

**TOWN OF BALLSTON  
PLANNING BOARD**

**Monthly Meeting: January 18, 2017**

Present: Jeffrey Cwalinski, Chairman  
John VanVorst, Vice Chair  
James DiPasquale  
Patrick Maher  
Audeliz Matias  
Daniel Shorey  
Kim Kotkoskie, Storm Water Management Officer  
Peter Reilly, Esq.  
Kathryn Serra, P.E.  
Members of the General Public

ABSENT: James Fischer

Chairman Cwalinski called the January 18, 2017 meeting to order at 7:30 p.m. and led the Pledge of Allegiance. Chairman Cwalinski reviewed the agenda.

Chairman Cwalinski asked for corrections to the December 21, 2016 meeting minutes.

Page 1 add "James DiPasquale"

**MOTION:** Mr. Maher made a motion to accept the December 21, 2016 minutes as amended. Mr. VanVorst seconded the motion and all present voted in favor. **CARRIED.**

**OLD BUSINESS**

**Marc Desrosiers**

**Eastline Road; 239.-2-4.151**

**Major Subdivision – 57 lots proposed**

Jason Dell, P.E., with Lansing Engineering was present on behalf of the applicant.

The parcel consists of approximately 54.3 acres located on the west side of Eastline Road north of the Chapel Hill Subdivision zoned Ballston Lake Residential. The proposal will create 55

single-family lots and all the lots will conform to the Ballston Lake Residential zoning requirements.

20,000 square feet minimum lot size

120' minimum lot width

60' front yard setback

The lots on the plan shown in red exceed the 120' lot width; applicant proposing 150' lot width.

The applicant is proposing a 30' deeded "no cut" buffer.

A curb cut on Eastline Road for access to the site and two connections made to Stonebridge and Chapel Hill.

The site will be served by municipal water and sanitary sewer and storm water management will be managed on site in accordance with all local and NYSDEC requirements.

The applicant received a comment letter from C. T. Male and feels all comments were technical in nature and is revising the plans per the comment letter.

The revision on the plan was the request to remove the two circles on the proposed plan per Mr. Whalen, Highway Superintendent.

The applicant is also proposing to revise the grade for this cul-de-sac and lifting it up to send the storm water by the piping around which will alleviate the cross easements.

A request was made to reduce the storm water basins to what is required per the permit.

Mr. Dell stated that notes will be required on the plan that all construction traffic is going to come off of Eastline Road not Chapel Hill or Stonebridge.

Ms. Serra stated connections to the two subdivisions will be done on paper streets.

Mr. VanVorst asked if the two storm water management ponds could be moved as they are on property lines. Mr. Dell stated the storm water management ponds are located in the lower points of the site and discharge by gravity.

Chairman Cwalinski opened the public hearing at 7:40 p.m.

Femke Peters, 2 Chapel Hill Blvd has a concern for sprawling a constant building of new homes in the town asked if the Town has done a study to support the continuous building of homes. Chairman Cwalinski stated he did not know of any study. Mr. Reilly stated that it is not the Towns' function to perform a study of whether the home would be purchased or not and if it complies with zoning, the homes can be built. Chairman Cwalinski stated bottom line that is the home builder's responsibility to determine if there is a demand for the product.

Scott Draina, 10 Outlet Road stated this project is in an Ag District and does not believe that it has been removed from the Ag District yet and does not know how any approvals can go any further before it's removed from the Ag District. Ms. Serra stated the applicant needs to provide the information required on the Environment Assessment Form (EAF). Chairman Cwalinski stated that will be taken care of.

Mr. Reilly stated unlike other projects that were presented that necessitated an extension of a water district; that's not the case here; it's in the water district.

Chairman Cwalinski adjourned the public hearing for tonight's meeting at 7:46 p.m.

Application tabled.

**Eagleton, LLC**

**1 Charlton Road; 239.-1-47**

**Special Use Permit – two flex space buildings totaling 15,000 sq. ft.**

Jason Dell, P.E., with Lansing Engineering was present on behalf of the applicant.

Mr. Dell stated he was before the boards last month and there were a couple of conditions on the approval. The Storm Water Agreement and was submitted to Ms. Kotkoskie this evening signed by the applicant and a technical sign off from C. T. Male, which has been received.

No comments from board members.

Mr. Cwalinski opened the public hearing at 8:47 p.m.

No one wished to speak.

