



TOWN OF BALLSTON
ZONING BOARD of Appeals
Regular Monthly Meeting: June 2, 2010

ATTENDEES: Michael Lesniak, Chairman Peter Reilly, Deputy Town Attorney
Marilyn Bell, Vice Chairman Thomas Johnson, Building Inspector
Ellen Brown
Robin Kane Members of the General Public
Richard Kinney
Fred Rogner
John Antoski, 1st Alternate
Patrick Maher, 2nd Alternate

Chairman Lenik called the June 2, 2010 meeting at 7:30pm and Ms. Kane led the Pledge of Allegiance. The chairman asked for corrections to the April 7, 2010 minutes. They were as follows:
Page 1) 7th para; add change horse to "horses", Page 4) 10th para, strike "to ensure"

MOTION: Ms. Kane made a motion to accept the April 7, 2010 minutes as written. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

John Antoski and Patrick Maher were introduced as alternate members to the Zoning Board.

Mr. Lesniak said the Board will address the requested change to the April 7, 2010 minutes at the July meeting.

Mr. Lesniak reviewed the agenda for this evening.

NEW BUSINESS:

William & Dawn Fingar, 3 Gartner Drive, Ballston Lake, NY 12019 for an area variance pursuant to section 138-8.1.

The applicant's are proposing to construct a 32' x 8' front porch requesting a 33' front yard setback variance.

Mr. Lesniak asked if the applicants have spoken with their neighbors.

Mr. Fingar replied yes, Frederick Marx, had no objections to the construction of the front porch.

Mr. Lesniak opened the public hearing at 7:40pm.

Mr. Lesniak closed the public hearing at 7:41pm.

No one wished to speak.



Ms. Bell went through the five criteria of 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.

Mr. Fingar 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.

Mr. Fingar replied no.

3) Whether the requested area variance is substantial.

Mr. Fingar 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.

Mr. Fingar 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.

Mr. Fingar replied no.

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

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

MOTION: Ms. Bell made a motion for the property at 3 Gartner Drive for the construction of an 8' x 32' front deck including the steps to be 27' from to road requiring a 33' front yard setback variance pursuant to section 138-8.1. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

Desiree Kelleigh, 359 Eastline Road, Ballston Lake, NY 12019 for a sign variance pursuant to section 138-35. Desiree Kelleigh was present to propose a 4' x 4' x 10' billboard sign at the above said address.

The GoodeTimes Lakeview Restaurant is proposing to restore a directional sign on Outlet Road. The sign now removed was located at the (north side) intersection of Eastline and Lake Road for 36 years. A temporary sign has been erected, until permission is granted for placement of the new 4' x 4' x 10' sign on the south side of the road. The applicant states, the sign is critical to their business and there are no other options.



Ms. Kelleigh wanted to thank Mr. Curtis for allowing the sign on his property for the last 36 years.

Mr. Lesniak said even though the sign was there for 36 years, billboards area not permitted in that area and a use variance would be necessary.

Discussions were held on signage.

Mr. Reilly said there was a sign there; however, that sign is grandfathered. This application to be looked at as a new sign, it is a billboard, and not a permitted use, and the criteria for a use variance must be applied.

Mr. Reilly said this ordinance is somewhat business friendly to the extent because most municipalities do not allow for offsite advertising except for very limited areas. The Town of Ballston has seen fit to allow for directional signs for up to 2sq. ft. within two miles of the business without a permit.

Mr. Lesniak said there are four criteria that have to be met for a use variance.

- 1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence. Mr. Lesniak said, "This is hard to address with a sign."
- 2) That the alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood. Mr. Lesniak said, "The applicant has more signs than any restaurant."
- 3) That the requested use variance, if granted, will not alter the essential character of the neighborhood. Mr. Lesniak said, "It is yet to meet any of these."
- 4) That the alleged hardship has not been self-created. Ms. Kelleigh, said, "I did not understand."

Mr. Lesniak said there is no application needed for a 1' x 2' sign.

Mr. Lesniak said this application cannot be granted.

Mr. Kinney asked what if the applicant would demonstrate the various levels of compliance or what she did not understand.

Ms. Kelleigh she should could do anything with time, information, and knowledge.

Ms. Kelleigh asked, "Where to go after the Town."

