

## Clifton Park Zoning Board of Appeals Meeting Minutes

May 4, 2004

Present: Dale Kelley, Dale Gleason, Gil Kortz,  
Donna Lawton, Jessica McCarthy,  
Robert Ritter (arrived 7:10 PM)

Absent: Michael Dudick

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

Mr. Kelley called the meeting to order at 7:04 PM.

### NEW BUSINESS

1. An application from Bruce & Sheila Barkevich, requesting an area variance from Section 208-12 from the required 80 ft. front yard setback for an accessory structure - proposed setback = 47 ft. - variance requested = 33 ft.. The property is located at 14 Winding Ridge, Clifton Park. Permit #80494.

The secretary read the legal notice as it appeared in the Daily Gazette on April 29, 2004.

Bruce Barkevich presented this application. He presented a letter from his neighbor Manoj & Rita Ajmera stating that they have no problems with this variance request. He explained the controlling factor is the existing in-ground pool area that controls the available space where the garage can be placed.

Mr. Clemens asked why the garage cannot be attached, therefore not requiring a variance. Mr. Barkevich responded that there is an existing garage on the basement level, that will eventually be closed off but for the short term they need access to it. He also noted that in the future he will attach the garage by a breezeway.

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

Ms. McCarthy seconded. Ayes: Kelley, McCarthy, Gleason, Lawton, Kortz. Noes: None.

2. An application from Marshall Sign Corporation representing Nation Wide Insurance, requesting an area variance from Chapter 171 of the Town Code (Sign Law) to allow a wall sign height of 30 ft. - maximum height allowed = 20 ft. - variance requested = 10 ft., and an area variance for a second wall sign of 21 sq. ft. and a height variance for the second wall sign of 26 ft. 6 in. - variance requested = 6 ft. 6 in.. The property is located at 5 Southside Drive, Clifton Park. Permit #80490.

The secretary read the legal notice as it appeared in the Daily Gazette on April 15, 2004.

Rick Marshall, Marshall Sign Corp., presented this application. He handed out additional pictures of the site. He also introduced Dave, owner of Cannoe Insurance currently located on Route 9. He reviewed the variance requests and noted that he has a discrepancy with Mr. Clemens over the interpretation of the code.

Mr. Marshall interprets this use as a commercial use and therefore would allow for a larger sign.

Mr. Clemens stated that he deems this an office use, not commercial use.

Mr. Kelley asked what the difference would be. Mr. Clemens noted that it would not affect any of the variances being requested. It would allow a larger sign on the parking lot side of the building. He noted if it were deemed a retail business they would be allowed a 32 sq. ft. sign, he is asking for 24 sq. ft..

Mr. Marshall noted that they are allowed two wall signs but they are not to exceed the total square footage of the one allowable wall sign. Therefore they are requesting a variance of 6 sq. ft. plus the height variances.

Mr. Marshall explained that when this project went through the planning process for the Town the plans presented indicated signage on both sides of the building. It showed a sign band facing Route 146 and the parking lot side.

Mr. Kelley explained that a Planning Board does not approve signs even if they are indicated on the site plan. He also stated that he is not aware of what is on the approved drawings.

Mr. Renzi also noted that as a general rule those things are annotated on the final version of the plans that the signs shown are not included in the final approval.

Mr. Marshall commented that just as a general business sense it makes sense to have exposure along Route 146 because all the other businesses along that highway have exposure. He continued, once you are in the parking lot it only makes sense to show that you are in that building.

Dave stated that when he leased the office he was told there would be signs on both sides of the building. He also explained that the way the building is laid out was at the Town's suggestion that it be a double sided building. The problem with this location is that the office space faces Route 146 but there is no way to turn in from Route 146. When you come into the parking lot on the opposite side of the building you will not know where the office is located if there is no signage to direct them to the back.

Mr. Kelley asked if the actual entrance to his office space is at the back of the building.

Dave indicated the elevator area on the site plan and explained that you would enter the area from the front parking lot that is on the opposite side of the building. The customer would not know that the actual entrance is from the rear of the building. They would have to either drive around the building or walk through the building to the back to reach the elevator for his office.

