



TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

April 5, 2023 at 6:30 pm

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

www.townofballstonny.org

ATTENDEES:

Annetta Dunham, Chairwoman
Patrick Whitton, Vice Chairman
Steve Merchant, Board Member
Dan Mertzlufft, Board Member
Justin Zampella, Alternate Board Member
Matt Vaverchak, Code Enforcement Official
Andrew Clark, Attorney
Kerri Mains, Zoning Board Secretary

ABSENT:

Tim Long, Board Member

Call to Order

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

Approval of Previous Minutes

MOTION: Mr. Whitton made a motion to approve the March meeting minutes as drafted. Mr. Merchant seconded the motion. Mrs. Dunham abstained due to absence from the March meeting. All others voted in favor. **CARRIED.**

OLD BUSINESS

Katz Outlet Road Area Variances (ZBA 2022-016)

SBL 239.-1-8

Application for lot size and lot width area variances for a minor subdivision for four residential building lots. SEQRA Type 2 Action, exempt from review. Public Hearing continued.

Mr. Walter Katz and **Mrs. Maggie Katz**, property owners.

Mr. Whitton asked if there have been any changes to this application since the last time the applicants were here.

Mr. Katz stated that it has been changed to a three-lot subdivision, from four lots to three lots; they have the road frontage.



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Mr. Whitton asked if they have anything to reflect what the parcels look like.

Mr. Long entered the meeting at 6:33 pm.

Mrs. Katz provided a map to the Board.

Mr. Merchant asked if the wetlands are marked on the map.

Mrs. Katz stated that it's on the map.

Mr. Katz stated that everything is detailed on the maps from the engineers from years ago.

Mr. Whitton stated that one of his questions regarding the wetlands is the area of them; the new zoning requires five-acre parcels of unconstrained lands, so any volume of wetlands is subtracted.

Mr. Katz stated that he started this project 20 years ago and he has developed all around Outlet Road very nicely.

Mr. Whitton stated that the reason he asks is that in order to know what relief they are seeking, he needs to know how much wetlands there are. For example, if there is a 5-acre parcel with an unknown volume of wetlands, in order to give adequate relief, the Board needs to know the area of the wetlands.

Mr. Katz stated that that's been done from 20 years ago; the Board has had all the wetlands that were in there.

Mr. Whitton stated that they're marked but he doesn't know what the area is.

Mr. Katz stated that he has submitted all the maps and all the stuff that you people wanted in the beginning.

Mr. Merchant stated that the what the Board is looking for ...

Mr. Katz stated that he started this whole project 20 years ago; he's tired of this and is angry. (Mr. Katz used language that is not reflected here.) He wanted the last four and now is down to three building lots. If not, he'll talk to his attorneys. He is really angry...

Mr. Mertzlufft stated that part of rules of discussing this is not to use foul language.

Mr. Katz apologized.

Mr. Mertzlufft stated that the reason the Board is asking is because they must give specific relief based on square footage. If Mr. Katz doesn't provide the square footage calculation for the wetlands, the Board cannot take it under advisement of what relief they are trying to give him. The Board is not his enemy.

Mr. Katz stated that he is sorry. This has cost him; he's gone from four building lots to three. The Board keeps telling him to spend thousands of dollars with his engineer. You guys have no...

Mr. Mertzlufft stated that Mr. Katz is going through the same process that anybody else would be going through in this town who is looking for the same relief. If Mr. Katz feels persecuted, he is sorry for that, but that's Mr. Katz's problem.



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Mr. Katz stated that there will be signs at the end of tomorrow. He has done signs before and he'll do it again. He is standing up for himself, he wants three...

Mrs. Dunham stated that the meeting will adjourn for five minutes; there will be no more discussion.

Meeting adjourned at 6:39 pm.

Mr. and Mrs. Katz left the room.

Meeting reopened at 6:44 pm.

Mrs. Dunham stated that she wants to remind everyone to be civil; there is no foul language. This scenario is highly unusual, and the meeting will continue.

Mr. Whitton stated that the Public Hearing for this project is still open; he asked if anyone would like to speak.

Ms. Dolores Draina of Outlet Road stated that she has been to several meetings and has opposed the project from the start and still does; she will oppose three lots as well.

No one else wished to speak.

A comment letter was received by the Board (see attached).

Mr. Whitton asked if the Board wants to adjourn the public hearing or vote on the application.

Mr. Mertzlufft stated that, to be fair, he feels that the hearing should be left open.

Mrs. Dunham agreed.

Mr. Long stated that they have given Mr. Katz every opportunity to provide additional information.

Mr. Mertzlufft stated that he understands that but taking a vote, assuming the vote would be negative, would be a step to not to simmer things down and get to a proper outcome.

Mr. Long asked how long the public hearing has been open and stated that there's a 60-day limit.

Mr. Whitton stated that it's a 60-day limit after the hearing closes.

Mr. Clark stated that that the Board has 62 days to make a determination from when the public hearing closes, but it can be adjourned with the consent of the applicant and continue the process. This hearing has been adjourned with the applicant's consent on multiple occasions.

Mr. Long stated that Mr. Katz hasn't been here to consent.

Mr. Whitton asked, if the Board wants to push this, if they could close the public hearing now and start the 62-day timer.

Mr. Clark stated that if the Board feels that they have addressed and heard all the public comments and received all the necessary information, it's up to the Board's discretion whether they want to close the public hearing.



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Mr. Whitton asked if Mr. Katz is making changes that haven't been submitted to the Zoning Board that would cause a change in his application; how that would affect the public hearing aspect of this project.

Mr. Clark stated that if there are anticipated changes, it would be wise to leave the hearing open in case there is additional public comment based upon those submitted changes, to ensure that the Board is hearing all community members.

Mrs. Katz returned to the meeting.

Mr. Long asked if Mr. Katz has any intention of submitting anything.

Mr. Clark stated that he can't speak for the applicant.

Mr. Merchant stated that it should be left open, so the Board gets it right.

Several Board members agreed.

Mr. Whitton returned the map to Mrs. Katz and stated that it must be submitted to the Zoning Board; it was submitted to the Planning Board and the Zoning Board hasn't seen it.

Mrs. Katz asked if the information they are looking for is on this map.

Board members answered no.

Mrs. Katz stated that she understands that they want the wetlands delineated.

The Board members referenced the map and explained the information that is needed.

Mrs. Katz asked if the Planning Board got the information.

Mr. Whitton stated that that is his understanding; tonight is the first time the Zoning Board is seeing this.

