

**TOWN OF BALLSTON
PLANNING BOARD MEETING**

August 31, 2022 6:30 pm

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

ATTENDEES:

John Van Vorst, Chairman
Ben Baskin, Board Member
Peter DiLorenzo, Board Member
Audeliz Matias, Board Member
Michael Zuritis, 1st Alternate
Bill Keniry, Attorney
Andrew Clark, Attorney
Jenny Lippmann, Engineer

ABSENT:

Dave Blair, Board Member
Dale King, Board Member
Patrick Maher, Board Member
Jeff Stickles, Code Enforcement Official

Call to Order

The meeting was called to order at 6:32 pm.

Pledge of Allegiance was led by Chairman Van Vorst

Approval of Previous Minutes

MOTION: Mr. DiLorenzo made a motion to approve the July 27, 2022 meeting minutes as drafted. Mr. Baskin seconded the motion. Ms. Matias abstained. All others voted in favor. **CARRIED.**

OLD BUSINESS

Mangino Buick Building Addition Site Plan (PB 2022-011)

1484 Route 50; SBL 228.-1-53

Site Plan Review and Special Use Permit Amendment for a 10,850 SF building addition. Public Hearing scheduled. SEQRA Unlisted Action, complete.

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Ms. Stephanie Alessandrini of Environmental Design Partnership and **Mr. Michael Coffey** of Mangino Buick GMC.

Ms. Alessandrini stated that she is here on behalf of PTR Properties Group, who want to add a building addition to the existing Mangino Buick GMC building located at 1484 Route 50. The existing parcel is zoned Mixed Use Route 50/67, and the project would be expanding on the existing use. The building addition would be 10,850 SF; the applicant intends to participate in the PDR (Purchase of Development Rights) Program and has paid the required fees. When completed, the total square footage will be approximately 32,500 SF. Tonight, they are here for the Public Hearing and to ask for Site Plan approval and approval of the expansion of the Special Use Permit. She stated that they did receive a letter from the Fire Department which they have forwarded.

Public Hearing open at 6:36 pm.

No one wished to speak.

Public Hearing closed at 6:36 pm.

Chairman Van Vorst asked Mr. Keniry to read through the PDR criteria.

Mr. Keniry stated that this is new for the Board; if they want to make a determination on the project there is a new section of Code on PDR which must be followed. There is a Public Hearing required, and within 45 days of the close of the Public Hearing and completion of the SEQRA process the Planning Board may approve, approve with modifications or conditions, or deny the requested density bonus application. The new section of Code has two important distinctions: the 45-day requirement is inconsistent with the usual 62-day requirement, and there's an additional approval requirement with respect to the density bonus itself.

Chairman Van Vorst asked what the consequences are if the Board does not complete the process within the 45-day time period.

Mr. Keniry stated that it is a silent consequence; there is no default approval. The time period is aspirational in that we want to make it happen in the 45 days but, as we typically do under state law when we're looking at the 62-day provision, in the event there's a concern that an applicant can't get an outstanding item done that prevents acting on the project, the Board and applicant can agree to extend the time period. Significantly, for the Board, a written statement of the findings is required to be prepared by the Planning Board documenting the basis of its decision on PDR. He stated that there are specific findings in the Code to be considered during the decision-making process.

Mr. Keniry read aloud the following from the Town Code:

The findings will include, but not be limited to, the following:

- (a) That the proposed density adjustments would not have a significant adverse impact on the property, or to adjoining property, or to the neighborhood in which the property is situated.
- (b) SEQRA. That all requirements of SEQRA have been met.

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(c) That the proposed project, including the incentive, can be adequately supported by the public facilities available or provided as a result of the project, including but not limited to sewer, water, transportation, waste disposal and fire protection.

(d) That the project is in harmony with the purpose and intent of this chapter, and that the project is sufficiently advantageous to render it appropriate for grant of additional incentives and that the project will add to the long-term assets of the Town of Ballston.

