



# TOWN OF BALLSTON PLANNING BOARD MEETING MINUTES

January 10, 2024 at 6:30 pm

Town Hall Meeting Room and Zoom Webinar for Viewing Only  
323 Charlton Road, Ballston Spa, NY 12020

[www.townofballstonny.org](http://www.townofballstonny.org)

## ATTENDEES:

John Van Vorst, Chairman  
Ben Baskin, Board Member  
Peter DiLorenzo, Board Member  
Michael Zuritis, Board Member  
Andrew Clark, Attorney  
Jenny Lippmann, Engineer  
Kerri Mains, Planning Board Secretary

## ABSENT:

Dave Blair, Vice Chairman  
Andrew Collar, Board Member  
Audeliz Matias, Board Member  
Jeff Stickles, Code Enforcement Official

## Call to Order

The meeting was called to order at 6:30 pm and the Pledge of Allegiance was recited.

## Approval of Previous Minutes

The November 29, 2023 meeting minutes could not be considered for approval as there was not a quorum of members present this evening who were present at that meeting.

## OLD BUSINESS

### **1402 Route 50 Minor Subdivision, Site Plan and Special Use Permit (PB 2022-022)**

SBL 228.-1-41

Minor Subdivision, Site Plan Review and Special Use Permit for the redevelopment of an existing gas station/convenience store to add a new pump canopy, multi-tenant building, drive-through, parking, utility connections, stormwater management, and lighting/landscaping. Public Hearing continued.

**Mr. Dave Kimmer** of ABD Engineers, LLP.



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Mr. Kimmer stated that he is here on behalf of Mr. Harry Singh, property owner. They did not submit any new documentation and received no engineering comments. They have submitted the plans to New York State Department of Transportation (NYSDOT) for stage one review and are waiting for a response.

Public Hearing reopened at 6:32 p.m.

No one wished to speak.

Public Hearing adjourned at 6:33 pm.

Chairman Van Vorst polled the Board for questions or comments; there were none.

Mr. Kimmer stated that he hopes to have something back from NYSDOT for the next meeting. He thanked the Board.

### **Eastline Commons PUDD Phase III Site Plan (PB 2023-005)**

Eastline Road; SBL 228.-4-1.1

Site Plan Review application for the construction of 21 townhouses on 3.66 acres within the Eastline Commons PUDD, including public water and sewer service with on-site stormwater management. Public Hearing scheduled.

**Mr. Gavin Vuillaume** of Environmental Design Partnership, LLP and **Mr. Thomas Paonessa** of TP Builders, Inc.

Chairman Van Vorst stated that the applicant's submission was too late to be considered for this meeting, but the public hearing had previously been scheduled.

Public Hearing open at 6:34 p.m.

**Mr. Kyle Kelliher** of Eastline Road stated that his property is directly north of Eastline Commons. He requested that a privacy fence be built along the northern border of the Eastline Commons property.

Chairman Van Vorst stated that that will be entered into the negotiations.

Public Hearing adjourned at 6:35 p.m.

Mr. Vuillaume stated that there are a few updates since the project was presented at the November meeting. The Environmental Assessment Form (EAF) has been revised and a traffic assessment letter was prepared. There will be individual garbage cans instead of the trash enclosure that was originally proposed; there is plenty of turning radius for both emergency vehicles and trash pickup. Each unit has its own garage where the cans will be stored. They added grading and retaining wall information to the drawings for the corner of the six-unit building that is closest to the wetlands. There will be a pipe drilled from one side of the property to the other,



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under the road and under the wetlands, for the stormwater outfall from the storm basin; there will be no impact to wetlands. The property is not in the water district; they are in the process of petitioning the Town Board. He asked if that must be in place before Planning Board approval.

Chairman Van Vorst stated that he assumes the Board will want assurance that the property will be in the water district before approval.

Mr. Clark stated that that is correct. He asked where they are in that process.

Mr. Vuillaume stated that they are assembling the submission documentation and he has spoken with Mr. Joe Whalen, the Water Superintendent. He would like to get as far as possible with the Planning Board while pursuing the Town Board water district extension process.

Chairman Van Vorst polled the Board for questions or comments; there were none. He stated that Mr. Vuillaume and his client need to discuss the privacy fence.

Mr. Vuillaume stated that he doesn't think they are opposed to a fence. There are woods; he doesn't know that it is needed but if there is something bothersome, they can consider something.

Mr. Kelliher stated that there is a flood of light in his bedroom windows from the apartments.

Mr. Vuillaume indicated on the map where evergreen plantings and a small fence could be placed. They will work on a plan. He thanked the Board.

### **Dominic Drive Cold Storage Facility Site Plan and Special Use Permit (PB 2023-008)**

216.-2-38.1

Site Plan Review and Special Use Permit application for an unheated self-storage facility on a 7-acre portion of a 48.39-acre parcel with paved access road, drive aisles, security gates, fencing, and a 1500 SF pole barn.

