





Ms. Messare said it could but, the wall that is between the existing house and the proposed addition has a bow and will be extending it out. Ms. Bell asked if it will be replacing the existing garage. Ms. Messare replied yes and a breezeway.

Mr. Van De Carr asked the location of the neighbors who sent in letters about the proposed addition. Ms. Messare said the house that is directly looking at hers, the house next door and the house directly across the street.

Ms. Bell asked if the existing garage will be converted into living space. Ms. Messare replied yes. Ms. Bell asked if a turn-around could be constructed to alleviate backing out of the driveway. Ms. Messare said that the proposal was to leave the driveway because a turn-around would take up most of the front yard.

Chairman Lesniak opened the public hearing 7:45pm

Chairman Lesniak closed the public hearing 7:46pm

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. Ms. Messare 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. Messare replied no.
- 3) Whether the requested area variance is substantial. Ms. Messare replied no.
- 4) Whether the proposed variance will have an adverse affect on the conditions in the neighborhood or district. Ms. Messare replied no; it will improve the neighborhood.
- 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. Messare 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. Ms. Kane seconded the motion all present voted in favor. **CARRIED.**

**MOTION:** Ms. Bell made a 23' front yard set back be granted for 33 Buell Ave for the construction of a two story residential addition. Ms. Kane seconded the motion and all present voted in favor. **CARRIED.**

**Gerald Casey, 96 Connolly Road for an area variance pursuant to section (138-11.1).** Chairman Lesniak said that the applicant is proposing to construct a 26' x 32' garage across the street from the residence. The applicant is requesting an 85' lot width variance and a 10' set back variance.



Ms. Kane asked if there will be living space upstairs. Mr. Casey said the original garage was torn down on the east side so the purpose is to create a three car garage with primarily storage above. Ms. Kane asked why so close. Mr. Casey said that is where the leach field is located and does not want any issues with water.

Ms. Bell asked if the proposed garage is approximately the same set back as all the other garages on the street. Mr. Casey replied yes and the last new garages on the street have been constructed; 40', 50' and 60' back. Ms. Bell asked if there will be business operations be conducted out of the garage and storage of hazardous materials Mr. Casey replied no.

Chairman Lesniak opened the public hearing at 7:50pm

Chairman Lesniak closed the public hearing at 7:51pm

No one wished to speak.

Mr. Rogner 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. Casey 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. Mr. Casey replied no.
- 3) Whether the requested area variance is substantial. Mr. Casey replied yes
- 4) Whether the proposed variance will have an adverse affect on the conditions in the neighborhood or district. Mr. Casey 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. Casey replied no.

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

**MOTION:** Mr. Rogner moved to grant an area variance at 96 Connolly Road pursuant to section 138-11.1 for the construction of an unattached 26' x 32' garage across the road from the residence a lot width of 85' and front set back of 10' with the following stipulations: no business to be conducted out of garage and no living quarters out of the garage. Ms. Bell seconded the motion and all present voted in favor. **CARRIED.**

Mr. Groves assumed Mr. Van De Carr's position on the Board.



**CPR Auto Sales, 1 Charlton Road for a use variance pursuant to section (138-12).** Chairman Lesniak said the applicant is proposing to expand the use from Slices ice cream parlor and miniature golf by adding limited auto body repair and auto sales. Chairman Lesniak said that this requires a use variance and is not permitted in this zone.

John Cromie, Esq. said that Mr. Samek is asking for a use variance and said the process began about a year ago to put two uses on this piece of property when only one is permitted. In that time frame, the zoning changed and now two uses are permitted. Mr. Cromie said that presently auto body repair and sales are not permitted in this zone. Mr. Cromie said that Slice's is a retail business setup 14 years ago and depends on a certain population of people to be coming into play miniature golf and eat ice cream. Mr. Cromie looked at the types of businesses between Janet's V Corners, Middleline Road, and Route 50 and said that there are very few retail oriented businesses and larger portions are auto related and many are secondary businesses. Mr. Cromie said that there is not a large enough population of people coming down to that area to sustain a consumer retail business. Mr. Cromie said given Mr. Samek was in an accident and a year before was only open part of the year due to the regulations and DOH approvals; the hardship was created by the economics.

Mr. Cromie said that the variance that is being proposed is a small shed that exists on the property and any kind of auto body work would be confined to that shed. The use is to help maintain the property and also display three cars for sale.

