

ZONING BOARD OF APPEALS

April 17, 2007

Present: Michael Dudick, Chairman, Dale Gleason (arrived 7:05 PM),
Gilbert Kortz, Joel Koval, Christopher Lemire, Jessica McCarthy,

Absent: Eric Ophardt, Robert Ritter

Also Present: Joel Peller, ZBA Counsel
Steve Myers, Director, Building & Zoning

Mr. Dudick called the meeting to order at 7:04 PM. He announced that the application For DCG Development Company has been adjourned at the request of the applicant.

NEW BUSINESS

1. An application from DCG Development Company, requesting an area variance from Section 208-35D(1) from the required 70 ft. front yard setback – proposed setback = 37 ft. - variance requested = 33 ft.; an area variance from Section 208-98 from the required 130 ft. setback from the centerline of Rte. 146 – proposed setback = 81 ft. – variance requested = 49 ft.; an area variance from Section 208-35D(2) from the required 25 ft. side yard setback – proposed setback = 6 ft. – variance requested = 19 ft.; a 25 ft. variance for parking along the east property line; a variance from Section 208-35D(4) from the required 10 ft. planted buffer required along side and rear property lines, and a variance from Section 208-22B from the maximum 4,800 sq. ft. building size – proposed = 6,300 sq, ft, - variance requested = 1,500 sq. ft. The property is located at 939 and 943 Rte. 146, Clifton Park. Permit #80642

The secretary read the legal notice as it appeared in the Daily Gazette on April 12, 2007.

Joe Dannible, Environmental Design Partnership, presented this application. He also introduced Don Mac Elroy representing DCG Development.

Mr. Dannible gave an overview of the site stating that they would like to integrate two parcels into one site plan of 7.7 acres. The location is one quarter mile west of Bruno Road on the north side of Route 146. He also explained that they plan on keeping the existing house and garage that face Route 146 to try to maintain the residential character of the surrounding area. He stated that they are proposing two office buildings for a total of 11,100 sq. ft. with parking for 115 cars to bring the total parking for both sites to 228 spaces with landscaped curved islands within the parking areas. There will be on site storm water management and public water and sewer utilities.

Mr. Dannible referred to the two setback variances and explained that they are needed for the existing house and garage on the site. They would like to retain both structures to help maintain the existing residential character of Route 146. He stated that it would be economically unfeasible to tear the structures down and reconstruct the same square footage for this project. He noted that there is no detriment to surrounding properties because they have been there for 50 plus years and pre-date the zoning ordinance.

Mr. Kortz inquired about the use of the existing buildings. Mr. Dannible responded that the house will be used for a small office and the garage will be used for a garage and storage.

Mr. Dannible stated that the variance from the maximum 4,800 sq. ft. building area and noted that the entire parcel of 7.7 acres would allow for the development of 12% of the gross land area. He explained that the existing buildings approved for 939 Route 146 cover approximately 27,600 sq. ft., the existing structures cover another 1,500 sq. ft. that leaves approximately 11,100 sq. ft. for development within the two buildings. If they went with the zoning and built two buildings at 4,800 sq. ft. they would lose approximately 1,500 sq. ft. of building that will definitely have an effect on the overall project. He explained that they would like to have one building of 4,800 sq. ft. and have an additional building that would be 6,300 sq. ft. That building would only be 10 ft. wider and 8 ft. deeper than the other buildings in the area. They do not feel that this is a substantial request because it is a very minor increase in size. He noted that you would not be able to notice that the building is slightly larger than the others. He also explained that the general scale and architectural characteristic of this building will be in tune with the rest of the development along with the integration of the project.

Mr. Dannible noted that the option of constructing a third building of 1,500 sq. ft. would not be feasible economically. The cost of the added infrastructure within the site far

outweighs the practical use of an additional building. He also noted that the applicant does have a tenant interested in a building in the 6,000 sq. ft. range and would like to pursue that option.

In answer to Board questions about the adjoining properties Mr. Dannible referred to the site plan map and indicated that the adjoining sites of 945 and 947 Route 146 are already constructed office complexes.

