



# TOWN OF BALLSTON ZONING BOARD OF APPEALS MEETING

**September 6, 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](http://www.townofballstonny.org)

## **ATTENDEES:**

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

## **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 July 5, 2023 meeting minutes. Mrs. Dunham seconded the motion. **CARRIED.**

## **OLD BUSINESS**

No old business.

## **NEW BUSINESS**

### **267 Eastline Road Variance (ZBA 2023-012)**

SBL 239.16-2-75

Application for a front yard accessory structure variance for the construction of a garage.

**Mr. Dustin Bruhns**, property owner.

Mr. Bruhns stated that there is no location for the garage other than the one proposed. There is no property available behind the house due to wetland restrictions.

Mr. Merchant asked for the distance from the lot line to the proposed garage.

Mr. Bruhns stated that the back side of the garage meets the minimum requirement of 30 feet at the closest point and is approximately 50 feet at the widest point, as the property line is at an angle. The front setback is almost



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200 feet. The Code does not allow an accessory structure in front of the primary residence. The garage will meet all setbacks. No wetlands will be disturbed; per the Army Corps of Engineers no setback is required from the buffer line. The structure will be located approximately five feet from that line. For agricultural data purposes, none of that property will be disturbed in the construction of the building.

Mrs. Dunham stated that there is a small red structure on the property and asked if that is where the garage will be.

Mr. Bruhns stated that it will be approximately five feet further back from the road than that structure and will start at the back of that structure.

Mr. Long asked if the that structure will be removed.

Mr. Bruhns stated that that is the intent.

Mr. Zampella asked if the garage will be visible from the Eastline Road.

Mr. Bruhns stated that it will be visible until vegetation grows to hide it; he estimated five to ten years.

Mr. Long stated that he took a picture from Google maps; it will be easily visible for a long time. He and Mr. Bruhns reviewed the photo and discussed the visibility and the location of the neighbor's house, which belongs to Mr. Bruhns' brother-in-law.

Mr. Zampella asked if Mr. Bruhns has spoken with the neighbor.

Mr. Bruhns answered affirmatively and stated that it belongs to his brother-in-law.

Mr. Long stated that the driveway is shared and asked if they will share the garage.

Mr. Bruhns stated that his brother-in-law is building his own garage.

Mr. Long stated that that the plan shows a cellar egress on the southern end of the house and asked what it is used for.

Mr. Bruhns stated that it is an egress window into the basement; it was installed to meet Code; it is not a Bilco door.

Mr. Whitton asked what the distance is between the garage and the wetlands buffer line.

Mr. Bruhns stated that, after construction, it will be approximately five feet. He has told the excavator that the buffer line cannot be disturbed.

Mr. Whitton stated that the Board prefers some space between a structure and a boundary line for maintenance; five feet is fine.

Mr. Bruhns stated that that is roughly the location; it will be located just beyond the turnaround of his driveway.

Mr. Long stated that it looks like there is room in the backyard for the garage.



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Mr. Bruhns stated that the house foundation meets depth requirements and sits five feet above grade; his leach field is in front of the house. The driveway has an aggressive slope; to add additional driveway into the back yard for an accessory structure would be costly and would require retaining walls to avoid spilling over into the buffer zone. Locating the garage in the front would prevent that.

Mr. Long stated that it looks flat. Mr. Whitton showed him an alternate image and they discussed alternate locations for the garage; Mr. Whitton stated that Mr. Bruhns would have to drive over the leach field to put it elsewhere.

Mr. Bruhns stated that the slope from the driveway to the ground is four to five feet; his leach field is large and is his entire front yard.

Mr. Long stated that the cellar egress area could be a driveway to a garage in the back yard.

Mr. Bruhns stated that he would have to drive over the septic tank; it's not an option.

Mr. Mertzlufft asked if the driveway to his brother-in-law's garage crosses the property line.

Mr. Bruhns answered no; his brother-in-law's driveway has changed since the drawings were done. The access will be on the south end of that garage; the doors will face his brother-on-law's house.

Mr. Long asked if his brother-in-law's garage is in the front yard of his brother-in-law's property.

