

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting: March 1, 2017

Present: Michael Lesniak, Chairman
Marilyn Bell, Vice Chair
Ellen Brown
Robin Kane
Stephen Merchant
Dan Mertzlufft
Tim Long, 1st Alternate
Kim Kotkoskie, Planning/Zoning Coordinator
Peter Reilly, Esq.
Members of the General Public

ABSENT: Daniel Russell

Chairman Lesniak called the March 1, 2017 meeting at 7:30 p.m. and Ms. Kane led the Pledge of Allegiance.

Chairman Lesniak asked for corrections to January 4, 2017 minutes.

Page 2 under MOTION – “all present voted in favor” CARRIED.

MOTION: Mr. Long made a motion to approve the January 4, 2017 minutes as amended. Mr. Merchant seconded the motion and all present except Ms. Brown, Ms. Kane and Chairman Lesniak who abstained; were not present at the January 4, 2017 ZBA meeting.

NEW BUSINESS:

Daniel Jablonski

487 Finley Road; 226.-1-223

Area Variance pursuant to §138-10.1 – front setback, to allow for a 28’ x 40’ garage

Daniel Jablonski, applicant and Mark McCabe with McCabe Construction presented.

Chairman Lesniak stated the applicant is requesting a 6’ front yard setback variance – zoning requires 60 feet and proposed setback is 54’ for the construction of a 28’ x 40’ garage.

Chairman Lesniak read the applicant's narrative. "Applicant is looking for a front set back of 6 feet. The project is to construct an attached 3-bay garage with overhead storage. Project has already received a Building Permit. During the inspection process, a misunderstanding was discovered regarding the reference point for the front set back. Therefore, the excavation and the framing for the footings are located 6 feet too close to front lot line."

In addition, there is a power supply that is shown on the site map that goes from the utility pole to the back of the house. This power supply line limits the positioning of the garage to its current location. A 60 foot setback is required, and we are currently at 54 feet. A variance of 6 feet is being requested."

Chairman Lesniak asked how the applicant received a building permit when you did not meet the setbacks. Mr. McCabe stated when he originally obtained the survey, misunderstood what the setback was. He then, contacted the Building Department and spoke with different Building Inspectors and misunderstood the reference point. Mr. McCabe stated when he did the excavation and staked out the job, learned the reference point was incorrect and stopped the job and did not pour any concrete and immediately applied for the variance.

Chairman Lesniak asked where you measured from to come up with 60'. Mr. McCabe stated the reference point was understood to be 60' of side road, which he learned was incorrect. Chairman Lesniak stated the pole 6' from there was used as a reference point. Mr. McCabe stated yes, roughly five to six feet from there. Mr. McCabe stated from the edge of the road to the hole is 12', from the corner of the garage is 54', from the side of the road is 66' and from center of road is approximately 74'. Mr. Merchant asked is that 25' from the center of the road to the edge of that pole. Mr. McCabe stated he did not measure. Mr. Merchant said "its measured 25' from center of the road is the Town ROW – from there in is where you measure the 60' setback." Mr. McCabe stated 20' of pavement and then 12 ½' to the pole. Mr. Merchant asked the measurement from the center of the road to the pole. Mr. McCabe stated 22' plus the 54' is 76'.

Mr. McCabe said, "From center of road to corner of the proposed." The wall sits back on the footing. Mr. McCabe stated he is requesting a 6' variance because it's more of a 5' variance. Mr. McCabe stated he measured the corner of footing, not corner of building and is confident that there is enough room to account for any overhangs.

Mr. Merchant stated the pole measures 21' from the center of the road; the Town owns 25' and 4' will be lost from the 50', which now becomes 54'. Mr. McCabe said, "from what he understood was 80' from center of road."

Chairman Lesniak stated the setback is measured from the eaves, not the foundation.

Mr. McCabe asked the board if he can change the request from 6' to 10'. Mr. Reilly stated the question raised is the adequacy of the public notice and feels that it is close enough and the board can go ahead. The board concurs.

Mr. Long asked about the existing footings. Mr. McCabe stated any line is a footing in the ground, framed with rebar, backfilled, but is not poured. Mr. Long asked the distance from the corner of the footing and the power line. Mr. McCabe stated roughly 5' and where it arcs 8'.

Ms. Brown asked if the applicant has considered moving the power line. Mr. McCabe stated at the cost to the customer did not consider moving the power line. Mr. Brown asked if it would be possible. Mr. McCabe stated it would have been possible, but would add cost to the customer was overlooked. The proposed garage is 45 degrees off the house and would not look very good and wanted better curb appeal. Mr. Long asked if that 5' from the pole. Mr. McCabe stated that Dig Safe staked the site.

Mr. Mertzlufft asked what if the garage was to shrink. Mr. McCabe stated this proposed garage is an ideal size for vehicles and storage for mowers, rototiller, snow blower and a small workshop. Chairman Lesniak stated that 40' is pretty wide.

Mr. Brown asked if a garage is attached to the house. Mr. McCabe stated yes, and will be converted into living space. Mr. McCabe stated the proposed plan call for 16' overhead door, 9' overhead door and an entry door on the end with stairs leading up; the applicant requested upstairs storage trusses.

Mr. Mertzlufft asked if the applicant has any intention of running a business out of the proposed garage. Mr. Jablonski stated no. Mr. Mertzlufft asked if the applicant has any intention of storing any hazardous chemicals. Mr. Jablonski stated no. Ms. Bell asked if there will be living quarters. Mr. Jablonski stated no.

Chairman Lesniak asked the distance from the corner to the house. Mr. McCabe stated the first wall is 10' and rear wall is 20'. Chairman Lesniak asked if they (the applicant) want to bring that closer. Mr. McCabe stated bringing it closer would not help in the front and would only help in the front.

