

**TOWN OF BALLSTON
ZONING BOARD MEETING**

August 3, 2022 7:30 pm

Town Hall Meeting Room
323 Charlton Road
Ballston Spa, NY 12020

ATTENDEES:

Steve Merchant, Vice Chairman
Joanne Hull, Board Member
Robin Kane, Board Member
Tim Long, Board Member
Dan Mertzlufft, Board Member
Patrick Whitton, 2nd Alternate
Jeff Stickles, Code Enforcement Official
Andrew Clark, Attorney

ABSENT:

Mike Lesniak, Chairman
Annetta Dunham, Board Member
Samuel Dorsey, 1st Alternate

Call to Order

The meeting was called to order at 7:30 pm.

Pledge of Allegiance was led by Vice Chairman Merchant.

Approval of Previous Minutes

MOTION: Mr. Whitton made a motion to approve the July 6, 2022 meeting minutes as drafted. Mr. Mertzlufft seconded the motion. Mr. Long and Ms. Kane abstained. All others voted in favor. **CARRIED.**

OLD BUSINESS

There was no old business.

NEW BUSINESS

Sunoco – 230 Church Avenue Area Variances (ZBA 2022-007)

SBL 216.-2-20

Revised application for four area variances for signage.

Mr. Tim Freitag of Bohler Engineering represented the applicant.

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Vice Chairman Merchant stated that the Board has seen the changes in the application and asked Mr. Freitag to review the application for everyone.

Mr. Freitag stated that the applicant is redeveloping 230 Church Avenue and the project is well underway. This is a continuation of the Zoning Board application from 2020 for proposed signage. They were before this Board in September 2020 and revised the application based on feedback. In October 2020 there was no vote on the application, then there was the moratorium. There is no impact on the application from the new zoning code, so they are here now with the same revised application from October 2020. The major change from the September 2020 to the October 2020 submission is height reduction of the freestanding sign from 20 feet tall to 11 feet tall, to resemble the USA gas station sign across the street. Speedway's sign is 24 feet tall, the existing sign that they are proposing to remove is 20 feet tall; the proposed sign is 11 feet tall. Mr. Freitag stated that they felt that this is a better compromise based on feedback from the Board at that time.

Vice Chairman Merchant stated that the proposed sign is 11 feet tall, so you are asking for three feet of relief. He stated that the zoning code for sign square footage is 32 square feet and you want 36; the original application was for 50 square feet, so you have brought that down quite a bit.

Mr. Freitag stated that the reduced height changed the square footage of the sign as well. The revised application contains a list of four variances; they are seeking three feet of relief on the height, four square feet on the freestanding sign square footage, and six square feet on the overall sign square footage.

Mr. Mertzlufft asked if the applicant is aware that the zoning changed a few months ago.

Mr. Freitag answered affirmatively.

Mr. Mertzlufft stated that there is a four square foot difference on the freestanding sign, and when you add up all the other signage there are two more square feet that require a variance for the overall site.

Mr. Freitag stated that that is correct; there is 150 square feet of signage allowed and the package, including the wall signage, totals up to 156 square feet.

Mr. Mertzlufft clarified that the wall signage is included.

Mr. Freitag answered affirmatively.

Mr. Long asked if the 150 square feet includes the freestanding sign.

Mr. Freitag answered affirmatively.

Vice Chairman Merchant stated that he appreciates that they have reduced the size and are trying to be consistent with other signage in that area.

Ms. Hull asked if County Planning Board referral is required.

Mr. Clark answered affirmatively, based on the location.

Ms. Hull asked if it has been referred yet.

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Mr. Clark stated that it has not been referred yet.

Mr. Freitag stated that there was no vote at the initial meeting in September 2020 because there was no County referral at that time. The referral was done in September 2020; he provided the County referral letter and stated that the County decision was of local concern. There was a recommendation that the Board should consider the surrounding signage and what has been previously approved in the Town.

Vice Chairman Merchant asked if the applicant would like to proceed with a Public Hearing for next month.

Mr. Freitag stated that there was a Public Hearing in 2020 and asked if a new one is required.

Vice Chairman Merchant answered affirmatively, because of the changes.

