

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting December 6, 2017**

Present: Michael Lesniak, Chairman  
Marilyn Bell, Vice Chairwoman  
Ellen Brown  
Robin Kane  
Stephen Merchant  
Dan Mertzlufft  
Daniel Russell  
Tim Long, 1<sup>st</sup> Alternate  
Joanne Hull, 2<sup>nd</sup> Alternate  
Peter Reilly, Esq.  
Members of the General Public

ABSENT: Brian Theriault, Building Inspector

Chairman Lesniak called December 6, 2017 meeting at 7:30 p.m. and Mr. Russell led the Pledge of Allegiance.

Chairman Lesniak asked for the corrections to the October 4, 2017 minutes.

Page 2, 3<sup>rd</sup> paragraph change "Kayesr to "Kayser", page 5, 7<sup>th</sup> paragraph change "C" to "6", change "satiety" to "safety" and page 16 change "Public Hearing closed at 8:46pm to 9:00pm", page 7, 12<sup>th</sup> paragraph add "neighbors. Ms. Elson stated that she had discussed with"

**MOTION:** Ms. Kane made a motion to accept the October 4, 2017 minutes as amended. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

Chairman Lesniak introduced a new member of the Board, Joanne Hull, 2<sup>nd</sup> Alternate.

**NEW BUSINESS:**

**Burnt Hills United Methodist Church**

**816 NYS Route 50; 257.10-2-77**

**Area Variance (height & sq. feet) for new sign**

Tom and Wayne Wheeler were present on behalf of the applicant.

Chairman Lesniak read the applicant's narrative for the proposed project.

**Burnt Hills Methodist Church Sign**

We are looking to install a new sign with a digital component. Sign will have an overall height of approx. 120" which is 2' above the allowed 8'. The sign is approx. 60 SF which is over the allowed 32 SF.

We need this extra height to keep the sign out of the snow in the winter and to allow for plantings around the sign in the summer months. The sign will have a permanent header with the church name to help people identify the building. The sign will also have a 3' tall digital display. This display will allow the church to list special events such as the Lords Acre Fair. With the header, display and masonry base combined this sign would not be possible at a lesser height.

The Digital portion of the sign is 3' x 8' for a total of 24 SF. The letters on the top of the sign are 7" tall. This height will be needed to be easily read quickly by drivers on Route 50. The Digital display has a frame around it also occupying some of the 60 SF. The display needs to be this size to clearly display messages. Making the sign smaller and code compliant will force drivers to look off the road for an unsafe amount of time reading the sign.

After careful review by both AJ Signs and the Church this is the most effective size sign for the site. The sign will fit into the surrounding area and is a great improvement over the existing.

Mr. Wheeler stated that when they build signs in the northeast, try to keep things 3' off the ground for snow; all the masonry on the sign can be covered up in the wintertime.

Mr. Wheeler stated AJ Signs works with Watchfire of Danville Illinois; the displays have an auto dimming feature.

Mr. Wheeler stated the sign in front of AJ Signs, is a Watchfire sign has an ambient light that dims down at night and runs at about 10 percent.

Mr. Wheeler stated during the day when it's bright and sunny, it's got to power up-to 90 to 100 percent to be visible through the light.

Mr. Wheeler stated there are displays in the area that do not have those ambient light sensors.

Mr. Wheeler stated the proposed sign to display community events; similar to their sign.

Mr. Wheeler stated a static header is proposed on top with the name of the church, which adds to the square footage and the height.

Mr. Wheeler stated we did try to come up with something that fits into the area.

Mr. Merchant asked the size of the sign in front of AJ Signs.

Mr. Wheeler stated the display is 3' x 7' for the digital portion. The overall pylon sign is zoning size is zoning compliant.

Ms. Bell asked if the 3' is considered as part of the sign.

Mr. Wheeler stated no.

Ms. Bell asked if the base part of the sign is part of the square footage.

Chairman Lesniak stated it's not considered in the square footage.

Ms. Bell asked is it considered part of the overall height.

Chairman Lesniak stated yes.

Mr. Wheeler said, "It's from the grade to the top of the sign."

Mr. Russell stated the signs throughout the Town have all managed to stay within the appropriate square footage and still seems to be adequately advertising at their locations. Mr. Russell asked, "Why would I choose to change all of the characteristics of the Town to start making larger signs."

