

**TOWN OF BALLSTON
ZONING BOARD MEETING**

October 5, 2022 7:30 pm

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

ATTENDEES:

Mike Lesniak, Chairman
Steve Merchant, Vice Chairman
Annetta Dunham, Board Member
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
Bill Keniry, Attorney

ABSENT:

Samuel Dorsey, 1st Alternate

Call to Order

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

Pledge of Allegiance was led by Mr. Merchant.

Approval of Previous Minutes

MOTION: Mr. Merchant made a motion to approve the September 7, 2022 minutes as drafted. Mr. Long seconded the motion. All in favor. **CARRIED.**

OLD BUSINESS

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 a front setback variance for the construction of a health care facility. SEQRA Unlisted Action, open.

There was no representation for the Wellnow project this evening.

MOTION: Ms. Kane made a motion to postpone the Wellnow area variance until the November meeting. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

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76 Connolly Road Area Variance (ZBA 2022-010)

SBL 239.14-1-8

Application for a side yard setback variance for the construction of a garage. Public Hearing scheduled.

Mr. Mark Maher and Mrs. Monica Maher, property owners of 76 Connolly Road.

Chairman Lesniak stated that that it is his understanding that the applicants want to build a one stall garage. They have a three-foot side yard setback and are required to have 12 feet; they are asking for a nine-foot variance.

Mr. Maher answered affirmatively.

Chairman Lesniak stated that the applicants want to build a 16 foot by 28 foot by 18-foot garage to replace a woodshed and storage shed that are currently on the property line. He asked if those are coming down.

Mr. Maher answered affirmatively.

Mr. Merchant asked if they are going to remove both sheds.

The applicants stated that they are just going to remove the dilapidated one; they already removed the woodshed and are leaving the one in good condition.

Mr. Merchant stated that at the last meeting they talked about adding the rest of the measurements to the application, but the Board doesn't have them.

Mr. Maher stated that he has the updated application and asked if it made it to the Board.

Mr. Merchant answered no and stated that the Board has the application from the last meeting.

Chairman Lesniak asked to see the updated application. He stated that the applicants need a lot of variances due to conditions that are not in the applicants' control and listed some of them.

Mr. Keniry asked if they are preexisting conditions.

Chairman Lesniak answered affirmatively.

Mr. Keniry stated that he gathers that the only new relief is the side yard setback.

Chairman Lesniak answered affirmatively and stated that the Board likes to go over the whole thing and get it into the record. The other thing is 280-A.

Mr. Keniry stated that that was done in 1994.

Chairman Lesniak stated that he would like a copy for the Board's record as the application they have only lists the three-foot side yard setback and the required 12 feet.

Mr. Maher stated that he did it that way because that was the requested variance.

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Chairman Lesniak stated that the updated application has the side yard setback as 2.5 feet instead of three feet but that's okay. The Board scheduled the Public Hearing because they didn't see any major problems with it. He asked how the neighbors are with the project.

Mr. Maher stated that they are great with it.

Ms. Hull asked if the sheds are approximately in line with what they want to do now, including the dilapidated shed.

Mr. Maher stated that that is correct, they were on the same three-foot line.

Chairman Lesniak stated that they are asking for a lot; they do have the room without being on somebody else's property. The variances go with the land, not the people, so the Board tries to minimize potential conflicts.

Chairman Lesniak asked if anyone from the public would like to speak.

Public Hearing open 7:40 pm.

No one wished to speak.

Public Hearing closed 7:41 pm.

Ms. Kane asked if the garage is two stories.

Mr. Maher answered affirmatively and stated that there were drawings with the original package.

Chairman Lesniak asked if there will be living quarters.

Mrs. Maher stated that it will just be storage.

Ms. Kane asked if there will be any business use.

Mr. and Mrs. Maher answered no.

Mr. Merchant read aloud the area variance criteria 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. Merchant stated no.)

[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. Merchant stated no.)

[3] Whether the requested area variance is substantial; (Mr. Merchant 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; (Mr. Merchant stated no.) and

[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. Merchant stated no.)

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Chairman Lesniak asked if SEQR is settled.

Mr. Merchant answered affirmatively.

Ms. Kane asked if the motion should be for 9.5 feet or nine feet.