Mr. Reilly said if denied, the applicant could Article 78 to the Supreme Court for the review of the decision of this Board.

Mr. Reilly said section 138-30 states the provision of directional signs which an argument can be made and the Board can consider this an application for a directional sign as an area variance as to the size of the sign.

Mr. Reilly asked, "What does the sign say." Ms. Kelleigh said, GoodeTimes Restaurant with an arrow.

A further discussion was held on the size of the proposed sign.



Mr. Lesniak asked the Board if they would consider an area variance for the sign.

Ms. Bell would be interested in discussing.

Mr. Kinney replied yes.

Mr. Antoski replied yes.

Ms. Brown replied yes.

Ms. Kane replied yes.

Mr. Rogner replied yes.

Mr. Lesniak replied yes.

Ms. Bell asked to explain the sign off exit 11. Ms. Kelleigh said there is a DOT sign on exit 11 and as you exit off the ramp, there is a small directional sign, and another small 1' x 2' directional sign.

Ms. Bell asked the size of the sign at Lake Road and Outlet Road. Ms. Kelleigh said a 4' oval.

Mr. Kinney asked if the proposed sign could be below 4'.

A further discussion was held on the height of the proposed sign.

Mr. Antoski has a concern with precedent.

Mr. Reilly said the Board is always concerned about precedent and precedential value, but there was an existing sign for over 36 years.

Ms. Bell asked the size of the existing sign. Ms. Kelleigh said a 4' diamond sign.

The sign proposed is burgundy and white.

A further discussion was held on the proposed sign size.

Ms. Kane asked if the sign would have lighting. Ms. Kelleigh replied no, the lettering is fluorescent.

Mr. Lesniak opened the public hearing at 8:10pm

Mr. Lesniak closed the public hearing at 8:11pm

No one wished to speak.

Mr. Lesniak asked the Board if they were in agreement with the proposed sign.

Mr. Rogner replied yes.

Ms. Kane replied yes.



Mr. Antoski replied yes.

Mr. Kinney replied yes.

Ms. Bell said the current zoning allows for a 2sq. ft. area sign; this is a 16sq. ft. and a variance of 14sq. ft. will need to be addressed.

Ms. Bell went through the five criteria of 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. Kelleigh 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.

Ms. Kelleigh replied no.

3) Whether the requested area variance is substantial.

Ms. Kelleigh 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.

Ms. Kelleigh 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.

Ms. Kelleigh replied no.

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

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

MOTION: Ms. Bell made a motion to grant an area variance for a sign to be located at 359 Eastline Road pursuant to section 138-30 for the erection of a 4' x 4' x 4' (16sq. ft.) to create a 14sq. ft. variance.

The distance from each corner of Lake Road and Eastline Road to be 35' from the center of the road as depicted on the drawing submitted from the applicant. This is the same sign that was on the corner of Lake Road and Eastline Road. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**



Gary Maher, 399 Goode Street, Burnt Hills, NY 12027 for an area variance pursuant to section 138-10.1 Gary Maher was present to propose the construction of a storage structure at the above said address.

The applicants are proposing to construct a 24' x 28' garage.

The Maher's have resided at their property for 16 years.

Mr. Rogner asked if the garage will be used for living quarters. Mr. Maher replied no.

Mr. Rogner asked if any business would be conducted out of the garage. Mr. Maher replied no.

Mr. Kinney asked if the neighboring properties were notified about the proposal. Mr. Maher replied no, trees would hide where the garage is proposed.

Driveway to be installed for proposed garage.

The garage doors will face Goode Street.

Mr. Lesniak opened the public hearing at 8:26pm.

Mr. Lesniak closed the public hearing at 8:27pm.

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.

Mr. Maher 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.

Mr. Maher replied no.

3)Whether the requested area variance is substantial.

Mr. Maher 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.

Mr. Maher 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.

Mr. Maher replied no.

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



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

MOTION: Mr. Rogner made a motion for an area variance for 399 Goode Street pursuant to section 138-10.1 for the construction of a 24'x 28' garage a 21,194sq. ft. area variance and a 74' lot width variance. The following stipulations, no living quarters in the garage and no business to be conducted out of the garage. Mr. Kinney seconded the motion and all present voted in favor. **CARRIED.**

Daniel Zappolo, 23 Marlyn Drive, Burnt Hills, NY 12027 for an area variance pursuant to section 138-8.1 Daniel Zappolo was present to propose the construction of a storage structure at the above said address.

