

November 1, 2005

Present: Dale Kelley, Chairman, Michael Dudick, Dale Gleason, Joel Koval, Jessica McCarthy, Robert Ritter, Gil Kortz (arrived 7:08 PM)

Also Present: Lou Renzi, ZBA Counsel
Steve Myers, Director, Building & Zoning

Mr. Kelley called the meeting to order at 7:02 PM. He announced that the Town Board had passed legislation on October 3, 2005 creating the position of an alternate to the ZBA. He explained the duties of the alternate position.

NEW BUSINESS

1. An application from Stantec Consulting Group, Inc., representing Restaurant 99, requesting an area variance from Chapter 171 of the Town Code (Sign Law) for a second freestanding sign of 85 sq. ft. The property is located at 306 Clifton Park Center Road, Clifton Park. Permit #80575.

The secretary read the legal notice as it appeared in the Daily Gazette on October 27, 2005.

Paul Bohl, Stantec Consulting Group, presented this application. He entered into the record pictures in support of his request. He noted the concern is visibility from Route 146 and stated that the sign will match the existing pylon sign on Clifton Park Center Road. He explained that the existing pylon sign cannot be seen from Route 146 and noted the difficulty in finding the location due to the elevation of the site.

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

Mr. Myers explained that only one pylon sign is allowed on the site and also noted that if the proposed sign were the only sign on the property it would still be 10 sq. ft. larger than that allowed by the Town Code.

Mr. Koval mentioned that a sign variance was previously granted for this site earlier this year.

11/1/05 Page 2

Mr. Kelley noted that they currently have a pylon sign and a wall sign at this site.

Mr. Dudick agreed that if you are low to the ground and westbound you cannot see the sign as demonstrated by the pictures. He stated that he has seen the existing signage and noted that the restaurant appears to be quite busy. He asked if they would like to move

the existing pylon sign. He stated his concern that two freestanding signs for one restaurant may set a precedent. He also noted that the company chose the location for the existing freestanding sign and a different location could have been chosen due to the topography.

Mr. Koval stated that he believes there was a discussion at the previous meeting regarding the placement of the freestanding sign and if it would be sufficient.

Mr. Bohl agreed that at the time it was discussed that most 99's have signage on the buildings on the two sides and the front and it was agreed not to put signs on the sides of the building in order to obtain a larger sign on the front of the building; he does not believe a pylon sign was discussed at that meeting.

Mr. Dudick stated that a variance has already been granted for a larger than allowed pylon sign.

Mr. Ritter read the minutes of the previous meeting regarding the discussions on the amount and size of signage for this applicant.

Mr. Koval also noted that at that meeting Mr. Ritter asked the applicant for clarification on the signs to be placed on the building and asked if they were going to have signage on the Route 146 side of the building. Mr. Bohl responded at that meeting that there would only be one sign on the building and a pylon sign, now they are looking for a second pylon sign. Mr. Koval noted that the Board might have voted differently at the previous meeting if they knew a second pylon sign would be requested.

Mr. Bohl explained that if he knew they would be requesting a second pylon sign he would have requested it at that time. He explained that now that the building is built the owner, looking at the visibility, is requesting a second sign.

Ms. McCarthy stated she feels the restaurant is quite visible from Route 146 and does not think a second freestanding sign is needed.

Mr. Ritter expressed his concern that a precedent may be set if a second pylon sign is granted.

Mr. Koval stated he would be more inclined to consider moving the existing sign than to grant a variance for a second pylon sign.

Mr. Kelley asked if the applicant could move the existing sign without this Board's approval. Mr. Myers responded that they would have to obtain a new permit because there would have to be foundation and electrical inspections performed.

There was discussion on moving the wall sign. Mr. Bohl stated that he knows the owner would not consider moving the wall sign; he has not discussed moving the pylon sign with the owner.

Mr. Dudick made a motion to deny this application as submitted. Ms. McCarthy seconded.

Mr. Renzi informed the Board and the applicant that he could table this application to reconsider different options rather than the Board acting on it this evening.

Mr. Dudick asked if this were tabled would the applicant have to resubmit a new application.

Mr. Koval noted that if they just moved the existing pylon sign they would not have to come back before this Board because they already have a variance for it.

Mr. Renzi explained that the variance was granted with a specific site in mind and this would be a considerable change.

Mr. Myers explained that moving the pylon sign would be a change to the site plan as approved by the Planning Board.

Mr. Kelley stated that he feels the Board should act on this application this evening.

Mr. Ritter asked, if when they were going through the Planning Board process did they indicate to them that there may be a request for an additional pylon sign. Mr. Bohl responded no, they did not know one would be needed. He explained that they did consider seeking alternative signage on Route 146 from the State but there is none available.

A vote was called on the motion to deny the variance. Ayes: Kelley, Dudick, Gleason, Koval, McCarthy, Ritter. Noes: None. Abstained: Kortz.