(e) That the use of additional density bonuses for the particular project is consistent with the Comprehensive Plan.

Mr. Keniry stated that the Special Use Permit criteria apply as well due to modifying the existing Special Use Permit.

Chairman Van Vorst asked if there should be a separate motion to approve PDR.

Mr. Keniry stated that he would recommend it; there would be one resolution that would include those criteria. He does not anticipate having a separate resolution.

Mr. Baskin asked what chapter in the Code contains the criteria that was read aloud.

Mr. Keniry stated that it is in Chapter 138-168 A5.

Chairman Van Vorst asked in which order to proceed.

Mr. Keniry stated that he would suggest PDR first, followed by Special Use Permit and then Site Plan.

MOTION: Mr. Baskin made a motion to approve the PDR program as discussed. Mr. DiLorenzo seconded the motion. All in favor. **CARRIED.**

Ms. Matias stated that she is in favor based on the information that was submitted with the application; the added density is consistent with the Comprehensive Plan and will not affect the area.

Mr. Keniry stated that there are a number of specific criteria the Board is required to consider for a Special Use Permit. They are required to consider the public health, safety, and general welfare and the comfort and convenience of the public in general and that of the immediate neighborhood, specific conditions, and general objectives. He then read aloud the following Special Use Permit criteria for members to agree or disagree with:

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

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(b) The location and size of the use, the nature and intensity of the operations involved or conducted in connection therewith, its site layout and its relation to streets giving access to which shall be of such that traffic to and from the use and the assembly of persons in connection with it will not be hazardous or inconvenient to the neighborhood or conflict with the normal traffic of the neighborhood.

(c) The location and height of building, the location, nature and height of walls and fences and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the proper development and use of adjacent land and buildings or impair the value thereof.

(d) The public convenience and welfare will be substantially served, and appropriate use of neighboring property will not be substantially or permanently injured, subject to appropriate conditions and safeguards, as determined necessary to promote the public health, safety and welfare.

All Board members agreed to each item.

MOTION: Mr. DiLorenzo made a motion to approve the amended Special Use Permit. Ms. Matias seconded the motion. All in favor. **CARRIED.**

Chairman Van Vorst stated that the applicant's escrow account is in arrears and must be updated.

Mr. Coffey asked for the amount.

Chairman Van Vorst stated that it is currently about \$595 but may increase as some invoices may not yet be submitted. He stated that the site plan approval will be conditional on payment, and mylars will not be signed until payment is made.

MOTION: Mr. DiLorenzo made a motion to approve the Site Plan for the August 2022 plan date contingent upon the escrow account being paid. Mr. Baskin seconded the motion. All in favor. **CARRIED.**

Mr. Coffey asked if he should just bring in a check for \$1000.

Ms. Lippmann stated that she will provide a final number.

The applicants thanked the Board.

Insite Northeast Minor Subdivision (PB 2022-010)

28 Diamond Road; SBL 249.00-3-72.2

Minor Subdivision to divide the parcel into three single-family residential lots. Public Hearing continued. SEQRA Unlisted Action, open.

Ms. Sarah Hubbard, property owner, and **Mr. David Hubbard**.

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Ms. Hubbard stated that she is here with her father-in-law; she resides at 28 Diamond Road. They are here for a minor subdivision, proposing a three-lot division on Diamond Road. Lot three has an existing home as noted on the plan, and they plan to subdivide the adjacent field into two lots. The proposed septic systems are drawn as planned, and all appropriate setbacks have been considered; they plan to build on lot 1 within the next year but there is no plan for lot 2 at this time.

Chairman Van Vorst stated that the Board normally approves maps that include the neighbors' wells and septic systems, which the applicant's map lacks. He stated that the map must be updated to indicate them.

Ms. Hubbard said ok.

Public hearing open at 6:54 pm.

No one wished to speak.

Chairman Van Vorst stated that the County referral letter suggested that the map include a sketch indicating where the anticipated house and driveway will be, including side and rear setbacks; the map must be updated.

