

Town of Ballston  
Zoning Board of Appeals

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting: September 2, 2015**

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

Vice Chair Bell called the September 2, 2015 meeting at 7:30 p.m. and led the Pledge of Allegiance.

Minor grammar corrections.

**MOTION:** Ms. Kane made a motion to accept the August 6, 2015 minutes as amended. Ms. Brown seconded the motion. Mr. Russell (recused) and Mr. Merchant (recused) were not present at the August 6, 2015 meeting. **CARRIED.**

**NEW BUSINESS:**

**John McGann, 84 Connolly Road, Ballston Lake, NY 12019; 138-11.1 (Area Variance 138-11.1 and 280A Relief (Construct new single-family dwelling).** John and Suzette McGann were present.

Ms. Bell read the applicant's narrative.

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To: TOWN OF BALLSTON  
RE: APPLICATION TO ZONING BOARD OF APPEALS  
Date: August 12, 2015  
From: John and Suzette McGann

Please accept this application related to our building of a new house at 84 Connolly Road Ballston Lake. We purchased this land a few years ago so that we could build a vacation home that could better accommodate our family vacations. The approximate size of the house will be 40 wide by 30 and it will basically sit on the footprint of the original house. From what we understand we will need to get the following approvals to move forward with this project:

1. Setback variance from Connolly Rd. (60' required) Zoning Board of Appeals
2. Lot width variance (100' provided, 175' required) Zoning Board of Appeals
3. 280A relief Zoning Board of Appeals
4. Site Plan Review for land disturbance exceeding 1000 square feet in the Ballston Lake Waterfront District Planning Board (Note: Records show the sewage disposal system was replaced in 2008, the Planning Board will probably require a review for adequacy of the system.)

We really appreciate your taking the time to review and please let us know if you think there is anything else we need or have any questions for us.

Sincerely

John and Suzette McGann  
917-612-2738

Ms. Kane asked who maintains the road. Mr. McGann stated two local people plow and maintain the road. Mr. McGann stated he has an agreement and does contribute towards plowing and maintenance.

Ms. Kane asked if the applicants have received permission to cross Powers Lane. Ms. McGann stated no and understands that is being worked on. Ms. Kane said, "The granting of the variance would be contingent on that happening."

Mr. Russell asked if the existing structure will be removed. Mr. McGann stated yes and it's being used as a camp.

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Mr. Russell asked would the footprint be changing. Ms. McGann stated the drawing provided is approximately 40' x 30'.

A further discussion was held on the proposed footprint.

Mr. Russell asked the location of the leach field. Ms. McGann stated it's located on the west side of the property.

A further discussion was held on setbacks.

Ms. Brown asked, "How many feet do you need." Mr. Johnson stated a 29' front yard setback.

Vice Chair Bell opened the public hearing at 7:42 p.m.

No one wished to speak.

Vice Chair Bell closed the public hearing at 7:43 p.m.

Mr. Russell read the five criteria for an area variance:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. No.
- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. No.
- 3) Whether the requested area variance is substantial. No.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. No.
- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. No.

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

Vice Chair Bell asked Mr. Reilly if the board so chooses to grant contingent approval, will that be after site plan review. Mr. Reilly said, "The way it was handled before was to grant 280A Relief

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and hold off on the variance request until such time as the site plan review is done just to make sure there are no changes in the location of house.” Mr. Reilly stated the board could grant the variance requested and if the house position has changed on the site plan (closer to the road), would have to return to the ZBA.

**MOTION:** Mr. Kane motioned to name The Town of Zoning Board of Appeals the Lead Agency in the SEQOR process. Mr. Russell seconded the motion and all present voted in favor.

**CARRIED.**

**MOTION:** Ms. Kane made a motion for 280A Relief at 84 Connolly Road contingent upon receiving access to Powers Lane. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. Russell made a motion to grant a zoning variance as requested pursuant to §138-11.1 for 84 Connolly Road SBL #239.14-1-4 for a width variance of 75', front setback variance of 29' for construction of a replacement single-family dwelling. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**Morgan Bush, 225 Zepko Lane, Ballston Spa, NY 12020; 216.14-1-5 (Area Variance 138-10.1) Construct shed.**

Morgan Bush was present.

Vice Chair Bell read the applicants narrative.

