

**TOWN OF BALLSTON
ZONING BOARD MEETING**

September 7, 2022 7:30 pm

Town Hall Meeting Room
323 Charlton Road
Ballston Spa, NY 12020

ATTENDEES:

Mike Lesniak, Chairman
Steve Merchant, Vice Chairman
Annetta Dunham, Board Member
Joanne Hull, Board Member
Robin Kane, Board Member
Tim Long, Board Member
Dan Mertzluft, Board Member
Samuel Dorsey, 1st Alternate
Patrick Whitton, 2nd Alternate
Andrew Clark, Attorney

ABSENT:

Jeff Stickles, Code Enforcement Official

Call to Order

The meeting was called to order at 7:27 pm.

Pledge of Allegiance was led by Chairman Lesniak.

Approval of Previous Minutes

MOTION: Ms. Kane made a motion to approve the August 3, 2022 minutes as drafted. Ms. Dunham seconded the motion. Chairman Lesniak abstained. All others voted in favor. **CARRIED.**

OLD BUSINESS

Sunoco – 230 Church Avenue Area Variances (ZBA 2022-007)

SBL 216.-2-20

Revised application for four area variances for signage. Public Hearing scheduled.

Mr. Chris Boyea of Bohler Engineering represented the applicant.

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Chairman Lesniak stated that the applicant needs signage variances for a Sunoco station.

Mr. Boyea stated that he is here to hopefully finalize the approvals for signs at the redevelopment of the Sunoco gas station on Route 50. The project is well under construction; the signs were held up during the moratorium process. They returned at last month's meeting; they have reduced the sign package to help find a happy medium. They have documentation that the County did not want to review the project again and is okay with the project. They are here tonight to answer public questions or comments at the Public Hearing as well as questions from the Board.

Chairman Lesniak stated that he wanted to make a correction; one of the reasons the applicant is back at the Zoning Board is that two years have elapsed and that's why the applicant had to start almost from scratch even though they were relatively close two years ago.

Mr. Boyea stated that that is correct.

Chairman Lesniak stated that Mr. Merchant was the acting Chairman at the last meeting so he will have him start the discussion.

Mr. Merchant stated that he appreciated the applicant providing different measurements and trying to work with the Board. He stated that he and Chairman Lesniak measured the sign at the USA gas station and asked if the applicant had measured it as well, and if they had copied the size because it's so close.

Mr. Boyea stated that it's close, they didn't go on the property other than to get the height.

Mr. Merchant stated that he is happy with the change in dimension to keep some consistency with the other gas station.

Mr. Lesniak stated that with service stations we look at it differently because there's more you can put on it, the prices, etc. He stated that he thinks the applicant needs three variances: one for the height of the freestanding sign, which, as proposed, is compatible with the USA gas station, one for the square footage of the freestanding sign, and one for the total square footage for all signs.

Mr. Boyea stated that he agrees with what was stated; they also applied for a variance for the total number of signs. The Code allows two, but they have proposed a total of seven signs on the property, including the freestanding sign.

Chairman Lesniak asked if eight is the total number of signs.

Mr. Boyea stated that seven signs are proposed, two are allowed.

Ms. Hull asked if that included the canopy signs.

Mr. Boyea stated that the total of seven includes all signs on the property; there are two small signs on the canopy as well as the two small building signs for Sunoco and the tenant.

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Ms. Hull stated that at the last meeting she asked if the sign project needed to be referred to the County Planning Board and Mr. Clark said it did, but it had not been referred yet. She asked Mr. Clark what the outcome was.

Mr. Clark stated that correspondence was received from the County, which the applicant has submitted.

Mr. Metzluft asked if there are eight signs in total.

Mr. Boyea stated that there are seven.

Mr. Metzluft stated that in other cases there were two signs per side of the building; he asked for the maximum number of signs on one face of the building.

Mr. Boyea stated that he doesn't think the Code differentiates for corner lots. There are other properties that have frontage on two streets; he isn't sure if that allows for double the number of signs. They applied for the variance assuming that only two are allowed; they are proposing seven.

Mr. Merchant stated that they are asking for a variance for five signs.

Mr. Boyea stated that that is correct.

The Board discussed the number of variances needed and determined that the Code does not state specifically how many signs per side of a building, just that 150 SF is the maximum square footage for signs.

Public Hearing opened at 7:40 pm.

No one wished to speak.

Public Hearing closed 7:41 pm.

Ms. Kane read aloud the area variance criteria from the Town Code, for the Board to consider:

[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 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 or district; and

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Chairman Lesniak asked if SEQOR was completed at the last meeting.

Mr. Merchant stated that the Board went through it, it is an Unlisted Action.

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Mr. Clark stated that the Board didn't address whether it was a positive or negative declaration; all the steps were done but it needs to be formalized.

MOTION: Mr. Merchant made a motion that the town of Ballston Zoning Board of Appeals, as lead agency, make a Negative Declaration of Environmental Significance under SEQR. Ms. Kane seconded the motion. All in favor. **CARRIED.**

MOTION: Mr. Merchant made a motion of approval for 230 Church Avenue for the construction of a freestanding, 36 SF sign, a three-foot height relief, four feet of signage relief, a total of 156 SF proposed, and sign identification for five additional signs for a total of seven signs. Ms. Kane seconded the motion. All in favor. **CARRIED.**

Mr. Boyea thanked the Board.

