

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting April 5, 2017**

Present: Michael Lesniak, Chairman  
Ellen Brown  
Robin Kane  
Stephen Merchant  
Dan Mertzlufft  
Daniel Russell  
Tim Long, 1<sup>st</sup> Alternate  
Brian Theriault, Building Inspector  
Peter Reilly, Esq.  
Members of the General Public

ABSENT: Marilyn Bell, Vice Chair

Chairman Lesniak called April 5, 2017 meeting at 7:30 p.m. and Ms. Brown led the Pledge of Allegiance.

Chairman Lesniak asked for the corrections to the March 1, 2017 minutes.

Page 2 include 2<sup>nd</sup> paragraph to first paragraph, page 2 4<sup>th</sup> paragraph strike "ROW" add "owned" and page 6 last paragraph add under Motion "four members voted in favor."

**MOTION:** Ms. Kane made a motion to approve the March 1, 2017 minutes as amended. Mr. Long seconded the motion and all present voted in favor except Mr. Russell recused himself, was not present at March 1, 2017 meeting. **CARRIED.**

Chairman Lesnaik stated Mr. Katz is here requesting a lot area variance of 33,391 square feet. Mr. Katz has 46,607 square feet. The requirement in the Rural District is 80,000 square feet.

**NEW BUSINESS:**

**Mark Katz**

**291 Scotchbush Road; 237.-1-25**

**Area Variance pursuant to §138-10.1 lot size variance to allow a new home, well and septic system.**

Mark Katz presented.

Chairman Lesniak read the applicant's narrative. "My name is Mark Katz and I recently purchased a foreclosure home located at 291 Scotchbush Road, Burnt Hills in the Town of Ballston. I am looking for an area variance because the lot is not compliant with area requirements. I would like to remove the existing home and detached garages due to all of them being in very poor condition and they do not pass code. The town zoning calls for a lot with well and septic to have 80,000 square feet and this lot has 46,609 square feet. I have attached a plan that shows a new home and building envelope with setbacks that would meet town code if I am granted the variance. I believe that this will also greatly improve the appearance of the area."

Mr. Katz stated he cannot fix up the existing structure, cannot even take it down or put it back in the original footprint because it's located in the County ROW or could fix the house up and rent it.

Chairman Lesniak stated no, the existing house is on the road and does not meet any setbacks.

Mr. Katz distributed copies of the house proposed to be built on the site.

Mr. Russell stated the reason the applicant is applying for a variance is the existing home does not pass code. Mr. Russell stated that many homes do not pass code and that does not truly support the reason in order to grant a variance for a replacement.

Mr. Russell asked if there is public water on the road.

Mr. Katz stated no, down the road.

Mr. Russell asked the applicant if he is proposing a new well or if the new well is already in place.

Mr. Katz stated he is proposing a new well. The adjoining properties are on points and know there is good water there and the homeowner two doors down has had no trouble with water. The soil is sandy gravel, which is good for septic draining.

Mr. Russell stated the sketch provided indicated that the location of the well would meet the 100' setback from the neighbors. Mr. Russell asked the applicant if he has located the other wells and validated at least within the point provided that the well is within the limits.

Mr. Katz stated the lot is 200' wide. The proposal is to place the new well 150' from each well and septic from the homes located on the north and south side of the property.

Mr. Russell asked if there is sewer located on the road. Mr. Katz stated no, that is why the well is proposed in the front of the property because you do not want the septic higher than the well and want the septic system toward the backyard.

Chairman Lesniak stated a 100' separation is required.

Mr. Katz stated if you are higher than the septic system, a 200' separation is required.

Mr. Russell asked does that sandy gravel mix exist or are you proposing to add it; the plan indicates a sandy gravel mix with soil percs .

Mr. Katz stated its existing soil.

Mr. Russell asked if an engineer has performed the perc tests.

Mr. Katz stated the engineer will perform the perc test once the variance is granted.

Mr. Russell said, "The plan is to place a new well in the center front direction of the house."

Mr. Katz stated yes.

Mr. Russell stated that well shows to be within the 60' setback.

Mr. Katz stated as long as it is 10' within the property line.

Chairman Lesniak stated it would have to be 60' back.

Mr. Russell stated there is not a location and needed to validate the general location; usually the setbacks that the Town has established is to allow in the future, to have water and sewer be installed within that 60'. Mr. Russell stated if the Town were to expand the lines and come down Scotchbush

Road and on that side of the road, would be excavating through there. Mr. Russell stated even if the well is more than 10' away, the well would be potentially in the direct line of the new sewer line. Mr. Russell stated just for consideration as the plans are being laid out in the future of the location that you are indicating could be problematic for the new home owner; not that it is now, not that it violates anything, but to be conscious of that.

