



# TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

## ATTENDEES:

Patrick Whitton, Vice Chairman  
Tim Long, Board Member  
Steve Merchant, Board Member  
Dan Mertzlufft, Board Member  
Justin Zampella, Alternate Board Member  
Bill Keniry, Attorney

## ABSENT:

Annetta Dunham, Chairwoman  
Jeff Stickles, Code Enforcement Official

## Call to Order

The meeting was called to order at 7:30 pm and the Pledge of Allegiance was recited.

## Approval of Previous Minutes

**MOTION:** Mr. Long made a motion to approve the February 1, 2023 meeting minutes as drafted. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

## OLD BUSINESS

### **Suburban Services Group Area Variance & Law Interpretation (ZBA 2022-021)**

852 and 854 Saratoga Road; SBL 257.-3-30, 257.-3-26.1

Application for an interpretation of the law as it applies to section 138-13 of the Zoning Law, and an area variance for site coverage. SEQRA Unlisted Action, complete. Public Hearing closed.

**Mr. Kurt Bedore** of KB Engineering & Consulting, LLC, and **Mr. Craig MacDonald** of 2150 Properties.

Mr. Bedore stated that he is here with Mr. MacDonald, who is a managing member of 2150 Properties, and owner of the subject project and tenant business, Suburban Heating. They are proposing a 1666 SF addition to their operations building. This is a reduction from the plan they previously presented. The reduction in building size and breadth of the site is due to market conditions. After reducing the building size and other impervious



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
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areas the project is still above the 30% site coverage as dictated by the zoning district; they are almost 3,500 SF above the 30% maximum. Instead of the 8% overage relief originally requested, they are now asking for 2.35% relief. Other than the reduction in the building size, the same front parking lot is proposed; there are some reductions in the other new impervious areas for the wraparound new driveway but effectively it is the same proposal they previously presented. There is a slight reduction in parking.

Mr. Whitton asked what the actual proposed coverage is; it was 56,962 SF before.

Mr. Bedore stated that it's now 47,830 SF which would require 2.35% relief on the Code.

Mr. Whitton asked if the lots have been consolidated.

Mr. Bedore answered affirmatively.

Mr. Whitton stated that the County referral response letter was received, and their only comment was that a curb cut permit would be required for the proposed improvements within Route 50.

Mr. Bedore stated that they did remove the new curb cut they had proposed; they are now utilizing the two existing curb cuts.

Mr. Whitton polled the Board for additional questions; there were none.

**MOTION:** Mr. Whitton made a motion that Craig MacDonald at 852 Saratoga Road receive an area variance; the proposed site coverage is 47,830 SF and the requirement is 44,353 SF for a difference of 3,477 SF or 2.35%. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

### **75 Lake Road Area Variance (ZBA 2023-001)**

SBL 249.-2-49

Application for an area variance for the construction of a permanent residence. Public Hearing scheduled.

**Ms. Suzanne Baumgarten**, representative for Mr. Kevin Nauman, property owner of 75 Lake Road.

Mr. Whitton stated that the project has come to the Board because there is a secondary structure on the property that's currently classified as the primary structure. The applicant wants to build a primary residence there which would cause the current garage with apartment above to be reclassified as a secondary structure, which is permitted. The verbiage to go from the primary now to a secondary with a primary residence fits the criteria but doesn't exist in the current code.

Public Hearing open at 7:37 pm.

No one wished to speak.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
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Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
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Public Hearing closed at 7:38 pm.

Mr. Whitton asked if there has been any change to the proposal since last time.

Ms. Baumgarten answered no.

Mr. Whitton polled the Board for questions; there were none.

**MOTION:** Mr. Whitton made a motion that Kevin Nauman at 75 Lake Road receive a variance that is contingent on the Assessor's office reclassifying the garage as an accessory structure with an apartment and the new construction home as the primary residence. Mr. Mertzluft seconded the motion. All in favor. **CARRIED.**

Mr. Keniry asked Mr. Merchant if he had noted on the record that it was a Type 2 action under SEQR and is exempt from review.

