

Town of Ballston  
Planning Board

**TOWN OF BALLSTON  
PLANNING BOARD**

**Regular Monthly Meeting: August 26, 2015**

Present: Richard Doyle, Chairman  
Jeffrey Cwalinski, Vice Chairman  
James DiPasquale  
Patrick Maher  
Audeliz Matias  
Lee Ramsey  
John VanVorst  
Thomas Johnson, Building Inspector  
Kathryn Serra, Town Engineer  
Peter Reilly, Planning Board Attorney  
Members of the General Public

Chairman Doyle called the August 26, 2015 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Doyle reviewed the agenda.

**MOTION:** Mr. Cwalinski made a motion to accept the July 29, 2015 and July 30, 2015 as amended. Mr. Maher seconded the motion. **CARRIED.**

**MOTION:** Mr. Cwalinski made a motion to accept the July 29, 2015 minutes as submitted. Mr. Maher seconded the motion. **CARRIED.**

**OLD BUSINESS:**

**Lang Media, 20 Mourningkill Drive, Ballston Spa, NY 12020; 228.-3-36.1 (Site Plan Review LED Billboard)** Michael Fogel, Esq. with Brown Sharlow Duke & Fogel, PC council to Lang Media, Inc. and Michael Lang, President of Lang Media, Inc.

Mr. Fogel stated this application is to convert one of its existing static billboards located at the intersection of NYS Route 50 and Everson Way to a digital sign. There is another billboard that is located at Sherman Way and that board is not proposed to be changed – will remain a static billboard.

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Mr. Fogel stated this billboard is located with the town's Billboard Overlay District, which permits billboards by special use permit (including digital billboards). This billboard will require approval from NYSDOT.

Mr. Fogel stated there has not been a formal application made to NYSDOT. A preliminary review from NYSDOT on traffic safety has indicated their Traffic Safety Division is comfortable that this billboard can be converted to digital and there will not be any traffic safety concerns associated with it.

Mr. Fogel stated since the last meeting they have made a subsequent submission and Ms. Serra asked the applicant to address the site distance (north or south bound) - what distance will they see the billboard based on the speed limit (speed they will be travelling), how many images they might see. Mr. Fogel stated a submission was made on August 14, 2015 including site photographs travelling both northbound and southbound showing Google Earth measurements showing approximately the distance where a driver would see the boards travelling north or southbound. Mr. Fogel stated the town engineer performed a similar exercise. Ms. Serra stated she used their numbers - took the distances, posted speed limit and came up with an average time that the driver would see the billboard – eight second refresh rate. Mr. Fogel stated that is essentially what they (the applicant) came up with, but there may have been slight differences.

Mr. Fogel stated based on that submission, prior submissions and discussion about NYSDOT (digital billboard criteria) feel that all submissions and totality really demonstrated that there is really no traffic safety impact associated with this application. Mr. Fogel stated accident data was submitted available from NYSDOT and the town engineer acknowledged at the last meeting based on that data this is not a high traffic safety area. Mr. Fogel stated the applicant has sufficiently addressed the traffic issue.

Mr. Fogel stated a lighting study was performed to get a handle on how bright this digital board is going to be. Mr. Fogel stated that study indicated that there were not going to be any adverse impacts associated with the digital board. The study used a very conservative worst case scenario – it assumed an all-white display would be operating a nighttime, “which is not consistent with the signs that will be there.” The actual levels associated with the board are going to be much lower than an all-white display. The contents are actually going to run about 25 to 35% of the brightness of that all-white display. Mr. Fogel stated there will not be any adverse lighting impacts associated with the digital boards. Mr. Fogel stated based on the applicants submissions have sufficiently addressed any lighting concerns.

Mr. Fogel stated this is located within the Billboard Overlay District, in harmony with the Comprehensive Plan and zoning for that area – subject to a special use permit, but believes

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have provided substantial information – enough to address the special use permit criteria and to obtain approval hopefully tonight.

Mr. Fogel stated there are certain criteria with §138-35 governing billboards, which we (the applicant) comply with. Mr. Fogel stated based on the lighting study provide, feels it has been addressed. Mr. Fogel stated that this section of code states that a billboard cannot be erected or attached to any building – this is not and satisfies that criteria. The billboard is not going to contain any banners, posters, pennants, ribbons, streamers, spinners or other moving or other fluttering devices – comply with that criteria. Mr. Fogel stated the board is not going to exceed 700 sq. ft. total for both faces and as stated at the last meeting with be 10% smaller than the current sign. The billboard will be maintained and kept in a good working order. The ads displayed are not going to be indecent or obscene in nature. The billboard is going to continue to be separated by at least 300' from the next nearest board and setback at least 25' from all buildings. Mr. Fogel stated the applicant satisfies all the criteria in §138-35. Mr. Fogel stated based on all the submissions to date, comply with all the special use permit criteria that the board needs to evaluate. Mr. Fogel stated the applicant believes it's in harmony with the zoning district based on the designation of this area as a billboard zone. Mr. Fogel stated the applicant has demonstrated there will be no traffic safety impacts associated with the board and satisfy criteria #2. Mr. Fogel stated the third criteria is not even applicable - height of the building, walls, fences and landscaping. Mr. Fogel stated the last one has to do with neighboring properties being substantially or permanently injured and based on the lighting analysis does not think there is going to be any impact to properties. There are no other impacts associated with billboard – noise and odor. Mr. Fogel stated based on the totality of the submissions that satisfy all the criteria necessary for issuance of the special use permit.