Chairman Lesniak answered nine.

MOTION: Ms. Kane made a motion for 76 Connolly Road for the construction of a garage that is 16 feet by 24 feet by 18 feet high, for a nine-foot variance per chapter 138 attachment 7. Ms. Dunham seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

88 Connolly Road Area Variances (ZBA 2022-011)

SBL 239.14-1-2

Application for lot size, lot width, and front setback area variances for the construction of a single-family residence. Public Hearing scheduled.

Mr. Gavin Vuillaume of Environmental Design Partnership, LLP and **Mr. Adam Riggi**, property owner of 88 Connolly Road.

Chairman Lesniak stated that the applicant needs a few variances: .38 acres for lot size, 98 feet for lot width, and 60 feet for front setback. The side and rear yard setbacks are okay. He asked if there is anything the applicant would like to add.

Mr. Vuillaume stated that they presented it at the last meeting and pointed out a few things that are really the same dimension as a lot of the other homes that are currently on the lake. Most average about 80 feet from the shore and they are within that. They will connect to the sewer system now that sewer is available, so septic is not needed. They think that the request is validated.

Chairman Lesniak asked if SEQR was done last month.

Mr. Keniry answered affirmatively.

Chairman Lesniak polled the Board for questions, then asked if anyone from the public would like to comment.

Public Hearing open 7:49 pm.

No one wished to speak.

Public Hearing closed 7:50 pm.

Ms. Kane read aloud the area variance criteria for the Board to consider.

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[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; (Ms. Kane stated no.)

[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; (Ms. Kane stated no.)

[3] Whether the requested area variance is substantial; (Ms. Kane stated that it is.)

[4] Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; (Ms. Kane stated no.) and

[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. (Ms. Kane and Chairman Lesniak stated no.)

Chairman Lesniak polled the Board for questions or comments.

Ms. Kane stated that they need to address 280-A.

Mr. Vuillaume stated that the road is maintained, and Mr. Riggi is aware of it.

Mr. Riggi stated that they pay someone to maintain the road.

Mr. Long asked if there is a contract for the maintenance.

Mr. Riggi stated that he receives a bill every March.

Mr. Long stated that it's not a backyard handshake.

Mr. Riggi answered that it's not.

MOTION: Ms. Kane made a motion to grant 280-A to 88 Connolly road. Mr. Merchant seconded the motion. All in favor. **CARRIED.**

MOTION: Mr. Merchant made a motion for Adam Riggi at 88 Connolly Road for zoning law 138-23, for a lot variance of .38 acres, a lot width variance of 98 feet, and a front setback variance of 60 feet, for the construction of a new home. Ms. Kane seconded the motion. All in favor. **CARRIED.**

Burnt Hills Family Dental Area Variances – (ZBA 2022-012)

154 Lakehill Road, SBL 257.10-1-75

Application for an area variance for expanding a nonconforming business, and a front setback area variance (because it is a corner lot) for a proposed building addition to an existing dental clinic. Public Hearing scheduled.

Ms. Kristen Houghton of Hyman Hayes Associates, LLC represented the applicant, **Mr. James Hansen** of Burnt Hills Family Dental.

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Chairman Lesniak stated that the Board did not address SEQR as an Unlisted Action and it's filled out as a short form. He stated that the applicant was before the Board last month and a Public Hearing is scheduled.

Mr. Keniry stated that it's perfectly fine to go forward with the Public Hearing. The Board always maintains the right and the authority to visit and revisit SEQR at any time. He stated that he thinks Mr. Merchant wants him to classify this as an Unlisted Action and take the Board through the criteria. He asked if that is correct.

Mr. Merchant answered affirmatively.

Mr. Keniry presented Parts 2 and 3 of the SEQRA Short Environmental Assessment Form and read the questions aloud for the Board to consider. He stated that there are two choices in terms of answers to each question: "no, or small impact may occur" or "moderate to large impact may occur." He also offered the suggested answers for each question, which, for this project, were "no, or small impact may occur."

