

Town of Ballston
Zoning Board of Appeals

**TOWN OF BALLSTON
ZONING BOARD OF APPEALS**

Regular Monthly Meeting: December 3, 2014

ATTENDEES: Michael Lesniak, Chairman
Marilyn Bell, Vice Chair
Ellen Brown
Robin Kane
Daniel Russell
Stephen Merchant, 1st Alternate
Daniel Mertzlufft, 2nd Alternate
Peter Reilly, Attorney
Thomas Johnson, Building Inspector
Members of the General Public

Chairman Lesniak called December 3, 2014 meeting at 7:30 p.m. and Chairman Lesniak led the Pledge of Allegiance. The Chairman asked for corrections to the November 5, 2014 minutes.

Page 2, strike Chairman Doyle, Page 3 5th paragraph add "he" after Professional Engineer, Page 4, MOTION strike Ms. Kane, Page 5 2nd paragraph Chairman Lesniak added "Advertising the sale of Christmas trees", Page 8, paragraph 8, strike form; add from.

MOTION: Mr. Russell made a motion to accept the November 5, 2014 minutes as amended. Ms. Brown seconded the motion. All board members voted in favor. **CARRIED.**

NEW BUSINESS:

J. T. Pollard, 108 Westside Drive, Ballston Lake, NY 12019; 258.5-1-6 (Area Variances – lot area, lot width and front setback) Construct a 40' x 60' pole barn.

Mr. Pollard stated that the LA Group submitted an application to NYSDEC for a wetland buffer and to date, are still waiting for a response – the property is limited due to the extensive amount of wetlands.

Mr. Pollard states the pole barn to be used for parking their cars and boat with future plans to insulate the pole barn.

Mr. Merchant asked will the pole barn be a single story. Mr. Pollard replied yes – 10' walls.

Mr. Merchant asked if there will be an upstairs to the pole barn. Mr. Pollard replied no.

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Ms. Brown asked how the edge of the wetlands is determined. Mr. Pollard said a survey was performed and the top of the bank is "pretty drastic" as shown by the demarcation line on the survey.

Mr. Mertzlufft asked if the applicant entertained constructing a retaining wall to extend the property to move the proposed pole barn back further from the road. Mr. Pollard stated NYSDEC will not allow the wetlands to be filled – proposed placement of the pole barn is between the edge of wetlands and Westside Drive – to be determined by NYSDEC - as far away from their wetlands.

Ms. Brown asked the number of garage doors. Mr. Pollard replied three in front and one on the side.

A further discussion was held on placement of the pole barn - concern for backing out onto Westside Drive and if a turn-around can be achieved to alleviate backing out onto Westside Drive.

Mr. Pollard stated that this garage will be used for storage.

Ms. Bell stated that the Short EAF indicates the proposed pole barn is 42' x 60' and the NYSDEC narrative states 45' x 60'. Mr. Pollard stated the proposal is 40' x 60'.

Ms. Bell stated nothing is constructed on the west side of the road. Mr. Pollard stated that four lots to the south there are houses on the west side and the ZBA approved a variance for the construction of a pole barn at 122 Westside Drive and an existing pole barn at 124 Westside Drive that has been in existence since 1976.

Ms. Bell asked if the pole barn will be used for the operation of a business. Mr. Pollard replied no. Ms. Bell asked if the pole barn will have living quarters. Mr. Pollard replied no. Ms. Bell asked if hazardous materials will be stored in the pole barn. Mr. Pollard replied gasoline.

Ms. Bell said, "This seems like a lot of building." Mr. Pollard stated he has quite a bit of land and 60% is not usable, pays property taxes and would like to utilize his property.

Chairman Lesniak stated that the ZBA is supposed to grant the minimum variance and if that proposed structure was reoriented, that would "bring it that much further back" – giving a greater setback – eliminating the need to back out onto the road.

Chairman Lesniak opened the public hearing at 7:58 p.m.

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Bill Ross stated the Hamelink's garage is setback less than 25' and is very nice and have no problems backing out onto Westside Drive. Mr. Ross stated he does not see a problem with Mr. Pollard's proposal.

Chairman Lesniak closed the public hearing at 7:59 p.m.

Ms. Bell read the five criteria for 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. The board replied NO.
- 2) Whether the benefit sought by the applicant can be achieved by some other method, feasible for the applicant to pursue, other than an area variance. The board replied YES – applicant could reorient to reduce setback.
- 3) Whether the requested area variance is substantial. The board 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. The board 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. The board replied YES.

MOTION: Chairman Lesniak motioned to declare this a Type II action under the SEQR process therefore exempt from further review.

MOTION: Ms. Bell stated for the property at 108 Westside Drive pursuant to §138-11.1 of the zoning law for the construction of a 40'x 60' pole barn/garage with an area variance of 34,262 sq. ft., lot width variance of 50' and a front setback of 35' be granted with the following stipulations: The pole barn/garage be a single story structure, no business, no living quarters, no hazardous materials contained within the structure and this approval be granted upon receipt of approval of the joint application form from the NYSDEC. Ms. Kane seconded the motion, Mr. Merchant voted in favor, Ms. Kane voted in favor, Ms. Brown voted in favor, Mr. Mertzlufft voted in favor, Mr. Russell voted in favor, Ms. Bell voted in favor and Chairman Lesniak voted not in favor. Motion **CARRIED**.

