

Town of Ballston
Zoning Board of Appeals

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting: October 5, 2016

ATTENDEES: Michael Lesniak, Chairman
Marilyn Bell, Vice Chair
Ellen Brown
Robin Kane
Dan Mertzluft
Daniel Russell
Tim Long, 1st Alternate
Thomas Johnson, Building Inspector
Peter Reilly, Attorney
Members of the General Public

Absent: Stephen Merchant

Chairman Lesniak called the October 5, 2016 meeting at 7:30 p.m. and Ms. Kane led the Pledge of Allegiance.

Chairman Lesniak asked for corrections to September 7, 2016 minutes.

Page 2 first paragraph strike "variance", third paragraph strike "A" changes to "The" and under MOTION strike "motioned to declare" changes to "noted that" Page 3 fourth paragraph after "it not" add "we (the board)" Page 4 under MOTION, strike "motioned to declare" changes to "noted that" Page 5 first paragraph strike "non-forming" changes to "non-conforming" second paragraph strike "wither" fourth paragraph strike "if" changes to "is"

MOTION: Ms. Kane made a motion to accept September 7, 2016 minutes as amended. Mr. Long seconded the motion and all present voted in favor, Ms. Brown abstained, was not present at September 7, 2016 ZBA meeting. **CARRIED.**

No old business.

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NEW BUSINESS:

David Little & Susan DeSimone

Westside Drive, Ballston Lake, NY 12029; 257.12-2-5.11, 6, 7, 8

Area Variance/pursuant to §138-11.1 to allow a single-family dwelling

Chairman Lesniak stated based on the discussions from last month's meeting, the applicants proposed to take all four lots and turn it into two non-conforming lots (all lots are non-conforming). Chairman Lesniak stated that based on our discussions last month, would have had a tough time getting the two lots and returned to the board proposing a single lot - to make it one lot. Chairman Lesniak stated that an area variance is needed - not both an area variance and a lot width variance.

The parcel consists of 51,930 square feet – required in that zoning district is 80,000 square feet – a variance of 28,070 is required.

Chairman Lesniak read the applicants narrative (see attached).

David Little and Susan DeSimone presented.

Mr. Little stated he heard what some of the neighbors said at the last meeting having concerns about the right-of-ways and "wanted to make sure whatever the deed says, have always done whatever the deed say and have the right to use the right-of-ways as far as what is in the deed, have the right to use the right-of-way."

Chairman Lesniak stated at last month's meeting, there was a note (2) on the plan stating "No livable structures" - could the applicant explain note (2) to the board. Mr. Little stated he thinks one of the lot's would transfer from 4 Forest Park up-to-individual lots close to the road. No livable structure, commercial or manufacturing on upper lots for business purposes. The lot would be wooded as much as possible from the street.

Mr. Russell stated there is a proposed garage shown as a separate building on the plan. Mr. Russell asked if the applicant intends on conducting business out of the proposed garage. Mr. Little stated no. Mr. Russell stated if chemicals will be stored in the proposed garage. Mr. Little stated no, only standard household use is intended – vehicle and tools, nothing flammable.

Mr. Russell stated there is a note on the plan for (wood posts) – are those existing or going to be put there. Ms. DeSimone stated the posts exist.

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Mr. Russell stated there are no dimensions or locations for the septic field or the expansion field and the appropriate approvals for the size, shape and details are needed for the septic system. Mr. Little stated that we (the applicants) are aware of that. Ms. DeSimone stated that the proposed plan meets the requirements and do not have the dimensions shown on the drawing.

Ms. Bell asked if proposed garage will have living quarters. Mr. Little stated no. Ms. Bell stated that be made a stipulation as well.

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

Gary Prentice, 52 Westside Drive stated he is the adjacent property owner and he and his wife are in favor of this variance for the applicants to build one single-family dwelling.

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

Mr. Long went through 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 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. Long noted that this is a Type II action under the SEQRA process therefore exempt from further review.

MOTION: Ms. Bell made a motion for the property located between 50 and 62 Westside Drive (Survey Map 06-17-14C dated September 16, 2016 - SBL 257.12-2-5.11, 2-6, 2-7 and 2-8 pursuant to §138-11.1 of the Town of Ballston Zoning Law. A 28,070 square foot area variance be granted for the construction of a single-family dwelling with a detached garage (according to the drawing) with the following

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stipulations - no commercial business, no hazardous materials (other than normal personal consumption) and no living quarters be contained in the proposed garage. This will also require site plan review and all those conditions will also have to be met before a building permit is granted. Ms. Kane seconded the motion, Ms. Brown recused herself and all others present voted in favor. **CARRIED.**

Mr. Little asked for the clarification of SEQRA. Mr. Reilly stated it's the State Environmental Quality Review Act which searches for the review of action by a municipal board and exempt from this application, but when the applicant is in front of the Planning Board, there will be a SEQRA review.