Mrs. Dunham asked if a revised application is needed.

Mr. Clark answered that a revised application might be beneficial for the Board to see exactly what the relief sought is, as it has been moving.

Mrs. Katz stated that they went down to three lots at the recommendation of the Planning Board.

Mr. Whitton stated that the application submitted to the Planning Board may reflect that; the Zoning Board needs that information.

Mr. Mertzlufft stated that the Planning Board's recommendation to three lots was just a recommendation to the Zoning Board. It has zero impact on the Zoning Board taking an application and looking for specific relief in order to grant it. There's a process that's not difficult and these are not high burdens. Townspeople do it all the time so anything less than an updated application that spells things out and puts our nose on it is probably not going to get through this Board. He wants to be very clear.

Mrs. Katz stated that she is hearing him.



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MOTION: Mr. Whitton made a motion to keep the Public Hearing open and adjourn this case until May 3, 2023 at 6:35 pm. Mrs. Dunham seconded the motion. All in favor. **CARRIED.**

Mrs. Katz thanked the Board.

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. Public Hearing Scheduled.

Ms. Ryan Hertzell, Attorney for Dr. Matthew Duemler, property owner.

Mr. Whitton stated that he would like the applicant to address what relief they're seeking, and then he will open the public hearing; he thinks it will help the public if the relief is restated.

Ms. Hertzell stated that she is here on behalf of the applicant, who is away. They are requesting seven variances across five properties. The majority are preexisting conditions but are being altered a little bit.

- 145 Goode Street – a maximum front yard setback variance.
- 149 Goode Street – flag lot and flag lot frontage variances. It is an existing flag lot; the pole will be moved from one side to the other. Also, they seek rear yard setback and maximum front yard setback variances.
- 153 Goode Street – a maximum lot coverage variance as the maximum allowed is 20% and existing conditions are at 22%, and a side setback variance.

Public Hearing open at 6:54 pm.

Mr. Whitton stated that he will read the comments that were received at the end. He stated that each person will have five minutes to speak; the Board just listens and does not respond to the comments.

Ms. Cheryl Hill of Orchard Terrace stated that she came to the meeting because the public hearing notice mentioned the Orchard Terrace properties, but she didn't hear Ms. Hertzell mention Orchard Terrace when listing the variances sought.

Mr. Whitton stated that he will answer this one question as it's complicated. For 149 Goode Street, which is the flag lot, the current flag lot is extended to Goode Street and the applicant wants to adjust the parcel, so it attaches to Orchard Terrace. It still has land access, but the Goode Street connection would be gone. Laur Lin Dee Lane is the access easement for the parcel.

Ms. Hertzell stated that it will continue to be so.

Ms. Hill stated that she doesn't understand the driveway proposal on Orchard Terrace.



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Ms. Hertzelt stated that the applicant is not looking to put in a driveway, requesting, or planning a driveway. The access to the property is Laur Lin Dee Lane. No driveway is going in at this time. All that's happening is that the pole (the slim strip of land connecting to the larger portion of land much like a flagpole connects to a flag) is moving from Goode Street to Orchard Terrace. It will give access to the property, but no driveway is going in because they have Laur Lin Dee Lane. She showed a map to the public and explained the proposed changes.

There was a period of ex parte discussion between Ms. Hertzelt and several members of the public all at once.

Mr. Whitton stated that he wants to tighten up the hearing as it must be recorded; to provide clarity he restated that the applicants are not asking for a driveway at this time that accesses Orchard Terrace. If they don't have frontage on Orchard Terrace, that would create a landlocked parcel, which is not allowed. The access will continue to be through Laur Lin Dee Lane.

Mr. Long asked if they are left with no driveway.

Mr. Whitton showed Mr. Long the map and explained where the proposed driveway will go.

Mr. Robert Choquette of Goodman Court stated that his property backs to these parcels. He asked why the variance is being sought and what the plan is so he can ascertain what impact, if, it will have on his property.

Mr. Whitton stated that the Board will not answer questions; he will absorb that and will try to address it at the end.

Mr. Choquette asked if it, at some point, it will be communicated to those who may potentially be impacted.

Mr. Whitton stated that he will walk through the presentation at the conclusion of the hearing.

Mr. Choquette asked how the Board approves or disapproves something unless they understand the scope of it.

Mr. Mertzlufft stated that the Board will do their best.

Mr. Choquette stated that he's just looking for clarification.

Mr. Zampella stated that that's fair.

Mr. Ken Keeler of Orchard Terrace stated that he submitted a letter with photographs and asked if it will be read. He would like to discuss how to change the situation in the neighborhood with regard to the water situation. Their sump pumps are processing anywhere between 300 and 1000 gallons every hour.

Mr. Mertzlufft stated that he read the correspondence; that is not on the agenda tonight and is not under the purview of the Board.

Mr. Keeler stated that his concern is that the outcome of this decision could impact that situation.

Mr. Mertzlufft stated that he understands. At the end of the discussion the Board has to read criteria by which they have to balance the applicant's request, which takes into account the neighborhood and surrounding environment.



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Mr. Keeler asked if all of this will be considered in that decision.

Mr. Mertzlufft answered affirmatively.

Mr. Whitton stated that the letters will be read but he wants to give anyone else in the audience the chance to speak.

Mr. Dan Fiore of Orchard Terrace stated that his concern is the water; it's a serious issue. His pump does 500-600 gallons per hour. There is no surface drainage available on Orchard Terrace and he has two feet of water in his back yard. He urges the Zoning Board to consider what this property change could entail in the future. He realizes they're not asking to put in a driveway, but this change could affect the drainage in the area. Perhaps a compromise would be for the Board to work with the other city agencies and come to some agreement that the problem will be fixed, so this could be approved with little risk to the rest of the neighborhood. He stated that he has no problem with these variances, but he has concerns about how the city handles changes like this.

Mr. Mertzlufft stated that it seems like a difficult situation and asked if anyone has approached the Town and documented the problems.

Mr. Fiore answered affirmatively and stated that there used to be a ditch and culverts that were removed when the road was paved in 2008. Residents have spoken to the people in charge and nothing has been done.