2. An application from One Southside Drive, LLC, requesting an area variance from Chapter 171 of the Town Code (Sign Law) for a total signage package of 1,428.63 sq. ft. The property is located at 5 Southside Drive, Clifton Park. Permit #80577.

The secretary read the legal notice as it appeared in the Daily Gazette on October 27, 2005.

Bob Miller, Windsor Development, presented this application. He explained that this is an overall sign package for the building. He noted that tenants have been before this Board in the past requesting signage for the north side of the building facing Route 146. He stated that he understands the concern of this Board so they put together an overall sign package for their tenants with the intent that they will control all signage in this area.

There was a discussion on banner signs and the length of time they can be displayed. Mr. Myers explained that they are allowed for a 30-day period and if they are not removed he contacts the business and reminds them to remove them.

Mr. Miller presented renderings of the proposed sign package. He explained that he met with Mr. Myers today and refigured the square footage being requested. He stated that the package includes two variance requests for building identification.

Mr. Ritter asked if the building would look symmetric from both sides. Mr. Miller referred to the renderings presented this evening and explained that they are for the north side of the building only. The architecture is the same on both sides of the building. All the signs exist on the south side of the building except for one additional tenant that will be placed shortly.

Mr. Myers explained that signage is figured on the total square footage of the building or a minimum allowed per tenant. Based on the total square footage of the building they would be allowed a 155 sq. ft. wall sign. Based on seven tenants at 32 sq. ft. each they would be allowed a total of 224 sq. ft. The package requested is 888 sq. ft. that includes the identification of the building itself, not just the tenants. Variances have already been granted on the south side of the building for Nationwide, Moe's, and Concepts in Fitness. The total signage that currently exists on the south side of the building equals 237 sq. ft., which is over the allowance for the whole building, added to the request of 888 sq. ft. that does not exist to date it is equal to 1125 sq. ft. of total signage. Mr. Myers explained that the numbers on the original request that was submitted are inaccurate. It would be the total of the 237 sq. ft. already existing, plus 856 sq. ft. being requested = 1,093 sq. ft. of signage.

Mr. Ritter noted his concern that uniformity will not be provided around the whole building.

Mr. Myers explained that the signs on the south side of the building are already up but the ones being proposed on the north side of the building will all be standard; they will be different from those already up on the south side of the building.

Mr. Miller explained that they are proposing to have an area within which to direct a tenant to place a sign. National tenants will be putting up their national signs so that font, color, etc. will not all be the same, it will be an area in which a tenant can place a sign. This variance, if approved, will control the area so that it will be aesthetically pleasing.

Mr. Kortz stated that it appears the area allowed will be 60 sq. ft. and asked if there would be individual tenants coming before the Board asking for increased area because their sign will not fit within the area being proposed.

Mr. Miller responded that it would be controlled with the leases; the tenants will be told that this is the area for their sign on the north side of the building. The intent is to stop the tenants from coming back to the ZBA for variance requests.

11/01/05 Page 5

Mr. Miller explained that this is a unique building because it actually has two fronts, the retail front is on the south side and the office front is on the north side as requested by the Planning Board when we went through their review.

Dave Sussman, Windsor Development, added some background for the renderings presented. He explained that they went to a national architect from Cleveland, Ohio to enhance the site. They went to the Planning Board to get their approval to paint the building, add awnings, and lighting. He referred to a letter from Mr. Bulger to the ZBA that recommends approval of this request. He continued, the renderings presented are the result of a professional designer for the scheme of the building for the size of the envelopes for the façade. If the variances are granted the tenants will have to apply to the Building Department for a sign permit.

Mr. Kelley asked if they would control what the tenants are submitting. Mr. Sussman responded they will control the signage through the tenants leases. They always tell their tenants that the signage is subject to their consent, but also to all municipal approvals, but in respect to signage on the north side they can also change the language to say this is the area, you are not allowed to go any larger than the envelope as approved.

Ms. McCarthy asked if they could legally tell their tenants they cannot apply for a variance for their sign. Mr. Miller confirmed that they could through each lease.

Mr. Ritter noted that the issue he takes is that some of the tenants have applied for variances and have been denied because the concept of the building has two distinct purposes, one side is retail and the other is office space, so it made sense when Nationwide came before this Board they received a variance since they face Route 146 and the denials were due to the businesses having their entrance on the south side of the building. He stated that if this variance request were approved it would violate the previous process of this Board. He wondered if it would set a precedent for other shopping centers within the town. He also noted that the new building concept is great but he would like to see the same concept that is there today.

Mr. Miller agreed and stated that he understands the issue he has, that tenants have come before the Board previously for a sign variance but he pointed out that he feels they are a unique building because other businesses already in that area face Route 146 and have multiple signs. The purpose of this request is not just that they need another sign; there are real reasons for the sign request.

