

## Clifton Park Zoning Board of Appeals Meeting Minutes

August 17, 2004

Present: Dale Kelley, Michael Dudick, Donna Lawton, Jessica McCarthy, Robert Ritter (arrived 7:03 PM), Dale Gleason (arrived 7:05 PM)

Absent: Gilbert Kortz

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

Mr. Kelley called the meeting to order at 7:00 PM.

### NEW BUSINESS

1. An application from Stephen Segarra, requesting an area variance from Section 208-12 from the required 80 ft. front yard setback for an accessory building - proposed setback = 17 ft. - variance requested = 63 ft.. The property is located at 44 Bluff Road, Rexford. Permit #80508.

The secretary read the legal notice as it appeared in the Daily Gazette on August 12, 2004.

Stephen Segarra presented this application. He explained that he would like to build a two stall garage with some storage. He referred to a picture of the site with an existing shed that will be removed and the garage will be placed in that area. The existing shed is about two feet off the side property line and the proposed garage will be approximately 13 feet from the side property line and a couple of feet farther back than the shed from the front property line. He noted that the property rises up behind that area and there is also a large tree that prevents them from going back any further. He referred to three letters from his neighbors that are included in the packet stating that they have no objections to this request.

Mr. Segarra also noted that the Mohawk River runs directly behind his lot.

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Mr. Clemens stated that he consulted with the Highway Department because of the garage being so close to the road and they have no problem with this request. There are even some garages in the area that are closer to the road than this one. He also stated that the existing garage is closer to the road than the proposed one and explained that there is really no other place on the lot for them to put the garage. He noted that the picture presented does not really give a good perspective, immediately behind the existing garage the land slopes up approximately four to five feet to where the house is which would

require them digging into the slope and removing quite a few trees. He stated that he has no objections to this variance request.

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

Mr. Renzi noted that this request is for a 79% variance and is extremely significant. He asked the applicant why he cannot push the building back a little further.

Mr. Kelley referred to the picture presented with the packet that shows a substantial hill and also a large tree in the rear area.

Mr. Renzi noted that the visual is somewhat misleading.

Mr. Renzi asked if the garage entry will face the road or have a side entry. Mrs. Segarra responded it will face the road. She explained that there is not enough room for a side entry garage.

Mr. Ritter made a motion to approve this application as submitted. Ms. McCarthy seconded.

Mr. Dudick asked if they presently have a garage. Mr. Segarra noted that underneath the house there is a garage that is being used for storage.

Mr. Dudick asked if it is absolutely necessary to build this size garage or is there another area that can be used for storage.

Mrs. Segarra responded that they really need all the room they have in the house and storage area.

Mr. Kelley called for a vote on the motion . Ayes: Kelley, Dudick, Gleason, Lawton, McCarthy, Ritter. Noes: None.

2. An application from Richard & Robin Lannon, requesting an area variance from Section 208-12 from the required 80 ft. front yard setback for a detached garage - proposed setback = 50 ft. - variance requested = 30 ft.. The property is located 102 East Side Drive, Ballston Lake. Permit #80510.

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The secretary read the legal notice as it appeared in the Daily Gazette on August 12, 2004.

Mr. Lannon presented this application. He explained that they recently had a new septic system put in and it is pretty much the entire back yard. He noted that the lot is 100' x 150'. He explained that they would like to purchase a 12' x 24' Amish garage that is pre-built and is dropped off. He noted that there would be no construction done at the site.

Mr. Clemens noted that they can't go back any further on the lot due to the septic system and therefore this is the only spot on the lot for the garage.

Mr. Kelley noted that he is familiar with the area and that the septic systems are important due to the water issues in that area.

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 this variance as requested. Mrs. Gleason seconded.

Mr. Renzi noted for the record that the applicant has presented at least three letters from the neighbors in support of this request. He stated one letter implies that the garage is already there and asked if that is correct.

The applicant responded it is, but it could be removed because it is pre-made.

Mr. Kelley called for a vote on the motion. Ayes: Ritter, McCarthy, Lawton, Gleason, Kelley, Dudick. Noes: None.

3. An application from Michelle & Michael Kowalski, requesting an area variance from Section 208-86B from the required 50 ft. setback on all sides for keyhole lots - proposed setback = 30 ft. - variance requested = 20 ft.. The property is located at 345 Vischer Ferry Road, Clifton Park. Permit #80511.

The secretary read the legal notice as it appeared in the Daily Gazette on August 12, 2004.

Michael Kowalski presented this application. He explained that he has purchased 1.6 acres at 345 Vischer Ferry Road. He referred the Board to a copy of the map showing the lot noting that there is a wetland area and buffer that cannot be disturbed. He referred to a subdivision print that shows the placement of a proposed house of approximately 2,000 sq. ft.. He then referred to a second print indicating the location of a house of

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approximately 3,000 sq. ft.. He explained that the setback of 50 ft. drastically affects their lives. First, in taking all the conditions into consideration, the 50 ft. setback line, the wetlands and buffer will only result in a very little to no backyard area. He explained that they would like to have a small garden, swing set, deck, and pool. He noted that the pool will be used for enjoyment but more importantly it will be used for physical therapy for a number of the members of his family. Secondly, the 50 ft. setback line is 255 ft. from Vischer Ferry Road which increases the cost of construction, i.e. utilities, driveway costs and maintenance costs. Finally, he referred to a third print with a proposed house location showing the 30 ft. setback line as opposed to the 50 ft. setback line. He noted the

surrounding trees and shrubs that would not be affected if the house is setback 30 ft. instead of 50 ft.. He noted the trees will stay and not be disturbed. He explained three photos showing the view from each of the abutting property owners to the proposed house location.

