guitar in the corner of the Restaurant, inside music. The sun porch is enclosed with glass. There is no outside patio. Acoustic guitar player will be for the diners within the same room so it will not be loud.

Chairman Lesniak stated it is his understanding that beer and wine was served here before. Yes, beer and wine license was part of FoCastle before. Applicant states his name is Glenn Hogue and he and Ann own FoCastle. John and his wife will be operating the business with them. Hours will be permanent and there will be acoustic entertainment.

Mr. Long asked if the entertainment would be taking place on an outside patio.

Applicant stated there is no outside patio. There will be no outdoor activity.

Peter Reilly, Town Attorney asks if the existing restaurant has entertainment, inside. When the application was submitted it was as outside but without outside entertainment, you do not need

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to be here. The Town cannot treat a business differently if they have a liquor license or not. There is no need for a Special Use Permit.

Chairman Lesniak addressed the Board and asked if there were any more questions. There were none.

8:05pm Chairman Lesniak opened the floor up to the public.

Mrs. Robin Gemmett of 155 Kingsley Rd. addressed the Board. She stated her concern of the winding road with a speed limit of 15mph. Beer and wine requires a liquor license. She lives 200 yards up and she is concerned about the additional traffic, concerned about beer in the parking lot can only get worse. Ms. Gemmett would like assurance that it will not turn into a bar, just a bar. Applicant Hogue states No it will not. There will be a Pasta Bistro, no outside activity, acoustic guitar music only.

Art Shillito of 173 Kingsley Rd addressed the Applicant and inquires if it will be take out or drinking on premises, Applicant clarifies it will be take-out of food, not alcohol. The alcohol will be on premises, indoors only. Resident Shillito is concerned because he has a turnaround driveway that is often used by people. He has small children who he is afraid for with the number of people who drink alcohol and drive. He does not want more. He would like an assurance that there're will not be more than just one glass of alcohol. Resident Shillito just wanted to state his concerns.

Chairman Lesniak asked if any other member of the public had any questions.

Chairman Lesniak addressed the Board and asked if they thought a Special Use Permit was needed.

Ms. Bell said no. Mr. Merchant said no since everything would be inside, there is no issue. Ms. Kane is in agreement.

Mr. Mertzlufft explained that liquor license for beer and wine and liquor license for liquor are two different licenses. You would apply for a different license if you were going to serve liquor, and since music will be contained and no music blasting at eleven o'clock at night, he has no objection.

Ms. Brown asked Applicant to explain what acoustic music is. Applicant stated it is a singer playing with the guitar and a regular microphone and singing in to it.

Chairman Lesniak stated he doubted the success if they were blasting music while people were trying to eat. Applicant agreed. Chairman Lesniak stated that if they were going to be a bar, they

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would need a Special Use Permit because that would be a change. Applicant does not need to be here.

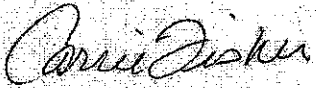
Ms. Bell stated that this was also reviewed by the Saratoga County Planning Board and they found there was no significant county wide or inter community impact and in accordance with The ZBA and the Saratoga County Planning Board, the variance (Special Use Permit) has been reviewed by the staff and necessary concurrence of no present county wide impact.

Chairman Lesniak stated that the Board does not look at this as an extension of non-conforming use, it is all contained; a Special Use Permit is not required.

Hearing was closed at 8:12pm

Ms. Kane made a motion to adjourn. Ms. Bell seconded. Meeting adjourned at 8:13 pm.

Respectfully submitted,



Carrie Fisher, Alternate Secretary