Mr. Cwalinski closed the public hearing at 8:48 p.m.

Mr. Maher read through the four (4) criteria for a special use permit.

- 1) The use shall be 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. The board concurred there were no issues.
- 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. The board concurred there were no issues.
- 3) The location and height of the 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. The board concurred there were no issues.
- 4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. The board concurred there were no issues.

**MOTION:** Mr. VanVorst made a motion to approve the Special Use Permit for Eagleton, LLC Micro-Flex Space Site Plan. Ms. Matias seconded the motion and all present voted in favor.

**CARRIED.**

**Nick Paravalos**  
**800 NYS Route 50; 257.14-1-45**  
**Special Use Permit/Site Plan Review**

Kurt Bedore, PE with KB Engineering was present on behalf of the applicant.

The applicant is petitioning the board for a Special Use Permit and Site Plan Review for a change in tenancy and use on the southern third of the 2.5 acre parcel in the Mixed Use Center South Zoning District.

The applicant is proposing a used auto sales venture in that open space area entitled M&L Used Auto and is internet based in nature. The tenants Mark McLenithan and Laura Garrison are longtime residents of Burnt Hills and now reside in Malta. Mr. McLenithan has been in the auto business for over 30 years and has done the market analysis for the area and has worked out a three year lease with Mr. Paravlos.

### **Signage**

Signage – renderings will be distributed to the board of their proposed signage for the venture. The ground mounted sign will meet the Town’s setbacks of 35’ from centerline and 15’ from edge of pavement. There will be no banners or streamers.

Office Building – 12x’28’ located 30’ south of its current location with an attachment on the back of the office building with an ADA accessible uni-sex restroom.

### **Hours of Operation**

Hours of operation would be Monday through Friday 9:00 a.m. to 4:00 p.m.; one employee manning the office. The applicant is envisioning four to five customers per day, but this is subject to market demand and feel would be very negligible for traffic impacts and certainly outside the peak AM and PM traffic hours.

### **Utilities**

The applicant is proposing to use the existing utilities off of the building; running underground electric to building, underground water service and on-site septic system.

### **Lighting**

The applicant is proposing to light the retail area with the same wall pack lighting used on the existing mixed use retail building which includes the Burnt Hills Café, music store, nail salon and barber shop. There will be no pole lighting and a video camera will be installed for security.

### Landscaping

The applicant is proposing two Arborvitaes on each end of the office building.

### Parking

The applicant proposes to remove two of the existing parking spaces along the street and make those green and add street trees in keeping with the Comprehensive Plan. He would lose two spaces there and another existing space in front of the building for striped access for handi-cap accessible. The surficial nature of the parcel is not being changed other than adding that building which is only 2 percent impervious. The total disturbance is well under an acre and the drainage would stay the same. There are currently provisions for 87 parking spaces. The original approval for the overall site was for 67 parking spaces and overall the final product we are proposing is 127 parking spaces. Currently that parking strip is underutilized and plowed and paved to the north, with well-maintained crusher run to the south.

The applicant is proposing a five year venture and starts out with five cars and if this venture flies, envisions 15 to 20 vehicles. There will be no vehicle maintenance on site, nor any car washing, noise or odors.

A further discussion was held on the number of cars proposed at the site.

The applicant, Mr. McLenithan agreed to a maximum of 15 vehicles at the site. The vehicles will be parked between spaces 96 through 112.

Mr. Bedore stated when sewers come into the town in that area it will change the demand of what the use structure is currently.

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

Mike Hale, 1057 Ballston Lake Road stated he is the Chair of the BPA Visioning Committee. Mr. Hale stated a project something like this, with the discussion topics had, and the projection of the development of a Mixed Use Town Center would be completely inconsistent. Mr. Hale stated that when sewers are installed in that area, it will change the use structure of that area including this parcel. Mr. Hale stated any improvements to the streetscape/landscape would

be a big improvement. Mr. Hale asked if the board could review the SUP in three years. Mr. Reilly asked if the applicant would agree to a five year termination of the renewal of a special use permit. Mr. Paravalos was in agreement.

Chairman Cwalinski closed the public hearing at 8:32 p.m.

Chairman Cwalinski went through the stipulations for the SUP for the project.

15 cars max

Parked in the spaces on drawing numbered 96 through 110, 111 (handi-cap space for the customer) to 112.

No vehicle maintenance. No car washing.

