

Clifton Park Zoning Board of Appeals Meeting Minutes

August 20, 2002

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

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

Mr. Kelley called the meeting to order at 7:30 PM. He announced that the Town is looking for volunteers for the special collection day for Household Hazardous Waste to be held on September 28th. He also announced that Susan McGranahan has submitted a letter of resignation effective September 3, 2002. He expressed his gratitude for her candor, insight, and caring for the community she has shown while on this Board. The entire Board wished her success and happiness in her new home.

NEW BUSINESS

1. An application from Frederick Miller, requesting an area variance from Chapter 171 of the Town Law (Sign Law) to allow three (3) new wall signs on the exterior facade of Clifton Park Center. The three signs are 63 sq. ft., 90 sq. ft., and 120 sq. ft. respectively. Maximum sign allowed per tenant having direct access to the outside = 60 sq.ft. each. The property is located at 22 Clifton Park Center Road, Clifton Park. Permit #80387.

The secretary read the legal notice as it appeared in the Daily Gazette on August 15, 2002.

Gordon Nicholson, Environmental Design Partnership, presented this application. He stated the three signs are for Kleins All Sports, Saratoga County Department of Motor Vehicles, and Mail Center USA. He continued, the sign for Kleins is a 60 sq. ft. area variance from the allowed square footage, the Mail Center USA is a 30 sq.ft.

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variance, and the DMV sign is a 3 sq.ft. area variance. He stated, it is important to note that the signs will not have any impact on any existing residences.

He noted the practical difficulty is that the building entrances for these tenants require identification and visibility for customers to find the location. Without the signage for identification the tenants have indicated that they will not lease the space thus creating a financial hardship for the applicant. These area variances are not a substantial detriment to the public interest or to property improvements in the district because the exterior signage at the doorway locations for tenant identification is common in the B-4 District and the vicinity has a number of strip centers.

Mr. Nicholson reviewed the status of the mall indicating that they have renovated and have been trying to fill the vacant spaces. The concept of exterior entrances as being proposed by these three tenants is something the mall looked at as a way to fill some vacant space. They insisted on exterior entrances and exterior identification.

Mr. Clemens noted that he does not have any problem with the Kleins or DMV signs but he feels the Mail Center USA sign is out of proportion for the amount of leased space. It is as large as J C Penney and the amount of leased space is minimal.

Mr. Dudick asked what the amount of leased space is for the Mail Center. Mr. Nicholson did not have that information available.

Mr. Clemens stated that he believed it was only 300-400 sq. ft..

It was asked if it is the same size as Motor Vehicle.

Mr. Nicholson responded it is considerably smaller than DMV.

Mrs. McGranahan asked why they wanted such a large sign.

Mr. Nicholson responded he did not know other than it is the Mail Center standard sign. She asked if they could reduce the size of the sign. Mr. Nicholson stated they may be able to but rather than deny the sign could the Board reduce the size of the sign and if they cannot live with it they could reapply. Mr. Schreiber informed him that if a variance is granted for half the size letters and they are not happy, they could not reapply unless there was a substantial change in the circumstances.

Mr. Kelley noted that the exterior entrances are a good idea in many ways, it is good for traffic circulation and it's good for business. Mr. Nicholson noted that with the difficulty in leasing they are experiencing at the mall they are trying to fill the space and had to look for a different tenant structure.

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Discussion continued on how to move on this application and not deny the Mail Center sign. It was agreed that the portion of the application for the Mail Center will be withdrawn and they can reapply with a new application.

Mr. Nicholson withdrew that portion of the application dealing with the Mail Center sign and noted that they will reapply with a different size sign request. He would like to move ahead with the other two signs as requested.

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

The Board requested that the square footage of the Mail Center space be available for the next meeting. Mr. Nicholson agreed.

Mr. Kortz made a motion to approve the signs as requested for Kleins All Sports and

Department of Motor Vehicles.

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

2. An application from Specific Chiropractic, requesting an area variance from Section 208-35C from the required 40,000 sq. ft. lot size - actual lot size = 36,662 sq. ft. - variance requested = 3,338 sq. ft.; an area variance from Section 208-35D(2) from the required 25 ft. side yard setback - actual setback on west side = 19 ft. - variance requested = 6 ft.; an area variance from Section 208-35D(3) from the required 50% greenspace - proposed greenspace = 34% - variance requested = 16%; an area variance from Section 208-35C from the required minimum lot width at the front building line of 130 ft. - actual = 98 ft. - variance requested = 82 ft.; and an area variance from Section 208-35(1) from the required 130 ft. front yard setback from the centerline of Route 146 - actual setback = 112 ft. - variance requested = 18 ft.. The property is located at 957 Route 146, Clifton Park. Permit #80388.

