

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting: June 1, 2016

ATTENDEES: Michael Lesniak, Chairman
Marilyn Bell, Vice Chair
Ellen Brown
Robin Kane
Stephen Merchant
Dan Mertzluft
Daniel Russell
Thomas Johnson, Building Inspector
Peter Reilly, Attorney
Members of the General Public

Absent: Timothy Long, 1st Alternate

Chairman Lesniak called the June 1, 2016 meeting at 7:30 p.m. and Mr. Russell led the Pledge of Allegiance.

Chairman Lesniak asked for corrections to the April 6, 2016 minutes.

Page 2, strike "shed roof" change to "deck roof", page 3, "whether the requested area variance is substantial; Yes, 12' required setback (TND 5') applicant request 2.6' requested" "12' does not apply" and page 4, last line strike "no" change to "not"

MOTION: Ms. Kane made a motion to approve the April 6, 2016 minutes as amended. Ms. Brown seconded the motion and all present voted in favor **CARRIED.**

Chairman Lesniak asked for corrections to the May 4, 2016 minutes.

Page 5, (3) strike "sun porch is enclosed with glass"

MOTION: Mr. Merchant made a motion to approve the May 4, 2016 as amended. Ms. Kane seconded the motion and all present voted in favor except Mr. Russell recused himself as he was not present at said meeting. **CARRIED.**

NEW BUSINESS:

**Mollie Kennedy, 305 Round Lake Road, Ballston Lake, NY 12019; 249.-2-19-12
(Special Use Permit pursuant to § 138.21.1 to allow the board of the property owner's horse).**

Ms. Kennedy was present.

Chairman Lesniak read the applicant's narrative (see file for original narrative).

Ms. Kennedy bought this property with her husband five years ago and built a home together. Ms. Kennedy's 18 year old horse will require rest and retirement. The horse is boarded in the Town of Clifton Park and wishes to have the horse with her (the applicant) on the property to enjoy her later years and save money. The applicant has two and half acres purposely placed the house to one side leaving a large part of the property open. There is an existing turn out shed on the property and would however like to replace with a small barn to provide the horse with more shelter.

Ms. Kennedy stated she has down the horse for eight years and have been around horses for over 25 years and works from home.

Ms. Kennedy said, "She intends to put up vinyl white fencing or white board fencing to include electric wire fencing."

Ms. Kennedy stated she will be respectful of her neighbor's -who are present at said meeting, as their property is close to applicants.

Ms. Kennedy has looked into manure removal; Maplevue Farms will accept manure for composting

Ms. Kennedy may put a door on turn out shed and not construct a barn.

Chairman Lesniak stated this application has been reviewed by the Saratoga County Planning Board – their decision is "No Significant County Wide or Inter Community Impact."

Comment: The town may wish to have the applicant clarify what method of manure management will be undertaken. Applicant should delineate where or if any manure will be stored on site. Paddock or pasture area should be an adequate distance from any neighboring well to insure water quality is not compromised. The Town may wish to specify the number of horses the special use permit allows if approved by the town.

Mr. Russell asked the distance from the well to the proposed fence line. Ms. Kennedy stated 200'.

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Mr. Merchant stated that having experience with horses stated that electric fence would be a good way to go.

Mr. Russell asked the location of the leach field. Ms. Kennedy stated she sent a copy of the plot plan with her application – attached to an email she sent the town. Mr. Russell stated the leach field is located in the proposed area where the horse would be trotting across the property. Mr. Johnson did not feel that was a good idea. Ms. Kennedy stated the leach field is level to the ground.

A further discussion was held on the runoff for the property.

Mr. Merchant asked about hay storage and suggested some type of lean-to off the turn out shed. Mr. Kennedy said, "O.k." A permit is not needed for a shed 120 sf or less, but must meet setbacks pursuant to that zoning district.

Ms. Bell asked about grain storage. Ms. Kennedy stated would keep in a tin or metal container.

Ms. Bell asked the applicant if she would have an opposition if the board added a stipulation that this is limited to a single horse. Ms. Kennedy stated they do like companionship and what about having a mini horse or a goat. Mr. Johnson suggested a companion for the horse. Mr. Johnson stated if the applicant is going to grow its own feed, then two acres is needed, but if not, then an acre is fine.