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***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 type="checkbox"/>	<input type="checkbox"/>
2. Will the proposed action result in a change in the use or intensity of use of land?	<input type="checkbox"/>	<input type="checkbox"/>
3. Will the proposed action impair the character or quality of the existing community?	<input 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 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 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 type="checkbox"/>	<input type="checkbox"/>
7. Will the proposed action impact existing:		
a. public / private water supplies?	<input type="checkbox"/>	<input type="checkbox"/>
b. public / private wastewater treatment utilities?	<input type="checkbox"/>	<input type="checkbox"/>
8. Will the proposed action impair the character or quality of important historic, archaeological, architectural or aesthetic resources?	<input 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 type="checkbox"/>	<input type="checkbox"/>
10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems?	<input type="checkbox"/>	<input type="checkbox"/>
11. Will the proposed action create a hazard to environmental resources or human health?	<input type="checkbox"/>	<input type="checkbox"/>

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***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 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.	
Name of Lead Agency	Date
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)

The Board members considered and agreed with the answers and determination.

Mr. Keniry stated that if it meets with Board approval he will check the box and also have the Chairman sign, indicating that the Board has determined, based on the information and the analysis and any supporting documentation provided by the applicant or the applicant's representative that the proposed action will not result in any significant adverse environmental impacts.

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MOTION: Mr. Merchant made a motion to declare a Negative Declaration of Environmental Significance under SEQR for 154 Lakehill Road. Ms. Dunham seconded the motion. All in favor. **CARRIED.**

Chairman Lesniak stated that the applicant is his dentist. He needs a lot size variance of .177 acres and a side yard variance of 8.2 feet. The project is a SEQR Unlisted Action and they have declared a Negative Declaration. He asked if anyone from the public would like to address this.

Public Hearing open 8:01 pm.

No one wished to speak.

Public Hearing closed 8:02 pm.

Ms. Hull stated that if the addition is spun around to the north side, they wouldn't need a variance. She asked Ms. Houghton to explain why that's not happening.

Ms. Houghton stated that the layout inside would increase the amount of renovation they would have to do, and they would have to completely shut down while building the addition. The way the layout is in the existing building, putting the addition on the one side gives easier access out and then the business can be left as is in the existing building while they build the addition.

Mr. Mertzlufft stated that he asked last time if there is any intention to put up a natural barrier or fence as that moves out towards the lot line, towards the neighbor.

Ms. Houghton stated that they plan to put up new screening between the dental clinic and the neighbor. The neighbor is fine with the addition.

Mr. Mertzlufft asked Ms. Houghton to define screening.

Ms. Houghton stated that they would probably put in bushes.

Mr. Long stated that there is a tall line of trees already there.

Ms. Houghton stated that they may have to come down for construction, depending upon how close they are. If so, they will put in new, but the plan is to keep what's there but trim it.

Mr. Merchant stated that the garage is close.

Ms. Houghton stated that the garage is in line with where it's going to land.

Mr. Long read aloud the area variance criteria 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. Long stated no.)

[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. Long stated no.)

[3] Whether the requested area variance is substantial; (Mr. Long stated no.)

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

[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. Long stated no.)

MOTION: Mr. Merchant made a motion for James Hanson at 154 Lakehill Road for the construction of a building addition for zoning law 138-6 for an area use variance of .177 acres and a side yard setback variance of 8.2 feet contingent on approval of the County of Saratoga.

Mr. Keniry stated that this is the one that does not yet have the County Planning Board's response so the Board really can't take that final action. He stated that the way State law has evolved, the Board can't make a final determination until after the County Planning Board responds. He feels bad for the applicant, but he is sure they are sensitive to it too and don't want an invalid approval.

Chairman Lesniak stated that they shouldn't make it contingent.

Mr. Keniry stated that the better course of action is to stop and not act. State law is evolving in a manner contrary to Boards trying to insert that contingency.

Mr. Mertzluft asked when the expansion is supposed to happen.

Ms. Houghton stated that it would happen as soon as they get approval from everybody.

Chairman Lesniak asked if they are still working with the Planning Board.

Ms. Houghton answered affirmatively; they must go to the Planning Board once they get approval here.

Chairman Lesniak stated that he hates to do it, but Mr. Keniry is correct.

Mr. Merchant asked if the Board should make a motion to table this applicant.

Mr. Keniry answered affirmatively, pending the County Planning Board response; this does preclude the applicant from going forward to the Planning Board at this point. He stated that the Planning Board will not act on the final site plan until this relief is granted.

