

Town of Ballston  
Planning Board

**TOWN OF BALLSTON  
PLANNING BOARD**

**Regular Monthly Meeting: June 30, 2016**

Present: Richard Doyle, Chairman  
Jeffrey Cwalinski  
James DiPasquale  
Patrick Maher  
Audeliz Matias  
John VanVorst  
James Fischer, 1<sup>st</sup> Alternate  
Thomas Johnson, Building Inspector  
Kim Kotkoskie, Storm Water Mgmt Officer  
Paul Guillet, Town Engineer  
Peter Reilly, Planning Board Attorney

Members of the General Public

Chairman Doyle called the January 20, 2015 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

Chairman Doyle asked for corrections to the May 25, 2016 and May 26, 2016 meeting minutes.

**MOTION:** Mr. Maher made a motion to accept the May 25, 2016. Ms. Matias seconded the motion and all present voted in favor except Mr. VanVorst stated he is going to abstain as he did receive the May 25, 2016 minutes. **CARRIED.**

**MOTION:** Mr. Maher made a motion to accept the May 25, 2016. Ms. Matias seconded the motion and all present voted in favor except Mr. VanVorst stated he is going to abstain as he did receive the May 25, 2016 minutes. **CARRIED**

**OLD BUSINESS**

**CTI Properties, LLC**

**2 McCrea Hill Road; 228.-3-59**

**Site Plan Review/Two 15,000 sf office buildings; one 40,000 sf manufacturing facility**

Tom Andress, ABD presented.

Town of Ballston  
Planning Board

At the last meeting the subdivision was approved; creating two lots. CoreTech is looking to build a 40,000 sf building (east side) to the west, two 15,000 sf buildings each.

Since the last meeting, there were 24 comments in the C. T. Male letter and since responded and met with Chairman Doyle and C. T. Male to go over some of the storm water management issues. There is another C. T. Male letter that has a few comments. The discussion with C. T. Male was in reference to wetland delineation on the site. The applicant went forward with delineation on the site and shown on the map – green area in the North West corner consisting of ACOE wetlands on the plan and a permit from ACOE is still needed obviously under a tenth of an acre disturbance. An alternative would be to redesign the second warehouse to be out of the wetland area.

The landscaping shown at the last meeting stayed the same. The grading design stayed the same; minor work done in the storm water area. Additional landscaping was added; a concern from an adjoining owner concerns of drainage. There was a comment relative to grading along that property line; maintaining existing vegetation at the property line; change the plan to a higher retaining wall and maintain the wood line along the edge.

Chairman Doyle stated the Planning Board cannot work on the project and appreciate the update and the board has not seen the location of the wetlands and cannot work on the west side of the property. Chairman Doyle asked if the applicant would like to work on the east side of the project. Mr. Andress stated he wanted to make sure the board knew what was going on for the whole project and clearly asking the board for the approval for this first lot for Core Tech and have a building actually on order and would like to get started on this.

Mr. Andress stated the C. T. Male comment letter received June 29, 2016 are minor and are the same comments that the applicant previously answered; maybe there was just a misunderstanding. There were a number of new comments in reference to storm water that were not based on the issues with storm water; a catch basin was on the plan and C. T. Male asked for additional information to clarify it. Mr. Andress stated the plans were submitted to C. T. Male relative to drainage two week prior to meeting and C. T. Male was in agreement and forwarded to the Planning Board for final review. The applicant feels the drainage comments are minor in nature.

Mr. Andress stated C. T. Male asked the applicant to prepare specific plans that just include the first building showing phase 1 and prepare a new sediment and erosion plan.

Mr. VanVorst stated this comment letter the board received yesterday (June 29, 2016) has 28 comments and even if they are minor and does not feel that's substantial. Mr. Andress agrees.

Town of Ballston  
Planning Board

Mr. Andress stated a lot of the comments are redundant; similar to last month's comments – landscaping and lighting.

Chairman Doyle stated the town's encroachment only allows 2' over the boundary line relative to lighting.

A further discussion was held on proposed lighting.

Mr. Guillet stated what he was expecting to see was a photometric plan, which is not included in the application; applicant provided a generic lighting spread and superimposed on the plan wherever they put a lamp and does not show how much light; the combined effect of each lamp is having at various locations at the site and neighboring site. This is a concern because the site is elevated compared to the property.

Mr. Andress stated the plan shows the photometric and if C. T. Male wants the spot elevations instead, have no problem doing that, but has a light that is facing the other way – the photometrics are very specific to this light; no light going back there. The comment states there is a concern of light going over the property line and had responded to that comment in the last letter.

A further discussion was held on other properties within the town with the same concerns; problems with NYS relative to Ballston Spa National Bank and consequently had a spillover on their property of greater than two feet. Mangino Buick/GMC would be another example of where there was a problem.

