

ZONING BOARD OF APPEALS

June 3, 2008

Present: Michael Dudick, Chairman , Dale Gleason, Douglas Strother, Robert Ritter (arrived at 7:05 p.m.), Christopher Lemire, Gilbert Kortz

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

Mr. Dudick called the meeting at 7:01 p.m.

NEW BUSINESS:

- 1. An application from AJ Signs, requesting a variance from Chapter 171 – 4H of the Town Code (Sign Law) for an off-site freestanding sign. The property is located at 602 Pierce Road, Clifton Park. Permit # 80702**

The secretary read the Legal Notice as it appeared in the Daily Gazette on May 29, 2008.

Mr. Carl Wheeler of AJ Signs presented this application. He stated that he was here to present the application for Ferguson Waterworks. He stated that he feels they need to have the sign where it is, because Ferguson is not visible from the road and if they do not have the sign out there they will lose business, which he stated is a hardship.

Mr. Kortz asked if this is an existing sign. Mr. Wheeler responded yes. Mr. Kortz asked if the business it refers to has no road signage. Mr. Wheeler responded yes.

Mr. Dudick stated that he looked at the building and asked if they are on the corner of VanPatten and Pierce and asked if there is road frontage on both VanPatten and Pierce. Mr. Wheeler replied that yes, the building is on the corner. Mr. Dudick then asked if he is looking for signage on another corner which is off site. Mr. Wheeler replied that it is for the sign that is already up. Mr. Dudick stated that the sign that is already up is next to the entrance to the industrial circle, so the sign is erected on an off-site lot. Mr. Wheeler responded yes.

Mr. Dudick stated that he looked at the sign and it is actually larger than the signage for the entire industrial park, which currently has seven members, including Ferguson Waterworks, so they have the sign on the industrial park plaque, and then the separate Ferguson Waterworks sign which was just erected. Mr. Wheeler replied yes, that they had a permit to put it up in February.

Mr. Dudick asked Steve Myers for his comments and history. Mr. Myers stated when they applied for the permit, he did not realize that the sign was on a different parcel. He approved it based on the application. Later, when Mr. Myers drove by the site he realized something was wrong. He looked into it further and realized that it was a different parcel and advised the applicant they would have to apply for a variance for an off site sign.

Mr. Kortz asked Mr. Myers if the sign meets the size requirements. Mr. Myers replied that there is nothing wrong with the size of the sign. Both parcels are owned by Country Club Acres, but when he initially looked at the drawings he did not realize they were separate parcels.

Mr. Dudick asked if they can move the sign onto the property where the Ferguson Waterworks business is so that it faces out toward Van Patten Drive. Mr. Wheeler replied that it would not be that visible. He stated there are a lot of trees and this is the only spot that made sense. Mr. Myers added that there is a problem putting the sign on the other parcel as there is already a freestanding sign there for Portola Packing. If this sign were put there then there would be 2 freestanding signs on the other parcel. Mr. Dudick asked if Portola and Ferguson Waterworks share the same building. Mr. Myers replied that they do, but he believes Portola is leaving. Mr. Dudick commented that there would be great potential for signage if Portola leaves. Mr. Myers stated that this is correct, but he does not feel this solves the problem about sign visibility on Pierce Road. Mr. Myers further stated that as he understands it from conversations he has had, they feel that Pierce Road is more of a commercial entrance whereas VanPatten is more of a residential street.

Mr. Dudick asked how long Ferguson Waterworks been at the location. Mr. Myers and Mr. Wheeler replied since last summer or fall. Mr. Dudick asked if when they did a site selection to locate their building in an industrial park, did it occur to the operators of Ferguson that they were going to be located in an industrial park with regard to traffic. Mr. Wheeler replied that he guessed they probably were not thinking of that.

Mr. Dudick stated that he understood that the permit was given, the sign was erected, and then it was determined that the drawing did not clearly indicate that it was an off-site sign well enough so that Mr. Myers could recognize that it was an off-site sign. Had it been demonstrated or stated in the application that it was a sign to be placed in a location separate from where the business was located, he does not think Mr. Myers would have granted the application because it would have required a variance. Mr. Dudick stated that in his time on the Zoning Board, off-site sign applications have come in. To his knowledge there is no off-site signage that the Board has ever approved. He feels that the problem is not that the sign looks bad, but that there are 6 other tenants currently in that industrial park. Mr. Dudick asked about the size of the sign. Mr. Wheeler replied that the sign is 8 feet x 4 feet. Mr. Dudick stated that if we grant them a variance for an off-site sign, there is a potential for the other tenants to request the same.

