



Town of Ballston  
Zoning Board Minutes  
December 31, 2008

The following are the minutes of the Town of Ballston Zoning Board of Appeals hearing held on Wednesday, December 3, 2008.

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  
Fred Rogner  
Jan VanDeCarr  
Timothy Northrup, 1<sup>st</sup> Alternate  
Richard Kinney, 2<sup>nd</sup> Alternate

Chairman Lesniak called the meeting at 7:30pm and Mr. Lesniak led the Pledge of Allegiance. The chairman asked for corrections to the November 5, 2008 minutes. They were as follows:

Page 2) 6<sup>th</sup> paragraph add "at" after are, Page 3) 8<sup>th</sup> paragraph change "h" to "n" in Hernandez, Page 4) 8<sup>th</sup> paragraph strike "shall be", Page 7) 3<sup>rd</sup> paragraph add under **motion** "Mr. Groves declared this an unlisted action under SEQRA", strike "Mr. Mr. Groves motioned to declare this a Type II action under SEQR and therefore exempt from review".

Mr. Lesniak reviewed the agenda for this evening.

Mr. Lesniak stated that Stewarts Shops Corp located on the corner of Route 67 and East Line Road has withdrawn their application for a front yard setback

**MOTION:** Ms. Bell made a motion the request for the Stewart's Shops located at 801 Route 67 be removed from the agenda as the applicant has withdrawn the application. Ms. Brown seconded the motion and all present voted in favor.

**CARRIED.**

**NEW BUSINESS:**

**Wesley Kaczmarek, 1017 Route 50, Ballston Lake, NY 12019 for an interpretation pursuant to section {138-12} and a use variance pursuant to section {138-12} to operate property maintenance service business.** Mr. Lesniak stated the applicant is requesting an interpretation because it is not listed as one of the permitted uses in the any of the zoning districts.



Mr. Kaczmarek said after reviewing the current zoning did not see that type of business listed as an allowable use or even with a Special Use Permit.

Mr. Kaczmarek is requesting an interpretation of whether or not the property maintenance business would fit into the Business Highway-2 District Zoning or if does not, would be requesting a special use or variance to operate that type of business.

Mr. Lesniak read a portion of the Zoning Board Attorney's comment letter. "The Zoning Board has the legal authority to interpret the ordinance and determine whether the applicant's proposed use is an allowed use; either as of a right or by the way of a Special Use Permit in the Business Highway -2 Zoning District. Although not specifically listed as a permitted use in the district proposed use certainly seems to fit the purpose and intent of the districts as set forth in section (138-12.2) of the ordinance. This district is created to provide for commercial uses that are traditionally are located along the highway corridor in which require a large flow of traffic and ease of access. It is also pertinent that this particular use is not listed as a permitted use in any Zoning District of the town. As a general rule, is that all legal uses should be provided for within some district in the municipality."

Mr. Kaczmarek said that proposal is to place the improvements on lot #2.

Mr. Lesniak said there are no other variances needed.

Ms. Kane asked how many employees you envision. Mr. Kaczmarek said no more than three or four.

Ms. Kane asked if the employees will work at this location. Mr. Kaczmarek said no the employees will only load equipment in the morning and unload equipment in the evening.

Ms. Kane asked what the employees would be loading. Mr. Kaczmarek said minimal amounts of mulch or stone.

Ms. Kane asked the applicant to compare this business to one already established in the town. Mr. Kaczmarek said the business is located on the corner of Route 67 and Middleline Road.

Ms. Kane said she compared this proposal to Kulak's. Mr. Kaczmarek does not envision a lot of custom trade; most traffic would be employee related.

Ms. Kane asked about the ingress and egress to the site. Mr. Kaczmarek is proposing one entrance to the site.

Ms. Kane asked if this business would include snowplowing. Mr. Kaczmarek said this proposal is lawn mowing, landscaping, and yard cleanup in the summer months and snowplowing during the winter months. Ms. Kane asked about salt storage. Mr. Kaczmarek said that the salt would be stored inside the building. Ms. Kane asked if the truck would pull in the building and load the salt. Mr. Kaczmarek replied yes.

Ms. Bell asked about the property boundary to separate lot #1 from lot #2.

Mr. Kaczmarek said lot #2 will include the building improvements. Mr. Kaczmarek said that wetland delineation has been completed by the DEC in September 2008 and lot#2 and will be subject to the ACOE delineation or by a qualified Wetland Biologist.



Ms. Bell asked if there will be sufficient ingress and egress to Route 50 from lot#1. Mr. Kaczmarek said the present egress is from lot #1.

Ms. Bell asked if a discussion was held in the agenda meeting about the Ballston Lake Overlay District.

Ms. Bell asked if there will be any chemical fertilizer or anything stored outside that may possibly leach into the water. Mr. Kaczmarek said storage of that material will be inside.

Mr. Reilly said if the Board does interpret this as an allowable use, it still needs to be reviewed by the Planning Board for Site Plan Review and possibly a Special Use Permit.

Mr. VanDeCarr asked if business will be similar in nature to the landscaping business north on Route 50 which stores stone on pallets outside. Mr. Kaczmarek said no it would be completely different and does not intend to get into building stone walkways or walls. Mr. Kaczmarek envisions mulch and stone of various kinds.

Mr. VanDeCarr asked the number of trucks for this business. Mr. Kaczmarek said one dump truck, two or three pick-up trucks, and two or three trailers.

Mr. Northrup asked where the yard waste will be disposed. Mr. Kaczmarek said he will dispose of the waste at a site in the Town of Malta.

Mr. Northrup asked where the maintenance will be performed on the vehicles. Mr. Kaczmarek said there will be preliminary maintenance or preventative maintenance performed on site.

Mr. Lesniak opened the public hearing at 7:50pm

Eric Hoover, 16 Middleline Road asked about what the applicant envisions five years from now. Mr. Hoover asked about screening the property. Mr. Reilly said that the concerns are reasonable and that issue will be addressed at the Planning Board level under Site Plan Review. Mr. Hoover asked if a public hearing will be schedule at that time. Mr. Reilly replied yes and your concerns can be addressed at that time.

Mr. Lesniak said a number of issues that are being discussed fall under Site Plan Review with the Planning Board.

Ms. Hoover asked what holds the applicant to what is being envisioned. Mr. Reilly said the site improvements would be handled under Site Plan Review and if those were to be expanded in the future, would have to return for further review. Mr. Reilly said that the number of trucks coming in and out is not necessarily handled under Site Plan Review.

Ms. Hoover asked the size of the proposed building. Mr. Lesniak said 40' x 60' single story building which includes an office.

Mr. Hoover said as far as future development, will another noticed be sent out under Site Plan Review of this project. Mr. Reilly replied yes.

Mr. Lesniak closed the public hearing 7:55pm.



Mr. Lesniak polled the Board.

Mr. Rogner said since the Board is not considering the Special Use Permit, all of the questions that would have been asked are not pertinent.

Mr. Rogner said that this falls under the jurisdiction of that business district and considers it an allowed use with the Special Use Permit with the Planning Board.

Ms. Kane is in agreement with her colleague.

Ms. Brown is in agreement.

Mr. VanDeCarr is in agreement.

Mr. Northrup feels that it fits under the use.

Ms. Bell is in agreement.

Mr. Lensiak is also in agreement and said there is not any district in which this is permitted which appears to fit with the intent of Business Highway-2 District use.

**MOTION:** Ms. Bell made a motion to adjourn. Mr. Northrup seconded the motion and all present voted in favor.

**CARRIED.**

Meeting adjourned at 8:01pm

Respectfully submitted,

Michelle L. Dingman