Mr. Merchant answered affirmatively and stated that it is a Type 2 action, exempt from review.

### **Wellnow Area Variance (ZBA 2022-009)**

1508 Route 50, SBL 216.-1-35

Application for a front setback variance for the construction of a health care facility. SEQRA Unlisted Action, closed. Public Hearing scheduled.

**Mr. Scott Lansing** of Lansing Engineering and **Ms. Alanna Moran** of VHB.

Mr. Whitton stated that this project has come to the Board because the project is on a peninsula of a lot, so the setback is calculated from both sides which are two primary roads; they are seeking a setback variance for the one side so the building can be biased to the east.

Mr. Lansing stated that at previous meetings there were questions regarding the traffic; Ms. Moran is the traffic engineer, who is here to try to address any questions or concerns.

Public Hearing open at 7:40 pm.

No one wished to speak.

Public Hearing closed at 7:41 pm.

Mr. Merchant asked if there are any differences in the traffic study from the original, and if another study was done.

Ms. Moran stated that the traffic evaluation hasn't been updated or changed since the original completion. It has this building, which is expected to generate about five trips during the morning peak hour and about eight trips



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Town Hall Meeting Room  
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during the pm peak hour; good levels of service at the site access and NYSDOT (New York State Department of Transportation) concludes with the findings of the study.

Mr. Long stated that the increase in traffic is due strictly to the building.

Ms. Moran stated that that is correct.

Mr. Long asked if the time of day and time of year were considered when the study was done.

Ms. Moran stated that the traffic evaluation, the data, was completed during April of 2021, consistent with standards and guidelines at that time. The traffic volumes were adjusted to reflect potential impacts associated with reductions in traffic due to COVID-19. Volumes were increased by 1.23 during the morning peak hour and 1.1 during the pm peak hour.

Mr. Long asked if those are percentages.

Ms. Moran answered affirmatively; increased by 23% during the morning peak hour and 10% during the pm peak hour.

Mr. Merchant stated that he likes the new proposal because the original one from several months ago talked about three businesses there; he thinks the Wellnow center would be good there.

Mr. Long stated as long as that's the only business. He asked if there is an intention to combine those three lots.

Mr. Lansing stated that, at this point, there is no intention to combine those three lots.

Mr. Long asked if there is still a plan to do something else with the other two lots.

Mr. Lansing stated that there are no plans proposed at this time for the other lots. The applicant has control over those lots; something may happen in the future but there's nothing proposed at this time. When or if something happens in the future, they would be required to submit site plans for review and approval, work with traffic engineers, work with NYSDOT, and have the project contemplated at that time.

Mr. Long asked if the traffic study considered that the driveway would be a shortcut from Route 67 to Route 50 and Route 50 to Route 67, to avoid the traffic light.

Ms. Moran stated that she understands what Mr. Long is saying regarding placement of the access and the potential for vehicles to cut through as opposed to going to the traffic light. The truth is that the northbound right turn movement, from Route 50 to 67 and vice versa, is a pretty low volume movement.

Mr. Long stated until people discover it, then it will be high volume.

Ms. Moran stated that, based on existing traffic counts, that volume is a relatively low volume movement in that when traffic counts were conducted there were about 17 to 37 vehicles making that movement, depending upon direction and peak hour. They do not anticipate that many people are going to use the driveway to go between the two roadways.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

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Mr. Long stated just wait for it to be discovered.

Mr. Mertzluft stated that both of those turns are hairpin turns.

Ms. Moran stated that the movement right now is an acute angle.

Mr. Whitton stated that a lot of the traffic takes the other street.

Mr. Zampella stated that Route 67 to Route 50 will be using that.

Mr. Whitton stated that it depends what the destination is.

Mr. Zampella stated that it will be congested.

Ms. Moran stated that it's a very low volume movement currently, about one vehicle per every two minutes that might be making that move at the intersection, so there's not a lot of desire for that particular cut-through.

Mr. Long asked if there are any considerations in the plans to slow the traffic; essentially, they're building a road between Route 50 and Route 67.

