

Clifton Park Zoning Board of Appeals Meeting Minutes

November 16, 2004

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

Absent: Scott Hughes

Also Present: Louis Renzi, ZBA Counsel

Mr. Kelley called the meeting to order at 7:03 PM. He reminded the board members of the County Planning Board's educational opportunity for all planning, zoning, and other town officials to be held at the Saratoga County facilities on January 27, 2005. He noted that this is the first formalized education program presented by the County and also explained that this is an important opportunity because it is a certification program for zoning and planning professionals.

NEW BUSINESS

1. An application from Al & Laura Williams, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback for a swimming pool - proposed setback = 20 ft. - variance requested = 30 ft.. The property is located at 7 Thoroughbred Way, Clifton Park. Permit #80522.

The secretary read the legal notice as it appeared in the Daily Gazette on November 11, 2004.

Mr. Williams presented this application. He explained that he measured the offset from the house and side yard and there is no problem being within compliance. He stated that if he moved the pool to the right it would be near wetlands and a heavily treed area. He stated that when he took the measurements he measured to the "paper" road owned by Jean Hoffman that goes into the wetlands and will never be used. He explained that he was in error, he did not realize that he was suppose to measure to the property line, not the road. He noted that no one has taken ownership of the road. Ms. Hoffman has sold all her land to Amedore homes. He was

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under the assumption that the "paper" road went with the land. Mr. Williams explained that he has looked into it and she still owns the paper road. He stated he is talking to her about buying the road but nothing is finalized at this point. He also noted that if he did own the road this variance request would be a moot point.

Mr. Clemens explained that this is a corner lot only on paper because that road will never exist because of the wetlands behind it. He stated that he has no objections to this request.

Mr. Kortz asked for clarification on the location of the pool.

Mr. Renzi asked the applicant to highlight the “paper” road and asked its size. Mr. Williams did so and noted that it is all a grassy area that he currently maintains. He stated it is approximately 100 ft. long by 12 ft. wide.

There was no public comment. Mrs. Gleason 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. Ayes: Kelley, Dudick, Kortz, Gleason, McCarthy, Ritter. Noes: None.

2. An application from Richard & Joan Healy, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback - proposed setback = 26 ft. - variance requested = 24 ft.. The property is located at 488 Grooms Road, Clifton Park. Permit #80523.

The secretary read the legal notice as it appeared in the Daily Gazette on November 11, 2004.

Richard Healy presented this application. He explained that he wants to put a garage at the side of the house facing Wildberry Court. He noted that his driveway is currently on Grooms Road but when they start to build on Wildberry Court his driveway will be on Wildberry. He also noted that there really isn't any other place to put the garage due to varying elevations on the property.

Mr. Clemens explained that because of the new subdivision and the relocation of the driveway there is practical difficulty and he would support the granting of the variance as requested.

Ms. McCarthy asked if a variance is needed for Wildberry and Grooms Road, not just one for Grooms Road. Mr. Healy explained that the driveway on Grooms Road will be eliminated. This will be a reconfiguration due to the new subdivision being built.

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Mr. Kortz asked why he is changing his driveway. Mr. Healy explained that the Town does not want two curb cuts that close to each other, so they requested that he move his driveway to Wildberry Court.

Mr. Kortz asked why the applicant is adding the garage. Mr. Healy explained that all the new homes that will be built will have garages and this will make his home more marketable in the future.

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

Mr. Dudick asked why the applicant cannot put the garage at the back of the house on the south side. Mr. Healy explained that he has approximately ten feet off the deck before the property line and it would also mean entering the house through the bedroom area.

Mr. Ritter made a motion to approve this application as requested. Ms. McCarthy seconded. Ayes: Ritter, Kortz, Gleason, Kelley, McCarthy, Dudick. Noes: None.

3. An application from Saxton Sign Corporation representing Panara Bread, requesting an area variance from Section 208-71 from the maximum wall sign of 32 sq. ft. - proposed wall sign = 43 sq. ft. - variance requested = 11 sq. ft. (north elevation), and an area variance for a second wall sign of 38 sq. ft. (east elevation). The property is located at 22 Maxwell Road, Clifton Park. Permit #80518.

The secretary read the legal notice as it appeared in the Daily Gazette on November 11, 2004.

Pat Boni, Saxton Sign, presented this application. He explained that the request is due to the size of the sign, but also noted that he just realized that he will need a variance for the height of the sign, it will be 22 ft. high and only 18 ft. is allowed.

Mr. Clemens noted that this application will have to be amended and re-advertised before final approval can be granted. He asked if the Board could consider the sizes of the signs to allow them to start manufacturing them.

Mr. Kelley stated that he does not want to hold the applicant up but there is a significant change to the application. He asked for input from the Board members.

The Board discussed hearing the application now for size and having the applicant return for the height variance at the next meeting. It was decided to have the application re-advertised as amended and to hear all variance requests at the next meeting.

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Mr. Renzi recommended adjourning this hearing to consider all the variances at one time.

Mr. Kelley read the Saratoga County Planning Board's recommendation for approval of the variances as requested.

Mr. Ritter made a motion to adjourn this public hearing until December 7th for the applicant to address all issues, Ms. McCarthy seconded, approval unanimous.

4. An application from Christopher & Edward Abele, requesting an area variance from Section 208-38 from the required 20 ft. side yard setback for parking on the east side - proposed setback = 5 ft. - variance requested = 15 ft., and an area variance from Section 208-38 from the required 30 ft. rear yard setback for parking - proposed setback = 10 ft. = variance requested = 20 ft.. The property is located at 3 Northside Drive, Clifton Park.

