

Clifton Park Zoning Board of Appeals Meeting Minutes

November 19, 2002

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

Absent: Donna Lawton

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

Mr. Kelley called the meeting to order at 7:32 PM. He reminded the Board members of the Saratoga County Planning Board's mock hearings being held this week to aid new members to local Boards.

He also noted that the new schedule for meetings for 2003 will follow the same as previous years but asked if the Board members would be agreeable to starting the meetings at 7:00 PM instead of 7:30 PM. It was unanimously agreed to starting with the first meeting of January 6, 2003.

Mr. Kelley also announced that the application for Saxton Signs, representing Taco Bell, has again been adjourned at the request of the applicant.

NEW BUSINESS

1. An application from Kristin Decker, requesting an area variance from Section 208-11 from the required 10 ft. side yard setback in a R-1 zone for an addition - actual setback = 4 ft. - variance requested = 6 ft.. The property is located at 15 McLane Street, Rexford. Permit #80405.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002.

Jason Caponia, 15 McLane Street, presented this application. He explained they want to put a substantial room on the existing structure to create additional living space. The house is currently only two feet from the property line on the east side. He is setting the addition back another two feet therefore a six foot variance is needed. He noted that the house next door has a similar addition. The house is only 1,100 square feet and more living space is needed.

Mr. Kelley asked Mr. Clemens for his comments. Mr. Clemens noted that the addition is almost completed. The addition was put up without any building permits being obtained and there are concerns if it meets code. He also noted there are concerns regarding the septic system location. The lot is only 36 feet wide and 125 feet deep. This is an intense use of a very small lot.

Mr. Caponia noted that the septic tank will be moved back and tied into the same line. The addition is for living space, not bedroom space and will not affect the leach field. It is back behind the garage area.

He also noted that he started the addition due to constraints on time for him to obtain custody of his son. He has since applied for the permits and has a letter from an Engineer stating that the building is fine. It is also the same exact addition as the house next door.

Mr. Kelley noted that under normal conditions there would not be any problem with granting the variance but he has concerns because the structure was built without any inspections and the Building Department does not know if there are any code violations inside the structure. The building codes are to protect the residents. He also noted his concern that the applicant went ahead and did not follow the procedures that everyone else must follow.

Mr. Kelley stated that the Board will not consider this variance without the Building Department's inspection that the structure meets all local and state codes.

Mr. Kelley suggested that the applicant get together with Mr. Clemens for an inspection as soon as possible.

Mr. Dudick asked if there were any issues with the residence next door as far as meeting setbacks, etc.. Mr. Clemens stated there is not.

Mr. Caponia presented pictures of the house before and after the addition.

Mr. Kortz made a motion to adjourn this hearing until December 3, 2002, Mr. Gerstenberger seconded, approval unanimous.

2. An application from Craig & Sandra Saia, requesting an area variance from Section 208-12 from the required 80 ft. front yard setback for a detached garage - proposed setback = 67 ft. - variance requested = 13 ft.. The property is located at 8 Elm Place, Clifton Park. Permit #80406.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002.

Sandra Saia presented this application. She stated they do not currently have a garage and would like to add a two car garage. They will set it back as far as possible but due to existing tree lines and a shed this is as far back as they could go without the trees interfering with the garage foundation. Also if it were setback 80 ft. it would be behind the house and they would like it next to the house.

Ms. Saia also presented two letters from her neighbors stating that they do not have a problem with this request.

Mr. Clemens stated that he has no problems with this request. There are mature trees on the lot. If this were an attached garage there would be no problem, but since it is a detached garage it needs the 80 ft. setback.

There was no public comment.

Mr. Dudick asked why they wanted a detached garage. Ms. Saia stated that it was approximately \$5,000 more to have an attached garage and there is also a water problem. Water comes in from the road and floods the portion of the driveway where an attached garage would be located. If attached it would have to be approximately six inches higher than the house or it would flood.

Mr. Kelley noted that this is a reasonable request.

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

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

3. An application from Mary D. Carley, requesting an area variance from Section 208-12 from the required 80 ft. setback for an accessory structure - proposed setback = 30 ft. - variance requested = 50 ft.; a side yard setback from the required 5 ft. to 2 ft. - variance requested = 3 ft.; and a rear setback from the required 5 ft. to 1 ft. - variance requested = 4 ft. The property is located at 21 Main Street, Rexford. Permit #80407.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002.¹

Mary Carley presented this application. She explained that she would like to put up a shed on an existing foundation that was used for a carriage house. The house is over 100 years old. She presented a map showing the location of the proposed shed.