**The goal of this project is to utilize the existing slab to build a garage with a small addition towards the back of the property. The existing width of the slab would remain, with another 8' 6" added in length. Proposed garage would be used as a sound deadened personal music rehearsal room and also for storage. This structure may be better defined as an accessory structure rather than a garage, due to there being no vehicles or flammable materials to be stored inside.**

Mr. Merchant asked if bands will be rehearsing in the proposed garage. Mr. Bush stated no – the garage will be totally sound proof.

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Mr. Long asked if there will be any commercial use. Mr. Bush stated no. Mr. Long asked if it will be a recording studio. Mr. Bush stated no.

Ms. Brown asked the applicant if he is proposing to building on the existing slab. Mr. Bush stated yes. Ms. Brown asked when that garage or structure was removed from the site. Mr. Bush stated when he bought the home in 2008. Ms. Brown asked the condition of the concrete Mr. Bush stated good and there are no cracks – it's solid.

Mr. Johnson stated the applicant has a stamped set of plans from an Architect.

Mr. Russell asked if the applicant has spoken to the neighbors. Mr. Bush stated yes, and provided signatures of the neighbors to the ZBA Secretary.

Mr. Mertzluft asked, "Are there sleeping quarters." Mr. Bush stated no.

Vice Chair Bell opened the public hearing at 7:58 p.m.

No one wished to speak.

Vice Chair Bell closed the public hearing at 7:59 p.m.

A further discussion was held on the width of the proposed structure relative to the eaves.

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

Ms. Brown read the five criteria for an area variance:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance. No.
- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. No.
- 3) Whether the requested area variance is substantial. No.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. No.

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- 5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board of appeals, but shall not necessarily preclude the granting of the area variance. Yes, self-created.

**MOTION:** Mr. Russell made a motion to grant a variance for 225 Zepko Lane Pursuant to §138.10.1 SBL #216.14-1-5 for a lot width of 45', side yard setback of 5.25' and lot area variance of 23,447 sq. ft. for the construction of a 20' x 28' garage (excluding the overhangs) with the stipulation of no commercial use, no living quarters or sleeping quarters. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**Walter and Margaret Katz, 20 White Beach Road, Ballston Lake, NY 12019; 239.-1-21.2 (280A Relief) Create two new residential building lots.)** Duane Rabideau, PLS with VanGuilder and Associates and Jeff Katz were present.

Vice Chair Bell read the applicant's narrative.

## **Narrative**

**To:** Town of Ballston Zoning Board of Appeals  
**From:** Walter and Margaret Katz  
**Date:** 8/19/2015  
**Re:** 280-A Relief

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I currently have a 280-A exemption for my 25.1 acre property on 20 White Beach Road, in Ballston Lake. I am currently in the process of subdividing the 25.1 acre parcel into three parcels (1 - 12.1 acre parcel, and 2 - 6.5 acre parcels). I am requesting a 280-A variance for each of the parcels.

Vice Chair Bell stated the original property back in 1993 did go through the same 280A zoning variance review. Vice Chair Bell stated that Mr. Katz came before the board February 6, 2013 for the first subdivision of the 12.1 acre lot. Vice Chair Bell said the applicant is considering the additional two 6 ½ acre lots for 280A Relief.

Mr. Rabideau distributed a map of the proposed area.

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Mr. Rabideau stated the overall total outside of the parcel is 29.1 acre. In 2013 the applicants were granted a two-lot subdivision and created a 4 acre parcel for the existing house (Katz residence). Mr. Rabideau stated the applicant is proposing to subdivide lots 1, 2 and 3 totaling 25.1 acre. In 2013 the applicants received 280A Relief and now propose to subdivide the larger parcel into two more lots.

Mr. Merchant asked how many homes are planned to be built. Mr. Katz said, "There are plans for two homes and not plans for a third home yet."

Ms. Kane asked who maintains the road. Mr. Katz stated Walter Katz and Herb Jackson.

Ms. Brown asked if the same stipulations can be used from 1993.

1. One single-family residence on the property only.
2. Provide and maintain a NYS authorized edge of pavement road signs.  
(Markers were erected by the culvert)
3. Widen the road to 15'
4. Widen intersection at access road to accommodate large emergency vehicles.
5. Provide turn-around that is large enough for emergency vehicle.
6. Snow removal at 4".
7. 15' minimum width of road – fills holes and generally maintain road.

Mr. Johnson stated the first one would not apply.

One single-family residence on each property.