Ms. Moran stated that this is a driveway providing access to the particular land use of the parcel and the driveway will be constructed to driveway types of standards and not considered a public roadway.

Mr. Mertzluft asked if they considered making it one way, either way.

Ms. Moran stated that they did not evaluate a one-way condition because the analysis showed that with the two-way operations everything operates adequately. It was analyzed as full access driveways on both locations.

Mr. Whitton polled the Board for additional questions; there were none.

**MOTION:** Mr. Whitton made a motion that Jonathan Deforest of BBL Construction at 1508 Route 50 receive a front setback variance; the proposed setback is 159 feet and 20 to 70 feet are required which is a difference of 89 feet. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

Mr. Merchant stated that this is an Unlisted Action under SEQR.

Mr. Keniry stated that that is correct and that SEQR is done.

The applicants thanked the Board.

### **357 Hop City Road (ZBA 2023-002)**

SBL 226.-1-62

Application for an area variance for additional horses. Public Hearing scheduled.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

**Mr. Lance Evans**, property owner of 357 Hop City Road.

Mr. Whitton stated that in this case the zoning changed and the acreage on their property is not up to code for having so many horses; relief for four horses is being sought which is a difference of 5.34 acres from what is required. He stated that he received a letter to read at the Public Hearing.

Mr. Keniry stated that the Public Hearing notice indicated that the hearing on this project was at 8:00 pm.

Mr. Whitton asked Mr. Evans to restate his project and then he'll open the hearing at 8:00 pm.

Mr. Evans stated that he has 2.66 acres and when he had the land originally there was no zoning for animals. They keep horses there and have built a four-stall horse barn. They are trying to sell the home; during that process, they learned that the zoning had changed. Mr. Stickles mentioned that they could come to the Zoning Board of Appeals (ZBA) for an area variance that would stay with the property so the buyers could then keep up to four horses there; that's what he's here to find out about. He and his wife built the property to not fail, and to effectively house and raise these animals, so they feel it would be suitable for that.

Mr. Whitton asked how Mr. Evans came to know that the zoning had changed, if a realtor told him that.

Mr. Evans stated that when they put the property up for sale people were calling the Town to find out what the zoning was, and the information came to him third or fourth-hand.

Mr. Whitton stated that it's good to do the due diligence.

Mr. Evans stated that they do have a buyer and the sale is contingent on whether the variance goes through or not, whether the buyer will go through with the purchase.

Mr. Mertzluft stated that Mr. Whitton could read the letter into the record.

Mr. Whitton stated that he was going to read it during the Public Hearing and asked if he can read it ahead of time.

Mr. Keniry stated that he can receive it as correspondence and read it.

Mr. Whitton stated that he received some correspondence on this project and read the following:

Patrick Whitton

Vice Chairman, Zoning Board of Appeals

Mr. Whitton;

I am writing today in regards to the Public Hearing for the variance application for the property located at 357 Hop City Road, Town of Ballston, Saratoga County, New York. My Wife and I own the property adjoining this



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

**March 1, 2023**  
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Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

property on the South side. Our property is a working farm that is protected under the state of New York's PDR easement; it is forever farmland and open space. It can never be developed. Two of the acres under consideration by the applicant are also protected by the PDR. This is a perfect fit for maintaining the rural character and open space in the Town of Ballston. We are in full support of this application and urge the Zoning Board of Appeals to grant this variance.

Thank you.

Charles and Sara Curtiss

Mr. Whitton stated that that's a nice letter to receive. He'll wait seven minutes then open the Public Hearing.

Mr. Long stated that in a previous meeting there was a copy of the deed submitted with no signatures; the question was if it had been recorded.

Mr. Evans answered affirmatively and stated that he had resubmitted one with signatures.

Mr. Zampella asked if Mr. Evans had approached Mr. Curtiss regarding purchasing property.

Mr. Evans stated that the two acres that he recently purchased were behind the .66 acres of land that he originally purchased. When they moved in and got to know the neighbors, they started leasing property from the neighbors across the street, who owned the property directly north of them. Then they started leasing property from Mr. Curtiss behind them and those are the two acres they ended up purchasing. Mr. Evans asked Mr. Curtiss about purchasing the piece of land directly south of them but Mr. Curtiss wanted to keep that open.