Mr. Keniry stated that SEQR is still open.

Ms. Lippmann presented Part 2 of the Short Environmental Assessment Form and read the questions aloud for Board members to agree with the determination of impact (see form below).

All Board members agreed with each item.

Ms. Lippmann stated that the Part 3 Determination of Significance was drafted to say that it has been determined that, based on the information and analysis above and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts; it is available for the Chairman's signature (see form below).

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Agency Use Only [If applicable]

Project:	28 Diamond Road [2022-010]
Date:	8/31/22

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? b. public / private wastewater treatment utilities?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	<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"/>

PRINT FORM

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Agency Use Only (If applicable)

Project: 28 Diamond Road [2022]

Date: 8/31/22

*Short Environmental Assessment Form
Part 3 Determination of Significance*

For every question in Part 2 that was answered "moderate to large impact may occur", or if there is a need to explain why a particular element of the proposed action may or will not result in a significant adverse environmental impact, please complete Part 3. Part 3 should, in sufficient detail, identify the impact, including any measures or design elements that have been included by the project sponsor to avoid or reduce impacts. Part 3 should also explain how the lead agency determined that the impact may or will not be significant. Each potential impact should be assessed considering its setting, probability of occurring, duration, irreversibility, geographic scope and magnitude. Also consider the potential for short-term, long-term and cumulative impacts.

<input type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action may result in one or more potentially large or significant adverse impacts and an environmental impact statement is required.
<input checked="" type="checkbox"/>	Check this box if you have determined, based on the information and analysis above, and any supporting documentation, that the proposed action will not result in any significant adverse environmental impacts.
Town of Ballston Planning Board	8/31/22
_____ Name of Lead Agency	_____ Date
John VanVorst	Planning Board Chairperson
_____ Print or Type Name of Responsible Officer in Lead Agency	_____ Title of Responsible Officer
_____ Signature of Responsible Officer in Lead Agency	_____ Signature of Preparer (if different from Responsible Officer)

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Public Hearing closed at 6:58 pm.

MOTION: Mr. DiLorenzo made a motion that the Town of Ballston Planning Board make a Negative Declaration of Environmental Significance under SEQR. Mr. Zuritis seconded the motion. All in favor. **CARRIED.**

Chairman Van Vorst polled the Board for questions or concerns regarding Site Plan Approval.

Chairman Van Vorst stated that site plan approval would include the conditions of the map being updated to include the neighbors' wells and septic systems as well as a sketch of the anticipated placement of the house and driveways.

Mr. Baskin stated that when an applicant wants to subdivide and the plan is to build, but the building itself is not before the Board yet because it's in the future, he wonders how much to consider that they're telling us they're going to build as that building is not on the current agenda.

Chairman Van Vorst stated that the next step would be for the applicant to apply for a building permit, and that's when the site is evaluated.

Ms. Lippmann stated that the sketch of the hypothetical house, driveway, and septic system is to prove that there is sufficient space for the property to be a logical building lot; that the setbacks and requirements can be met and there's space for a well or septic system, etc. so that a building could actually be built there.

Ms. Matias stated that in this case there is plenty of space.

Mr. Zuritis stated that they are not locked into that placement.

Ms. Lippmann stated that that is correct; when they eventually apply for a building permit the Building Department staff will ensure that the actual plans meet building codes and zoning laws.

Mr. Baskin asked if the Board should be concerned with the third lot (lot 2).

Ms. Lippmann stated that the map should show a hypothetical house and driveway on the third lot.

Ms. Hubbard stated that there is no plan to build on lot 2.

Mr. Zuritis stated that the purpose of the sketch is to show that it could be built.

Ms. Lippmann stated that it's to show that it's a useable lot.