Vice Chair Bell stated the intersection is already big enough for the access road to accommodate vehicles.

Mr. Long asked if all these contingencies apply to White Beach Road. Vice Chair Bell stated that White Beach Road 50' east of the rail road tracks is now public and maintained by the town. As you cross the tracks, it turns into Glenridge Rd. on paper.

Mr. Long stated that contingences 2 through 7 only apply to the private road. Vice Chair Bell stated yes because that's all 280A is addressing (private roads).

Mr. Johnson stated the stipulations do not apply to all the properties because every time there is a 280A Relief granted, there are different contingencies attached to that particular lot.

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Mr. Russell stated stipulation #5 to provide a turn-around that is large enough for emergency vehicle. Mr. Russell asked if that should be a stipulation – number of times along the road or at a location at each house. Mr. Johnson stated the applicant has to go to the Planning Board for subdivision and the Planning Board will probably put a stipulation for a pull-off every 500' to meet the town code. Mr. Russell said, "We don't have to specify that here." Mr. Johnson said the Planning Board will specify that.

Vice Chair Bell asked if the Planning Board would stipulate that there is only one residence per parcel. Mr. Johnson stated yes. Mr. Johnson stated the applicant will have to submit a site plan or subdivision map showing the proposed residence – one residence per parcel.

Vice Chair opened the public hearing at 8:22 p.m.

**Dennis Pokrzywka**, Town of Ballston Emergency Management Committee Chairman. Mr. Pokrzywka stated after speaking to the applicants were very cooperative about the ingress/egress helping resolve the issue with the railroad closure on Saunders Lane and allowing an easement. Mr. Pokrzywka advocates for the approval of the 280A Relief.

Vice Chair Bell closed the public hearing at 8:24 p.m.

**MOTION:** Mr. Mertzlufft motioned to name The Town of Ballston Zoning Board of Appeals the Lead Agency in the SEQR process. Kane seconded the motion and all present voted in favor. **CARRIED.**

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

**MOTION:** Ms. Kane made a motion to grant 280A Relief for proposed Lot #2 and proposed #3 with the stipulation that the road be a minimum of 15', provide turn-around for emergency vehicles, general maintenance of the road and provide and maintain authorized edge of pavement road signs as needed. Mr. Merchant seconded the motion and all present voted in favor. **CARRIED.**

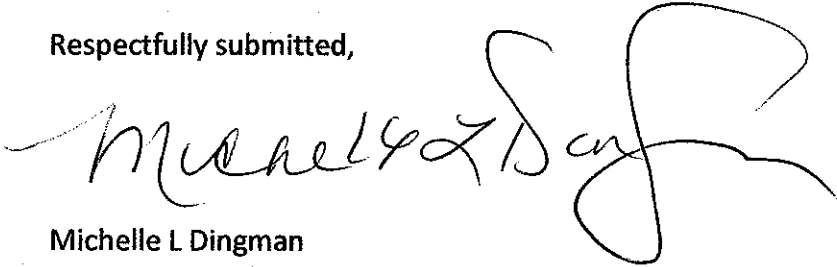


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**MOTION:** Ms. Kane made a motion to adjourn. Mr. Russell seconded the motion. **CARRIED.**

Meeting adjourned at 8:50 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle L. Dingman". The signature is fluid and cursive, with a large loop at the end of the last name.


Michelle L Dingman  
Zoning Board of Appeals Secretary

Enclosures

The goal of this project is to utilize the existing slab to build a garage with a small addition towards the back of the property. The existing width of the slab will remain with another 8'6" added in length. Proposed garage would be used as a personal music rehearsal room and also for storage. This structure may be better defined as an accessory structure rather than a garage, due to there being no vehicles or flammable materials to be stored inside.

I have spoken with Morgan Bush and understand his plans mentioned above.

Signed: \_\_\_\_\_

  
Stephen Geizer  
179 Church Ave  
Ballston Spa, NY, 12020

The goal of this project is to utilize the existing slab to build a garage with a small addition towards the back of the property. The existing width of the slab will remain with another 8'6" added in length. Proposed garage would be used as a personal music rehearsal room and also for storage. This structure may be better defined as an accessory structure rather than a garage, due to there being no vehicles or flammable materials to be stored inside.

I have spoken with Morgan Bush and understand his plans mentioned above.

Signed: Patricia Hildsley 8-31-15

181 Church ave

Ballston Spa, 12020