

September 6, 2005

Present: Dale Kelley, Chairman, Dale Gleason, Gil Kortz, Joel Koval,
Robert Ritter

Absent: Michael Dudick, Jessica McCarthy

Also Present: Lou Renzi, ZBA Counsel

Mr. Kelley called the meeting to order at 7:07 PM.

NEW BUSINESS

1. An application from Mama Vee's Inc., requesting an area variance from Section 208-38C and 208-98 from the required 130 ft. front yard setback from the centerline of Route 146 – proposed setback = 49 ft. – variance requested = 81 ft. The property is located at 55 1218 Route 146, Clifton Park. Permit #80567.

The secretary read the legal notice as it appeared in the Daily Gazette on September 1, 2005.

Don Darrah, VanGuilder Assoc., presented this application. He explained that a previous variance was granted for a front setback for an outdoor patio area but they would now like to enclose the area with a permanent structure. The new variance requested would be two feet less than the previous one granted. He stated that the façade will be updated and the new area will allow for 13-14 additional seats. The parking will increase and be more efficient.

Mr. Darrah stated that economically this would allow for an enclosed waiting area during the winter months.

Mr. Kelley explained that the current site has a patio area that will be enclosed making it more desirable and usable during the winter months.

Mr. Kortz noted that this variance would be two feet less than the one previously granted. He asked if this plan has been before the Planning Board yet. Mr. Darrah responded no.

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Mr. Kelley explained that the Planning Board would address the issues of buffering, landscaping, and façade.

Mr. Koval noted that this is a difficult site and improvements are needed.

Mr. Kelley stated that this restaurant is under new ownership.

Mr. Ritter asked if the new owners purchased the site with the intention of adding an addition. Mr. Darrah responded that he does not know. He is not sure that the actual ownership has been transferred. The application is being requested by the original owner.

Mr. Kortz noted that the footprint of the addition is smaller than the current patio area.

Mr. Ritter expressed his concern with justifying the financial hardship noted in the application. Mr. Kelley stated that this is not a use variance and financial hardship does not have to be met for an area variance even though it is on the application.

Mr. Ritter explained his concerns and Mr. Renzi noted that there is not a financial hardship criteria that has to be looked at for an area variance. He reviewed the five criteria that have to be considered in granting an area variance.

Mr. Kortz stated that this is a unique circumstance due to the fact that a variance has already been granted for a patio area and this variance will be two feet less if approved.

Mr. Koval agreed that the addition would be an improvement to the tented patio area.

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

Mr. Kortz asked if the addition would affect the number of parking spaces. Mr. Darrah stated it will not increase the parking capacity but will allow for two extra parking spaces.

Mr. Kortz asked if it would meet the Planning Board's requirement for parking. Mr. Darrah responded yes, it would improve the existing parking situation.

Mr. Kortz made a motion to approve this variance as requested. Mr. Ritter seconded. Ayes: Kelley, Gleason, Koval, Kortz. Noes: Ritter.

2. An application from The Crossing, LLC, requesting an area variance from Chapter 171 of the Town Code (Sign Law) from the maximum 35 sq. ft. wall sign allowed – proposed = 75 sq. ft. – variance requested = 40 sq. ft.. The property is located at 54 The Crossing Boulevard, Clifton Park. Permit #80568.

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The secretary read the legal notice as it appeared in the Daily Gazette on September 1, 2005.

Todd Fischer, Equinox Companies, presented this application. He explained that Famous Footwear is seeking a variance for a larger wall sign. He presented a site plan for the Crossings. He stated that a lease has been signed but is contingent upon the tenant receiving wall signage that is acceptable to them. He continued, the tenant requested wall signage of 167 sq. ft. but he told him that it would not be acceptable; therefore they

requested that he come before the Board and for a wall sign of 72 sq. ft.. He noted that the basic reason for the larger wall sign is due to the distance to Crossing Boulevard that is approximately 580 ft. and it is difficult to pick out where a tenant is located from that distance without adequate signage.

Mr. Fischer continued by stating that today's world is moving away from closed malls towards convenience. He explained that this is a national tenant and is a large draw.

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

Mr. Kelley asked if the rendering is the actual size of the sign. Mr. Fischer responded he requested 75 sq. ft., the sign is actually 72.82 sq. ft..

Mr. Koval asked for the square footage of the retail space and if any other tenant has a similar amount of space. Mr. Fischer stated it is 7,020 sq. ft., and the other tenants are either smaller or larger than this one.

Mr. Fischer indicated on the site plan the actual location of the retailer and noted that it is a portion of the former Exit 9 Wine & Liquor Warehouse site.

Mr. Koval asked what the signage was for the former retailer. Mr. Fischer responded he does not know.

There was discussion on the previous variance that was granted for this location and it was also noted that the former retailer had more square footage.