Mr. Vaverchak explained the requirements and stated that it is considered the side yard of that property.

Mr. Mertzlufft stated that he knows Mr. Bruhns is trying to work within the limitations of his property but he feels this is not a variance, it is a waiving of the rule and he is concerned that others may want something similar. The Code was written for good reasons.

Mr. Long stated that the rule would go away for everybody; the variance goes with the property, not the applicant.

Mr. Bruhns stated that he understands but there is no other feasible location for an accessory structure.

Mr. Mertzlufft stated that that is correct; they bought the land knowing the conditions and built the house. This is a difficult one for him.

Mr. Long stated that it's a shame the house wasn't put elsewhere on the property; there would have been room for a garage.

Mr. Bruhns stated that there weren't many options for where to place the house. The property was a subdivision by his father-in-law and the property was gifted to his wife; maybe the garage wasn't considered at the time.

Mrs. Dunham asked how old the house is.

Mr. Bruhns stated that it is approximately three years old.

Mr. Mertzlufft asked why Mr. Bruhns wants a garage and what the dimensions are.



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Mr. Bruhns stated that he would like to store vehicles and a tractor. It will be 40 feet wide by 30 feet deep.

Mr. Long asked if he needs one that big.

Mr. Bruhns stated that the size is due to what will be stored. It will be a three-car garage so that's 40 feet wide, and his truck is large, so he made it 30 feet deep. He may store a camper or boat in the future; the intent was that a larger vehicle could be stored.

Mr. Mertzlufft stated that a Public Hearing would be required as a matter of standard procedure.

Mr. Long stated that the deed is dated July 9, 2020.

Mr. Bruhns stated that the subdivision was made before he was married and then the house was built. His name was added to the deed in 2020 when the mortgage was finalized; it was subdivided and gifted to his wife before that.

Mr. Long stated that the subdivision was made in 2019.

Mr. Merchant asked for the lot acreage.

Mr. Bruhns stated that his lot is approximately two acres; other family members own additional acreage.

Mr. Mertzlufft stated that, as a reference point, subdivisions in that zone must now be a minimum of two acres; applicants must deduct wetlands and seek an area variance. Zoning for building houses has become more stringent; it is the trend for that area.

Mr. Bruhns stated that that makes sense as there are a lot of developments on Eastline Road on smaller lots. His property is different in that it is on Eastline Road itself and is not in a neighborhood. He maintains much of the property of the estate and has equipment which is another reason for the size of the garage.

Mr. Merchant asked Mr. Vaverchak if the wetlands come into play.

Mr. Vaverchak stated that these wetlands don't have a buffer, so the Building Department has no issue with them. The closest New York State Department of Environmental Conservation (DEC) wetlands, with their required 100-foot buffer, fall within Mr. Bruhns' father-in-law's property.

Mr. Long stated that Mr. Bruhns could build right up to the wetlands.

Mr. Vaverchak stated that he could legally, but the Building Department does not recommend that.

**MOTION:** Mr. Whitton made a motion to declare this action a Type 2 Action under SEQR, exempt from review. Mr. Zampella seconded the motion. All in favor. **CARRIED.**

**MOTION:** Mr. Whitton made a motion to schedule a Public Hearing for October 4, 2023 at 6:30 pm. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

Mr. Bruhns asked why visibility from the road would be an issue.



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Mr. Zampella stated that he brought it up as a matter of precedent.

Mr. Bruhns stated that it will be over 200 feet from the road frontage.

Mr. Clark stated that, in considering area variances, the Board looks at the benefit to the applicant as well as the detriment to the community; many things are considered.

Mr. Bruhns stated that that is understandable. There are many farms on that road with barns; he can't imagine that a new structure would be considered an eyesore.

Mr. Zampella stated that it's not that it may be an eyesore, the concern is that people may see the structure and want to do the same.

Mr. Bruhns thanked the Board.

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

Meeting was adjourned at 6:59 pm.

Respectfully submitted,

*Kerri Mains*

Kerri Mains  
Zoning Board Secretary