

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting September 6, 2017

Present: Michael Lesniak, Chairman
Marilyn Bell, Vice Chairwoman
Ellen Brown
Robin Kane
Stephen Merchant
Dan Mertzlufft
Tim Long, 1st Alternate
Peter Reilly, Esq.
Members of the General Public

ABSENT: Daniel Russell
Brian Theriault, Building Inspector

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

Chairman Lesniak asked for the corrections to the August 2, 2017 minutes.

Page 1, 19 Thomas Avenue changed to 20 Thomas Avenue, under **MOTION:** Change 19 Thomas Avenue to 20 Thomas Avenue. Change all "Tofu" to Tufo, page 11 6th paragraph add "or" strike "asked what" add "said".

MOTION: Ms. Brown made a motion to approve the minutes as amended. Ms. Kane seconded the motion and all present voted in favor. Mr. Long abstained he was not present at the meeting. **CARRIED.**

NEW BUSINESS:

Michele & Stephen Christian

30 Lancaster Court; 239.11-2-12

Area Variance pursuant to §138-21.2 to allow a pool

Chairman Lesniak wanted to clarify with the applicant that the Board should have been referencing §138-76 for the location of a swimming pool; the agenda stated §138-21.1.

Chairman Lesniak stated such a swimming pool should not be erected nearer than 12' from the rear or 15' from the side yard at the property line; shall not occupy more than 10 percent of the lot area.

Mr. Mertzluftt gave the applicant a copy of setbacks (§138-76) within the Stonebridge PUDD Legislation.

Chairman Lesniak stated the applicant can go to 12'.

Chairman Lesniak read the applicant's narrative.


Michele & Stephen Christian
30 Lancaster Ct
Ballston Lake NY 12019


Town of Ballston Zoning Board
Charlton Rd
Ballston Lake NY 12019

To Whom It May Concern:

We the residents of 30 Lancaster Ct Ballston Lake NY 12019 are requesting a 5ft variance in order to allow Casual Living Pools to install an in-ground pool that has been ordered with the dimensions of 14'W X 28'L in the shape of a kidney because of a previous stone patio that was installed summer of 2016. The variance is needed only to the right side of the property of 30 Lancaster Ct that impedes against 28 Lancaster Ct Ballston Lake 12019 in which residents Brian and Elizabeth Theilemann reside at. The left side of the property 32 Lancaster Ct Ballston Lake NY 12019 has ample distance of 16ft in order to meet the towns building codes of 15ft.

Regards


Michele Christian


Stephen Christian

Chairman Lesniak asked if the applicant have spoken to their neighbors.

Ms. Christian stated yes, the neighbors have no issue with the proposed in ground pool.

Mr. Merchant stated he looked at this proposal over with Ms. Christian and stated that is where the pool needs to be located and wants to put it next to the patio; there is really no room and 5ft. is what is needed.

Chairman Lesniak stated he was there too and appreciates the applicant's assistance showing him where everything was located.

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

No one wished to speak.

Chairman Lesniak closed the public hearing at 7:44 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 detriment to nearby properties will be created by the granting of the area variance. The Board concurred 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. The Board concurred no.

3) Whether the requested area variance is substantial. The Board concurred yes.

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board concurred 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. The Board concurred yes.

Ms. Bell asked what would be the impediment to reconfiguring the patio.

Ms. Christian stated that was a seven thousand dollar cement patio and it would be destroyed and did consider that. Mr. Christain stated we did look at it with the owner of Casual Living Pools and stated in order to deconstruct it would need to jack hammer half of the patio out.

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

MOTION: Mr. Merchant made a motion for 30 Lancaster Ct. pursuant to section §138-76 for a 5ft. side yard variance for the purpose of putting in an in ground pool. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

William Huck

7 Horseshoe Bend; 239.15-2-13

Area Variance pursuant to §138-21.2 to allow a shed.

Laurie Huck and Patty Mullen were present.

Chairman Lesniak stated according to the PUDD for Stonebridge, a separate set of zoning (138-76) is required. A side yard setback for an accessory structure required is 10'5 and a rear yard setback is 6'.

Mr. Mertzluft gave the applicant a copy of section (138-76) of the PUDD Legislation.

Chairman Lesniak stated the applicant needs a 6'5 side yard variance and a 4' rear yard variance.

Chairman Lesniak read the applicant's narrative.

Addendum to Application for Zoning Variance

Tax map 239.15-2-13

August 22, 2017

William Huck
7 Horseshoe Bend
Ballston Lake, NY 12019

RE: Application for zoning variance allowing location of garden shed outside building envelope

To Whom It May Concern:

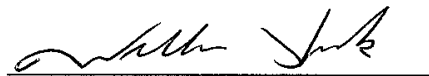
I am applying for a variance that will allow me to locate my proposed garden shed outside the zoned building envelope. Current building envelope is 12' off the side property line and 15' off the back property line.