Five year termination subject to approval by the Planning Board.

Sign setbacks 35' from centerline and 15' from edge of pavement.

Eight (8) deleted parking spaces in the rear of the building (plan edit).

**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.**

Mr. Maher read through the four (4) criteria for a special use permit.

- 1) The use shall be 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. The board concurred there were no issues.
  
- 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. The board concurred there were no issues.

- 3) The location and height of the 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. The board concurred there were no issues.
- 4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. The board concurred there were no issues.

A further discussion was held on the proposed setback of the building. The applicant agreed to comply with a 70' setback, which meets zoning requirements.

**MOTION:** Mr. Maher made a motion for the Site Plan as detailed on drawing C-101 dated January 4, 2017 be approved and the applicant with comply with the 70' setback. Ms. Serra stated there is a distraction for an additional 20' at an intersection in areas with possible expansions by NYSDOT. Mr. VanVorst seconded the motion and all present voted in favor.

**CARRIED.**

**MOTION:** Mr. VanVorst made a motion to approve the Special Use Permit for M&L Used Autos at 800 Route 50 with the following stipulations:

15 vehicles maximum.

No vehicle washing.

No vehicle maintenance.

Five year termination.

No advertising of any sort other than the signage.

No banners or streamers.

Setbacks for signage (35' from center line of road and 15' from edge of pavement) (plan edit).

Location of parking to be in spaces 96-112.

Eliminate parking spaces 123 through 127.

Eliminate eight (8) parking spaces in the back.

Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

**Zaremba Group (CVS)**



**120 Lakehill Road, Burnt Hills, NY 12027; SBL #257.-1-46.1**  
**Lot Line Adjustment / Site Plan Review / Special Use Permit / New 13255 sf Retail**

Stephanie Bitter, Esq., BARTLETT, PONTIFF, STEWART & RHODES, P.C., John Wojtila, Zaremba Group, Pat Mitchell, VHB and Mark Nadolny, CME were present.

Ms. Bitters stated hopefully they can answer any outstanding questions this board may have to obtain final approval for this project.

The applicant was last in front of the Board in October 2016 and had mentioned that corporate was talking about reducing the size of the proposed building and since have gone back to corporate and realized that the customer base in this community requires the building to stay 13,255 square feet. The project access will be full on Lakehill Road and an easement over the Fire district property to have a right-in, right out on NYS Route 50. The Fire District has executed a mandatory agreement, which was subject to a mandatory referendum, which was passed in September 2016 by the members of the community.

There are three approvals being sought this evening:

Lot Line Adjustment – Olde Homestead Property is 4.6 acres – Fire District property is .73 acres. CVS is proposing to have the CVS property be 2.11 acres and the Fire District be 3.26 acres.

Special Use Permit for the drive-thru pharmacy use and do believe in reviewing the criteria from §138-94 that it meets all of those requirements. The development of this parcel, which has been vacant for many years, will obviously be in harmony with the development and vision that this community has for the Town Center. It will not be a hazardous use for traffic. Creighton Manning has been involved in this project in the beginning since January 2016. Creighton Manning did a Traffic Study which was reviewed by BFJ and NYSDOT and NYSDOT's agreement with CME's assessment developed that this would not be a hazardous condition. The design will not impair property values. The pharmacy will be an asset to the community it not only serves families with young children, the elderly and those who are ill and have an immune system and should not allow them to enter a retail store.

**Waivers:**

Setback greater than 70'.

Row of parking in the front is not all singular.

Not putting all parking to the side and rear.

Number of parking spaces is not deemed what is necessary for this type of use.

Landscaping is proposed and a decorative fence will help to mitigate any visual impacts.

Awning is canvas.

The overall square footage has been reduced on the signage, however part of the Towns' guidelines are a number of signs and should be deemed sufficient. (one freestanding, one directional, two canopy and three wall signs).

The applicant was in receipt of C. T. Male's comment letter and is in a position to sign-off on the project. A Negative Declaration was received on August 10, 2016 and the County has provided its positive recommendation.

Mr. VanVorst asked about the septic system for the restaurant. Mr. Mitchell stated it's not in existence. The restaurant had a sand filter septic system that had a permit from NYSDEC to discharge into the stream, which has been dismantled and that permit is no longer in existence. The septic system has been removed.