Mr. Clemens stated that he has no objections to this request. He noted that even though this is a large lot there is very little usable area on it. He noted he can understand the applicant wanting to have a small usable rear yard.

Mr. Kelley asked if he believes that this is the minimum amount of variance needed.

Mr. Clemens responded yes with the size house they want to build it is probably the minimum.

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

Mr. Kelley noted that he likes the fact that the applicant is keeping the disturbance of the trees and natural buffer to a minimum.

Mr. Dudick asked for clarification on what is noted "to be removed" on the large diagram. Mr. Kowalski responded that it is not on their property, it is on the Marshall's property.

Mr. Ritter made a motion to approve this application as requested. Mrs. Gleason seconded.

Mr. Renzi asked if the Building Department was made aware that the pool was to be part of the project. Mr. Clemens responded no.

Mr. Kelley called for a vote on the motion. Ayes: Kelley, Dudick, Lawton, McCarthy, Ritter, Gleason. Noes: None.

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4. An application from Stewart's Shops Corporation, requesting an area variance from Section 208-98 from the required 130 ft. front yard setback from the center line of Grooms Road for Bldg. #1 - proposed setback = 105 ft. - variance requested = 25 ft.; an area variance from Section 208-98 from the required 130 ft. front yard setback from the center line of Vischer Ferry Road for Bldg. #3 - proposed setback = 97 ft. - variance requested = 33 ft.; an area variance from Section 208-38H from the required 100 ft. buffer on the western property line from a residential zone; and an area variance from Chapter 171 of the Town Code (Sign Law) for a second freestanding sign of 105 sq. ft.. The property is located at Grooms and Vischer Ferry Roads, Clifton Park. Permit #80507.

The secretary read the legal notice as it appeared in the Daily Gazette on August 12, 2004.

Mr. Kelley read a letter from the Town's Planning Board stating that they unanimously agreed that this project proposal offers substantial benefit to the community and asked that this Board take those positive benefits into account when considering the variances being requested.

Tom Lewis, Stewarts Corporation, presented this application. He explained that they appeared before this Board in 2001 and asked for area variances and a Use Variance because they felt they were limited in not being able to have retail at this site. He stated that the Board granted the area variances and denied the Use Variance. He explained that they have filled the site with allowed businesses. Since that time they were approached by a realtor representing the large acreage adjoining the site. He explained that this area is destined to be a Hamlet mixed use area, therefore they are proposing the addition of three buildings that will require area variances. He approached the Planning Board with a site plan showing the buildings in line with existing buildings and they agreed it is a reasonable request. He referred to a newspaper article talking about the mixed Hamlet use concept and the benefit to the Town, i.e. alleviating traffic. He noted this would be a substantial benefit but cannot work without the three area variances.

Ms. McCarthy asked for clarification about the building that will be within 100 ft. of a residential area. Mr. Lewis noted that the building will be within 56 ft. of the property line but will be more than 100 ft. from any house that may be built. He noted that without this variance nothing could be built in that area causing a substantial hardship.

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Ms. McCarthy asked if that particular lot was under contract.

Mr Lewis stated that it is a proposed subdivision that is in its preliminary stages.

Mr. Ritter asked what are the intended uses of the new buildings.

Mr. Lewis responded that they believe they will conform with existing zoning. He stated they will not build unless they have a tenant.

Mr. Ritter asked if the land behind the buffer zone will remain vacant. Mr. Lewis responded no. Some of the land will be donated to the fire house but he assumes houses will be built in the area since it is a subdivision.

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

Mr. Kelley noted that he agrees with the recommendation of the Planning Board because they obviously have looked at this proposal. He stated that he has followed the Comprehensive Plan since its inception and he is a supporter of the Hamlet mixed use areas in the western part of town and he believes that this is in keeping with that theme

therefore he would favor approving this application.

Mr. Clemens stated that he has no problems with this request.

Mr. Ritter made a motion to approve this application as submitted. Ms. McCarthy seconded.

Mrs. Lawton asked when construction is planned. Mr. Lewis stated that he hopes one building will be built this year because they have a tenant that wants to be in this year. The remainder will not be built this year.

Mr. Lewis noted that they will talk with the developer of the adjoining subdivision and provide them with a site plan for them to show to potential home buyers.

Mr. Kelley called for a vote on the motion. Ayes: McCarthy, Dudick, Kelley, Ritter, Lawton, Gleason. Noes: None.

Mr. Kelley read Donna Lawton's letter of resignation effective September 30, 2004. He noted his appreciation of the time, sincerity, and efforts that she has given to the Town.

Mrs. Lawton made a motion to approve the minutes of July 20, 2004, Mr. Kelley seconded, approval unanimous.

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Mr. Ritter made a motion to adjourn the meeting at 7:45 PM,  
Ms. Gleason seconded, approval unanimous.  
Respectfully Submitted,

Judy Lamb  
Secretary