Mr. Dannible explained the need for the variance from the planted buffer is due to a parking row that would be on the common property line between the two properties owned by DCG Development. He explained that they need the area setback variance for parking from the property line and also relief from the required landscape buffer for the side yard due to the fact that they are trying to integrate the sites into one common use. The parking will be shared from one side to the other and will provide a connection throughout the site. The additional parking will allow for a mixed use between medical and general office use. Currently they have a parking ratio of one space per every 176 sq. ft.

Mr. Koval noted that 115 parking spaces for 11,000 sq. ft. of building equals 1 space per 100 sq. ft. Mr. Dannible explained that they would like to combine the total area. There will be approximately 40,000 sq. ft. covering the site with seven or eight buildings.

Mr. Kortz asked if there is a disadvantage in combining the two parcels. Mr. Dannible explained that in the future if a tenant comes in and wants to purchase one parcel they could do so and still would have a connection between the two sites. It will provide greater variety for what the applicant can do with his land.

Mr. Dannible stated that the Planning Board has reviewed this project and is in general agreement with the layout.

Mr. Dudick entered into the record the County Planning Board's comments that there is no significant county wide or intercommunity impact and is returned to the Town for its decision.

Mr. Dudick asked about the parking for the office that would be in the existing house. Mr. Dannible responded it will be associated with the proposed parking area and the best route will be determined as they go through site plan approval. He noted that there is a current curb cut and driveway for the existing garage.

Mr. Koval asked if the presenter's reference to Planning Board comments were from the Town's Planning Board or the County. Mr. Dannible stated that the Clifton Park Planning Board has looked at this at the conceptual level and has found the concept proposal generally acceptable.

Mr. Dudick noted that this portion of Route 146 is a transitional area going from commercial to residential and leaving the existing house in the front retains the residential look but asked if it is possible to scale back the larger size building.

Mr. Dannible explained that scaling back the size of the building does not allow the applicant to recoup his costs for the value of the property. It was bought on the basis that this amount of square footage is allowed on the property based on zoning.

Mr. Dudick asked if he was aware of the 4,800 sq. ft. maximum building size.

Don Mac Elroy, DCG Development, explained that it is something that they have been discussing with the town for some time and it is really a matter of the mathematics, the existing square footage on the site combined with what is allowed on the additional acreage brings it into the area where they have 1,500 sq. ft. of building left. He stated that the 12% coverage is light in comparison to other business non-retail zones where as long as you maintain 35-40% green space you can go with building coverage of 20-25% of the site. Also if there was a more generous building envelope it wouldn't be as much of an issue but in this particular case and in this particular zone it is limited so much already that every square foot counts and this is within the spirit of it. The B-1 zone was originally intended to preserve a residential feel along Route 146, and by maintaining the house and asking for the variance for a larger building that sits significantly off Route 146 designed in such a way that it really looks like it is a match for the others on the site, maintains the spirit of what the town is looking for. He also noted that they are entirely surrounded by buildings of similar type design and use and will not impact on the residential neighborhood.

Mr. Koval expressed his concern with the parking variance and by eliminating the green space it will look like a lot of pavement. He also noted that 115 spaces is a lot of parking.

Mr. Mac Elroy explained that it is but right now they have at least three buildings that are health care oriented and the town's own zoning requirement for buildings of that type is more severe than it is for general office space. He noted that the type of tenants that will be located on the site will need additional parking. He explained that to address the visual impact they have bermed the area and will also plant a berm towards the front so that cars driving by will not get the impression of a sea of asphalt. He also noted that they are willing to work with the Planning Board to address those concerns.

Mr. Koval asked for an explanation of the parking requirement for medical buildings.

Mr. Dannibale responded one space for every 150 sq. ft. of floor area, general office space requires one space for every 300 sq. ft. of floor area.

Mr. Mac Elroy noted that this area is skewed more towards medical then they had initially imagined. He explained that CVS will be using one of the buildings for a regional training center and will require a higher parking ratio.

Mr. Lemire asked if the variances for parking are required due to the need for additional parking requirements on the old parcel due to the new type of tenant. Mr. Mac Elroy responded no. The town's parking requirement is not as generous as what many tenants are looking for.

