



TOWN OF BALLSTON ZONING BOARD
Regular Monthly Meeting: December 7, 2011

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
John Antoski, 1st 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 2, 2011 minutes. They were as follows:

Page 1) 4th para; strike meeting add "minutes", Page 3) 4th para; strike granted add, "Made a motion to grant"

MOTION: Ms. Kane made a motion to approve the November 2, 2011 minutes as amended and Ms. Brown seconded the motion. **CARRIED.**

Mr. Lesniak reviewed the agenda for this evening.

NEW BUSINESS:

Terry Miltner, 1 Garrison Road, Burnt Hills, NY 12027 requests an area variance pursuant to section 138-8.1. The applicant proposes to construct a 16'x 24' 3-sided carport with attached 8' x 16' shed.

Ms. Bell inquired about using the shed for living quarters. Mr. Miltner replied no.

Ms. Bell asked if other land is available to purchase. Mr. Miltner replied no, and did not approach surrounding property owners.

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

Robert Sammons, 41 Forest Road asked the location of the proposed shed.

Mr. Lesniak closed the public hearing at 7:42pm

Ms. Bell read the 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.



- 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.
- 3) Whether the requested area variance is substantial.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district.
- 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 determined the applicant meets the above said criterion.

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. Rogner seconded the motion all present voted in favor. **CARRIED.**

MOTION: Ms. Bell made a motion to grant an area variance for the construction of a 16' x 24' three-sided carport and shed pursuant to section 138-8.1 area variance 6,459 sq., lot width variance 54ft. Ms. Kane seconded the motion, and all present voted in favor. **CARRIED.**

Mr. Lesniak read the attached letter and discussed with Mr. Willis, NYSDOS (retired), Mr. Valentine, SCPB, Mr. Brower, Town Attorney, Mr. Johnson, Building Inspector, and CT Male.



For Background & information only.

ZONING

Lot Width

Defined – A mean horizontal distance between the front and rear lot lines.

Mean – one definition - halfway between two extremes.

Planning Board interpretation was that “Mean” as the same as “Average”. Mean is synonymous with average for arithmetical mean – average of a series of numbers. However, for Geometric Mean for numbers is a product of numbers and the root number of the numbers; e.g., two numbers 2,8 is the square root of the product of $2 \times 8 = 4$ which is not equal to 5 being the average of $2+8$; for three number such as 2,4,8 it is the cube root of the product $2 \times 4 \times 8 = 4$, the average is $2+4+8 = 14/3 = 4.67$.

The Planning Board (PB) function is not to interpret zoning; i.e., a judicial interpretation which is the function of the Zoning Board of Appeals (ZBA). Besides it being the function of the ZBA the PB interpretation is flawed.

The PB established the resolution to determine lot width using the methodology defined as Exhibit (1) which is based on mean being equal to average. The ZBA chairman went to the Saratoga Planning Board (Mike Valentine); the past and present Line/Land attorneys for the Department of the State, Harry Willis and Darrin Derosia, respectively; the Director of Planning Development for Saratoga Springs (Brad Birge); and our Town attorney Murray Bower. They all agree that this is an interpretation of Zoning and it is up to the ZBA to make the determination. In fact in Saratoga Springs, Brad Birge went as far as stating that their Lot Width definition is the same as our and when there is a interpretation question concerning lot width their planning board goes to their ZBA for resolution.

Based on this research and the determining that the interpretation of lot width is a judicial function that should be determined by the ZBA, The ZBA proposes the following motions:

- (1) The PB interpretation and established resolution (Exhibit (1)) be declared null and void. Also as part of this motion that the PB shall amend their 9/28/11 minutes to reflect the same; i.e., that exhibit (1) resolution is null and void. This would eliminate an unnecessary burden on the building Department to review and establish Lot Width as depicted in Exhibit (1).
- (2) The Lot Width is to be determined by the Building Department by first establishing the connecting line from the mid-point of the front line to the mid-point of the rear line. The lot width is then measured at two places; specifically the widest and the narrowest portion of the lot. These two distances are then added and divided by two to establish the “Mean”. In determining the Lot Width the distances measured at these two points shall be between the two side lines of the lot not on a side line and a road frontage or front line; See Exhibit (2).

