

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting: December 7, 2016

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

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

Chairman Lesniak asked for corrections to October 5, 2016 minutes.

Page 2 1st paragraph add "approved for", 7th paragraph strike "stated" add "asked" page 4 9th paragraph strike "stated" add "asked" and page 5 4th paragraph add "said"

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

NEW BUSINESS:

Keith & Kim Sprenger

172 East High Street 216.-2-5.1

Area Variance pursuant to §138-10.1 to allow a 24' x 24' detached shed

Keith and Kim Sprenger presented.

Chairman Lesniak read the applicant's narrative.

"We are looking to build a two-car shed at our house located at 172 East High Street. The shed will be 24' x 24' one-story placed at the end of our driveway. Please grant us this variance so we can build a garage."

The applicants are seeking a 26,940 square foot area variance for the construction of a 24' x 24' detached garage at the above said address.

Ms. Bell asked if the garage is located on the applicant's property. Ms. Sprenger stated no, that is not their land. Ms. Bell asked if the old garage will be taken down or do the applicants plan to keep the garage. Ms. Sprenger stated the garage will be taken down. Ms. Bell asked if the proposed garage will be used for storage, no commercial business or no living quarters. Ms. Sprenger stated they are proposing to store their cars in the proposed garage.

Mr. Russell asked if the property is served by municipal water and municipal sewer. Mr. Sprenger stated no, private well and septic. Mr. Russell asked the applicant if they know the location of the well and leach field with respect to the proposed location of the proposed garage. Mr. Sprenger stated the well is located next to the driveway by the house. The septic is on the other side next to the slope of the house. Mr. Russell asked the applicant's if they are sure the proposed garage is not going to be placed such that it will damage or negatively impact the septic tank or the leach field. Ms. Sprenger stated it will not or does not believe it will negatively impact the septic tank or the leach field.

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

Dale Mullin stated he is in favor of this proposal.

Chairman Lesniak closed the public hearing at 7:41 p.m.

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

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance; No.
- 2) Whether the benefit sought by the applicant can be achieved by some 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 - No.

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

MOTION: Ms. Kane made a motion to grant an Area Variance of 56,40 square feet for 172 East High Street for the construction of a 24' x 24' garage with the following stipulations: No business, no storage of hazardous materials other than household and no living quarters. Ms. Bell seconded the motion an all present voted in favor. **CARRIED.**

Susan A. Musto

14 Connolly Road; 239.-1-71.1

Relief 280A to subdivide current 15+ acre lot into two lots (3.5 acre + 12+ acre) for residential purposes.

Chairman Lesniak read the applicant's narrative.

"Applicant is requesting relief from 280A in order to subdivide her 15+ acre parcel into two parcels (approximately 3.5 acres and 12+ acres). On May 1, 2014 the Planning Board approved the minor subdivision contingent upon the ZBA granting 280A relief. During a motion made during the May 7, 2014 meeting, Mr. Reilly required the issuance of Building Permits for lots granted §280A relief to be contingent upon the following if Connolly Road is not utilized as the principal means of access: "The Town of Ballston Zoning Board of Appeals shall be given the opportunity to review any such alternative access arrangement, and required improvements to conform the alternative access arrangement provides a suitable, safe and reliable means of access." A marked up version of the tax map showing the rough path of access has been provided by the Building Department for your convenience. Applicant has provided the language that provides an easement for ingress and egress through the Katz parcel (115 Powers Lane, Tax Map ID 239.-1-85) along with their deed, a site plan and a short form EAF."

Mr. Grasso stated the proposal is for a two-lot subdivision in the Ballston Lake Waterfront District. The proposed lot is 156,000 square feet meeting the lot area requirements for that district. Mr. Grasso

stated self-proposed deed restrictions will be added of no further subdivision of those 3.59 acres when entered into contract.

Ms. Bell asked if any changes have been made to this subdivision since the last time the applicant was in front of the board. Mr. Grasso stated no changes have been made to the subdivision, but an easement has been added that covers Connolly Road and Powers Lane. Mr. Grasso stated that Connolly Road has been maintained throughout the years and has provided great access to all the lots on Connolly Road and Powers Lane. Since that crossing has been closed, the level of maintenance on Powers Lane has been improved.

Chairman Lesniak stated he did not know how a fire truck or an ambulance could turn around there very easily. NYS Law requires any driveway over 500' to be 16' wide, accommodate an 85 thousand pound emergency vehicle and have provisions for turn-around within 150' of a residence; those provisions currently exist for the Grasso and Musto residence and will expect they will for the new lot as well.

A further discussion was held on the location and access to the property for the project.

Mr. Grasso stated the access to the land is provided off Powers Lane and a new 30' wide access easement across a part of the Musto property. There is a second ingress/egress easement between Musto and the future owner of the proposed lot as shown on the map.

Chairman Lesniak asked the road is maintained. Ms. Grasso stated that Tommy Grasso, Dave Phillips and others maintain that road to make sure it's in good condition.

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

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:59 p.m.