Mr. Reilly asked for a copy of the Development Agreement. Mr. Wojtila stated that they are working on the exhibits to the Development Agreement, but the Fire District Board has approved it and the referendum occurred. Once the exhibits are finalized, then the Development Agreement between the Burnt Hills Fire District and CVS will be executed and will be provided to the town.

A further discussion was held on the one free standing sign; 150 sf is allowed.

Mr. DiPasquale asked who owns the sidewalks and who is responsible for snow removal and maintenance. Mr. Wojtila stated Lake Hill Road would be the County and NYS Route 50 would be the State. Mr. Johnson stated that NYS DOT will not maintain the sidewalks. Ms. Serra stated there is a Town Law that states the adjacent owner must plow the snow. Ms. Serra stated that snow removal to be the responsibility of CVS.

Mr. DiPasquale asked about who will be responsible for the lights. Ms. Bitters stated when talking about lights, there was a discussion that a lighting district would be proposed and the maintenance falls on the town. Ms. Serra stated the streetlights on Lakehill Road are on private property and three street lights on NYS Route 50 and would be the responsibility of the Fire

Department. Mr. Wojtila stated that the Fire District does not want to maintain those light poles. The applicant assumed there was a lighting district and maintenance and power would be maintained by that lighting district.

Ms. Serra asked the board if they want to the "Town Square" lighting fixtures as recommended by the Visioning Committee. The board is in agreement.

A further discussion was held on the existing lighting districts within the Town.

The applicant (CVS) agrees to maintain the light poles on NYS Route 50.

Mr. DiPasquale stated this is a great project and realizes the traffic from the existing CVS is going to go to this site and developed very nicely for the downtown. As a Planning Board they are concerned moving forward with future projects if the LOS (level of service) at that intersection is a (D) and as things keep moving forward it is not going to improve. As we review these projects we make provisions to do the best we can to improve the intersection. Mr. DiPasquale stated based on his experience during certain hours of the day LOS (level of service) is an (E) or and (F) with the school district traffic.

Chairman Cwalinski opened the public hearing at 8:45 p.m.

Alan Colyer asked if NYSDOT has formally signed off on the Traffic Study. Mr. Nadolny stated yes, NYSDOT is going through the details of the improvements and are on board with the curb cut on NYS Route 50 and has no additional comments.

Mike Hale, 1057 Ballston Lake Road stated here has been particular discussion on behalf of the Visioning Committee and the consultants have done a wonderful job for the request for changes and modifications for the design of the site. Mr. Hale stated there was an article in the Daily Gazette today regarding a recent approval for a CVS in Scotia. The applicant has done some modifications to the building; roofscape and façade (more glass than originally intended). There was a request that CVS do a design study that would explore the option of meeting the standards of the Town Center Plan. The fence in front will be a benefit and greenspace will be a benefit. The exterior is possibly still in the ROW.

Kurt Bedore, 89 Kingsbury Road has been retained by the Fire District and complimented the consulting team. Mr. Bedore stated what caught his attention this evening was the operation

and maintenance of the three street lights along NYS Route 50. This should not fall back on the Fire District if CVS were to vacate the site either to the Lighting District to the town and would want that in writing and kind of contingency in the future would not fall on the Fire District.

Les Bonesteel, Chairman of Fire Commissioners stated the agreement has not been officially signed by the board yet and if the board approves the project, we will sign the agreement. We have been working closely with their legal counsel and CVS to reach an agreement. Mr. Bonesteel agrees with Mr. Bedore about the lighting and do not want to own, maintain or pay for it.

Kathy Knight asked about the right-in/right-out for the project. Ms. Bitters explained the right-in/right-out for the project.

JoAnn DeVoe, 198 Westside Drive has a concern for the trees on the property and should be taken into consideration.

Chairman Cwalinski closed the public hearing at 9:20 p.m.

Ms. Bitters stated that CVS agrees to the lighting on NYS Route and will incorporate into the Development Plan. Mr. Reilly asked that a final copy be forwarded to the board.

Chairman Cwalinski and Mr. Maher read the Resolution for CVS DEVELOPMENT/ZAREMBA GROUP PROJECT.

