

A public hearing was held by the Town Board of the Town of Ballston on Tuesday evening, May 12, 2015 at the Town Hall on Charlton Road, Ballston Spa.

PRESENT	Timothy Szczepaniak	-----	Deputy Supervisor
	William Goslin	-----	Councilman
	Kelly Stewart	-----	Councilwoman
	Carol Shemo	-----	Clerk
	James Walsh	-----	Counsel
ABSENT:	Patrick Ziegler	-----	Supervisor
	John Antoski	-----	Councilman
	James Walsh	-----	Counsel

Deputy Supervisor Szczepaniak opened the public hearing at 6:20 p.m.

The Town Clerk read the following legal ad for the public hearing.

TOWN OF BALLSTON NOTICE OF PUBLIC HEARING
REGARDING LOCAL LAW 1 OF 2015

PLEASE TAKE NOTICE that pursuant to the Town Code of the Town of Ballston, Zoning, §§138-23 – 27 and the New York State Town Law §§ 261-c and 264, the Town Board of the Town of Ballston will conduct a public hearing on May 12, 2015 at 6:20 p.m., Ballston Town Hall, 323 Charlton Road, Ballston Spa, New York 12020 to consider the change to the Zoning Law which requires Certified Mail notice to persons affected by changes to the use of property. The Town Board has implemented a regular mail notice to all persons within 500 feet of a change in property use. All persons are welcome to offer their oral and/or written comments at the above time and place.

By order of the Town Board of the Town of Ballston dated April 14, 2015. For further information, please contact Patrick Ziegler, Supervisor, at (518) 885-8502 Ext. 13.

Carol R. Shemo
Town of Ballston Town Clerk
PO Box 67, Burnt Hills, NY 12027
Dated April 21, 2015

Ms. Pierce, A Town resident, attended the Zoning Board of Appeals meeting on May 6th. She reported that the Zoning Board members were concerned with the residents receiving the notice on a timely basis, at least 10 days before the action. There was a discussion about requiring an earlier application date but the Zoning Board members do not want to impact the applicant.

Councilman Antoski entered the meeting at 6:30 p.m.

Town Attorney Walsh entered the meeting at 6:30 p.m.

The Town Clerk read the letter submitted by the Vice Chairperson of the Zoning Board of Appeals concerning this change to the zoning code.

Memorandum

DATE: May 9, 2015

TO: Town of Ballston Board of Supervisors

FROM: Marilyn Bell, Vice-Chair ZBA

RE: ZBA Consideration of proposed changes to Chapter 138, Public Notification process pursuant to Section 138-96, Code of the Town of Ballston

*CC: M. Lesniak
E. Brown*

R. Kane
S. Merchant
D. Mertzlufft
D. Russell
T. Long
P. Reilly
T. Johnson

The Zoning Board of Appeals (ZBA) of the Town of Ballston reviewed proposed changes to Town Public Notification process pursuant to Section 138-96 at its May 6, 2015 meeting and has the following considerations:

In general, the ZBA supports the proposed change, as NYS law does require notice as currently required under Section 138-96, Code of the Town of Ballston. Specifically, replacing the requirement to notify ‘all owners of property which is contiguous, abutting or adjacent to or which is situated across an established road from the actual or proposed boundary lines of the property which is the subject of the application’ with notification will be made to ‘all property owners within 500 feet of the property which is the subject of the application’ was acceptable.

However, several Board members and one member of the general public voiced concern over eliminating the existing notification of the time requirement of 10 days for special use permits. The general consensus was that even though this notification was provided as a courtesy, removal of a specified minimum number of days requirement of prior notice mailings to the affected property owners could potentially disadvantage nearby property owners who may not receive said notice in time to respond to or attend the public hearing. As a result, Board preference is to continue required notice with a specified number of days in advance of the public hearing, preferably continuing the current ‘notice shall be given at least 10 days prior to such hearing’.

Further, discussions between the Board and Mr. Johnson revealed the logistics of the Building Department in adhere to the 10-day notification requirement. One proposed solution was to move up the due date of applications for the ZBA in order to maintain the 10-day notice standard. However, I was not prepared to make this adjustment without review of the full Board, notably the Board chair that was unable to attend this meeting. Depending on the final Town resolution of the proposed Code modification, further review of this standard may continue at the next ZBA meeting. This could result in modifying the advance due date for building applications that require ZBA review to an earlier submission date.

Thank you for the opportunity to comment on the proposed change to Section 138-96 of Town Code.

Deputy Supervisor Szczepaniak said the sole purpose of this change was for proper notification to Town residents. This issue came to light at the Timber Creek Preserve Development when residents across the street did not receive notification. If there needs to be more discussion by the Zoning Board of Appeals and the Planning Board about the timely notification of residents, he would recommend tabling this resolution.

Councilman Goslin was not aware that this change in notification would result in a change of the calendar. He believed this change would widen the notification area and the calendar would remain the same.

Building Inspector Johnson explained that for special use permits the Planning Board and the Zoning Board of Appeals sent notifications to adjacent and abutting properties. The Town Board extended all notification to 500 ft. of the proposed action. As per the Town Code, special use permits need to be sent by certified mail; this requirement is in our code but is not required by NYS Law. The 500 ft. notification change greatly increased the number of mailings sent by certified mail and greatly increased the cost. The timeframe for application deadlines for the Planning Board and Zoning Board of Appeals is two weeks before the meeting. As it stands today, it is impossible to have ten days’ notice of possible action to residents after the agenda is complete. The only way to assure ten days’ notice is to collect the applications the month prior to the meeting. Both boards have control over when the application time is set. Notification is a separate issue.

No one else wished to speak. The Public Hearing was closed at 6:40 p.m.

Respectfully submitted,

Carol R. Shemo
Town Clerk