

Town of Ballston  
Zoning Board of Appeals

**TOWN OF BALLSTON  
ZONING BOARD OF APPEALS**

**Regular Monthly Meeting: May 7, 2014**

**ATTENDEES:** Michael Lesniak, Chairman  
Marilyn Bell, Vice Chairman  
Ellen Brown  
Robin Kane  
Fred Rogner  
Daniel Russell  
Jan VanDeCarr  
Stephen Merchant, 1st Alternate  
Daniel Mertzluft, 2nd Alternate  
Peter Reilly, Attorney  
Thomas Johnson, Building  
Inspector  
Members of the General Public

Chairman Lesniak called the meeting at 7:30pm and Ms. Kane led the Pledge of Allegiance. The chairman asked for corrections to the April 5, 2014 minutes.

Page 4 paragraph 8; "add crossing after railroad", Page 6 paragraph 3 add "crossing" after grade.

**MOTION:** Ms. Kane made a motion to accept the March 5, 2014 minutes as submitted. Mr. VanDeCarr seconded the motion and all present voted in favor. **CARRIED.**

Mr. Lesniak reviewed the agenda for this evening.

**OLD BUSINESS:**

**Susan A. Musto, 14 Connolly Road, Ballston Lake, NY 12019 (239.-1-79,1) for 280A Relief (Residential Subdivision - 2-lots).** Thomas Grasso and Joseph Grasso were present on behalf of the applicant. The applicant was before the board last month proposing a 2-lot subdivision on four acres.

Mr. Grasso stated last month the proposal was to subdivide from the four acre parcel to create two new building lots to be approximately 2 acres per lot. Based on the wetland locations and the buffers, at the recommendation from the engineer it was made into one new building lot approximately 3.5 acres. This plan was presented and approved by the Planning Board on Wednesday April 30, 2014 subject to conditional on approval from the Zoning Board of Appeals for 280-A Relief.

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Chairman Lesniak said the reason the subdivision was grant to help share in the cost of the lights and gates for a railroad crossing so Connolly Road would remain open. Mr. Grasso said that was one of the option as well as a separate tax district, which unfortunately has not come to pass.

Chairman Lesniak asked that their comments are germane to last month's meeting.

Mr. VanDeCarr said one issue from last month was the accessibility from Connolly Road and asked if there is any new information on that. Mr. Grass said it's the same as it was and nothing has been settled.

Ms. Bell asked if there was an anticipated date from the railroad. Mr. Grasso said the railroad anticipates a day based on the NYSDOT letter which was originated on 11/15/2013. The first stipulation is if one alternate legal access was obtained by 2/15/2014, the railroad crossing would be closed and have legal access. The second stipulation date ending 5/14/2014 - the railroad crossing would remain open, gated with the stipulation was the residents would have to incur half of the cost, not to exceed \$150,000.00 and \$1,800.00 in annual maintenance.

Mr. Russell asked if the applicant attended the Planning Board meeting for subdivision approval as stated in last month's narrative. Mr. Grasso said he attended the meeting. Mr. Russell asked the results of that meeting. Mr. Grasso said approval was granted conditional on ZBA approval for 280-A Relief.

Mr. Russell asked the applicant's if a survey was completed. Mr. Grasso said it was completed by Tommell and Associates. Mr. Grasso said the wetlands were flagged and a designed NYSDEC and ACOE (west side of lot) shown on the plan to make sure there was adequate area for a septic system. A soil investigation was performed including deep test pits and perc tests.

Chairman Lesniak opened the public hearing at 7:47 p. m.

Chairman Lesniak closed the public hearing at 7:48 p. m.

No one wished to speak.

Ms. Bell asked Mr. Reilly if the board makes a motion to grant 280-A Relief, is it contingent on maintaining ingress/egress only over Connolly Road, and the provision be with the deeded railroad crossing be installed.

Mr. Reilly said, "Issuance of Building Permits for the lots for which this relief has been granted contingent upon the following:

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1. The proposed access arrangement for the new lot shall be consistent with that as specified by order dated 11/15/2013 in case #308153 issued by the NYSDOT Office of Mobil Safety and Security, insofar as it allows the use of Connolly Road as a principal means of access.

