



time could pass before it is put to a vote. Mr. Reilly said that once the case is heard the board has sixty two days to make a decision.

More discussion was held regarding time frames and board alternates.

Mr. Schadow asked to have the case tabled until next month.

MOTION: Ms. Bell made a motion to table the application located at 429 Charlton Road until the September meeting. Ms. Brown seconded the motion and all present voted in favor. **CARRIED**

NEW BUSINESS:

Todd Stewart, 31 Beechwood Dr., Burnt Hills, NY 12027 for an area variance pursuant to section (138-8.1)

Chairman Lesniak introduced the case.

Mr. Stewart is seeking a front setback variance of 20 feet; the house would be 40 feet from the front property line instead of 60 feet. In his narrative, Mr. Stewart explained that if the required front setback were to be adhered to, the new house would be 56 feet away from the existing house to the south. If the new house were to be moved sideways, encroaching into the front set back, the distance to the house to the south would increase to 83 feet which should be more appealing to the neighbor. Also it would afford more back yard and more privacy for the new house. Granting the variance would place the new house in a manner that is consistent with the rest of the houses in the neighborhood.

Mr. Van De Carr asked if granting the variance would place the new house closer to the house in the back. Mr. Stewart said it would be negligible.

Ms. Brown asked if there has been any feedback from the neighbor. Mr. Stewart said he wrote the neighbor and sent a copy of the maps and has not heard back. He asked her to write a letter to the board, as well. Ms. Brown asked if there is a buyer for the house. Mr. Stewart replied yes and they are aware of the proposed location. Ms. Brown asked if Mr. Stewart was the subdivider of the land. Mr. Stewart replied yes. John Gay was the surveyor

Mr. Lesniak asked if a proposed house location was shown on the subdivision map. Mr. Lesniak said the board is charged with granting the minimum variance. He feels the 56 foot distance is a "weak case"; a lot of homes are closer together than that. Mr. Stewart said that he realizes they have the room if left within the confines of the present zoning, but he feels this is an unusual case due to the shape of the cul-de-sac; if the property line followed Beechwood Dr. like most property lines follow normal roads the house would fit where shown without any problem at all. Mr. Lesniak feels the extra land the town owns at the cul-de-sac should have been turned over to the applicant since the town does not need the land. Mr. Stewart said that he has had discussions with Highway Superintendent Joe Whalen and Mr. Whalen has no intentions of changing the road. Mr. Stewart said he could apply for a Lot Line Adjustment to solve the issue but that would take longer and seems unnecessary.

Mr. Van De Carr asked for clarification of the road, the property line and the building line. Discussion followed. Mr. Van De Carr asked about neighbor notification. The notification process was explained.



Mr. Lesniak opened the Public Hearing at 7:56 pm

Carlton Pott, 233 Hop City Rd., Ballston Spa inquired as to the total number of lots in the original subdivision. Answer is one original lot divided into four lots. Mr. Pott asked about the setbacks of the other lots.

Catherine Costa, 40 Beechwood Dr., Burnt Hills inquired if the house would face Beechwood Dr. Mr. Stewart replied yes. Ms. Costa inquired about septic location and water drainage. Mr. Stewart said changing the location of the house would not change the septic location; it will still be in the front yard and once grading is complete, water should run down to the drainage swale. Mr. Stewart said the intention of the detention basins is to hold the water so it will not run off the property faster than preconstruction.

Mr. Pott inquired if the buyer would build the house if the variance were not granted. Mr. Stewart said the buyer intends to build the house either way.

Public Hearing closed at 8:00 pm

Ms. Bell asked if the option of shifting the house to a slightly different angle were pursued. Mr. Stewart said the shift would be radical and one would be left with a small back yard.

Mr. Groves asked about turning the house to face the cul-de-sac more. Mr. Stewart said that if that were done it would face number 37.

Peter Reilly reminded the board the criteria is the overall consideration of balancing the benefit of the applicant as weighed against the detriment to the health, safety and welfare of the neighborhood. Mr. Reilly questions as to whether there is any detriment to the neighborhood as heard in this case. He said we can go through the five criteria, but we must not lose sight what we are balancing here. He said he must pose the question is there any detriment to anyone here. Discussion was held on benefit and detriment.

Mr. Stewart said it is his opinion that granting this variance well serves all parties, the buyer, the neighbors, etc. It balances well on the lot.

Mr. Groves asked about the distance off the street of the corner of the house that encroaches on the setback. Mr. Stewart replied about 70 feet.

Mr. Pott inquired about precedent. Mr. Lesniak said precedent has been set at a previous meeting, December 5, 2005 for similar application by Mr. Stewart.

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. Stewart 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. Stewart replied yes.



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

4) Whether the proposed variance will have an adverse affect on the conditions in the neighborhood or district. Mr. Stewart 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. Stewart 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. Bell seconded the motion all present voted in favor. **CARRIED.**

MOTION: R. Rogner made a motion to grant a 17' front yard set back variance for 31 Beechwood Dr. for the construction of a single family dwelling. Ms. Brown seconded the motion. Roll call vote.

Mr. Rogner – yes

Ms. Kane - yes

Mr. Groves - yes

Mr. Van De Carr - yes

Ms. Bell - no

Ms. Brown - no

Mr. Lesniak – no, sees no justification for variance.

CARRIED.

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

CARRIED.

Meeting was adjourned at 8:35 pm

Respectfully submitted,

Thomas Johnson