Mr. Long asked if Mr. Curtiss is the buyer.

Mr. Evans answered no and stated that Mr. Curtiss would probably have sold him more acreage in the woods, but it was too expensive; it would have been one more acre.

Mr. Long stated that it wasn't enough to be compliant.

Mr. Evans answered no and stated that what was sold to them suited them very well.

Mr. Zampella stated that it sounds like it's set up nicely.

Mr. Evans stated that they've put a lot of time and effort into it and it's designed not to fail. They had the barn built professionally and it's post and beam. The outbuildings are all lined up properly.

Mr. Zampella stated that he's sure they're sad to see it go.

Mr. Evans stated that he is. His work is taking him to a different area, so they are in the process of purchasing a property there. He grew up in Ballston and is at least the fifth generation of his family here. One draw of the property here was being close to that heritage.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Mr. Whitton stated that there are four minutes till the Public Hearing.

Mr. Keniry stated that they can start late but not early.

Mr. Zampella asked if they are bringing the horses when they move.

Mr. Evans answered affirmatively and stated that they are purchasing a 15-acre property.

Public Hearing open at 8:00 pm.

No one wished to speak.

Public Hearing closed at 8:01 pm.

Mr. Whitton polled the Board for additional comments; there were none.

**MOTION:** Mr. Whitton made a motion that Lance Evans at 357 Hop City Road receive an area variance; he has 2.66 acres and the requirement is 8 acres for his four horses which is a difference of 5.34 acres. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

Mr. Evans thanked the Board.

### NEW BUSINESS

#### **Goode Street and Orchard Terrace Area Variances (ZBA 2023-003)**

145 Goode Street, 149 Goode Street, 153 Goode Street, 4 Orchard Terrace, 6 Orchard Terrace  
SBL 248.17-3-4, 248.-1-51.1, 248.-1-89.111, 248.17-3-2, 248.17-3-3

Application for seven area variances for multiple lot line adjustments on five properties under the same ownership.

**Mr. David Bogardus** of Northeast Land Survey and **Dr. Matt Duemler**, property owner.

Dr. Duemler thanked the Board for their time. The property at 149 Goode Street has 15 feet of road frontage allocated all the way to the opposite side of the road; it's not enough to make a driveway and goes right through a wet spot that's never been developed. They want to make sure that each property has a driveway and is able to be used and is more appropriate for that area. The house at 149 Goode Street has been there since 1857 and the one at 153 Goode Street has been there since the early 1900s. Dr. Duemler and his wife own the five properties but don't want to own them for their whole lives so they'd like to be able to put in a driveway for 149 Goode Street. The property that is behind the veterinary hospital is already being used to walk dogs, take them on nature walks, etc. They would like the lots to align more with what they're actually being used for. The variance they really need is for the 149 Goode Street frontage for a driveway; a 30-foot entrance was recommended by





## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

the Building Department so that's the proposal; they later found out that it doesn't meet the zoning requirements although that was the recommendation. The second variance would be an area variance for 153 Goode Street. The engineer used the old cement slabs on the property as building area. The slabs haven't been used in years and are overgrown and mowed routinely. Those are the two things not grandfathered in that they need to discuss.

Mr. Bogardus asked if anyone has called out the exact variances that they need; he hasn't received anything.

Mr. Whitton stated that they are on the application.

Mr. Bogardus stated that they're on the application, but some aren't clear.

Dr. Duemler stated that the engineer had given them feedback about the things that didn't meet Code; the setback for 145 Goode Street but the building has been there and isn't changing.

Mr. Bogardus stated that the setback is beyond the maximum. He asked if existing conditions need a variance.

Mr. Whitton stated that, because they are changing the lots, everything must be brought to Code. He asked Mr. Keniry if that is correct.