Mr. Kortz asked for the ratio of parking on the old parcel versus the proposed parcel.

Mr. Dannible responded that they have 113 spaces for 27,000 sq. ft. or one space per 225-250 sq. ft. Medical offices require one space per every 150 sq. ft. The new parcel will have one space per 100 sq. ft. which will balance it out overall.

Mr. Koval asked if there will be any green space between the parking and the existing building. Mr. Dannible stated there is approximately 15 ft. from the end of the parking lot to the rear of the building.

Mr. Lemire asked if it is planted or just grass. Mr. Dannible responded right now it is just grass.

Ms. McCarthy inquired as to which site has more parking spaces. Mr. Dannible indicated that the proposed site will have more parking spaces.

Ms. McCarthy noted that she does not see why they need all the parking that is being proposed. Mr. Mac Elroy stated that at the present time two of the buildings on the old site are not occupied. He explained that the Center for the Disabled will be moving in next week and CVS will be taking occupancy in approximately one month. He explained that as time goes on there will be a need for all the parking.

Mr. Lemire asked if the 12% building coverage is just for the new site. Mr. Dannible responded that the 7.7 acres is for both properties together. Mr. Lemire asked if they want the Board to consider both properties as one in asking for the variance. Mr. Dannible explained that the square footage they are looking for refers only to the new site. The 12% coverage of 2.5 acres would allow up to 13,000 sq. ft. of buildings on just the new site.

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

Mr. Myers commented that this is a well thought out plan for the site. His only remaining concern is access to the existing house and that will be addressed in the future. He also noted that many of the variances are due to the site being left as two parcels; if the parcels were combined the variance for the parking would not be needed.

Mr. Kortz asked, even though it is not on his property, if the stream shown on the plan is the Dwaaskill. Mr. Mac Elroy stated that he believes it is a feeder stream for the

Dwaaskill. Mr. Kortz asked if the applicant knows if there is any LC zoning for that. Mr. Mac Elroy stated he does not know.

Mr. Dudick asked how long has DCG owned the property. Mr. Mac Elroy responded four or five years. Mr. Dudick noted his concern with this being a self-created hardship. Mr. Mac Elroy explained that they could build another building on the site but from a planning perspective there would be more sidewalk, driveway area and infrastructure.

There was discussion on similar variances that may have been granted and the criteria the Board must follow in granting variances.

Mr. Lemire noted that three of the variances refer to the existing house and asked if there is anything that precludes the owner from removing that house Mr. Myers responded no and explained that the reason for the variances are to bring the site into conformance with the current zoning.

Ms. McCarthy inquired about the setback on the left for the proposed larger building. Mr. Dannible stated that there is a 25 ft. setback requirement and they are five to six feet off that. Mr. Mac Elroy also noted that the drawing indicates an overhang all around the building so the footprint looks larger than it actually is.

Mr. Lemire asked if a row of parking spaces will be located where the landscape buffer would have been. Mr. Dannible responded yes. Mr. Lemire asked if the variance is not granted what effect would it have on the cut through from the existing site. Mr. Dannible responded that he believes the cut though would stay because the Planning Board usually asks for interconnection between adjoining parcels.

Ms. McCarthy made a motion to approve this application as presented. Mr. Kortz seconded. Ayes: Gleason, Kortz, Koval, McCarthy. Noes: Dudick, Lemire.

2. An application from KAR Vermont, LLC, requesting two area variances from Section 208-11 from the required 10 ft. side yard setback – proposed setback = 0 – variance requested = 10 ft. to allow for the subdivision along the party wall for a town house unit for separate ownership. The property is located at 737 Grooms Road, Clifton Park. Permit #80643

The secretary read the legal notice as it appeared in the Daily Gazette on April 12, 2007.

Gil VanGuilder, land surveyor, presented this application. He explained that this is an existing duplex that the owner would like to subdivide into two town house units. He gave a history of the site stating that 737 Grooms Road was part of the cluster subdivision, Wishing Well, that has a lot size 50% of the required area because of the cluster zoning therefore the lot size is 10,000 sq. ft. instead of 20,000 sq. ft. He indicated that both of the lots after subdivision will be in excess of 15,000 sq. ft. each. He noted that this was one of

the last lots to be built on in the subdivision because it was on Grooms Road.

