

Clifton Park Zoning Board of Appeals Meeting Minutes

December 2, 2003

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

Absent: Michael Dudick

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

Mr. Kelley called the meeting to order at 7:03 PM.

NEW BUSINESS

1. An application from Saxton Sign Corporation representing Comfort Suites, requesting an area variance from Chapter 171 (Sign Law) to allow a second wall sign of 41 sq. ft., and an area variance for height - maximum height allowed = 20 ft. - proposed height = 46 ft. - variance requested = 26 ft.. The property is located at 7 Northside Drive, Clifton Park. Permit #80468.

The secretary read the legal notice as it appeared in the Daily Gazette on November 27, 2003.

Mr. Kelley read the Saratoga County Planning Board's comments that there is no significant County or inter-community impact regarding this application.

Pat Boni, Saxton Sign Corp., presented this application. He explained that the second wall sign is needed for identification of the site from the east because the existing sign is on the west side of the building and the height request is due to the design of the building.

Mr. Clemens noted that this is a reasonable request and he stated that the sign is in proportion to the building design.

Mr. Kelley asked if this request is consistent with others in the area. Mr. Clemens responded yes.

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

Mr. Kelley noted that this is a reasonable request and has an appealing look and fits the size of the building.

Mrs. Gleason noted that signage can be a safety factor.

Mr. Boni stated that it will be an illuminated sign.

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

2. An application from Saxton Sign Corporation representing Excelsior Credit Union, requesting an area variance from Chapter 171 (Sign Law) to allow a wall sign height of 25 ft. 6 in. - maximum height allowed = 18 ft. - variance requested = 7 ft. 6 in.. The property is located at 386 Clifton Park Center Road, Clifton Park. Permit #80472.

The secretary read the legal notice as it appeared in the Daily Gazette on November 27, 2003.

Pat Boni, Saxton Sign Corp., presented this application. He explained that the building is lower than the Northway ramp and the height variance is needed for identification purposes. He stated that the sign would be visible if it were lower but would not look good on the building.

Mr. Kelley asked what is the objective of the sign? He noted this is a credit union, not a commercial bank. Mr. Boni responded they want exposure and identification for people on the Northway.

Mr. Kelley asked if the sign is for members or the general public? Mr. Boni responded for the general public. Mr. Kelley asked, why the general public if it is a credit union? Mr. Boni stated they'll know it's there and they can become members, they accept the general public for membership.

Mr. Kelley inquired about the signage that SEFCU has because their site is also lower than the Northway. Mr. Clemens responded that they are within the standard height, approximately 14-15 ft. high.

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

Mr. Kelley asked if the structure that is now being built on top of the building is strictly for a sign. Mr. Boni responded yes, he believes that is why they put it on there.

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Mr. Clemens noted his concern about this request. He stated he sees no real need for the variance. He explained if someone is on the Northway ramp they are not going there. He also noted that the grade around the site is very flat and if you are on Clifton County Road it is a very visible site.

Mr. Kelley noted he can see some concern because it is not a Route 146 location but the applicant knew that when they purchased the property.

Mr. Kortz asked what other identification they have for this site.

Mr. Boni responded that they already have a permit for the monument sign but it cannot be seen from the Northway.

Mr. Kelley asked if it only had one side. Mr. Boni stated no, it has four sides, it is a cube but will only have words on one side.

Mr. Renzi asked if Mr. Boni knew what would be on the other sides. Mr. Boni responded no.

Mr. Kortz asked if any other variances were needed for signage.

Mr. Clemens responded no, this is the only variance needed and it is for the height of the sign.

Mr. Kelley noted his concern for this sign.

Mrs. Pace stated her concern for the visual impact of this sign.

Mr. Boni stated that the applicant wants people traveling the Northway to know they are there for future use.

Mrs. Pace asked what they would do with the cupola if the sign is not put on it.

Mr. Kortz noted a sign can still be put on but it would have to conform with the height restriction.

Mr. Boni noted that if the sign conformed with the height restriction it would have to be put on two lines and near the bottom of the cupola and it would not look good.