Chairman Lesniak thanked the applicants for working with the board.

Michelle Montanye & Dan Hollenbeck
323 Moonlight Drive, Ballston Spa, New York 12020; 228.5-1-74
Area Variance pursuant to §138-8.1 for a 14' x 24' shed

Chairman Lesniak read the applicant's narrative (see attached)

Chairman Lesniak asked if the applicant had anything else to add. Ms. Montanye stated no, it's pretty straightforward.

Ms. Brown asked what the applicants plan on storing in the proposed shed. Mr. Hollenbeck stated he comes from a three bay garage and has collected stuff and lawnmowers. The home has a single bay garage and refinishes furniture on the side and would also use the proposed shed as a workshop.

Chairman Lesniak asked if 14' x 24' is a standard size shed. Mr. Hollenbeck stated yes; the shed is being built off-site.

Mr. Mertzlufft asked if hazardous materials will be stored in the proposed garage, no living quarters or any commercial business. Mr. Hollenbeck stated no.

Mr. Long stated the applicants refinishing business will not be a commercial business. Mr. Hollenbeck stated no. Mr. Long stated the refinishing of furniture will have no hazardous chemicals. Mr. Hollenbeck stated just varnish and strippers. Ms. Bell asked would it be more of a household consumption size container; not five gallon buckets or 50 gallon drums. Mr. Hollenbeck stated his stains and polys most of his stuff and it's your typical one gallon container. Mr. Long stated no container in order to dip any. Mr. Hollenbeck stated no.

Chairman Lesniak stated there is a "For Sale" sign on the property and asked if the applicant's own the property or if they are in the process of purchasing it. Ms. Montanye stated Friday at 1:00 p.m.

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Mr. Hollenbeck stated their current house has a three bay garage and this house has a one bay garage.

Ms. Brown asked if any trees will have to be removed. Mr. Hollenbeck stated for the shed no, but there may be a couple small trees that may have to be removed.

Ms. Bell asked if the proposed shed will be placed on a cement slab. Mr. Hollenbeck stated it will be placed on gravel.

Mr. Russell asked if the property is served by municipal water. Mr. Hollenbeck stated yes. Mr. Russell asked if the property has a septic system. Mr. Hollenbeck stated yes. Mr. Russell asked if the applicant has looked at the location of the shed with respect to the septic system and leach field. Mr. Hollenbeck there is someone coming at 1:00 p.m. on Friday to pump the septic tank, clean the box, and mark the septic area.

Chairman Lesniak opened the public hearing at 7:57 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:58 p.m.

Ms. Brown went through the five criteria of 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; 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. No.

MOTION: Ms. Brown noted that this a Type II action under the SEQR process therefore exempt from further review.

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MOTION: Ms. Bell made a motion for the property at 323 Moonlight Drive, Ballston Spa, NY 12020 pursuant to §138-8.1 of the Town of Ballston Zoning Law for the construction of a 14' x 24' shed. A 2093 square foot area variance and a 50' lot width be granted with the following provisions - no commercial manufacturing, no hazardous materials stored in the shed and no living quarters. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

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

Meeting adjourned at 8:10 p.m.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Michelle L. Dingman". The signature is written in a cursive style with a long, sweeping tail that extends to the right.

Michelle L. Dingman
Zoning Board of Appeals Secretary

NARRATIVE

Attachment to Application to Zoning Board of Appeals

Town of Ballston

9/19/2016

From: David Little and Susan DeSimone

We 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 like to give it to our daughter so she can build a home.

The property is located between the addresses of 52 and 60 Westside Drive. It consists of four lots which total 51,930 sf. We would like to consolidate the lots to make one building lot.

We are requesting a variance for the Minimum Lot Area.

There is municipal water on Westside Drive. A septic system will be constructed for the home.

Most of the property is at an elevation well above the FEMA designated flood plain; however, a small area near the shoreline is below. The home would be setback from the shoreline approximately 40 feet. Some fill would have to be brought in to raise the home out of the flood plain. After the fill is placed we would apply to FEMA for a Letter of Map Revision (LOMR).

Thank you for your consideration.

A handwritten signature in black ink, appearing to be "D. Little" and "S. DeSimone" written together.

September 7, 2016

Variance narrative for address:

323 Moonlight Drive

Ballston Spa, NY 12020

We would like to construct a 14' x 24' shed onto property of above address. The proposed structure will be within the front setbacks of 60 ft, the side setbacks of 12 ft and the rear set backs of 15 ft. These measurements will be measured to the eaves of the proposed shed. We are requesting the variance due to the lot area zoning laws which are required of 30,000 sq ft and our actual is 27007. We are also required for 150 ft lot width and have 100 ft width.

Thank you for your consideration,

Michelle Montanye (518) 657-6196