Mr. Freitag stated that the changes were included at the time of the Public Hearing in 2020; he asked if one is required due to the zoning changes.

Mr. Mertzlufft stated that he imagines there should be another Public Hearing.

Mr. Clark stated that because of the time that has elapsed, another Public Hearing should be scheduled.

Mr. Mertzlufft stated that because of the time lapse, change in zoning, change in the application, he doesn't see a way around a Public Hearing.

Mr. Merchant stated that it's been two years so he thinks there should be one.

Mr. Freitag stated that the zoning changes do not affect the application; the Board was ready to vote in 2020 but didn't because the County referral wasn't done.

Mr. Mertzlufft stated that if he recalls correctly it would have been a negative vote.

Vice Chairman Merchant stated that, at that time, it would have been negative.

Mr. Freitag stated that that is news to him.

Mr. Mertzlufft stated that it wasn't a matter of record.

Mr. Long stated that it was more of a straw vote.

Mr. Freitag stated that it was on the original, larger freestanding sign which is why they have revised the application to be more consistent with USA Gas.

Ms. Hull asked about the SEQR determination; the Board was waiting for that in 2020.

Vice Chairman Merchant asked Mr. Clark if the project is an Unlisted Action.

Mr. Clark answered affirmatively and stated that the Board could classify this as an Unlisted Action and proceed with SEQR; they could make the determination of significance tonight or before the Public Hearing.

Vice Chairman Merchant asked Mr. Clark to proceed.

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Mr. Clark read Part 2 of the Environmental Assessment Form aloud for the Board.

*Short Environmental Assessment Form
Part 2 - Impact Assessment*

Part 2 is to be completed by the Lead Agency.

Answer all of the following questions in Part 2 using the information contained in Part 1 and other materials submitted by the project sponsor or otherwise available to the reviewer. When answering the questions the reviewer should be guided by the concept "Have my responses been reasonable considering the scale and context of the proposed action?"

	No, or small impact may occur	Moderate to large impact may occur
1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Will the proposed action have an impact on the environmental characteristics that caused the establishment of a Critical Environmental Area (CEA)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Will the proposed action cause an increase in the use of energy and it fails to incorporate reasonably available energy conservation or renewable energy opportunities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing: a. public / private water supplies?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

The Board members agreed with each statement; Mr. Clark stated that the Board could declare itself lead agency.

Vice Chairman Merchant scheduled a Public Hearing for 230 Church Avenue for the development of the Sunoco sign and four variances on September 7, 2022 at 7:35 pm.

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Mr. Freitag asked if there are any questions or concerns that he can bring back to the applicant for the next meeting.

Mr. Mertzlufft stated that, pending public comment, this is a significant change for the better.

Mr. Clark asked if the County referral was included in the documents provided to the Board.

It was determined that it was not; Mr. Freitag will provide a copy.

Ms. Hull asked Mr. Freitag if the application was the same when it he referred it to the County.

Mr. Freitag stated that the municipality submits the referral.

Ms. Hull asked if the application changed between 2020 and now; if it is the same must it be referred again.

Mr. Freitag stated that it was the same.

Mr. Clark stated that if it is determined that everything sent to the County was the same then as it is now, then there is no need for referral. If it is determined that it's not the same, then we can refer it.

Mr. Freitag asked if it could be referred before the September meeting.

Mr. Clark stated that there is time to refer it if necessary.

Mr. Freitag thanked the Board.

356 Good Street Area Variance (ZBA 2022-008)

SBL 248.-1-18

Application for an area variance for a proposed garage/mudroom addition.

Mr. Keith Buff of KPB Architecture represented the applicants, Mr. and Mrs. Kniskern, property owners.

Mr. Buff stated that the property is located at 356 Goode Street; the parcel is 1.54 acres in the Rural zoning district. The front yard setback requirement is 100 feet, the rear setback is 60 feet, and the side setback is 50 feet. The building does not fit within those setbacks. He has been hired for three main projects: interior work, a rear addition of an owner's suite on the east side, and a garage/mudroom addition on the north side which is the subject of this application. They are proposing to remove the existing two-car garage and add a new two-car garage further to the north, pushing into the 50-foot setback. A mudroom/laundry room will be a transition between the new garage and the house, which pushes the new garage 18 feet 9 inches into the 50-foot side yard setback and puts it at 31 feet 3 inches from the property line. They are seeking a side yard setback variance on the north side of the property.