Chairman Lesniak stated that the reason the County must get involved is that it's on a County road.

MOTION: Mr. Merchant made a motion to table the 154 Lakehill Road application contingent upon Saratoga County Planning Board review. Ms. Kane seconded the motion. All in favor. **CARRIED.**

Chairman Lesniak apologized to Ms. Houghton.

Ms. Houghton stated that she understood and thanked the Board.

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2 Robinhoods Court Area Variance (ZBA 2022-013)

SBL 239.-2-38.3

Application for a front setback variance for a newly built single-family residence. Public Hearing scheduled.

Mr. Gary Manilenko, property owner of 2 Robinhoods Court.

Chairman Lesniak stated that Mr. Manilenko needs a nine-foot front yard setback variance. This is a unique situation where the HOA (Homeowner's Association) owns 90 feet from the road so in actuality the home is 90 feet plus 51 feet for a total of 141 feet from Lancaster Court. If they grant the variance, that's how they should address it. He asked if Mr. Manilenko ever talked to the HOA to see if he could get nine feet.

Mr. Manilenko stated that he didn't.

Chairman Lesniak stated that someone came to him after the last meeting and stated that usually HOAs will accommodate such a request, but the Board can proceed with what we have here. He asked if Mr. Manilenko had anything to add.

Mr. Manilenko stated that he didn't want to muddy the waters and create more paperwork. The HOA and the people he has dealt with there have been very nice when he had to get the easement and he didn't want to create more paperwork and get attorneys involved.

Ms. Hull asked if he would feel safer having something in writing from the attorney in case there's a problem down the road.

Mr. Manilenko stated that with a variance he's not sure how that would be a problem.

Other Board members stated that with a variance there would not be a problem.

Ms. Hull asked if a land survey was done before he started building.

Mr. Manilenko answered affirmatively and stated that once the house is done the surveyor has to come back to plot the footprint of the house and that's when this was discovered. When placing the house, he was concerned with having enough distance for placement of a gravity sewer.

Chairman Lesniak stated that the wet land was an issue, from what he remembers.

Mr. Manilenko stated that it was an issue; they placed the house so it would not have a damp basement.

Chairman Lesniak polled the Board for questions and asked if SEQR was done.

Mr. Keniry answered affirmatively.

Chairman Lesniak asked if anyone from the public would like to address this project.

Public Hearing open 8:13 pm.

No one wished to speak.

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Public Hearing closed 8:14 pm.

Mr. Merchant read aloud the area variance criteria 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. Merchant stated no.)

[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. Merchant stated no.)

[3] Whether the requested area variance is substantial; (Mr. Merchant stated no.)

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

[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. Merchant stated yes.)

Chairman Lesniak stated that if they make the motion, he wants to include that the HOA has 90 feet, Mr. Manilenko needs nine feet, and the house is actually 141 feet from Lancaster Court, if that's okay with the rest of the Board. He thinks that would appropriate if something ever comes up in the future.

MOTION: Ms. Kane made a motion for 2 Robinhoods Court for the construction of the home; front yard setback of nine feet from the 60 feet; 90 feet is owned by the HOA first, for 141 feet from Lancaster Court.

Mr. Keniry stated that he thinks what Ms. Kane is saying is that the requirement is 60 feet in terms of the measured setback; the applicant is proposing 51 feet so therefore this Board, if it prevails, is granting relief of nine feet while recognizing the fact that the setback is from that lot line, not that the lot abuts the road.

The Board voted and all were in favor. **CARRIED.**

Mr. Manilenko thanked the Board.

NEW BUSINESS

20 Sherwood Lane Area Variances (ZBA 2022-014)

SBL 257.10-1-7

Application for side yard setback and rear yard setback variances for the construction of a garage.

Ms. Heidi Childs and **Mr. Chad Wallimann** of 20 Sherwood Lane.

Chairman Lesniak stated that the applicant needs a side yard variance of 15 feet and a rear yard variance of 15 feet. He asked if Ms. Childs had anything to add.

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Ms. Childs answered no.

Mr. Merchant asked if they are going to tear down the existing garage.

Ms. Childs answered affirmatively.

Mr. Merchant asked if they are taking down everything.