Mr. VanGuilder explained that in 2004 Mr. Massaroni made an application to the Planning Board for a Special Use Permit to build a two family building on the property. He noted that he built a very upscale two family and has had problems renting it because of the rent structure due to the amenities in the building. The building is built with a one hour fire rating on each side of the party wall and because it is an existing duplex structure it meets the requirements of the building code for subdivision and meets the fire rating separation requirement between the buildings. If the variance is granted there would be a common ingress/egress area to Grooms Road. There are separate public water and public sewer connections.

Mr. VanGuilder noted that a benefit to the town and neighborhood would be that they would be owner occupied rather than rental units.

Mr. Lemire asked if any attempts have been made to sell the property as is. Mr. Massaroni responded yes but it is too expensive due to the upgrades. It was on the market for approximately one year.

Mr. Koval asked if they came to the building department and asked to build a town house would there be different requirements. Mr. Myers explained that as he understands it this has always been considered a two family, if it had been a town house, knowing that there would be separate owners there may have been a requirement for a two hour separation for the fire wall but he checked with the Department of State and has been told that the one hour separation that exists is sufficient. He explained that the distinction goes from two family to town home because of separate ownership.

Mr. Lemire asked for clarification as to why this property needs a variance when town houses in other locations of the town do not. Mr. Myers explained because they were set up as separate pieces of property from the start and this one was not.

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

Mr. Dudick made a motion to approve this application as submitted. Mrs. Gleason seconded. Ayes: Dudick, Gleason, Kortz, Koval, Lemire, McCarthy. Noes: None.

2. An application from James Hanan, requesting variances for Lot #1 – an area variance from the required 20,000 sq. ft. minimum lot size – proposed lot size = 16,318 sq. ft. – variance requested = 3.682 sq. ft.; an area variance from the required 10 ft. side yard setback – proposed = 9.1 ft. – variance requested = .9 ft.; an area variance from the required 10 ft. side yard setback fro a pool – proposed setback = 0 – variance requested = 10 ft.; an area variance from the required 10 ft. rear yard setback for a pool – proposed setback = 0 – variance requested = 10 ft.; and an area

variance from the required 100 ft. width at the building line – proposed width = 90 ft. – variance requested = 10 ft. Variances for Lot #3 – a variance from Section 208-101 from the required 40 ft. width at a public road for a keyhole lot – proposed width = 23.52 ft – variance requested = 16.48 ft.; a variance from Section 208-86(B) from the required 50 ft. front setback for a keyhole lot proposed = 19.3 ft. – variance requested = 30.7 ft.; and a variance from Section 208-86(B) from the required 50 ft. side yard setback for a keyhole lot – proposed setback = 15 ft.- variance requested = 35 ft. The property is located at 766 Carlton Road, Clifton Park. Permit #80644

The secretary read the legal notice as it appeared in the Daily Gazette on April 12, 2007.

Gil VanGuilder, land surveyor, presented this application. He noted that this is a very complicated application. He explained that the applicant purchased the property as two separate properties in November 2006. The previous owner purchased the property prior to zoning and constructed two single family residences on the same piece of property. There was a secondary home put on the rear of the lot for a son of the owner and later used as a rental unit. He noted that there are two separate accesses to the property. The lot in the back is accessed by an asphalt driveway on the westerly side of the lot and the driveway on the easterly portion accesses the garage and the house in the front. There is also an in-ground pool on the property that is enclosed by a chain link fence and will remain with the house in front.

Mr. VanGuilder continued, in 1964 the previous owner purchased an adjacent parcel of land that remained vacant. He noted that Mr. Pelagalli reviewed the chain of title for the property and determined that these are two separate pieces of property that were on separate deeds. His client took title to them on separate deeds.