**Mr. Jason Dell** of Lansing Engineering.

Mr. Dell stated that the project site is about a 7-acre portion of the larger parcel, in the Mixed Use Route 50-67 District. They propose a self-storage facility with 12 buildings, totaling 72,700 SF of unheated storage, with paved access from Dominic Drive, configured so emergency vehicles and tractor trailers can maneuver throughout the facility. Stormwater will be managed on site in accordance with all requirements. Since the last meeting, they have submitted detailed site plans and received engineering comments which they will address. There was a comment regarding total square footage and a secondary access required by the Fire Code of New York State. The project currently has one access road; he indicated on the map where they are considering adding a second; this may reduce the total square footage.



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There was a discussion regarding access and square footage, and if the revision would meet the requirement without requiring application to the New York State Department of State (NYS DOS) for a variance. Ms. Lippmann will investigate.

Chairman Van Vorst polled the Board for questions or comments; there were none.

There was a discussion regarding the scheduling of a public hearing. Mr. Dell asked if one could be scheduled. Chairman Van Vorst stated that he is hesitant as the plans may change. Mr. Dell explained the changes that may be made; the square footage may be reduced if a secondary access is added. Mr. Clark stated that the standard is if the intensity of the project is increasing or decreasing; it sounds like the square footage of the potential proposal may be less than the current proposal. Mr. Dell stated that it may be slightly less as they will try to shift one of the buildings to accommodate the access.

Chairman Van Vorst polled the Board for opinions on scheduling a public hearing; all were okay with it.

**MOTION:** Mr. Zuritis made a motion to schedule a Public Hearing for the Dominic Drive Cold Storage Facility for February 28, 2024 at 6:35 p.m. Mr. Baskin seconded the motion. All in favor. **CARRIED.**

There was a discussion regarding referral to the Saratoga County Planning Board. Chairman Van Vorst asked if referral should be initiated. Mr. Clark stated that the County has the same standard; if the use is increasing, updates can be made. The referral should be for what the public hearing is scheduled for; any potential changes can be addressed. Ms. Lippmann stated that she will investigate the Code; County referral can be initiated.

Mr. Dell thanked the Board.

### **137 Kingsley Road Advisory Recommendation (PB 2023-015 and ZBA 2023-017)**

SBL 257.00-5-24.111

Request from the Zoning Board of Appeals for an advisory recommendation regarding the application for two area variances for lot width and flag lot frontage for the subdivision of an existing vacant lot into three (3) parcels.

**Mr. Fred Metzger**, Land Surveyor, P.C.

Mr. Metzger presented maps to the Board.

Chairman Van Vorst stated that the Board is looking at this project tonight because the applicant is going to the Zoning Board of Appeals (ZBA) because they want to create a flag lot which is not allowed; the applicant is looking for a Planning Board recommendation to the ZBA.



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Mr. Metzger stated that that is correct. The ZBA referred the project to the Planning Board for a recommendation.

Chairman Van Vorst stated that it is the Planning Board's obligation to provide advice to the ZBA; he polled the Board for opinions on creating a nonconforming lot.

Mr. Metzger explained the maps related to the history of the parcel. His client purchased what remained of the parcel after many pieces were sold over the years. He would like to build two duplexes on Kingsley Road. There are no plans yet for the rear portion of the parcel. On paper, the rear portion has frontage on Kingsley Road, but there are wetlands and they are trying to keep commercial access out of the residential area. The commercial lot would need access from the 40-foot strip of land that goes out to Route 50.

Mr. DiLorenzo stated that it looks like a preexisting flag lot.

Chairman Van Vorst stated that it is not preexisting because there is currently access to the property on both ends; adding the subdivision on Kingsley Road creates a flag lot.

Mr. Metzger stated that that is correct but access from Kingsley Road is nearly impossible.

Chairman Van Vorst stated that zoning changes have created this issue; under previous zoning it would have been allowed. He asked the Board members what the recommendation should be.

Mr. Zuritis asked about precedent.

Mr. Clark stated that the Board recommendation should focus on what will be there after the change and whether that complies with the intent of the zoning. The Board may want to include in the recommendation that the flag lot may have been allowed prior to the zoning change.

Mr. Zuritis stated that he is struggling with the fact that the zoning has been changed; at what point do you say that you must meet current zoning. He stated that he thinks the commercial buildout would be acceptable for the character of the area.

Chairman Van Vorst asked if the Board members would like to think about it before deciding. Research could be done to find out if the old zoning would have allowed it.

