

## **Clifton Park Zoning Board of Appeals Meeting Minutes**

**January 15, 2002**

Present: Dale Kelley, Chairman, Gil Kortz, Michael Dudick,  
Helmut Gerstenberger, Susan McGranahan, Sandra Pace

Absent: Dale Gleason

Also Present: Oscar Schreiber, ZBA Counsel  
Donald Clemens, Director Building & Development

Mr. Kelley called the meeting to order at 7:30 p.m. He announced the new appointment to serve on the Zoning Board is Dale Gleason and Mr. Dudick was re-appointed. Jim Larkin will no longer be with the Zoning Board but will now be serving on the Planning Board. The Board will continue to meet at 7:30 p.m. for the year 2002.

The secretary called the roll.

Mrs. McGranahan announced she will be absent at the next meeting of February 5, 2002.

Mr. Kelley announced applicant Keith Giles requested to be removed from the agenda for this meeting.

### **NEW BUSINESS**

1. An application from John A. Crowley, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback – proposed setback on south side = 47ft. – variance requested = 3 ft., proposed setback on west side = 31 ft. – variance requested = 19 ft. The property is located at 19 Settlers Lane, Ballston Lake. Permit #80348.

The Secretary read the legal notice as it appeared in the Daily Gazette on January 11, 2002.

Mr. John Crowley presented this application. He explained his property technically is a corner lot. He would like to add a garage to the house facing Noord Lane and a wrap around porch on the front. Therefore the need for the setback variances. His neighbor Mr. Bryd has no objection to the proposed construction. The other lots adjoining his property are vacant. Other houses in the same development have done similar construction and are even closer to the road than what he is requesting.

Mr. Kelley asked Mr. Clemens for his comments.

Mr. Clemens stated that the Town has no objection to this applicants request. The proposed construction would not have any effect on the neighborhood.

There was no public comment. Mrs. McGranahan made a motion to close the public hearing, Mrs. Pace seconded, approval unanimous.

Mr. Gerstenberger stated the addition to his house would only increase the value of the property.

Mr. Kortz stated that the requested variance is not substantial.

Mr. Kortz made a motion to approve the variance as requested. Mr. Gerstenberger seconded. Ayes: Kelley, Dudick, Gerstenberger, Kortz, McGranahan, Pace. Noes: None.

2. An application from Saxton Sign Corp., representing Taco Bell Corp., requesting an area variance from Chapter 171 of the Code of the Town of Clifton Park to allow a second wall sign of 21 sq. ft. The property is located at 811 Route 146, Clifton Park. Permit #80349

The secretary read the legal notice as it appeared in the Daily Gazette on January 11, 2002.

Mr. Patrick Boni presented the Board with photos of the requested sign and existing wall and pylon signage. The reason for the request is because if coming from the Clifton Country Mall no Taco Bell sign is in view. There is only one other wall sign which is over the entrance on the east side of the building. Therefore the request for a second wall sign to put on the south side of the building.

There was no public comment. Mr. Kelley made a motion to close the public hearing, Mrs. McGranahan seconded, approval unanimous.

Mr. Kelley asked Mr. Clemens for his comments. Mr. Clemens questioned if the proposed sign is really needed. When coming from the mall the pylon sign is readable from that direction. Taco Bell is certainly visibly recognizable.

Mrs. McGranahan questioned the applicant why they feel the proposed sign is necessary when the pylon sign is in view.

Mr. Boni stated coming from the Clifton Country Mall only the edge of the pylon is in view not the face.

Mrs. McGranahan stated she goes by there all the time and can see the pylon sign coming from the Mall.

Mr. Kortz agreed that the pylon sign is in view coming across from the Mall.

Mr. Dudick asked Mr. Clemens if there is any reason why the applicant is restricted from moving the existing sign on the east side to the proposed south front side of the building location.

Mr. Clemens said that would be okay.

Mr. Kelley stated that what Mr. Dudick offered as a solution is a good compromise.

Mr. Boni stated that the sign finishes off the building.

Mr. Kortz stated the sign law exists to keep the same amount of signs per business equal. He likes the idea of moving the existing east entrance building sign to the south side of the building.

Mr. Kelley asked if the applicant would like to table the request so he can talk with the owners.

Mr. Boni stated that if they do move the existing sign to the proposed south side of the building, he would not need to return to the Board.

Mr. Dudick made a motion to table the application, Mrs. Pace seconded, approval unanimous.

3. An application from Country Club Acres, Inc., requesting an area variance from Section 179-26C from the required 40 ft. of frontage on a public street – proposed frontage = 30 ft. – variance requested = 10 ft. The property is located at 137A Wood Dale Drive, Ballston Lake. Permit # 80353.

