





Town of Ballston  
Zoning Board of Appeals  
March 10, 2009

Mr. Rogner asked if an attempt has been made to purchase additional property. Ms. Baldes said yes and has spoken to Mr. Jackson who was not interested in selling property at this time.

Mr. Lesniak asked when the bank took possession of the home.

Mr. Cook said back in October or November.

Mr. Rogner asked if Mr. Jackson's no was emphatic. Ms. Baldes said it was just a no at this time.

Andrew Cook, Cook Realty, had spoken to Mr. Jackson about purchasing land. Mr. Jackson said that the land is used for growing mature trees. Mr. Cook said that Mr. Jackson has an agricultural exemption for his business and felt that it did not make sense for him to sell the property.

Mr. Roger said that 10ft. would not affect his agricultural exemption.

Mr. VanDeCarr asked when their first contact was with Mr. Jackson about purchasing property. Mr. Baldes said about two weeks ago. Mr. VanDeCarr said within the last month, initial contact was made with Mr. Jackson and discussed a possibility of the purchase of property. Ms. Baldes said we had spoken to Mr. Jackson a couple of times; on the phone once and once in person.

Mr. VanDeCarr asked the driveway location because the depiction shows the driveway on the map as lands of. Mr. Lesniak said that is not correct. Mr. VanDeCarr said the driveway is wholly within the parcel.

Mr. Rogner said the only three options for the applicants are to buy land, tear the house down, or receive a variance from the Zoning Board.

Mr. VanDeCarr asked if it were possible to swap sections of the parcel in an appropriate spot in exchange for the property in the back of the lot. Mr. Johnson said it can be done, but it would require an agreement by Mr. Jackson.

Mr. Reilly said he did not feel that Mr. Jackson is going to do anything in hopes that the agreement will be denied and then the bank has a worthless piece of property and cannot get a Certificate of Occupancy.

Mr. Rogner asked Mr. Johnson if something of this nature would set a dangerous precedent for the future. Mr. Johnson said that he would not use the word dangerous. Mr. Rogner asked if it would set a precedent. Mr. Johnson said anything would, but felt it was a legal question.

Mr. Reilly said yes and no to the extent that this Board makes its decisions based on facts. This case is determined by a balancing between the benefit to the applicant and adverse effect on the neighbor and surrounding properties.

A further discussion was held on the adjoining property.



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Mr. Rogner asked if the applicant were to take down part of the porch, the house would only be 4.3ft. away from the property line. Mr. Johnson said if you cut off the porch parallel to the property line, it would be 4.3ft. back. Mr. Rogner said then a 7.7ft. variance would be needed.

Mr. Lesniak opened the public hearing at 7:55pm

James Bruni, 6 Manning Road said an empty house in foreclosure does affect the neighborhood and would like to see it sold to this couple.

Bob Leitch said that he would like to see a nice neighborhood and feels they are nice people and would like to see them move in.

Mr. Lesniak closed the public hearing at 7:58pm

Mr. Groves said that Mr. Bruni does raise a very valid point that a vacant home whether it is owned by the bank or whether it is eventually sold; having a worthless piece of property certainly by not granting the variance would have a negative impact versus granting any type of variance.

Mr. Lesniak said in his opinion, the house placement was due to the power lines.

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. Baldes replied 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. Ms. Baldes replied no.
- 3) Whether the requested area variance is substantial. Ms. Baldes 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. Baldes 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. Baldes replied no.

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

**MOTION:** Mr. Groves 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.**



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**MOTION:** Mr. Rogner made a motion to grant an area variance at 2 Manning Road pursuant to section 138-12 for a side yard variance of 10ft. for a residence already constructed on premise. Ms. Bell made a stipulation that the record reflect the 2002 zoning law. Mr. Groves seconded the motion and all present voted in favor. **CARRIED.**

MOTION: Mr. Lesniak made a motion to adjourn. Ms. Brown seconded the motion. CARRIED.

Meeting was adjourned at 8:05pm.

Respectfully submitted,

Michelle L. Dingman



**TOWN OF BALLSTON PLANNING BOARD**  
**Regular Monthly Meeting: October 29, 2008**