A further discussion was held on composting.

Chairman Lesniak asked if the applicant spoke to the neighbor's about the proposal.

Chairman Lesniak opened a public hearing at 7:47 p.m.

Carl Hoyt, 313 Round Lake Road has a concern with manure.

Chairman Lesniak suggested a stipulation for weekly pick up for manure.

Joe Ambrose, 276 Round Lake Road was in front of the board five or six years ago for a special use permit allowing horses on the property and has been a positive experience; presently has two horses.

Kelly Ambrose stated it's great that she (the applicant) rescued this horse and horses are a great thing for children. A neighbor on 5 Sharon Lane (Joseph Suhrada) who could not be here tonight and wrote a letter in support of the application (see file). "We are fully in support of the boarding a horse at 305 Round Lake Road and believe it will be in character of the neighborhood."

Chairman Lesniak closed the public hearing at 7:52 p.m.

Mr. Merchant read the four 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. Yes – board in agreement
- 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 – board in agreement.
- 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. Yes – board in agreement.
- 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 – board in agreement.

MOTION: Ms. Bell motioned to name The Town of Ballston Zoning Board of Appeals the Lead Agency in the SEQR process and there declare this a Negative Declaration under the SEQR process. Mr. Mertzluft seconded the motion and all present voted in favor. **CARRIED.**

Chairman Lesniak stated whatever the board grant goes with the property owner.

MOTION: Ms. Bell made a motion at 305 Round Lake Road pursuant to §138-21.1 for a special use permit for the housing of the owner's horse with the stipulation that the fencing be a secure fence along the road frontage. The fence is situated in a manner that you are not impacting yours or your neighbors well. A minimum of monthly removal of compost or manure moved off site. This would be for one horse and a companion – examples given were a mini horse or a goat; intent is not for a second large horse. Grain storage is adequately maintained as discussed (metal containers). The fencing on the west side of the house to be set back from the drain fields for the septic. Mr. Merchant seconded the motion and all present voted in favor. **CARRIED.**

The septic system (leach field) should be 100' from a well and not setback for the septic system.

Christopher Mager, 106 Powers Lane, Ballston Lake, NY 12019; 239.10-2-11.1 (Area Variance pursuant to §138-11.1/280A Relief for a garage/airplane hangar.

Mr. Mager presented.

The applicant is proposing to construct a 16' x 28' airplane hangar.

Mr. Mager stated he received 280A Relief and a variance for an addition to the barn. The proposal was to eliminate the 1.5 car garage by the road, which would widen the road and allow access for emergency equipment. The intent is to have a hangar on the property to house his two-seater airplanes and still have a garage to go with it.

Ms. Brown asked why the need to keep the aircraft at home. Mr. Mager stated expense, damage control and convenience.

Ms. Brown asked where the maintenance will be done. Mr. Mager stated in his yard in the hangar.

Ms. Brown asked about refueling. Mr. Mager stated cans of gas from Stewart's.

Ms. Brown asked if it takes 100 low lead. Mr. Mager stated it can or can use auto gas; it prefers auto gas.

Ms. Brown stated concerns at airport hangars are any spills over 5 gallons and how it's handled. Mr. Mager stated all his boats, cars and motorcycles are handled with 5 gallon cans; in the last 25 years may have spilled a gallon or two.

Ms. Brown asked how you would handle that. Mr. Mager stated he would put down speedy dry and would be on a cement floor.

Ms. Brown asked if he (the applicant) has fire extinguished on site. Mr. Mager stated yes, one onboard aircraft and one in the garage.

Mr. Merchant asked if the lake has any restrictions on flying on that landing. Mr. Mager stated no, most of the lakes are free.

The airplane is stored on site parked next to the house (weather permitting). Mr. Mager provided the board with a photo of the aircraft.

Mr. Merchant asked if a building permit can be granted. Mr. Johnson stated no, "there is one who has held out on the easement." Mr. Johnson stated they (the resident's) need a signature from one person down there.