**RESOLUTION**  
**TOWN OF BALLSTON PLANNING BOARD**

PROJECT NAME: CVS DEVELOPMENT/ ZAREMBA GROUP  
PROJECT  
PROJECT LOCATION: 120 LAKE HILL ROAD AND A PORTION OF  
811 NYS ROUTE 50  
SEQR TYPE: UNLISTED  
APPLICATION: LOT LINE ADJUSTMENT/ SPECIAL USE  
PERMIT/ SITE PLAN APPROVAL

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The Town of Ballston Planning Board (“Planning Board”) hereby makes the following resolution:

**WHEREAS**, pursuant to the Town of Ballston Zoning Code (the “Zoning Code”), the Planning Board has a duty to review, among other things, applications for Site Plans, Special Use Permits, and Lot Line Adjustments; and

**WHEREAS**, this review includes an assessment of such applications’ compatibility with the Town of Ballston Zoning Regulations, the Town of Ballston Comprehensive Plan, and the neighborhood’s character; and

**WHEREAS**, pursuant to Zoning Code Section 138-107, the Planning Board is vested with the authority to approve site plans, impose certain conditions on said site plan approval, require the site plan’s modification or reject the site plan outright; and

**WHEREAS**, pursuant to Zoning Code Section 104-27, the Planning Board is vested with the authority to approve or disapprove any Lot Line Adjustments; and

**WHEREAS**, pursuant to Zoning Code Section 138-94, the Planning Board is empowered to issue special use permits so long as it acts in accordance with the provisions of said Section and § 274-b of the Town Law; and

**WHEREAS**, the Zaremba Group/ CVS Pharmacy (the “Applicant”) submitted in January of 2016 a Site Plan Application and a Lot Line Adjustment application to the Planning Board together with both a Full Environmental Assessment Form (“EAF”) and a Short Environmental Assessment Form seeking

such relief for a CVS development project located at 120 Lakehill Road in the Town of Ballston; and

**WHEREAS**, the Applicant supplemented its submission with a formal application for a Special Use Permit on October 12, 2016; and

**WHEREAS**, the overall project area for the development includes two tax map parcels in the Town of Ballston, County of Saratoga, State of New York, tax map parcel 257.10-1-46.1 and 257.10-1-54 which the two parcels collectively represent 5.37 acres; and

**WHEREAS**, the project is located in the Mixed Used Center South Zoning District; and

**WHEREAS**, the project consists of the development of a 13,225 square foot CVS Pharmacy with associated Drive Thru on a 2.11 +/- acre parcel at 120 Lake Hill Road in the Town of Ballston. The current parcel of 120 Lake Hill Road is 4.6 acres in size. The "project" includes a boundary line adjustment with the adjacent lands, 811 NYS Route 50, which will result in 120 Lake Hill Road being 2.11 acres in size and 811 NYS Route 50 being 3.26 acres in size. The Applicant is also seeking an easement to NYS Route 50 from the adjacent land owner, 811 NYS Route 50/ Burnt Hills Fire District. In addition, a Special Use Permit is being requested so that a drive thru can be incorporated in the Project since it is only permitted in the Mixed Use Center South Zoning District with a special use permit. All of which is being presented as part of this Project. (the "Project");

**WHEREAS**, the Applicant submitted the following materials in support of its Site Plan, Lot Line Adjustment and Special Use Permit applications as listed below:

- Site Plan Application
- Project Narrative
- Special Use Permit Application and supporting arguments
- Lot Line Adjustment Application
- Town of Ballston Code Section 138-05 Checklist
- CVS Pharmacy submitted updated materials dated January 4, 2017
- Project Narrative Cover letter of Stefanie DiLallo Bitter, Project Attorney dated January 4, 2017
- Project Aerial

- Site Plan depicting Boundary Line Adjustment
- June 8, 2016 correspondence with NYS DEC Region 5 from VHB; Joint Application Form; Emails from Beth Magee, NYS DEC indicating modification request to obtain the NYS DEC support; May 11, 2016 letter from NYS DEC supporting Planning Board's request to be lead agency.
- CVS Landscaping Plan
- Colored Exterior Building Elevations/Rendered View of Proposed CVS building
- March 30, 2016 letter from Ruth Pierpont of New York State Parks, Recreation, and Historic Preservation
- February 24, 2016 letter from Jed Hayden, Wildlife Biologist of New York State Department of Environmental Conservation
- Engineering Site Plans dated January 4, 2017
- Existing Conditions Plan
- Layout and Materials Plan
- Grading and Drainage Plan
- Erosion Control Plan
- Utilities Plan
- Septic Details
- ALTA/ACSM Land Title Survey
- January 7, 2016 Traffic Assessment prepared by Creighton Manning Engineers
- Review Memo of BFJ Planning Dated March 10, 2016; March 30, 2016 response letter of Creighton Manning to BFJ Planning's March 10, 2016 Comments; April 5, 2016 BFJ Planning Memo supporting Creighton Manning's Findings
- June 1, 2016 letter from NYS DOT supporting Creighton Manning's findings, indicating that the Fire District has provided authorization for the submission.
- June 28, 2016 letter from NYS DOT indicating that they have no objection to the proposed right in/right out onto NYS Route 50.
- June 13, 2016 letter by Creighton Manning to support need for the number of parking spaces proposed.
- Proposed Sign Package
- Test Pit Logs from Ransom Environmental along with transmittal letter to DEC dated 4/5/16

