

Clifton Park Zoning Board of Appeals Meeting Minutes

May 20, 2003

Present: Dale Kelley, Chairman, Skye Heritage, Sandra Pace, Dale Gleason, Gil Kortz, Donna Lawton, Michael Dudick (arrived 7:17 PM)

Also Present: Joel Peller, for ZBA Counsel

Mr. Kelley called the meeting to order at 7:02 P.M.

NEW BUSINESS

1. An application from Deborah Hill, requesting an area variance from Section 208-85A from the required 10 acres for a riding stable - actual acreage = 6.55 acres - variance requested = 3.45 acres, and an area variance from Section 208-85A from the required 50 ft. setback from the lot line for riding stable areas - proposed setback = 35 ft. - variance requested = 15 ft.. The property is located at 421 Schauber Road, Ballston Lake. Permit #80436.

The secretary read the legal notice as it appeared in the Daily Gazette on May 15, 2003.

Gil VanGuilder represented the applicant on this application. He presented a brief history on the property which is located on the corner of Hubbs Road on the north and Schauber Road on the west. He noted this is part of a larger piece of property and has a history of horses being kept on this site. He stated he was before this Board in the 1980's when the property was subdivided and obtained variances for the existing barns. The Hill's purchased two lots within the subdivision. They live approximately one mile from this site and they became interested in this site because their daughter has an interest in horseback riding. They were using an existing stable across the street and decided they would like to expand for their own use. They improved the property with additional paddocks and other necessities for the horses on site. They made an application for an "Ag" building on site and immediately went under construction. They were approached by some local people that keep their horses in Johnstown, which requires considerable commuting to exercise their horses. This will be a full service facility where the owners will not need to come to the site every day to feed and clean out the stables. They will come to site to exercise the horses and ride them casually.

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He continued, the variances being requested are to do with an interpretation of the Building Department that this is now becoming a commercial use. Under the current regulations for the Hill's to use this as a family operation variances would not be needed because five acres is required for the keeping of livestock and they have 6.55 acres and the side yard setback in an R-3 zone is 20 ft. and they have 35.8 ft. for setback but because of the interpretation of this being a commercial zone the variances are needed.

He stated there has never been any issues with the neighbor's as far as the applicants know with the use of the property for horses. Exercise for the horses will take place inside the building. The droppings will be cleaned out of the stables, put into a wagon, and taken to a local dairy farm. They will not be kept on site at all. Just for a matter of a couple of days. They will be keeping a maximum of 10 horses on site of which they now have five people interested in boarding horses there, the remainder will be their own. If the formula was used they could have a maximum of 13 horses but they are not looking to maximize that.

Mr. Kelley read comments from Mr. Clemens and the Environmental Specialists', and also the recommendation of the Saratoga County Planning Board which recommended approval of this request with the comment that the proposed access should be moved from the County road to the Town road. Mr. Kelley noted that that is more of a planning issue and will be taken up with the Planning Board.

There was no public comment.

Mrs. Pace asked for clarification on the number of horses that could be located on the site if this was for personal use. Mr. VanGuilder stated they could have 13 horses.

Mr. Hill informed the Board of the current horses they have on site (4) and stated he does not see where they would ever have that number of horses. He stated they have five stalls in the old portion and are adding six new stalls.

Mr. Kortz inquired what the law allows for a commercial use with ten acres. Mr. VanGuilder responded two horses per acre.

Mr. Kortz inquired about the wetland boundary and if there would be any activity near that area. Mr. VanGuilder stated there would be no construction activity in that area.

Mr. Hill stated if there is any outside activity it would be near the side of the barn in a sandy area. The wetland area going up the hill is rough with rocks and he would not like to see the animals get hurt. They graze there.

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Mr. Kortz asked if there would be any riding arenas outside the building.

Mr. Hill stated there are paddocks on the south side, away from the highway side.

Mr. Kortz inquired if there were any comments from the ECC regarding water contamination. Mr. VanGuilder noted the drainage pattern and stated that the adjoining wells are not down gradient from the areas where the horses will be.

Mr. Hill explained that they have their well tested twice a year to make sure the animals

do not drink any water with E coli or bacteria, etc. He noted that horses by their nature eat grain, grass or hay and there is no bacteria produced from a horses droppings.

Mrs. Gleason asked Mr. Kelley to read the Environmental Specialists comments.

Mr. Kelley read Mr. O'Brien's comments that the intensity of the use could potentially create an issue with well water contamination on an adjoining property. He also noted that a similar situation occurred in Town at another site.

Mr. Kelley suggested limiting the number of horses that could ever be allowed on site because of the restricted size of the property. He suggested that keeping the number of ten.

Mr. Kortz asked if the soil was clay or sand. Mr. Hill responded it is mostly sand in the area where they work. Mr. Kortz noted that sand is much better for filtration.

Mr. Kortz asked if the horses are kept inside or turned out when they are not being ridden. Mr. Hill noted that horses need a lot of fresh air based on lung capacity. They are very careful, they have to be kept in the paddock for safety reasons.

Mr. Hill noted that he does not understand the environmental question. Mr. Kortz stated that the concern is with contamination from runoff.

Mr. VanGuilder noted that the Hill's will be removing the manure from the site every few days and when the wagon is being filled it will be kept in a barn. It will not be out where it will be leaching into the soil.

Mr. Kortz asked about the clean up in the outside areas. Mr. Hill stated that his family does the clean up.

Mr. Kelley reviewed the criteria that the ZBA follows in determining whether or not to approve a variance.

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Mrs. Gleason made a motion to close the public hearing, Mrs. Lawton seconded, approval unanimous.

Mr. Kelley made a motion to approve this variance conditioned on the maximum number of horses on the property will be limited to ten and the waste material will be removed from the property every three days. Ms. Heritage seconded.

Mrs. Gleason asked with the change of the use of the property was parking considered. Mr. Kelley noted that that is a Planning Board issue.

Mr. VanGuilder stated it was briefly discussed. He noted a letter was generated by

Clough Harbour and they made some suggestions on how to change the entrance and the circulation. They decided they wanted to see the outcome of this meeting. They are also working with the Fire Marshall and the Building Department on some code issues.

Mrs. Gleason explained that even though parking is a Planning Board issue public safety is a concern of this Board. Will this increase the traffic and change the neighborhood.

Mr. Kelley noted that with limiting the number of horses on the site goes a long way to restrict the events and traffic at the site.

Mr. Kortz noted that this is an allowed use in this area and if they had the ten acres they would be allowed to have 20 horses.

Mr. VanGuilder explained that the horse owners will not be there everyday to feed the horses. They will be there only for exercising and grooming purposes.

Mrs. Hill noted that the owners are mature adults and the horses are adult ones.

Mr. Kortz questioned the setback variance. Mr. VanGuilder noted that the original intention of the building was for an agricultural building and only needed a 20 ft. side yard variance when the commercial interpretation came in a 50 ft. setback was needed.

Mr. Kelley amended his motion to approve this variance as requested with the following contingencies: a limit of ten (10) horses at any given time on the site, the riding outdoor arena is restricted to not exceed 50 ft. within any wetland designation on the site, and the waste material will be removed from the site as soon as practicable. Ms. Heritage seconded. Ayes: Pace, Gleason, Lawton, Kortz, Heritage, Dudick, Kelley. Noes: None.

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2. An application from Harinderpal S. Kingra, requesting an area variance from Chapter 171 of the Town of Clifton Park (Sign Law) for a freestanding sign for Parkwood Restaurant. The property is located at 1760 Route 9, Clifton Park. Permit #80437.

The secretary read the legal notice as it appeared in the Daily Gazette on May 15, 2003.

Mr. Kingra presented this application. He stated he purchased the property two years ago. He noted this is a freestanding building from the other buildings. He has received many comments from customers that they cannot locate the restaurant. There were two signs on the building but one burned down during the winter. There is currently one sign on the building. He would like to put up a simple 4 x 8 box sign. The setbacks will be met. They will not replace one sign on the building if this variance is granted. They will try to repair the other sign.

Mr. Kelley noted the County Planning Board did not have any negative comments. He stated there is some history on this site. Mr. Clemens has noted that there have been many

requests from this shopping center for additional signage over the years. The Town has taken the position that there are no setback problems for the businesses to be seen and these requests have been rejected in the past. He noted Mr. Clemens' concern that if a freestanding sign is granted many others in the plaza will do the same and that would not be good for the center or the Town.

Mr. Kelley also noted that there is a freestanding sign at the plaza and the restaurant has a sign on the building. He feels consistency is necessary. He noted the Board has to be fair and reasonable. He also noted that each case is considered on a case by case basis. He explained that this is a well know location.

Mr. Kingra noted that he has signage on the Northway and at exit 10 but otherwise there is no other identification for the restaurant. He also noted that his clientele is elderly and they have a difficult time in finding the restaurant. He stated he owns this piece of property, not the Hoffmans, who own the rest of the plaza. He owns .97 acres and the restaurant.

Mr. Kingra noted that most of the restaurants in the area have freestanding signs and he needs the edge to succeed at this location.

Mr. Kortz stated that those restaurants are not part of a plaza. Mr. Kingra stated he owns his portion of the site. He bought the restaurant and the property around it.

There was discussion on the entrance and the current freestanding sign and due to its location Mr. Kingra does not feel it would benefit his business.

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Mr. Kortz inquired about parking. Mr. Kingra stated he shares the parking with the rest of the plaza.

Mr. Kingra offered to remove all signage from the building if the freestanding sign is granted.

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

Mr. Peller stated that he will get the subdivision history to determine if this applicant is entitled to a freestanding sign.

Mr. Kelley stated the Board will pend this application to June 3, 2003.

Mr. Kelley made a motion to approve the minutes of May 6, 2003, Mrs. Gleason seconded, approval unanimous.

Mr. Dudick made a motion to adjourn the meeting at 8:01 PM,

Mrs. Lawton seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary

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