Mr. Cwalinski asked the difference between photometric plans and what the applicants provide. Mr. Guillet stated the applicant gave them a generic lighting limit for each of the light fixtures. A photometric plan is a plan of the site showing lighting levels at every point, think of it as contour lines that represent the amount of light given at any spot. If you have two lamps and the light from those two lamps combine and between them will actually be brighter and then it might be underneath each one. Mr. Cwalinski said, "We are looking at specialized software to generate a photometric plan versus data from a manufacturers catalog and placed on the drawings." Mr. Guillet said, "Yes, that's right and

typically this plan will be prepared by the light manufacturer and generate a photometric plan; it's not something that is done in-house." Mr. Andress stated we (the applicant) have the software in-house and if we had a site in Ballston Spa that was tight, we would not have any problem doing that." What we (the applicant) were showing is light that is really more for our client to show the amount of light that is actually pretty minimal. The limit of our light – the foot-candle is there, and since this is an industrial site, it wasn't that critical to us (the applicant) because we are so far away from the edges.

Town of Ballston  
Planning Board

Chairman Doyle stated he does have a concern that there will not be a problem with the single-family home that is up by the road and the condominiums to the east. As we have traffic on NYS Route 50 north and south, that we don't have light that is shining out into the roadway that would cause any problems. Mr. Andress stated there is no lighting on those points of the building and will come out to zero all along the back line.

Mr. Cwalinski asked if this plan was generated on in-house software. Mr. Andress stated yes, because we have this specific light pattern; we can generate it to the points on it, but it was not necessary.

Mr. Andress stated the applicants thought they would get approval for the first building two months ago and need to move forward and now talking about minor items.

Mr. Cwalinski stating he is still struggling with the photometric plan and assumes the in-house software would take the contributions for each lamp and where they cross will give you some additive value, but it does not seem like you did that here. Mr. Andress stated he didn't because this is a comment we are having at this meeting because we already answered it once; it came back and could certainly do it.

A further discussion as held on the location of the proposed lighting.

Ms. Matias does not feel comfortable giving an approval because it's something the board asked for.

If the board grants conditional approval, it would be conditioned on the satisfaction of the comment from C. T. Male from the most recent letter.

Chairman Doyle opened the public hearing at 8:14 p.m.

No one wished to speak.

**MOTION:** Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process provided all the conditions as met. Mr. Maher seconded the motion and all voted in favor except Ms. Matias who voted no. **CARRIED.**

Chairman Doyle closed the public hearing at 8:16 p.m.

**MOTION:** Mr. Maher made a motion the site plan at 2 McCrea Hill Road on drawing SP-3233P-SITE last revision dated June 15, 2016 to grant conditional approval contingent upon the resolution of all the comments of C. T. Male's letter dated June 29, 2016 for lot (A) on the east

Town of Ballston  
Planning Board

lot for containing the proposed office/manufacturing building. Mr. Cwalinski seconded the motion and all present voted in favor except Ms. Matias who voted no. **CARRIED.**

**NEW BUSINESS**

**Peter Hatalyk (High Rock Distillery)  
1321 Route 50; 228.-3-7  
Special Use Permit – Outdoor dining**

Mr. Hatalyk presented.

Mr. Hatalyk stated he is before the board for a special use permit for outdoor seating approval.

Chairman Doyle asked the applicant to explain to the board what their license allows the applicant to do – it was only .25 ounce tasting. Mr. Hatalyk stated during that meeting stated there was going to be a law put in, but had not signed at that time. Mr. Hatalyk, said, “It had already been said, but was not put in the minutes and did state that it was in, but the governor had not signed it at that time. Chairman Doyle asked for the meeting date (June 2013).

Mr. Hatalyk stated they were before the Board for an approval for the distillery and was approved July 2013. Mr. Hatalyk stated the governor signed the bill in October 2013 for distilleries to be allowed to serve their own product on premise; not just with tastings, but drinks and mixed drinks. Chairman Doyle asked if the applicant is doing that now. Mr. Hatalyk stated yes we are inside the facility. Chairman Doyle asked how long the applicants have been doing this. Mr. Hatalyk stated June 1, 2015.

Mr. Hatalyk stated the proposal to put some seating out at the existing ice cream seating area as well as the other paved area south of that. The proposal is for seating approximately 36 additional people and put a tent up that is over the existing seating area (30'x 30') and able to have people to have drinks outside. The drawing shows full enclosure with doors and access to that area so people cannot just walk in yard; there will be a locked door and access in and out.

Mr. Hatalyk stated there is an outside bar; an area, where they can mix the drinks outside as well so people do not have to walk in because the place is so small inside and only allows 36 people and leave the inside for just tasting. The tasting bar is low and did not anticipate that law being passed when the place was built. The music stops at 8:00 p.m. and always close at 9:00 p.m. and will not be open any later at this point now. The music would be from 12:00 p.m. to 8:00 p.m. at the latest; do not a specific time and will not have music every day especially when track comes in because Tuesday is the blackout day and Tuesday would like to possibly have music and get a lot of track people to come to the facility

Town of Ballston  
Planning Board

and to have small events. There are 14 spaces on the south side; plenty of parking. Chairman Doyle suggested directional signs for parking.