356 Goode Street Area Variance (ZBA 2022-008)

SBL 248.1-1-18

Application for a side yard setback variance for a proposed garage/mudroom addition. Public Hearing scheduled.

Mr. Matt Kniskern and Mrs. Meg Kniskern, property owners of 356 Goode Street.

Chairman Lesniak asked if Mr. and Mrs. Kniskern were at the last meeting.

Mr. Kniskern stated that they were out of town for the last meeting so their architect, Mr. Keith Buff, represented them.

Chairman Lesniak stated that it is his understanding that they need two variances. He saw that they took down the old garage. He stated that they need a front yard setback variance of 80 feet, 2 inches; they have 19 feet, 10 inches and are required to have 100 feet. He stated that people may not be aware, but the Town owns 26 feet from the middle of the road, then it's from there that they have 19 feet; it's pre-existing. The side yard setback requirement is 50 feet and they have 31 feet, 3 inches, so they need a setback variance of 18 feet 9 inches.

Mr. Kniskern stated that, regarding the front setback, they're not making any changes to the front of the home and won't be encroaching any more on the road, but are making changes to the side setback, where they are seeking a proposed addition. He stated that they have a supporting letter from the neighbors (see attachment at the end of these minutes).

Mr. Lesniak stated that apparently SEQR was completed at the last meeting, it's Type 2 so no further action is needed.

Mr. Merchant answered affirmatively and stated that he asked the applicant at the last meeting if they could purchase more land to avoid needing a variance, and the applicant answered no. He stated that they always ask that question.

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Mr. Clark stated that he wanted to confirm that SEQR was done last month as it wasn't on his notes.

Chairman Lesniak stated that it is a Type 2 Action, so no further review is needed.

Ms. Hull stated that she had asked Mr. Buff at the last meeting but wanted to ask Mr. Kniskern if it would just be a garage, there would be no apartment or hazardous material storage, etc.

Mr. Kniskern stated that it would just be a garage, no business use.

Public Hearing opened at 7:48 pm.

Mr. Chris Boyea of 4 Stewart Court stated that he drives by the house everyday and sees that the Kniskerns are putting a lot of money, time, and energy into this property and it looks phenomenal. He stated that it's nice to see the drive to and from work continue to improve and he is excited to see what they're going to build.

Public Hearing closed at 7:49 pm.

Mr. Merchant read aloud the area variance criteria from the Town Code, for the Board to consider.

[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 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 or district; and

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance.

Chairman Lesniak polled the Board for comments or questions.

MOTION: Ms. Kane made a motion for 356 Goode Street for the construction of a garage/mudroom addition with a front setback variance of 80 feet 2 inches and a side yard setback of 18 feet 9 inches. Mr. Long seconded the motion. All in favor. **CARRIED.**

The Kniskerns thanked the Board.

Wellnow Area Variance (ZBA 2022-009)

1508 Route 50, 1502 Route 50, 975 Route 67; SBL 216.-1-35, 216.-1-36, 216.-1-37

Application for three area variances for the construction of a health care facility. SEQRA Unlisted Action, open.

Mr. Scott Lansing of Lansing Engineering represented the applicant, Ridgeback Hospitality.

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Chairman Lesniak stated that the Board cannot act tonight on this application, so Mr. Lansing is making a presentation.

Mr. Lansing stated that he understood. He is here on behalf of the applicant; his primary objective for this evening is to ask the Board's consideration to set a Public Hearing for the next meeting. They would like to gather public input to incorporate into the plans and at that time they hope to have a negative declaration under SEQR, and have the archaeological work completed. He listed the existing conditions: there are three parcels that make up the 2.91- acre property, in the Mixed Use Center North district. They are proposing a Wellnow facility; a 3,500 SF health care facility on lot 1; they do have the appropriate access and parking per the Town standards. They have been working with the Planning Board and feel that the project has been received well. They are proposing lot line adjustments, which require variances. The northernmost lot would be the Wellnow facility with the other two lots for potential future development, that would be subject to site plan review with the Planning Board at a later date. Since the last meeting they made some adjustments and were able to eliminate the lot width variance on lot 1; they amended their application and submitted it. There are two variances left. The first is a lot size variance for lot 3. Lot 1 is in conformance, with the lot line adjustments lot 2 will be brought into conformance, and lot 3 will not be in conformance but will be more in conformance; they are asking for relief of .16 acres for lot 3. The second variance is for the front yard setback for lot 1. It's the lot the Wellnow facility will be on; it's a double frontage lot with frontage on both Route 67 and Route 50. The Code outlines a 20-foot minimum and 70-foot maximum setback, which they meet on Route 67 but not on Route 50. They feel that it is a hardship given that it is a double frontage lot. Mr. Lansing stated that they are asking for the Board to consider setting a Public Hearing for the next meeting.

Chairman Lesniak stated that a Public Hearing would depend on how we feel about what is proposed. Changing the lot lines still creates a nonconforming lot; that's what we have to look at. That's a very busy intersection, which was brought up last month; we are not looking favorably on you having three businesses there.

Mr. Merchant asked if they are still proposing three lots there.

Mr. Lansing answered affirmatively.

Mr. Merchant asked if the applicant has been there when it's busy. It's crazy to try to put three businesses in that area. He stated that he thinks the wellness center would be fine, but it is way too congested for three businesses.

Mr. Lansing stated that they have prepared a traffic study that has been presented to the Planning Board; the Town Designated Engineer has reviewed it and didn't really have any comments. It is also going before the NYS DOT (Department of Transportation) and has been reviewed favorably by DOT thus far. As far as the new trips generated from the three businesses that would be proposed, there would not be significant impact to the existing intersection levels.