Mr. Maher said, “Mr. Lang – I assume you have installed several of these. Mr. Lang stated yes. Mr. Maher said, “Upgraded existing static board.” Mr. Lange stated yes. Mr. Maher asked, “Have you even been denied a DOT permit for the conversion for one of these.” Mr. Lang stated no, as Mr. Fogel stated runs it by the DOT prior because he does not want to waste time and has spoken to DOT preliminarily. Mr. Maher asked if there is a process and a permit with DOT. Mr. Lang stated it's a conditional permit from the DOT.

Mr. DiPasquale said, “The impact on neighboring properties – there is no real way to come up with the degree of impact.” Mr. DiPasquale had some concerns about static versus the digital of changing every eight seconds and the example of the residential properties that are facing the billboard. Mr. DiPasquale stated he has a reservation of the impact of changing view every eight seconds may have at night.

Mr. Ramsey said, “The studies show it takes six seconds to read a billboard and if you're driving and trying to comprehend the billboard and it changes two or three times as you're driving by and that person is constantly looking up 3, 4, 5 or 6 seconds at a time, how much time is the

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person spending looking at the road and not looking at the billboards. People looking down at and texting on their phones not paying attention and looking up in the air." Mr. Ramsey asked are there side roads on other places where you put these billboards where people are pulling out into traffic – there is a lot of commotion and movement down there. Mr. Fogel stated that is a good question and stated that DOT's primary concern in regulating these boards is traffic safety exactly what you are saying. Mr. Fogel said DOT has not only has looked at this, but Federal Highway Authority and others have study this issue. Mr. Fogel stated it's really addressed by DOT and have issued this new criterion and have previously submitted and gone over it, but you're right, if you look at this, it does say that studies have shown that it takes at least six seconds to read and comprehend a billboard and DOT acknowledges that and that is why they said a minimum duration of eight seconds. Mr. Ramsey said, "I could see that on a highway" and there has been four accidents this past year on that road right there so you are just adding another problem. Mr. Fogel stated the DOT criteria evaluated and covered both controlled access highway interstates and routes – NYS Route 50 in setting this criterion with the eight seconds and determined the minimum duration of message be eight seconds between each message does not create any adverse safety impacts – not creating a distraction for a driver. DOT is the agency with the expertise and the experience evaluating this issue and analysis and conclusion they have reached.

Ms. Matis stated there is a big difference between a highway and Route 50. It's a two lane dark road. Ms. Matias stated that Mr. Ramsey was asking if you have any examples with a sign like this one close to a similar setting when you have a main road 55mph with all the other roads coming into it and would be good to have some data. Mr. Fogel stated there are locations, but DOT has looked at various different highways and has determined that. Ms. Matias said, "DOT would just make a general statement – that's what research normally does right." Mr. Lang stated there are many locations that are secondary roads very similar to Route 50. Mr. Lang stated their office is on Route 9 in Latham, NY – where there is an ice cream place, intersection and housing developments on each side of and a digital billboard there. Mr. Lang stated there are probably 30 or 40 throughout NY State. Mr. Lang stated that DOT is very specific and send Traffic and Safety to that location.

Mr. Ramsey asked, "What are the ramifications on a person driving down the road and looking at that sign and was not paying attention to the cars and smashed into the guardrail because they were looking at that sign." Mr. Ramsey asked whose fault is that if I'm driving down the road and see your sign change and smash into the car in front of me. Is it my fault because the sign is blinking or your fault because you put the sign there? Mr. Fogel said, "It's a good comment and did not know." Mr. Fogel stated the DOT criteria and that DOT is specifically Traffic and Safety Division of DOT regulates these types of signs static and digital across the State and specifically going to analyze this location and make that determination with the jurisdiction and expertise. Mr. Fogel stated the DOT criteria reserve the right to revoke a

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permit or to change the message duration if they can show "DOT has a reasonable engineering basis that the sign was a contributing factor to an increase in accident rate."

Ms. Matias said "she was driving on a road it was dark and a little bit higher than the one the applicant is proposing and fortunately on a plantation – it was just unmentionable. It was around 10:30 p.m. and the thing keeps flashing and did not know how many seconds, but it really bothers her eyes a long strip totally flat and bothered her because she was driving for so long." Ms. Matias stated she understands DOT has standards, but would you consider having something that doesn't change as much or only changes once a day. Mr. Lang asked the location of this sign. Ms. Matias stated she was in Puerto Rico. Mr. Lang said, "The only reason he asked the questions is that NYSDOT did a three year study with RPI and their lighting department is one of the premiere in the nation and works with NASA and does not know what the criteria is in Puerto Rico, but in NYS the DOT worked with RPI on the actual brightness "nits" and can only be of a certain brightness to not distract traffic. Ms. Matias stated it wasn't the brightness, but the changing on the colors and the message and the layout.