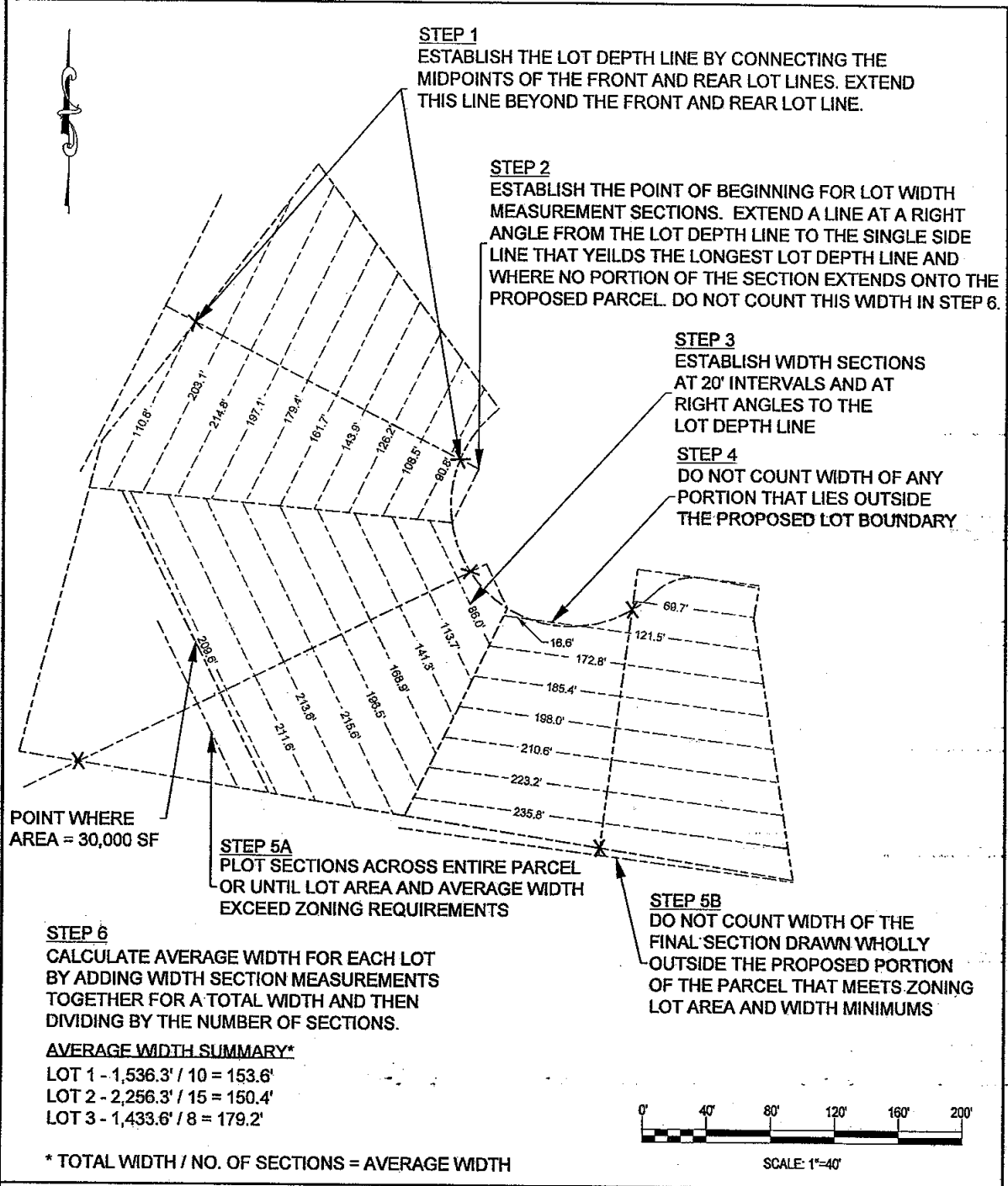


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It should be noted that the Building Department was using the method described and the LeBerge group misrepresented the method to determine Lot Width to establish the flawed Exhibit (1).