MOTION: Mr. DiLorenzo made a motion to approve the Minor Subdivision at 28 Diamond Road with the conditions of updating the map to show the wells and septic systems of neighboring properties, and the hypothetical houses and driveways on all proposed lots, for the map dated August 9, 2022. Ms. Matias seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

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Wellnow Site Plan (PB 2022-008)

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

Site Plan Review, Special Use Permit, and Lot Line Adjustment for proposed 3,500 SF Health Care facility with associated driveway and parking lot. SEQRA Unlisted Action, open.

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

Mr. Lansing stated that the project was before this Board in June; they have variances before the Zoning Board as well. They appreciate the Planning Board reviewing the project concurrently while they work with the Zoning Board. The project is approximately 2.91 acres, has three existing parcels, and is located between Routes 50 and 67 in the Mixed Use Center North district. They are proposing a Wellnow Health Care facility on the northernmost lot; health care facilities are an allowed use. The proposed facility is 3,500 SF on lot 1. They feel that the access is appropriate; 20 parking spaces are required and 33 are proposed. They believe that the project was well received by the Planning Board in June. He stated that they had three variances before the Zoning Board; they have made adjustments and will now request two area variances. The first will be for the size of lot 3; lot 1 conforms, lot 2 will be brought into conformance, and lot 3 will be closer to conformance. The second variance will be for the front yard setback, one side meets the requirement but the other does not. Mr. Lansing stated that there was an engineering comment regarding traffic, with the potential for the roadway to be used as a cut-through. A prepared traffic study does not see this roadway as a cut-through and has been provided to NYS DOT (Department of Transportation); they expect to receive a positive result from DOT. They will address the other engineering comments in a response letter before the next meeting. He stated that tonight they are requesting consideration of a conditional negative declaration of SEQRA; they cannot advance with the Zoning Board until they have a negative declaration. They are working on the archaeology study, there were some findings so additional studies are needed. As the project cannot advance until archaeology is done, they feel that the Planning Board process is safe. They are hoping for a negative declaration conditioned on archaeology which would allow them to complete the Zoning Board process, return to the Planning Board, and would allow the process to go faster.

Chairman Van Vorst polled the Board regarding a conditional SEQRA determination.

Mr. Baskin stated that he would be ok with it if the only condition were archaeology.

Chairman Van Vorst asked Mr. Lansing to explain the archaeological work being done.

Mr. Lansing stated that there are existing structures and/or there may have been an existing foundation on the site. Phase one does research as well as test kits on the site, which found some historic artifacts. They then look at test kits in more concentrated areas. Phase one narrows it down into a few smaller areas, phase two looks harder at those smaller areas. There are structures that are potentially eligible for the National Register so SHPO (State Historic Preservation Office) requires documentation of the structures prior to being involved. The

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applicants are working on the phase two study and the architectural survey of the homes on the parcels. That work is progressing now, and the archaeologist is coordinating with SHPO.

Chairman Van Vorst asked if there is mitigation if they find significance.

Mr. Lansing stated that mitigation would be in the form of phase three work where there is more investigation in a more concentrated area with a plan for findings to be procured or the additional work documented in a report to SHPO.

Mr. Baskin asked if there is a scenario where the project can't be done due to significant findings.

Mr. Lansing answered no, as long as the applicants are willing to continue; there is a plan for phase two and phase three in place. The only reason to stop would be not wanting to spend the money on additional studies.

Mr. Zuritis asked if Ms. Lippmann is ready for the negative declaration.

Ms. Lippmann stated that she did not prepare it but could go through the questions; she would defer to counsel.

Chairman Van Vorst stated that he would not be comfortable with proceeding with a conditional SEQR determination.