Discussion took place on additional signs granted to other businesses in the area and also other requests that may come before the Board in the future.

Mr. Clemens explained that the law allows a business to split the allowable square footage of their sign and have two signs as long as the total square footage does not exceed what is allowed for one sign.

Dave indicated that the businesses that will be accessed from the rear of the building will not be retail, they will be his insurance office, Mr. Sussman's office (Windsor Development), the travel agency, and one other site that is now unknown. He noted that it is imperative to his customers to be able to drive into the facility and be able to identify that he is in that building.

Mr. Kortz noted that in order to know what stores are in the plaza you have to drive into the site anyway.

Mr. Clemens stated that this type of issue is usually handled by directory signs. He noted that the landlord could come in and ask for a directory sign because of the four or five businesses that will be located on the second floor. He stated that if each tenant on the second floor came in and asked for a sign on that facade it would not look very well. He believes this is one reason why the Planning Board recommended disapproving this request. He explained that it can be handled by other methods, such as a directory sign in the parking area or the entrance to the parking area to direct people around to the elevators so they do not have to come wandering through the building to find the office.

Mr. Clemens noted that each application is taken on its own merits but he feels the Board has to take into consideration that there will be other buildings here that will have the exact same situation with one side facing the inner parking area and one side facing Route 146 and this will not be the last time this Board sees this.

Mr. Kelley agreed with Mr. Clemens and stated the question is what is the most convenient, what's the best way to handle this request being reasonable and fair. He stated this is a unique situation because the true access to the second floor is in the rear of the building.

Mr. Clemens stated that the intent was to separate the office use from the retail uses.

Mr. Kelley stated that he feels there will be no aggressive efforts to get the lower tenant spaces signage on the back of the building.

Mr. Clemens stated that he feels they will be in with requests.

Mr. Kelley responded that it will be contingent on what the developer is saying, and David Sussman is not here tonight to speak for Windsor, but from what he heard tonight the understanding is that the retailers that have access from the front of the building have adequate signage and they will not be requesting any variances because they would rather have the larger image in front over their site rather than on the rear of the building.

Mr. Clemens noted that Borders has already been in asking for signs on both sides of the building.

Discussion continued on the configuration of the building and how to access the Nationwide offices.

Ms. McCarthy asked if the new pictures handed out this evening replace the original ones in the packet. Mr. Marshall responded yes and the actual design for the sign on the front of the building may change but will keep within the same square footage or less.

Mrs. Gleason asked if the lease has been signed. Dave responded yes, they will be moving as soon as the building is completed.

Ms. McCarthy asked if the sign will be illuminated. Mr. Marshall responded yes, with channel letters, the same as the other signs in the area.

Mr. Ritter asked what the Planning Board rationale is in recommending denial of this request for the sign facing Route 146.

Mr. Clemens stated that Jason Kemper told him that the Planning Board is very apprehensive about signs on that side of the building. They did ask the developer during the planning stages to build a double sided building. They did not want to be looking at the rear of a typical building with the dumpster, refrigeration equipment, etc. facing Route 146. They wanted it to be an attractive building, but they did not anticipate signage on that side of the building.

Mr. Kelley stated he is somewhat perplexed because Route 146 is one of the commercial strips in the Town of Clifton Park.

Dave stated that it is imperative that there be signage on that side of the building. The upstairs will be professional offices.

Discussion continued on the question of two signs. Mr. Clemens stated that they could put up two signs without any variance as long as they stayed within the square footage allowed by the law.

Mr. Ritter asked if this request is approved how will it affect future applications.

Mr. Renzi responded that each application is taken on its own, but potentially you are setting a precedent for future applicants to come back and say they should be allowed to do the same thing.

Mr. Clemens explained that anything for the second sign is a variance because the sign on the south side facing the main parking lot is the maximum allowed under the Sign Law the second sign on the rear is a total variance even though it is 21 sq. ft.. If they wanted to have each sign 12 sq. ft. they would not be here tonight for a sign variance, they would only be here for a height variance.