Mr. VanGuilder referred to Lot 2 that is 86 ft. wide with a total area of approximately one acre. The applicant would like to separate out the uses on the 1950 parcel of land using a portion of the 1964 parcel of land to create a lot in the rear that conforms in area to the 20,000 sq. ft. requirement. He noted that recently both structures were connected to public water and connection will be made to the Town of Clifton Park sewer lines at Torrey Pines. The minimum lot size requirement for lots connected to public water and sewer in the R-1 zone is 20,000 sq. ft. Due to the configuration of where the existing buildings lie they are not able to get 20,000 sq. ft. for Lot #1 and also do not have the required 100 ft width at the front building line. The side yard variance is needed in order to retain the existing driveway to access the house in the rear of the property.

Mr. Dudick asked if anyone is living in the hose on lot #3. Mr. VanGuilder stated that he does not believe either building is occupied at this time. The owner is making some cosmetic changes.

Mr. VanGuilder addressed the variances needed for lot #3 and explained because it will be a keyhole lot it requires 40 ft. of frontage on a public road and it only has the width of the existing driveway. Also the setback requirements are for 50 ft. on all sides for a keyhole lot, therefore two setback variances are needed. Mr. VanGuilder noted that if a building is reconstructed on this lot it would probably be moved back but because of the existing house the setback variances are needed. He noted that the lot size requirement will be met.

Mr. VanGuilder referred to Lot#2, it is in its original configuration, it is 86 ft. wide and the zoning requires 100 ft. width so a 14 ft. variance will be needed. He noted that this is a stand alone lot that pre-exists zoning but they are trying to bring it into conformance. A new home would be constructed on lot #2

Mr. Lemire noted that it is stated that no variances are required for lot #2.

Mr. VanGuilder responded a variances is needed only for the frontage because it is a pre-existing non-conforming lot. He noted that it could be determined that the variance is not needed because it pre-exists the zoning.

Mr. Lemire asked if the old houses were demolished could the property be divided to meet the 20,000 sq. ft. lot size requirement. Mr. VanGuilder responded that they would still have to make three lots and they would not meet the frontage requirement. There is only 200 ft. of frontage total and 240 ft. is needed.

Mr. Koval noted that just because this is a pre-existing lot a variance is still needed to bring It into conformance because it does not have the required frontage.

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

Mr. Koval asked if a variance is needed for lot width for lot #2. He noted just because it is a pre-existing lot does not mean that they can build a house on it.

There was discussion on the need for a variance for lot #2.

Mr. Dudick asked if this is an approved building lot or just a pre-existing lot. Mr. VanGuilder stated that it was purchased in 1964.

Mr. Peller explained that since the character of the lot is changing a variance is needed for the required frontage. He stated that he does not feel it has to be re-noticed since there were no public comments.

Mr. Lemire asked for clarification on the variance being discussed. Mr. Koval noted that a 16 ft. variance on lot width is needed at the building line for lot #2.

Mr. Dudick noted that he visited the site and the surrounding neighborhood and he feels that this application with its many buildings has a tremendous affect on the neighborhood. He noted that the owner bought the property within the last several months and wants to put numerous structures on the property and he feels it is excessive.

Mr. Kortz noted that if the variances are not granted there would still be two parcels, one with several structures that is existing, that would not need any variances if no changes are made, and the second parcel would need only a frontage variance.

Mr. VanGuilder pointed out that it has been determined that these are all separate Parcels and if they did not want to change the lines he feels Mr. Myers would grant a building permit based on the age of the lot and a house could still be built on lot #2. He noted that the back house could remain accessory to the front house. It pre-exists the zoning and could continue to be used on the same piece of property. All they are asking is to divide them out for separate ownership.

Mr. Dudick noted that the existing lot #2 would still require a variance for lot width before a house could be built.

Mr. Koval noted that if someone came in and tore down the house on lot#3 they would have to meet the 50 ft. setback on all sides and would make the site more pleasing.

Mr. Kortz explained that would not be correct if the Board grants these variances for that lot.

There was Board discussion on different resolutions that may help to resolve the problems with the current site.

Mr. Kortz asked why they want to change the lot lines. Mr. VanGuilder noted that they want to separate the two uses that are not conforming. He stated they want to convey out a separate use so there is not a main house with an accessory building.