Mr. Mike Gildea of Orchard Terrace stated that he has been there for 30 years. 12 years ago, the Town paved the road and ran over two people's culverts; the next day they removed the culverts and it has been difficult ever since. The Town said that within four feet of the road is Town property and the homeowners have no say. Some of his trees were ruined and he had to remove them. This has nothing to do with the Zoning Board, but the Town came in and pulled the culverts and then said it's none of your business. He had 12 inches of water in his basement. It took three sump pumps three days, then 6 dehumidifiers and a fan to get his basement so it didn't have black mold. It's not the Zoning Board's doing, but this is what the Town gives us. The water has no place to go. The driveway that isn't going to be there is on the corner of the pasture where 1000-1200 gallons of water sits; that's going to go onto his septic. That's why people are here. Maybe someone should pay attention.

Mr. Whitton read a letter from Mr. Roy Ryan of Orchard Terrace (see attached).

Mrs. Dunham read a letter from Mr. Bryan Peck of Woodside Drive (see attached).

Public Hearing closed at 7:14 pm.

Mr. Whitton stated that Ms. Hertzl stated that for 149 Goode Street there's no proposal to put a driveway to Orchard Terrace.

Ms. Hertzl stated that that is correct.

Mr. Whitton stated that the deed will reflect that Laur Lin Dee Lane is going to be a permanent easement with no restrictions.

Ms. Hertzl stated that that is correct.



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Mr. Whitton stated that the deed for 153 Goode Street had a contingency that the easement could be revoked if it ceased to be owned by the prior owner or ceased to be used for agricultural purposes. He had questions about how the deed for 149 Goode Street would be proposed regarding Laur Lin Dee Lane. If it's permanent with no restrictions, he's satisfied. Drainage is a concern among the residents in the area; he looked at it and the drainage was poor. He stated that these are just lot line adjustments and there's no construction or road building going on; effectively nothing should change on the site outside of the paper boundaries. He asked if that is correct.

Ms. Hertzel stated that that is correct.

Mr. Merchant asked why they are making the lot line adjustments if there's no planned building going on.

Ms. Hertzel stated that some of it is just to make them better. For example, 4 and 6 Orchard Terrace were smaller than the minimum area and they have lands now coming from other parcels of land owned by the Duemlers to make them better. The flag lot pole went all the way behind the vet clinic. The goal is to make everything as good as possible. Dr. Duemler and his wife don't necessarily want to own these properties forever so the idea of being able to sell them in the future as better properties is a piece of it; there's no intention to do so at this time.

Mr. Merchant stated that he could provide some history. When houses were built behind the barn there years ago, they had to stop because the ground wouldn't perc; they tried three times and the perc tests failed. The property is wet and has always been wet. He stated that they are making one-acre lots and if they plan to build houses there that is just going to make it worse; and it's a nonconforming flag lot.

Ms. Hertzel stated that it's currently a nonconforming flag lot as well; what they're proposing to do is make it a more conforming flag lot.

Mr. Long stated that it's still nonconforming.

Ms. Hertzel stated that that is correct.

Mrs. Dunham stated that flag lots are not permitted.

Mr. Whitton polled the Board for comments; there were none. He read the Planning Board recommendation aloud (see attached).

Mr. Whitton stated that the Board must consider five factors in particular, and read the area variance criteria aloud for the Board to consider:

[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; (Mr. Whitton stated no as they are not building anything.)



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[2] Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance; (Mr. Whitton stated no.)

[3] Whether the requested area variance is substantial; (Mr. Whitton stated yes.)

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and (Mr. Whitton stated no, as there is no construction.)

[5] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals, but shall not necessarily preclude the granting of the area variance. (Mr. Whitton stated that this is not a self-created difficulty as these are preexisting conditions.)

Board members agreed with Mr. Whitton's statements.

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

MOTION: Mr. Whitton made a motion that Matt Duemler receive the following variances:

- 145 Goode Street:
 - Front yard setback variance; 50 feet maximum; 82.5 feet existing; difference of 32.5 feet
- 149 Goode Street:
 - Flag lot variance as proposed
 - Flag lot frontage variance; 60 feet required; 30 feet existing; difference of 30 feet
 - Front yard setback variance; 50 feet maximum; 106.5 feet existing; difference of 56.5 feet
 - Side yard setback variance; 20 feet required; 12 feet existing; difference of 8 feet
 - Rear yard setback variance; 20 feet required; 12 feet existing; difference of 8 feet
- 153 Goode Street:
 - Front yard setback variance; 50 feet maximum; 575 feet existing; difference of 525 feet
 - Side yard setback variance; 20 feet required; 15 feet existing; difference of 5 feet

Mrs. Dunham seconded the motion.

The vote was as follows:

Mr. Whitton and Mr. Mertzlufft were in favor.

Mr. Merchant, Mr. Zampella, Mr. Long, and Mrs. Dunham were not in favor.

DENIED.

Ms. Hertzl stated that they will likely appeal based on the criteria. She asked if that will be at another meeting; an appeal will be made.

Mr. Clark stated that the appeal is not with this Board. He can't advise the applicant how to go forward or the timeframe in which to appeal. The proper avenue to proceed would be Article 78.



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Mr. Long stated that isn't sure everything hinges on the criteria.

Mr. Mertzlufft stated that the applicant can take it forward to wherever they need to go.

Ms. Hetzel answered affirmatively.

NEW BUSINESS

Burnt Hills Fire District Signage Variances (ZBA 2023-004)

811 Route 50; SBL 257.10-1-92

Application for signage variances for sign square footage, height and an LED digital display.

Mr. Tom Wheeler and **Mr. Carl Wheeler** of AJ Signs, and **Mr. Les Bonesteel** of the Burnt Hills Fire District.

Mr. Tom Wheeler stated that they want to replace the sign at the Burnt Hills Fire Department. The existing sign is an older structure that must be changed by hand. The new sign is smaller, is constructed of aluminum and is made so that just the letters will illuminate; it has a digital display component which is by the same manufacturer as the sign at the Burnt Hills United Methodist Church (BHUMC) nearby. It has an automatic light sensor; it dims to 5% at night to not be blinding, and during the day it powers up based on the ambient light so it can be read. Message centers have become a common way to get messages out; this will be done remotely instead of by hand. They are asking for relief of 17 SF, and 4 inches in height. They like to keep signs off the ground for snow, plantings, etc.; that's the reason for the black base, which contributes to the height variance. The square footage is less than the existing sign but is still over what's allowed.

Mr. Whitton asked if the difference in height is four inches.

Mr. Tom Wheeler stated that that is correct.

Mr. Long asked if they could bury the sign four inches deeper to not require a variance.

Mr. Tom Wheeler stated that they could eliminate the four-inch variance if needed.