Mr. Merchant stated that he doesn't put much faith in traffic studies; he doesn't think three businesses is a good idea.

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Chairman Lesniak stated that if the lots all conformed, the Board wouldn't have a choice, but they don't. He asked if there are two nonconforming lots.

Mr. Lansing stated that there would be one nonconforming lot. There are two existing nonconforming lots, so there are three existing lots that could be built on with three businesses; they are slightly reconfiguring the lots to bring one of those lots into conformance and the other one more into conformance. There will only be one nonconforming lot.

Mr. Long asked Mr. Lansing to explain why they can't combine lots 2 and 3 to make one big lot so all the lots conform.

Mr. Lansing stated that there are three lots existing that could theoretically be built on if they were not doing the lot line adjustment; they are very appropriately sized lots for development of businesses.

Mr. Long stated that they're not as they don't conform.

Mr. Lansing stated that one could front on Route 50 with a business and the other could front on...

Mr. Long stated that if they combine lots 2 and 3, they would conform.

Mr. Lansing stated that he understands.

Mr. Long stated that they would be appropriately sized.

Mr. Lansing stated that he understands.

Mr. Long stated that if they conform, then they're appropriately sized.

Mr. Lansing stated that he understood, Mr. Long had asked him a question, so he was trying to explain why...

Mr. Long stated that Mr. Lansing wasn't answering his question.

Mr. Long asked Mr. Lansing to explain to him why they can't combine lots 2 and 3 into a bigger lot so that you have two conforming lots.

Mr. Lansing stated that he's not saying it can't be done, any number of lots could be combined to create a larger lot, he is indicating that there is frontage on both Route 67 and Route 50, they're appropriately sized lots for businesses; the applicants would like to develop both those lots as two separate businesses.

Mr. Long stated that Mr. Lansing said it again; they're not appropriately sized because they don't conform.

Mr. Lansing stated that they're appropriately sized for business; the one lot is substandard, the other is in accordance with the zoning.

Mr. Long stated that that still doesn't answer his question.

Chairman Lesniak stated that now the lots have residences; businesses would definitely increase traffic in that area, which is a very tough intersection. There's a school down the road with school busses all over the place, you want to put in additional business here which is not appropriate as far as the lot size goes.

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Mr. Long stated that the applicant calls it a driveway but it's a road.

Mr. Merchant stated that there's an apartment complex being built behind Ballston bank, by Dollar General, that will create more traffic.

Mr. Long stated that there will be a steady stream of traffic going through your driveway to avoid the traffic light.

Mr. Lansing referenced the traffic study and stated that regarding the number of trips making the maneuver that would be consistent with a shortcut, the traffic study concluded that it would be a very low percentage...

Mr. Long stated that this is what's wrong with the traffic study; the traffic study is based on a traffic light being there, if you can avoid the traffic light the volume of traffic will double, triple, quadruple.

Mr. Lansing stated that he thinks the traffic engineers would disagree, they viewed Brookline Road as the intersection, so people that are going southbound on either Route 50 or Route 67...

Mr. Long stated that they are not in the insurance business paying the claims.

Mr. Mertzlufft stated that Brookline Road is a fair bit away, he doesn't know if the traffic study took into account just straight traffic on 67 and 50 which has to clear the intersection and has the right of way. As more people change their driving habits and go straight, there will be less time for the traffic that doesn't have the right of way to make a left or righthand turn.

Mr. Long stated that if a vehicle is waiting on Route 67 to turn left into the driveway, that will impede the progress of traffic on Route 67 that intends to go straight.

Ms. Dunham stated that that backs up to the intersection.

Mr. Merchant stated that at certain times of day the traffic on Route 67 backs up from Curtis Lumber to Stewart's and to Brookline Road, and from Brookline Road all the way to Ballston bank. At certain times of the day, don't even go that way.

Mr. Long asked if there will be a traffic light to turn left into the driveway.

Mr. Lansing stated that there would not be a light.

Mr. Long asked about a light on Route 67 or Route 50.

Mr. Lansing answered no.

Mr. Long asked if there would be traffic control devices to limit the speed or volume of traffic going through the driveway.

Mr. Lansing stated that there would be stop sign control on both Routes 50 and 67, and it's a very short run so he doesn't anticipate speeds...

Mr. Long asked if there would be speed bumps or signs that say, "no through traffic".

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Mr. Lansing stated that there would not be speed bumps; signs are something that could be implemented.

Mr. Long asked if they are planning on it.

Mr. Lansing stated that it's not proposed on the plans right now; it wasn't required or recommended by the traffic engineers or DOT, it's something they can investigate.

Ms. Hull asked if they would consider combining lots.

Mr. Lansing stated that he would check with the applicants; they would like to maintain the two extra lots.

Ms. Hull stated that that may be something they may want to consider and asked if they have considered what types of businesses would be proposed.

Mr. Lansing stated that conceptually they had thought of perhaps some sort of restaurant with drive-through facility which is a permitted use, but they don't have any specific plans for those lots right now.

Mr. Long stated that a drive-through is the wrong answer.

Ms. Hull stated that a drive-through may be difficult, following the logic presented by her colleagues; it may be wise to speak to your clients about combining lots.

Ms. Dunham asked if the Wellnow facility would be an urgent care or medical offices. She asked what it is exactly.