Mr. Cromie said that the use that is being asked for is permitted across the street on the north side of Charlton Road which would not be changing the character of the neighborhood.

Chairman Lesniak said that a use variance is difficult to get and have to meet all four criteria.

Mr. Cromie said that there are very few permitted uses that can be done there without tearing it down and starting over and feels this is a hardship. Mr. Cromie asked is the economic problem a bad business decision or the development that was anticipated by the Town of Ballston that was in place by the early 1990's.

Mr. Reilly said that in June 2002 a use variance for used car sales was denied.

Chairman Lesniak read the Saratoga County Planning Board Comments which recommended disapproval on the project.

Chairman Lesniak said a letter was sent in by a Julia Duschesne who resides at 1157 Route 50; Ballston Lake has a concern with the headlights and the floodlight that was installed. Ms. Duschesne states in 2007 up until March 2008 there has been pounding and hammering noises coming from the garage and on an occasion a car engine revving has been happening during the day until 12:00am. Ms. Duschense also asks about meeting certain waste and hazardous removal codes and will a larger garage be needed. Ms. Duschesne also asks if additional buffers will be added between properties, if approved. (see attached)

Ms. Bell asks if there is no other use for this property that will make a return on the investment or even selling the property. Mr. Cromie did not feel that the Town was in the business of asking people to sell their property. Mr. Cromie said that Mr. Samek is asking if there is another use in which he can engage in to make this property profitable that is permitted.

A further discussion was held on the permitted uses in that district.



Ms. Brown asked how this auto sales business is unique to the community. Mr. Cromie said that this business is one that will provide recreation to the customer and continue as an outlet to the residents.

Ms. Kane said that she has ever ridden by Slice's and seen it open; other than the open sign, the lights were never on.

Mr. Groves said that the few years that he has lived in the community this weekend was the first time noticing that the business was in operation. Mr. Samek did not open last year until July due to an auto accident.

Mr. Groves asked the size of the proposed shed. Mr. Samek replied 440 sq. ft. (20' x 22'). Mr. Groves said that this would be limited to auto body repair and auto sales. Mr. Groves asked what is meant by limited auto body repair. Mr. Groves asked painting, working with body filler or other chemicals. Mr. Groves asked are there plans for a paint booth. Mr. Groves said that there are environmental concerns. Mr. Cromie asked if the auto body repair shops are governed by the state regulations. Mr. Samek said that he is considered a small quantities generator which has a small mixing station and the waste that is disposed of would be only five gallons stored in a container and Safety Kleen who then complies with the regulations takes it off site.

Ms. Kane said that the garage cannot be seen from Charlton Road and asked where the cars would be displayed for sale. Mr. Samek said that he has an account on ebay. Ms. Kane asked why the cars cannot be displayed at your home for sale. Mr. Samek said that you have to sell five a year in order to keep your dealer license.

Chairman Lesniak opened the public hearing at 8:33pm

David Stern asked that it would be permissible on the north side of the street. Chairman Lesniak said that it is located in Business Highway District #1. Mr. Stern has a concern with chemicals and being that it is near the Overlay District and so close to the lake. Mr. Stern brought up noise and asked about the hours of operation and what are the restrictions. Mr. Stern said that he has gone to Slices, but had not been there in five years because he did not know that it was open.

Ron Charbonneau said if the variance is allowed, has concerns for the size that it could grow and how to enforce and follow the rules.

Donna Charbonneau, 4 Charlton Road said that there are environmental hazards to the auto sales portion of the business. Ms. Charbonneau said that there was a car for sale on Charlton Road and a flatbed truck sat on the side of the road which created a traffic hazard. Ms. Charbonneau said that Charlton Road is not constructed to sell cars not and the Charbonneau residence in right directly across the street.

Chairman Lesniak closed the public hearing 8:40pm

Mr. Rogner went through the four criteria of 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. Cromie said that Mr. Samek cannot maintain that type of operation.

Mr. Reilly said that Board has asked the questions before and that questions as far as criteria speaks to a recent return as to property, not to the business being conducted on the property; case law (confident financial evidence) Mr. Reilly said that the applicant must show that they have attempted to sell the property, unable to sell the property, and obtain a reasonable return on the property itself because obtainment of property and improvements and the Saratoga County



Planning Board stated and concurs that there is no evidence in front of the Board there is a lack of reasonable return as to the property.