Mr. DiPasquale asked if the applicant is open seven days a week. Mr. Hatalyk stated no, Thursday through Saturday 12:00 p.m. to 9:00 p.m. and Sunday 12:00 p.m. to 6:00 p.m. until track opens. Mr. DiPasquale stated adequate parking, bands until 8:00 p.m. Mr. Hatalyk stated no bands – acoustic music (live, local and acoustic) someone with a guitar; no amplified music or drums and will not disturb homeowners in the area. Mr. Fischer asked if there were microphones or speakers. Mr. Hatalyk said we just want to be able to get the local talent in and also bring in local artist's and to show their art, pictures, photos and paintings; a local craft company that showcase their Americana – that's the whole movement of this craft, spirits, wine, beer and liquor is to get the local people in and try the get upstate New York back home.

Mr. DiPasquale asked if the tents would be up year round. Mr. Hatalyk stated no the tents are seasonal. Mr. DiPasquale asked what is considered seasonal. Ms. Matias asked the applicant to describe the tents. Mr. Hatalyk stated the tents are 30' x 30' white tent that's peaked in the middle and has white walls all the way around it; it's an event tent that would be seen at any event and the walls will be up if the weather is nice, but it's like putting a canopy out there. Ms. Matias asked, "why the doors." Mr. Hatalyk stated you have to have them for the SLA and is the same as any outside venue.

A further discussion was held on the proposed tent.

Mr. DiPasquale stated the plan shows two porta-potties in the back. Mr. Hatalyk stated that is temporary for this season and was approved at the last meeting to put and addition on which includes another bathroom.

Mr. DiPasquale stated everything that we are proposing is o.k. with your liquor license. Mr. Hatalyk stated absolutely. Ms. Matias stated only alcohol, no food. Mr. Hatalyk stated we have food; finger foods, snacks, cheese crackers, Chex mix and salsa and chips. NYS alcohol – beverage control law Article 5 – tells exactly what the applicant has to have (applicant printed a copy for the board). The applicant highlighted the areas that allow them to do this. We are not a bar and in the eyes of NYS we are a Craft Distillery that is allowed to do tastings and onsite consumption and if we wanted to be a bar, would have to apply for a different license – it's not a bar.

Mr. Hatalyk stated by Article 5 we are allowed to serve any NYS spirit for consumption on our premise. We cannot serve beer, cider or wine for consumption, but we can sell products in the bottle for off-site consumption. Chairman Doyle asked what stops the person who buys a bottle of beer and drinking the bottle of beer. Mr. Hatalyk stated we don't allow them to and know that when they purchase the product. Mr. Hatalyk stated right now we sell wine (Galway Rock) and it's the same thing as not being

Town of Ballston  
Planning Board

able to open it up in a liquor store. There is also a provision in NYS that you can apply for a tavern license, not a bar, this is a tavern license for only a craft NYS distillery – a farm distillery license can apply and then we can serve NYS produced beers and wines for consumption on site. The applicants said, “They would love to do this – it would help us out immensely with our revenue.” Mr. Hatalyk stated that why they signed the law to help these small craft distilleries, breweries and cideries in order to bring in other revenue. We are not a bar, but a craft distillery and these options are given to us. Mr. Fischer stated that you will not be serving beers or wines. Mr. Hatalyk stated we cannot right now and would love to apply and receive the license and do what all the other craft distilleries are doing; every craft distillery around us is doing this to increase their revenue.

Mr. Hatalyk stated by NYS definition, we are not a bar and can never have a bar license.

Ms. Matias stated if approved next season you (the applicant) will not say “hey now that we have this outdoor seating will apply for a bar license.” Mr. Hatalyk stated it’s illegal for us to have two licenses and would have to give up our distillery license and the town would have to rezone the present location; the town has already rezoned for a distillery.

Mr. VanVorst stated you (the applicant) started out with samples and now the law has changed and now serving and what’s to say the law changes and now becoming a full bar. Mr. Hatalyk stated they could change. Mr. Fischer stated they still would not be zoned for that type of usage. The applicants are a craft distillery and that is a liquor license – a farm distillery license (Class D). Mr. VanVorst stated what’s to say the law doesn’t change. Mr. Hatalyk stated they have also changed breweries, wineries and cideries, but only allowed farm products; cannot go out and buy Smirnoff and sell at our establishment – it’s not allowed or Budweiser and only supporting the NYS Farmer’s Craft Movement. Last week NYS just signed a bill for the cideries and they can sell our products by the glass and beers to expand on their revenue; not just be one specific type.

Mr. VanVorst stated the board gave the applicant approval for samples and did not give you (the applicant) approval to serve quantities and yet that is what you are doing. Mr. Reilly stated we (the board) gave them approval for a distillery; what a distillery could do changed of what they could do, but we did not give permission serve- there is an important distinction. Mr. VanVorst stated we are at a point today and did not anticipate at when we gave approval. If we give further approval today, this is a step by step process and ending up somewhere where we don’t want to be. Mr. Reilly stated no one knows. Mr. Hatalyk stated this has nothing to do with our license; we are before the board for a tent and outside seating.