Mr. Cwalinski said, "After these LED billboard are put up, NYS Traffic and Safety goes out and evaluates them." Mr. Lang stated yes, constantly. Mr. Lang said, "There is a surveillance department." Mr. Fogel stated the DOT permit has a bunch of different terms and conditions-eight second requirement, brightness and enforce their permit just like any other agency would.

Ms. Matias said, "The answer is no and would not consider changing it less or only change it once a day." Mr. Fogel said, "He thinks the proposal will comply with what DOT imposes which we think will be the eight second transition time."

Mr. Reilly asked if a formal application was made to DOT, but received feedback from them on this location. Mr. Lang stated yes. Mr. Lang works with the DOT on Wolf Road (Region 1) and it's already a permitted billboard (7354) so DOT sends Traffic and Safety out to look at all the criteria to see if they feel there is a traffic and safety concern. Mr. Reilly asked if this analysis to other state approvals where they are looking at the local municipality also to make sure they have permitted it before they review your application without reference to the Town of Ballston's process. Mr. Lang stated they only review and application with a local permit. A formal application must be accompanied by a local permit. Mr. Reilly said, "This board would certainly feel more comfortable getting something from DOT"

Chairman Doyle asked if a formal request has been submitted. Mr. Fogel stated there has not been a formal application made to DOT and preliminarily gone to DOT and said does this location work for your traffic and safety division and informally said yes, it's an appropriate location, but formal application cannot be submitted until we have the town approval.

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Mr. Reilly asked if there is someone from DOT that the Chairman could call or someone you have spoken to from DOT. Mr. Lang can provide that. Ms. Serra said we have had recent similar projects where DOT will not issue highway work permit until the town approves the project; generally if the Planning Board approves the project, DOT will issue that work permit.

Chairman Doyle asked if Mr. Lang has spoken to anyone at DOT. Mr. Lang said yes, all the time. Mr. Lang stated Don Roberts is the head of Region 1.

Mr. Lang stated all he receives on this and other locations from NYS are - "Yes we took a look at it and Traffic and Safety does not have a concern."

Mr. Fogel stated typically it's difficult to get something out of them (DOT), but we can try.

Chairman Doyle stated he shares the same concern and travels that road.

Chairman Doyle stated that it appears that you (the applicant) need something from the town to say that we would agree to this. Chairman Doyle said, "Quite honestly, it's the other way around for us" and would agree to this if the safety checked and the DOT said it was o.k. Chairman Doyle said you have to get something more than just their words and have their concurrence. Mr. Cwalinski said that's how we normally do it. Mr. Maher agreed.

Mr. Reilly said, "He is not familiar with this application, but Motor Vehicle works that way and won't approve a motor vehicle repair shop until they hear from the town."

Mr. Fogel said, "This particular division of DOT does not work that way and will certainly try to get you something." Mr. Fogel said, "He would suggest that if the town approvals are conditioned on receiving the DOT approval."

Ms. Serra asked if there is way to set up a meeting in the field with the DOT, Chairman or one of the board members and Mr. Lang to discuss.

Mr. VanVorst stated there are two issues – DOT concern and the residents don't like it and does not think there is anyone on this board that is thrilled with this idea, but does not know if there is any legal reason for the board to deny it. Chairman Doyle said, "You are exactly correct." Mr. VanVorst stated it would be much easier for us to have some assurance from DOT that they think it's safe to proceed, but that still is not going to help the residents feel any better about it.

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

**Lisa Speidel, 11 Martin Ave** stated there is one over on Route 9 near Ushers Road and will be a passenger in the car and whoever is driving will say "Hey did you see that, it just switched -

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what did that say before that” and is a big concern because you are distracted. People are not going 55mph because everyone speeds and is a huge concern.

**John Digman, 49 Sherman Way** stated that he opposes this electronic billboard and feels it will be too distractive for drivers. Mr. Digman stated the speed limit is 55mph on Route 50 and this means that opposing drivers are coming at each other at 110 mph if they are doing the speed limit. There are two streets right in the middle of “Billboard Alley” and 17 of his relatives live in Beacon Hill and daily going on and off Route 50 and concerned for their safety and with situations like that, distractions are not needed and drivers should be keeping their minds on the road. Route 50 is only a two lane road and no room for error. A little distraction could cause a driver to drift into the other lane and hit a car head on. Mr. Digman stated he has never seen an electronic billboard on a two lane road – Route 9 (4-lane), I-90 (4-lane) and also have jersey barriers and traffic is flowing all in one direction – two lanes each way with safety built in. The massive billboards are located at the entrances of Everson Way and Sherman Way that are lighted at night and now want to go electric with them. Mr. Digman stated for those reasons request to turn down this application.