2. In the event Connolly Road is not used as the principal means of access to the newly created lot, the Town of Ballston Zoning Board of Appeals shall be given the opportunity to review any such alternative access arrangement, and required improvements to confirm the alternative access arrangement provides a suitable safe and reliable means of access.

Ms. Bell asked Mr. Grasso if that stipulation is placed in the 280A-Relief variance, would that be acceptable. Mr. Grasso replied, yes - as long a Connolly Road closes could come up with an alternate legal means of ingress/egress would be acceptable.

**MOTION:** Mr. VanDeCarr motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanDeCarr motioned to declare this an **unlisted action** under the SEQR process therefore will declare this a Negative Declaration under the SEQR process. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

Mr. Reilly said if the board motions to approve the 280A-Relief suggests the following: "Issuance of Building Permits for the lots for which this relief has been granted contingent upon the following:

1. The proposed access arrangement for the new lot shall be consistent with that as specified by order dated 11/15/2013 in case #308153 issued by the NYSDOT Office of Mobil Safety and Security, insofar as it allows the use of Connolly Road as a principal means of access.

2. In the event Connolly Road is not used as the principal means of access to the newly created lot, the Town of Ballston Zoning Board of Appeals shall be given the opportunity to review any such alternative access arrangement, and required improvements to confirm the alternative access arrangement provides a suitable safe and reliable means of access.

**MOTION:** Mr. VanDeCarr moved to approve 280-A Relief subject to the stipulation in condition read into the record by counsel for granting of 280-A Relief on the new lot created on Connolly Road. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

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**Eric Cyphers, 14 Orchard Terrace, Burnt Hills, NY 12027 (257.-1-79.1) for an Area Variance (lot width) pursuant to §138-8.1 - Construct a 26' x 40' detached garage.**

Chairman Lesniak said the applicant requests a variance to construct a freestanding garage to replace the existing. The proposed detached garage is 26' x 40' and will be used for storage only. No living or office space will be contained in the garage.

Chairman Lesniak said a lot width of 150' is required - 133' existing; 17' lot width requested.

Mr. Rogner asked, why so large? Mr. Cyphers said, "The garage was not done right the first time." The applicant has three cars, two motorcycles and want to purchase a riding lawn mower.

Chairman Lesniak asked if the existing garage will be taken down. Mr. Cyphers replied, yes.

Mr. Rogner asked, "Is there a place to turn around or do you have to back out onto the street." Mr. Cyphers said currently have to turn around on the lawn or back out onto the street. Proposing a larger garage and an area to back into so a vehicle can pull straight out onto the street.

Mr. Rogner asked if there will be living quarters in the garage. Mr. Cypher replied, no.

Mr. Rogner asked if any business will be conducted out of the garage. Mr. Cyphers, replied no.

Ms. Brown asked how the applicant's have lived at this residence. Mr. Cyphers said since 1994.

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

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

No one wished to speak.

Ms. Bell read 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 replied "No."

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- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. The Board replied "No" - Not feasible.
- 3) Whether the requested area variance is substantial. The Board replied "No."
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. The Board replied "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 replied "No."

**MOTION:** Ms. Bell motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Mr. VanDeCarr seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Ms. Bell motioned to declare this a Type II Action under the SEQR process therefore exempt from review. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Ms. Bell made a motion that a lot width variance of 17' be granted for the property at 14 Orchard Terrace for the construction of a 26' x 40' single story structure with the stipulations that there be no living space, office space or manufacturing - it's used for personal storage and garage - pursuant to §138-8.1. Mr. VanDeCarr seconded the motion and all present voted in favor. **CARRIED.**

**Brian Scribner, 28 Pine Grove Ave, Ballston Spa, NY 12020 (228.5-1-20) for an Area Variance (front setback) pursuant to §138-8 - Construct a 10' x 20' deck.**

Chairman Lesniak said the applicant proposes to remove the concrete steps from in front of the dwelling and replace with a 10' x 20' deck. The proposed new deck would be approximately 5' closer to the road.