Mr. Kortz asked if it would be to sell them as separate lots. Mr. VanGuilder agreed.

Mr. Dudick noted that the applicant is trying to make two building lots out of one. He explained that he does not see how separating out the lot to allow for greater building to take place will solve the problems.

The Board agreed that they would like to see a more specific plan presented for lots #1 and #3.

Mr. VanGuilder responded that the specific plan is to separate out the two uses on one piece of property so it's one use on each piece of property.

There was a discussion on the feasibility of a different configuration for the lots.

Mr. Kortz noted that the owner could not sell the houses separately if the variances are not granted.

Mr. VanGuilder asked if the second house could continue to be used and rented out because of the pre-existing zoning.

Mr. Myers explained that he believes that the two residences on one lot is not legal and they would have to subdivide the property. It is a pre-existing non-conforming use that could continue. He believes both houses are not occupied at this time.

Mr. Kortz stated that they could live in one and rent the second house. Mr. Myers responded yes but if they ever wanted to sell the property they would have to have a separate lot with the second house. Mr. Kortz asked if he could sell the whole lot as it now exists with an accessory structure. Mr. Myers explained that it has been determined to be two residences. Mr. Kortz stated that in 2004 it was a continuing non-conforming use when it was purchased. It was noted that it was purchased in 2006, not 2004.

There was discussion on whether the property was rented when purchased.

Mr. VanGuilder explained that the property was purchased in 1950 and the uses happened after that.

There was discussion on whether or not granting these variances will reduce the density on this site and possible solutions noted that cannot be reached without further input from the owner.

Mr. Peller asked if the applicant is willing to waive the 62 day period for the Board to act on this application. Mr. VanGuilder agreed.

Mr. Dudick made a motion to table this application for further input from the applicant. Ms. Gleason seconded.

There was discussion on exactly what the Board would like presented at another meeting. Mr. Dudick asked for more specific information as to lot #3.

Mr. Kortz asked if a variance could be granted for a structure and if that structure were to be removed would the variances be null and void.

Mr. Dudick stated that there are too many assumptions being made. He withdrew his motion to table this application.

Mr. Peller asked if there is any possibility that the owner does not want to make any changes to this application. Mr. VanGuilder asked if some of the variances could be acted on separately, specifically the 14 ft. variance for lot #1. Mr. Myers suggested tabling this application until Mr. VanGuilder has an opportunity to confer with the owner.

Mr. Dudick made a motion to table with application. Mrs. Gleason seconded, approval unanimous.

4. An application from Patricia Lawrence, requesting a variance from Section 208-16E (2) (C) from the one time allowed subdivision into two lots in the Conservation Residential zone from the requirement that new lots initially must be owned by family members; and a variance from the minimum lot size requirement of two acres – proposed lot size = 1.5 acres – variance requested = .5 acre. The property is located at 247 Sugar Hill Road, Rexford. Permit #80645

The secretary read the legal notice as it appeared in the Daily Gazette on April 12, 2007.

Gil VanGuilder, land surveyor, presented this application. He gave a history of the site stating that it is an 18.8 acre parcel. The applicant purchased this property in 1954 in six different parcels that were combined into the 18.8 acre parcel. 17.3 acres of this site are currently under the conservation easement therefore it is protected against development for 15 years. When the applicant purchased the property there was an existing small house on the property that they lived in until they constructed their current home. It has been rented since 1960. He explained that all the land has to be under the conservation easement. He indicated a DEC wetland in the rear of the property and a Christmas tree farm on a section of the property.

Mr. VanGuilder explained that the applicant would like to keep as much of the property under the conservation easement as possible. The zoning for the CR zone requires 3 acres minimum. He referred to the house, well and septic and explained that they are creating a 1.5 acre lot which is under the required 3 acre minimum. He noted that they have been before the planning board and they are supportive of the requested variance because it keeps the conservation easement in tact for the most part. It would be reduced to 17.24 acres. He explained that the assessor will break out the area around the house and it will not be included in the conservation easement.