Mr. Long stated that it seems like they could, with a careful design.

Mr. Tom Wheeler stated that they could cut that off the base; it would be a little lower.

Mr. Mertzlufft asked that if they know the square footage of the church sign that was mentioned.

Mr. Tom Wheeler stated that he doesn't know, it may be four feet by eight feet.

Mr. Long asked if the digital component is the same.

Mr. Tom Wheeler stated that it's the same manufacturer. The digital display of the church sign is three feet by seven feet which is the same as the digital display of this sign.

Mr. Mertzlufft stated that the digital portion is 21 SF.



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Mr. Tom Wheeler stated that that is correct.

Mr. Long stated that he doesn't believe the existing sign was approved by the Zoning Board.

Mr. Tom Wheeler answered that it was not; they got a permit.

Mr. Long asked who issued the permit.

Mr. Tom Wheeler stated that it was Mr. Tom Johnson (a previous Building Inspector for the Town of Ballston).

Mrs. Dunham stated that she can think of three digital signs in the Town of Ballston. At least two are extremely difficult to delineate the letters on; they're hard to read, especially if someone is colorblind. Whatever background or colors are used, they are very difficult to read for people who are visually impaired. She understands that they may be a quick way to relay information, but people must be able to read them.

Mr. Tom Wheeler stated that the issue is often with content creation; people want to include too much on the sign. Less is more. Learning to create content that is readable is a big part of these displays; not including too much for drivers to read.

Mr. Long stated that it shouldn't take 30 seconds to read the sign.

Mrs. Dunham stated that it's something to keep in mind; that it is a problem for anyone with visual impairment. She suggested directing whoever does the setup to use different colors of lettering and background.

Mr. Long stated that signs that change frequently, are updated every few seconds, or have animation are distracting to drivers. He asked if there is any intent to display that kind of content.

Mr. Mertzlufft stated that content is protected by the U.S. Constitution as free speech.

Mr. Zampella that the maximum square footage allowed is 32 SF. He asked if there is a reason the sign has to be 49.72 SF.

Mr. Tom Wheeler explained the measuring process and stated that they want to show the name of the fire department at the top with the visual display beneath it. If it's smaller, it will be harder to read. They try to come up with a size that is the most effective for the road that people will be travelling on, that drivers are able to read quickly. It's smaller than what's there now.

Mr. Merchant asked how large the existing sign is.

Mr. Tom Wheeler stated that it's four by eight feet plus the poles and roof.

Mr. Merchant stated that the sign, if it's eight feet tall, will be partially blocked by a nearby sign.

Mr. Long stated that in the photo submitted, the existing sign appears to be wider than the proposed sign.

Mrs. Dunham stated that the proposed sign is taller.

Mr. Long stated that the proposed sign is a little bit taller and narrower.



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Mr. Tom Wheeler answered affirmatively.

Mr. Whitton stated that they can cut the height down by four inches.

Mr. Tom Wheeler stated that the new sign has more shape to it and more negative space.

Mr. Long asked how often the sign will update.

Mr. Bonesteel stated that it will depend on what's happening in the community. If there's an emergency, bad weather, etc.; it will be able to be updated immediately.

Mr. Long asked how quickly multiple messages will cycle on the sign.

Mr. Vaverchak stated that the zoning requirements state specifically that the sign must remain static for a minimum of ten seconds.

Mr. Whitton polled the Board for additional questions or comments; there were none. He stated that the project should be referred to the County Planning Board.

MOTION: Mr. Whitton made a motion to schedule a Public Hearing for May 3, 2023 at 6:45 pm. Mr. Zampella seconded the motion. All in favor. **CARRIED.**

Mr. Tom Wheeler asked if a special use permit is required for the digital display.

Mr. Vaverchak stated that the zoning language specifically calls for a special use permit, which would be granted by the Planning Board.

Mr. Clark stated that LED signs are only permitted in the Business and Light Industrial districts; they applicant is not in either of those districts. The Code section 138-83 (e) states that the applicant may apply to the Zoning Board for the granting of an area variance under this section. The applicant will also require an area variance for the LED sign.

Mr. Long asked if they will not need a special use permit.

Mr. Clark stated that that will happen after the Zoning Board. As of now, it's not permitted at all. It's not a use variance because the Code calls it an area variance, so that's how it should be treated rather than as a use variance; the Code permits the applicant to apply for an area variance when the sign does not comply.

Mr. Tom Wheeler stated that they will need an area variance for the size and then a special use permit from the Planning Board.

Mr. Clark stated that that is correct; the applicant is at the Zoning Board for all variances required.

Mr. Whitton asked if the Zoning Board will request a letter from the Planning Board.

Mr. Clark stated that they could, but it's not required in this instance, only when the applicant is applying for area variances involving subdivision.



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The Board members decided not to request the letter.

The applicants thanked the Board.

336 Hop City Road Area Variance (ZBA 2023-005)

SBL 226.-1-22

Application for a side yard setback variance for the construction of a two-car garage with carport.

Mr. Todd Knight, property owner.

Mr. Knight referenced the map and stated that there is an area that goes up into his back yard from the deed line. He has a carport there and would like to construct a two-car garage. He referenced the map and stated that there are trees along the 60-foot line. He is seeking a 10-foot variance. Where the deed line is, the property goes down a few feet into the back yard.

Mr. Merchant asked if they had measured the distance from the lot line to the shed.

Mr. Knight stated that it's ten feet of woods.

Mr. Merchant stated that he is familiar with the property; the creek gets close to the house sometimes so he understands that they can't move the garage any more to the south.

Mr. Knight stated that the back yard has his septic and pool; if he went back farther it would require more construction to try to level it out.

Mr. Merchant stated that they could put it where the existing carport is.

Mr. Knight stated that that is where he plans to put it.

Mr. Zampella asked if they are planning to replace the temporary carport that's on site.

Mr. Knight answered affirmatively and stated that it's just a garage-in-a-box; he has gone through four or five of them and is tired of it.

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

MOTION: Mr. Whitton made a motion to schedule a Public Hearing for May 3, 2023 at 6:50 pm. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

Mr. Knight thanked the Board.

974 Benedict Road Area Variance (ZBA 2023-006)

SBL 249.-3-69.2



TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

April 5, 2023 at 6:30 pm

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

www.townofballstonny.org

Application for an area variance to allow a one-acre existing lot to be used as a building lot.

Mr. Patrick Jarosz of Gilbert VanGuilder Land Surveyor, PLLC.