**Rick Ranous, 17 Sherman Way** stated he travels that road every day and appreciates that Mr. Lang is a businessman making a living and gets that, but public safety is a major concern and the board has recognized some of that and talked about the legal ramifications (do not have a legal reason to do that) and would strongly suggest that distractions caused by flashing billboards – the static billboards are distracting and talked about people on cell phones and looking down – the moment you look down there is an accident. Mr. Ranous said you talking about six or eight seconds for that flash to happen and no ribbons or bows or anything like that, but do you know how many colors appear on those things and how many things are broadcasted in people’s faces and different images and so on is extremely distracting. When you are stopped waiting to make a turn across the lane into oncoming traffic, and someone is behind you looking at those flashing images, they are not paying attention to your light there. In the middle of the day, it’s distracting enough and at nighttime it’s even more intense – your whole vision is drawn toward this massive billboard and creates a major safety concern and thinks the board recognizes that and appreciates what he heard tonight and were a lot of great questions, but implores the board to please reject this.

**Mike Audino, 24 Beacon Street** stated he lives on the second floor and this is what he looks at every day. Route 50 is a two lane highway and the digital signs he has seen are on 4-lane highways (Route 9 and Fuller Road) I-90 3-lanes with jersey barriers. Mr. Audino stated when he comes home north bound a takes a right turn onto Everson Way, is looking into his mirror hoping that the car behind is not hitting the rear end of his car. Mr. Audino stated that it’s going to devalue his home he just purchased and will be like sitting there watching a drive in movie and hopes the board will reject this application in the interest of safety too.

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Chairman Doyle closed the public hearing. Mr. Reilly asked if the chairman is closing or adjourning the public hearing. Chairman Doyle said, "He was just going to adjourn it for this particular meeting."

Chairman Doyle said, "We are in a difficult position here the residents should understand that and if you look at our zoning cannot pick out a particular item. Mr. Lang's attorney went through that item by item and think the board members agree with that consensus. We all have this safety concern and the gentleman with the flashing billboard of your deck can understand the annoyance of that and would like to ask and turned it over to Mr. Lang or Mr. Fogel to check with the individual from DOT and can do that and hope that you would for your own consideration and are concerned about the safety of each one of these people out there. Chairman Doyle asked them to check with DOT and have them evaluate this sign and give you something or have a meeting with us to discuss the sign and go out and look at it and see what their thoughts are. Chairman Doyle stated there is no one here that would want to harm another individual."

Mr. Fogel stated he appreciates all the comments from the board and appreciates everyone coming out and certainly respects everyone's comments, but the public hearing has been open since March 2015, this is the third meeting and at this point understand the comments and concerns and asked that the public hearing be closed and no reopened at the next meeting.

Mr. Reilly said, "It's discretionary with the board and understands Mr. Fogel's position."

Chairman Doyle said, "We have always kept public hearings open until the board reached a decision and this would be a change in that normal activity that we go through."

Mr. Reilly stated if the public hearing remains open would suggest any new comments.

Mr. Reilly said he hopes a site visit could be arranged to get DOT's input, but assuming DOT has no problem with the sign and the public understands if that is the case, it has been very for this board to turn around and say well that's fine DOT thinks its o.k., but we don't think its o.k. – it's just not going to hold up legally. It's on a State Highway; they have looked at this issue for many years and if they are going to say its o.k., we are limited and probably restricted in denying it from a safety standpoint. Mr. Reilly said you don't have to be a lawyer to figure that out; it's a practical matter – we can't override DOT's safety determination on a State Highway. Mr. Reilly said he is not sure that is going to be their decision, but can anticipate indeed if they do o.k. it, are still going to have a lot of people that are going to be upset with this board because they make a certain determination. Mr. Reilly said after the Wal-Mart and a few other hearings feel that he has to defend the board and the options that they have legally and does not think necessarily understands the options/choices this board can make in light of the legality they have to work under."



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Mr. Digman said, "Where does it end...can they put move billboards in Billboard Alley and can the other boards be electrified later on too." Mr. Reilly said, "300' on an unrestricted highway."

Chairman Doyle said, "As Mr. Reilly has explained and I have tried to explain, there are not a lot of options for us here to do that and what we are trying to do is have Lang Media go through the application process with the State and work with them. The board is not saying – we think this is o.k. and think there are some concerns with this and are not DOT safety experts and consequently will not make that decision."

Chairman Doyle asked if the board was in agreement. The board is in agreement. Mr. Maher thanked Mr. Reilly for the respect.

Mr. VanVorst stated there are billboard in that area long before there were houses in Beacon Hill and corn growing in those fields and hay being cut. The billboards there today are far different than the billboards that were there 40 or 50 years ago and so we are not comparing apples to apples.

Application tabled.

**STEWART'S SHOP #253, 170 Church Ave., Ballston Spa, NY 12020; 216.56-1-10 (Site Plan Review, Special Use Permit) Demolish old store and build new with self-serve gas pumps.**  
Chris Potter was present on behalf of Stewart's Shops.