Mr. Kortz asked clarification of the entrance to the industrial park. He asked if the parcel that

the sign is on now is part of the industrial park. Mr. Wheeler replied yes. Mr. Kortz asked if this is in addition to a directory sign for the industrial park. Mr. Wheeler replied yes. Mr. Kortz asked if both parcels are a part of this industrial park. Mr. Wheeler replied yes. Mr. Myers stated that both parcels are owned by the same people.

Mr. Strother asked about the nature of Ferguson Waterworks' business. Mr. Wheeler stated he did not know the details of the business, but he believes they sell pipe fittings, valves, pipe. Mr. Wheeler stated that not having that sign would affect their business.

Mr. Kortz asked about the directory sign to the industrial park. He asked if there are directional signs in the industrial park. Mr. Myers replied that the buildings are well labeled. Mr. Dudick replied that there is a wall sign for Ferguson Waterworks on the building. He did not see one at the entrance to their parking lot. He said the wall sign is significant and he had no problem seeing the sign from VanPatten Drive.

Mr. Kortz asked if the directory sign for the industrial park is as large as it is allowed. Mr. Myers did not look if there is a permit for the directory sign but he would guess that it could be a lot larger than it is.

Mrs. Gleason asked about precedent in that this was approved and the owner spent money to build the sign. She asked about the legality of this. Mr. Peller stated that it is an illegal sign and it should be looked at that way irrespective of the minor administrative error that was made.

Mr. Lemire asked about the other onsite tenants on the parcel and if they could put signs up at that location. Mr. Myers replied that he would not allow 7 other signs to go up, only 1 freestanding sign per parcel.

There was discussion among Mr. Lemire, Mr. Kortz, Mr. Myers, Mr. Dudick and Mr. Strother regarding the map and the division of the properties as well as the directory sign, its aesthetics and setting precedent.

Mr. Ritter made a motion to close the public hearing. Mrs. Gleason seconded. Approval unanimous.

Mr. Dudick stated that he is never going to judge the aesthetics of anything and he is concerned with precedent setting regarding off-site signage.

Mr. Dudick mentioned the stance of this Board and the Town regarding off-site signage, as well as an article in the Gazette dated April 18th which discusses the concern of planners and the County concerning the amount of signage.

Mr. Dudick made a motion to deny this application as submitted. Mr. Kortz seconded. Ayes: Dudick, Gleason, Kortz, Lemire, Strother, Ritter. Noes: None.

OLD BUSINESS:

- 1. An Application from Ray Sign, Inc., requesting an area variance from Chapter 171 of the Town Code (Sign Law) for a second freestanding sign for parcel located at 5 Maxwell Drive, Clifton Park, New York.(Existing sign is also a directory sign).
Permit # 80694**

This was to be a continuation of an application heard at the May 20th meeting. No one arrived to present this application. Mr. Myers stated that he left a voicemail for the applicant stating that he had information regarding the wall sign, but Mr. Myers never received a response. Mr. Dudick asked if the Board granted an extension of time. The secretary stated that a notice was sent to the applicant stating that June 3rd was the meeting for the continuation of his application.

Mr. Dudick asked if this would be a denial or an abandonment. Mr. Peller stated that it would be a denial because the applicant has already presented his application.

Mr. Ritter made a motion to close the public hearing. Mrs. Gleason seconded. Approval unanimous.

Mr. Ritter stated that the Board gave the applicant an opportunity and alternatives at the May 20th meeting. The Building Department attempted to follow up with the applicant but there has been no response.

Mr. Ritter made a motion to deny this application as submitted and as presented at the May 20, 2008 meeting.

Mr. Kortz seconded. Ayes: Gleason, Kortz, Strother, Ritter. Abstentions: Dudick, Lemire. Noes: None.

Mr. Ritter made a motion to approve the minutes of May 20, 2008. Mr. Kortz seconded. Approved by: Dudick, Gleason, Kortz, Strother and Ritter. Mr. Lemire abstained.

Mr. Dudick made a motion to adjourn the meeting at 7:38 p.m. Mr. Ritter seconded. Approval unanimous.

Respectfully Submitted,

Jess McCarthy
Secretary

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