

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

**February 5, 2002**

Present: Dale Kelley, Chairman, Michael Dudick, Helmut Gerstenberger, Sandra Pace, Dale Gleason, Gil Kortz (arrived 7:33 PM)

Absent: Susan McGranahan

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

Mr. Kelley, Chairman, called the meeting to order at 7:32 PM. He welcomed new member Dale Gleason to the Board.

### **NEW BUSINESS**

1. An application from Robert J. Birk, requesting an area variance from Section 208-11 from the required 25 ft. rear yard setback - proposed setback = 20 ft. - variance requested = 5 ft.. The property is located at 58 Old Coach Road, Clifton Park. Permit #80356.

The secretary read the legal notice as it appeared in the Daily Gazette on February 1, 2002.

Robert Birk presented this application. He stated he wants to put an addition on the rear of his home and needs a five foot variance.

Mr. Clemens noted that the area behind this lot is owned by the Town and no one can build there.

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

Mr. Kelley made a motion to approve this application as requested. Mr. Dudick seconded. Ayes: Kelley, Dudick, Gerstenberger, Gleason, Pace. Noes: None.

2. An application from Alpin Haus of Clifton Park, requesting an area variance from Chapter 171 of the Code of the Town of Clifton Park (Sign Law) to allow a second freestanding sign of 60 sq. ft. at Sitterly Road. The property is located at 103 Sitterly Road, Clifton Park. Permit #80351.

The secretary read the legal notice as it appeared in the Daily Gazette on February 1, 2002.

Richard Krutz presented this application. He stated they bought the Freedom RV Outlet in November 2001 as a satellite office. They would like to place a freestanding sign on

the knoll to indicate the entranceway. The building is secluded from Sitterly Road. They feel this would also add to the safety factor because people do not realize where the entrance is until they have passed it.

Mr. Krutz presented a photograph of a similar sign from their other location. He stated this sign is to show what the wording on the sign would look like. It would not be the same type of structure.

Mr. Krutz stated the wording would be seen by those traveling west on Sitterly Road.

Mr. Clemens stated he feels there is a need for identification at this location because the building is set so far back and the wall sign is not visible from Sitterly Road.

Mr. Clemens noted that the driveway entrance was changed a couple of years ago for safety reasons and it was more visible before than it is now.

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

Mr. Kortz stated he would like to see more of a directional sign than a freestanding sign. He feels the sign should be seen from both directions.

Mr. Gerstenberger suggested the sign be placed perpendicular with identification on both sides so it could be seen from both directions.

There was discussion on the sign proposed and the exact square footage.

Mr. Clemens noted that a directional sign can be only two square feet and can only indicate direction (enter/exit).

There was also discussion on the placement of the sign and its effect on visibility. Mr. Krutz noted that it would be placed on

the knoll and will be set back from the road and should not affect visibility from any direction.

Mr. Kelley suggested that the applicant return to the next meeting with a rendering of the proposed sign including all dimensions.

Mr. Dudick made a motion to table this application until February 19, 2002, Mrs. Pace seconded, approval unanimous.

3. An application from Saxton Sign Corp., representing DCG Development, requesting an area variance from Chapter 171 of the Code of the Town of Clifton Park (Sign Law) from the allowed 60 sq. ft. maximum wall sign - sign requested = 87.5 sq. ft. - variance requested = 27.5 sq. ft.. The property is located at 5 Maxwell Road, Clifton Park. Permit

#80355.

The secretary read the legal notice as it appeared in the Daily Gazette on February 1, 2002.

Rick Marshall, Saxton Sign Corp., presented this application. He corrected the legal notice stating he represents Thompson Delmar, not DCG. He noted Thompson Delmar is occupying 116,000 sq. ft. of the 150,000 sq. ft. building. He stated they would like to do individual letters that represent the standard logo and would like to put them on the far right portion of the building to allow some visibility from Rt. 146 and Maxwell Drive. The sign will not be internally illuminated. It will be individually cut letters. This is a corporate standard used throughout the world.