Mr. Fischer asked the Chairman Doyle is this is a seasonal special use permit where the board would be approving it for the 2016 season or this would continue on and do it for next season regardless of what the SLA decides. Chairman Doyle stated unless we changed it or there was some violation.

Town of Ballston  
Planning Board

Chairman Doyle asked how the applicant feeling on the parking or a flow pattern is going to work for the site and realizing that your patrons will be leaving have not exceeded the .08, but have lost some abilities. The applicants stated they will certainly put in signage and would stripe the area in the back lot.

Chairman Doyle stated the tent helps and absorbs and deflects some of the sound, which is to the advantage to the community; less road noise.

A further discussion was held on the acoustic guitars.

Mr. Hatalyk stated he ran the ice cream shop with is fiancé for two years (Christy's Cones) and played music (speakers) until 11:00 p.m. and never had a complaint.

Mr. Cwalinski stated just to the south of this an applicant came to us and approve that project and agreed that project was a very attractive building, now just a few miles north, we are going to have a tent that scream Barnum and Bailey's circus and cannot see it, it's going to look terrible – will not be an asset to the town and thought we were going to develop something that was attractive and not an eyesore.

Chairman Doyle stated he feels that Mr. Cwalinski has a point, but just to make sure we know what you are talking about because at the beginning of the meeting did not know what we were talking about.

Mr. Fischer stated maybe it's because he runs a small business and have a little bit of sympathy/empathy for other business people that are trying to make a living and certainly are not a big fan of those wedding tents either, but the real eyesore is across the street (Getty station). Let's give these guys a break and are trying to have a viable business that is not a bar and the acoustic music is never going to be an issue; is not seeing any issues other than personal preference kind of stuff that almost seem capricious and going way beyond where we need to go with this – they have very stringent requirements that the State imposes on them and far more stringent than we can come up with – can we move on from this and say either yes or no.

Mr. Maher stated this will bring additional revenue and attract additional people.

A further discussion was held on the type of tent proposed; similar to a wedding/graduation tent – the fireworks tents are what the carnies are using.

Mr. Fischer stated they don't want something unattractive because it won't draw people into their business. Wedding tents is vinyl, white with peaked roofs, tight, vinyl on the sides with windows and are not the most beautiful thing in the world, but are not carnie tents.



Town of Ballston  
Planning Board

Ms. Matias asked for more information on the hours of operation. Mr. Hatalyk stated that is stated on the application. Mr. Hatalyk stated 12:00 p.m. to 8:00 p.m. for the music seven days a week.

Chairman Doyle opened the public hearing at 8:50 p.m.

**John Rose**, owner of the 4-unit right alongside the said property on Mourningkill Drive. The applicants are saying this isn't a bar – this is going to be a bar and as far as he canvased the neighborhood are against it and can only speak for himself now. Mr. Rose stated that when they were here they promised they were not going to serve anything; the law changed and we don't want a bar. The law changed and they jumped right on it and if they didn't want a bar, they wouldn't have jumped on this – would have kept is as what they wanted a distillery. Once the law changed in their favor, they took advantage of an opportunity to make money off the people in the neighborhood. Mr. Rose said, "Our quietness and safety of our children and value of our properties are going to go down; no one is going to want to buy that with a bar across the street and may not even have his tenant's because it's a bar across the street. This is opening up the door a little bit and will be taking more and if they haven't proven that to the board, there is something wrong – this neighborhood does not need a bar.

**Jennifer Rose** asked for clarification of the music and asked if they are permitted to do events and what exactly are they going to be serving. They said they can only see liquor that they distilled, but doesn't that include making mixed drinks with that and could potentially be like a bar. An amplifier can be used with an electric guitar. The applicants stated wanting to get people out on Tuesday because the track is closed and that will lead to high traffic and talking about a lot of residential houses literally right behind them.

**Serena Dater** stated she lives across the street from the establishment on NYS Route 50. When the ice cream shop was open, they did play music and when we were out front of our home, we could hear it. Was it overly obnoxious no and did not complain about it. However, we are not talking about an ice cream shop, but a distillery that on June 16, 2014 there was legislation for making it a farm distillery where they could sell mixed drinks, which are what they have been selling – Margaritas and Bloody Mary's and have been doing this for quite a while. They are legally able to do it based on Farmers' (D) License through NYS. The outside eatery obviously is planning on selling food and people are not going to go there and spend money on a drink and not have actual real food. Ms. Dater asked if they have a license to be a restaurant because she couldn't find that out. Ms. Dater has five children living in her home and was not thrilled about a distillery to begin with however, when I went home and told my husband it was just a distillery, there was no drinking on the premise and he said, "thank god because we don't need a bunch of people drinking and driving near our house. Their hours are 12:00 p.m. to 7:00 p.m., Thursday, Friday and whatever and obviously have the right to change the hours to whatever they want, whenever they want because the 12:00 p.m. to 6:00 p.m. that they were originally told on a 7/30/14 meeting, "you guys don't have control of the hours of operation." So therefore, currently they