Vice Chairman Merchant asked for the dimension from the front of the house.

Mr. Buff stated that it is approximately 19 feet from the front of the porch to the property line.

Ms. Hull asked for details on the interior of the garage; if there will be electricity, water, etc.

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Mr. Buff stated that it will be uninsulated, unfinished, just a garage.

Mr. Long asked if there will be living spaces or business use.

Mr. Buff answered no.

Ms. Hull stated that it will be close to the road that she assumes is for the rear neighbor.

Mr. Buff stated that the neighbor owns the road.

Vice Chairman Merchant asked if they can get more land on the north side, so they don't need a variance.

Mr. Buff stated no, that the road is a driveway to a keyhole lot; it is the only way the neighbor can get to his property.

Vice Chairman Merchant stated that they must ask that question. He polled the Board for questions.

Ms. Kane asked if the new garage is any closer to Goode Street.

Mr. Buff answered no and stated that they are holding the face of the garage straight across.

Vice Chairman Merchant asked if the only variance they need is for the side yard setback.

Mr. Buff answered affirmatively.

Mr. Long asked about the front.

Mr. Stickles stated that a variance is not needed for the front as it is existing, as long as they don't move closer to the road.

Vice Chairman Merchant asked if they would like to move forward and schedule a Public Hearing.

Mr. Buff answered affirmatively.

Vice Chairman Merchant asked if a County referral is needed.

Mr. Clark answered affirmatively.

Vice Chairman Merchant scheduled a Public Hearing for 356 Goode Street for an area variance for a side yard setback for September 7, 2022 at 7:45 pm.

Mr. Buff asked what triggers a Public Hearing; does every project need one.

The Board members answered affirmatively.

Ms. Hull stated that at the Public Hearing the neighbors can speak.

Mr. Buff asked if the Town submits the County referral.

Mr. Stickles answered affirmatively.

Mr. Buff thanked the Board.

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Wellnow Area Variance (ZBA 2022-009)

1508 Route 50, 1502 Route 50, 975 route 67; SBL 216.-1-35, 216.-1-36, 216.-1-37

Application for three area variances for the construction of a health care facility.

Mr. Scott Lansing of Lansing Engineering represented the applicant, Ridgeback Hospitality.

Vice Chairman Merchant stated that tonight the Board will listen to the presentation and get suggestions from the Board members, but they can't act tonight because SEQR has not yet been completed by the Planning Board.

Mr. Lansing stated that he would like to give the Board an introduction to the project. The project is 2.91 acres, 3 parcels, between Routes 50 and 67, just south of USA Gas, in the Mixed Use Center North district. The applicants are proposing a Wellnow facility, which would be built on lot 1. A health care facility is an allowed use so there is no Special Use Permit required. It would be 3,500 Square feet in size. They are proposing access from Route 67 to Route 50 and are working with the Planning Board, NYS DOT (Department of Transportation), and a traffic consultant regarding access. Parking will be to standards. He stated that he feels the project has been received well by the Planning Board. He is seeking lot line adjustments for three lots. They would build on lot 1 and keep lots 2 and 3 for potential future development. There will be public water and sewer. They are asking for three variances. Variance #1 is for the lot area for lot 3; they need .09 acre of relief. Originally lot 1 was 1.13 acres, lot 2 was .97 acres, and lot 3 was .81 acres. They tried to balance the lots and shift the lot lines so lots 1 and 2 will be conforming, and lot 3 will be closer to conformance. They could combine lots 2 and 3 but, in the future, they may be able to put two separate buildings on the two lots; for financing, banks like separate lots so they are trying to keep them separate. Variance #2 is for minimum width for lot 1; they have the required 175 feet on one side but 141.55 feet on the other side as the lot is oddly shaped. Variance #3 is for lot 1; the building will be placed on the Route 67 side of the lot; it doesn't meet the setback on the Route 50 side of the lot. They would like to advance the project.