The applicant proposes to construct a 12' x 20' shed for storage of lawn equipment and tools. The applicant is requesting a 21,269sq. ft. area variance, 55.5' lot width variance, and a 3' side yard setback variance.

Mr. Rogner asked if the shed that exists would remain. Mr. Zappolo said the shed will replace the onsite storage pod.

Ms. Kane asked if the proposed shed has the same setback as the existing shed. Mr. Zappolo replied yes, the ZBA granted a variance about nine years ago.

Mr. Lesniak opened the public hearing at 8:35pm

Mr. Lesniak closed the public hearing at 8:36pm

No one wished to speak.

Ms. Brown asked if there was another location for the proposed shed. Mr. Zappolo said no, due to the septic system location.

Ms. Bell went through the five criteria of 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.

Mr. Zappolo 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.

Mr. Zappol replied no.

3) Whether the requested area variance is substantial.

Mr. Zappolo 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.



Mr. Zappolo 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.

Mr. Zappolo replied no.

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

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

MOTION: Mr. Kinney made a motion to approve the variance at 23 Marlyn Drive pursuant to section 138-8.1 for an area variance of 21,269sq. ft. a lot width variance 55.5, and a side yard setback of 3' for the construction of a 12' x 20' shed with the following stipulations. No living quarters in the shed, no business will be conducted out of the shed, and removal of storage pod within a reasonable amount of time. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

Drew Hamelink, 122 Westside Drive, Ballston Lake, NY 12019 for an area variance pursuant to section 138-11.1. Drew Hamelink was present to propose the construction of a storage structure.

The applicant is requesting to construct a 24' x 26' pole barn garage. The applicant has stated the proposed setback is limited to a steep 10' drop and NYS DEC wetlands.

Mr. Hamelink has proposed changing the ridgeline on the proposed garage and increasing the proposed size to 24' x 42'.

Mr. Hamelink received approval from DEC.

A further discussion was held on the proposed height of the garage.

Mr. Johnson said that since the request is over 1,000sq. ft. and the property is located in the Ballston Lake Waterfront District, site plan review will be necessary by the Planning Board.

Mr. Hamelink agreed to the 24' x 26' pole barn garage alleviating site plan review by the Planning Board.

Ms. Kane asked if a turn around will be provided to alleviate backing out onto Westside Drive.

Mr. Hamelink said, "He believes so".

Ms. Brown asked if the applicant has spoken to the neighbors about the proposal.

Mr. Hamelink said yes, they have no issues.

Ms. Bell asked if the proposed garage would be used for storage. Mr. Hamelink replied yes.



Ms. Bell asked if there is any intention to operate a business out of the proposed garage.

Mr. Hamelink replied no.

Ms. Bell asked if the proposed garage would have a second floor.

Mr. Hamelink replied no.

Ms. Bell has a concern with future expansion of second floor living quarters.

Mr. Lesniak opened the public hearing at 8:55pm

Mr. Lesniak closed the public hearing at 8:56pm

A further discussion was held on a proposed turn around.

Mr. Kinney went through the five criteria of 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.

Mr. Hamelink 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.

Mr. Hamelink replied no.

- 3) Whether the requested area variance is substantial.

Mr. Hamelink 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.

Mr. Hamelink 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.

Mr. Hamelink replied no.

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

MOTION: Ms. Bell motioned to declare this a Type II action under SEQR and therefore exempt from review. Mr. Kinney seconded the motion all present voted in favor.



MOTION: Ms. Bell made a motion for 122 Westside Drive for the construction of 24' x 36' garage pursuant to section 138-11.1 with a lot area variance of 21,630sq. ft., lot width variance of 75', and a front setback variance of 36' with the following stipulations. No living space, no business conducted in the structure, no second floor, and no backing out onto Westside Drive. Mr. Rogner asked the limitation of no second floor; the applicant might want storage in the future. Ms. Bell has a concern for a conversion of the second story used for living quarters. The DEC wetlands permit to be provided to the Building Inspector before issuance of a building permit. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Ms. Kane made a motion to adjourn. Ms. Bell seconded the motion.

CARRIED.

Meeting adjourned at 9:06pm.

Respectfully submitted,
Michelle L. Dingman