Ms. Childs answered affirmatively.

Mr. Merchant stated that he thinks it will be much better and asked if they own the fence between the properties.

Ms. Childs answered affirmatively.

Mr. Mertzlufft stated that he read the narrative and asked if they designed the project based on prior zoning.

Ms. Childs answered affirmatively.

Mr. Mertzlufft stated that it would have been compliant.

Ms. Childs answered affirmatively.

Mr. Long asked when it was designed.

Ms. Childs stated that they started it last year but due to Covid they couldn't get the survey done until March or April, so they decided to go ahead with the house plans first.

Mr. Long asked if that was during the moratorium.

Chairman Lesniak answered no.

Mr. Mertzlufft asked when, upon approval, they would do the project.

Ms. Childs stated that they wanted to start a couple of months ago.

Mr. Wallimann stated that they didn't realize; they had talked to Mr. Stickles last year about this and thought they were good, so they decided to shift gears to the house. When they revisited this, they found out about the zoning changes.

Mr. Mertzlufft asked if they would build in the spring.

Mr. Wallimann stated that it's a slab on grade so if frost stays out, they may be able to get the slab in this year and if the slab is in, framing through the winter is not a big deal.

Chairman Lesniak stated that the approval process is a two-step process. The Board can't grant approval tonight; tonight is for gathering information and if the Board has comments or questions. There's not a public hearing scheduled for tonight; it's strictly an information gathering session.

Mr. Wallimann asked if it will take another month.

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Chairman Lesniak answered affirmatively.

Mr. Wallimann that realistically this will push it out to the spring.

Ms. Hull stated that there is a lot of heavy equipment out front and asked if it is a business.

Mr. Wallimann answered affirmatively.

Ms. Hull asked if it will all be out of the front.

Mr. Wallimann stated that the reason for all of this is to get everything in the back.

Mr. Long asked if it will be in the garage.

Mr. Wallimann answered affirmatively.

Ms. Hull asked if he runs the business from his home.

Mr. Wallimann answered affirmatively and stated that he is a general contractor.

Ms. Hull asked if the garage will be for office space or equipment.

Mr. Wallimann stated that he works alone; his truck is his office space.

Chairman Lesniak stated that on his trucks or equipment, etc. Mr. Wallimann cannot refer to 20 Sherwood Lane as his place of business. He asked if there was any reference.

The applicants answered no.

Mr. Mertzluft asked if there would be any living quarters or storage of hazardous materials.

Mr. Wallimann answered no.

Mr. Merchant asked if the existing shed is five feet from the property line.

Mr. Wallimann stated that it is 20 feet at least.

Mr. Merchant stated that the garage will be back farther.

Mr. Wallimann answered affirmatively.

Mr. Long stated that it is an L-shaped garage and asked if they are proposing to have the garage doors facing the front.

Mr. Wallimann answered affirmatively.

Mr. Long stated that if they turned the garage ninety degrees they wouldn't need as much of a variance.

Ms. Childs stated that they wouldn't be able to drive to it because of the leach field.

Chairman Lesniak polled the Board for questions and asked if a County referral is necessary.

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Mr. Keniry answered no, because Sherwood Lane is a Town road.

Chairman Lesniak stated that the Board will need to do SEQR and schedule a Public Hearing.

MOTION: Mr. Merchant made a motion to declare the Ballston Zoning Board of Appeals as lead agency for 20 Sherwood Lane for the construction of a garage, which is a Type 2 Action, exempt from review. Ms. Kane seconded the motion. All in favor. **CARRIED.**

MOTION: Mr. Merchant made a motion for 20 Sherwood Lane to set a Public Hearing for November 2, 2022 at 7:35 pm. Ms. Kane seconded the motion. All in favor. **CARRIED.**

The applicants thanked the Board.

92 Connolly Road Area Variances (ZBA 2022-015)

SBL 239.10-2-10

Mr. Michael Palma, property owner of 92 Connolly Road.

Application for a variance for two accessory structures within the high-water mark.

Chairman Lesniak stated that this is another project that is lacking information on the application. The Board should have the property information: area, lot width, setbacks, etc.

Mr. Long stated that it documents what the dimensions are, if it's completed.