There was a discussion regarding the potential use of the property. Ms. Lippman stated that she will look at previous zoning; the split zoning makes it complicated to take advantage of the full parcel; mixed use is available. Mr. Zuritis stated that they could change what they want for the residential portion and still be able to develop the whole property. Mr. Metzger stated that they are trying to use the whole property; keeping the residential and commercial areas. Chairman Van Vorst stated that if the ZBA does not grant the variance, it will be wasted space. Mr. Zuritis stated that they could do mixed use development. Mr. Metzger stated that they are trying to keep the commercial as commercial and the residential as residential.



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The Board members agreed to add the project to the January 24, 2024 agenda.

Ms. Lippmann stated that she will investigate the Code.

Mr. Metzger thanked the Board.

Members of the public wanted to ask questions. Chairman Van Vorst stated that they are welcome to ask questions in the hall, but tonight is not a public hearing.

### NEW BUSINESS

#### **145 Goode Street Sketch Plan (PB 2023-022)**

SBL 248.17-3-4

Sketch Plan Conference for a 5,758 SF addition to the Burnt Hills Veterinary Hospital, including a parking lot expansion with 17 new parking spaces and a new septic system. Area variance to extend the nonconforming use by 6,500 SF previously granted by the Zoning Board of Appeals.

**Dr. Matt Duemler**, property owner, **Mr. Kurt Bedore** and **Mr. Nick Cunningham** of KB Engineering & Consulting, PLLC. **Ms. Stephanie Ferradino** of Ferradino Firm, PLLC, via speakerphone.

Mr. Bedore stated that they propose an approximately 5,700 SF addition to the Burnt Hills Veterinary Hospital, on an 8.35-acre parcel located in the Hamlet Residential District. They have received the engineering comments. They propose a raised bed gravity fed septic system for the addition as well as the existing septic system; there is municipal water. The size of the addition may increase to about 6,200 SF, with expanded parking on the north side of the building. The stormwater pond may be expanded. The parcel is not in the Ballston Lake Watershed District. They will adjust the parking spaces and may expand the new parking a few feet to the north. Regarding the engineering comment indicating the need for a setback variance, he stated that the face of the building is not parallel to the right of way and explained the location of the proposed addition in relation to the setback. The proposal is a change to what is existing, but they believe it is a change for the better; the setback will be closer to conformance. He asked the Board for consideration so they could avoid going to the ZBA.

There was a discussion regarding a setback variance. Chairman Van Vorst asked if the Planning Board can grant that variance or if the applicant must go back to the ZBA. Mr. Clark stated that Mr. Stickle (Building Inspector) has determined that the variance is now required. The Building Inspector determines the Code; the Planning Board cannot move forward. He stated that the applicant should confirm the Building Inspector's determination. Dr. Duemler stated that they are using less of the relief that was previously given. He was previously told that a variance was not required. Ms. Lippmann stated that one is now required because they are changing the preexisting nonconforming condition. Mr. Clark stated that the variances are specific; the recently granted variance for extending the nonconforming use did not include the setback. He listed options for the applicant. Dr. Duemler stated that he is asking for common sense; this project will be an improvement. Mr.





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Zuritis stated that that will probably increase the likelihood of variance approval. Mr. Clark stated that the applicant had previously inquired as to whether this variance was needed and was told it was not, which has created the current situation. The Board cannot move forward without resolving this issue but should provide a recommendation to the ZBA. The applicant should continue with this Board as they pursue the variance in order to keep the application moving forward. Chairman Van Vorst stated that solving it quickly would be to everyone's advantage. Mr. Zuritis stated that it is a good project; he thinks it is fine for the Planning Board to continue to review the application. The other Board members agreed.

Mr. Bedore stated they will ask for a determination from Mr. Stickles and proceed with both Boards.

Dr. Duemler asked if a public hearing could be scheduled for the February meeting.

There was a discussion regarding scheduling a public hearing. Ms. Lippmann stated that the project is not far enough along as it is a sketch plan. Dr. Duemler stated that the full site plan can be ready for the February submission deadline. Ms. Lippmann explained the process regarding the public hearing, the Saratoga County Planning Board referral, and the process and timeline for moving forward.

Chairman Van Vorst stated that the next step is to speak with Mr. Stickles and submit to the ZBA if necessary.

Mr. Clark recommended asking for a formal determination on Building Department letterhead.

**MOTION:** Mr. Baskin made a motion for a positive recommendation to the Zoning Board of Appeals for a setback variance for the 145 Goode Street project. Mr. Zuritis seconded the motion. All in favor. **CARRIED.**

Dr. Duemler asked if the Board had any questions regarding the sketch plan.

Mr. Baskin asked if the addition may get bigger.

Dr. Duemler stated that the square footage on the final drawings is 6,208 SF.

The applicants thanked the Board.

### **1219 Saratoga Road Minor Subdivision (PB 2023-020)**

SBL 239.00-1-57

Minor Subdivision application for a two-lot subdivision of a 13.386-acre parcel.