Mr. Keniry stated that there are some State regulations; he provided guidance from the NYS DEC (Department of Environmental Conservation). He stated that a conditioned negative declaration must be an Unlisted Action, which this project is. In that instance the lead agency can use the conditioned negative declaration procedure for which the following elements are necessary: a Full EAF (Environmental Assessment Form) has been prepared (he stated that in this case a short form has been submitted), a coordinated review has been completed, the SEQR conditions imposed have eliminated or reduced the identified potentially significant adverse impacts to a non-significant level, the notice is filed and published the same as for a Type 1 Action (he interprets that it could be published after the conditioned negative declaration is made), and a 30-day minimum public comment period has been provided which must state what conditions have been imposed. He stated that the following is, in his view, the fundamental problem for this project: the State clearly states that the conditions appropriate for use in a conditioned negative declaration are those outside the normal jurisdiction of the agency, and a condition that requires analysis of the results of a future study is inappropriate; such information must be available prior to determining significance. If comments are received, that in the lead agency's judgement, support the preparation of a draft EIS (Environmental Impact Statement), or if the applicant requests an EIS then you can go forward with that but he does not see going down that path, from the engineering or applicant's perspective. Mr. Keniry stated that he interprets the DEC guidance as how can conditions be imposed that are going to mitigate conditions that have been identified to be significant when you don't necessarily know yet what they are. He doesn't feel that the problem can be solved by submitting the Full EAF; the outstanding study is an issue.

Ms. Lippmann stated that even if the applicant submitted the Full EAF, by the time it's received, lead agency is declared and the coordinated review is sent out, there's probably no time gained.

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Mr. Keniry stated that there is no faster track, as the Zoning Board won't act until SEQR is completed.

Chairman Van Vorst asked for Mr. Lansing's response.

Mr. Lansing stated that he was not aware that it was conditioned on future studies, they were hoping it was possible. They will press on with archaeology as much as possible.

Chairman Van Vorst stated that the study seems to be the hurdle at this point.

Mr. Lansing stated that it will get done, they were hoping to move forward with the Zoning Board of Appeals while they were doing the study. They can outline the reduction in variances with the Zoning Board and perhaps they'll set the Public Hearing.

Chairman Van Vorst asked for Mr. Lansing's response to the comment that people are going to use this as a cut-through and asked if they could change the design to discourage it.

Mr. Lansing stated that they worked with a traffic engineer and this was the most convenient and effective access management for the three lots.

Chairman Van Vorst asked if they considered moving the building further south with the entrance and exit to the north to create a snake-like pattern.

Mr. Lansing stated that they looked at several configurations; this configuration was preferred by the applicant.

Mr. Zuritis asked if they could tweak the parking and add some in the middle so cars would have to go around to do a cut-through.

Mr. Lansing cited some data regarding the number of trips and traffic maneuvers on each road.

Ms. Lippmann stated that she reviewed the traffic information and has looked at the gas station to the north that has a very direct cut-through and there doesn't seem to be concern with people cutting through, so looking closer she doesn't have as much of a concern as before.

Chairman Van Vorst stated that he has been at that intersection and has seen tractor trailers trying to make that turn and it's almost impossible without running over other vehicles, so it almost seems as though it may be an advantage to have the cut-through but he can understand DOT's and others' concern about not wanting it to be a cut-through. He stated that perhaps the tractor trailers trying to make that turn are lost or have missed the Brookline turn.

Chairman Van Vorst polled the Board for questions or comments.

Mr. Baskin asked for the Wellnow hours of operation.

Mr. Lansing stated that he will have to check.

Mr. Baskin asked if it was open 24 hours.

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Mr. Lansing stated that he didn't think so.

Ms. Lippmann stated that she looked up another Wellnow location and the hours are 8 am to 8 pm.

Chairman Van Vorst stated that if the archaeological study is not done by submission date then the Board won't see the applicant next month.

Mr. Lansing answered that that is correct.

Ms. Lippmann stated that she will get the SWPPP (Stormwater Pollution Protection Plan) comments to the applicant.

Chairman Van Vorst stated that the traffic report mentioned a signalized intersection at Brookline Road and Route 67 but that isn't accurate.

Mr. Lansing stated that he will correct it and thanked the Board.

NEW BUSINESS

No new business.

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

Meeting was adjourned at 7:26 pm.

Respectfully submitted,

Kerri Mains

Kerri Mains
Planning Board Secretary