Mr. Potter stated many changes have been made plan since the last meeting in May 2015.

The blacktop areas have been adjusted and increased green space by 2% and now up to 15%.

The freestanding sign has changed to a low monument sign with the stone on the bottom to tie into the building and reduced the square footage from 62 sq. ft. to 35 sq. ft. Remove one building sign on the side of the building and now only building sign is on the front.

The width of the driveway onto Martin Avenue was reduced from 30' to 25'.

The fence along Martin Avenue increased in height from 6' to 8' and added an additional 14' to extend it towards the driveway on Martin Ave to better screen the entire back of the building.

Arborvitae trees were added to help screen the back fence.

Reconfigured some of the sidewalks on Church Avenue and added stamped concrete between the curb and the sidewalk -- the sidewalk shifts a little closer to the road will allow the street

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trees closer to Route 50 into the lot so they would not be in conflict with plows and vehicles. Additional plantings added along that area of street trees (flowers and shrubs) throughout the frontage of the site.

Lights have been adjusted and moved on the building and reconfigured some pole lights to turn them to reduce light spillage off the site. Some of the fixtures will decrease the amount of LED light that are in the fixture and provide a back shielding on all the pole lights to direct all the light out into the lot versus behind it. There is still some minor spillage out to the lights in the entryways because of the pole lights that are next to the entrances coming in and out of the site - zero foot-candles by the time you get to the center of the road.

Three dry wells have been added and disconnected gutters on the building and gutters on gas canopy will all go into drywells and stay onsite.

Additional landscaping has been added on the north side along the patio area.

The applicant proposes to tie into the sewer system.

Additional windows were added to the front and side of the building.

Additional moldings were added to the gable ends.

Multi-layer crown molding has been added to the porch entrances.

Dormers were added to the front of the building and the back of the building to break up the roof line and help tie in with the neighborhood.

A peak roof has been added to the canopy to tie in with the building.

Stone has been added around the base of the columns.

Mr. DiPasquale stated it looks very nice, but his major concern is the parking (23 spaces including the gas pumps.) How many parking spaces are there currently? Mr. Potter stated 21. Mr. DiPasquale stated he has been there numerous times and there is not sufficient parking.

Ms. Serra stated the applicant gave examples of several newer Stewart's in the area with the average parking ratio was 1 space per 162 sq. ft. which is 42% less than the town's parking requirements resulting in 25 spaces at this site. Ms. Serra asked is it possible to add two more spaces to be more in line with the information provided for similar stores.

Mr. Potter stated parallel spots along the south side of the building.

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Mr. Cwalinski stated that he is unhappy that the applicant is not complying with the town's design standards. The town has spent a lot of time and money to develop those so the town could have a uniform look and were not getting it. Mr. Cwalinski asked, "Why can't you build a smaller store to comply with our parking and maybe get rid of the gas pumps and move the store up front." Mr. Cwalinski stated the applicant did not even attempt to submit a plan that meet the town's design requirements.

Mr. Cwalinski stated there are plenty of Stewart's without gas pumps (Exit 10 and Schenectady County) and they seem to survive and appear to be smaller than what is proposed.

Mr. Potter said, "If we lost the gas pumps and obviously we have gas there today, we would keep the store the way it is." Mr. Potter stated we are definitely not going to go backwards from where we are today and understands the concern. The building design being towards the back and understands the design standards is towards the front would not allow Stewart's to keep the store open and lay employees off for a duration of 10 to 12 weeks during construction until the new store is built.

Mr. VanVorst stated that is good justification if the board had a narrative to explain.

Ms. Serra stated that C. T. Male provided a significant narrative going through each of the architectural elements that are required by the design standards and felt the overall design generally met the spirit of these standards, however there were two or three that were not in the spirit of the design standards one of which was related to roof detailing. The architect did provide a very straight forward way to comply and not to disagree with some board members, but the recent change to the gas canopy roof is actually less in conformance with the design standards than it was before – the design standards want less roof line visible. Ms. Serra suggested dressing up the blank wall on the south side as it is rather visible from Martin Avenue – architect gave the applicant economical options to dress up that wall.

Ms. Serra thanked the applicant for making some changes as a result of the comment letter from July 2015.

Mr. DiPasquale stated the changes are a major improvement from what's there currently and more of an asset to the area. Mr. DiPasquale feels it's a transition area and feels if you don't have the shingles, will not have the broken up roof line. Ms. Serra stated there are architectural standards and recommendations, but is classified as a standard and have to try to make everyone conform and in cases where we feel it's necessary, give that applicant a specific waiver for specific reasons.

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Chairman Doyle agrees with Mr. DiPasquale as he drives along the Village of Ballston Spa and looks at the asphalt shingles, dormers and additional trim and thinks it matches the community. Chairman Doyle stated it does not meet all the design standards, but if you read the design standards finds that it has varying types of design within our town and what has been done in the past is adopt a design that fits the area in which the building is located.

