

Clifton Park Zoning Board of Appeals Meeting Minutes

September 7, 2004

Present: Dale Kelley, Michael Dudick, Donna Lawton,
Jessica McCarthy, Robert Ritter, Gilbert Kortz

Absent: Dale Gleason

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

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

NEW BUSINESS

1. An application from Lynn & Suzanne Calvin, requesting an area variance from Section 208-11 from the required 10 ft. side yard setback for an attached garage - proposed setback = 6 ft. - variance requested = 4 ft.. The property is located at 5 Pumpkin Lane, Clifton Park. Permit #80512.

The secretary read the legal notice as it appeared in the Daily Gazette on September 2, 2004.

Lynn Calvin presented this application. He stated they need the variance to be able to add an attached garage. He explained that the placement of the house on the lot is not optimal. He noted that any other placement of the garage would require extensive additional construction and cost.

Mr. Kelley read the letter from Jim and Elaine Hughes stating that they have to objections to this request. The applicant noted that they are the adjacent property owners.

Mr. Clemens stated that he has no objections to this request.

Mrs. Lawton asked if there is a garage on the lot now. Mr. Calvin responded that it is currently within the foundation of the house as this is a raised ranch.

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Mr. Kortz asked if they will be using the current driveway.
Mr. Calvin responded yes.

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

Mr. Ritter made a motion to approve this variance as requested. Ms. McCarthy seconded.

Ayes: McCarthy, Lawton, Ritter, Dudick, Kortz, Kelley. Noes: None.

2. An application from ABD Engineers & Surveyors, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback in an R-1 zone - proposed setback = 44.8 ft. - variance requested = 5.2 ft.. The property is located 16 Jarose Place, Clifton Park. Permit #80513.

The secretary read the legal notice as it appeared in the Daily Gazette on September 2, 2004.

Chad Pagan, ABD Engineers & Surveyors, presented this application. He explained that this house was laid out from a field survey. It was staked out and the foundation was excavated. When they went to do the final foundation location it was discovered that it was off by 5.2 feet. He stated that they are not sure how this error happened, it could have been laid out from a control point that may have been moved due to utility lay out, etc..

Mr. Pagan stated that this house will be owned by the Pastor of the Church and it will not have an adverse effect because the Church is the adjoining property owner on one side and there are wetlands on the other side.

Mr. Clemens stated that this is the first time this developer has been before this Board. He explained that the foundation is already in and it would be a considerable expense if it had to be redone. He concurred that there would be no adverse effect on the neighborhood since this lot is next to the Church parking lot.

Mr. Renzi asked if the Church would be owning the home. Mr. Pagan responded no, there will be two separate deeds. The Pastor is buying this house himself, it will not be a Parsonage.

Mr. Pagan noted for the record that this error has nothing to do with the developer, it was a mistake on ABD's part, it was human error.

Mr. Ritter asked how close the foundation is to the Church parking lot. Mr. Clemens responded approximately 50 feet.

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Mr. Ritter asked how many parking spots there will be. Mr. Pagan stated he is not exactly sure but there were 82 spots proposed but only about 50 will be built at this time.

Ms. McCarthy pointed out that this is a front setback that is towards the road not the Church.

Mr. Pagan explained that it is on a bend point in the road.

Mr. Kortz asked if this variance would have any impact on any Town easements, etc.. Mr. Clemens stated no, this is the only house on that side of the street until you get to the

end of the cul-de-sac.

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 submitted, Mr. Dudick seconded.

Mr. Kelley noted that there will be several homes built in this area and this appears to be a human error and does not appear to have been done on purpose or due to sloppy work. He asked if there should be any language put into this motion to prevent this from happening again.

Mr. Clemens responded that this builder has a good record and this error had nothing to do with him. He does not believe that it would be necessary to add any conditions to this motion. It was not the builder's fault, it was a layout error.

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

An application from Gordon Nicholson representing Ruby Tuesday, requesting an area variance from Chapter 171 of the Town Code (Sign Law) from the 32 sq. ft. wall sign allowed - proposed = 60 sq. ft. - variance requested = 28 sq. ft.; an area variance for height of wall sign = allowable = 16 ft. - proposed height = 20 ft. - variance requested = 4 ft.; an area variance for a 2nd wall sign of 20 sq. ft.; and an area variance for a 3rd wall sign of 20 sq. ft.. The property is located on the south side of NYS Route 146, Clifton Park. Permit #80509.

The secretary read the legal notice as it appeared in the Daily Gazette on September 2, 2004.

Gavin Villiaume, Environmental Design Partnership, presented this application. He introduced Dave Pentkowski, attorney for the applicant, and John Hurley representing Ruby Tuesday.

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Mr. Kelley read the County Planning Board's review stating that there is no significant inter-community or county-wide impact.

Mr. Villiaume reviewed the site plan and previous variances granted for this site by this Board. He noted that the restaurant is currently under construction on the corner of Route 146 and Maxwell Drive, just west of Borders.