Consideration of Abele Woods Planned Unit Development District pursuant to § 138-96, code of the Town of Ballston. Geoff Brooks, applicant and Jason Dell, P.E., CPESC, CPSWQ with Lansing Engineering, PC were present.

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Geoff Brooks stated this project is initially a Traditional Neighborhood Design (as defined in the town code) and have implemented the design for three phases.

Mr. Brooks stated that Phase 1 sold out in three years and phase 2 sold 15 homes of the 99 approved.

Mr. Brooks said, "The only reason this is a PUDD is because we have gone over the threshold of the 99 lots – otherwise we would continue to do the TND throughout the phase".

Chairman Lesniak states when there is a change in the zoning, the application to be reviewed by the ZBA and any comments or consideration are forwarded in a report to the town board.

Chairman Lesniak referenced page 11 A.2 of the Timber Creek Phase 4, Abele Woods PUDD the following:

"As offered, here, front yard setbacks would not apply to decorative fences, garden walls, porches stoops, or bay windows."

Chairman Lesniak said, "He has no problem with fences or garden walls," but porches, stoops, or bay windows are measured from the foundation or roof overhang.

Chairman Lesniak referenced page 18 No. 9:

"No wood burning stoves shall be permitted."

Chairman Lesniak asked is that both interior and exterior?

Mr. Brooks said, "That was meant by the outside boiler." Chairman Lesniak asked if a fireplace is permitted inside. Mr. Brooks stated a fireplace or woodstove would be allowed inside. Chairman Lesniak stated that should be clarified.

Ms. Bell stated in the 2013 proposal the single-family lots had 65' minimum lot width at building line and it appears that it has been reduced to 60' for the single-family homes in the current proposal – is this consistent with the other phases of the project or why the change.

Mr. Brooks stated that it is consistent. Mr. Dell stated Phase 1 - 60', Phase 2 – 65' and Phase 3 mixed use – 65'.

Ms. Bell referenced Appendix C page 11 which depicts a grid for single-family homes (Area A) – there is no (Area A) in the 2013 version project narrative, but it does state 65' minimum lot

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width with the assumption (at building line) – 60’ and townhouses (Area A) are reduced to 80’ – 100’ originally proposed in 2013.

	Single-Family Lots (Area A)	Townhouse Lots (Area A)	Condominiums & Apartments (Area B)	Live/Work Community Center (Area C)	Accessory Structures (All Areas)
Minimum width	60'	80'	N/A	N/A	N/A
Front yard minimum	15'	15'	15'	0'	N/A
Front yard maximum	15'	15'	15'	N/A	N/A
Side yard	5'	5'	5'	0'	5'
Rear yard	20'	20'	20'	20'	5'
Party wall/ceiling	N/A	0'	0'	0'	N/A
Stories/height	2.0/40	3.0/40	3.0/40	3.0/40	1.5/30

A further discussion was held on reviewing the NYS fire code relative to setbacks.

Mr. Books said the Planning Board had several public hearings, took public comment, met with the NYSDEC, ACOE, consulted with the National Wildlife Conservation and SHPO. That was addressed during the Planning Board SEQR process and a Negative Declaration was issued on July 30, 2014. Mr. Brooks stated there are zero impacts on the NYSDEC wetlands including the buffers that were put in place around the wetlands. Mr. Brooks stated that ACOE allows some disturbance – crossings are proposed – underneath the ½ acre threshold allowed and are developing new wetlands – 1.2 acres.

Mr. Brooks stated that the public hearing was held last week at the town board level and the “same people” came forward (three couples and four individuals) with the same issues relative to wetlands, water table and height – all of that was addressed in the Negative Declaration that was issued by the Planning Board.

Mr. Dell stated that C. T. Male provided a review of the wetlands of what the applicant had done to obtain the validation from the NYSDEC as well as the ACOE. C. T. Male had the applicant prepare a wetland crossing map to prove that viable crossing are being proposed and a conceptual wetland mitigation area plan.

Mr. Russell stated that the chart on page 11 indicates that the single-family lots are 2.0/40; townhouse, condominiums and live work community center are 3.0/40 and asked if that is in the other areas as well. Mr. Brooks stated that Phase 3 was 3.0/40.

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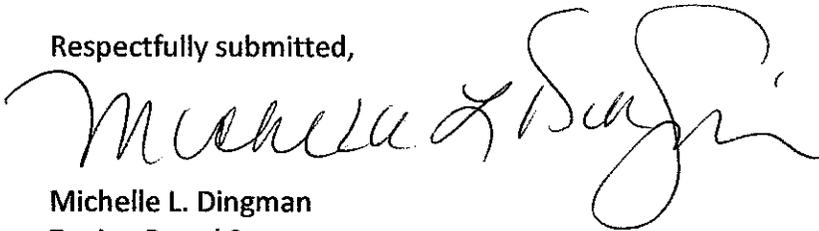
Chairman Lesniak reiterated comments relative to setbacks, wood burning stove (exterior), lot width for single-family – 65' versus 60' and townhouses 100' versus 80'.

Chairman Lesniak stated a report will be forwarded to the town board.

MOTION: Ms. Kane moved to adjourn. Ms. Brown seconded the motion and all present voted in favor. **CARRIED.**

Meeting adjourned at 8:30 p. m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Michelle L. Dingman". The signature is written in black ink and is positioned to the right of the typed name.

Michelle L. Dingman
Zoning Board Secretary