

Town of Ballston  
Zoning Board of Appeals

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting: September 7, 2016**

**ATTENDEES:** Michael Lesniak, Chairman  
Marilyn Bell, Vice Chair  
Robin Kane  
Stephen Merchant  
Dan Mertzluft  
Daniel Russell  
Tim Long, 1<sup>st</sup> Alternate  
Thomas Johnson, Building Inspector  
Peter Reilly, Attorney  
Members of the General Public

Absent: Ellen Brown

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

Chairman Lesniak asked for corrections to August 3, 2016 minutes. Page 4 "Ms. Bell asked is the 50' to the roof overhang of the garage – building itself. Mr. Johnson stated it's actually to the overhang and need to one foot to the variance." Strike 50', change to "5'", strike and need to one, change to "add"

**MOTION:** Mr. Russell made a motion to accept August 3, 2016 minutes as amended. Ms. Kane seconded the motion and all present voted in favor, Chairman Lesniak abstained; was not present at August 3, 2016 meeting. **CARRIED.**

No old business.

**NEW BUSINESS:**

**Vincent Speenburgh**

**49 Fruitwood Drive; 248.18-1-28**

**Area Variance/pursuant to §138-8.1 for the construction of a 10' x 14' shed.**

Chairman Lesniak read the applicants narrative (see attached)

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Mr. Speenburgh asked why the variance is needed; it adheres to the setbacks, but not the area. Chairman Lesniak stated an area variance of 40,000 square feet is needed; applicant has 19,602 square feet – an area variance of 20,398 square feet is proposed. A required lot width is 150'; applicant has 123', a 27' lot width variance is needed and meets other required setbacks and also because the proposed shed is larger than 120 square feet. Mr. Speenburgh stated anything over the 120 square feet would have to meet that area of 40,000 square feet. Mr. Johnson stated that any freestanding structure of 120 square feet needs to meet the required setbacks.

Ms. Bell asked the applicant if there will be living quarters, storage of hazardous materials, manufacturing or commercial operations anticipated. Mr. Speenburgh stated no.

Mr. Russell asked if business will be conducted out the shed. Mr. Speenburgh stated no.

Chairman Lesniak opened the public hearing at 7:42 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:43 p.m.

Mr. Merchant read the 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 method, feasible for the applicant to pursue, other than an area variance; No.
- 3) Whether the requested area variance is substantial; Yes.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood 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. C) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, satiety and welfare of the community. Yes.

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

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**MOTION:** Mr. Merchant made a motion for the area variance for Vincent Speenburgh at 49 Fruitwood Drive for an area variance of 20,398 square feet, lot width variance of 27' pursuant to §138-8.1 of the Town of Ballston Zoning Law to construct a 10' x 14' shed with the following stipulations: no business, no hazardous materials storage and no living quarters. Mr. Long seconded the motion and all present voted in favor. **CARRIED.**

**Thomas Quenelle**

**4 Kingsbridge Court; 239.11-1-18**

**Area Variance/Side & Rear Set Back/pursuant to §138-21.2 for the construction of a 12' x 16' shed.**

Chairman Lesniak read the applicants narrative (see attached)

Mr. Quenelle stated he did not know how specific on what the shed would be used for, but essentially the same as the previous applicant. Chairman Lesniak stated the board has to go over that, if not leave ourselves open for something.

Mr. Long stated there was a discrepancy between the letter and the map. The letter asks for a 9' side yard setback instead of 12', but the map shows 8'. The rear yard setback the letter asks for 11' and the map shows 10'. Mr. Quenelle stated after speaking with Mr. Johnson suggested taking the eaves into consideration.

Ms. Bell asked if there will be living quarters, hazardous materials storage or commercial business operations. Mr. Quenelle stated no.

Mr. Russell asked if there was a well or septic system on the property. Mr. Quenelle stated that he has municipal water and sewer. Mr. Russell asked if the lines are available in the front, side or back of the house. Mr. Quenelle stated he believes in the front of the house. Mr. Russell asked if there will be an impact with the location of the shed. Mr. Quenelle stated no.

Chairman Lesniak opened the public hearing at 7:50 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:51 p.m.

Ms. Bell stated according to the one drawing, the back property line goes back against a storm water management area and there will not be a neighbor to the back of the property. Mr. Quenelle stated correct and it's fenced off all the way around.

Mr. Russell read the criteria for an area variance:

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- 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 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. C) The board of appeals, in the granting of area variances, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, satiety and welfare of the community. Yes.