The secretary read the legal notice as it appeared in the Daily Gazette on January 11, 2002.

Mr. Clemens suggested the Board address this application and the next one at the same time.

Mr. Schreiber stated that would be okay to do.

4. An application from Geraldine Pfeiffer, requesting an area variance from Section 179-26C from the required 40 ft. of frontage on a public street – proposed frontage = 30 ft. – variance requested = 10 ft. The property is located at 135A Wood Dale Drive, Ballston Lake. Permit #80354.

The secretary read the legal notice as it appeared in the Daily Gazette on January 11, 2002.

Mr. David Lynch, Country Club Acres, presented variance applications for 135A and 137A Wood Dale Drive. He explained the location of the two lots. The lots were originally approved in 1988 as part of Country Knolls Section #62. Thinking at that time since those two lots would be fronting on a stub street that comes off Wood Dale Drive and also the 60' x 40' extension that was added to the stub street that these would be two

legal keyhole lots. While the two parcels did front on Town property it was just a paper stub street and not an actual Town road, therefore the properties did not have the required frontage and access needed for two single family lots. The Town has deeded the stub street and the 60' x 40' extension to the stub street back to Country Club Acres. That gives the lots access to Wood Dale Drive now. The parcel, stub street and the extension is 60' wide. The two lots would have 30' wide for each lot. Town requirement is 40' minimum, hence the variance request of 10' for each of the two lots for frontage on 135A and 137A Wood Dale. When the Town did deed the parcel back to Country Club Acres it was deeded back in two strips. One 30' strip will be added to 135A Wood Dale Dr. and the other 30' strip will be added to 137A Wood Dale Dr. All the other setback criteria stays the same.

Mr. Kortz asked about the property owned by the Jonesville Methodist Church.

Mrs. Pfeiffer stated the property is a parsonage owned by the Church for the pastor.

Mr. Kelley asked Mr. Clemens for his comments. He stated that the Town is in favor of the request. He explained some of the history of the stub street.

No public comment was received. Mrs. McGranahan made a motion to close the public hearing, seconded by Mr. Gerstenberger. Approval unanimous.

Mr. Kelley made a motion to approve the variance as requested for Country Club Acres, Inc.. Seconded by Mr. Dudick. Ayes: Kelley, Dudick, Gerstenberger, Kortz, McGranahan, Pace. Noes: None.

Mr. Gerstenberger made a motion to approve the variance as requested by Geraldine Pfeiffer. Seconded by Mr. Dudick. Ayes: Kelley, Dudick, Gerstenberger, Kortz, McGranahan, Pace. Noes: None.

5. An application from Stephen J. Waite, requesting an area variance from Section 208-37B from the required 300 ft. separation from a restaurant to a residential district boundary – proposed setback = 74 ft. – variance requested = 226 ft. The property is located at 520-550 Vischer Ferry Road, Clifton Park. Permit #80350

The secretary read the legal notice as it appeared in the Daily Gazette on January 11, 2002.

Mr. Dale Conklin, Smith & Mahoney, P.C., presented the application on behalf of Stephen Waite, project sponsor. He described on a map the property location and configuration. On the westerly portion the property follows the Dwaaskill therefore is in the Conservation Overlay District at that point. Because of the zone line there is a no cut buffer that follows the tree line. A little larger than a 3 acre parcel of land is left as usable land from the odd configuration of the property. In looking at the property and considering his clients request for a family style restaurant, the property was looked at and found the natural environment as an advantage to capitalize on. Site visibility was an

issue in terms of people knowing it was there and the land itself because of the configuration has limited frontage and exposure to the public. Wanting it to be a family style restaurant, the client wanted to include family activities to the project. Map presented to the Planning Board was shown. He explained they situated a 9000 sq. footprint in the middle of the parcel that would be visible coming down the driveway. A water feature with a fountain in the front of the building for visibility. Kept the parking area as close to the roadway and the access and adjoining the Dentist parking as could and tried to incorporate an area for miniature golf along with a water feature that may be used for outdoor skating on the off season of the golf feature. The restaurant would be broken into portions of areas for outdoor dining, out service for food, family style dining, and an area in the back constructed with a lot of glass to see the natural area while dining. Reviewed the variance request. The parcel is very unusual from the elevation stand point and the amount of greenspace. Approximately 75% of the entire lot would be left as greenspace.

Mrs. McGranahan asked how tall the building is.

Mr. Conklin explained the footprint is 9000 sq. feet with a 3000 sq. foot second story which is really a party or banquet room type. The roofline is used for visibility from Vischer Ferry Road.