Permit #80520.

The secretary read the legal notice as it appeared in the Daily Gazette on November 11, 2004.

Gavin Villaume, Environmental Design Partnership, presented this application. He explained that Northside Drive is a private road that services the Comfort Suites Hotel and Chilies restaurant. Both variances are needed for additional parking which will service all three parcels in that area. The third parcel is adjacent to Chilies and will house a proposed restaurant that will have 114 parking spaces, which meets or exceeds the required parking requirements. This area will also be used for overflow parking if and when needed for all three businesses. It will ensure a more safe and organized manner of parking cars along that street. He indicated that he spoke with the Fire Department, Cheryl Reed, and Art Hunsinger, and they feel this is a good idea from a safety standpoint.

Mr. Kelley asked if he has worked this out with the Planning Board and received their agreement. Mr. Villiaume responded yes, he has presented the site plan to the Planning Board and they have no problem with either request.

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

Mr. Ritter asked if the parking lot behind the proposed restaurant will be built before the restaurant. Mr. Villiaume responded no, it will be built at the same time as the restaurant.

Mr. Renzi inquired as to who owns the private road. Mr. Villiaume responded it is privately owned by Christopher and Ed Abele.

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Mr. Renzi asked if it is separately deeded from the three parcels. Mr. Villiaume stated he believes it is all part of the one piece.

Ed Abele responded it is owned by Fire House Road Assoc. which is an LLC.

Mr. Villiaume stated it has a common ingress/egress easement which runs along the back for the three parcels so they have rights to go in and out of the driveway.

Mrs. Gleason asked if it is known what the restaurant will be.

Mr. Abele responded it is still under negotiation and he has been asked not to disclose their identity.

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

Mr. Kelley noted that this is a reasonable request and the fire and safety people are on

board including Cheryl Reed and the Planning Board which means there have been on going negotiations.

Mr. Ritter made a motion to approve this variances as requested. Mr. Dudick seconded. Ayes: Kortz, McCarthy, Dudick, Kelley, Ritter, Gleason. Noes: None.

5. An application from Thomas J. Farone & Son, requesting an area variance from Section 208-99 from the required 100 ft. front yard setback for parking from Lapp Road - proposed setback = 65 ft. - variance requested = 35 ft., and an area variance from Section 208-99 & 208-98 from the required 100 ft. front yard setback for parking from Crescent Road - proposed setback = 75 ft. - variance requested = 25 ft.. The property is located at the Northwest corner of Lapp Road and Crescent Road, Clifton Park. Permit #80521.

The secretary read the legal notice as it appeared in the Daily Gazette on November 11, 2004.

Gavin Villaume, Environmental Design Partnership, presented this application. He explained that two commercial buildings will be built at Lapp Road and Crescent Road. He referred to the original site plan that was approved in 1988 by the Planning Board that granted the Special Use Permit for the site plan.

He noted that it is roughly oriented the same way. He stated the two buildings will be facing Lapp Road. There have been three residential homes constructed behind it along Easton Drive. He has appeared several times before the Planning Board and presented several scenario's with this design because the Planning Board was not happy with the first layout approved in

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1988. Clough Harbour recommended that they reconfigure the parking and tuck it in between the two buildings so they will screen the parking and keep all the activity away from the residential area.

Mr. Villiaume explained that this is a transitional zone where you go from commercial on Lapp Road to more residential as you get onto Easton Drive. They are sensitive to some of the impacts that could occur along this property line between the commercial and residential and therefore they are recommending that they try to push some of the parking closer to Lapp Road than what was originally approved. He indicted a highlighted area on the plan where the 100 ft. setback is shown. It is a substantial setback only because it is in a residential zoning district (R-1) but they are allowed to build the commercial buildings through the Special Use Permit that was previously granted. He indicated the new parking layout does intrude into the 100 ft. setback but most of the parking straddles the 100 ft. setback. He noted that it makes a nicer layout and from a safety standpoint it is nicer to have the cars and headlights further away directed away from the residential area.

Mr. Clemens stated he has no objections to this request. It has been worked out with the Planning Board and they are on board with it so he recommends approval.

Mr. Kelley agreed. He read the comments from Mike O'Brien, Town Environmental Specialist, recommending approval contingent with adequate vegetation being installed to properly screen the parking lots from Lapp and Crescent Roads.

Mr. Kelley also read Mr. Bulger's letter recommending approval of the variance requests to insure the most reasonable and visually appealing site development.

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

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

Mr. Dudick asked if the buildings will be built in the near future. Mr. Villiaume responded probably next year. There are no tenants at this point.

Mr. Ritter amended his motion to be contingent upon adequate vegetation being installed to adequately screen the parking lots from Lapp and Crescent Roads as defined by the Planning Board.

Mrs. Gleason seconded. Ayes: Ritter, McCarthy, Kortz, Gleason, Dudick, Kelley. Noes: None.

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Mr. Ritter made a motion to approve the minutes of October 5, 2004, Mr. Dudick seconded. Ayes: Kelley, Dudick, Kortz, McCarthy, Ritter. Abstained: Gleason.

Mr. Dudick made a motion to adjourn the meeting, Mr. Ritter seconded.

Mr. Renzi entered into the record the pending law suit from IWO. He explained the claims being made and informed the Board members that the law firm of Girvin & Ferlazzo has been retained to represent the Town.

Mr. Kelley called for an executive session of the board on December 7, 2004 at 6:30 PM.

The meeting was adjourned at 8:13 PM.

Respectfully Submitted,

Judy Lamb
Secretary