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. Reilly said that there is no evidence in front of the Board in supportive of retail.

3) That the requested use variance, if granted, will not alter the essential character of the neighborhood.

Mr. Reilly said perhaps, but not the way that it is conducted.

4) That the alleged hardship has not been self-created.

Mr. Reilly said that the hardship has not been proven and there has been a self-created to the cost and improvements to the miniature golf course.

**MOTION:** Ms. Bell made a motion that the request for expanding the use of property at 1 Charlton Road which currently operates at Slice's ice cream parlor and miniature golf by adding limited auto body repair and auto sales be denied. Mr. Kane seconded the motion and all present voted in favor. **CARRIED.**

**Eric & Theresa Stangle, 1621 Rt. 67 for an area variance pursuant to section {138-10.1}.** Chairman Lesniak said that the applicant is proposing a 28' x 32' detached garage 30' off Route 67. Eric Stangle was present to present the case to the Board.

Mr. Rogner asked if there will be any business conducted out of the proposed garage. Mr. Stangle replied no.

Mr. Rogner asked if there will be living quarters in the proposed garage. Mr. Stangle replied no.

Mr. Rogner asked why the proposed garage is so close to the road. Mr. Stangle said that it would be close to the septic tank. Mr. Stangle said he wanted the garage in line with the front of the house.

Mr. Rogner asked if there would be a turn around or would people be backing out onto Route 67. Mr. Stangle said that there is enough room to turn around. Mr. Stangle said that he backs into his driveway.

Ms. Bell asked what direction the garage doors are facing. Mr. Stangle replied north. Ms. Bell suggested turning the garage facing 90°.

Ms. Kane said that there is no need to be this close with a detached garage. Mr. Stangle said that he just wanted to match with the existing house and did not want to add more driveway and blacktop. Ms. Kane said that the ZBA is charged to grant the minimum variance and feels that there is plenty of room to build the garage within the guidelines and since it is on a major road does not feel comfortable.

Mr. Wood suggests that the Board stipulates that there be a turn around.

A further discussion was held on a proposed turn around.



Mr. Groves said one of the reasons for set backs is obviously the safety issue considering this being Route 67 and encroaching into 30' into that safety margin that it set under zoning. Mr. Stangle said that he would consider moving the garage back another 15'.

Chairman Lesniak asked Ms. Kane what she thinks. Ms. Kane said "that she does not think that we do not need to compromise because there is enough room for it on the property."

Mr. Rogner said that any room for the applicant would look good.

Chairman Lesniak opened the public hearing 9:00pm

Bob Jewett said that he lives next door and does not have a problem with it.

Scott Miller said that there is no conceivable enforcement mechanism for a turn around and asks for a design that meets the necessary safety requirements.

A further discussion was held on a turn around.

Chairman Lesniak closed the public hearing 9:02pm

Mr. Rogner 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. Stangle 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. Mr. Stangle replied no.
- 3) Whether the requested area variance is substantial. Mr. Stangle replied no.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Mr. Stangle 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. Stangle replied no.

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

**MOTION:** Mr. Rogner moved to grant a 15' front setback variance at 1621 Route 67 under section 138-10.1 to construct a unattached 28' x 32' garage with the following stipulations: no business to be conducted out of the garage, no living quarters out of the garage and a turn around area be provided so no vehicles will have to back out onto the highway. Ms. Bell seconded the motion and all present voted in favor except Ms. Kane who voted against. **CARRIED.**



**Daniel Lee, 36 Brookline Road for an area variance pursuant to section {138-8.1}** Chairman. Lesniak said that the applicant is proposing a detached 30' x 32' garage and an area variance of 3,864 sq. ft. and a lot width variance of 52'.

Mr. Rogner asked the applicant if business will be conducted out of the proposed garage. Mr. Lee said no. Mr. Rogner asked if there will be living quarters out of the garage. Mr. Lee replied no. Mr. Rogner asked if there will be a turn around. Mr. Lee said that there will be a turn around.

Chairman Lesniak asked if the existing structure will be taken down. Mr. Lee replied no.

Ms. Bell asked the applicant if he tried to purchase adjoining property to rectify the situation. Mr. Lee said no.

Ms. Kane asked if the existing structure meets the setbacks. Mr. Lee replied yes.