MOTION: Ms. Bell motioned to name The Town of Ballston Zoning Board of Appeal the Lead Agency in the SEQR process to declare this an unlisted action under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. **CARRIED.** Mr. Russell stated or a finding of no significant impact. Mr. Merchant seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Ms. Bell made a motion for the application for Susan Musto at 14 Connolly Road pursuant to §280A of the NYS Town Law for a subdivision to grant 280A Relief for the proposed

subdivision as filed on the map dated 4/14/2014 to subdivide off approximately 3.59 acres of property from the existing 15.73 acres "Lands of Susan A. Musto." Mr. Merchant seconded the motion and all present voted in favor. **CARRIED.**

Denise J. Brennan

200 Westside Drive; 249.13-1-9

Area Variance pursuant to §138-11.1 for a lot line adjustment to ensure improvements and utilities are on the correct property.

Chairman Lesniak read the applicant's narrative.

"The applicant Denise J. Brennan is the owner of two adjoining properties at 200 and 202 Westside Drive. There are some improvements located between the two properties that the applicant would like to include within the 202 Westside Drive; therefore the applicant proposes a lot line adjustment between the properties. Both existing properties have a one-family dwellings, improvements, and utility connections; they do not comply with the existing zoning regulations relative to lot size, lot width and side setback. As a result of the lot line adjustment to allow the necessary improvements, retaining walls to be located on 202 Westside Drive; area variances will be required for lot area, lot width on both lots and side yard setbacks on 200 Westside Drive. The granting of these variances will not have an undesirable change to the character of the neighborhood or nearby properties because there are insignificant changes to already non-conforming lots. The variances will bring lots into more compliance into zoning regulations since retaining walls already exist and there are no other methods to pursue other than a lot line adjustment. The requested variances are not substantial when compared to the existing conditions and to other neighboring properties. The proposed variances will not have any adverse effect on the physical or environmental condition of the district, since no improvements are proposed. This was not self-created since retaining walls are existing and the applicant wishes to locate them into the right property."

Ms. Brown stated she spoke to a neighbor Wes DeVoe and he had no objection to the proposal.

The properties are served by public water and private septic systems. The septic system for 202 Westside Drive is located on the west side. The proposed lot line adjustment will not impact the septic tanks or leach fields.

Ms. Brown quoted the Town's Dock Ordinance

DOCKS

e. "Every dock constructed shall have a minimum setback of fifteen (15) feet from the adjacent property line extended into the water. When the common property line between two properties extended into the water." Ms. Brown stated the proposed lot line will meet at the corner of the dock. Mr. Rabideau stated it can be adjusted to meet the minimum required setbacks on 200 Westside Drive. Mr. Reilly asked if it's 15' where it hits the water now. Mr. Rabideau stated the extension is 8' and proposes to bend the lot line back to lot 202 Westside Drive to make it parallel and 15' away from the dock. Chairman Lesniak stated the area would change. Mr. Rabideau stated it would now be 150 square feet.

Ms. Brown quoted the Town's Dock Ordinance

GENERAL PROVISIONS

A. "Any grandfathered dock that is closed to a property line cannot have a boat moored to it that will cross the property line." Ms. Brown stated mooring a boat on the north side would need to be prohibited. Mr. Rabideau stated the best thing is to move the line 15' over to make the line parallel. Ms. Brown stated it's hard to control if tenants are living there. Chairman Lesniak asked Mr. Reilly if the board could act on the proposed variance tonight. Mr. Reilly said, "You could and to at least give a default position to grant contingent upon the lot line being adjusted to comply with the Dock Ordinance."

Ms. Bell asked if all of these adjustments are taking place on the east side of Westside Drive and both 200 and 202 have property on the west side as well. Mr. Rabideau believes that lot 202 has property on the west side.

Ms. Bell asked would it be possible to alter the existing lot line a little further into lot 200 and angle it back out so two square footages remain the same and the 15' dock. Mr. Rabideau stated it's an option, but not feasible. Ms. Bell asked about the steps associated with the retaining wall. Mr. Rabideau stated they will be removed.

Mr. Merchant stated if the properties were sold, there could be major issues with people putting the boat on the side of the dock and who is going to make sure that does not happen. Mr. Merchant feels it's easier to move the line 15' and be done with it.

A further discussion was held on the lot line proposed for the project.

Ms. Bell read the criteria for an area variance (Lot 200 Westside Drive)

- 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; Yes.
- 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: Ms. Bell noted that this is a **Type II action** under the SEQRA process therefore exempt from any further review.

MOTION: Ms. Bell made a motion for the property at 200 Westside Drive lands owned by Denise J. Brennan pursuant to §138-11.1 for an area variance of 66,924 square feet, lot width variance of 76.4' and due to the lot line adjustment a side yard setback of 9.1' to accommodate a lot line adjustment. The building, the contents and anything constructed on the property are not changing it's only for a lot line to be adjusted. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

The criterion that was indicated for the property at 200 Westside Drive applies for 202 Westside Drive.

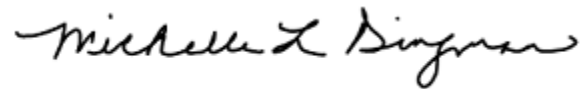
MOTION: Ms. Bell made a motion for the property at 202 Westside Drive lands owned by Denise J. Brennan pursuant to §138-11.1 The lot line adjustment is creating less of an area variance requirement, which is now 53,616 square feet and a lot width variance of 96.5'.as described on the map dated October 11, 2016 to adjust from the discussion that transpired tonight; the lot line adjustment will allow for proper access (compliant with the Town's Dock Ordinance) to the dock at 200 Westside Drive. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

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

Meeting adjourned at 8:35 p.m.

Respectfully submitted,

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

Michelle L Dingman
Zoning Board of Appeals Secretary