Mr. Clemens stated he has no concerns with this application. He noted this is a very unusual site and this is the only spot where they are able to put the shed.

Mr. Kelley noted that he has letters from neighbors in favor of this request.

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

Mr. Kortz noted that there will be no substantial impact from this request.

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

4. An application from Cumberland Farms, Inc., requesting thirteen variances (see attached). The property is located at the corner of NYS Rte. 146 and Vischer Ferry Road, Clifton Park. Permit #80401.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002

Martin Affreadeau, attorney, Rob Spiak, Boler Engineering, and Steve Knoxville, regional manager for Cumberland Farms, were present.

Mr. Affreadeau noted that they have been before the Planning Board and had meetings with the Building Department. They recognize that they need many variances. The site is .654 acres in size. They will be doing a major renovation on the site. They will be replacing the store with a new store and increasing the number of gas dispensers. They do meet the green space requirements of 35%. He presented photos of a similar site in Queensbury that is representative of what is being proposed for this site. It will be a colonial style structure. The current site is an old tired site in need of updating. Cumberland Farms likes this location and to make this kind of investment for this site they need this size building and number of dispensers. Cumberland Farms makes its money from the sale of gas. They will make some changes along Rte. 146. Contrary to what the County Planning Board stated the curb cuts are not going any closer to Rte. 146, they are eliminating one on Rte. 146 and moving the other farther away.

Rob Spiak reviewed the site proposals. He noted they are turning the store to face westbound on Rte. 146. It will be approximately 4,100 sq. ft. versus the existing 1,850 sq. ft.. They will be installing a new canopy with six gas dispensers. They will eliminate one curb cut on Rte. 146, they will reduce the entrance on Vischer Ferry Road from approximately 55 ft. to 30 ft.. The green space complies with the code. They will add substantial landscaping to the site. The site circulation will be improved. The increase in the store size is to provide some storage space and meet ADA requirements with aisle size, etc.. There is a very small building envelope on this site. Any improvements will require a number of variances.

Mr. Gerstenberger inquired about the proposed entrances. He asked if they will be similar to the current ones.

Mr. Spiak responded they will eliminate one curb cut on Rte. 146 and move one over about 35 ft. The one on Vischer Ferry Road will be lessened and moved away from the intersection.

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

Mr. Clemens stated that he is in favor of this request. Most of the variances already exist for the present structure. He believes this will be a big improvement for this site. They are

moving the entrances and this should be an asset to the community.

Mr. Kelley noted that this Board is only dealing with the variances, not the site plan specific issues.

Mr. Kortz asked if the site plan changes are substantial won't that change what the variance requests would be?

Mr. Clemens responded that if changes are made and the variance requests are for anything less there would be no problem.

Mr. Schreiber noted that the Planning Board will have to act within the variances granted.

Mr. Kelley noted he discussed this with the Planning Department regarding their concerns. They have concerns with size of the lot and size of the building, but the concept is well received. As a community we don't want to see that site just sitting there.

Mr. Kelley also noted that the County has turned down this proposal but our Planning Board will be reviewing and working with the applicant on this site and we know they will be doing the right things. Any approvals will need a super majority vote.

Mr. Affreadeau noted that after the meetings with Don and Jason he felt the Town really wanted to protect the green space and when the application was filed they met all green space requirements. When he spoke with the County he found that they felt the applicant should not be upping the green space, there were other things more important. They found themselves in conflict.

Mr. Kelley noted that most of the variances being asked for are already needed for the current building. They are really not asking for many additional variances and they will be meeting green space requirements, which is important, and they will be improving the site. It is currently a "sea of asphalt".

Mr. Kortz inquired about the number of parking spots. Mr. Spiak stated it will be the same as today, they count the pump spaces so they meet requirements. This design will improve the traffic flow within the site.

Mr. Dudick stated that he likes the idea, it is a higher intensity but seems to be a better design than the current site. He also inquired about the total signage for the site. Mr. Spiak responded that it will be reduced from 93.8 sq. ft. to 80.9 sq. ft..

There was discussion on a freestanding sign and the monument sign.

Mr. Clemens noted that to move the pylon sign to a location visible to both roads would detract from the site.

Mrs. Gleason inquired about the entrance on Rte. 146 and its location with the center median. Mr. Spiak noted that they are restricted by the median but the entrance will be

moved somewhat.

Mrs. Gleason noted that if all the variances are granted the Planning Board has to allow this project. Mr. Kelley stated it allows the applicant to go to the next stage which is the Planning Board and they will deal with the concerns of site plan issues.