The secretary read the legal notice as it appeared in the Daily Gazette on August 15, 2002.

Les Ackerman, Charette Associates, Architects, presented this application. He stated the applicant would like to convert the present residence to office space and add a two family residence. The first phase would convert the current residential structure into office space. The next phase would be an expansion of office space on the current building. The third phase would be for a two family addition onto the rear. The residence would be for Dr. Mulhall's parents, who would help out with child care and also for their future care in their latter years. The second unit would help to offset some of the cost of the total project.

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He continued, the area variances are needed to comply with existing zoning for lot size, frontage, and setbacks. The greenspace variance will be decreased because they will be connecting to the sewer and the tile field area will be green.

Mr. Dudick stated that he is a Chiropractor in the area and he knows the applicants and he recused himself from hearing this application.

Mr. Clemens stated that nothing can be done about the lot size and the setbacks are reasonable. He noted he is not in favor of granting the variance on the greenspace. This is a very intense use of an undersized lot and he feels it is very important to maintain the greenspace. He also noted that the County Planning Board had the same recommendations.

Mr. Kelley read the County's recommendation that the use is intense and the applicant should consider some alternative designs reducing the overall building square footage. The Environmental Specialist also recommended maintaining the 50% greenspace

requirement.

Mr. Ackerman noted that the length of the driveway takes up considerable greenspace. It was suggested at the Planning Board meeting that they utilize the site adjacent for access, owned by Ivan Zdrahal, but he is not interested in joint access.

He continued, to reduce building size would not have a tremendous effect on the greenspace requirement. The only way to meet it would be to eliminate the residence altogether, but that will make the project more difficult to afford.

Discussion continued on how to increase greenspace. The applicants withdrew that portion of the application pertaining to the request for the 16% variance for greenspace.

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

Mr. Kelley made a motion to approve the requests for area variances for items #1, 2, 4 and 5, item #3 is withdrawn at the request of the applicant. Mr. Gerstenberger seconded. Ayes: Gerstenberger, Kortz, Pace, Gleason, McGranahan, Kelley. Noes: None. Abstained: Dudick.

3. An application from Traditional Builders, Ltd., requesting an area variance from Section 208-11 from the required 25 ft. rear yard setback in a R-1 zone - proposed setback = 18 ft. - variance requested = 7 ft. The property is located at 10 Cathywood Court, Clifton Park. Permit #80389.

The secretary read the legal notice as it appeared in the Daily Gazette on August 15, 2002.

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Steve Brewer, Traditional Builders, presented this application. He stated they would like to add a deck to the rear of the residence.

Mr. Clemens had no objections to this request. He noted that there is common greenspace in the rear and there will be no effect on any neighbors.

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

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

4. An application from Thomas J. & Janet S. Sober, requesting an area variance from the required 50 ft. front yard setback in a R-3 zone - proposed setback = 44 ft. - variance

requested = 6 ft. The property is located at 17 Appleton Road, Rexford. Permit #80389.

The secretary read the legal notice as it appeared in the Daily Gazette on August 15, 2002.

Janet Sober presented this application. She stated they would like to add an addition to their present residence. If they added on to the side of the house it would mean removing trees and undergrowth along the road frontage, therefore the architect designed an addition with an angled garage towards the road to enable them to keep the existing driveway and retain the trees.

Mr. Sober stated that the main reason for angling the garage was to use the existing driveway and save the row of trees along the roadway. Only one corner of the garage encroaches on the setback. He stated the neighbors do not have any problem with this request.

Mr. Clemens stated he does not have any objections to this request.

Ed Conway, a neighbor of the applicant, gave some background on the houses in the area and noted his support of this request.

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

Mr. Kortz noted this request is not substantial and has no adverse effect on the neighborhood. He made a motion to approve this variance as requested. Mrs. Gleason seconded. Ayes: Gerstenberger, Kortz, Gleason, McGranahan, Kelley, Dudick, Pace. Noes: None.

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5. An application from Paul & Joanne Coons, requesting an area variance from Section 208-98 from the required 100 ft. front setback from the centerline of Riverview Road - proposed setback = 70 ft. - variance requested = 30 ft. The property is located at 359 Riverview Road, Rexford. Permit #80394.

The secretary read the legal notice as it appeared in the Daily Gazette on August 15, 2002.

Paul Coons, owner, and Al Greer, Architect, were present for this application. Mr. Coons stated that the building was built in 1852 with frontage on Riverview Road. He corrected the house number as shown on the agenda as 559, it should be 359 Riverview Road.

He explained that currently on the back of the residence they have an old kitchen and summer kitchen built in the 1800's, and an enclosed porch built in the 1960's. The foundation under the back part of the structure was built on rubble stone and is giving

out. It is not very effective as far as use of the house. They have decided to relocate the kitchen to the existing family room area and add a bedroom and bath off to the side. They will also add a basement underneath. The area they will be demolishing is approximately 500 square feet and the addition will be approximately the same in area.