- Site Lighting Plan
- Notice of Incomplete Application: New York State Department of Environmental Conservation dated July 11, 2016.
- SWPPP
- Project Binder dated January 4, 2017

**WHEREAS**, on a number of occasions including February 25, 2016, March 30, 2016, April 27, 2016, June 29, 2016, July 27, 2016, and August 10, 2016, October 26, 2016, and January 18, 2017 the Applicant and its representatives presented the applications and reports to and/or discussed the Project and /or the pending Applications with the Planning Board; and

**WHEREAS**, the Planning Board retained the services of an expert engineering planning consultant, C.T. Male Associates (“CT Male”), to advise and assist the Planning Board with its review of the Project; and

**WHEREAS**, CT Male and its transportation subconsultant comprehensively reviewed the documentation in the record for the Project and issued comment letters dated February 19, 2016, March 24, 2016, June 27, 2016, July, 22, 2016, August 8, 2016, October 24, 2016, December 1, 2016, and January 16, 2017; and

**WHEREAS**, in response to each comment letter, the Applicant and its representatives provided a response and/or updated site plans and/or an updated SWPPP; and

**WHEREAS**, the Planning Board referred the applications to the Saratoga County Planning Board, under General Municipal Law Section 239-m, for its review and advise on such application; and

**WHEREAS**, the Planning Board has received and considered correspondence and comments from the public as outlined in their meeting minutes; and

**WHEREAS**, the Planning Board, acting as Lead Agency in a Coordinated Review pursuant to Article 8 of the New York State Environmental Conservation Law and the regulations promulgated thereunder and set forth at Title 6, Part 617 of the New York Codes, Rules and Regulations (collectively, the State



Environmental Quality Review Act), issued a Negative Declaration of Environmental Significance for the Project on August 10, 2016, which was filed with the Town Clerk on August \_\_, 2016; and

**WHEREAS**, the Planning Board has determined that the Applications do not raise any additional significant environmental impacts that were not previously addressed in its August 10, 2016 Negative Declaration, and;

**WHEREAS**, the Planning Board opened the public hearing on 6/25/2016 at the Town Hall of the Town of Ballston, 323 Charlton Road, Ballston, New York 12020, and closed the public hearing on 1-18-2017, and during which hearing all persons desiring to be heard were heard. **NOW, THEREFORE, BE IT RESOLVED**, on motion of member Patrick Maher, seconded by Vice Chair John VanVorst, and after due deliberation, and in consideration of the entire record, including, but not limited to, the consideration of the application, reports/studies, comments from the Planning Board's engineering consultant and sub-consultants and the responses from the Applicants' consultants, agency comments and public comments:

A. Pursuant to Zoning Code Section 104-27, that this Planning Board finds this application meets all of the requirements for a Lot Line Adjustment and approves the proposed Lot Line Adjustment, which specifically reduces the existing CVS Parcel, tax map parcel 257.10-1-46.1 from 4.6 acres to 2.11 acres and increases the Burnt Hills Fire District Parcel, tax map parcel 257.10-1-54 from .73 acres to 3.26 acres.

B Pursuant to Zoning Code Section 138-94, that this Planning Board in reviewing the required criteria find the following and grants the requested permanent Special Use Permit Application for the Drive –Thru Pharmacy Use for the CVS

(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 adjacent districts.

**RESPONSE: This Project will develop a lot that has been vacant for many years. This site has become the home of many temporary signs and this use will be a vast improvement to what has been occurring. The Project is supported by a Creighton Manning Traffic Report as well as a letter of support from the Department of Transportation. The Applicant is working with NYS DEC to address the wetland mitigation and buffering permit to insure that the wetlands are protected. The proposed storm water system will give both this parcel and the adjacent parcel controlled drainage, which currently doesn't exist. As a result, overall this Project will be in harmony with the existing character and not be detrimental to the orderly development of the area.**

(2) The location and size of the use, the nature and intensity of the operations 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.