Mr. Affreadeau noted that they are working all over the region and they will work with the Planning Board and address their concerns. They are not adversarial. There will be give and take. They have generated a lot of good will and good faith in the other communities around the area and he feels Clifton Park will feel the same.

Mr. Dudick made a motion to approve the variances as requested. Mr. Gerstenberger seconded.

Mr. Kortz stated this is a vast improvement over the current site. It improves safety, there is no detriment to the community, there will be more green space. He is not sure that these are the minimum variances needed.

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

5. An application from Mark Johnston, requesting an area variance from Section 208-35D(1) and Section 208-98 from the required front yard setback in a B-1 zone from the centerline of NYS Route 146. The property is located on NYS Route 146, Clifton Park. Permit #80403.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002

Dean Taylor presented this application for Dr. Johnston. He stated they are looking for the front yard setback because it fits within the general planning of the cluster subdivision that it adjoins as well as the existing structures. This area of Route 146 has been changed to a B-1 zone that requires the 130 ft. setback. When the cluster development was done the Planning Board did not know it was within their authority to have them set a cluster front yard setback. They are trying to stay consistent with land planning and reduce adverse impacts in the future. This variance would allow a 20 ft. no disturbance buffer and would allow for future access if the lands of Dinsmore get developed for future use. Mr. Clemens noted that he has no objections to this request. It keeps it consistent with the other structures in the area.

Mr. Kelley recuse himself from this application because Dr. Johnston is the veterinarian for his pets.

Mrs. Gleason also recuse herself.

Mr. Schreiber noted that he is a personal friend of Mr. Taylor's.

Mr. Kortz chaired the meeting for this application.

Mr. Taylor explained that they are trying to keep this building as far away as possible from the cluster residential subdivision. This will allow for a 20 ft. vegetation buffer. If the variance is not granted they would have to shift the building and it would be closer to the residential area. This will also allow for future access to the Dinsmore property if needed.

Mr. Clemens also noted that the request will keep the building farther from the residential areas.

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

Mr. Dudick made a motion to approve this variance as requested.

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

Mr. Dudick left the meeting at 8:35 PM.

6. An application from Gordon P. Nicholson, RLA, representing Peter J. Belmonte, requesting five area variances to build a two story office building in a B-3 zone: 1) a variance from Section 208-38C from the required 80 ft. front yard setback for a building from Old Route 146 - proposed setback = 14 ft. - variance requested = 66 ft.; 2) a variance from Section 208-38C from the required 30 ft. front yard setback from Old Route 146 for parking - proposed setback = 25 ft. - variance requested = 5 ft.; 3) a variance from Section 208-38D from the required 20 ft. side yard setback for parking - proposed setback = 10 ft. - variance requested = 10 ft.; 4) a variance from Section 208-38C from the required 80 ft. front yard setback for a building from Old Plank Road = proposed setback = 14 ft. - variance requested = 66 ft.; 5) a variance from Section 208-38B from the required 40,000 sq. ft. for a building lot in a R-3 zone - actual = 31,926 sq. ft. - variance requested = 8,074 sq. ft. The property is located at Old Route 146 and Old Plank Road, Clifton Park. Permit #80404.

The secretary read the legal notice as it appeared in the Daily Gazette on November 14, 2002

Mr. Nicholson presented this application. He explained that Mr. Belmonte has owned this building for an extended period of time. Before he made an application he discussed this site with

11/19/02 Page 9

Mr. Clemens and he suggested making several alternative site layouts and go to the Planning Board for their input. The Planning Board did not make any comments but suggested going to the Zoning Board and returning with a site plan.

Mr. Nicholson noted that most of the buildings in this area are within five feet of the roadway. Mr. Belmonte is planning to build an office to house his building company. The existing house violates the building code and ADA codes. Any changes to the existing building would require the same variances as being requested. He indicated the building envelope on the property and noted that it is just a small triangular piece.

He continued, their proposal is to have access on Old Plank Road and on Old Route 146 with parking in the rear of the building. The proposed building will be no closer than the existing structure. The County returned their decision with no significant impacts.

Mr. Clemens stated he has no objections. He stated the existing building is in terrible condition and can not be used for offices.

Mr. Nicholson noted that even if the current building could be converted into office space all the setback variances would still be needed.

There was discussion on the parking. Mr. Nicholson noted that they put the parking in the rear of the building in order to move the driveways away from the intersection.

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

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

Mr. Kelley made a motion to approve the minutes of October 15, 2002, Mrs. Pace seconded, approval unanimous.

Mr. Kortz made a motion to adjourn the meeting at 8:50 PM, Mrs. Pace 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