Mr. Jarosz stated that he is here on behalf of the property owner, who requests an area variance to the two-acre minimum lot size as required in bulk standards table 138-11.3 of the Town of Ballston building law. The variance requested is to allow a one-acre existing lot to be used as a building lot. This lot has been in existence since 2000 and substantially predates the current law. This request will not have a negative effect on the neighboring properties as there are multiple existing homes to the north of the property on smaller lots than the lot proposed, which is in the Ballston Lake Residential zoning district.

Mr. Whitton polled the Board for questions.

Mr. Merchant asked if the lot was preexisting before the zoning changes and how long it has been owned by the current owners.

Mr. Jarosz stated that he doesn't know how long they've owned it, but it has existed since 2000.

Mr. Whitton referenced the deed and stated that the applicant purchased the property in 2009.

Mr. Merchant stated that that was prior to the zoning changes.

Mr. Whitton stated that that is correct. He asked if the intent of the applicant is to build on the lot or if they are looking to get approval and sell it.

Mr. Jarosz stated that they are seeking the approval in order to sell it.

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

MOTION: Mr. Whitton made a motion to schedule a Public Hearing for May 3, 2023 at 6:55 pm. Mr. Zampella seconded the motion. All in favor. **CARRIED.**

Mr. Jarosz thanked the Board.

Mrs. Dunham stated that County referrals are needed for 336 Hop City Road and 974 Benedict Road.

220 Scotch Bush Road Area Variances (ZBA 2023-007)

SBL 248.-1-81.141

Application for two lot area variances and one lot width area variance for a minor subdivision for the construction of a home.

Mr. Patrick Jarosz of Gilbert VanGuilder Land Surveyor, PLLC., **Ms. Janet Clark**, property owner, and her son, **Mr. William Clark**.



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Mr. Jarosz stated that he is here on behalf of the Clark family, regarding a two-lot subdivision on Scotch Bush Road. Both proposed lots are zoned rural and require area variances as they are less than the five-acre minimum requirement. Lot B will require a 3.57-foot lot width area variance from the 250-foot requirement. The owner proposes to split the 8.23-acre property in half for the construction of a home for her son. The new lots will be roughly equal in size. Lot A is proposed to be 4.12 acres with 250.33 feet of frontage; lot B is 4.11 acres with 246.43 feet of frontage. Lot B will have the existing house, which is to remain. This is a unique situation as the owner's son's family has a special needs daughter who requires constant care. They have been saving money to build a house for nearly a decade. To live next door to his parent's house would be beneficial to both families. The zoning changes have created an unanticipated hardship. This request will not have a negative effect on the neighboring properties as the existing homes bordering the property to the south are on much smaller lots. The lots to the north and west are similar in size and frontage to the subdivision proposed. The Board's consideration in this matter is greatly appreciated.

Mr. Whitton asked what the highlighted area on the map is.

Mr. Jarosz stated that it's 3.28 acres of wetlands.

Mr. Whitton stated that the Board needs to know the area of the wetlands, so they know what relief is being requested. He explained that there needs to be enough unconstrained land to be able to get a building permit. The Board will need the area of the wetlands on each parcel for the next meeting.

Mr. Long asked Mr. Jarosz to repeat the total acreage of the wetlands.

Mr. Jarosz stated that the wetlands are 3.28 acres; the total net acreage is 4.95 acres.

Mr. Long stated that the Board needs to know how the 3.28 acres is divided.

Mr. Zampella stated that the Board needs to know that information so that if they do grant a variance, that number is supported.

Mr. William Clark stated that he is the owner's son; he is seeking the variance. This is the last piece of his family's property. His great-grandparents were here in 1961; it was a dairy farm. Due to unfortunate circumstances, it went to his grandmother; she became ill. Some of the land was sold to pay medical bills, which became the Kelly Meadows development. The house was 200 years old and required repairs, so his parents moved to a ranch house on 62 acres at the end of Kelly Meadow Road. His father passed away, so his mother sold the home and much of the acreage. She kept a corner of the property which unfortunately has wetlands. Under the prior zoning it would have been acceptable. He wants to be financially responsible for what they are going to be doing. He has a special needs daughter and his mother is getting older; he'd like to maintain the property they do have. It's hard to maintain the land when he's not there. Anything the Board needs to try to make this pass; it would be greatly appreciated. He grew up in Ballston and likes it here; he has lived in a nearby apartment for 12 years to save money; he wants his daughter to have a back yard to play in. He thanked the Board.

Mr. Merchant asked why the property went to 8.23 acres when the lot lines were adjusted.



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Ms. Clark stated that when they subdivided the property, there was a 30-acre lot and a 10-acre lot. The lot line adjustment came about because she had the field access included in her 10 acres; the adjustment brought the access into the northern field. She had asked for the property that was cut off for the access to be added to the back of her property. She didn't know anything about lot line adjustments and didn't realize that it was not added back on until she saw her tax bill for 8.23 acres. The lot line adjustment was to provide field access for the buyer of the 30-acre parcel. She had hoped to keep 10 acres.

Mr. Merchant stated that if they had the 10 acres, they wouldn't need to be at the Zoning Board.

Mrs. Clark stated that the wetlands would have jeopardized that; she did not know about them.

Mr. Whitton stated that County referral is needed for this project.

MOTION: Mr. Whitton made a motion to schedule a Public Hearing for May 3, 2023 at 7:00 pm. Mrs. Dunham seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

Splash Car Wash Law Interpretation (ZBA 2023-008)

Lot 4 of Eastline Road PUDD at Route 67 and Eastline Road; SBL 228.-4-1.3

Application for an interpretation of the law as applies to 5C of Eastline Commons PUDD and §138-3 of the Zoning Law; as to whether a drive-through car wash and accessory vacuum stalls would be considered a "retail business with or without a drive-through window."

Mr. James Trainor and **Ms. Diana DeSanto**, Attorneys for the applicant, **Mr. James Enzien** of Splash Car Wash, and **Mr. Dean Taylor**, real estate agent.