**RESPONSE: Potential impacts to transportation in general and to local traffic in particular have been among the most already reviewed issues associated with the Project, due to the proposed easement across the Burnt Hills Fire District parcel to NYS Route 50 and the intersection already being a heavily traveled intersection in Town. As a result, a Traffic Assessment was completed early with the submission of this Project and the Planning Board hired its own Traffic Expert, BFJ Planning, to review the assessment and present questions and comments throughout the application process. NYS DOT already provided its support relative to the Project. All of which conclude that this proposed Project will not create a hazardous or inconvenient conflict to the existing traffic in the area.**

(3) The location and height of building, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

**RESPONSE: The Applicant has worked with the Planning Board to insure that the design of the building is what they envision this corner to become. The Project will include landscaping, a decorative fencing as well as a sidewalk to commence on this side of the street. Fencing along the Fire District parcel is also proposed.**

(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.

**RESPONSE: CVS has designed a building which will help compliment the area. The introduction of a drive-thru will help CVS to better serve all of the customers in the community. The new building will substantially improve the aesthetic of the area incorporating safeguards to promote public health, safety and welfare.**

B. This Project is located in the Mixed Used Center South Zoning District. Although this Project does meet the zoning criteria in this District, the following are not confirming to the Design Guidelines. As set by past precedent, the Planning Board is authorized to issue waivers from these Guidelines. As a result, the Planning Board finds that it is appropriate to and grants waivers to the following Guidelines:

1. **138-9.5(D)(2)(a) (2)** *On NYS Route 67 and 50, new buildings shall not exceed a setback of greater than seventy feet (70') from the highway right of way, except where a public plaza/entry plaza or outdoor use, outdoor restaurant or other activities are proposed, in which case the setback may be increased to provide room for these amenities. There shall be one row of parking allowed in front of a new building with a minimum of nine and a maximum of 18 parking spots located in the front of a building. All parking spots shall be ADA compliant.*

**Reasons for the Waiver:** Although the maximum front setback from Lakehill Road for this Project should be 70 feet, the Applicant is seeking a setback of 86. The hardship presented in this case is the number of parking spaces the Applicant requires for this Project and the limited width this parcel provides. Due to its limited width, this parcel does not allow

the Applicant to place all of its parking on the side of the Project. Nor would placing a majority of the parking in the rear be a feasible option due to the truck access restrictions. In an effort to mitigate this setback request, the Applicant has incorporated in the Project a decorative wall/fence and landscaping to be placed behind the proposed sidewalk along Lakehill. In addition the building along Lakehill Road cantilevers over the sidewalk to decrease the building setback from the road. These mitigation measures would lessen any negative impact that could be deemed to exist with the granting of this waiver.

2. **138-9.5(D)(4) (A)(1)** *There shall be one row of parking allowed in the front of a building with a minimum of nine spots and a maximum of 18 spots. All other parking to the rear of the building is preferred, if on - site parking is provided. All parking shall be ADA compliant.*

**Reasons for the Waiver:** Similar to the first waiver requested, the setback is being sought so that two rows of parking in the front can be maintained. As a result, the hardship is the same. The hardship is due to the width of the parcel not allowing for enough parking on the side of the building. Due to the service being provided, limiting this Project to only one row along the front is not a feasible option.

Due to the vast improvement this Project will be having on this currently vacant site, the mitigation measures of the decorative wall/fence and landscaping will be sufficient to minimize any negative impacts

3. **138-56(B) and (C)** *“The parking area required for the site is 1 per 100 s.f. of floor area. The store is 13, 225 s.f., pursuant to the retail requirements for parking in the Town Code the requirement for parking would be 132.”*

**Reasons for the Waiver:** As the Applicant has discussed at prior meetings, the 58 parking spaces being sought for the store is consistent with other stores in the area. Data was gathered by Creighton Manning in viewing the parking usage of other stores and at the March 30, 2016 meeting Mark Nadolny concluded and also articulated in his letter of June 13, 2016, that the parking provided would be sufficient for the geographic area it is serving.