Mr. Lesniak opened the public hearing 9:15pm

Scott Miller said that the cluster of homes were built by the same family and the custom at the time, were to have detached garages and has no objection, but asked the style the applicant would be proposing because commercial type garages seem to style being built. Mr. Miller asked if a more appropriate residential style would be considered. Mr. Lee said he was proposing a metal building a pole barn type structure with steel sides and steel roof. Mr. Lee said that if this is not acceptable it could change. Chairman Lesniak said that the ZBA cannot tell the applicant how to construct their garage.

Mr. Miller and Chairman Lesniak had a further discussion about design standards and Chairman Lesniak referred to Mr. Johnson said that he knows of no architectural regulations written in the residential zone. Mr. Johnson said that if were in the Business Highway or Mixed Use. Mr. Reilly agrees and said that this Boards power is limited as to architectural review.

Chairman Lesniak closed the public hearing 9:17pm

Ms. Kane 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. Lee 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. Mr. Lee replied no.
- 3) Whether the requested area variance is substantial. Mr. Lee replied yes.
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Mr. Lee 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. Lee replied no.



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

**MOTION:** Ms. Bell made a motion for the property location at 36 Brookline Road pursuant to section 138-8.1 for the construction of a detached 32' x 30' garage with an area variance of 2,864 sq. ft. and a lot width variance of 52'. The following stipulations: no living quarters, no business conducted out of the garage; personal storage only. Mr. Rogner seconded the motion and all present voted in favor. **CARRIED.**

**Joseph Stuhlman, 188 Westside Drive for and area variance pursuant to section {138-11.1}** Chairman Lesniak said that the applicant is proposing a 30' x 12' two story addition and will be requesting a 48' front yard set back variance. Mr. Stuhlman clarified that the rooms upstairs will not be new rooms, but pushed back into their existing location; not adding, but increasing the size.

Mr. Rogner asked why so close to the road. Mr. Stuhlman said that there is no other location because of the septic tank and would be infringing on the neighbors property line.

Mr. Rogner asked the applicant if they plan on backing out onto Westside Drive. Mr. Carney said that every other house on the street is set up to back out onto the street; there is no turn around.

A further discussion was held on backing out and constructing a turn around. Mr. Johnson said that there are no specifications for the construction of a turn around. Mr. Johnson said that a typical parking

space is 9' x 18'. Chairman Lesniak asked if a turn around should be constructed. Mr. Johnson asked would the garage be entered from the west or the south. Mr. Stuhlman said west. Mr. Johnson said that gives 12' from the property line to the garage which means that part of the turn around will be in the right-of-way.

Ms. Brown has a concern about being so close to the road when it snows. Mr. Stuhlman said that when it snows, he backs in the driveway.

A further discussion was held on the expansion of the existing septic system.

Chairman Lesniak opened the public hearing 9:35pm

Chairman Lensiak closed the public hearing 9:36pm

No one wished to speak

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. Stuhlman 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. Mr. Stuhlman replied no.



3) Whether the requested area variance is substantial. Mr. Stuhlman replied no.

4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. Mr. Stuhlman 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. Stuhlman replied no.

Ms. Kane asked the applicant how long he has owned the house. Mr. Stuhlman replied two to three years. Ms. Kane said when you bought the house did you think this may not be a good idea. Mr. Stuhlman said that his wife wants to park in a garage. Ms. Kane said compared to other lots on the lake this lot has room. Chairman Lesniak said that it is limited with how it can be used. Ms. Kane said that it is not the Boards fault.

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

Mr. Stern asked because this construction is so close to the lake, it does not fall under SEQR. Mr. Reilly said that area variances for single family residences and structures are type II actions. Mr. Johnson said that if the applicant was going to disturb more than 1,000 sq. ft. of soil they would have to apply to the Planning Board for Site Plan Review.

**MOTION:** Mr. Groves made a motion to grant a variance at 188 Westside Drive for a 48' front yard set back for the construction of a 30' x 12' two story addition to the existing home pursuant to 138-11.1. Ms. Bell seconded the motion and all present voted in favor except Ms. Kane and Mr. Rogner who voted against. **CARRIED.**

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

**CARRIED.**

Meeting was adjourned at 9:41pm

Respectfully submitted,

Michelle L. Dingman

Enc.