Chairman Lesniak stated the applicant has to go before the Planning Board for Site Plan Review.

Mr. Merchant stated he is pleased with the new house being proposed. Mr. Merchant has a concern that the house was going to be way too big and not meet the aesthetics of the neighborhood.

Mr. Katz stated the proposed single-family dwelling 1800 to 1900 square feet with three bedrooms 30' x 48'.

Mr. Merchant asked how the asbestos siding will be disposed of and hauled off site.

Mr. Katz stated he will make sure the asbestos siding will be disposed of properly at an authorized site.

Mr. Merchant said "Nothing is buried on site."

Chairman Lesniak recommended that be a stipulation in the motion.

Mr. Katz stated nothing will be buried on site; will be hauled off to a special site. Mr. Katz stated all stumps and debris are hauled off site.

Mr. Long asked if we (The Board) want the picture of the proposed house to be part of the application.

Chairman Lesniak stated it does not have to be.

Mr. Merchant stated it would be helpful if the measurements were placed on the drawings.

Chairman Lesniak opened the public hearing at 7:46 p.m.

A discussion was held on the consideration of the size of the proposed single-family dwelling.

Chairman Lesniak stated no, that is a Planning Board issue.

**Virginia Newton, 289 Scotchbush Road** asked if a variance can be created without knowing the square footage of the proposed house.

Chairman Lesniak stated that is correct under Site Plan Review. The Planning Board goes into details and the applicant will have to get a building permit from the Building Inspector. Chairman Lesniak stated if you are interested, you should attend the Planning Board meeting.

Ms. Newton asked if another notification would be sent.

Mr. Reilly said, "I don't think they would do the same notice requirements it would be in the newspaper".

Ms. Kane stated the agenda is listed on the Town's website.

A further discussion was held on the size of the proposed single-family dwelling and setbacks.

Mr. Reilly stated the Planning Board does not have that much power of the size of what someone builds; it's the size of the lot and setbacks. The minimum is 750 square feet.

Mr. Katz said, "It goes from 750 square feet to 30 percent of the size of the lot".

Mr. Reilly stated it's all the function of the zoning requirements.

A resident residing at 287 Scotchbush Road asked the setbacks.

Chairman Lesniak stated the setbacks that need to be met:

1. 60' (front yard setback)
2. 12' (side yard setback or half the height of a building)
3. 15' (rear setback)

A further discussion was held if the proposed was a ranch style home.

**Jerod Pott, 407 Charlton Road** stated his well is probably 10' to 15' from that property line and is not sure if the septic tank would meet the setback requirements.

Chairman Lesniak stated it has to be 100'.

Chairman Lesniak stated the applicant needs to obtain an engineered septic system plan.

Mr. Pott asked if a soil test has been performed.

Mr. Katz stated yes.

Chairman Lesniak stated if the applicant has not performed the soil test, it will be a requirement for the NYSDOH and zoning.

Chairman Lesniak stated if anyone is interested in this project, go to the Planning Board there will be a lot more detail.

Mr. Katz stated it will be a full Site Plan.

Mr. Reilly stated the Planning and Zoning Board meetings are held the last Wednesday of each month.

Mr. Katz stated he is planning to attend the May 31, 2017 Planning Board meeting for Site Plan Review.

Ms. Brown said to check the Town's website.

Chairman Lesniak closed the public hearing at 7:50 p.m.

Mr. Merchant 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. No.

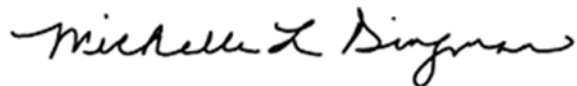
**MOTION:** Mr. Merchant noted that this is a **Type II action** under the SEQRA process therefore exempt from further review.

**MOTION:** Mr. Merchant made a motion to grant an area variance for 291 Scotchbush Road; 237.-1-25 pursuant to §138-10.1 of the Town of Ballston Zoning Law for a 33,391 square foot area variance on a non-conforming lot for the construction of a new single-family dwelling. **STIPULATION:** Existing home and garage be taken down and disposed of properly and nothing buried on the site, appropriate asbestos controls, which will be included in the demolition permit as stated by Mr. Theriault and the septic system has to be 100' from your well and the neighbors well. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

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

Meeting adjourned at 8:01 p.m.

Respectfully submitted,

A handwritten signature in cursive script, reading "Michelle L. Dingman".

Michelle L Dingman  
Zoning Board of Appeals Secretary