Mr. Wheeler stated the biggest reason for that is the digital component and are doing more of these digital signs every month.

Mr. Wheeler stated that digital displays are made up of LED modules (pixels) and can only get so many letters based on the pixels you have; the displays need to be made big enough so the message is readable. Mr. Wheeler stated in his opinion, a fixed header is necessary so people know where they are no matter what is on the digital display.

Mr. Russell said, "You are asking for more information to be put on and want a bigger sign."

Mr. Wheeler said, "If you look what is there now, all that clutter will go away" and is a much cleaner sign of what is there now. Mr. Wheeler stated if you measure the existing square footage, is much bigger than what is proposed.

Chairman Lesniak said, "He measured one the Board turned down and had to go back and redraw it." Chairman Lesniak stated The Spirit of Fellowship located on NYS Route 67, which has a 3' x 8' digital display with a total of 32 square feet and their original size was similar to what is proposed and the Board would not "go for it" -you start approaching billboards. The size of the sign proposed is in the ballpark of Fogg's – 60' in height and a 4' x 8' digital display (possibly larger).

Mr. Wheeler stated there is an extra 5" frame around the sign (left, right, top and bottom) and would be losing some square footage there. Mr. Wheeler stated the sign was built into the cabinet; it's a classier look – it's not just a display. Mr. Wheeler said, "We could shrink it down, but would lose a lot of its look."

Chairman Lesniak said, "You are one of the businesses on there and don't think we as a Town want to have 60 square foot signs all over."

Chairman Lesniak said, "Each case is handled on a case-by-case basis and is hard to turn someone down when they can point to your 60 square foot sign."

Chairman Lesniak stated the Jehovah Witnesses sign without a digital display was code compliant.

Ms. Bell asked the applicant if they could come closer to 3' x 7' for the digital display; this is a 40mph speed zone.

Mr. Wheeler stated he would need to talk to the church, but could go 3' x 7' and shrink proportionally.

Chairman Lesniak asked if AJ Signs made the sign for Spirit of Fellowship on NYS Route 67, which is a 55mph speed zone.

Mr. Wheeler said, "He did not know where you were talking about and it's probably too small for the area."

Mr. Wheeler said, "What does Morris Ford have, Gil's, UDI and BSNB."

Chairman Lesniak said, "This is the zoning now and turned the Fellowship Church down and can read just fine and has the digital display."

Mr. Wheeler stated this is going to be in the same NYS Route 50 corridor with all those signs that were mentioned above that are much bigger.

Mr. Merchant stated the signs stated above do not have digital displays.

Mr. Merchant stated digital signs are distracting and have seen a lot of accidents on NYS Route 50 during the afternoon and thinks the smaller the sign the better; there is going to be a lot going on down there with all the building and would like to keep a standard of the size that is in the Zoning Law.

Mr. Wheeler stated if the sign is made smaller, people are looking harder and longer to read the sign.

Chairman Lesniak said, “the digital display is what they are trying to read, the church sign, they are going to be able to read that.”

Mr. Mertzlufft stated the size of the sign itself is a block to see in-coming traffic – the bigger the sign, the less traffic you see pulling out.

Mr. Wheeler stated the setbacks are being met.

Mr. Wheeler stated the sign is an aluminum cabinet; the letters are cut into the face and pushed through in acrylic and at night, the whole sign is not lit up, just the letters light up. If you were to measure the display at 24 square feet, is not far from Town code.

Chairman Lesniak opened the public hearing at 7:52 p.m.

Timothy Long, 1<sup>st</sup> Alternate stated there are two applications in front of the Board for two signs and both have the same digital displays (3’ x 8’) one is 60 sq. ft. and the other is 41 sq. ft.

Mr. Wheeler said, “Living Hope Church is 3’ x 6’ digital display” the write-up was incorrect.

Mr. Long asked why Burnt Hills United Methodist Church can’t be 41 sq. ft. if the digital display is the same.

Mr. Wheeler stated the logo is different and the design and has more words.

Mr. Long stated it’s the same church that has been there for fifty years; church can be identified by the church, not the sign.

Mr. Wheeler stated if you are not from here, people don’t know the church.