Mr. Kelley asked if Mr. Boni would like to go back to the applicant and see if they would like to come back with a new proposal.

Mr. Boni asked what the suggestions for that would be.

Mr. Kelley responded he is not so sure it is just the aesthetics, he does not see the need for this sign. He asked if he were driving on the Northway what direction would see the sign.

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Mr. Boni responded both north and south. The sign will be on the side facing the Northway and will be visible from both directions.

Mr. Kelley noted that if he were going south and saw the sign it would be too late to exit.

He stated going north would he see the sign in time to exit the Northway. Mr. Boni responded no. They want the sign for identification, they want people to know they are there.

Mr. Kelley suggested that they could use marketing and other vehicles to let people know their facility is there. He also commended the applicant for building on this site and he noted he feels they will have a very successful operation. He noted that the Board appears to be uncomfortable with the cube sitting on top of the building.

Mr. Boni noted that the cube is already there.

Mr. Kelley asked if the cube stays if this variance is denied.
Mr. Clemens responded yes.

Ms. Heritage asked if the cube is to stay would it make more sense to have it for identification?

Mr. Kelley asked how it was approved in the first place.

Mr. Clemens responded it is just an architectural point of the building. Mr. Kelley noted that it was put there for a sign.

Mr. Clemens agreed but explained that they were told from the beginning that they would not be able to have a sign and they put it there anyway. Mr. Clemens stated that the Planning Board approved the facade of the building without the sign.

Mr. Kelley asked if any indication was made at the Planning Board approval that it would be utilized for signage? Mr. Clemens responded no, they were told they would not be able to use it for a sign. They decided they wanted the cupola as part of the design of the building and they wanted to keep it, then they later they came in and applied for the variance for the sign.

Mrs. Gleason made a motion to deny this variance request.

Mr. Kortz seconded. He noted that this is not in the spirit of the sign law because of the whole nature of where it is, what it is, how it is.

Mrs. Pace asked if anything else can be done with the structure if the sign variance is denied. Mrs. Gleason noted that the Planning Board approved it as part of the site plan.

Mr. Kortz also noted that the applicant was told in the beginning that they could not have a sign there and they went ahead anyway.

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The Board also noted that they can have a sign there just not at the height they are requesting.

A vote was called on the motion to deny this variance. Ayes: Heritage, Kortz, Gleason, Lawton, Pace, Kelley. Noes: None.

3. An application from Anthony Vaccarielli, requesting an area variance from Section 208-97E(4) to allow the use of a single non-conforming lot in an R-3 zone. The property is located at 20 Rustic Bridge Road, Rexford. Permit #80473.

The secretary read the legal notice as it appeared in the Daily Gazette on November 27, 2003.

Anthony Vaccarielli presented this application. He noted that all setback requirements can be met on this lot. It is an existing non-conforming lot. He referred to the site plan submitted with the application showing that all other requirements can be met.

Mr. Clemens stated that the lot size requirements were changed from one acre to 100,000 sq. ft. making some of the older lots non-conforming. He noted the owner does not own any contiguous property to add to this lot and without the variance the lot is not usable.

Mr. Kortz asked why the variance is not for a specific amount of square footage. Mr. Clemens responded you can look at it two ways, there was a certain time period to use the lot or it became non-conforming so basically they are asking for a variance to that section of the zoning law so the applicant can use the lot. It could be approached either way.

Mr. Kortz asked if there would be a house built on the lot?
Mr. Vaccarielli responded yes.

Mr. Kelley asked if it would be a spec house? Mr. Vaccarielli responded yes.

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

Mrs. Lawton asked what structures are shown on the plans.
Mr. Vaccarielli responded a garage and well house.