Town of Ballston  
Planning Board

can be open to whatever the law is (not sure what the hours of operation is now) so at 12:00 p.m. on April when school is in session, "these guys are selling alcohol" and my children are getting off the bus anywhere from 2:30 p.m. to 4:00 p.m.; so not only do I have to figure out and thank god it hasn't happened and now have to worry about a parking lot across the street dealing with who knows what kind of traffic while my kids are getting off the bus. More importantly have a 15 year old child that just so happens to have a friend who lives at Bridgewater and finally has permission to walk over without parental supervision and now have to worry about an alcoholic establishment/distillery and now have permission from NYS to operate (like a bar) and now have to worry about my child, but worry about the normal things (sex offenders) and now to worry about how many people are leaving him establishment while my child is trying to walk home where that threat was not there before until this distillery showed up, which is not fair to me, not fair to the neighborhood; a distillery was one thing where they were not able to consume large amounts of alcohol on their premise. Go there for a sample was not really thrilled about it, but did not have to worry about a bunch of people drunk leaving an establishment and having to worry about my property or children.

**Jenny Crawford** stated that she is here as representative for the Chamber of Southern Saratoga County, an educator for the NYS Small Business Development Center and owns a small business; do web development in the Town of Ballston, a neighbor and a patron. Mr. Crawford stated she is not a friend, just stop in once in a while and have a nine year old and a two year old that are also getting on and off the school bus on NYS Route 50. Just sitting in this meeting along listening to the office space that is going in up the street is more concerned about the manufacturing facility of employees going in and out as well as all the offices and employees that will be going in and out of those buildings of the spaces that are going to be coming in and out of this place during the day. Ms. Crawford was an event coordinator for Saratoga National Golf Club; they use center pole canvas tents for their one hundred and twenty to two hundred thousand dollar weddings -- they are not canvas tents that you would see at a firework stand. This is again a craft distillery and if we are looking at other businesses that are similar in the area you can look at Yankee Distillery and Shmaltz Brewery, which are located off of Exit 10. Both of them at this time do not serve food; they have mixed nuts and snacks, also create their craft, and offer samples at their distillery and offer beer for consumption at Shmaltz, host mixes and small events like that. You can go into Yankee Distillery right now and buy bottles and things produced (Vodka), but cannot consume it there -- they tell you that as soon as you get there, but it's a really unique opportunity to walk into a small business and learn about them passionately creating a craft and a recipe that they have developed. So to speak against the intentions of creating a bar where they are trying to serve Budweiser and Jack Daniels; their intention is, they fell in love with a hobby of theirs and decided to share it with people and people in the community do enjoy this. Ms. Crawford has brought her small kids there to buy things and they have been sweet to my kids -- I'm not scared of my kids being in danger there. Ms. Crawford has experience with music and sing at a worship team at her church and there have been times when there has been acoustic and yes, own an electric acoustic guitar and do have the ability of plugging it into a monitor in order to turn the volume up; their intention is not to do so and it's

Town of Ballston  
Planning Board

just light background ambiance music. Ms. Crawford has not seen or heard them or anything other than passionately creating this craft with NYS grains that is supporting our agricultural business – everything they use is 100 percent. The issue isn't whether or not they can serve liquor, which legally they can and is outdoor seating really going to be that much more of a pain in the butt to the community. If at this point have not been nervous for the past year and a half for your kids getting hit by a drunk driver, I don't think having an extra ten cars over the period of a few days are really going to be that more of a difference.

**Holly Vrooman** stated what these gentlemen are doing is absolutely wonderful. They are providing an opportunity for local artisans to come and show their wares. This is important to keep our community alive and to be able to show other communities what we have. This is an opportunity for a lot of people in this town that they would not have if it wasn't for these gentlemen and say one hundred percent to go with them. This is absolutely a wonderful idea and can't see where they are being obstructive, abusive or anything else. They are following the laws and support the people in the Town of Ballston.

**Alexis Antonecchia** stated she is the former owner of Christy's Cones, which is the current site of Highrock Distillery. Ms. Antonecchia stated when Mario owned the building; it was in need of repair and an eyesore. When Christy's Cones took over, put a little more life into the building; less than an eyesore. Obviously Highrock Distillery is continuing to improve the appearance of the building and property, but also, are trying to bring an establishment that will help Ballston Spa and will be here for the long haul and working within their guidelines and laws. They are easy to work with and if there are concerns with neighbors, will hear you out. The ice cream shop had a lot of traffic (cars coming in and out) parking down road just to get a cone and the traffic was very high and have not seen the same traffic as this is a different establishment, but when you buy a home near a commercial building you may experience a different traffic pattern and living on NYS Route is high traffic and should take consideration when buying a home in that area. The applicants are bringing a great opportunity to Ballston Spa.