EXHIBIT (1)



STEP 1
ESTABLISH THE LOT DEPTH LINE BY CONNECTING THE MIDPOINTS OF THE FRONT AND REAR LOT LINES. EXTEND THIS LINE BEYOND THE FRONT AND REAR LOT LINE.

STEP 2
ESTABLISH THE POINT OF BEGINNING FOR LOT WIDTH MEASUREMENT SECTIONS. EXTEND A LINE AT A RIGHT ANGLE FROM THE LOT DEPTH LINE TO THE SINGLE SIDE LINE THAT YIELDS THE LONGEST LOT DEPTH LINE AND WHERE NO PORTION OF THE SECTION EXTENDS ONTO THE PROPOSED PARCEL. DO NOT COUNT THIS WIDTH IN STEP 6.

STEP 3
ESTABLISH WIDTH SECTIONS AT 20' INTERVALS AND AT RIGHT ANGLES TO THE LOT DEPTH LINE

STEP 4
DO NOT COUNT WIDTH OF ANY PORTION THAT LIES OUTSIDE THE PROPOSED LOT BOUNDARY

POINT WHERE AREA = 30,000 SF

STEP 5A
PLOT SECTIONS ACROSS ENTIRE PARCEL OR UNTIL LOT AREA AND AVERAGE WIDTH EXCEED ZONING REQUIREMENTS

STEP 5B
DO NOT COUNT WIDTH OF THE FINAL SECTION DRAWN WHOLLY OUTSIDE THE PROPOSED PORTION OF THE PARCEL THAT MEETS ZONING LOT AREA AND WIDTH MINIMUMS

STEP 6
CALCULATE AVERAGE WIDTH FOR EACH LOT BY ADDING WIDTH SECTION MEASUREMENTS TOGETHER FOR A TOTAL WIDTH AND THEN DIVIDING BY THE NUMBER OF SECTIONS.

AVERAGE WIDTH SUMMARY*
 LOT 1 - 1,536.3' / 10 = 153.6'
 LOT 2 - 2,256.3' / 15 = 150.4'
 LOT 3 - 1,433.6' / 8 = 179.2'

* TOTAL WIDTH / NO. OF SECTIONS = AVERAGE WIDTH



4 Computer Drive West • Albany, New York 12205
(518) 458-7112 • www.labergegroup.com

ENHANCED LOT WIDTH CALCULATION

TOWN OF BALLSTON
SARATOGA COUNTY, NEW YORK



EXHIBIT (2)

C.T. MALE ASSOCIATES

Engineering, Surveying, Architecture & Landscape Architecture, P.C.

50 Century Hill Drive, Latham, NY 12110
518.786.7400 FAX 518.786.7299 ctmale@ctmale.com



November 7, 2011

Mr. Richard Doyle, Chairman
Town of Ballston Planning Board
PO Box 67
Burnt Hills, New York 12027

Re: *Calculation of Mean Lot Width*
CTMale Project No. 11.1016

Dear Mr. Doyle:

We have reviewed the letter dated September 23, 2011 between Donald C. Rhodes, P.E. of Laberge Group and the Town of Ballston Building Department regarding Lot Width Calculation of irregular shaped lots. We agree that the recommended Basic Sectional Method and the Enhanced Sectional Method would more accurately depict the mean lot width.

Currently, the definition in § 138-3 of the Town of Ballston Code under "Definitions; Word Usage," the definition in question, is described as:

"LOT, WIDTH OF - The mean width measured at right angles to its depth."

According to correspondence and meeting minutes we have reviewed, the current method used by the Building Department is to first establish the lot depth by connecting a line from the mid-point of the front line to the mid-point of the rear line. The lot width is then measured in two places, specifically the widest and narrowest portion of the lot. These two distances then are added and divided by two to establish the "Mean." In trying to understand the reason why the current method of calculation used by the building department results in erroneous lot widths, several factors were considered. In the example (Figure 1 in the above mentioned letter) used by Donald C. Rhodes, P.E., the resulting 0' widths that are used in the calculations are actually measured between a sideline and a front line at the narrowest point of the lot. Extending the lot depth line outside of the lot results in a 0' front width measurement where side property lines converge. The use of a 0' width in the mean computation skews the resulting lot width and introduces an inaccurate representation of the narrowest portion of the lot. We believe this is not an accurate representation of the true mean lot width.