Mr. Keniry answered affirmatively and stated that the Building Department and the Town Designated Engineer's letter calls out the nonconforming conditions. He stated that he appreciated what was written in the application narrative where the existing conditions were indicated. It would be helpful for the Board to get an understanding of exactly what the existing conditions are as well as the anticipated future conditions. He stated that he thinks the Board would like to know exactly what relief they are looking for.

Mr. Bogardus stated that the veterinarian building at 145 Goode Street is set back further from Goode Street than the maximum allowed; that would be a variance and is an existing condition. 153 Goode Street has a long driveway out to Goode Street. 149 Goode Street never had any frontage on Goode Street that was used; it had right of way, is 15 feet wide and went through a ditch so it was never used for a driveway. Everyone accesses that property through Laur Lin Dee Lane as a right of way. There is no changing the buildings; all side and front setbacks are existing. They are not changing anything or building anything. Lot 4 and lot 6 Orchard Terrace are each a substandard size at .6 acre; the proposal makes those lots each at least an acre so they are conforming. 149 Goode Street did not have driveway frontage, so access has been changed to Orchard Terrace. They have provided access to 153 Goode Street. They have solved the frontage problems; there's nothing they can do with the building offset. Mr. Bogardus referenced the drawing and discussed the acreage sizes. The shaded area on the drawing is a common driveway for parking and contains sewer, water and underground utilities. He thinks there are two variances required, for the front setback for the veterinary clinic and possibly the lot coverage for the concrete slabs. They had a keyhole lot before and have a keyhole lot now.

Mr. Long asked what they intend to do with lots 4 and 6 on Orchard Terrace.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Dr. Duemler stated that they are two vacant building lots.

Mr. Long asked if they plan to make them into building lots.

Dr. Duemler stated that they are already building lots and will stay building lots.

Mr. Bogardus stated that they are part of the Orchard Park subdivision that were never built on; they're very small.

Mr. Merchant asked if there is sewer there.

Dr. Duemler answered no.

Mr. Bogardus stated that they are making 4 and 6 Orchard Terrace into conforming lots.

Mr. Merchant stated that one acre is required.

Dr. Duemler stated that they were grandfathered in previously, but they are improving them.

Mr. Long stated that the lot sizes on Orchard Terrace will be increased to make them conform.

Dr. Duemler answered affirmatively and stated that both of those will be increased to over one acre to make them conform.

Mr. Whitton asked if 153 Goode Street physically connects to Goode Street through Laur Lin Dee Lane.

Dr. Duemler stated that that is correct, it has about 100 feet of frontage.

Mr. Long stated that it is not a flag lot.

Dr. Duemler stated that that is correct; 149 Goode Street is the flag lot that has the 15 feet of frontage that they're trying to make 30 feet so they can put in the driveway. He doesn't believe the two Orchard Terrace lots require variances as they are conforming. 153 Goode Street may need an area variance as the concrete surface, that is now a hayfield, is considered as an impervious surface.

Mr. Long stated that they could break up the concrete slabs.

Dr. Duemler stated that they really are, and he mows them every summer.

Mr. Long asked if it is really not a concrete slab.

Dr. Duemler stated that there are pieces of concrete slab; there are weeds growing through and he mows it two or three times a year.

Mr. Whitton stated that for the sake of the engineering report, gravel is considered an impervious surface.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Dr. Duemler stated that the other thing with 153 Goode Street is the setback as it is off the road.

Mr. Bogardus stated that what they've done is make things a lot better.

Dr. Duemler stated that they spoke with the Building Department and this is the plan they came up with and the Building Department approved it, so they were surprised when they went to the Planning Board meeting and found out that they weren't able to apply there.

Mr. Bogardus stated that they met with two Building Inspectors and a Code Enforcement officer who said the plan was perfect with no variances required. At the Planning Board meeting, the Town Engineer convinced the Board that variances were needed so that's why they are here at the ZBA.

Mr. Keniry stated that it is his understanding that this was not presented to the Planning Board.

Mr. Bogardus stated that it was.

Mr. Keniry stated that he thought that before the Planning Board meeting it came up that these conditions existed.

Mr. Bogardus stated that he didn't receive the engineering comment letter until the Monday after the Planning Board meeting.