Wayne Wheeler said, “The church in question already has a 32 sq. ft. stationary sign and they also have between 15 and 20 sq. ft. of additional signage and multiple things going on and if you are talking about confusion and square footage – what they have now is confusing and the square footage is about the same as what is being proposed.”

Chairman Lesniak stated the portion of the sign is 32 sq. ft.

Mr. Long asked the percentages of the lumens during the day.

Mr. Wheeler stated during the day is about 10,000nits and 750nits at night.

Mr. Long asked if the digital content will be changing.

Mr. Wheeler stated yes, it depends on what the church has going on; no animation, just messages.

Mr. Long asked if there is any motion in the display.

Mr. Wheeler stated no.

Mr. Long asked if there is an ability to read cookies from a smart phone, computer or laptop.

Mr. Wheeler stated no, you cannot get into the network server. Mr. Wheeler stated according to their Watchfire representatives, it has never happened in the United States.

A representative from the church said, "They are certainly looking forward to a new sign with a lot less distraction of the little signs and will be saving money by not having to make new signs and had to make a new sign for the Christmas Eve service."

Chairman Lesniak stated the Christmas Eve sign is a temporary sign and some advertise their masses too.

Chairman Lesniak said, "The applicant is looking at a sign that is the size of Fogg's."

Ms. Kane asked if the applicant has the ability to give the Board a smaller scale now.

Mr. Wheeler said, "We can do a 3' x 7' display if the church is o.k. with it and would be scaled proportionally.

A representative from the church stated if the Board was to approve, then yes.

Ms. Kane stated she feels this sign is too big and Living Hope Church is not quite as big (9' above Town standards) is "a little easier for her to feel."

Mr. Wheeler stated it sounds like you would entertain a 3' x 7'.

Mr. Reilly stated it would be a good ideal for the applicant to talk to the client and get a 3' x 7' sq. footage on the proposed sign and return next month because 60' sq. ft. proposed is not going to be passed by the Board. Mr. Reilly recommended the applicant look at a smaller sign.

Ms. Bell stated we have a large size in the slower speed zone and a smaller size in a higher speed zone.

Chairman Lesniak closed the public hearing at 8:03 p.m.

Mr. Wheeler said, "We have another idea of a 3' x 7' display, square off the top, put the cross on the left and get down to 48 sq. ft. – the sign would be 9' tall instead of 10'.

Chairman Lesniak stated he still has a problem with 48 sq. ft. The sign on NYS Route 67 (32 sq. ft.) has a higher speed limit.

Mr. Wheeler asked if he can measure the letters like that one.

Mr. Wheeler asked what CVS is proposing for signage.

Chairman Lesniak stated he did not know.

Mr. Reilly said, "He did not remember, but they may have separated the signage from the Site Plan and to check with the Building Department."

Chairman Lesniak stated USA Gas is 32 sq. ft. on NYS Route 67/NYS Route 50.

Mr. Merchant said, "It looks like Curtis Lumber meets the square footage requirement for the Town because they did not come in front of the ZBA."



Mr. Wheeler said, "He understands the Board is trying to get to 32 sq. ft., but Burnt Hills looks awful and has to look at esthetics."

Mr. Mertzlufft stated there is no guarantee or right to having a specific style sign, once we start going down that slope; we don't have the authority to clean up the Town. Mr. Mertzlufft stated we do have a code that we do have to follow and if everyone follows the code, there is not going to be a problem.

Mr. Wheeler stated a variance is a case-by-case basis.

Mr. Mertzlufft stated that is where we (The Board) are at right now with this case.

Mr. Reilly stated there are also legal criteria that have to be met in order for a variance to be given; it's not just arbitrary and capricious and has not heard one argument as to why this sign needs to be more than 32 sq. ft.

Mr. Wheeler asked, "If we come back with a 3' x 7' display, would the Board be more comfortable?"

Chairman Lesniak stated it's not just the display; it's the overall size of the sign.

Mr. Wheeler asked to table the application until the next meeting.

Chairman Lesniak asked the applicant to look at the sign on NYS Route 67.

**MOTION:** Ms. Kane made a motion to table the application until the January meeting. Mr. Russell seconded the motion and all present voted in favor. **CARRIED.**

Mr. Wheeler stated there are signs in this Town that are currently being used that are non-compliant and see nothing happening.