Ms. Serra asked if the board would be amendable to letting the peak roof presentation go forward and the south side of the building to be left as is or dressed up. The board agrees with the peak roof. Mr. DiPasquale asked what was suggested for the south side. Ms. Serra stated the architect recommended using cement board panels to break up that wall. Mr. Potter stated that Stewart's does not like fake windows because it essentially makes the store looked closed and would be open to the idea of doing something to make a window on that side to break it up.

Ms. Serra asked if the improvements that were made to the lighting in response to the most recent comment letter because there is still light spillage over every property line, which is not consistent with the town code. Mr. Potter stated it was in response to the previous comment letter. Ms. Serra stated the light spillage is not insignificant there was light spillage to the south on and across of at least half of Thomas Avenue (the plan is cut off and does not know how far it goes across the street). Ms. Serra stated that in the past, have expected other applicants to have zero or extremely close to zero illumination at the property line and hope the applicant could come up with something more code compliant. Ms. Serra a very direct cut off shield was used at the Eastline Road and NYS Route 67 location. Mr. Potter stated this would be a very similar to that. Mr. Potter stated the pole lights have 60 LED's per fixture and could look at reducing that number – all 60 LED have a shield on them that pushes the light toward the front. Ms. Serra is more concerned of the three sides of the building that are buffering the neighbors and least compliant on the entrance to Thomas Avenue and very close to Martin Avenue and make some changes there. Mr. Potter stated one instead of two and leaving the one closer to the store there.

Chairman Doyle stated the sign does not quite meet the design standards – 35 sq. ft. proposed – 32 sq. ft. town requirements (4' x 8'). Chairman Doyle stated the town requires 3' for sign height. There is a concern the sign does not get buried in the snow, but will clear the snow around the sign due to the location of the sign. Chairman Doyle stated the sign does not specially meet the town's requirements; 3' too large in diameter and 10" too low.

Chairman Doyle asked the board if they were in agreement with the proposed sign (35 sq. ft.). The Board is in agreement with the proposed sign.

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Ms. Serra asked about deliveries. Mr. Potter stated that all Stewart's deliveries will be made on the loading dock – removable railing and ramps come out of the trucks and set directly on top of the loading dock.

Mr. Johnson asked where the equipment will be staged when building the new store. Mr. Potter stated essentially during construction the entrance to Martin Avenue will be no longer for customers and will only be able to use Thomas Avenue and Church Avenue. Mr. Potter stated the duration on construction will typically be longer because it cannot be done in parallel and needs to be done in series because of the size of the site and feel there is enough room in the back and the south side to make it work. Ms. Serra asked if there would be a time where there would not be a gas pumps there. Mr. Potter stated yes for approximately six weeks; gas pumps will not be moved until the existing store is removed and the new store is built.

Chairman Doyle said, "A lady called and left a message and has not had time to call her back as he stopped making phone calls at 9:30 p.m. and had been at work all day and wanted to apologize."

Chairman Doyle opened the public hearing at 8:59 p.m.

**Alex Sherman**, owner All Tech, 168 Church Ave stated he has no problem with the changes with the middle barrier between us. If all the greenery goes up, all the residual snow from Stewart's especially when it melts, all the water goes back towards their building as it's graded toward the south and creates more of a plowing problem. Mr. Sherman stated that his survey and the survey that he received from Stewart's have different measurements (a difference of approximately 2'). Mr. Sherman stated he has the original survey from 1992. Mr. Potter stated their survey was within the last year. The surveyor tied into the monumentation found from Dunkin Donuts and used the deed from their parcel to determine their width to determine Stewart's property lines.

Mr. Sherman stated there is to be a massive problem with snow removal and parking (would eliminate all their parking on the north side of the property).

A further discussion was held on parking.

Mr. Reilly stated if these improvements are on Stewart's lot, it really should not impact your property.

Mr. Sherman asked if the board would make an exception to move the greenspace barrier between the properties would give Stewart's more parking in the back.

Mr. Ramsey stated that is something that should be worked out with Stewart's.

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Ms. Serra asked if Mr. Sherman is currently using Stewart's property for your access. Mr. Sherman said, "It's not that were using, but yes and no – it makes it easier for both us and them to maneuver for snow and parking."

Mr. Reilly said, "If they could work something out and the board certainly has the power to bury the greenspace requirements if you feel there is a good reason to do so."

Chairman Doyle stated the code states there is a paragraph on shared parking. Ms. Serra said and cross access.

Mr. Reilly recommends that the property owners can talk and present it to the board.

Ms. Serra stated that Stewart's is modifying the grading and draining plan to two catch basins and drywell systems to help with the current issue they have.

Mr. Potter stated Stewart's would entertain a possibility of eliminating the greenspace if the board would agree.

Chairman Doyle asked the board about losing the greenspace. Mr. Cwalinski said, "Let them talk and make a presentation to us and thinks there may be some advantages."