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

**MOTION:** Ms. Bell made a motion to grant a variance for 4 Kingsbridge Court pursuant to §138-21.2 of the Town of Ballston Zoning Law for the construction of a 12' x 16' shed and a side yard variance of 4' and a rear yard variance of 5' with the following stipulations: no hazardous materials, living quarters or businesses to be occupied in the shed. Ms. Kane seconded the motion and all present voted in favor.  
**CARRIED.**

**David Little & Susan DeSimone**  
**Westside Drive; 257.12-2-5.11, 6, 7, 8**  
**Area Variance/pursuant to §138-11.1 for two new dwellings.**

Chairman Lesniak read the applicants narrative (see attached)

Ms. DeSimone presented.

Ms. DeSimone stated we understand that there are zoning requirements from the Zoning Law to protect the visual environment, protect water quality and to reduce the risk of flooding.

Chairman Lesniak stated right now, we (the board) do not need to get into that

Chairman Lesniak stated for clarity there are four lots totaling 51,930 square feet, which is non-conforming by today's standards; 80,000 square feet is required or to build one home, 160,000 square

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feet is required to build two homes.. Chairman Lesniak stated that the request is to take a non-forming lot and put two more non-conforming lots on that parcel – it's going to be a stiff thing to do.

Mr. Merchant stated the lot is not in conformance to begin with and is too small. Ms. DeSimone stated there is enough space for compliant septic systems even though they are not as large as the town would like and are constrained because there is not much lake property and the tax maps show the average lot widths on Westside Drive with municipal water are 70' (neighbors) and 80' next to the neighbors and two 65' lots put together; the average going up the lake is 100' – there are hardly any lots that meet the 175' required. It seems almost unachievable. Chairman Lesniak stated that it is unachievable and a lot of the places around that lake wither existed before zoning. Chairman Lesniak states that Note #2 on the existing map states "No livable structures shall be erected on the premises and the premises shall not be used for commercial, manufacturing or business purposes as per deed reference #4." Chairman Lesniak stated that presently there are four little individual lots and cannot do much with them. Mr. Little stated that only applies to one of the lots and the deed it states "no livable structure" and has a dollar amount.

Mr. Long is concerned with the health of the lake and one of the reasons the zoning requires 80,000 square feet lot size is so the eco structure of the lake is not burdened or overburdened and realize that all those houses were built before that requirement existed but today's requirement exists to protect the lake. Ms. DeSimone stated if this could be addressed with design practices with engineered septic system and future connection to the sewer system and care about erosion and sediment control plan during construction and keeping the vegetation at the water's edge and keeping trees in place. Ms. DeSimone stated very minimal impervious surface proposed. Mr. Long stated this property is graded so that everything runs downhill to the lake. Ms. DeSimone stated we could try to capture with vegetation at the lakes edge and capture the phosphates. Mr. Long asked how you (the applicant) propose to capture phosphates. Ms. DeSimone stated that vegetation is sort of a natural help and do not propose to adjust the shoreline in any major way; would not be concrete – something natural and having to bring the fill in for the floodplain, could have additional storm water capture and do what's necessary to protect the lake.

Chairman Lesniak stating even though the board looks at things on an individual case basis, and if the board allows all these non-conforming lots, where do you draw the line on what size if ok and what is not. Ms. DeSimone stated that Mr. Carney on Westside Drive is building a new home and his parcel is 100' (.83 acres) and Mr. Ross constructed a home in 2014. Mr. Merchant asked if Mr. Carney was tearing down the existing home and building a new home. Chairman Lesniak stated that Mr. Carney has an existing lot. Chairman Lesniak stated that the board would not stop you (the applicant) and not have grounds to stop you from building one home. Mr. Mertzluft stated on a combined lot. Chairman Lesniak stated that every lot has to be buildable and cannot have someone paying taxes on the land and not be able to do anything with it.

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Mr. Russell asked if there is expansion capability to for the proposed septic systems. Ms. DeSimone stated yes, the expansion capability and the minimum distances; Surveyor did not show the expansion.

Ms. DeSimone asked if there were any changes that could help and return to the board. Chairman Lesniak stated as far as the two building lots cannot see how.

Chairman Lesniak opened the public hearing at 8:17 p.m.

Chairman Lesniak read the Paul Simpson's, resident of Westside Drive into the record "At your public hearing on Wednesday 7, 2016 concerning the variance request presented by David Little and Susan DeSimone, my only comment would be that I hope the Zoning Board of appeals adheres to the rules in place at this time. I believe the lot under consideration is a nonconforming lot with respect to building a residence. It is my understanding that the applicants wish to create two (2) non-conforming lots and build two homes on the new lots with a common driveway. The ZBA must vote to deny this application. The existing regulations require you to do so."