A further discussion was held on the easement for Powers Lane.

Ms. Bell stated no commercial structure or hazardous materials. Mr. Mager stated no.

Ms. Bell stated the wood framed structure will be removed. Mr. Mager stated yes.

Mr. Russell stated the abutting parcel (Lands of Krystal) – are there any concerns with the location of the well or septic system location. Mr. Mager stated his property is 8' from the property line. Chairman Lesniak stated (9'6"). Mr. Mager has spoken to the neighbor and he is fine with the proposal.

A further discussion was held on location of the neighboring property to the south.

Chairman Lesniak opened the public hearing at 8:26 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 8:27 p.m.

Ms. Bell stated with respect to 280 A is ensuring emergency vehicles access rear round. Ms. Bell asked the applicant to briefly describe who maintains the road. Mr. Mager stated we do as a road community. We have several vehicles and several tractors and constantly take care of the road – throwing rubble down and filling potholes. Mr. Mager said, "What we are waiting for is said person to decide so we can get the 150,000.00 for the road improvement and a half a dozen of us can make the neighborhood better." There is someone that plows in the winter ensuring the continuous access. Mr. Mager stated he would like to see the town take it over like they did on White Beach Road. Ms. Bell stated that White Beach Road is a little wider than Power's Lane.

Mr. Lesniak asked how the 280A approval should be worded.

Mr. Reilly stated to use the wording we (the board) used previously subject to the resolution of the second means of ingress/egress along Power's Lane and Connolly Road.

Chairman Lesniak recommended the board use the same verbiage from the October 7, 2015 Zoning Board of Appeals minutes.

MOTION: Ms. Bell said, "The motion per the October 7, 2015 meeting and the same verbiage. Mr. Merchant seconded the motion and all present voted in favor. **CARRIED.**"

Mr. Johnson stated this property is located in the Ballston Lake Waterfront District and if more than one thousand square feet is disturbed, the applicant will need to apply to the Planning Board for site plan approval.

MOTION: Ms. Bell motioned to declare this an **Unlisted Action** and name The Town of Ballston Zoning Board of Appeals the Lead Agency in the SEQR process (280A Relief) and therefore

declare this a Negative Declaration under the SEQR process. Mr. Russell seconded the motion and all present voted in favor. **CARRIED.**

MOTION: MOTION: Ms. Bell motioned to name The Town of Ballston Zoning Board of Appeals the Lead Agency in the SEQR process and there declare this a Negative Declaration under the SEQR process. Mr. Mertzluft seconded the motion and all present voted in favor. **CARRIED.**

Mr. Merchant read through the five 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, board in agreement.
- 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, board in agreement.
- 3) Whether the requested area variance is substantial; yes, board in agreement.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district; No, board in agreement.
- 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, self-created, board in agreement.

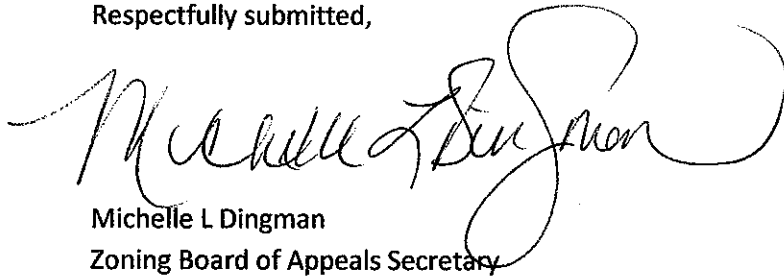
MOTION: Ms. Bell motioned to declare this a Type II action under the SEQR process therefore exempt from further review.

MOTION: Mr. Merchant made a motion to grant the area variances at 106 Power's Lane pursuant to §138-11.1 – Area variance 32,520 square feet, front yard setback - 9 feet, side yard setback - 2.6 feet and 9.5 feet with the following stipulations: Upon approval or the building permit, no living quarters, no commercial use or storage of hazardous materials. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

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

Meeting adjourned at 8:36 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle L Dingman". The signature is written in a cursive, flowing style with a large loop at the end.

Michelle L Dingman
Zoning Board of Appeals Secretary