Mr. Lansing stated that it is an urgent care facility, it's a walk-in and appointment type of facility with limited hours; he doesn't believe it's a 24-hour facility.

Mr. Long asked if there would be ambulance traffic.

Mr. Lansing stated that it would have the ability for an ambulance to back up to one part of the building; that is more for emergency room type of action, it's not what the facility is meant for.

Ms. Hull stated that Mr. Lansing may want to speak to his clients; if there is ambulance capability, which could stop traffic on any side road, and a drive-through restaurant, there would be mass confusion on that corner. She stated that he should suggest that they consider combining the lots and try to make everything in conformance. She asked if Wellnow would be open 24 hours.

Mr. Lansing stated that he doesn't believe so, he would have to check.

Ms. Hull asked if it would be open early, coinciding with school busses.

Mr. Lansing stated that he believes so.

Ms. Hull stated that she thinks the applicant has a lot to consider right now.

Ms. Dunham asked if the traffic study was conducted during the summer when there were no school busses, or during the school year.

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Mr. Lansing stated that he believes it was when school was in session, but he could double check.

Ms. Dunham stated that she drove that route twice a day for ten years, and there is a big difference between June 30th and September 1st.

Mr. Lansing stated that he understands, his children attended Ballston Spa Schools.

Ms. Hull asked if the study was completed during Covid.

Mr. Long stated that if he were in the business of doing traffic studies, he would give his client the result they wanted.

Ms. Hull stated that during that time there wasn't as much traffic as kids were doing school on Zoom.

Mr. Lansing stated that he would estimate that that was taken into account, but he will double check.

Mr. Long asked what happened with SEQR.

Chairman Lesniak stated that SEQR is not complete.

Mr. Lansing stated that they are working with the Planning Board. Archaeology is the last outstanding item; studies are being conducted and the applicants are pushing forward with that as quickly as they can. SEQR has not been completed by the Planning Board yet.

Chairman Lesniak stated that the Zoning Board cannot act on the application. He stated that the applicant has gotten the flavor of the Board. He stated that there's a lot of traffic there; has seen a lot of traffic studies and has never seen one that said anything really bad, yet he sees traffic backed up on Route 50 from the light at Lakehill Road to Mail 'n More, which is over a mile.

Mr. Lansing stated that he has received feedback on the lot size for lot 3 being substandard. He asked how the Board feels about the front yard setback variance. They do not meet the requirements on the Route 50 side. This seems to him like a relatively straightforward hardship because they have the double-sided lot. He is looking for feedback from the Board.

Ms. Kane stated that she agrees that the property is unique.

Mr. Long stated that his gut tells him that there is no choice.

Ms. Kane stated that if you put the building in the middle then both sides aren't going to meet the requirement.

Chairman Lesniak stated that the Board is more concerned with the number and type of businesses; the applicant has the flavor of the Board.

Mr. Lansing asked if it would be appropriate to set a Public Hearing.

Chairman Lesniak answered no, that the applicant and the Board are too far apart.

Mr. Lansing stated that he appreciates the feedback.

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NEW BUSINESS

76 Connolly Road Area Variance (ZBA 2022-010)

SBL 239.14-1-8

Application for a side yard setback variance for the construction of a garage.

Mr. Mark Maher and Mrs. Monica Maher, property owners of 76 Connolly Road.

Chairman Lesniak read the description of the project from the Mahers' application:

The proposed action: to construct a garage at our residence that will conform to the look and design of the residence and which will not impair the view from the residence or the future sewer lines to be run from the rear of the house to Connolly Road.

Mr. Maher stated that they are looking to finish the last phase of remodeling that they've done since 2020. They want to construct a garage on the property and are looking for a side setback of three feet, or to get within three feet, with the design and construction of a one-stall garage, which they want to keep to one side of the property. The property is only 50 feet wide; if they maintain the 12-foot setback it would be in the middle of the view of the home out toward the road. They would also like to keep the garage towards the property line in anticipation of the sewer being installed in the spring. They would like to have the trench dug without having the lines going underneath the garage, and it is also the only access to the rear of the house for emergency vehicles and for a portable dock that they install seasonally. They only own about four feet on the other side of the home.

Chairman Lesniak asked if they have gotten variances on the property in the past.

Mr. Maher answered no.

Chairman Lesniak stated that the Board considers the whole lot and what doesn't conform, which does not affect the current variance application, but would clear the need for variances for any future things they might do. He stated that they realize there's no room but, for the record, they address the lot area, setbacks, and the side yard for the garage.

Mr. Maher stated that he didn't understand.

Chairman Lesniak stated that in the past, they've done this to tie it all up; there is an existing condition that does not conform.

Mr. Maher asked what is the existing condition that does not conform.

Board members answered with lot width, lot size, house.

Chairman Lesniak stated that they're not going to say he has to take the house down, they're just going to finalize it so the applicant would have those variances, and then he could seek this variance in addition.

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Mr. Maher asked if the Board would basically be grandfathering his property in because it doesn't conform to today's requirements.

Chairman Lesniak stated that that is what he's saying. He stated that there are no dimensions on the drawing; that way we could get it finalized and know what the dimensions are if anything occurs in the future.

Mr. Maher stated that there is a copy of the assessment.

Chairman Lesniak stated that he is looking at the application.

Mrs. Maher stated that it shows the size of the lot.

Chairman Lesniak stated that the Board can't act on the application tonight, as tonight is about fact gathering and information. He noted that the homes are close, and lots are small on that road; they used to be all camps.