Chairman Lesniak said, "You have to look at when the sign was put in."

Mr. Wheeler stated Andersen Boat was put up in the last six months.

Mr. Wheeler asked, "Has anyone dropped a phone call there."

Chairman Lesniak stated no, they were supposed to come before the Board if it was non-compliant.

Mr. Wheeler stated the sign scrolls, waves and does not dim at night and not FCC compliant.

Chairman Lesniak said, "We will have to tell our Zoning Enforcement Officer."

Mr. Wheeler stated we will come back with some photographs and dimensions of the proposed sign.

Ms. Bell said, "If someone has a pre-existing sign, that was either built before the current standards in effect or already received a variance for height or overall square footage and now convert that to digital – does that mean the owner has to come back in just because they are converting their current sign to digital."

Chairman Lesniak stated no, not if it fits in the same footprint.

Mr. Reilly said, "Yes, he would believe so."

Ms. Bell stated some of that is going to change when looking at these other places as well, because some of these signs have been there with a light shining on them (wood or some type of vinyl) illuminated from within and now converted the same space to something digital that had never come before this Board or anyone else in the Town. The owner has simply converted the existing space (maybe, maybe not), but it's another consideration; what was pre-existing or what was previously granted a variance – just because they simply switched to digital, does not necessarily think it is the answer either; it's the overall square footage – what was existing at the time and was there a variance.

Chairman Lesniak asked Mr. Reilly, "If a person came to the Board and converted to digital, would they need a new sign."

Mr. Reilly stated a new sign yes, and does not know how the Building Department would handle it, and could argue just to change the interior of the signage and put an LED display there, would not require a variance.

Mr. Reilly stated there is nothing in the code that requires a specific approval for an LED sign.

Ms. Bell stated the church has one existing sign and two or three other signs (pre-school is a permanent sign), but would not include the temporary signs (Lord's Acre Fair, Chicken, Roast Beef or Pancake Breakfast). There are other permanent signs on the property and are distracting.

Mr. Reilly stated a brand new sign in his opinion would require a sign permit and has to be code compliant. If you have a 42 sq. ft. sign and are going to take it down and put up a new sign, it has to be code compliant. If you have a 42 sq. ft. and change the face of the sign however, you would not need to come before the Zoning Board of Appeals.

Chairman Lesniak said, "Some signs pre-existed zoning and handle from this day."

Mr. Wheeler asked, "How is that fair for other businesses trying to compete with those other businesses that have 70' or 80 sq. ft. and telling me I can only have 32 sq. ft."

Mr. Reilly stated an argument is directed toward the Town Board (the legislative body) to change the zoning. This Board has certain legal requirements that have to be met and if the Town Board wants to change the square footage and the zoning, but this Board cannot do it by itself.

Application tabled.

Chairman Lesniak stated that AJ Signs make beautiful signs.

**Living Hope Church**  
**978 NYS Route 50; 248.-2-14.212**  
**Area Variance (Height & sq. ft.) for new sign**

111-111-111 Living Hope Christian Church

111-111-111 We are looking to install a new sign with a digital component. Sign will have an overall height of approx. 120". The sign is approx. 41 SF which is over the allowed 32 SF.

111-111-111 We need this extra height to keep the sign out of the snow in the winter and to allow for plantings around the sign in the summer months. The sign will have a permanent header with the church name to help people identify the building. The sign will also have a 3' tall digital display. This display will allow the church to list special events. With the header, display and masonry base combined this sign would not be possible at a lesser height.

111-111-111 The Digital portion of the sign is 3' x 8' for a total of 24 SF. The letters on the top of the sign are 7" tall. This height will be needed to be easily read quickly by drivers on Route 50. The Digital display has a frame around it also occupying some of the 41 SF. The display needs to be this size to clearly display messages. Making the sign smaller and code compliant will force drivers to look off the road for an unsafe amount of time reading the sign.

111-111-111 After careful review by both AJ Signs and the Church this is the most effective size sign for the site. The sign will fit into the surrounding area and is a great improvement over the existing temporary sign board.

**NOTE: For Living Hope Church change "The Digital portion of the sign from 3' x 8' change to 3' x 6' (18 SF) respectively."**

111-111-111 Mr. Wheeler stated the applicant is requesting a 9 sq. ft. variance.