Mr. Trainor stated that he and Ms. DeSanto represent Mr. Enzien and Splash Car Wash, and Mr. Taylor is the realtor for the property. Mr. Trainor distributed a map to the Board; it is part of the PUDD (Planned Unit Development District) legislation. He stated that they are here to obtain an interpretation from the Board as to whether a stand-alone, drive-through car wash is an allowable retail use within area "C" of the Eastline Commons PUDD, which is the Town of Ballston Local Law 2 of 2007. Specifically, retail businesses are permitted in area "C" of the PUDD, so the question becomes whether this car wash is a retail business; they submit that it is. A retail business is one where a product is sold, or a service is rendered directly to a consumer. Here, the car wash itself is rendered directly to the driver of the car, who pays for the service as he enters the car wash, and then the driver waits while the service is rendered in that drive-through. It is essentially the same way that a restaurant, bank or pharmacy delivers its product or service through their drive-throughs; however, they are specifically listed in the PUDD legislation as permitted uses in area "C". He stated that they submit that a car wash meets the definition of a drive-through service which is defined in the zoning code as section 138-3, because the primary retail service being rendered is performed while the driver remains in the vehicle. There are other communities that specifically define car washes as retail businesses; Malta is one example. He stated that they believe that the Ballston zoning code includes car washes as a retail business without expressly stating so,



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and also includes them as a drive-through service. He feels that Splash Car Wash meets the intents of the PUDD in both respects. Splash Car Wash would be bringing a much-needed business to a heavily trafficked area of Town, and they believe it would be a welcome addition to the PUDD. For all of those reasons, they request that the Board interpret the car wash to be an allowable retail business in area "C" of the PUDD.

Mr. Merchant asked if the Board members should explain how they feel about it.

Mr. Clark stated that it would be premature to make a final determination tonight as the Board needs to go through the normal procedures. Conversing with and asking questions of the applicant to get a better feel for this would be beneficial. He stated that he understands that the Building Department has submitted something on this; he doesn't know if that has been shared with the applicant.

Mr. Trainor stated that it has not; they welcome the Board's feedback.

Mrs. Dunham asked where the access to the car wash would be; if it would be on Route 67.

Mr. Trainor stated that it would be on Eastline Road.

Mr. Clark stated that it's important to distinguish this application from the area variances as this is a narrower request of the Board; they are just being asked to interpret a provision of the Code. They are not concerned with the layout, etc. at this point; that would be at the Planning Board. He read from the PUDD Eastline Commons Local Law, section C: Allowable uses within area "C" of Eastline Commons shall include the following: (3) - retail businesses with or without a drive-through window. He stated that the Board is determining whether the applicant's proposed car wash fits that definition or not; that's the question posed for the Board.

Mr. Long asked if the plan for drive-through service ever expands beyond car washes.

Mr. Trainor stated that there will be some vacuums in the parking area.

Mr. Long asked if they will do drive-through oil changes.

Mr. Trainor answered no; strictly car washes rendered while the driver is in the car in the drive-through.

Mr. Merchant stated that the Building Inspector, Mr. Stickles, determined that it's an automotive service business that is not allowed in the PUDD.

Mr. Trainor stated that the Building Inspector didn't make a specific finding; they inquired of him and that's what he thought it might be, but they needed to come to the Zoning Board for an interpretation.

Mr. Whitton read the letter from Mr. Stickles aloud (see attached). He stated that it is his understanding that Mr. Stickles is saying that the PUDD requirements are very specific; a car wash is not listed as one of the allowed businesses. The applicant's argument is that it's considered a retail business because retail businesses are allowed; Mr. Stickles does not feel it qualifies as a retail business, he feels it qualifies as an automobile service business as it is not selling products.



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Mr. Enzien stated that when they ask for determinations, they often refer to the New York State retail numbers on how much retail tax is paid; car washes count toward that retail tax. The customer is buying soap and water and pays retail tax, then the customer uses the Splash Car Wash express tunnel where the soap and water are applied. He stated that it's not much different than going into a drive-through to get coffee; the only difference is that the customer drinks the coffee and at the car wash the customer brings in their car and the soap and water are applied. That's why they are asking for the determination, because in most towns where they have built car washes, it falls under the commercial zoning based on the retail or general business status. This has happened in Malta. He stated that they feel it's an easy and fair enough ask that the Board could look at it and see what they think.

Mr. Whitton asked if Mr. Enzien means sales tax when he says retail tax.

Mr. Enzien answered affirmatively; a retail sales tax the same as you would pay for any other goods and services.

Mr. Zampella asked if it is technically the same as an oil change; when you think about automotive services, the customer pays for oil and someone to change it.

Mr. Taylor stated that you get out of your car and the technician comes over and looks at the car.

Mr. Zampella stated not necessarily; at Jiffy Lube you can stay in the vehicle.

Mr. Enzien stated that it's generally someone coming to service your vehicle.

Mr. Zampella stated that when someone sprays the car down; he's relating it to how it could still be seen as an automotive service.

Mr. Enzien stated that he sees how Mr. Zampella could find that; in his experience he finds that it's more commonly zoned under retail or general business services.

Mr. Taylor stated that it's like a barber shop or hair salon; they're retail services.

Mr. Enzien stated that it is truly a retail business; they have to pay New York State where it is reported with the annual tax revenue as car washes being a retail business.

Mrs. Dunham stated that some of the information the Board needs to make a determination is related to detriment. She's thinking in terms of traffic; that intersection is already horrendous and she's thinking of a car wash up the road where cars are lined up onto the highway on a nice day after a storm. She asked if any traffic studies have been done; Route 67 is a state road.

Mr. Enzien stated that it's a valid concern. They have done demographic studies on car count and how many cars they think they will do in a year. The national average is around 50,000 cars per year for an express tunnel; they feel it is a high traffic area so they feel it will be 150 per day or 75,000 per year. This is an express model, not full service. Customers pay at an unmanned kiosk and go thru the car wash tunnel; they can choose to vacuum the car themselves or exit, it is under three minutes. That corner has a 24,000-car count; a car wash is



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an impulse buy so they don't feel it will congest the intersection any more than it is. They plan to have the entrance on Eastline Road as it is less busy.

Mr. Clark stated that the Board should narrow their scope of consideration. Those concerns are valid if this was an area variance, but they are specifically looking at the word "usage". Mr. Stickles stated that he considers this an automotive service. There are two ways for the applicant to get before the Board on this issue: this one is to request an interpretation of this section as it applies to this idea and the other would have been to ask Mr. Stickles to make a formal determination. Presumably he would have determined it is an automotive service, then the applicant is entitled to come before the Board to appeal that determination, seeking for it to be classified as a retail business. The Zoning Board is using their appellate powers to determine what the language of the Code means, whether the car wash fits within the retail business with or without a drive-through. He stated that they shouldn't get too much into the development side of it yet.