Mr. Clemens noted that due to the size of the building this is a reasonable request.

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

Mr. Kelley noted that the rendering presented with the package fits the building very well and is very well done.

Mr. Marshall noted that the sign will have an exterior illumination.

Mr. Kortz inquired about other tenants in the building and expressed his concern for the possibility of them asking for additional signs also.

Mr. Marshall responded that there are two other occupants of the building at this time and they are both subcontractors to this tenant and will not be requesting signage. He noted he cannot speak for any future tenants.

Mr. Gerstenberger made a motion to approve this request as submitted, Mr. Dudick seconded. Ayes: Gleason, Pace, Kelley, Gerstenberger, Dudick, Kortz. Noes: None.

4. An application from U.S. Food Service, requesting area variances to expand a warehouse facility: 1) a variance from Section 208-65(E)(1) from the required 50 ft. front setback for parking - proposed setback = 22 ft. - variance requested = 28 ft.; 2) a variance from Section 208-65(B) from the required 40% green space - proposed green space = 34% - variance requested = 6%; 3) a variance from Section 208-65(C) from the required 25 ft. side buffer - proposed = 10 ft. - variance requested = 15 ft.; 4) a variance from Section 208-65(D) from the maximum building height of 35 ft. - proposed height = 40 ft. - variance requested = 5 ft.. The property is located at 755 Pierce Road, Clifton Park. Permit #80357.

The secretary read the legal notice as it appeared in the Daily Gazette on February 1, 2002.

Ed Volpelak, C. T. Male Associates, site engineers for this project, presented this application. He introduced Ken Brosco, Vice President Operations for U.S. Food Service, and Tim Gibbons, architect for environmental structures for this project.

Mr. Volpelak stated they were before the Planning Board several weeks ago for conceptual approval. He gave a brief history of the project. He noted that this was previously Alliant Food Service. They did an expansion to the facility in 1997 and had approval for a further expansion that was never undertaken. Since that time they were purchased by U.S. Food Service who are currently on the process of consolidating and expanding operations. The purpose of this project is to maximize the use of this site to make this facility more competitive with the recent expansion of a competitor across the way.

Mr. Volpelak reviewed the variances being requested. He noted there is actually existing parking within the setback. When they met with the Planning Board they discussed splitting the entrance separating truck traffic from employee parking thus creating a new entrance. The parking is being revamped and more parking is needed due to the increased expansion. He continued, there is ten feet needed by the railroad tracks for parking and when they met with the Planning Board they asked them to put a road around the building which will create more paving anyway. To make the facility function they are asking for more truck parking for the vehicles that deliver product to their customers which requires the 15 ft. variance on the side of the lot near Niagara Mohawk.

He continued, the new additions are proposed to be twenty feet to maximize the racking structures used in the building. The existing building is approximately 25 ft. tall to the underside of joists, and the freezer building is approximately 35 ft. tall. The proposed new addition will be approximately 34.6 ft. to the underside of joists, thus approaching 40 ft.

Mr. Volpelak stated that the other variances are needed to maximize the potential of the site, parking increases and building increases and therefore they are asking for approximately a 6% green space variance. The proposed expansion is for dry storage and increased cooler space and additional parking that will be required

Mr. Kortz asked for clarification on the additional parking.

Mr. Brosco stated as the building gets larger there will be an increase in the workforce and additional customers.

Mr. Kortz asked what the approval was for the prior expansion compared to this request. Mr. Brosco stated it was for the expansion of the freezer and some additional employee and truck parking, but less parking than what is currently being requested.

Mr. Kortz asked what is the total number of parking spaces being requested. Mr. Gibbons responded there will be a total of 334. The additional being requested is 167. The truck parking goes from 90 to approximately 194. Mr. Kortz noted if most of the activity is trucks why is there a need for so much additional parking.

Mr. Brosco responded as the facility gets bigger there will be an increased work force and the ability to entertain additional customers.

Mr. Gibbons noted that all supporting functions look at the maximum building usage to determine the number of parking spaces needed.