111-111-111 Ms. Bell asked for clarification of the proposed 6 sq. ft.

111-111-111 Mr. Wheeler stated it's the total portion, not the rectangle.

111-111-111 Ms. Brown asked the height of the base.

111-111-111 Mr. Wheeler stated 33" and will increase to 36".

Mr. Merchant asked the exact location of the proposed sign on the property.

Mr. Wheeler stated its proposed location is to the south side of the driveway.

Mr. Merchant has a concern for farm animals to the south and horses to the west; did you plan on changing the display on this sign often.

Mr. Wheeler stated NYSDOT has an eight second hold time restriction; no animation, no flashing and no scrolling of the messages.

The speed traffic is typically 60 mph and transit time past the sign is about four to five seconds; most people will see a message.

Ms. Brown asked if this sign could be made smaller to comply with the 32 sq. ft.

Mr. Wheeler stated digital displays are made with 12x12 modules and have to be within 6', 7' or 8' and if it was shrunk, would have to go to a 3' x 5' digital display, which is kind of small for where it is – want to keep the texting up so it can be read at 55 mph; it would be tough to get this down, 9 sq. ft. is a decent amount.

Mr. Merchant stated the Board is trying to follow the Zoning Laws.

Mr. Wheeler said, "If he could, would not be here for a variance."

Mr. Wheeler stated they are currently using 32 sq. ft. to advertise their special events; their name is usually very small on that sign.

Mr. Wheeler stated they are going from 32 sq. ft. to 18 sq. ft. - almost cutting their advertising space in half.

Mr. Merchant stated why the sign can't meet the zoning requirements of 32 sq. ft.

Mr. Wheeler said, "We would end of taking from the head on top, which is the name of the church (the logo) of brand recognition – the church is a business and like any other business,

there is competition need brand recognition; they need to advertise – it's a tough business to be in right now.

Ms. Bell stated there are temporary signs at this location and if this sign gets approved, would you agree to remove all the temporary signs.

Mr. Russell stated if you use that argument, you will be asking for a billboard and an “unending cycle.”

Mr. Mertzlufft stated a church is not a business in no way, shape or form – they are not required to make a profit, they do not pay taxes in our community; they are not a business.

Mr. Wheeler stated they need to stay in business and to keep operating.

Mr. Mertzlufft stated there are many aspects of a church that run like a business – yes, but it is not a business.

Mr. Wheeler stated then it's an outreach.

Chairman Lesniak asked about the two 8” wings on the proposed sign.

Mr. Wheeler stated they are the posts that support the structure.

Chairman Lesniak asked if that was included in the square footage.

Mr. Wheeler stated no, because that is a support structure.

Ms. Bell asked for a reference for either the Emergency Squad sign or the Ballston Town Library sign.

Mr. Wheeler stated the library sign is tiny (3' x 5' digital display) located in a school zone with a 25 mph speed zone. The Emergency Squad is (4' x 8' digital display) with a header totaling 50 square feet.

Mr. Reilly stated any information on signs in the Town will help the applicant when they attend the next meeting to make their argument to the Board. Mr. Reilly stated his concern if the Board grants this variance, the Methodist Church will want 41 sq. ft.; the applicant has every right for a vote this evening. Mr. Reilly recommends the applicant to return to the ZBA with more proposals for each application.

Mr. Wheeler stated we can table the applicant and will do more research and measure some signs throughout the Town.

A further discussion was held on the size of the proposed signs.

Chairman Lesniak opened the public hearing at 8:40 p.m.

**Sarah Stock** stated she lives right directly across from the church. She said she will have to look at that light through her front windows and have to either close her curtains or that light will shine in her house. The light front their doorway shines in her house. Ms. Stock stated NYS Route 50 is a (55 mph speed zone) and has to cross the road to get her mail; her life is in more danger crossing the road than the cars that are trying to read that sign.