Mr. Long stated you could angle the breezeway and angle the garage back.

Mr. Merchant asked if the garage could be turned with only 10' variance, which is more than originally proposed. Mr. McCabe stated if we (the applicant) were to shorten the breezeway and eliminate the breezeway would not change the structure because we (the applicant) are refined by a utility line.

Mr. Merchant asked the distance from the electric line to the corner of the building.

Mr. McCabe when looking at the proposed structure as it turns on the 45 degree angle from the rear right corner is approximately 5 feet. Five feet from the left corner is approximately 5' back and as the power line arcs around approximately 8'.

Mr. Merchant said 2' back there is going to a difference in the front. Mr. McCabe stated even if you were to twist the existing structure and gain another foot or two towards the power line and is nervous about digging around power lines.

Mr. Long stated if the breezeway were the striped area, would that work. Mr. McCabe stated no, this wall is approximately 22' long and the proposed breezeway is setback from the front corner of the house and would be encroaching on the power line even moving a foot or two. Mr. Long stated you have 5'.

Chairman Lesniak stated if you shorten the depth of the proposed garage and even twisted it a little bit. Mr. McCabe stated if you shorten the 28' depth. Mr. Lesniak stated yes 28' is a very deep garage.

Ms. Bell asked if there will be enough head room in the second story if you start to shorten that. Mr. McCabe stated that the 28' allows the applicant to have with the storage trusses enough room to have approximately 9' to 9'.6" wide with a plywood deck to have enough head room to maneuver up there. Ms. Bell asked how wide the steps are. Mr. McCabe stated the steps will meet the code.

Chairman Lesniak asked why the 45 degree angle is mandatory for you and is there a way to eliminate the need for a variance.

Mr. Mertzluft asked if the applicant has spoken to the neighbor that abuts the property. Mr. Jablonski stated yes, and he was not opposed.

Ms. Bell 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. Ms. Bell stated she did not think so. Ms. Bell stated she did not believe so. Mr. McCabe stated the structure will match the house; shingles, siding, grills, doors and anything painted will be the same color.

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. Chairman Lesniak stated it can be achieved; applicants in the past have moved power cables.

3) Whether the requested area variance is substantial.

Chairman Lesniak stated yes and is not sure on how much of an area variance to give. Ms. Kane stated the board has agreed to 10'.

Mr. McCabe stated it's not the whole structure that will be projecting past the lot line, but the front corner.

Mr. Mertzluft said, "Nobody comes in here getting a whole structure for an entire variance."

Mr. McCabe stated it's not the whole 28' wall projecting past the 10' from the corner.

Chairman Lesniak said, "He has a problem coming up so short and not just the setback from the road,

but other issues; it's not just you measured from the wrong spot, but were off from the beginning."

Mr. McCabe said, "He apologizes and misunderstood and halted production immediately."

Chairman Lesniak stated we (the Board) appreciate the effort and discussed in the agenda meeting that we have had prior applicants have to move their stuff.

Mr. Mertzluft stated or scale back.

Ms. Bell asked is this after a building permit has been granted?

Chairman Lesniak stated yes because they poured the concrete and if they did, they did it wrong.

Ms. Bell stated there are multiple occasions hearing variances where the pouring of the cement and or footings and the structure was built not meeting the original specifications of the layouts and the request from the building permit. Ms. Bell stated she understands this is what was approved in the building permit or did something else change.

Ms. Kotkoskie said, "The building permit said it and have not seen what you've put, but you gave them site plan that says you gave them 60' back."

Mr. McCabe stated he gave a site plan projecting that it what was within the limit.

Ms. Kotkoskie stated from that point, the building department process acknowledging that you were in the limit, they then switch over to structure.

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or 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. Yes, it was self-created.

Ms. Kotkoskie asked the applicant what words were used to describe the setback requirements.

Mr. McCabe said, "He called the building department several times to ask what the setbacks were and from the number of different calls that were made had lost it in translation to be honest."

Ms. Kotkoskie said, "You could not get the answer and had to call repeatedly."

Mr. McCabe said, "He actually got many different answers."

Ms. Kotkoskie asked from our same department.

Mr. McCabe stated yes.

Ms. Kotkoskie said ok.

Mr. McCabe said, "At one time, did not know which Inspector he spoke with, which he heard 60' from side of road, then heard 60' from pole and heard 80' from center of road and had a lot of conflicting information.

Chairman Lesniak stated of all those three scenarios, none of those you did would meet the setback.

Mr. McCabe said, "The 60' from side of road would be met."

Chairman Lesniak stated yes, but the other two did not meet the setbacks.

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

MOTION: Ms. Kane made a motion for 487 Finley Road pursuant to §138.10.1 of the Town of Ballston Zoning Law for a front yard setback of 50' and a variance of 10' for the construction of a 28'x 40' garage with the stipulations of no living quarters, no storage of hazardous materials and no business operations. Ms. Bell seconded the motion.

Mr. Long voted in favor.

Ms. Kane voted in favor.

Ms. Brown voted not in favor.

Mr. Mertzluft voted in favor.

Mr. Merchant voted not in favor and thinks there are others way to do it by moving it a little bit and would not have any issues and thinks 10' is excessive.

Ms. Bell voted in favor.

Chairman Lesniak voted not in favor and has a problem with the front setback.

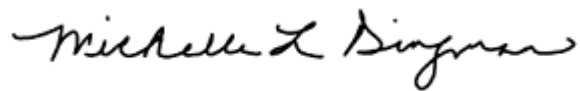
Motion **CARRIED**.

Page 7 of 7
Town of Ballston
Zoning Board of Appeals
March 1, 2017

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

Meeting adjourned at 8:20 p.m.

Respectfully submitted,

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

Michelle L Dingman
Zoning Board of Appeals Secretary