Mr. Volpelak noted that the actual number of parking spaces is less than the number of employees because this is a shift operation.

Mr. Brosco also noted that the number of parking spots is also determined by the square footage of the building.

Mr. Clemens pointed out that the northern property line borders the railroad and the encroachment on that side is insignificant. He also noted that the parking along Pierce Road is just a continuation of what is already there and will have little impact, it is hardly noticeable. He also noted that they are enhancing what they already have.

Mr. Volpelak commented that the Planning Board felt that the most important buffer is along the Northway.

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

Mr. Dudick commented that this shows more growth in the Light Industrial area and is more growth for the Town.

Mr. Kortz noted if these variances are granted there is still no guarantee that they will not move out. Mr. Volpelak stated that U.S. Food Service owns this building. Mr. Gibbons noted there is no talk of it, there is talk of restructuring and the company feels the Albany area is an excellent location. Those different branches that do the expansion are the branches that can prove they are efficient, show the greatest amount of profit and they would rather put money in a facility like this than perhaps going somewhere else.

Mr. Gerstenberger commented that this is a significant capital investment. Mr. Brosco stated it is very important to maximize and get the most out of this site.

Mrs. Gleason asked the number of current employees and the proposed work force. Mr.

Gibbons responded there are currently 325 associates and in the first phase they propose an additional 100 employees and approximately 50 after that.

Mr. Gerstenberger asked where the nearest facility is located.

Mr. Gibbons responded the nearest is Sofco in Albany, but that is paper products, Buffalo, Boston and Connecticut are the closest.

Mr. Kortz noted that the variances being asked for are not that substantial and will have no major impact on the area.

Mrs. Pace made a motion to approve this application as submitted.

Mr. Gerstenberger seconded. Ayes: Gleason, Pace, Kelley, Kortz, Dudick, Gerstenberger. Noes: None.

## OLD BUSINESS

1. Mr. Kelley announced that the Saxton Sign Corporation representing Taco Bell has withdrawn this application, Permit #80349.

2. Mr. Kelley also announced that Mr. Giles is not present to move forward on his application, Permit #80342 (amended). Mr. Dailey was present. Mr. Schreiber announced that Mr. Giles had contacted this Board and stated he did not want to go forward on this application at this time. Mr. Dailey stated that he was not aware of this situation.

Mr. Schreiber asked Mr. Dailey if he had submitted in writing the waiving of the 62 day time period. Mr. Dailey responded there is no problem but he has not submitted it in writing to date. He will forward it to this Board.

3. 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.

Mr. Kelley reviewed the concerns from the last meeting and stated he and Mr. Schreiber met with the applicant and consultant regarding issues of noise from this facility. If a variance is granted it would be predicated on strict sound requirements. He stated he has received information from the consultants and has had it reviewed by the Town Engineers and Building Department.

Mr. Kelley informed the public that the Zoning Board only considers the area variance, not the other aspects of the site, i.e. lighting, parking, etc. They are the domain of the Planning Board.

Dale Conklin, Smith & Mahoney, gave a brief recap of the previous meeting. They

proposed that the last outdoor seating request would be 11:00 PM, meaning no one could be seated outside after 11:00 PM. There will be no outdoor live music at any time. Any amplified music there would be sound pressure levels would not exceed 56 decibels at the property line. This is less than normal level of conversation, which is 60 decibels. The impact on the closest residence would be below 40 decibels. He also noted that the Town is currently looking at a noise ordinance that would not exceed 60 decibels.

Mr. Kelley opened the meeting for public comment.

Katarzyna Petronis read a letter to the Board, as well as presenting copies of previous correspondence she had sent to the Town Board and Planning Board, expressing her concerns for diminished value of her home, noise, trespass problems, lighting, wetlands, increased traffic, and safety of the children in the community. She also submitted a petition signed by 20 of her neighbors expressing their objection to this variance being granted. She also presented photographs showing the close proximity to her house that is presently being constructed.