4. **138-9.5(D)(16)(e)(I)** *Awning materials shall be constructed of canvas.*

**Reasons for the Waiver:** The awning materials that have been demonstrated throughout this Project's review is that of vinyl. CVS has found that vinyl can be better maintained than canvas. Due to its longevity this material will have a better appearance than canvas. The granting of this waiver should not result in any negative effect to the community.

5. **138-9.5D(11)** *Signage in the Mixed Use District (138-37E) Two principal business identification signs (i.e. one freestanding sign with a maximum of two display faces and one wall sign) may be displayed on the same lot as the business of which they are associated.*

**Reasons for the Waiver:** The signage package has been reduced in size due to the Planning Board's request. The deviation from the Code is minor, however, the visibility is important for access to the Store due to the site having access over the Fire District's land and this access point being a right in and right out only. This signage package will assist in having all access points utilized as efficiently as possible. As a result, the number of signs is deemed necessary for the Project.

C. Pursuant to 138-107, that this Planning Board approves the proposed site plan and hereby renders the following conditions with respect to CVS's request for site plan approval for the Project

The installation of three street lamps along NYS Route 50 to be installed on private property and to be maintained by the applicant.

Receive a copy of a fully executed Development Agreement between the applicant and the Burnt Hills Fire District.

Duly adopted this 18<sup>th</sup> day of January, 2017, by the following vote:

**MOTION:** Mr. Maher made a motion to approve the Resolution as amended. Mr. VanVorst seconded the motion.

**TOWN OF BALLSTON PLANNING BOARD**

	Yes	No	Abstain
Jeffrey Cwalinski, Chairman	X		
James DiPasquale, Member	X		
Patrick Maher, Member	X		
Audeliz Matias, Member	X		
James Fischer, Member	Absent		
John Van Vorst, Vice Chair	X		
Daniel Shorey, Member	X		

  
Hon Jeffrey Cwalinski, Chairman

**NEW BUSINESS:**

**Jane Woodward**

**81 Sweet Road; 239.-2-45.3**

**Minor Subdivision – 2-lots**

James White, PLS with Azimuth Surveyors was present on behalf of the applicant.

The applicant is proposing to subdivide the 16 acre parcel to create a 2.1 acre lot served by a private well producing 20 gallons a minute and an on-site septic system.

Mr. VanVorst stated page 4 of EAF “Land uses that occur that are adjoining or near the proposed action.” Mr. VanVorst stated that “Agriculture and Forest should be checked” and question number 9 there is no answer. Mr. White stated the answer is “No.”

The applicant to provide corrections to the map listing Eastline Road not Northline Road.

The applicant to provide the change in the zoning to Ballston Lake Residential District and Watershed Overlay Protection District on the map.

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

No one wished to speak.

Chairman Cwalinski closed the public hearing at 9:46 p.m.

**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. Ms. Matias seconded the motion and all present voted in favor. **CARRIED.**

**MOTON:** Mr. VanVorst made a motion to approve this subdivision “Lands of Wood” provided the corrections are made to the map listing Eastline Road instead of Northline Road, the corrections on the EAF, the change in the zoning to Ballston Lake Residential and Watershed



Overlay Protection District and Park and Rec fees of one thousand dollars payable at issuance of Building Permit. Mr. Maher seconded the motion and all present voted in favor. **CARRIED.**

**Denise Brennan**  
**200 & 202 Westside Drive; 249.13-1-16 & 249.13-1-9**  
**Lot Line Adjustment**

Kevin Weed with VanGuilder and Associates was present on behalf of the applicant.

The applicant proposes to take a 2,385 square foot portion of Lot 200 and annex it to Lot 202. The purpose is that these retaining walls that exist today are for the benefit of Lot 202. In December 2016, this proposal went before the Zoning Board of Appeals and all of the necessary variances for this Lot Line Adjustment were granted.

There were no questions from board members.

Chairman Cwalinski opened the public hearing at 9:48 p.m.

No one wished to speak.

Chairman Cwalinski closed the public hearing at 9:50 p.m.

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

**MOTION:** Mr. VanVorst made a motion to approve this Lot Line Adjustment between 200 and 202 Westside Drive as depicted on map 01-17-99J dated October 11, 2016. Mr. Maher 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.**

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Meeting adjourned at 9:52 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michelle L. Dingman". The signature is written in a cursive, flowing style.

Michelle L Dingman  
Planning Board Secretary