Mr. Hatalyk stated they are not into this more the money and to take advantage of it and changed careers and struggle every day, but it's what we like to do. Mr. Hatalyk stated if you go back to the meeting minutes the last time and were asked if we were using the outside for seating for our seating and received approval; it's says yes right in the minutes. Mr. Hatalyk stated the Federal Government owns us and have to follow the guidelines and if we step out of line, will lose everything. We decide if someone is having one or two and if we think they had enough, we say no more; that's on us as business owners or any restaurant.

Ms. Matias asked how you came up with 36 seats. Mr. Hatalyk stated when setting it up on Auto-Cad, that's how it came out. Mr. Hatalyk is an engineer by trade and scaled it to see what would fit in that area. We want people relaxed and enjoy the atmosphere.

Town of Ballston  
Planning Board

Mr. DiPasquale asked about the hours of operation. Mr. Hatalyk stated 12:00 p.m. to 9:00 p. m. seven days a week, music until 8:00 p.m. and no amplification of the acoustic guitar.

Chairman Doyle stated he supports small business and the Ag Committee and asked the board to take time and think about this. Chairman Doyle did not know what you were doing inside and did not ask.

Mr. Maher stated he has no problem with granting a special use permit for a temporary structure and did give them approval last month and the State is in favor of promoting the craft industry (beer and spirits) and thinks it would be a good thing for these gentlemen and have been to their establishment and stated it's a pretty place. Mr. Cwalinski agrees with Mr. Maher. Mr. Fischer also agrees. Mr. VanVorst voted no. Ms. Matias stated the law says you are not a bar, but by serving there outdoors – that's a bar and voted no. Mr. Cwalinski asked if operating hours from 12:00 p.m. to 9:00 p.m. would be considered land use. Mr. Reilly stated that courts have wrestled with boards imposing hours of operation for businesses and often times they are not upheld; outside seating and an acoustic guitar is not going to affect anyone. Generically outside of music the Planning Board has the ability to put hours of operation perhaps, but would have to do a little more research – it's a grey area. The law frowns upon a Planning Board dictating enacting the hours of operation – it's got to be a land use related issue involved. Mr. Reilly asked the applicant if they are willing to agree for the music to be from 12:00 p.m. to 8:00 p.m. Mr. Hatalyk stated yes. Mr. Cwalinski asked for a definition of seasonal hours. The applicant's stated April or May (when it's comfortable to sit outside) through October (less comfortable to sit outside).

A further discussion was held on seasonal hours for the project.

Chairman Doyle asked if heat will be provided in the tent as he worries about fires. Chairman Doyle asked if there is smoking outside in the tent. Mr. Hatalyk stated not inside.

**MOTION:** Mr. Cwalinski motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. Cwalinski motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

Chairman Doyle read through the four criteria for a special use permit

Town of Ballston  
Planning Board

- 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. Mr. VanVorst disagrees, Ms. Matias disagrees, Mr. Fischer stated no impact on development, Mr. DiPasquale no impact, Mr. Maher no impact, and Mr. Cwalinski no impact.
- 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. Ms. Matias stated there is an impact, Mr. VanVorst believes there is a potential impact, Mr. DiPasquale no impact, Mr. Fischer no issue, Mr. Maher no impact, and Mr. Cwalinski no issues.
- 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 issue – board concurred.
- 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. Mr. VanVorst disagrees, Mr. DiPasquale no issues based on my other responses considering it's already approved there, Mr. Fischer stated with the mitigating factors of the hours of operation that we have already discussed and there is no impact, Ms. Matias disagrees, Mr. Maher no issues and Mr. Cwalinski no issues.

Mr. Johnson stated retail sales or a restaurant is permitted in that zone with a special use permit.

Mr. Reilly stated the special use permit was issued for a distillery – the State has changed the laws as to a distillery and have changed what a distillery license holder can do and the town would have no control over, but for them to change the type of license that they possesses, change in the use from a distillery to a bar would need another special use permit. Mr. Reilly stated his understanding of what the applicant is saying and the background and the intent of the State of NY and to Mr. Reilly the only distinction is that that they (the applicant) assume NY products; other than that it is pretty much a bar and that is up to the board. Mr. Reilly stated that is where it's headed and want to promote NY products and serve beer and other spirits as long as they are of NY origin and find it hard pressed to find the distinction between that and a bar, but it's a NY bar. Mr. Reilly says that to the license, but in that application it distinguishes that a bar is open until 4:00 a.m. and that is not what they are doing at all. The license may allow them sell the same type of product, but what they are doing is very different as far as their business.

Mr. DiPasquale asked about setting up seasonal parameters – April 15 through November 15.

Town of Ballston  
Planning Board

Mr. Reilly stated legally the board could impose a specific time and the removal of the tent.