Ms. Petronis also asked about the height of the building, since it was being proposed as a two story building. Mr. Conklin responded it will be approximately 28-30 ft. maximum. Mr. Kelley noted that many of these concerns are Planning Board issues.

Also speaking against this application with many of the same objections as Ms. Petronis was: Doug Welsh, 22 Hollandale Lane, soon to buy 4 Oakhurst Court; Judy Thayer, 1 Oakhurst Court; and Brian Barton, 76 Gloucester Street.

Ms. Thayer also stated that she is worried because this restaurant will be in the same area as a day care center. She is concerned with the location of the parking for the restaurant and the safety of the children attending day care with additional cars going in and out of this area.

Mr. Barton noted that this project is not a good fit for this particular area.

Mr. Kelley reminded those present that this Board does not deal with specific planning issues i.e., lighting, parking, etc. He did note that this Board is very concerned with quality of life issues.

Ms. Petronis asked if wetlands comprise the 78% green space area.

Mr. Waite responded it is a combination.

Ms. Petronis inquired about what type of music will be provided.

Mr. Waite responded there will be no bands or DJ. The facility on the second floor is intended for children's parties. The target group is families.

There was concern expressed over the project attracting teenagers and the problems

associated with that.

Mr. Waite explained the concept of his proposal stating that it will be a family type concept, very nicely done. He stated they are still in the concept stage and he would like to meet with those neighbors that have concerns to see if they can come to a mutual agreement.

Mr. Schillinger stated this will be a state of the art building. It will have all of the latest equipment designed. It will be a family dining experience. It is not a facility that will attract teenagers.

Mr. Kelley informed those present that this property is zoned commercial and there are many other businesses that could be built on this site. If the building were moved and a variance is not needed, there would be no restrictions that could be placed on this site.

Mrs. Gleason noted that Shenendehowa is not an open campus and the probability of students being at this facility during the day is not likely. She also suggested that the applicant meet with the community to discuss their concerns.

Mr. Gerstenberger asked for clarification on the number of feet from the rear of the proposed building to the rear of the nearest home. It was stated the closest home is 517 feet away.

Mr. Kelley noted that the major concern in considering this variance is the significance of the setback and he believes the applicant made a good case because of the shape of the property and use of the property, and the fact that he could move the building up and put the parking in the back of the property, it makes sense and that just the tip of the building causes the dramatic variance makes it more understanding. The concern is noise levels. This Board wants to be sure that the noise level is controlled.

Mrs. Pace made a motion to close the public hearing, Mr. Dudick seconded, approval unanimous.

Mr. Dudick asked if the Board is recommending a decibel level of 40. Mr. Kelley stated it is under discussion.

Mr. Kortz noted the uniqueness of the property in that it has an LC zone and nothing can be built in that zone. He proposed the condition that night and daytime levels should not exceed typical residential decibel levels.

There was discussion on how a decibel level could be monitored and where it should be measured from.

Mrs. Pace asked what the hours of operation would be. Mr. Waite stated he was not sure at this time. It would be guided by the people frequenting the restaurant.

Mr. Kelley made a motion to approve this application conditioned upon the decibel level not exceeding 50 from 7 AM-10 PM, and not exceeding 40 from 10 PM-7 AM, measured 300 ft. from the rear of the building. Mr. Dudick seconded.

Mr. Kelley noted that the other issues brought up this evening are Planning Board issues and this Board cannot consider them.

Mr. Gerstenberger announced that he has had business negotiations with some of the residents present this evening. It was agreed that there was no conflict of interest.

Ayes: Kortz, Dudick, Gerstenberger, Kelley, Pace, Gleason. Noes: None.

Mr. Dudick made a motion to approve the minutes of January 15, 2002, Mr. Gerstenberger seconded, ayes: Kortz, Dudick, Kelley, Gerstenberger, Pace. Noes: None. Abstained: Gleason.

Mrs. Pace made a motion to adjourn the meeting at 9:59 PM, Mr. Dudick seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb  
Secretary

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