Mrs. Maher asked what is required of them.

Chairman Lesniak stated that they need to add information to the application; various Board members explained how to fill out the additional lines on the application.

Mr. Maher asked if they need to reapply or if it's all one package.

Chairman Lesniak answered no, that they already applied, and they'll be put on the docket. He asked about SEQR.

Mr. Merchant stated that it's a SEQR Type 2 Action, so no action required.

Chairman Lesniak stated that they could address SEQR and set a Public Hearing if the Board is ready.

Mr. Merchant explained that the Board hears the information the first month and usually sets the Public Hearing for the second month.

Chairman Lesniak stated that the project is a SEQR Type 2 Action and no further action is required. He asked if the Board agreed; all agreed. He stated that the project doesn't require County referral; the only requirement is a Public Hearing.

Ms. Kane asked if they would need 280A.

Chairman Lesniak stated that they would need 280A because it's a private road; the applicant must state how the road is maintained, how the snow is removed, etc.

Mr. Maher asked if that is another form.

Chairman Lesniak stated that it is an action that the Board takes.

Ms. Hull stated that the Building Inspectors could help them with any questions.

Chairman Lesniak stated that none of this is a showstopper.

Mr. Merchant asked if they want to place the garage three feet from the property line.

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Mrs. Maher stated that they've had existing sheds, they are asking for the garage to be on the same line.

Mr. Merchant asked if they are three feet from the property line.

Mr. Maher stated that they are removing a shed and a woodshed, which are three feet from the property line, and want to put the garage in line with that.

Mrs. Maher stated that the neighbor is fine with it.

Mr. Long stated that, on the drawing, it looks like the wrong shed is eliminated.

Mrs. Maher stated that they had two sheds and one woodshed, and they got rid of the woodshed, which was in the middle, and will remove the dilapidated shed.

Chairman Lesniak stated that it's not the one near the road.

Mrs. Maher stated that that is the good shed that they want to keep.

Mr. Long stated that they want to remove the one next to the house.

The Mahers' answered affirmatively and stated that they took down the woodshed already.

Chairman Lesniak polled the Board regarding a Public Hearing for next month; all were in favor.

MOTION: Mr. Merchant made a motion to schedule a Public Hearing for Mark Maher for the construction of a garage at 76 Connolly Road at the October meeting at 7:35 pm. Ms. Dunham seconded the motion. All in favor.

CARRIED.

The applicants thanked the Board.

88 Connolly Road Area Variances (ZBA 2022-011)

SBL 239.14-1-2

Application for three area variances for the construction of a single-family residence.

Mr. Gavin Vuillaume of Environmental Design Partnership, LLP and **Mr. Adam Riggi**, property owner of 88 Connolly Road.

Chairman Lesniak read the description of the project from Mr. Riggi's application.

The applicant is proposing a new home at 88 Connolly Road that requires three area variances. A lot size area variance from 2 acres to 1.62 acres, a lot width variance from 175 feet to 75 feet and a front yard building setback from 60 feet to 0 feet. The project will have a connection to municipal sewer and a private water well.

Chairman Lesniak stated that he wanted to explain that zero setback is from where the property line is, which is 26 feet from the center of the road; the applicant is talking about building on that line.

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Mr. Vuillaume stated that he hopes they can clear up the zero-setback question; this project is similar to the last project and is right down the road; all the lots are similar.

Chairman Lesniak asked if the lot always existed.

Mr. Riggi answered affirmatively.

Chairman Lesniak stated that it helps if the lot is existing.

Mr. Vuillaume stated that the property is vacant, has approximately 75 feet of frontage on Connolly Road, and has lawn area between the road and the lake of about a half-acre where Mr. Riggi would like to put the home. There is also additional land of 1.2 acres on the west side of Connolly Road. One of the maps submitted shows that the parcel is very long and linear, the other shows where the proposed home will go.

Chairman Lesniak stated that it's customary to have acreage on both sides of the road, because it's a private road.

Mr. Vuillaume stated that the Board is obviously familiar with the Ballston Lake Waterfront zoning district; they are proposing to have the house in the center of that half-acre area. The house is generally in conformance with a lot of the other homes that are there. He included a dimension on the map, the red line that, that is about 75-80 feet from the shoreline; that's where Mr. Riggi would like to build.

Mr. Long asked what the red line on the map is.

Mr. Vuillaume stated that the red line is an arbitrary dimension that shows the average distance from the shoreline to the buildings in the general area. The dimension is set between 75 and 80 feet, which is where most of the homes are. He stated that the front yard setback is the most difficult. Lot width and lot acreage are existing conditions that we can't change. They are trying to clean up the lot to show that they would have the proper variances they would need. In reference to the zero lot line, the setback is 60 feet from the high-water mark; on the maps he labelled the high-water mark, which is on Connolly Road, so they are behind where you even start the measurement.

Mr. Long asked if the high-water mark is across the road.

Mr. Vuillaume answered affirmatively and stated that they are in a minus situation. He asked if they should list the setback as zero or as minus.

Ms. Hull stated that it's minus; the definition is the line at which the land joins the water of the lake at the high-water mark.

Mr. Vuillaume stated that he could provide the dimension from this line to where the house is, if needed.

Mr. Long stated that it actually looks like the far side of the house.

Ms. Hull asked if the proposed house will be on high ground.

Mr. Vuillaume stated that they have never experienced water getting that high, but it is within the 100-year floodplain and they'll have to have flood insurance.