Mr. VanGuilder explained that the applicant would like to keep the spirit of the conservation easement and the assessor stated that it will not require any adjustments because there is no finite number attached with it. The lot that will be created is 150 ft. wide that will meet the R-3 requirements that was the previous zoning for this area and would have required one acre.

This request would have met the previous requirements but does not meet the current requirements. A conservation easement cannot be under two ownerships and there has to be a minimum acreage for the conservation easement.

Mr. Peller asked when the applicant was granted the conservation easement. Mr. VanGuilder responded around 1998.

Mr. Lemire asked if the residence is in the conservation easement. Mr. VanGuilder explained they generally take out about one acre. Mr. Myers explained that the general rule in the conservation residential zone is one dwelling per three acres. If you look at the whole picture you have two dwellings on approximately 19 acres. There is a minimum of two acres when you subdivide for a family member. Because it will not be owned by family members they need a variance from that requirement as well, and the parcel will need to be three acres so a 1.5 acre variance is needed.

Mr. Dudick referred to the conservation easement and noted that it is for the benefit of the land owner. They agree that they won't subdivide the property for 15 years and by making that promise they get a substantial reduction in taxes. He noted that what is happening here now is that the applicant has changed her mind and wants to subdivide the property and still have a substantial reduction in taxes.

Mr. VanGuilder noted that only to the extent that there have always been two uses on this property.

Mr. Dudick stated that if it was just an issue of how long she's had the property that would be fine the problem is she promised 8 years ago that she would not divide the property in exchange for lower taxes and the town agreed but now she is looking to subdivide the property.

Mr. Koval stated that the assessor is ok with only taking out 1.5 acres. Mr. VanGuilder stated that it will not change the conservation easement. If she takes out more than the 1.5 acres it would substantially change the conservation easement.

Mr. Dudick stated that the purpose the town created the conservation easement is so that you don't subdivide. Mr. VanGuilder noted that they are not changing the uses in the area.

Mr. Kortz noted that the assessor is ok with this request. Mr. Dudick asked if the assessor feels it is ok for the town to grant this easement for tax reduction and still allow the property to be subdivided even though the agreement was originally not to do that.

Mr. Kortz responded not in general but in this case.

Mr. Lemire asked if the assessor is comfortable with this because it will not be a substantial change in the amount of taxes collected.

Mr. VanGuilder responded because of the amount of acreage that is under the conservation easement.

Mr. Peller noted that the assessor is looking at it from an acreage standpoint not a tax amount.

Mr. Myers explained that there will be residential taxes as well because all they are taking out of the conservation easement is a half acre around the residence.

Mr. Kortz asked for clarification that all they are asking for is a .5 acre variance. Mr. VanGuilder responded no because the person living in that house is not a relative so it is a 1.5 acre variance request.

Mr. Peller noted that the application will have to be re-noticed.

The applicant will return for the next meeting on May 1, 2007.

5. An application from Patio Enclosures Inc. representing Beiging Liu, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback in an R-1 zone – proposed setback = 48 ft. - variance requested = 2 ft. to allow for a sunroom addition. The property is located at 27 Liberty Way, Clifton Park. Permit #80640

The secretary read the legal notice as it appeared in the Daily Gazette on April 12, 2007.

Tony Satalino, Patio Enclosures, presented this application. He explained that they need two feet of relief for a 14' x 16' sunroom on a wood deck foundation on the corner of the home. This is a corner lot and has two front yard setbacks.

Mr. Dudick asked if it is possible to move the room over. Mr. Satalino responded no because there is a window in the way.

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

Mr. Dudick noted that this is a corner lot and is not a significant variance request.

Mr. Dudick made a motion to approve this variance as requested. Ms. McCarthy seconded. Ayes: Dudick, Gleason, Kortz, Koval, Lemire, McCarthy. Noes: None.

Mr. Dudick made a motion to approve the minutes of April 3, 2007, Mr. Kortz seconded, approval unanimous.

Mr. Dudick made a motion to adjourn the meeting at 9:18 PM, Mr. Koval seconded. approval unanimous.

Respectfully Submitted,

**Judy Lamb
Secretary**

Cc: Town Clerk, Town Board, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, Planning Board, ECC, Assessor, Highway Superintendent