Mr. Keniry stated that that's what he thought but it doesn't matter, they have a direct right to be here and don't need a denial from the Planning Board. It's what Mr. Bogardus highlighted in the submission: it's 145, 149 and 153 Goode Street that the Town Designated Engineer identified as potentially nonconforming circumstances. To be clear for the Board, no new lots are being created so at the end of this, if they are successful, they will go back to the Planning Board and do the lot line adjustments. He asked if it is five lots that are being adjusted.

The applicants answered affirmatively.

Mr. Bogardus stated that they never got the engineering letter until after the meeting.

Mr. Mertzlufft asked if the access for 149 Goode Street is Laur Lin Dee Lane.

Dr. Duemler answered not legally, but that's how they're accessing it now. They added the asphalt driveway last year to provide direct access.

Mr. Mertzlufft stated that they're trying to become legal by putting in the 30-foot right of way potential driveway out to Orchard Terrace.

Dr. Duemler stated that that is correct.

Mr. Bogardus stated that that makes it a flag lot which is not allowed in this district, so they need a variance.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Dr. Duemler stated that this area has been the veterinary hospital for a long time and there has always been one owner, so they never really cared about having separate driveways. He would like to make it feasible for each lot.

Mr. Whitton stated that the intent is to put a driveway there.

Dr. Duemler stated that the intent is that they would have access out to Orchard Terrace if they wanted to put in a driveway in the future but there are no plans to do that now.

Mr. Whitton asked if there is an easement to use Laur Lin Dee Lane.

Dr. Duemler answered affirmatively and stated that it is for 60 feet and they just extended it out to 100 feet to make that wider.

Mr. Bogardus stated that there are utilities; maybe future sewer and there's water and electric; for common use.

Mr. Long stated that this is a common driveway between 149 and 153 Goode Street.

Dr. Duemler stated that it's the commonsense driveway that most people would use and would work just fine.

Mr. Bogardus referenced the drawing; he and the Board members discussed the driveways and flag lots.

Mr. Whitton stated that now it makes more sense.

Mr. Mertzlufft stated that it makes sense, but his concern is creating flag lots where they were not before.

Dr. Duemler stated that one was a flag lot and will stay a flag lot.

Mr. Long stated that 153 Goode Street is a flag lot today.

Mr. Mertzlufft stated that they are creating a new pole on the lot; the issue is when the Board makes decisions like this other people find loopholes.

Mr. Long stated that there are two flag lots; they are just moving the pole.

Mr. Bogardus stated that there is one flag lot that exists that's getting better...

Mr. Mertzlufft stated that he understands but that's the reality here.

Dr. Duemler stated that 149 Goode Street is a flag lot and they are making it a flag lot so they're not changing that one.

Mr. Long stated that they are moving the pole.

Mr. Mertzlufft stated that yes, they are moving the pole.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Dr. Duemler stated that 153 Goode Street wasn't a flag lot and still won't be a flag lot as it has 100 feet of frontage.

Mr. Mertzlufft stated that he understands and is totally on board. Whenever something quirky comes up the issue is precedence and then if somebody is going to exploit it as a loophole in the future.

Mr. Long stated that he thinks it's easy to defend.

Mr. Mertzlufft stated that everything is up to its own circumstances; its own conditions.

Mr. Bogardus stated that in reality they are making these lots all much better; this gives them plenty of room for future expansion.

Mr. Mertzlufft stated that he understands that.

Mr. Whitton stated that the Board talks through these things, so everyone is on the same page.

Dr. Duemler stated that he appreciates that and asked if there are still questions on the list of needed variances.

Mr. Mertzlufft asked if they will require a variance for the main veterinary building.

Dr. Duemler answered affirmatively and stated that the setback is supposed to be less than 100 feet and the building is at approximately 145 feet.

Mr. Bogardus stated that the engineering letter talks about side setbacks; at 153 Goode Street they meet the requirements and don't need any setback variances.

Mr. Whitton stated that the Board needs to request a recommendation from the Planning Board.

Mr. Merchant asked if the Board can also request an opinion from MJ Engineering about the flag lot issue.