I already have a permit to build a 12' x 16' shed within the envelope (attached in appendix) but when I laid out the location the shed protrudes into my relatively small back yard leaving a lot of unproductive space behind the shed. As outlined in the attached plot plan, it is my request to locate the shed 2' off the back property line and 4' off the side property line slightly angled to face the house. In this way, I can maximize the productive use of my backyard for entertainment, recreation and landscaping.

The attached tax map will further show that the proposed location is also at the rear of all adjacent properties so will not be close to any neighbor's houses, thereby maintaining the predominant character of the overall development. In addition, the permitted shed design is architecturally interesting and will be trimmed and sided to match our house creating an estate-like outbuilding impression.

Therefore, I believe that in granting this variance The Board will provide significant benefit to me by maximizing usable backyard area with no detrimental impact to the immediate neighbors or the community at large.

Thank you for your consideration,



William Huck

Ms. Huck stated there is a big drop off in the back and it's forever wild.

Chairman Lesniak stated the Board never allows granting 2' variances and wondered what the applicant could agree to.

Ms. Bell asked if the backyard is fenced.

Ms. Huck stated not completely.

Ms. Bell asked if the shed would be inside or outside of the fence.

Ms. Huck stated inside of the fence.

The property line ends before the trees on that side.

Chairman Lesniak stated there is a fence there.

Ms. Huck stated the fence goes back to the proposed location of the tool shed and ends at the property line. There is greenspace and trees, but does not own that.

Ms. Huck stated that particular side of the fence stops at the property line; the property is pie shaped, not symmetrical.

Ms. Bell asked if the fence runs through the wetlands.

Ms. Huck stated no.

Ms. Bell asked if the structure size (12' x 16") includes the overhang.

Ms. Huck stated it's just the base.

Ms. Bell stated that would be another 12".

Ms. Bell stated the shed is really going to be 14' x 18' with the eaves.

Ms. Bell asked if the applicant is still willing to keep it 2'; 4' including the overhang or excluding the overhang.

Ms. Huck stated to include the overhang.

Chairman Lesniak asked how the applicant plans on getting around the shed because it's so close in case work needs to be done on the shed.

Ms. Huck stated we have talked to our neighbors and they are comfortable with the shed placement, but would do work from the interior from our yard side around the shed.

1. The Board is supposed to grant minimum variances.
2. When a variance is granted, it goes with the land, not with the neighbors.

Mr. Merchant stated to ensure there is enough room to get back there for a lawn mower a couple feet more isn't going to hurt because the regulations for a rear yard setback are 6' and then figuring the overhang (12") of the shed and feels that is pretty close. Mr. Merchant asked the applicant to come up with a number for the side yard so the Board can work with that.

Ms. Huck stated o.k.

The Board stated it makes it difficult to get a lawn mower back there and to put a fence back there.

Ms. Huck asked what the Board would recommend.

Mr. Merchant stated the 6' in the rear is what is required and could get away with the same on the side yard.

Mr. Long stated 6' all the way around

Ms. Huck stated sure and that will include the overhang.

Ms. Bell asked if the shed will be have any living quarters, storage of hazardous materials, industrial or business products.

Ms. Huck stated no to all and the shed will be used for gardening supplies.

Chairman Lesniak opened the public hearing at 8:02 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 8:03 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. The Board concurred 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. The Board concurred yes.

3) Whether the requested area variance is substantial. The Board concurred no.

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board concurred 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. The Board concurred yes.

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

Chairman Lesniak stated the setbacks are based on this chart Appendix C 3.A.1 of the Zoning Ordinance for the Stonebridge PUDD.

Ms. Bell gave the applicant a copy for her records.

MOTION: Ms. Kane made a motion for 7 Horseshoe Bend to Appendix C 3.A.1 for the Stonebridge PUDD for the construction of a 14' x 18' shed including the overhang with a side yard variance of 4.5' and stipulations of no living quarters, no hazardous materials and no business. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

Suzanne Bissonette
15 Conifer Drive; 257.5-2-32
Area Variance pursuant to §138-8.1 to allow a shed

Ms. Schermerhorn presented on behalf of Ms. Bissonette.

Chairman Lesniak read the applicant's narrative.

I, Suzanne Bissonette, am requesting a Variance for our 12X16 foot shed due to a failed septic system (per our septic company Ordorless). We have limited space to put in a new septic system - per our engineer, Wayne Kent. In order to keep the necessary 2014 shed and meet Wayne Kent's recommendation to not cover the new septic system (Presby) completely, the only scenario is to move the shed back - hence, the request for the zero rear setback.

8/24/17
Suzanne Bissonette
SUZANNE BISSONETTE

Ms. Schermerhorn stated she spoke to the engineer to see if there was any room to move and he did advise against it because he does not want anything on the septic system, which could create a failure to the Presby system.

Mr. Mertzlufft stated that is understandable, but the zero setback is awful. There is zero space between where the front of the shed would be and the end of the septic pipes and drains.

Chairman Lesniak asked does it interfere in the path of the septic system where the shed comes into the yard with a zero setback.

Mr. Mertzlufft asked if the front door of the shed towards the house.