Vice Chairman Merchant stated that traffic is very backed up there with the school busses in the morning and afternoon.

Mr. Long stated that everything goes through that intersection.

Mr. Lansing stated that they have been working with NYS DOT and a traffic consultant and will be coordinating with the Planning Board and the town engineer; they will make changes if needed.

Vice Chairman Merchant stated that a wellness center would be great. One business in that area would be fine as there are lots of accidents there. Maybe it could be two lots instead of three.

Mr. Long asked Mr. Lansing to explain about banks' reluctance to give loans if two buildings are on one lot.

Mr. Lansing stated that banks, when they provide a loan for a property, want it on an individual parcel so there is no other asset liability associated with whatever they are lending on.

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Mr. Long stated that lots 2 and 3, according to the proposal, are not isolated, there would be common parking and roads. He asked if the bank would pay for roads and for parking.

Mr. Lansing stated that the banks are typically concerned with the structure itself.

Mr. Long stated that they wouldn't be isolated.

Mr. Lansing stated that there is always access from parcel to parcel.

Mr. Long stated that it would probably be the same owner.

Mr. Lansing stated that it could be, but not necessarily.

Mr. Long asked if this is a bank preference; would they refuse to give a loan if the lots are not separate.

Mr. Lansing stated that many times the banks will refuse.

Mr. Long stated that that isn't a consideration of the Board.

Mr. Lansing stated that it is another reason they would like to keep the lots separate and get closer to compliance.

Mr. Long stated that the Board would like to have them compliant.

Mr. Lansing stated that they are making efforts towards that.

Mr. Long stated that lot 1 is adjusted to one acre but the proposed roadway takes away some of that acre.

Mr. Lansing stated that the roadway is more of a driveway.

Mr. Long stated that it will become a roadway.

Mr. Lansing stated that it's a driveway and accessway for the commercial lots.

Mr. Mertzlufft asked who is handling the signage.

Mr. Lansing stated that they haven't gotten that far; they are planning for signage to be in conformance with zoning.

Mr. Mertzlufft stated that it is a unique lot, there is a of congestion and obstruction.

Mr. Long stated that there isn't much separation.

Mr. Mertzlufft stated that whoever does the signage better be on their game.

Ms. Hull stated that she assumes that the additional proposed businesses listed on the drawings are just conceptual.

Mr. Lansing answered affirmatively and stated that they don't know what would go on those lots yet.

Mr. Mertzlufft stated that they have a lot of bridges to cross.

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Vice Chairman Merchant asked Mr. Clark how they should handle it.

Mr. Clark stated that the Board is waiting on the Planning Board for SEQR. The Zoning Board cannot yet take action; they do not have to schedule a Public Hearing but could refer this action to the County.

Mr. Lansing stated that they would appreciate any advancement.

Mr. Clark asked if the Board would like to schedule the Public Hearing; that would not be a problem.

Vice Chairman Merchant stated that he would like to have SEQR finished first.

MOTION: Vice Chairman Merchant made a motion to table the Wellnow project until the next meeting. Mr. Whitton seconded the motion. All in favor. **CARRIED.**

Mr. Lansing thanked the Board.

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

Meeting was adjourned at 8:12 pm.

Respectfully submitted,

Kerri Mains

Kerri Mains
Zoning Board Secretary

July 18, 2022

Dear ZBA Members,

I'm writing to you on behalf of myself and my family at 358 Goode St. We moved to our home late in 2020 and have been enjoying our time here ever since. One of the best parts of our experience has been the friendly people in the area, including our neighbors. Today I'm writing in support of our neighbors Matt and Meg Kniskern.

Matt and Meg recently shared with me some plans for improving their farmhouse. They've informed me of the setback requirements in the new zoning regulations that recently passed. The plans show over 30 ft. of setback from the side of the property boundary. The proposed garage addition is all the way towards the front of our lot, in an area we don't spend time in, aside from driving in and out.

I wanted to let the zoning board know that Matt and Meg have our full support in this matter. We welcome our neighbor's improvement plans and look forward to seeing the added appeal they bring to the neighborhood.

Best regards,



John Steciuk

Phone: 518-860-0797

358 Goode Street