Definitions of lot width according to the zoning regulations of surrounding towns were also reviewed. According the definitions of lot width for Town of Clifton Park Zoning and the Town of Glenville Zoning, lot width is described as being the distance between side lot lines measured at specific places.

1910 - 2010
years



EXHIBIT (2)

C.T. MALE ASSOCIATES

*Date: November 7, 2011
To: Richard Doyle, Chairman
Town of Ballston Planning Board
Re: Calculation of Mean Lot Width
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We believe that a lot width should typically take into account the distance between two side lines not one side line and a road frontage or front line. Our interpretation of the current town code definition using the common definition of the word "Width - extent from side to side" should include the closest distance to the frontage where the two sidelines are opposite each other. A sample of this interpretation is shown by Figure 1 (attached).

The methodologies proposed by the Leberge Group to compute lot width, either the Basic Sectional Method or the Enhanced Sectional Method take the simple method shown in the attached figure several steps further and are also appropriate. The frequency of the intervals, currently proposed at 20', is reasonable as it is a truer representation of the actual lot width. An increased interval would add unnecessary redundancy with little or no variation in results and decreased intervals could reduce the accuracy not truly representing the mean lot width.

Please feel free to call me at 518-786-7613 should you have any questions in this matter.

Sincerely,

C.T. MALE ASSOCIATES

Raymond T. Liuzzo, P.L.S.
Survey Group Manager

cc: Peter Reilly, Planning Board Attorney
Thomas Johnson, Building Inspector



EXHIBIT (2)

C.T. MALE ASSOCIATES

Date: November 7, 2011
To: Richard Doyle, Chairman
Town of Ballston Planning Board
Re: Calculation of Mean Lot Width
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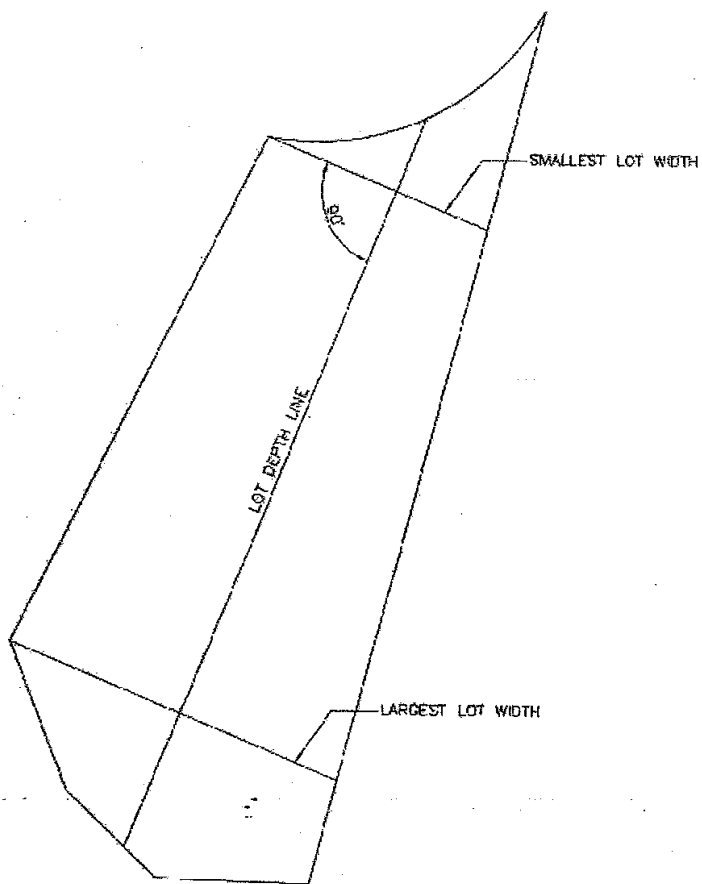


FIGURE 1



MOTION: Mr. Lesniak moved to have the interpretation of the Planning Board declared null and void. Motion did not receive a second.

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

CARRIED.

Meeting adjourned at 7:54pm.

Respectfully submitted,

Michelle L. Dingman