Mr. Mertzlufft thanked Mr. Clark and stated that the PUDD is like a third-rail issue for the Town. He will not move off the direct language of the PUDD, as that is what was sold to the community, restrictions and all. He can't see himself widening the interpretation to be more liberal and allow other businesses.

Mr. Trainor stated that he submits that by putting in the term "retail business" the Town Board was encompassing a number of different types of uses. This is a classic retail business; it's a drive-through as is described in the law. If the Town Board had tried to list all the retail businesses that could be encompassed, it would be a 50-page document; they used a commonly understood definition of what a retail business is, a consumer transaction of product or service.

Mr. Mertzlufft stated that he understands that. Everyone in NY State pays taxes; he understands their point. Car washes are high-peak events, especially in the spring or in the winter to remove salt. There are different retail businesses; for example, CVS knows the flow of customers and how many cars should be in their lot at noon, etc. This is not a standard retail business, especially as an automobile is necessary; there is no walk-up traffic. This PUDD was defined as it is and he can never see where he would take a more liberal interpretation of the restrictions or definitions of anything going on inside that PUDD.

Mr. Trainor stated that he can appreciate that. Churches and schools have peak times of traffic as well.

Mr. Mertzlufft stated that we have to have schools and churches; we can live without a car wash.

Mr. Long stated that PUDDs don't talk about churches.

Mr. Trainor stated that it does in that same section.

Mr. Mertzlufft stated that per the Constitution, you cannot prohibit churches.

Mr. Trainor stated that all he's saying is there is a peak time for traffic around a mass or service; they are back to whether this is a retail business or not.

Mr. Mertzlufft stated that he understands that that's the interpretation that has to be made by the Board.



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Mr. Enzien stated that a car wash is a very predictable business. In looking at the area, the car count and demographic, etc. and that there's no express model in the area, they think it would be a great opportunity for the residents to stay in town, create some jobs, and bring added value to the community. The average Dunkin Donuts is classified as retail and has three times the number of customers coming in and out of that spot as the car wash would.

Mr. Mertzluft stated that he would love to use their car wash services but not in the PUDD.

Mrs. Dunham asked if the Board can make the determination tonight and schedule a public hearing.

Mr. Clark stated that he pulled some case law on this that might make it clearer: As a general rule, zoning ordinances are in derogation of the common law and must be strictly construed against the municipality. However, this rule is subject to the limitation of where it would be difficult or impractical for a legislative body to promulgate an ordinance which is both definitive and all-encompassing. A reasonable amount of discretion in the interpretation of the ordinance may be delegated to an administrative body or official.

Mrs. Dunham asked how to proceed tonight.

Mr. Clark stated that the Board can schedule a Public Hearing and can request any other submission requirements, such as information confirming the NYS sales tax that was discussed.

The Board members stated that they would want the traffic information.

Mr. Merchant stated that there are 150 apartments going in across the street that will add to the traffic; Mr. Enzien stated that there are 1000 cars per day today and that will increase. The traffic backs up.

Mr. Enzien stated that their study showed that the car wash would do 150 cars on a peak day.

Mr. Taylor stated that they are looking for an interpretation and the Board is getting into the traffic and the use; the fact that the Board does not like the use should not change their interpretation of the law. Car service is getting your car serviced; this is getting your car washed. He asked how this cannot be a retail use.

Mr. Enzien stated that in his experience in working with numerous towns, the automobile service falls under oil changes, auto repairs, tire sales, etc.

Mr. Whitton stated that those are considered automobile repair service centers that require licensing by New York State as a repair shop; they have signs that say "repair" on them. The Town of Ballston law does not say repair service, it just says service. He believes this is where Mr. Stickles is making the distinction, saying that any service rendered to a vehicle regardless of it's repaired, washed or detailed would not be retail. That's Mr. Stickles's opinion.

Mr. Enzien stated that that is why they are bringing this to the Board. The car wash built in Malta fell under the guidelines of a retail business in their commercial zoning.

Mr. Whitton stated that the difference may be that that was Malta's Town Code and this PUDD has specific regulations. The Board will look closer at those exact requirements.



**TOWN OF BALLSTON
ZONING BOARD OF APPEALS MEETING**

April 5, 2023 at 6:30 pm

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MOTION: Mr. Whitton mad a motion to schedule a Public Hearing for May 3, 2023 at 7:10 pm. Mrs. Dunham seconded the motion. All in favor. **CARRIED.**

Mr. Whitton asked if a County referral is necessary for a law interpretation.

Mr. Clark answered no.

The applicants thanked the Board.

MOTION: Mrs. Dunham made a motion to adjourn the meeting. Mr. Whitton seconded the motion. All in favor. **CARRIED.**

Meeting was adjourned at 8:26 pm.

Respectfully submitted,

Kerri Mains

Kerri Mains
Zoning Board Secretary

From: [Carol Gumienny](#)
To: [Kerri Mains](#)
Subject: FW: Katz Road Outlet
Date: Monday, April 3, 2023 8:55:46 AM

Thank you.

Carol A. Gumienny
Town Clerk
Town of Ballston
323 Charlton Road
Ballston Spa, NY 12020
518-490-2750

From: Dorsey, Samuel <samuel.dorsey@momentive.com>
Sent: Monday, April 3, 2023 12:50 AM
To: Carol Gumienny <cgumienny@townofballstonny.org>; Annetta Dunham <adunham@townofballstonny.org>; Eric Connolly <econnolly@townofballstonny.org>
Subject: Katz Road Outlet

I am writing to request that the Zoning Board not approve the Katz Road Outlet variance request. Zoning laws change all the time and are properly published before, during, and after they are approved. The Town made an immense effort with its latest incarnation to clean up prior missteps of administrations long past. The Board has thoroughly considered this in the past when I was a member and during the present and had input from the planning board with regards to a recommendation to reduce the number of lots from four (4) to two (2). It appears in this recent application iteration that the Applicant does not wish to reduce the number of lots and therefore not willing to compromise. I do not believe the Board should offer anymore compromises beyond the two (2) lot planning board recommendation (it may have been three (3) lots, but I do not recall which number). Either way, the number of lots needed to be reduced and does not appear to have been done with this updated application. Please reject the applicant's appeal.

In addition. I also wish to write in support of Officer Stickles' interpretation that a Car Wash is not a permitted use in the zoning area of Eastline Rd PUDD. Furthermore, I wish to voice my opposition to adding a car wash since there are plenty in the area and we do not need anymore. Allowing one would not be conducive to the Zoning Law intentions nor benefit the community. I urge rejection of this applicant's appeal.