Chairman Doyle stated 12:00 p.m. to 8:00 p.m. music, 12:00 p.m. to 9:00 p.m. for sales and April 15 to November 15 (outside tent). Mr. Johnson there is requirements for heaters in tents and where they have to go. The applicants would love to be able to have heaters in the tent. No amplified music; acoustic music only.

**MOTION:** Mr. Fischer made a motion to approve this special use permit with the following stipulations: 1) No amplification of music or singing, 2) Hours of operation will be limited from 12:00 p.m. to 9:00 p.m. with music stopping at 8:00 p.m. and 3) Outdoor seating only allowed from April 15 through November 15. Mr. Maher seconded the motion. Mr. Cwalinski voted yes, Mr. Maher voted yes, Mr. Fischer voted yes, Ms. Matias voted no, Mr. VanVorst voted no and Mr. DiPasquale voted yes. **CARRIED.**

**Thomas Shambo**  
**Devils Lane; 227.-2-11**  
**Minor Subdivision 2-lots**

Kurt Bedore, P.E., with KB Engineering was present on behalf of the applicant Matt Shambo for a two-lot subdivision on Devil's Lane.

The parcel consists of 98 acres and proposing to subdivide 4.5 acres with the frontage on Devil's Lane off of their family homestead; parcel own by Thomas Shambo (father of the applicant). The depiction shows a two-story, three bedroom stick frame house and shown suitability by a well, which would be out towards the road and a shallow trench onsite waste water treatment septic system in the back. There is a tributary to the Mourningkill back there with NYSDEC wetlands and properly delineated – including the 100 foot buffer and meet all the setback requirements per the zoning code, setback requirements with wetland, in accordance with Appendix 75 with NYS health code, separation requirements between the well and septic, septic and wetlands; reverse impacts to drainage is not regulated under the rural zoning.

Mr. Cwalinski asked the total acreage of the parcel. Mr. Bedore stated 98.18 ±. Mr. Cwalinski asked the little square on the bottom of the plans. Mr. Bedore stated that is the adjoining neighbor, who happens to be a cousin, woodshed; no issues with the parties involved.

Mr. DiPasquale did not see a well location for the Deming parcel to confirm separation from the septic. Mr. Bedore did not identify where it's located, but if you draw a 100' arc from the field and 50' from the tank per Appendix 75, it's not an issue. Chairman Doyle asked the applicant to add to the drawing.

Town of Ballston  
Planning Board

Mr. VanVorst stated the plans don't show the location of the septic system on the property on the north side of Devil's Lane, which could be within 100' of that well. Mr. Bedore stated he will look into that and make sure all the separations and requirements. Mr. VanVorst stated that property owner should be listed on the map as well. Mr. Bedore stated it was looked at, but was not depicted on the map – what is shown meets the separation requirements as specified.

Chairman Doyle asked if Mr. Bedore designed the septic system. Mr. Bedore stated yes. Chairman Doyle asked his opinion of the modeling soil at 25" and low perc rates. Mr. Bedore stated he would not call those low perc rates – those are moderate typical with sandy silt loam in this area and would consider a moderate perc – if more than 24" per Appendix 75 still qualifies as a conventional system, in this case a shallow trench, the bottom of the trench will barely be into the surface and still have that 2' of separation per code, grade out the top over it. Chairman Doyle stated the applicant is building a new house and for one thousand dollars one way or the other, it might be better to have an improved septic system so it lasts 30 years or 20 years. Mr. Bedore asked, what do you mean an improved system? Chairman Doyle stated the more you get it out of the native soil close to the modeling soil, the better off it works. Mr. Bedore stated that 1" is critical in terms of the cost to the applicant; if it were 24" we would be in by code to a raised bed system, complete with the basal area, buffers around the top and 20' tapers and would be a lot more than one thousand dollars – a raised bed, gravity fed is approximately twenty thousand dollars. Mr. Bedore stated your point is taken as a design professional signing on these types of things and is confident and did not think those soils could handle it.

Chairman Doyle opened the public hearing at 9:42 p.m.

**Holly Vrooman** stated she did not receive any notice that this building was going to happen there and most of the neighbors on Devil's Lane did not know either. Ms. Vrooman stated a lot of the frontage on that property is wet and does not know where the driveway is going to be and is this going to be a single-family residence. Ms. Vrooman stated the concern that no one Devil's Lane knew of this proposal.

Mr. Bedore stated this will be a single-family home three bedroom – 2-story home just like other homes on that street, perfectly centered in the lot between Mr. Colin Shambo and the Deming lot.

**MOTION:** Mr. VanVorst motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

Town of Ballston  
Planning Board

**Juliette Shambo-Morill** stated that no one on Devil's Lane was notified of this proposal and was the only one who received a letter stated that this was going to happen. Mr. Johnson stated that the notification goes out within 500' of the property. Mr. Johnson stated that is what the Town Board said to do for notifications.

Chairman Doyle closed the public hearing at 9:49 p.m.