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

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4. An application from Tina Russell, requesting an area variance from Section 208-11 from the required 40,000 sq. ft. for a building lot in an R-1 zone without sewer and water - proposed lot size = 21,306 sq. ft. - variance requested = 18,694 sq. ft.; an area variance from Section 208-11 from the required 50 ft. front yard setback in an R-1 zone - proposed setback = 7.8 ft. - variance requested = 42.2 ft.; an area variance from Section 208-11 from the required 40,000 sq. ft. lot size for Lot #2 in an R-1 zone - proposed lot size = 21,104 sq. ft. - variance requested = 18,896 sq. ft.; and an area variance from Section

208-11 from the required 40,000 sq. ft. lot size for Lot #3 in an R-1 zone - proposed lot size = 20,873 sq. ft. - variance requested = 19,127 sq. ft.. The property is located at 171 Hubbs Road, Ballston Lake. Permit #80474.

The secretary read the legal notice as it appeared in the Daily Gazette on November 27, 2003.

Gil VanGuilder presented this application. He noted that the parcel is 1.57 acres at the intersection of Hubbs and Hatlee Roads. He stated the applicant has been before the Planning Board and has had conceptual site plan review. Some of the variances being requested are a result of that meeting and comments of the Town Engineers. The right-of-ways for Hubbs and Hatlee Roads are 50 ft. and the applicant has agreed to dedicate an additional five feet from the frontage on both Hubbs and Hatlee Roads to widen the roadway for future bike paths or utility use if needed.

Mr. VanGuilder explained that currently there are no utilities connected to these lots, but Clifton Park Water Authority has indicated they will serve these lots and the applicant is willing to make the provision and condition for this subdivision application that the house on lot 1 will be connected to both public water and public sewer, which is available in a northerly direction on Hatlee Road. It will be connected to the Saratoga County Sewer District via CK Sanitary lines. He noted that they have a commitment from CK Sanitary for that connection.

Mr. VanGuilder also noted that the applicant has discussed a construction schedule with their contractor and due to the busy construction season and the weather the connection cannot be made until the Spring. Due to that factor they must make this variance application for the two additional lots. The condition has been discussed and agreed to with the applicant and the Planning Board that the two vacant lots will not be issued building permits until the house is connected to both water and sewer. He explained that the variances are really temporary in nature because after the

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connections have been made the area variances will not be necessary because the lots will comply with the R-1 zoning requirements.

He continued, the variance that is necessary is the front setback for the existing house. It is an existing condition, the home has been on the lot for many years. It will be used as a single family dwelling. The only change to the lot is that the curb cut onto Hatlee Road will be eliminated and the driveway connection on the lower level for the garage in the rear of the property will be improved so that vehicular access to that garage will be only one

curb cut off of Hubbs Road. He also noted that the plan has been revised to reflect the provision that lot 2 will access Hatlee Road through the rear of the lot through an easement that will be granted to lot 2 from lot 3 so there will be no new curb cuts on Hubbs Road. These conditions have been discussed with the Planning Board and will be

posted on the final subdivision map when the Planning Board approves it. These variances are needed to move ahead because the utilities are not currently available at the lot at this point in time.

Mr. Clemens noted that he believes there are enough guarantees to protect the Town with the caveat that no building permits will be issued for lots 2 and 3 until all three lots are connected to sewer and water. If that never happens then in essence nothing will have changed on that lot. This will afford the Russell's the opportunity to subdivide off lot 1 because they have a buyer for that parcel. He feels it is a reasonable request.

Mr. Kelley asked if there was any such thing as a temporary variance. Mr. Clemens said no, the variance goes with the land and it would no longer be needed after the lots were connected to public water and sewer.

Mr. Renzi explained that he researched the matter and it is not addressed at all.

Mr. Kortz noted that it could be made a condition that the variance becomes null when certain conditions are met.

Mr. Renzi noted that it is just a technical point, it could be called a temporary variance and a specific sunset date could be put on it.

Mr. VanGuilder stated that August would be a reasonable time frame for the contractor to make the necessary improvements.

Mr. Kelley noted that it is to the applicant's advantage to connect as quickly as possible.

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Mr. Kortz asked if the 1.57 acres is the triangle shown on the map and the subdivision is contingent, it has not been approved.

Mr. VanGuilder confirmed nothing has been approved.

Mr. Kortz noted that if nothing ever changes, if sewer and water is never connected, the existing house is on a non-conforming lot.

Mr. Clemens explained that the density would not change because the other two lots would be unbuildable if they are not connected to public sewer and water.