Mr. Clemens noted that there is no real impact in granting this variance it is more a technicality, the current setback is actually behind the house. This will have no impact on the neighborhood.

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

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

Mr. Clemens informed the Board that Mr. Adams, 67 East Side Drive, Ballston Lake, is present this evening. He received a setback variance from this Board on June 18, 2002 to build a garage. An error was found in the map used to determine the amount of variance needed. Mr. Adams stated that the variance was measured from the edge of the street, not from the property line. The variance granted was for a 19 ft. setback, but that was from the street. He now has the property line defined and the variance should be for a 15 ft. setback from the property line. They will need an additional four feet.

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Mr. Clemens explained how this was discovered. The applicant was granted a variance and received the building permit. The variance was for a setback of 19 feet from the property line to the front of the garage. They put the foundation in and poured the floor slab and when the Building Inspector went to check it they found the setback was only 15 feet from the property line and therefore they need an additional four feet added to their variance.

Mr. Kelley conferred with counsel and it was agreed that this is not a substantial change and decided that the Board could amend the original variance. The variance granted will be 65 feet instead of the 61 feet originally granted.

Mr. Dudick made a motion to amend the variance granted on June 4, 2002 for Permit #80380, for a setback variance of 65 feet for an accessory structure to be placed 15 ft. from the front property line. Mr. Gerstenberger seconded. Ayes: Kortz, Dudick, Kelley, Gerstenberger, Pace, Gleason, McGranahan. Noes: None.

Mr. Kelley asked to adjourn this meeting and go into executive session to discuss pending litigation at 8:38 PM, Mr. Gerstenberger moved, Mrs. McGranahan seconded, approval unanimous. Mrs. Pace made a motion to reconvene the regular meeting at 8:48

PM,
Mr. Gerstenberger seconded, approval unanimous.

Mr. Kelley announced that there is one item of old business to discuss.

OLD BUSINESS

1. An application from Steven Paolucci, requesting a Use Variance from Section 208-69.2 to construct a single family residence in the Land Conservation (LC) Zone. The property is located at 6 Windham Court, Clifton Park. Permit #80384.

Mr. Kelley explained that he has spoken with Mr. Clemens and in the spirit of trying to reach a fair and reasonable way to deal with these situations and try to maintain the integrity of the wetlands and the respect for the LC zone, he believes they have reached a reasonable compromise to grant a Use Variance with the following conditions: that the 100 ft. buffer be reduced to 50 ft. and on the easterly portion of the property that normally has a 50 ft. setback requirement, it would be reduced to 25 ft. to create a more buildable area. By taking these steps they believe the applicant would have approximately 20,000 sq.ft. to build a residence.

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Kevin Dailey, Esq., was present for this application. He stated this is agreeable. He will take the drawing back to the engineers and have them change the buffer zone lines, as agreed, and that will create a building envelope. He will present that to Mr. Clemens for the building permit.

Mr. Dailey asked if a lawn could be put in the areas that are in the buffer zone. He stated they would not go into the wetlands. Mr. Clemens stated that you cannot create new lawn, if it is existing you can maintain it, but basically the LC zone is a protected area with very limited usage. Mr. Dailey stated that it is just a matter of keeping it clean. He stated he will work with Mr. Clemens on this issue.

Mr. Dailey entered into the record an affidavit from the owner stating when he knew of the wetlands and he also submitted a copy of the DEC permit.

Mr. Kortz noted his concern for cutting in the first 50 ft. buffer area and noted the spirit of the LC zone is to leave the vegetation as it is so as not to affect the ecosystem.

Mr. Dailey stated they can work with reasonable restrictions as to cutting, pesticides, etc.

Mr. Clemens noted that there are only a few uses allowed in the LC zone under the zoning law, but it is not very clear as to what you can do with the land itself.

Discussion continued on exactly what uses could be undertaken in the area of the

variance granted. Mr. Dailey agreed to work with Mr. Clemens on this issue.

Mr. Gerstenberger made a motion to grant a variance for a 50 ft. setback in the buffer area to allow for a setback of 50 ft. and a 25 ft. setback variance on the easterly side to allow for a setback of 25 ft.. Mrs. McGranahan seconded. Ayes: Kortz, Gerstenberger, Dudick, Kelley, McGranahan, Pace, Gleason. Noes: None.

Mrs. Pace made a motion to approve the minutes of July 16, 2002, Mr. Gerstenberger seconded, approval unanimous.

There was no further business to conduct. Mr. Gerstenberger made a motion to adjourn the meeting at 9:07 PM, Mrs. McGranahan seconded, approval unanimous.

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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