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Chairman Lesniak asked if there was ever a home or camp there.

Mr. Riggi stated that he thinks so but is not certain.

Mr. Vuillaume stated that the only thing there now is a gazebo.

Mr. Merchant asked what the orange stake in the yard is.

Ms. Hull stated that they are basically building in a floodplain, that they checked that on the form.

Mr. Vuillaume answered affirmatively and stated that he hasn't seen it, but the stake could be a survey marker.

Chairman Lesniak stated that it is a stake and could be the setback from the middle of the private road to the property line. People's property doesn't go all the way to the road, but this is a private situation so he's not sure how it works.

Mr. Vuillaume stated that he thinks there's an easement.

Chairman Lesniak stated that they still have to start the property 26 feet from the center of the road; he asked Mr. Clark if that was correct.

Mr. Clark answered affirmatively.

Mr. Vuillaume stated that they do meet the rear and side yard setbacks, just not the front yard which is minus.

Charman Lesniak stated that there is also the acreage and the lot width.

Ms. Hull asked what the sensitive archaeological sites are.

Mr. Vuillaume stated that that pops up on the DEC (Department of Environmental Conservation) website. There are certain areas that are archaeologically sensitive within upstate New York and this must be located in one of them.

Chairman Lesniak asked if the Board should do SEQR; he asked how the Board feels about the zero setback and stated that he doesn't see a way around it.

Ms. Kane stated that the situation is like the other houses.

Mr. Long stated that that is the point of the red line.

Mr. Merchant asked if the project is a SEQR Type 2 Action.

Mr. Clark stated that yes it is, as long as the Board doesn't think that that sensitive archaeological condition would have a significant adverse impact on the project, then it would still be exempt from further review as a Type 2 Action.

Ms. Hull asked about the flood plain issue.

Mr. Clark stated that regarding the flood plain issue, as long as the Board doesn't think that that will cause significant adverse impact, it would still be exempt.

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Chairman Lesniak asked Mr. Clark about the zero setback.

Ms. Hull stated that it's actually minus.

Mr. Clark asked if the Board is taking the position that it is a negative setback or staying with the zero setback.

Chairman Lesniak stated that it is a zero setback.

Mr. Long stated that you can change what you call it but it's still the same.

Chairman Lesniak stated that it's a SEQR Type 2 Action. He asked if SEQR is done.

Mr. Merchant answered affirmatively.

Chairman Lesniak asked how the Board feels about setting a Public Hearing for next month. All agreed.

MOTION: Mr. Merchant made a motion for a Public Hearing for Adam Riggi at 88 Connolly Road at the October meeting at 7:40 pm for variances for the construction of a new home. Mr. Long seconded the motion. All in favor. **CARRIED.**

Ms. Kane stated that the project also needs 280A.

Chairman Lesniak stated that the applicant will need to tell the Board how the road is maintained.

The applicants thanked the Board.

Burnt Hills Family Dental Area Variances (ZBA 2022-012)

154 Lakehill Road; SBL 257.10-1-75

Application for two area variances for a proposed building addition to an existing dental clinic.

Mr. Patrick Mulkern of Colliers Engineering and Design represented the applicant, **Mr. James Hansen** of Burnt Hills Family Dental.

Chairman Lesniak stated that the applicant wants to build an addition of 648 SF on an existing dental office. They will need two variances: one for the lot size as one acre is required and they have .823 acres and the second is for the side yard setback as 20 feet are required and they have 11.8 feet; they need 8.2 feet of relief.

Mr. Mulkern stated that the project they are proposing is a building addition to Burnt Hills Family Dental, located at the intersection of Goode Street and Lakehill Road. The existing lot is .823 acres located in the Hamlet Residential district. The proposed building addition would be approximately 650 SF on the east side of the building. The project was initially submitted to the Planning Board and was referred to the Zoning Board by the Town Code Enforcement Officer. They are requesting variances for extension of an existing nonconforming use as the building is an existing commercial business, as well as the side setback. With the proposed addition being installed on the east side of the building, it encroaches beyond the existing side setback, so they are

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requesting a variance of 8.2 feet. Their interpretation is that the existing lot size being .823 acres is an existing condition, so they did not propose a variance for that.

Chairman Lesniak stated that the Board will address that. He reminded Mr. Mulkern that the Board can't act on the application tonight.

Mr. Mulkern stated that their intent is to present, ask for review and comment, hopefully progress forward with SEQR and possibly schedule a Public Hearing.

Mr. Merchant asked if they will move the parking lot further north.

Mr. Mulkern stated that the existing parking lot will stay as is.

Chairman Lesniak stated that the addition won't impact that.

Mr. Mulkern stated that that's correct; one of the reasons the addition is located on the east side of the building is that the existing layout within the building is not conducive to having the addition on the north side.

Chairman Lesniak stated that the addition will be on Lakehill Road.

Ms. Hull asked Mr. Mulkern to explain why they can't spin the addition around onto the north side, so they don't need a variance.

Mr. Mulkern stated that that would possibly conflict with the existing parking lot. The existing layout inside the dental facility is not conducive to have the addition installed behind it and would require a lot of renovations. There is a lab room and two treatment rooms on the back side, so it doesn't allow for an entryway into the addition.

Mr. Long stated that it's still a small structure after the addition.

Mr. Mulkern agreed and stated that the total square footage would be almost 1,600 SF.

Mr. Long asked if, in two years, they will ask for another one.