Mr. Clemens also noted that if the sign on the rear of the building is reduced in size it would not be able to be seen from Route 146.

Mr. Marshall noted that the front sign (parking lot side) has been lowered and is now at 17 ft. and is within the limits.

Discussion continued on what variances are now being requested.

Mrs. Gleason noted that it seems Windsor is giving advice that is not correct.

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

Mr. Ritter made a motion to approve a second wall sign of 21 sq. ft. at a height of 26 ft. 6 in. for the north side of the building. Mrs. Lawton seconded.

Discussion continued on the size of the sign for the south side of the building and the possibility of reducing it's square footage. Mr. Clemens stated that any signs for the retail establishments will probably be 32-40 sq. ft. and any sign smaller than the one being proposed by the applicant would probably be lost.

Mr. Renzi also noted for the record that the applicant explained previously that it is impossible to make the Canoe sign any smaller because of manufacturing and safety issues.

Mr. Ritter explained that he made this motion on the premise that the applicant could have a sign on two sides of the building, based on that premise and all the discussion that has taken place, he feels it is reasonable.

Mr. Kortz stated he will vote no because he cannot reconcile it in his mind. He continued, he has no trouble when there is a single building and a single business when you can relate what is reasonable to other businesses in the area. When it is one building like this with so many businesses in it and it is being done on a piece meal basis he does not think you can relate to the spirit of the sign law.

Mr. Kelley called for a vote. Ayes: Gleason, Lawton, Ritter, Kelley, McCarthy. Noes:

Kortz.

3. An application from Doug Martin, requesting an area variance from Section 208-10 to create a second dwelling unit on the same lot and an area variance from Section 208-11 from the required minimum 960 sq. ft. dwelling - proposed = 498 sq. ft. - variance requested = 462.5 sq. ft.. The property is located at 61 English Road, Clifton Park. Permit #80485.

The secretary read the legal notice as it appeared in the Daily Gazette on April 15, 2004.

Mr. Martin presented this application. He explained that this is an existing building that he would like to renovate into a studio apartment for his 82 year old mother, whose health is deteriorating.

Mr. Clemens explained that he is sympathetic to family needs but this is the same scenerio that has been before the Board on several occasions and is one the Board has chosen not to grant in the past. He noted that having a second dwelling on the same lot sets a precedent and also the size of the structure is under the minimum required by the zoning law for a single family residence. He noted that usually an addition is added to the existing house to meet the same need. He continued since this is a fairly small studio apartment it would seem like it could be attached to the existing residence even if it is attached by a breezeway, it would still be the same building.

Mr. Ritter asked if the breezeway concept could be considered.

Mr. Martin explained that the existing building that he wants to convert into the studio apartment is adjacent to a large farm barn. He explained that it originally was a 37 acre farm that was subdivided into a 2 ½ acre plot and the remainder was sold. The way the property is laid out on the plot plan there is not enough room to construct an apartment on the existing residence because of the closeness to the property lines.

Mr. Kelley expressed his understanding and stated that he is sympathetic but has to keep the integrity of residential zoning in tact.

Mr. Kelley asked if the lot could be subdivided. Mr. Clemens responded it may be physically possible but that is a Planning Board issue and may require a variance on lot size, perhaps a setback variance to put the addition on to the existing building may be a better choice.

Mr. Kelley explained that this Board tries to help with these issues as long as they do not tarnish the integrity of the zoning law in general. He feels this is something that the Board is struggling with in regard to this request.

There was Board discussion on how to help this applicant.

Mr. Kelley suggested the applicant rework his plan and talk with Mr. Clemens to see if he

can reach a compromise that would be agreeable to all parties.

Mr. Martin tabled this application until further notice.

Mr. Ritter made a motion to approve the minutes of April 20, 2004, Mr. Kortz seconded.  
Ayes: Gleason, Kelley, Lawton, Ritter, McCarthy, Kortz. Noes: None.

Mr. Ritter made a motion to adjourn the meeting at 8:25 PM,  
Mrs. Gleason seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb  
Secretary