**MOTION:** Mr. VanVorst made a motion to approve the subdivision of the Lands of at Devil's Lane for Matthew Shambo on plan dated June 13, 2016 with the following conditions that there would be the wells and septic's labeled on adjoining property including on the north side of Devil's Lane and the Deming property and Park and Rec fees of one thousand dollars per unit payable at issuance of building permit. Mr. Fischer seconded the motion and all present voted in favor. **CARRIED.**

**Adirondack Medical**  
**1490 Route 50; 216.-1-66**  
**Site Plan Review/4,896 sq. ft. additional to existing building.**

Tom Center with Nace Engineering, Tom Paone, Architect and Amy McGarrity, Partner (Adirondack Medical).

The project before the board is for a 4,896 sf addition to the existing business with additional associated parking. The electric and water for the new building addition will run from the new existing building. New sanitary sewer for the building addition will be provided through the rear of the building and out into the north east side of the building. The existing septic system, which is not shown, runs along the back side of the parking lot in the green space area. The new building addition designed for a capacity of 17 people based on floor area, which requires 12 gallons per day, per person and 204 gallons per day – 170 sf of leach field and are providing 180'.

There are thirteen (13) existing parking spaces and proposing nine (9) new parking spaces and eleven (11) spaces are available in reserve. The current business now receives about four (4) vehicles per day at any one point in time; they feel the additional parking they have plus the nine (9) parking spaces that was proposed and that there is enough parking and if a tenant that needs additional get parking, there are eleven (11) spaces in reserve.

The storm water management will manage all new hard surfaces through the existing storm water system and to the existing storm water pond – there is a swale that goes along the north end of the building and that is just to take the overland flow down the slope around the new parking lot area.



Town of Ballston  
Planning Board

A waiver is being proposed from the architectural design standards – this is an existing building and standards were put in place after the building was constructed and trying to match the existing building and keep the same view line across the front and match the parking; additional parking has been added in the rear.

Chairman Doyle stated he agrees with the parking.

Mr. DiPasquale asked the activities now. Mr. Nace stated they are a distributor of orthopedic supplies – no retail on site. The new building addition would be geared toward a professional office in the medical field – consistent with the existing building.

Mr. VanVorst stated there may be potentially more traffic with the new addition. Mr. Nace stated yes, you could and would be relatively small; a dentist office would be four or five cars in and the turnover rate would not be huge and more than they have now, but the parking would certainly be adequate.

The located and heat and air conditioning will come from the existing buildings, utilities, water will come from in from the existing building. Mr. Paone stated maybe a small furnace room with a split system and may have a small condenser like you would on a house.

Mr. Cwalinski asked about a dumpster. Ms. McGarrity stated no, there is one existing dumpster.

The lighting will be downcast at the canopy in front and light packs facing down and security on the rear doors and match existing.

The signage will be presented to the building department at a later date and come back for sign permit.

Chairman Doyle asked about the future garage. Mr. Nace stated it would be used for a future plow truck, lawnmower and equipment used to maintain the property.

Mr. VanVorst asked if retaining walls will be used on the north side of the property. Mr. Nace stated no that will be graded – 1.4 slope to the north with an erosion and sediment control plan and the trees to the east will remain. Sheet SP-3 area of disturbance was .71 acres – the light dash line is the disturbance limit line.

Chairman Doyle opened the public hearing at 10:00 a.m.

**Lorraine Jannack**, asked if the addition will be on the north side and almost double the current size. Chairman Doyle stated yes. Ms. Jannack stated that these folks have been excellent neighbors all the time that they have been there. We have only been there a couple time to find a cat and helped find

Town of Ballston  
Planning Board

the cat. They are very nice, their building is beautiful and unless something weird happens, that this addition is going to be taken by somebody various, looks forward to having the addition and another part of the beautiful and hope the board would give them what they are looking for.

**MOTION:** Mr. Maher motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. VanVorst seconded the motion and all present voted in favor.

**CARRIED.**

**MOTION:** Mr. VanVorst motioned to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Mr. Cwalinski seconded the motion and all present voted in favor. **CARRIED.**

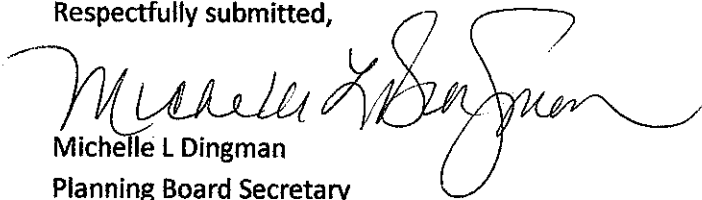
Chairman Doyle closed the public hearing at 10:02 p.m.

**MOTION:** Mr. Maher made a motion that the addition on SP-1 dated June 15, 2016 – waivers for the Town of Ballston architectural design standards and parking waivers are granted and conditional upon satisfying the C. T. Male comments letter dated June 28, 2016. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanVorst made a motion to adjourn Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 10:10 P.M.

Respectfully submitted,



Michelle L Dingman  
Planning Board Secretary