Ms. Schermerhorn stated yes.

Mr. Long stated if you move the shed a few feet, could you compensate by making the septic system not further back, but longer.

When the engineer was at the property based on the recommended pipe layout, the leach field is going to sit partially above and taper on either end approximately 36' or about 32'.

Mr. Long asked if the applicant could move the shed 4' to the rear of the property.

Mr. Lesniak stated even more if you could.

The applicant stated that 4' would be o.k.

Chairman Lesniak said, "If the applicant extends the leach field and gets the same leaching affect and maybe eliminate a run or something like that."

A further discussion was held on the septic placement on the property changing the proposed zero setback to a 4' setback.

Mr. Long stated the sketch shows four runs, is it possible to start the run farther to the east.

The applicant stated this is the original as-built spec, which the Board did not receive.

Mr. Long asked if the applicant could move a little closer to the pool and have the runs go over longer.

A further discussion was held on the proposed septic system.

Mr. Merchant asked about putting the shed by the pool filter on the side of the yard, and then there is more room for drain fields in the back where the shed is sitting now.

Ms. Schermerhorn stated we really don't feel like we can move the shed. We had a meeting there a couple weeks ago with Mr. Kant, PE, Odorless Septic System, the Building Inspector and the neighbor. Ms. Schermerhorn stated after discussions, there were no other appropriate movements for the shed; pushing the shed back would provide the least interference for the septic system.

Ms. Brown stated to possibly place the shed on the side of the pool.

Ms. Bissonette stated it's not big enough.

Ms. Bell stated then a side yard setback would be necessary.

Ms. Schermerhorn stated that would be more obstructing to that neighbor than the woods.

Chairman Lesniak stated the applicant is agreeing to 4'.

The Board concurs with 4'

Ms. Bell asked if there is an overhang on the existing shed.

The applicant stated its 6" all the way around.

Ms. Bell stated the Board would be looking at the 6" from the boundary line.

Mr. Long stated the shed is 13' x 17' with the overhang.

Ms. Bell stated she will not need to inquire about the uses of the existing shed; they will not

change.

Mr. Mertzluft asked if the doors open forward or do they slide.

The applicant stated they are forward opening doors.

Chairman Lesniak opened the public hearing at 8:19 p.m.

No one wished to speak.

Chairman Lesniak closed the public hearing at 8:30 p.m.

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. The Board concurred 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. The Board concurred no.

3) Whether the requested area variance is substantial. The Board concurred yes.

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Board concurred 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. The Board concurred yes, self-created due to the leach field location.

MOTION: Mr. Merchant 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 at 15 Confier Drive pursuant to § 138-8.1 for the relocation of an existing 13' x 17' shed to grant an 11' rear yard setback. Mr. Long seconded the motion and all present voted in favor. **CARRIED.**

Chairman Lesniak stated before the Board adjourns, he wanted to go over the letter from Mr. Fischer regarding the Special Use Permit granted at 2 Townley Drive at the August 2, 2017 ZBA meeting.

Mr. Reilly stated Mr. Fischer cites an agriculture definition - customary agricultural uses; ordinarily raising of crops, livestock or poultry. Mr. Reilly stated it does fit into customary agricultural uses. Mr. Reilly said, "He guesses you could argue she is raising poultry." Mr. Reilly stated at any rate, it's an agricultural use." Mr. Reilly stated Mr. Fischer started citing Watershed Protection Overlay District that has agricultural uses. What those definitions are in there for are to discuss ones exempt from Watershed Protection Overlay requirements; you have a farm you are certainly exempt and not applicable as a discussion before the Board or applicable to the application had nothing to do with her to keep chickens. When Mr. Fischer cites that, does not think Mr. Fischer is correct.

Chairman Lesniak stated it is in the Town's zoning allowed with a Special Use Permit.

Mr. Reilly stated its agricultural use with custody of animals is permitted. Mr. Reilly stated you can have chickens with a Special Use Permit depending on which zoning district it's located.

Chairman Lesniak stated at the meeting, the Board stated no rooster.

Mr. Reilly stated its poultry, relative to the discussion on the Watershed Protection Overlay District.

Chairman Lensiak stated he made a comment in that meeting that dogs make a lot more noise than these chickens.

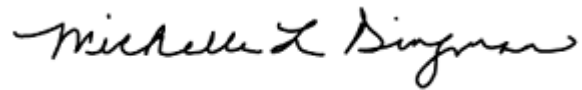
Mr. Reilly will respond to Mr. Fischer's letter.

Mr. Reilly stated the bottom line, the Board should not respond to that letter at all regarding the docks on Ballston Lake. If an applicant wants to build a dock, then the applicant would apply to the Building Department and if it meets all requirements, then a building permit would be issued, if not, then it would require a variance from the Zoning Board of Appeals.

MOTION: Mr. Bell 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 cursive script that reads "Michelle L. Dingman". The signature is written in black ink and is positioned above the printed name and title.

Michelle L Dingman
Zoning Board of Appeals Secretary