Mr. Kortz asked if they would be able to apply for subsequent variances for these lots? Mr. Clemens stated that he believes they would never be granted without public sewer and water.

Mr. Kelley read the Environmental Specialist's referral stating that connection to public sewer and water is imperative if the variance is granted and the variance language should

specify that the sewer and water must be tied into in a timely manner.

Mr. Renzi recommended that the Board set a date that is agreeable to both sides if the variances are granted subject to expiration on a set date without any further action being required by the Board. He stated if the applicant needs additional time beyond that date he could return and request additional time.

Mr. VanGuilder stated that there could be circumstances beyond the owner's control.

Mr. Renzi responded that the date could be picked by the applicant. His concern is that the Board does not have to take additional action to make it go away.

Mr. VanGuilder suggested approximately nine months. Mr. Kelley stated that the time will be mutually agreed upon.

Mr. Clemens suggested one year. Mr. VanGuilder agreed.

Mr. Kortz stated that after one year if it doesn't happen and they if they decide to subdivide, it would be their problem.

Mr. Kelley noted they could return to seek an extension.

Mr. Kortz asked for clarification why are they coming before the Board now, why not wait until public water and sewer is available and then do the subdivision?

Mr. Kelley stated it has to do with the front lot, they have a contract for sale.

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Mr. VanGuilder confirmed that the variances are needed for the Planning Board to approve the subdivision.

Mr. Kortz asked if the sale of the house is contingent upon it being on a smaller lot, not the existing lot. Mr. VanGuilder stated that is correct.

Mr. Kortz asked if they tried to sell the house with the full lot.

Mr. Russell responded yes, no one wanted to afford all the land with that house.

Mr. Kortz asked if this lot is consistent with the neighboring lot sizes. Mr. Clemens responded they are approximately 20,000 sq. ft. lots in the area.

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

Mrs. Pace made a motion to approve the variance request for front setback as requested and that the variances for the other two lots be approved contingent upon municipal water

and sewer being connected within one year.

Mr. Renzi asked to include the statement that in the event the contingencies are not satisfied within one year the variances will expire automatically unless previously extended by vote of this Board.

Mr. Kortz noted that the expiration date should not include the front yard setback variance for the existing house because it would then be a non-conforming lot.

Discussion by Counsel and the Board members continued on clarifying the motion so that Lot 1 is not affected with the time expiration contingency.

Mrs. Pace revised her previous motion.

Mrs. Pace made a motion to approve the setback variance of 42.2 ft. to allow for a setback of 7.8 ft. and an area variance of 18,694 sq. ft. to allow for a lot size of 21,306 sq. ft. in an R-1 zone without sewer and water for Lot 1. Mrs. Gleason seconded. Ayes: Kortz, Heritage, Kelley, Gleason, Lawton, Pace. Noes: None.

Mrs. Pace made a motion to approve the area variances for Lots 2 and 3 for lot size as requested with the condition that within one year's time from this date all three lots must be connected to municipal sewer and water. If the condition is not complied with no building permits will be issued for Lots 2 and 3. If an

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extension is needed for the applicant to connect to municipal sewer and water they must apply prior to the expiration date.

Mr. Renzi stated he would like the language of the sunset clause in the motion. He noted the building permit issue does not have anything to do with this Board.

Mr. Clemens noted one of the key points is that the Russells have agreed they would not apply for any building permits for Lots 2 and 3 until the water and sewer is connected. He explained that is basically the guarantee the Town is getting and it needs to be a condition of granting the variance.

Mr. Kelley stated that he believes it is included in the motion made by Mrs. Pace for Lots 2 and 3. Ms. Heritage seconded. Ayes: Gleason, Lawton, Pace, Kelley, Heritage, Kortz. Noes: None.

Mr. Kortz made a motion to approve the minutes of November 18, 2003, Ms. Heritage seconded. Ayes: Pace, Lawton, Gleason, Kortz, Heritage. Noes: None. Abstained: Kelley.

Mrs. Pace made a motion to adjourn the meeting at 8:04 PM,

Ms. Heritage 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