**Lisa Speidel, 11 Martin Avenue** stated this hearing was closed and the application was withdrawn on the last agenda it said, "Applicant withdrawn application" and stated that is misleading to a lot of people. Chairman Doyle said, "It was a misunderstanding and have talked and the words will be fixed."

Ms. Speidel stated when looking at that picture from Martin Avenue is not a good rendering. Ms. Speidel stated her mother's house is located right behind the building. The trees shown on the rendering are gorgeous, but not existent and asked how long they will take to grow that tall. The home right behind the building will have to look at this building and the dumpster. Ms. Speidel stated we already have dumpsters which come on different days, times and sometimes two three times a day and we are hearing it and is does not smell nice in the summertime. Ms. Speidel stated she wants Stewart's and likes them and shops there, but is asking them to work with the residents and understands they want to build at the same time and keep the store open so people don't lose their jobs. Ms. Speidel stated people get laid off every day and was laid off for two years and learned to live with it and there are other stores they can be employed at. Ms. Speidel stated keep some of the greenspace – this is long term for Thomas Avenue and Martin Avenue. Ms. Speidel stated the snow removal is going on Martin Avenue. Ms. Speidel said, "There is not enough parking and said this is what they do at Dunkin Donuts when there is no parking on Martin Avenue – town truck park on Martin Avenue

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to get coffee - this is a regular occurrence. Chairman Doyle said, "Another problem is probably the town truck cannot make the radius of the loop around." Ms. Speidel said, "We only have one entrance now on Church Ave – took two out and have one people are using; it's a driveway not an entrance or exit and semi-trucks are using Martin Avenue – it's not o.k. for the residents who live there – it's not safe. Ms. Speidel stated she has a concern for the sign on the corner of Thomas Ave and Church Avenue.

A resident of Thomas Avenue has a concern when the snow plow goes by it dumps everything in the yard and wondered where it's going to go – dump it in the neighbor's yard. Chairman Doyle stated they cannot put the snow on your property and does think there is enough room on the property for the vehicles to maneuver and will be destroying a good neighborhood. A traffic light should be installed at the corner of Thomas Avenue and Church Avenue and have an accident there every two weeks.

**Karen Jones, 7 Martin Avenue** stated she cannot believe the board would allow Stewart's to build a building behind the current Stewart's and have it so close to my property. Currently Stewart's, All Tech, Coseos and even Dunkin Donuts are all in line of the back of the building and cannot believe you would let them come further towards Martin Avenue. Chairman Doyle said there are a front, side and rear setback and have to conform. Ms. Jones asked what that is. Mr. Johnson stated the setback is zero. Chairman Doyle stated that is for the particular district. Ms. Jones said, "You all have a decision on whether they can do that right."

Mr. Reilly said, "This is what I was talking about very similar to Wal-Mart. This board sits there month after month and hears people tell them what they can do, what they should do – they have to follow the zoning. To answer your question is no – they can't make them necessarily move the building if they meet zoning – that's the Planning process. Ms. Jones said, "The store has been there for years, why do they have to bring it back and resign it that way it is on that picture." Mr. Reilly said that is a different question – this board has to work with the zoning as it is – you can't say this is zero lot line and were going to make you – if they meet zoning, this board has very little power to say no you can't do that.

Chairman Doyle said, "Stewart's could make the decision of laying off people, tearing down the store, building a new store and that's their decision – it's their land and zoning allows them to do that.

**Dennis Pokrzywka** said, "These engineers and planners have put a lot of time and money into these beautiful presentations – do you guys know what the town council has planned for displaying here because as an audience it would be great to have some of these images up there for everyone to see – where does that sit and thought we (the town) spent some money to get AV equipment – you can take your phone and hook it up with a cable (eighth graders

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know how to do it) and splash it up on the screen and would facilitate better conversation perhaps even keep meetings shorter.”

Chairman Doyle adjourned public comment for this meeting at 9:25 p.m.

Chairman Doyle listed the board’s concerns

Board agrees with overall design

Discussing with the neighbors

Shared parking

Increasing the number of spaces to at least 25

Revise the lighting plan – no spillage at the property line

Address other minor comments on drainage

Dress up the south façade

Board agrees to the sign – 3 sq. ft. larger

Mr. Potter said, “The board is alright with reducing the amount of greenspace. Chairman Doyle stated if it’s advantageous for your parking and snow removal. Mr. Potter stated the snow would be hauled off site.

Application tabled.

**NEW BUSINESS:**

**James Maynard, 9 Hickory Grove Lane, Ballston Lake, NY 12019; 249.10-2-27 (Site Plan Review – Construct a 60’ x 75’ storage structure.** Duane Rabideau, PLS with VanGuilder and Associates and James Maynard were present.

The applicant is proposing to construct a 60’ x 75’ storage structure to store his 18 cars. There is an existing driveway onto the parcel and will be used to minimize streetscape disturbances. Proposed is a small parking area with a turn-around. The overhead doors proposed to face north. Mr. Rabideau said there are no plans for a well or septic. Roof gutters proposed so the rain water will be directed into the dry walls (installed on four corners of the building). Mr. Rabideau stated that as much vegetation will remain for buffering and limits any surface runoff. Mr. Rabideau stated C. T. Male comments were addressed.