Mr. Scribner said flower beds have been planted out front and would like to spend more time enjoying that area.

Chairman Lesniak said the steps were designed on the side to minimize being any closer to the road.

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Ms. Brown asked how the applicant determined the distance from the property line. Mr. Johnson said it was measured from the center line of the road and subtract 25' for the right-of-way (ROW) width.

Mr. Russell asked if the property was serviced by municipal water and sewer. Mr. Johnson replied municipal water.

Ms. Bell asked the applicant if he (Mr. Scribner) was requesting enough distance for the setback for the proposed variance. Mr. Scribner said the existing concrete steps are 5' 5"; the deck as depicted is 10'.

Mr. Russell said, "If the town was to put in sanitary sewer in the area, an easement would be required and a construction zone required and a 60' ROW would require space for that." Mr. Russell does not see the applicant's proposal as detrimental for future work in that area.

Chairman Lesniak opened the public hearing at 8:08 p. m.

Donald Poutre, 531 Reita Street said he has no problem with the proposal and feels it will be a nice improvement to the neighborhood.

Chairman Lesniak closed the public hearing at 8:09 p. m.

Mr. Rogner read 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 replied "No."
- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. The Board replied "No" - Not feasible.
- 3) Whether the requested area variance is substantial. The Board replied "Yes."
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. The Board replied "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 replied "No."

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**MOTION:** Mr. VanDeCarr motioned to name The Town of Ballston Planning Board the Lead Agency in the SEQR process. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanDeCarr motioned to declare this a Type II Action under the SEQR process therefore exempt from review. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**MOTION:** Mr. VanDeCarr moved that the Town of Ballston grant an area variance for a front setback of 31' at 28 Pine Grove Avenue pursuant to §138-8.1 for the construction of a 10' x 20' deck. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**Consideration of proposed changes to Light Industrial District Regulations pursuant to §138-96, Code of the Town of Ballston.**

Pursuant to §138-96, Code of the Town of Ballston a request was made by the Town Board of the proposed changes to the Industrial District.

1. Fuel gasoline oil storage tanks is listed as a permitted (with special use permit) use while Storage of manufacturing of petroleum or other flammable liquids is listed as a prohibited use.

Chairman Lesniak said the change is the manufacturing of petroleum or other flammable liquids over 10,000 gallons.

2. Junkyard is permitted with special use permit while Auto wrecking yard is prohibited.

Chairman Lesniak said the proposed changes delete the Junkyard, which is a prohibited use.

Ms. Kane asked for clarification on petroleum storage. Chairman Lesniak said, "The proposed change is to prohibit the storage of petroleum or other flammable liquids over 10,000 gallons." (Remove manufacturing).

Chairman Lesniak polled the board.

Ms. Kane replied, "She is comfortable with the proposal."

Mr. Rogner agreed.

Mr. VanDeCarr replied, "He agrees - the clarity is good."

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Chairman Lesniak said, "For the enactment of the proposal amendments, this will allow the town council to redo the SEQR process for the original zoning amendment, which changed the zone from Industrial to Light Industrial." A statement will be provided with the board's report to the town council that the ZBA consents to the designation as Lead Agency for the SEQR process.

Ms. Bell asked, that is only for filing of the Light Industrial change. Chairman Lesniak said the town council are responsible for any change to the zone.

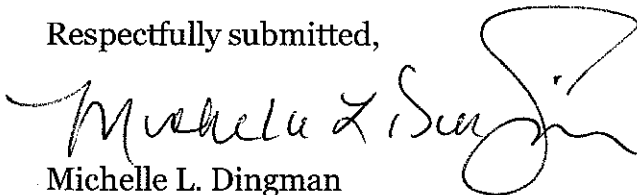
Chairman Lesniak to forward report to the Town Board and note that the Zoning Board of Appeals approves the recommendations and designate the town council as the Lead Agency for the SEQR process.

The board is in agreement.

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

Meeting adjourned at 8:28 p. m.

Respectfully submitted,



Michelle L. Dingman  
Zoning Board Secretary