He explained that they are requesting the variances due to practical difficulty in only having one sign on the building which is caused by the site being surrounded by several streets and potential customers being confused as to the exact building that will house

Ruby Tuesday. He explained that it becomes difficult for the patron to know how to reach their destination when there are many streets surrounding it. He referred to a map showing Route 146, the extension of Maxwell Drive, and Southside Drive and indicated that with all the traffic and only one sign on the building it will create some practical difficulty for those coming from the rear and side, they will be looking for Ruby Tuesday and not be sure which building it is. He also noted that there will be another building at this site in the future. He explained that the signs they are asking for are not that large, only 20 sq. ft. for identification purposes to direct people so they can safely get in and out of the site.

Ms. McCarthy noted that this request is similar to the Nationwide request that was before this Board previously and is in the same area and they had to reduce the number and size of the signs they were requesting.

Mr. Villiaume reviewed the placement of the signs that they are requesting.

Mr. Renzi asked if the two smaller signs are on adjacent corners of the building. Mr. Villiaume responded they are not next to each other.

Mr. Kortz asked if there are any other signs not shown on the plans. Mr. Villiaume responded yes there will be a pylon sign, or directory sign, at the intersection of Route 146 that will have all the tenants in this area listed. Discussion continued on the size of that sign.

Mr. Hurley explained that Ruby Tuesday will have a pro-rata share, as the number of tenants increase the size of their sign will decrease.

Mr. Clemens stated that he feels this is a lot of signage and explained that Panara Bread will also be in this building and they will undoubtedly be asking for additional signage. He also noted that there will be another building constructed in this area and it is unknown what will be in it at this time. He also mentioned
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that TGI Fridays has just applied for additional signage and cautioned that the Board needs to look at the total picture.

Mr. Kelley asked Mr. Clemens what his concerns are, the size of the signs or the number of the signs?

Mr. Clemens responded that they are allowed one wall sign of 32 sq. ft. and they are asking for a 60 sq. ft. wall sign over the main entrance and an additional two wall signs of 20 sq. ft. each. He noted that this variance is definitely considerable.

Mr. Kortz asked if the south side of the building is considered the rear of the building. Mr. Villiaume responded yes.

Mr. Kortz noted that the front of the building and parking lot are facing Route 146 and said that there will be a pylon sign at the entrance on Route 146 so he does not see any need for the west side sign.

Mr. Dudick added that the traffic will come from Wall Street to Maxwell Road extension.

Mr. Kelley asked Mr. Clemens to explain what Maxwell Road will eventually connect with. Mr. Clemens stated it will connect with Sunnyside which will run parallel with Route 146 behind TGI Fridays and Borders, right now it is basically a private road going down to Wall Street.

Mr. Villiaume explained that the only public road being extended right now is Maxwell Drive which terminates right now at the school property. Eventually it is anticipated that the school may do something and extend that road out towards Wall Street.

Mr. Kelley noted that the building can be seen heading westerly and with the pylon sign giving more identification he does not see the need for the rear sign on the south side but for traffic heading easterly on Route 146 the building may not be that visible until it is too late.

Discussion continued on the visibility of the building with the addition of other buildings in the area. There was also discussion on the other businesses in the area and the additional signage that has been allowed.

Mr. Ritter suggested reducing the size of the main sign and granting a variance for a second wall sign.

Mr. Pentkowski explained that the sign being asked for is similar to what was granted to Chili's.

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Mr. Villiaume explained that this building is approximately 400 ft. from Route 146.

Mr. Hurley noted that the main sign is proportionate to the facade of the building and is their standard logo. He explained that it would be illegible if the sign were reduced in size. He also stated that it was their belief that they would be on a corner when they chose this site and the main entrance is really off Maxwell Drive so if they are limited to two signs they would like to have the second sign on Maxwell Drive for traffic that is traveling east on Route 146.

Mr. Kelley asked if the sign would be illuminated and if so does it stay on all night. Mr. Hurley responded that the sign will be on timers.

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

Mr. Ritter made a motion to approve the front sign of 60 sq. ft. as requested with the height variance of 4 ft. and one additional sign of 20 sq. ft. to be located on the west side of the building. The request for the third wall sign for the south side of the building is denied.

Mr. Kortz noted he is in favor of the second wall sign being placed on the south side of the building for aesthetic reasons. The applicant stated that they would really prefer to have the sign located on the west side of the building.

Mr. Kortz seconded the motion. Ayes: Dudick, Kelley, Kortz, Lawton, Ritter. Noes: McCarthy.

Mr. Ritter made a motion to approve the minutes of August 17, 2004, Mr. Dudick seconded. Ayes: Kelley, Dudick, Lawton, Ritter, McCarthy. Abstained: Kortz.

Mr. Ritter made a motion to adjourn the meeting at 7:50 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,
Assessor