Mr. Keniry stated that the Planning Board has a right and an obligation to comment on this; it would help this applicant to clearly state exactly what relief they're seeking and then to have, at the Planning Board level, MJ Engineering comment so the applicants won't have to go to two Boards twice. The applicants want to get a sense that the Planning Board understands now what they're proposing to do with respect to the five lots and the consolidation; they want to think about how this ends before they get too far.

Mr. Bogardus stated that the Planning Board didn't have any problem with any of it.

Mr. Whitton stated that when the Planning Board makes their recommendation, they'll state specifically what they do or don't require so the Zoning Board can look at that recommendation and make their own decisions independently of what the Planning Board thinks.

Mr. Bogardus asked who asks the Planning Board for the recommendation.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
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[www.townofballstonny.org](http://www.townofballstonny.org)

Mr. Whitton stated that the Zoning Board requisitions the Planning Board on the project to get their recommendation.

Mr. Keniry stated that the Zoning Board does it.

**MOTION:** Mr. Whitton made a motion to set a Public Hearing for April 5, 2023 at 6:30 pm. Mr. Zampella seconded the motion. All in favor. **CARRIED.**

Mr. Bogardus stated that the Board will get the recommendation from the Planning Board.

Mr. Whitton answered affirmatively.

Mr. Bogardus stated that they come back for the Public Hearing on April 5<sup>th</sup>; he asked that if everything goes right and they get the variances approved, can they go back to the Planning Board in April and then they're home free.

Mr. Keniry stated that they have to do their business at the Planning Board. He stated that the Zoning Board has to make a referral to the County Planning Board as at least part of Goode Street is a County road.

Mr. Bogardus asked if a Planning Board Public Hearing can be scheduled ahead of time.

Mr. Keniry answered no and stated that the applicant will have to appear before the Planning Board.

Mr. Bogardus stated that that is two more meetings at the Planning Board.

Mr. Keniry stated that that is why the applicant needs to do this coordination here, so the Planning Board knows what they're going to get and have them comment on the variances; it will save them so much time.

Mr. Bogardus stated that that is three more meetings.

Dr. Duemler asked what else the Board needs from them.

Mr. Whitton stated that the Board will get the County referral.

Mr. Merchant stated that they will get recommendations from the Planning Board and MJ Engineering.

The Board and Ms. Mains discussed the Planning and Zoning Board meeting schedules.

Dr. Duemler asked if the Planning Board will give their recommendation at their next meeting on March 29, 2023.

Mr. Keniry stated that it depends.

Board members stated that they'll have the opportunity; it seems likely.



## TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

March 1, 2023  
7:30 pm

Town Hall Meeting Room  
323 Charlton Road, Ballston Spa, NY 12020  
[www.townofballstonny.org](http://www.townofballstonny.org)

Dr. Duemler asked if the Planning Board would make that recommendation prior to the Zoning Board April 5<sup>th</sup> meeting.

Mr. Keniry stated that that's the hope.

Dr. Duemler asked if the Board sees any issues for them to correct ahead of time.

The Board members answered no; Mr. Mertzlufft stated that he thinks the plan is clever.

Mr. Whitton asked if the Board should go through SEQR.

Mr. Keniry stated that the Board could consider declaring itself Lead Agent and classify the action if they wish.

Mr. Whitton stated that the Board would declare themselves Lead Agency and this is an Unlisted Action.

Mr. Keniry answered affirmatively and stated that that's it for now unless the Board desires to go further; otherwise they can review the material and then take the next step.

Mr. Whitton stated that the Board will get their ducks in a row.

Dr. Duemler stated that the Board will hopefully have information from the County and from the Planning Board before April 5<sup>th</sup>; he will return then for a Public Hearing and if the variances are granted they go to the Planning board at the end of April, and have a Public Hearing the end of May, if everything plays out right.

Mr. Whitton stated that that sounds correct.

The applicants thanked the Board.

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

Meeting was adjourned at 8:31pm.

Respectfully submitted,

*Kerri Mains*

Kerri Mains  
Zoning Board Secretary