Chairman Lesniak opened the public hearing at 8:17 p.m.

Chairman Lesniak asked the applicant is they want to table this application. The applicants stated yes.

**Peter Herman, 104 Westside Drive** stated non-conforming is non-conforming. A few years ago his neighbors wanted build a home on the west side of Westside Drive. The reason the board turned them down is because they were taking one lot and turning it into two non-conforming lots and the board stood up and denied the proposal. The proposal does not come close to meeting the towns zoning that is established.

Chairman Lesniak agrees with Dr. Herman.

**Lynn Prentice, 52 Westside Drive** and agrees with Mr. Simpson.

Applicant's to table application.

Mr. Little stated if they decide to down grade this to one home, what the process is. Chairman Lesniak stated the applicant will have to do the same thing, however and if you (the applicants) were to go down to one lot, "unless the board found a super reason not to, you would not be denied one building. Mr. Little asked what the reasons would be to deny in that case. Mr. Mertzluft stated there are five criteria that have been read a couple times tonight; those are the criteria in which we (the board) would have to look through.

A further discussion was held on several properties that are non-conforming.

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Mr. Johnson stated the applicants would need to come in with a lot size on the map showing it's one lot so the variance could be considering granting of that one lot on that size. The applicant's to return with a map showing one proposed lot.

The applicant asked before all that effort it put into the proposed one (1) lot, is everyone going to come and oppose it.

Mr. Long stated it looks like you (the applicant) can. Mr. Johnson stated assuming they can sit a septic system on the proposed lot.

Mr. Simpson has no objection to one (1) lot.

Chairman Lesniak stated if you are paying taxes on it should be able to build on it. Mr. Johnson stated assuming you can fit a septic system on the proposed lot.

Lynn Prentice asked if there were wetlands on that property. Ms. DeSimone stated no. One lot does make a big difference and will impact us and our neighbors, but has no objection.

The applicant's to provide a revised application and revised map. There will be no fee. This application will go under old business, which makes you (the applicant) first on the agenda. The submission deadline is two weeks Wednesday prior to the next ZBA meeting.

**MOTION:** Ms. Bell made a motion to table the application. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

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

Meeting adjourned at 8:26 p.m.

Respectfully submitted,



Michelle L Dingman

Zoning Board of Appeals Secretary

Ballston Town Hall  
323 Charlton Road  
Ballston Spa, NY 12020

August 23, 2016

Vincent Speenburgh  
49 Fruitwood Drive  
Burnt Hills, NY 12027

For the attention of Town of Ballston, Zoning Board of Appeals

Dear Town of Ballston Zoning Board of Appeals,

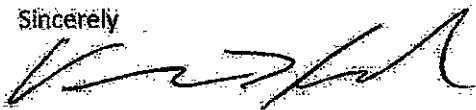
I am writing to request a variance to the Zoning Law, specifically section 138-8.1. I would like to place a shed on my property (Tax Map No [SBL] 248.18-1-28) in zoning district Hamlet Residential. The shed I would like to place on my property will be 14'x10' (140 square feet). This shed will not be an immovable structure and will adhere to the required setbacks.

I plan to have a shed of 14'x10' in effort to have safe and adequate storage space for lawn equipment (riding mower), snow removal equipment (snow blower), lawn and garden tools (weed whacker, shovels, wheel barrow, clippers, and more), and my kids outdoor toys. I have a 1 car garage that doesn't even have the capacity to store all these supplies. I currently use the garage space to store as much as possible. This prevents me from using this space to keep my vehicle(s) covered from the weather elements. Furthermore, the inability to have sufficient storage space results in the alternative of items left outside in the yard or in the back of my home. This is neither aesthetically pleasing nor safe.

In conclusion, I would greatly appreciate the Zoning Board's approval of my request for variance supported by the facts I've provided. This will allow me sufficient and safe storage for outdoor equipment and allow me to use my 1 car garage for parking my vehicle. It will also allow me to keep my lawn free of such clutter as described above. The approval is for a shed with an additional 20 square feet over the 120 square feet threshold, which no permit is needed.

I appreciate the Zoning Board taking the time to review my request for a variance to the zoning law, 138-8.1. I look forward to hearing the decision on my request.

