

**Town of Ballston
Zoning Board of Appeals**

**TOWN OF BALLSTON
ZONING BOARD**

Regular Monthly Meeting: November 7, 2012

ATTENDEES: Michael Lesniak, Chairman
Marilyn Bell, Vice Chairman
Fred Rogner
Jan VanDeCarr
John Antoski 1st Alternate
Patrick Maher 2nd Alternate

Peter Reilly, Deputy Town Attorney
Thomas Johnson, Building Inspector

Members of the General Public

Chairman Lesniak called the meeting to order at 7:30pm then led the Pledge of Allegiance. Chairman Lesniak asked for corrections to the September 2012 and October 2012 minutes. The members of the board did not have October 2012 minutes. Therefore the October minutes approval was tabled to next ZBA meeting. The Corrections to the September minutes are as follows: under new business first paragraph resident's s/b residence, also first paragraph of Hafensteiner appalling s/b appealing.

Chairman Lesniak reviewed the agenda for this evening. Chairman also told the applicant due to the fact that there were only 6 members present and a quorum of 4 is needed to approve any application, any one could chose to postpone the application till the next scheduled ZBA meeting. All applicants chose to have their applications heard.

OLD BUSINESS: None at this time

NEW BUSINESS:

Adam Brooks - *Public Hearing Scheduled*
1801 Rt. 67 [214.-1-15.2]
Area Variance 138-10.1 Front setback [Dwelling]

Chairman Lesniak read the application for a front set back variance of 1.8 ft. to acquire a C.O.

Chairman Lesniak asked Mr. Brooks if he built the home. Mr. Brooks answered "No". Chairman Lesniak also stated that the lot the house is built on is quite large this should never have happened. Mr. Brooks stated that the living space is within the required set back, the issue is with the eve overhang. The surveyor did not measure properly. The measurement was from the foundation of the living space not the overhang of the roof.

Public Hearing Opened at 7:41 no one chose to speak, hearing closed at 7:42

Ms. Bell read 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. "NO"

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- 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. "NO"
- 3) Whether the requested area variance is substantial. "NO"
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. "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."NO"

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

Chairman Lesniak declared the request a Type II action under SEQR and therefore exempt from review, all present voted in favor. **CARRIED.**

MOTION: Ms. Bell made a motion to approve Mr. Brooks' request for the area variance 138-10.1 front set back at 1801 Route 67. Mr. Maher second the all present voted in favor. **CARRIED**

Paul Krupski - *Public Hearing Scheduled*

35 Mann Rd. [215.-1-76]

Area Variance 138-10.1 Lot width and side yard setback [Garage]

Chairman Lesniak read Mr. Krupski's request. Mr. Krupski explained that it was a carport not a garage. The structure would be anchored to the ground but not have a foundation. The applicant also stated that he could move the structure so only a lot width variance would be needed. Mr. VanDeCarr Stated that he wants the carport moved.

Ms. Bell asked if the gravel area was the proposed site for the carport. Mr. Krupski explained that he was trying to level out the ground for the carport.

Public hearing opened at 7:52 no one chose to speak. Hearing closed at 7:53

Mr. Rogner read 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. "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. "NO"

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- 3) Whether the requested area variance is substantial. "YES"
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. "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."NO"

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

Chairman Lesniak declared the request a Type II action under SEQR and therefore exempt from review, all present voted in favor. **CARRIED.**

MOTION: Mr. Rogner made a motion to approve Mr. Krupski request for the area variance 138-10.1 lot width at 35 Mann Rd. Mr. Maher second the all present voted in favor. **CARRIED**

**Richard & Louise Bublak - *Public Hearing Scheduled*
186 Kingsley Rd. [257.14-1-41]
Area Variance prior to Lot Line Adjustment**

Duane Rabideau of Gilbert VanGuilder Land Surveyor, PLLC presented the Bublak's request for an area variance, to create one lot that will be residential use and another lot that to be Commercial use. The Bublak's have been trying to sell the home for some time now and due to the configuring of the 2 lots they have been unable to.

Ms. Bell stated that currently the two lots are non-conforming. Mr. Reilly stated that was correct but this new proposal would make the 2 lots less non-conforming than the two prior lots were.

Public Hearing Opened at 8:00 no one chose to speak the Public Hearing closed at 8:01

Ms. Bell read 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. "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. "NO"
- 3) Whether the requested area variance is substantial. "NO"
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood of district. "NO"

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- 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.”NO”

MOTION: Mr. VanDeCarr 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.**

Chairman Lesniak declared the request a Type II action under SEQR and therefore exempt from review, all present voted in favor. **CARRIED.**

MOTION: Mr. VanDeCarr made a motion to approve the Bublak’s request for the area variance 138-10.1 at 186 Kingsley Rd deemed Residential and 182Kingsley Rd deemed Commercial. Mr. Rogner seconded the motion and all present voted in favor. **CARRIED**

**Daniel Gibson - *Public Hearing Scheduled*
7 Diamond Rd. [249.-3-65.1]
Area Variance for Solar Panels**

Daniel Gibson failed to appear before the Zoning Board of Appeals therefore his application for Area Variance for Solar Panels was tabled till the next ZBA meeting.

**Kurt Zarnofsky – *Public Hearing Scheduled*
175 Lake Rd. [239.-2-33.1]
Special Use Permit for an addition to existing restaurant**

Chairman Lesniak explained the SUP is needed due to the fact the restaurant is a non-conforming use.

Mr. Zarnofsky explained the addition would be straight out the back of the already existing kitchen area. The addition would not go into the parking area. The stairs would be turned the other way. The roof line would be in line with the current building. Ms. Bell agreed that the kitchen needed to be enlarged.

Public Hearing Opened at 8:14

Mr. Pierce commended Mr. Zarnofsky for taking on the Goode Times Restaurant project.

Public Hearing Closed at 8:15

Jan VanDeCarr read the four criteria of a **Special Use Permit**

- 1) The use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the district in which it is situated and will not be detrimental to the orderly development of the adjacent districts. “YES”

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- 2) The location and size of the use, the nature and intensity of the operation involved or conducted in connection therewith, its site layout, and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood. "YES"
- 3) The location and height of buildings, the location, nature and height of walls and fences, and that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof. "YES"
- 4) The public convenience and welfare will be substantially served and appropriate use of neighboring property will not be substantially or permanently injured, subject to appropriate conditions and safeguards as determined necessary to promote the public health, safety and welfare. "YES"

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. Mr. Rogner seconded the motion all present voted in favor. **CARRIED.**

MOTION: Mr. VanDeCarr made a motion to approve Mr. Zarnofsky's request for the Special Use Permit for an addition to 175 Lake Rd not to exceed 16'X16'. Mr. Maher seconded the motion all present voted in favor. **CARRIED**

MOTION: Mr. Rogner made a motion to adjourn. Mr. VanDeCarr seconded the motion all present voted in favor **CARRIED.**

Meeting was adjourned at 8:25.

Respectfully submitted,



Debora Bradt, ZBA Secretary