Chairman Lesniak asked the applicant to fill in the information and stated that the Board does it for the record.

Mr. Stickles suggested that the form be revamped to include a separate section with those dimensions.

Chairman Lesniak stated that it's nice when the information is handy.

Chairman Lesniak read from the applicant's project narrative: the applicant requests an area variance to install a 16 foot by 32 foot, five-foot-deep inground swimming pool with a 14 foot by 12-foot maintenance shed within the area between the shoreline and the 258-foot high-water mark. Said pool would be placed three feet into the existing grade and raised two feet above the existing grade. The top of the pool, pool deck and maintenance shed will be above the high-water mark of 258 feet. The bottom of the pool will be one foot above the seasonal high-water mark (per DEC requirements).

Chairman Lesniak stated that basically the pool is going to be in the high-water mark.

Mr. Palma stated that that is correct and that their house is within the high-water mark.

Chairman Lesniak stated that it's a requirement that they come to the Zoning Board, but he doesn't see how the Board could turn something like this down because there are homes all over the place that are in the high-water mark. He thinks they're all set for a Public Hearing next month; he asked if Mr. Palma has talked to his neighbors.

**TOWN OF BALLSTON
ZONING BOARD MEETING**

October 5, 2022 7:30 pm

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

Mr. Palma answered affirmatively.

Mr. Mertzlufft asked how the pool will be chlorinated.

Mr. Palma stated that it will be saltwater.

Mr. Mertzlufft asked if they will be hiring a contractor.

Mr. Palma answered affirmatively.

Chairman Lesniak polled the Board for questions.

Mr. Mertzlufft asked if the property is on well water.

Mr. Palma answered affirmatively.

Mr. Mertzlufft asked where the neighbors' closest well is.

Mr. Long stated that it's on the map.

Mr. Palma stated that he guesses it's 80-ish feet.

Chairman stated that he doesn't know if that's a problem.

Mr. Mertzlufft stated that you can't build a house within certain feet of a neighbor's well so a pool...

Chairman Lesniak stated that that is for septic; you must maintain 100 feet of separation between septic and a well.

Mr. Mertzlufft asked if they are going on sewer.

Mr. Palma answered affirmatively.

Chairman Lesniak stated that to his knowledge, that is not an issue.

Mr. Keniry stated that he is not aware of any regulation that restricts placement of a pool, other than Town Code. Usually the DEC is only concerned with leach fields.

Chairman Lesniak asked if the applicant is going to the Planning Board.

Mr. Palma answered no.

Chairman Lesniak stated that when you have an inground pool you must have a four-foot fence.

Mr. Palma stated that when he initially applied for this pool nearly two years ago, during the permit process he supplied the pool manufacturer, the filter manufacturer, the type of fence, etc. The Building Department told him he could pick up his permit and then called him back to say it is within the high-water mark. That information was all required during the permit process.

Chairman Lesniak polled the Board for questions and stated that they are ready to schedule a Public Hearing and do SEQR.

**TOWN OF BALLSTON
ZONING BOARD MEETING**

October 5, 2022 7:30 pm

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MOTION: Mr. Merchant made a motion to declare the Ballston Zoning Board of Appeals as lead agency for 92 Connolly Road for the installation of an inground pool, which is a Type 2 Action, exempt from review. Ms. Kane seconded the motion. All in favor. **CARRIED.**

MOTION: Mr. Merchant made a motion for 92 Connolly Road to set a Public Hearing for November 2, 2022 at 7:40 pm. Ms. Kane seconded the motion. All in favor. **CARRIED.**

Mr. Palma asked if they are required to attend the Public Hearing.

Mr. Mertzluft stated that they can designate a representative.

Mr. Palma stated that they will be in Italy.

Chairman Lesniak stated that the designated person should have a letter with them that indicates that the applicant has given them permission to represent you at the meeting and explain to them that it's going to be a Public Hearing. He asked Mr. Keniry if that would be okay.

Mr. Keniry answered affirmatively and stated that there's a standardized form online.

Ms. Dunham stated that it needs to be notarized.

Mr. Palma thanked the Board.

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

Meeting was adjourned at 8:35 pm.

Respectfully submitted,

Kerri Mains

Kerri Mains
Zoning Board Secretary