Sincerely



Vincent Speenburgh



To whom it may concern:

I Thomas Quenelle and my wife Rebecca Quenelle, are requesting a variance to the town code because of the limitations of where we are able to place our shed. We are looking to place our shed in the back right side of our property. We are proposing that instead of having the shed 16 feet from the fence in our back yard, we would like to have it 11 feet away. We are also proposing that instead of having our shed 12 feet from the property line, we would like to have it 9 feet away. The reasoning for this request is that next year we will be installing an in ground pool. Because of the grade of our back yard, we are limited on where we would be able to place the in ground pool. If our request is not granted, there will not be enough room between the shed and our deck to place our pool, which would be a great disappointment to us as being homeowners in the Town of Ballston. We appreciate your time and consideration and are very hopeful that you will be able to grant our request.

Sincerely,

Thomas and Rebecca Quenelle

**NARRATIVE**

**Attachment to Application to Zoning Board of Appeals**

**Town of Ballston**

**From: David Little**

My wife Susan and I live at 66 Westside Drive in Ballston Lake. We also own vacant property on Westside Drive that extends from Westside to the shoreline of Ballston Lake.

This property has been in our family for more than 50 years. It was purchased by my parents, John and Beverly Little of 31 Westside Drive, Ballston Lake, and then given to us when they passed away. We would now like to give it to our children so they can each build their homes.

The property is all of the land located between the addresses of 52 and 60 Westside Drive. It consists of four lots which total 51,930 sf. We would like to make lot line adjustments to split the property into two building lots.

We are requesting a variance because the Minimum Lot Area and Minimum Lot Width for the two lots cannot be achieved. All other criteria shown on Town Code Zoning 138 Attachment 7 can be met.

There is city water on Westside Drive. Sewer is planned to be constructed on Westside Drive in the near future.

The intent is to begin construction of one home on the lot to the north (Lot A) in the spring of 2017. It would have a New York State and Town Standards compliant septic system and city water. The approximate size of this lot would be 23,112 sf. Its minimum width would be approximately 100 feet.

Construction on the second lot (Lot B) would not begin until sewers are available so that it could be connected. It would have city water. However, should sewer construction be delayed, the site plan shows a septic system that would be constructed with the house. The approximate size of this lot would be 28,818 sf. Its minimum width would be approximately 120 feet at its west end and 75 feet where the home would be constructed.

Zoning 138 Attachment 7 requires the Maximum Building Coverage to be less than 30%. This requirement is easily met. However, the lots are irregular and since construction would occur on the portions of the lots nearest the Lake, this requirement will be applied to the smaller areas to minimize impact on the sites.

Most of the property is at an elevation well above the FEMA designated flood plain; however, a small area near the shoreline is below. We recently had the property surveyed with 2 foot contour elevations established in the portion of the property nearest the lake where the houses would be constructed. We consulted with Alton Knapp, of Knapp Associates, who met us on site.

**From:** tjohnson@townofballstonny.org

**Subject:** FW: for Zoning Board of appeals

**Date:** Today at 10:49 AM

**To:** dingman.michelle@yahoo.com, preilly52@gmail.com, drussell6@nycap.rr.com, daniel.j.mertzlufft@gmail.com, drbpe@prodigy.net, Saddleduck@earthlink.net saddleduck@earthlink.net, mlesniak@nycap.rr.com, Rkane56@nycap.rr.com, RKANE56@NYCAP.RR.COM, farmersway@aol.com, tlong1@earthlink.net Tlong1@earthlink.net

**Cc:** Debora Bradt dbradt@townofballstonny.org

FYI

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**From:** Carol Gumienny

**Sent:** Tuesday, September 06, 2016 8:48 AM

**To:** Mike Lesniak

**Cc:** Thomas Johnson

**Subject:** FW: for Zoning Board of appeals

FYI>>>>>>>>>>

Carol A. Gumienny  
Town Clerk  
Town of Ballston  
323 Charlton Road  
Ballston Spa, NY 12020  
885-8502 ext. 10

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**From:** Paul Simpson [<mailto:enercony@earthlink.net>]

**Sent:** Monday, September 05, 2016 1:37 PM

**To:** Carol Gumienny

**Subject:** for Zoning Board of appeals

At your public hearing on Wednesday 7,2016 concerning the variance request presented by David Little and Susan Desimone, my only comment would be that I hope the Zoning Board of appeals adheres to the rules in place at this time. I believe the lot under consideration is a nonconforming lot with respect to building a residence. It is my understanding that the applicants wish to create two (2) non conforming lots and build two homes on the new lots with a common driveway. The ZBA must vote to deny this application. The existing regulations require you to do so.

Town Resident