Mr. Rabideau stated there is a list of neighbors in favor on the proposal (see attached).

Mr. Cwalinski stated automotive fluids will be stored consistent structure; small quantities of gas and oil – no wholesale storage of gas. Mr. Maynard stated no and has a flammable cabinet for storage.



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A further discussion was held on the size and height of the proposed storage structure.

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

**MOTION:** Mr. Cwalinski made a motion to approve the 60' x 75' storage structure on Hickory Grove Lane as described on the map Lands of Maynard 249.10-2-27 dated, July 21, 2015. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

**Brett Homburger, 169 Charlton Road, Ballston Spa, NY 12020; 238.-2-59.11 (Minor Subdivision – one residential lot.**

Brett Homburger stated he proposes to subdivide one lot out of the approximate nine acres to construct a single-family home; all lots meet current zoning.

A further discussion was held on the well and septic system location for the current parcel.

Chairman Doyle asked that the well and septic location be added to final map.

Chairman Doyle opened the public hearing at 9:45 p.m.

Jim Folmsbee, 174 Charlton Road has a concern over existing well water – if we keep subdividing and adding more homes, all the existing wells will dry up. Mr. Folmsbee stated he has a concern with drainage and runoff.

A further discussion was held on setbacks in the rural district.

**MOTION:** Mr. Cwalinski motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. Ramsey 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.**

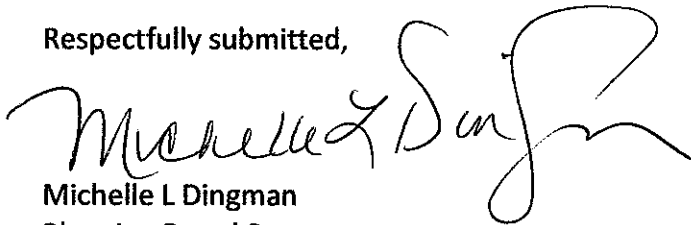
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**MOTION:** Mr. VanVorst made a motion for the subdivision of Lands of Brett Homburger on map dated, March 27, 2015 with the revisions to adding well and septic on Lot 1.2 and Park & Rec Fees (\$1,000 per lot payable at issuance of building permit). Mr. Ramsey seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanVorst made a motion to adjourn. Mr. DiPasquale seconded the motion and All Board members voted in favor. **CARRIED.**

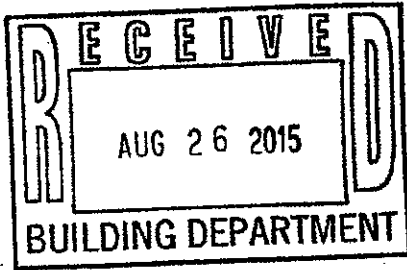
Meeting adjourned at 9:51 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle L. Dingman". The signature is written in a cursive style with a large, looping initial "M".

Michelle L Dingman  
Planning Board Secretary

Enc.



August 26, 2015

Town of Ballston Planning Board,

We are not able to attend  
the Public Hearing concerning  
the Site Plan Review for the  
Stewarts Shop # 253.

Our main concern is the  
current septic system on  
the property. We would like  
to make sure you are aware  
of the storm water drainage  
contamination on Thomas  
Ave. through the years  
caused by the high water  
table & old septic systems.  
Until this spring, Stewarts  
had been hooked into the  
sewer system from the village

Legante  
19 Thomas Ave  
Ballston Spa, NY 12020

and we do not feel it would  
be a hardship for them <sup>(stewarts)</sup>  
to rehook into one of the  
3 nearby sewer lines, one  
on each end on Thomas  
Ave or the County sewer  
on Rt 50. The town  
should keep moving forward  
with our infrastructure +  
I hope the planning board  
will make the necessary  
requirements to assure stewarts  
will be a pleasant addition  
to our neighborhood + the  
town.

Very truly yours,  
Theresa Segrante

James Segrante

8/3/15

I/we understand that James Maynard is looking to erect a pole barn/garage on his vacant lot on Hickory Grove Lane and the ace in favor of it

Name	address	signature
Jim McGuire	20 Hickory Grove Ln	<i>Jim McGuire</i>
Justin Spade	13 Hickory Grove Ln.	<i>Justin Spade</i>
Rick Collette	22 Hickory Grove Ln	<i>Rick Collette</i>
Gary and Louise Shayne	18 HICKORY GROVE LANE	<i>Gary L. Shayne</i>
Mary Radey <del>Patricia</del>	16 Hickory Grove Lane	<i>Mary Radey</i>
DAVID M NIGRINY	14 HICKORY GROVE LN	<i>David M Nigriny</i>
Janet Musella	14 Hickory Grove Lane	<i>Janet Musella</i>
Jeff Taintor	14 Hickory Grove Ln. Ballston Lake	<i>Jeff Taintor</i>