**Mr. Andrew Schauffert** of Santo Associates Land Surveying and Engineering, P.C.

Mr. Schauffert stated that the parcel is about 13.5 acres, located on Route 50. They propose a two-lot subdivision which will separate two acres to be conveyed to Mrs. Lucas, including the house, garage, outbuildings and pool. Mr. Lucas will retain about 11.5 acres in the back which requires a flag lot with about 60 feet of frontage on Route 50. The property is split zoned, both Business and Rural.

Chairman Van Vorst stated that the applicant must go to the ZBA for a variance for creating a flag lot.



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There was a discussion regarding the variances required. Mr. Schaufert stated that the home is an existing structure. Ms. Lippmann stated that the flag lot variance is required; the setbacks listed in the comment letter are existing. Mr. Lucas stated that just the pole of the flag lot would be in the commercial district, the body of the lot would be rural. Mr. Baskin stated that the lot width requirement is 175 feet. Ms. Lippmann stated that that is correct; they would need variances for the flag lot and frontage.

Mr. Schaufert asked if it would have been allowed under the old zoning law.

Ms. Lippmann stated that if so, it does not negate the need for the variance, but it justifies the recommendation to the ZBA. She will investigate.

Mr. Lucas stated that the Court required in the divorce decree that he subdivide the house and a small parcel for his ex-wife. He wants to separate the lot as required and leave a usable piece of property for himself.

There was a discussion regarding flag lots in the rural district as related to the new zoning versus the old zoning.

Chairman Van Vorst stated that the Board needs a recommendation for the ZBA.

Mr. Zuritis asked if it would be appropriate to recommend that the lot can only be used for residential purposes.

**MOTION:** Mr. Zuritis made a motion to recommend the approval of a variance for a flag lot for 1219 Route 50 with the restriction that the flag lot be used in accordance with rural zoning. Mr. DiLorenzo seconded the motion. All in favor. **CARRIED.**

Mr. Baskin asked if the recommendation is clear enough that the Board is addressing both variances.

Mr. Clark stated that the written recommendation will be fashioned so that's clear, and the ZBA will also receive the Building Department recommendation letter stating which variances are required.

The applicants thanked the Board.

### **OLD BUSINESS – continued**

#### **Willow Road Minor Subdivision (PB 2023-016)**

SBL 249.5-1-36.11

Application for a minor subdivision of an approximately 11.8-acre parcel into four (4) single-family lots ranging from 2.1 acres to 4.6 acres. The proposed lots will be served by public sanitary sewer and individual on-site wells. Public Hearing scheduled.

**Mr. Chad Pagan** of Ingalls & Associates, LLP and **Mr. Lisle Eaton**, property owner.

Mr. Pagan stated that they are here for the public hearing and hopefully for approval.





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Public Hearing open at 7:40 p.m.

No one wished to speak.

Mr. Clark read the questions from Part 2 of the State Environmental Quality Review Act (SEQRA) Short Environmental Assessment Form aloud for the Board to consider. All Board members agreed with the suggested answers, which were “no or small impact may occur.”

**MOTION:** Mr. Baskin made a motion to make a Negative Declaration under SEQRA for the Willow Road project. Mr. Zuritis seconded the motion. All in favor. **CARRIED.**

Public Hearing closed at 7:42 p.m.

**MOTION:** Mr. Zuritis made a motion to approve the Willow Road Minor Subdivision for the drawings dated October 19, 2023. Mr. Baskin seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

### **340 Hop City Road Modified Site Plan (PB 2023-018)**

SBL 226.-1-21.11

Application for a Modified Site Plan (Town Code §138-156) for the operation of a maple syrup farm, to include collection, processing and marketing of crops as part of the New York State Maple Producers Association which sponsors two maple weekend events per year.

**Ms. Emilia Medick** of Hop City Maple.

Ms. Medick stated that she is here to ask for a SEQRA determination and site plan approval.

Mr. Clark read the questions from Part 2 of the SEQRA Short Environmental Assessment Form aloud for the Board to consider. All Board members agreed with the suggested answers, which were “no or small impact may occur.”

**MOTION:** Mr. Zuritis made a motion to make a Negative Declaration under SEQRA for the 340 Hop City Road project. Mr. DiLorenzo seconded the motion. All in favor. **CARRIED.**

**MOTION:** Mr. DiLorenzo made a motion to approve the 340 Hop City Road site plan dated November 30, 2023, with the condition that the Town Designated Engineer’s comments from her letter dated December 22, 2023 are incorporated into the site plan. Mr. Zuritis seconded the motion. All in favor. **CARRIED.**

Ms. Medick thanked the Board.



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

Meeting was adjourned at 7:48 p.m.

Respectfully submitted,

*Kerri Mains*

Kerri Mains  
Planning Board Secretary

DRAFT