Mr. Kelley read comments for the application from the Environmental Conservation Commission.

Mr. Kelley asked Mr. Clemens for his comments. He stated the intended separation is to protect the residents from undue noise, light and odor impacts.

Mr. Kortz questioned the locations of the residential zones. Recognized the Land Conservation Zone.

Mr. Gerstenberger said there is a large ravine separating the residential zone.

Mr. Kortz asked if loud bands will be used.

Mr. Waite said this facility will be like the one on Wolf Rd., no music. He would like to take advantage of the outside natural area.

Mr. Conklin explained the miniature golf will be more naturalistic, not the Mickey Mouse structures. Intent is to have a water feature through it and have plant materials and land forms. Not a lot of structures. They intentionally moved the golf area away from the residential zones because of possible outside noise.

Mrs. McGranahan stated that the applicant is meeting the intent of the law but because the gorge interrupts it, therefore the need for a variance.

Mr. Kelley asked how far the Park Lane Rd. residents are. He knows Park Lane residents

did have some concerns for noise levels in other establishments.

Mr. Conklin said approximately 1200-1500 ft. He requested maybe conditionalizing the approval for decibel levels conditions.

Mr. Kelley explained the Zoning Board does not deal with that. His concern is with the effects on the surrounding neighborhood. The Planning Board will deal with noise concerns.

Mr. Conklin explained that the second floor would be used for birthday parties basically.

There was no public comment. Mr. Kelley made a motion to close the public hearing. Mrs. McGranahan seconded, approval unanimous.

Discussion continued.

Mrs. McGranahan said she is comfortable with the applicants because of their experience in the restaurant business and they would have a better feeling on how to prevent problems because of the money invested.

Mr. Kelley stated his concern is with the very substantial variance request. Going from required 300 ft. to 70 ft. from residential boundary line. But that's why this is an appeals board. He questioned the applicant if other configurations were looked at so that there is not such a dramatic impact on the buffer.

Mr. Conklin stated they have looked at different layouts but it pushed the cars against the woods and defeats the use of that portion of the restaurant to include the wooded area. Other alternatives were looked at but didn't seem to work as well.

Mrs. McGranahan recognized the unusual topography they had to work with.

Mr. Kelley stated the County approved the application.

Mr. Dudick questioned the construction of the building.

Mr. Waite stated that the second floor is needed for visibility and party/banquet facility.

Mr. Eric Schelling, Operations Manager, stated that the second floor would have games, entertainment area with space to run for the children's birthday parties.

Discussion continued on other building options.

Mr. Kortz said he feels they are trying to fit into the natural area of the property and the residential area. The situation is unique even if the request is substantial for the fact of the Conservation Zone between the property and the residential boundary.

Mr. Kelley stated that after hearing the presentation and seeing where the project is within the distance of the residential area and the topographical problems concerns, there is a need for the variance.

Mr. Clemens stated that the residents need some protections. What happens if two years down the road Mr. Waite does not want the restaurant business and sells out to someone who wants to make more of a nightclub out of it or a brew pub situation, once the variance is granted you can't take it back. The Board may want to put some kind of conditions on the approval.

Mr. Schreiber suggested he meet with the applicant and his representatives and fashion some kind of limitations to protect the residents if Mr. Waite does sell out.

Mr. Conklin and Mr. Waite agreed to meet with Mr. Schreiber on conditions.

Mr. Kelley made a motion to table the application, seconded by Mr. Kortz, approval unanimous.

Mr. Dudick made a motion to approve the minutes of November 7, 2001, seconded by Mrs. McGranahan. Ayes: Kelley, Dudick, Kortz, McGranahan. Noes: None Abstain: Gerstenberger, Pace

Mr. Kelley made a motion to approve the minutes of November 20, 2001, seconded by Mrs. Pace. Ayes: Kelley, Dudick, Gerstenberger, Kortz, Pace. Noes: None Abstain: McGranahan

Mr. Gerstenberger made a motion to approve the minutes of December 4, 2001, seconded by Mrs. McGranahan. Ayes: Dudick, Gerstenberger, Kortz, McGranahan, Pace. Noes: None Abstain: Kelley

Mr. Kelley announced he will be absent at the February 19, 2002 meeting.

Mrs. Pace made a motion to adjourn the meeting at 8:50 p.m., Mr. Dudick seconded, approval unanimous.

Respectfully Submitted,

Teresa J. Brobston  
Acting Secretary

cc: Town Clerk, Zoning Board Members, Oscar Schreiber, Counsel, Don Clemens, Department of Building and Development, Planning Board, ECC Members