Mr. Kelley suggested scaling down the size of the sign due to the size of the floor space.

The previous tenant at this site received a variance of 11.2 sq. ft. for a 66 sq. ft. sign for a 10,000 sq. ft. retail space. Discussion continued on reaching a compromise for this applicant.

Mr. Renzi noted that each application is separate and stands on its own.

Mr. Kortz stated that the spirit of the sign law is for fairness to all applicants. Mr. Fischer responded that from the landlord's standpoint, even though they only occupy 7,000 sq. ft. they

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are a national tenant and a draw to the plaza and they need to have them identified to the public.

Mr. Kortz asked if other tenants with smaller signs would be upset if this variance is granted.

Mr. Fischer responded when tenants are located near a national draw it brings people to them also. He does believe it would not matter to them.

Mr. Koval asked if they could live within the maximum of 60 sq. ft.. Mr. Fischer responded that the way the lease is written they have an out of the lease if they do not get at least 60 sq. ft..

Mr. Koval noted that their request is excessive and he would like to keep it within the maximum allowed.

Discussion continued on possible compromises using ratios.

Mr. Kelley suggested a compromise for a sign of a maximum of 60 sq. ft..

Mr. Koval made a motion to approve this variance as amended for a maximum wall sign of 60 sq. ft.. Mr. Ritter seconded. Ayes: Kelley, Gleason, Koval, Kortz, Ritter. Noes: None.

3. An application from Kienast Properties, LLC, requesting an area variance from Section 179-26C of the Town Code from the required minimum of 40 ft. of deeded frontage on a public road for a buildable lot – actual frontage = 0 ft. – variance requested = 40 ft.. The property is located at 566B Englemore Road, Clifton Park. Permit #80572.

The secretary read the legal notice as it appeared in the Daily Gazette on September 1, 2005.

Don Darrah, VanGuilder Associates, presented this application. He explained that the property was at one time one continuous parcel. This situation was created in 1951 when the Latham Water District acquired the property for the Stoney Creek Reservoir an easement was granted to protect the stream that goes through the property. He noted that there was ingress and egress created for access to this parcel. He explained that there is no feasible way to provide contiguous access to the property.

Mr. Darrah noted that a DEC Wetlands Disturbance permit has been verbally issued pending this variance being granted. He noted that the Latham Water District wanted a 12 ft. wide road but the Fire Code Review Board would only allow for 16 ft.. He stated that Latham Water District has verbally approved the easement through their parcel.

Mr. Koval asked if the easement exists now. Mr. Darrah responded it does exist but in order to put in a driveway through they need the extra width.

Mr. Kelley asked if there were any agreements in writing to be presented this evening.

Mr. Darrah responded no, there are verbal agreements only at this time.

Mr. Koval asked if there are any issues with regard to wetlands in this easement. Mr. Darrah responded that there are disturbance permits that have been verbally issued the same as the Latham Water District access is verbally approved.

Mr. Ritter asked why the frontage was not given to this lot when it was originally purchased. Mr. Darrah stated in 1951 when the Water District acquired the land it created a piece of property with ingress/egress and he does not believe there were any requirements for the 40 ft. road frontage. Since that time this piece of property was just sitting there and because of the Latham Water District's ownership it's not feasible to acquire deed title through 40 ft. of their property to put in a driveway.

Mr. Renzi asked if they won't give title, would they grant an easement. Mr. Darrah responded yes, the easement was retained when they acquired the property.

Mr. Koval stated that it happens a lot with utility companies.

Mr. Kelley asked if they are going to purchase any land. Mr. Darrah stated no.

Mr. Renzi asked if the property was divided recently. Mr. Darrah responded yes, he believes so.

Mr. Ritter asked why they didn't convey the 40 ft. to the rear lot before selling.

Mr. Koval asked if Kienast recently sold property. Mr. Darrah stated that this parcel has been out there with only an ingress/egress easement since 1951.

Mr. Koval asked if Kienast owned the parcel in front of it. Mr. Darrah responded that he does not know the answer to that question.

There was discussion on the ownership of the front lot and why someone would buy a lot that that could not be built on.

Mr. Kelley noted that Mr. Clemens has submitted comments on this application questioning why the frontage was not conveyed to this lot when the front lot was sold.

Mr. Darrah stated that he does not know the prior ownership of the lots. The Board requested an adjournment until the next meeting for additional information to be provided on the ownership of the lots.

Mr. Ritter made a motion to adjourn the public hearing on this application, Mr. Koval seconded, approval unanimous.

Mr. Ritter made a motion to approve the minutes of August 16, 2005, Mrs. Gleason seconded, Ayes: Gleason, Kortz, Kelley, Koval, Ritter. Noes: None.

Mrs. Gleason made a motion to adjourn the meeting at 8:08 PM, Mr. Ritter seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary