

## Clifton Park Zoning Board of Appeals Meeting Minutes

September 2, 2003

Present: Dale Kelley, Chairman, Michael Dudick,  
Skye Heritage, Sandra Pace, Dale Gleason,  
Donna Lawton, Gil Kortz

Also Present: Don Clemens, Building & Development  
Louis Renzi, ZBA Counsel

Mr. Kelley called the meeting to order at 7:01 P.M. He reminded the Board members about the Hazardous Waste Recycling Day in October and noted that volunteers are still needed.

### OLD BUSINESS

1. An application from Winfield LLC, requesting an area variance from Section 208-33B from the maximum building size in a B-1 zone of 4,800 sq. ft. - building requested = 7,873 sq. ft. - variance requested = 3,073 sq. ft.; an area variance from Section 208-33D from the mandatory architectural restriction in a B-1 zone of all buildings to be consistent with residential dwellings in character; an area variance from Section 208-33B from the required maximum lot density of 12% - proposed density = 12.5% - variance requested = 0.5%, and an area variance from Section 208-35D from the required 25 ft. side yard setback for buildings and parking in a B-1 zone - proposed east side setback = 21 ft. - variance requested = 4 ft., and proposed west side setback of 18 ft. - variance requested = 7 ft.. The property is located at 942 Route 146, Clifton Park. Permit #80447.

Chris Smith, C. T. Male Associates, asked to have this application tabled until a future date so that they can work on the design of the building. He stated that he has met with Don Clemens and addressed many of the issues involved with this application. He also waived the 62 day period for the ZBA to act on this application.

### NEW BUSINESS

2. An application from George Sarris, requesting an area variance from Section 208-10B(1) from the required minimum 5 acre lot size to keep poultry or livestock - actual lot size = 2.5 acres - variance requested = 2.5 acres. The property is located at 11 Woodside Drive, Clifton Park. Permit #80457.

The secretary read the legal notice as it appeared in the Daily Gazette on August 28, 2003.

George Sarris presented this application. He stated that this application is to continue having ducks on his property. He noted that he was not aware that he was in violation of any Town laws. He stated that nothing will change from how it is now.

Mr. Kelley asked him to explain what he does.

Mr. Sarris responded that he has ducks and geese and raises them for pleasure. He noted that they are rare ducks. He continued, he has a pond and the ducks eat the insects that are there.

Mr. Clemens stated that he received a complaint and then visited Mr. Sarris and explained that Town law requires that he have a minimum of five acres of land to keep ducks, geese or livestock on his property. Mr. Clemens noted that he does not know the number of ducks and geese on this property.

Mr. Sarris responded that it varies. There are wild ducks that fly in and out and last year he had more than 100 wild ducks visit at one time. He also stated that he has had as many as 73 domestic ducks and geese but he does not clip their wings, they naturally do not fly. He presented photographs of the property showing the geese and ducks and he noted that he has herding dogs, which is basically why he brought in the ducks.

Mr. Kelley asked if he had anyone visit this site. Mr. Sarris responded that he has had one person visit from outside the community. He does not have a commercial business. He does trade to out breed.

Mr. Dudick asked how long he has maintained a duck sanctuary.

Mr. Sarris responded he started about 15-20 years ago. He noted that he moved here in 1999 and has had them since 2000.

Mr. Kelley asked if they remained all year. Mr. Sarris stated that he winters the domestic ducks but the wild ducks leave prior to the winter. He noted that he is a NYS licensed wildlife rehabilitator.

Mrs. Gleason asked if this is a business. Mr. Sarris responded that there is no monetary benefit. His facility is inspected by the state.

Mr. Sarris noted that water fowl do not have the same sanitation problems as poultry due to their digestive systems. As a rule the American poultry association recommends that there be no more than 100 ducks per acre.

Nine residents (list attached) spoke against this application expressing their concerns for their property values, odors, noise, and safety issues. They also noted their concern for large trees that were removed from the property.

Terri Schillaci, 1 Woodside Drive, presented photographs showing a different prospective from Mr. Sarris' and a petition with 62 signatures of neighbors opposing this application. She also expressed her concerns with safety, noise, and property values.

Mr. Kelley noted that he is sensitive to the comments that have been made and he

respects Mr. Sarris for what he does for wildlife but this is a residential area and he feels this is not the appropriate site for type of activity.

Mr. Kortz asked how far into the property were the trees cut?

Mr. Sawyer, 250 Moe Road, showed a map to the Board indicating where the trees were cut and that several were on his property, not Mr. Sarris'.

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

Mrs. Gleason stated that she cannot vote in favor of this application because she feels that at least five acres of land is necessary for this type of activity.

Mrs. Gleason made a motion to deny this application. Mr. Dudick seconded.

Mr. Kortz asked Mr. Clemens about the noise ordinance and the constant noise for more than 15 minutes and how a complaint is made on this issue. Mr. Clemens responded that a complaint can be made to any peace officer and the town security officers can also handle this type of complaint.

Mr. Kortz asked Mr. Sarris if the ponds on the property are the original configuration. Mr. Sarris presented an ariel photograph showing the ponds. He stated he is silt lining the ponds to stop erosion.

Mr. Kortz noted that he is very environmentally oriented but he feels that this situation is not proper for this neighborhood. He also noted that the zoning existed when Mr. Sarris bought the property and therefore is self-created.

Mrs. Lawton asked if eliminating the domestic ducks will eliminate the wild ducks going in and out. Mr. Sarris responded no.

Mrs. Gleason asked for a clarification if this application is denied what happens to the current site. Mr. Clemens responded if denied the applicant will have to remove the domestic ducks and geese that he is keeping.

Mrs. Lawton asked if any ducks could be kept by the applicant.  
The answer was no.

Mr. Dudick asked what prevents Mr. Sarris from moving to another area zoned for this type of use. Mr. Sarris responded nothing. He was not aware that this was not allowed when he bought the property. He continued, there is not a lot of tree space for geese to land, which is testimony that his land is in the flight path. He noted that the issue is domestic geese and they do not fly. He noted that he has only taken trees down that were on his land and there are still trees left for a buffer.

A vote on the motion was called for. Ayes: Gleason, Pace, Dudick, Kelley, Heritage, Kortz. Noes: Lawton.

Mr. Kelley informed the applicant that his variance has been denied. He asked Mr. Clemens for suggestions so everyone will be satisfied. Mr. Clemens suggested 60 days for the removal of the domestic ducks and geese. Mr. Sarris stated he could remove them within that time but he can do nothing about the wild ducks and geese.

Mrs. Gleason asked if there is anything being done that encourages the wild ducks and geese to stop there. Mr. Sarris stated that he cuts the grass around the pond area. He also noted when the wild ducks and geese see domestic ducks they know it is safe to land there.

Mr. Clemens will verify when the domestic fowl have been removed.

3. An application from Kevin A. Grentzer representing Ballston Spa National Bank, requesting an area variance from Chapter 171 (Sign Law) to erect a 42 sq. ft. freestanding sign - maximum allowed = 32 sq. ft. - variance requested = 10 sq. ft.. The property is located at 256 Ushers Road, Clifton Park. Permit #80453.

The secretary read the legal notice as it appeared in the Daily Gazette on August 28, 2003.

Pat Boni, Saxton Sign, presented this application. He stated they would like to remove a 36 sq. ft. roof sign and replace it with a 42 sq. ft. pylon sign because it cannot be seen going north and it is very hard to see when going south. They would like to replace it so it can be seen from both directions.

Mr. Kelley asked if it would be double sided and illuminated. Mr. Boni responded yes.

Mr. Clemens noted that they are allowed a freestanding sign. He noted that the roof sign was basically inherited when they moved into this location. He also stated that the roof signs are no longer allowed and this will replace a non-conforming sign and replace it with a freestanding sign of a minimally larger size. He stated he supports this variance.

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

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

4. An application from Saxton Sign Corporation representing Key Bank, requesting an area variance from Chapter 171 (Sign Law) to allow for a second wall sign of 19 sq. ft.. The property is located at 1541 Crescent Road, Clifton Park. Permit #80456.

The secretary read the legal notice as it appeared in the Daily Gazette on August 28, 2003.

Pat Boni, Saxton Sign, presented this application. He explained that this sign is for identification from the east.

Mr. Clemens noted that this request is minimal and does serve a legitimate purpose and he has no objections to the granting of this variance.

Mr. Kelley noted that the County had no objections to this request. He also noted the County had no objections to the previous application.

Mr. Kortz inquired about the removal of the existing sign.

Mr. Boni stated they are removing the old logo and replacing it with the new one. Mr. Kortz asked if there already was a second wall sign, Mr. Boni responded yes.

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

Mr. Kortz asked what the maximum square footage is for a single sign. Mr. Clemens responded 24 sq. ft. for a bank.

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

5. An application from Interstate Sign Company for Mark Carroda, requesting an area variance from Chapter 171 (Sign Law) for a 2nd, 3rd, and 4th wall sign of 17 sq. ft. each. The property is located at 1019 Route 146, Clifton Park. Permit #80449.

The secretary read the legal notice as it appeared in the Daily Gazette on August 28, 2003.

Anthony Famiano represented Mark Carroda on this application. He stated they currently have 3' x 3' signs on both ends of the canopy that are illuminated and they are proposing to remove those signs and replace them with individual CITGO letters. The current square footage is approximately 9.5 sq. ft. per sign and they are asking for a variance to allow 17 sq. ft. per sign. This is a newer, cleaner image.

Mr. Kelley commented that the newer image is much nicer looking and is an improvement.

Mr. Famiano presented photos of the new signs for the Board to review.

Mr. Clemens noted that a variance was granted previously for three canopy signs of 9 sq. ft. each and this would double the variance that was granted the last time. He continued, the new image is a nicer look but he questions if the sign on the eastern exposure is

needed. It is not visible, it is hidden by the trees. He can see justification for the sign on the front and the west side of the canopy.

Mr. Kelley asked Mr. Clemens for past history on similar requests. He stated the Board has limited this type of canopy sign to the 7-10 sq. ft. range. There has been 3-4 canopy signs granted but much smaller in size.

Mr. Famiano commented that they are removing illuminated signs and will be replacing them with non-illuminated signs.

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

Mrs. Pace commented that the signs seem large and asked if 17 sq. ft. each is the standard size. Mr. Famiano responded yes, under the new image it is the standard. The old image was 3' x 3' ft. signs.

Mr. Kelley asked the size of the freestanding sign at the site. Mr. Clemens responded it is 30 sq. ft. Mr. Kelley suggested that with the pole sign perhaps they could remove the front canopy sign and just have one on each side of the canopy.

Ms. Heritage inquired about the wording on the freestanding sign. Mr. Famiano responded it says CITGO with a logo. Mr. Kelley asked Mr. Clemens if the Board allows two signs on the canopy is this consistent with other variances granted.

Mr. Clemens stated that two signs of this size would be similar to granting four signs of another canopy of 9 sq. ft. and would be very similar. He suggested letting the applicant choose the two sides they would like to put the signs on.

Mr. Famiano agreed to amend the application to two signs.

Ms. Heritage made a motion to grant two wall signs of 17 sq. ft. each on any two sides to be determined by the applicant. Mrs. Gleason seconded.

Mr. Kortz asked for confirmation that the existing signs have to be removed. Mr. Clemens noted that it is stated in the application and therefore they have to be removed.

Ayes: Gleason, Pace, Lawton, Dudick, Kelley, Heritage, Kortz. Noes: None.

6. An application from DCG Development Company, requesting 26 area variances from Section 208-46 for various setback variances as specified on the attached sheet; and two sign variances from Chapter 171 for an off premise sign of 100 sq. ft.. The property is located at the south side of Route 146, Clifton Park. Permit #80454.

The secretary read the legal notice as it appeared in the Daily Gazette on August 28, 2003.

Gordon Nicholson and Donald MacElroy represented the applicant on this application.

Mr. Nicholson gave a brief history of this site. He noted that DCG purchased this property and the Town indicated they would like to have Maxwell Road extended. He then appeared before this Board for a series of variances to extend Maxwell Drive south and to allow DCG Development to develop the property in a reasonable manner. They proceeded with detailed engineering plans for the extension of the road and subdivision of lands and DCG was marketing the property until June of last year when the Shenendehowa School District announced their intentions to the Town Board to expand the Arongen school and eventually seek access to Route 146 and they were amazed that they were not included in the Maxwell Road extension plans. The Town Board asked DCG and Windsor Development if they would be willing to amend their road alignment, shift the road, abandon the plans that had been fully designed and approved by DOT, abandon the subdivision of lands that had been approved and consider relocating the road in a manner to facilitate Shenendehowa's eventual connection. DCG agreed to do that and have been working with the Town Board, Planning Board, Town Engineer, the County Planning Board and the school district. The plan submitted here illustrates the preferred location for all the parties involved to continue development in this area. The difference between this application and the previous application is that the Town asked DCG to set aside some land on the southern end of the property near the YMCA to facilitate a connection to Wall Street at some point in the future so that the road will eventually tie into Maxwell south and Southside Drive, to the lands of Shenendehowa, to Wall Street, and then they will decide on how and where to deal with it at that point in time.

Mr. Nicholson continued, the variance application before the Board tonight was presented and discussed with the Planning Board. They have approved the subdivision of lands that would be the result of that current road alignment. These variances, even though they are more extensive than what was applied for the last time, the only reason for the difference in the number of variances is that they apply to more property than they had in the past and the Planning Board suggested they come before the Zoning Board for the variances instead of the Town Board for a PUD application, therefore they are here this evening.

Mr. Kelley concurred with Mr. Nicholson working with the Town, Planning Board, Town Engineer, etc. to make a very complicated issue get resolved and he feels one of the last steps in the whole process is to have this Board review the requested variances and grant them as submitted so that this project can move ahead so the

Town and School District can move on with this project.

Mr. Nicholson noted that the Planning Board has seen the site plan conceptually

associated with these variances and he does not believe they have any issues with any of them. He also noted that the Shenendehowa District and the traffic engineer that did all the original highway design work that was approved by DOT to commence with the highway design associated with the alignment on the plans so all the pieces are in place to make that happen.

Mr. Clemens noted that DCG has made a lot of concessions and he feels the granting of these variances are an equitable adjustment on the part of the Town to get the returns that they did, therefore he is in favor of granting these variances.

Mr. Kelley noted that the variances will not adversely effect the character of the neighborhood nor were they self-created so he supports this request.

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

Mrs. Gleason made a motion to approve the variances as submitted. Ms. Heritage seconded.

Mr. Kelley addressed the issue of the two sign variances being requested. Mr. Clemens noted the two variances are for the same sign and he has no problem with these requests due to the location of the building.

Mr. Nicholson noted that the sign is for site identification so people know where the plaza is located. Mr. MacElroy noted that this is for the same sign that variances were granted for previously.

Ayes: Dudick, Kelley, Heritage, Kortz, Lawton, Pace, Gleason. Noes: None.

Mr. Kelley made a motion to approve the minutes of August 19, 2003, Ms. Heritage seconded, approval unanimous.

Mr. Kelley made a motion to adjourn the meeting at 8:20 PM, Mr. Dudick 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

ATTACHMENT

SPEAKERS - 9/2/03

Patricia Wood

Jim McGill

Ann Hilger

Darren Sawyer

John Gallo

Bob Newall

Terri Schillaci

Rosemary McGuire

Agnes Lidell