Mr. Mulkern stated that he is unaware of the applicant's intentions beyond this project.

Mr. Merchant asked if they have any plans for the lot to the north.

Mr. Mulkern stated that he is not aware of the applicant's intentions beyond this particular project.

Mr. Long asked how to get to the garage if the addition is added in the driveway.

Mr. Mulkern stated that the garage would probably have to be removed; he has not discussed with the applicant the intent of possibly having an extension to the driveway. That driveway would not exist anymore as is.

Mr. Mertzluft asked if the addition is for business use.

Mr. Mulkern answered affirmatively and stated that it would be an additional treatment room, a break room for employees, an additional bathroom and utility storage.

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Mr. Mertzlufft stated that there is a thicket that separates the neighbor to the east from this property; their driveway runs along the side. He asked if there have been discussions with the neighbor about the project.

Mr. Mulkern stated that he did not know and would follow up with the applicant and architect; he has not heard that there is any opposition to it.

Mr. Mertzlufft stated that the thicket will have to be trimmed, at least during construction; the owner may be required to put in fencing or trees or provide something in order to maintain privacy. Those are things we must consider because of the potential impact on surrounding properties.

Mr. Mulkern stated that he understands; there is proposed landscaping on the front of the addition on Lakehill Road, but they could add additional landscaping on the side as well.

Mr. Mertzlufft stated that he is not overly concerned about that.

Chairman Lesniak stated that they are concerned that if the neighbor is a residence, they could be impacted.

Mr. Mertzlufft stated that to him that is the most important.

Chairman Lesniak asked if the applicant would be amenable to that.

Mr. Mulkern stated that he will follow up with the applicant and reach out to the neighbor.

Chairman Lesniak suggested that Mr. Mulkern tell him that the Board has concerns about the buffering of the neighbor and ask what he would be willing to propose to maintain that privacy.

Chairman Lesniak polled the Board for opinions on the project.

Mr. Mertzlufft asked what the project timetable is.

Mr. Mulkern stated that they were referred here and will need to go to the Planning Board after the Zoning Board, so as it's getting close to winter and building time is decreasing, construction may be in Spring 2023, depending upon when approvals are granted.

Chairman Lesniak asked if the Planning Board has discussed any of the concerns the Zoning Board has expressed.

Mr. Mulkern stated that they have not been to the Planning Board yet. They initially submitted to the Planning Board but were referred to the Zoning Board first by the Code Enforcement Officer because of the nonconforming business.

Chairman Lesniak stated that the Board needs to do the nonconforming business and the two variances. He asked if this is a SEQR Type 2 Action.

Mr. Clark stated that he is not sure this would be a Type 2 action based on the statute. The granting of an area variance for a single family, two family, or three family residence is a Type 2 Action but since this is a commercial use it would likely be an Unlisted Action but you could go through the short form and then you

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could declare it exempt from further review as an Unlisted Action; just because it's not specifically stated in the statute for a Type 2.

Mr. Mulkern stated that the short form has been submitted.

Chairman Lesniak asked if the Board should schedule a Public Hearing or do SEQR next month.

Mr. Clark stated that the Board could do SEQR next month and schedule a Public Hearing as well.

Chairman Lesniak asked if County referral is required; it's on a County road.

Mr. Clark answered affirmatively.

Chairman Lesniak asked Mr. Clark for his opinion on scheduling a Public Hearing.

Mr. Clark stated that the Board could schedule the Public Hearing; if the correspondence from the County is not received in time, the Board could not take final action and would have to keep the Public Hearing open; the time period can be mutually extended by agreement between the applicant and the Board.

Chairman Lesniak stated that he is concerned about being locked into the timetable, however, he thinks they should schedule the Public Hearing.

Mr. Mertzlufft stated that he is most concerned about the public input.

Chairman Lesniak polled the Board; all agreed to set the Public Hearing.

MOTION: Mr. Merchant made a motion for James Hansen for 154 Lakehill Road for the construction of an addition on the dental office for a Public Hearing at the October meeting at 7:45 pm. Ms. Kane seconded the motion. All in favor. **CARRIED.**

Mr. Mulkern thanked the Board.

2 Robinhoods Court Area Variance (ZBA 2022-013)

SBL 239.-2-38.3

Application for a front setback variance for a newly built single-family residence.

Mr. Gary Manilenko and **Ms. Kathryn Manilenko**, property owners of 2 Robinhoods Court.

Chairman Lesniak stated that the Board cannot act tonight. This is a unique situation. There is an HOA (Homeowner's Association) from Lancaster Road to Robinhoods Court. They have a 90-foot setback, then the applicant's setback goes 51 feet from that. One problem is that the whole development has 40-foot setbacks, but this property is not considered to be part of the development. The applicant ended up with 51 feet, but from the road they have 141 feet. He stated that he doesn't know if this is a front setback because the HOA owns that property; it could be a side yard setback.

Mr. Clark asked if the project would be compliant if that was considered a side yard setback.

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Chairman Lesniak answered affirmatively and stated that if the Board were to grant a variance, they could grant a 51-foot front yard setback with the understanding that the HOA owns 90 feet from the road, so in essence the setback is 141 feet.