**Tracey Egan** stated many years ago, her father came to the Town and asked for a variance so that her husband could have a small motor repair business at her house and envision all the businesses (Saco Farm, Daycare, Pottery Shop and Steve Nicol) on NYS Route 50 going for these digital signs – she thought we lived in a “Farm First Community” and digital signs are like “Las Vegas.” Ms. Egan stated two Sunday’s ago, the pigs from Saco’s Farm got across the road and was on her property and someone got them back across the street and is important for anyone in a car or on foot to see both ways. For example, the people from the Saco Farm come to her house to deliver hay or cut hay and you have a solid sign that is down there – you cannot see through that. A guy on a tractor is going to have a limited view of what is coming at him as opposed to that hanging sign that he can see underneath. Ms. Egan did not know the Town already at some point had decided that anyone who had a business could have a digital sign. Ms. Egan would add that a sign is not a business.

Chairman Lesniak stated the Town does not specify and not that a business can’t have it; there is nothing on the books from preventing it – maybe in the future we will.

Ms. Egan stated the Town wanted to preserve that view along NYS Route 50 and Mr. Saco received “nine hundred some thousand dollars” for selling conservation rights to his first parcel of land and moved onto the McCormick Farm. and the Town had expressed this vision that we wanted to preserve farms. Ms. Egan stated her farm backs onto Ms. Knights’ farm on Goode Street and when you are putting up digital signs, it does not say this is a “Farm First Community” and starting to look like a Business District. Ms. Egan stated if we are going to be a Business District, then I guess we should put in the sewers and everybody puts up a sign. Ms. Egan asked if a private homeowner who doesn’t owns a business put up a digital sign.

Chairman Lesniak started right now no; they are limited to a Home Occupation (2 sq. ft.).

Chairman Lesniak stated presently, there is nothing that prevents the digital sign and this Board only interprets what the rules are.

Ms. Egan asked who can change the rules.

Chairman Lesniak stated the Town Board does the final change.

Chairman Lesniak recommended attending a Town meeting and bringing your concerns forth.

Ms. Egan stated solid signs in that area is a problem and has concerns with traffic.

Ms. Egan asked the hours when the ambient lights are dimmed.

Chairman Lesniak said, “He assumes the sign has an electric eye on it.”

Ms. Kane assumes the sign will be facing north and south and from across the street should only see the side of the sign.

Ms. Egan asked if the proposed sign is perpendicular to the road.

Mr. Wheeler stated yes, and is meeting the 15’ setback from the road – a digital sign is less intrusive than a headlight.

Ms. Hull asked if the electrical need to be inspected by the Town.



Mr. Wheeler stated we are code complaint and are find if the Board wants and Electrical Inspector to look at the sign.

Mr. Reilly stated to refer to the Building Department.

Mr. Wheeler said, "The sign is all automatic by a computer and could get a nit meter and measure it."

Ms. Hull said, "If the sign is not physically working, then is it up-to the church.

Mr. Wheeler stated Code Enforcement.

Ms. Hull asked will someone be watching for maintenance.

Mr. Wheeler stated Watchfire actually monitors and controls the cellular data connection and can see if there is a problem with the light sensor they would notify AJ Sign's and send us the parts. Mr. Wheeler stated if the church called and said it was too bright, can manually override and dim it down through the computer.

Chairman Lesniak said, "The Town has a Zoning Code Enforcer, but in all truthfulness, it's very tough to enforce situations in our Town and is not saying it's not done, but very tough the way we are set up right now."

Chairman Lesniak asked if a Certificate of Occupancy is given for a sign.

Mr. Wheeler stated yes.

Ms. Hull asked if the sign was too bright, who would enforce this.

Chairman Lesniak said, "They would have to be written up or be presented to the Town Board."

Mr. Wheeler stated there is nothing in the code against brightness.

Ms. Egan stated when the church put up their light outside above their doors was pointed into her second floor window and called the Town and the Town called someone at the church and the church immediately pointed the light down so it no longer bothered her.

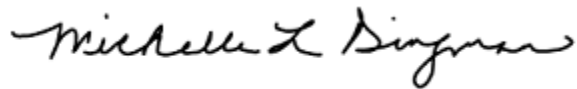
Chairman Lesniak closed the public hearing at 8:54 p.m.

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

**MOTION:** Ms. Kane made a motion to table Stewart's who were originally on the agenda for this meeting. Mr. Russell seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

A handwritten signature in cursive script that reads "Michelle L. Dingman".

Michelle L Dingman  
Zoning Board of Appeals Secretary