Samuel A. Dorsey, CT (ASCP)
Timber Creek Preserve
Ballston Lake, NY 12019

4/3/2023

Town Zoning Board of Appeals
Town of Ballston
Saratoga County - New York

Dear Zoning Board Members,

This letter is in response to the notice of application for the variance regarding the properties 4 Orchard Terrace and 6 Orchard Terrace. Our concerns as residents of Orchard Terrace are the following:

- There are ongoing water drainage issues in our neighborhood (Orchard Terrace, Woodside Dr.) The location of the variance/easement to have an access driveway is directly where thousands of gallons of water gathers. Where will this water be displaced in a neighborhood that has severe water drainage problems?
- How will drainage be addressed for potential driveway and future building lots?
- When this neighborhood was developed, there was a working drainage and water diversion system in place that prevented any water difficulties.
- Several years ago, when the street was repaved and the culverts and drainage system were removed, significant water problems began. This included standing water in the horse pasture, (6 Orchard Terrace) large sections of the road covered with standing water, water flooding basements, sump pumps running non stop. Homes that never required sump pumps now require them. Homes that rarely needed sump pumps now continually run one or two at a time. Several homes have required basement mold remediation and many homes run multiple dehumidifiers around the clock. Several houses have standing water in their backyards many months a year.
- The water drainage problems exist throughout the year. Not only with the Spring thaw, but also during any significant rainstorms.
- Orchard Terrace residents are not on sewers, how will septic systems and leach fields be affected?

In conclusion, thank you for your time and taking our concerns into consideration. Please see the attached 10 pages of photos to help better understand our situation.

Sincerely,
Mary and Micheal Gildea
8 Orchard Terrace

Mary E. Gildea
Micheal Gildea

Danielle and Roy Ryan
13 Orchard Terrace

Danielle Ryan
Roy Ryan

Dear zoning board members

My name is Bryan Peck and I reside at 10 Woodside drive.

This letter is in response to the notice of application for the variance regarding the properties 4 and 6 Orchard Terrace.

While I have no objection to the proposed construction, or modifications, I have concerns about the drainage problems currently present in our neighborhood.

If new buildings are to be erected in our neighborhood, and the drainage concerns are not addressed, I feel the issues will only get worse.

Please see attached photos.

The pictures are taken from my backyard at 10 Woodside looking into the backyard of 8 Woodside drive.

This flooded area covers properties on 6,8,10 Woodside drive, and 9,11, and 13 Orchard terrace.

Since I moved into my home in 2014, this issue has only gotten worse. Each year I have added clean fill to the corner of my yard next to 8 woodside to keep the water from encroaching into my yard.

Last year, I had to have mold remediation completed in my entire basement. My sump pump runs constantly, and I have two humidifiers that run 24/7.

If drainage issues are going to be corrected for these modifications on 4 and 6 Orchard Terrace, they should be corrected for the other current residents of the neighborhood who have been struggling with these issues for years.

I appreciate your time and hearing my concerns.

Thank You

Bryan Peck
10 Woodside Dr
Burnt Hills NY 12027

Bry12019@gmail.com

***Received 4-5-2023 at 3:24 pm via email.

**TOWN OF BALLSTON
PLANNING BOARD WRITTEN RECOMMENDATION
TO THE ZONING BOARD OF APPEALS**

WHEREAS, David H. Bogardus, PLS, of Northeast Land Survey, did present for approval, on behalf of Matt Duemler, an application for lot line adjustments dated November 7, 2022, entitled, “Goode Street and Orchard Terrace”, situate at or about 145 Goode Street, Town of Ballston, County of Saratoga and State of New York, SBL: 248.17-3-2, 248.17-3-3, & 248.17-3-4, 248.-1-89.111 & 248.-1-51.1; and

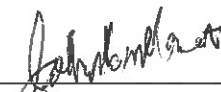
WHEREAS, the application requires multiple area variances due to the enlargement of pre-existing non-confirming features; and

WHEREAS, the Zoning Board of Appeals requested the Planning Board provide a written recommendation concerning the proposed variances.

THEREFORE, the Planning Board respectfully recommends as follows:

The Planning Board is in favor of the proposed area variances. The lots contained multiple pre-existing non-conforming features that will be addressed and made compliant by virtue of the variances. The Planning Board supports the proposed project and application for area variance subject to the limitations and recommendations set forth herein.

Dated: April 6, 2023

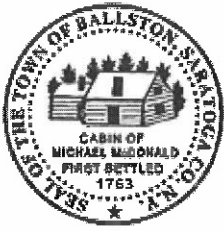


John Van Vorst, Chairman
Town of Ballston Planning Board

RECEIVED

APR - 6 2023

TOWN CLERK'S OFFICE



TOWN OF BALLSTON

Building Department
323 Charlton Road
Ballston Spa, NY 12020
518-490-2715
building@townofballstonny.org

March 28, 2023

Ms. Annetta Dunham, Chairperson
Town of Ballston Zoning Board of Appeals
323 Charlton Road
Ballston Spa, NY 12020

Re: East Line Road
Interpretation of the Law
228.-4-1.3
ZBA 2023-008

Dear Chairwoman Dunham and Zoning Board Members:

The Building Department has reviewed the April 2023 submission for the above referenced Zoning Board of Appeals application. The applicant is seeking an interpretation of the Law, within Area C of East Line Commons PUDD, located at corner of East Line Road and Route 67.

Documents received for our review include the following:

- Application, Owner Authorization Form, AG Data Statement, Short Environmental Assessment Form, Plan Narrative, Property Deed and Proposed Site Plan.

Based upon our review of the above documents we offer the following comments:

Building Department Determination: A drive-through car wash and accessory vacuum stalls is **NOT** a permitted use within East Line Commons PUDD. This proposed use would be considered an "Automobile Service" in which it is reference throughout other Zoning District language. However, East Line Commons does not list "Automobile Services" as a permitted use and it is my determination that the proposed use would not be a "Retail Business".

Further Clarification:

Definition of "Service": Any establishment whose primary activity is the provision of assistance, **as opposed to products**, to individuals, business, industry, government, and other enterprises, including, but not limited to, legal, health, surveyor, accountant, engineering and other professional services.

Example: "Automobile Service" is a permitted use within the Mixed Use Route 50/67 Zoning District with a Special Use Permit and Site Plan Review approved by the Planning Board.

Sincerely,

Jeff Stickles
Building Inspector