Mr. Manilenko stated that he is seeking a 9-foot variance. The home is already built. Most homes in the development are 30-40 feet from the road. He and his daughter, Kate, purchased the lot and he is building her new home. The property is about three acres. He is acting as a contractor with another contractor who is doing the finish work. He laid out the site with an excavator; being over 140 feet off the road he didn't think that the 60-foot setback requirement would be an issue. He wanted to avoid a grinder pump, so he needed to keep the house a certain distance from the road to have the elevation for a gravity sewer. There are two lots in this section; he shares a driveway with the other lot. Water, sewer, gas, and electric have been installed in the house; it's been tricky getting everything, so he has an easement from the HOA; all utilities have to be maintained in that area. Houses on both sides are in the HOA but this property is not.

Chairman Lesniak stated that we have a dilemma, but he thinks it will be straightened out. He isn't sure if a variance is needed.

Mr. Manilenko stated the problem he sees is that there must be a front setback somewhere. The issue is which setback is the front setback.

Chairman Lesniak stated that the front setback could be as it is, but he sees it as 140 feet.

Mr. Manilenko stated that he doesn't know what the rule is, it is unusual since they don't own the property in front.

Chairman Lesniak stated that usually we measure 26 feet from the center of the road to determine the property line. In this case it is complicated by the HOA. He stated that the question is the proper way of handling this.

Mr. Mertzlufft asked if Mr. Manilenko got building permits for the house.

Mr. Manilenko answered affirmatively.

Mr. Mertzlufft asked if the house is behind the build line toward Lancaster Court.

Mr. Manilenko stated that the house is 51 feet from the 90 feet that the HOA owns, and they need 60 feet; he is looking for a 9-foot variance. He asked if the build line is considered the front setback.

Mr. Mertzlufft stated that the build line is supposed to maintain the front setback.

Chairman Lesniak asked for input from the Board.

Mr. Merchant asked if the HOA has a problem with this.

Mr. Manilenko explained the need for easements and stated that the HOA granted them an easement for National Grid and another for water and sewer. He stated that they were very nice about it and were fine with it. They mow the first 20 feet in the front of the property and the rest is left as a buffer; you can't see the house.

Chairman Lesniak stated that the property is hard to find.

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Mr. Manilenko stated that the property is not on Google maps because the neighboring streets don't have any additional numbers available, someone named it Robinhoods Court.

Ms. Hull asked if he was aware of the HOA easement when he built, when he had a survey done of the land.

Mr. Manilenko stated that there is a 60-foot road cut which he assumes was an easement from the HOA years ago, which goes back to the property line of both lots. He doesn't think there are any other easements other than what he received for Nation Grid and for water/sewer.

Mr. Long asked who said he needed a variance.

Mr. Manilenko stated that National Grid, the Town, and the County wanted to be sure the shutoffs were on the property. To get a Certificate of Occupancy you must plot the house for a building inspection; the surveyors found out it is too close.

Chairman Lesniak asked if the Planning Board reviewed the site plan.

Mr. Manilenko stated that it is an approved 3-acre lot, so no site plan approval was needed; he submitted a plan that they were going to build a house to the Building Department. Mr. Stickles informed him that he must be 60 feet from the front 90 feet owned by the HOA.

Chairman Lesniak stated that the Board needs to speak with Mr. Stickles.

Mr. Manilenko stated that he saw the other houses being so close to the road and it never dawned on him that the requirement would be further than 140 feet from the road.

Chairman Lesniak stated that it wouldn't have dawned on him either.

Chairman Lesniak asked Mr. Clark to speak with Mr. Keniry about the situation since the Board has never run into this before.

Mr. Long stated that he thinks the most straightforward way is to grant the variance.

Chairman Lesniak stated that that's what he was thinking before they came up with the other scenario.

Mr. Merchant stated that he doesn't think there is a way around it.

Chairman Lesniak stated that it might confuse things if the Board tries to say it's a side yard. He polled the Board for their opinions.

Mr. Manilenko stated that he doesn't know any other way; the Board members agreed.

Chairman Lesniak asked if it is a SEQR Type 2 Action.

Mr. Clark answered affirmatively.

Chairman Lesniak stated that the Board could declare itself lead agency.

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Mr. Merchant stated that as a Type 2 Action there's no further review necessary; they could schedule a Public Hearing for a 9-foot setback.

MOTION: Mr. Merchant made a motion to schedule a Public Hearing for the October meeting at 7:50 for 2 Robinhoods Court for a 9-foot variance. Mr. Long seconded the motion. All in favor. **CARRIED.**

Mr. Manilenko thanked the Board.

MOTION: Mr. Merchant made a motion to adjourn the meeting. Mr. Mertzlufft seconded the motion. All in favor. **CARRIED.**

Meeting was adjourned at 9:12 pm.

Respectfully submitted,

Kerri Mains

Kerri Mains
Zoning Board Secretary

July 18, 2022

Dear ZBA Members,

I'm writing to you on behalf of myself and my family at 358 Goode St. We moved to our home late in 2020 and have been enjoying our time here ever since. One of the best parts of our experience has been the friendly people in the area, including our neighbors. Today I'm writing in support of our neighbors Matt and Meg Kniskern.

Matt and Meg recently shared with me some plans for improving their farmhouse. They've informed me of the setback requirements in the new zoning regulations that recently passed. The plans show over 30 ft. of setback from the side of the property boundary. The proposed garage addition is all the way towards the front of our lot, in an area we don't spend time in, aside from driving in and out.

I wanted to let the zoning board know that Matt and Meg have our full support in this matter. We welcome our neighbor's improvement plans and look forward to seeing the added appeal they bring to the neighborhood.

Best regards,



John Steciuk

Phone: 518-860-0797

358 Goode Street