Mr. Ritter responded that those establishments all face Route 146 and that is his issue with this request, he feels this Board did not want signs all over and made a conscience

decision not to put any retail signs on the north side of the building and it has been validated a couple of times over. He feels that this concept, no matter how attractive it is, violates that precedent that has been established.

Mr. Miller then asked if he is saying that the signs should only be on the front where the entrances are. Mr. Ritter responded that is the precedent that has already been established.
11/01/05 Page 6

Mr. Kelley explained when this Board first deliberated and considered signage on this building it was from the lead taken from the Planning Board because they did not want to see signage on the Route 146 side; they felt it was not necessary and at that point they were working with the applicant to make the north side of the building look like a front, whether it's office or retail it did not matter. The Planning Board sent this Board a clear message that they did not want to see any more signs on that side and this Board took their lead. He continued, they since have changed their mind and are now saying that the signage will not only improve the appearance of the building but will also provide easier access for those patronizing the structure. It was not this Board that took the lead on signage.

Mr. Kortz stated that looking at the intent of the sign law, one consideration is equal signage between buildings that will not give an unfair advantage from one to the other, and by doing it on an ad hoc basis may give an unfair advantage, but by proposing all businesses getting an equal opportunity for signage is more consistent. He asked for clarification on the exact amount of variance being requested.

There was discussion on the exact amount of variance being requested. Mr. Renzi stated that the request could be tied to the schedule submitted by the applicant and made a part of the record this evening.

Mr. Dudick noted that there is a difference between a plaza's signage and that for an individual business.

Mr. Sussman responded that the history of the building and the way it was designed resulted from working with the Planning Board and their requests and now they are trying to improve some of the mistakes and aesthetics of the building and this is a part of that. The building will look better with signs on it versus just a blank wall. He also explained how some of the confusion on the amount of signage being requested came about.

Mr. Dudick noted that there are two different issues, one being the sign for the Shops of Village Plaza, which would create some visible uniqueness and will enhance the building from the north view, but in looking at all the additional individual signs, for the same reasons and rational in denying each application for additional signs in the past, the fact that the application comes in mass does not change his philosophy as to why he does not want to see additional signs.

Mr. Miller responded that there have been approvals in the past for multi-tenant buildings for example MBT Bank, using the same rationale, to direct customers to where the business is located in the building.

11/01/05 Page 7

Mr. Koval noted that this is a unique building and illustrates that perhaps the sign laws should be reviewed and revised.

There was discussion on the sizes of the existing signs on the south side of the building and the proposed signs for the north side of the building.

Mr. Kortz noted that the requested signs are almost double what exists on the south side.

Mrs. Gleason noted that this is a definite improvement to the plan and she feels the applicant will live up to their responsibilities.

There was additional discussion on the existing Nationwide sign and the proposed signs on the north side of the building. It was agreed that the corresponding sign opposite Nationwide would be equal in size to the Nationwide sign. The applicant agreed that they would control the size of the signs.

Ms. McCarthy asked for confirmation on how the 60 sq. ft. per sign will be controlled. Mr. Miller responded they are requesting a 3' x 20' envelope and each tenant must place their sign within that envelope.

Mr. Kortz commented that the Nationwide sign at 21 sq. ft. is visible from Route 146.

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

Mr. Kelley stated that as long as the signs are standard, as depicted on the rendering, and do not exceed 3' x 20', with the exception of the Shops at Village Plaza sign on both the north and south side, he concurs with the Planning Board and Steve Bulger; he thinks this is the right direction to go in. He stated that the Planning Board in its original deliberations did not see this coming; they wanted this building without signs on the north side.

Mr. Kortz asked if the size of the proposed signs were discussed with the Planning Board. Mr. Kelley responded yes and they found them acceptable.

Mr. Kortz asked for a discussion on reducing the size of the signs as requested. He asked why 3' x 10' or 3' x 15' is not acceptable. Mr. Miller responded they went to a national architect and based on the size of the building and proportions, they felt this envelope size is the most aesthetically pleasing and balanced in the right way.

Mr. Kortz stated that he feels this is a substantial request. Mr. Sussman responded that his concern is how to make sure all logos will fit within the envelope.

Mr. Kortz responded that corporate logos could be made smaller. There was discussion on a compromise and a size that would be agreeable to all. Mr. Sussman agreed to a compromise of 3' x 15' envelope per sign.

11/01/05 Page 8

Mr. Kelley made a motion to approve this variance as amended that the signs on the north side of the building not exceed 45 sq. ft. each or a 3' x 15' envelope. Mr. Kortz seconded.

Mr. Ritter stated he would like to see the sign opposite the Nationwide sign be consistent with the current sign on the building.

Mr. Kelley explained that he feels all the signs on the north side should be consistent.

Mr. Sussman agreed in concept and is agreeable to the sign for Community Care being equal to that of Nationwide on the north side of the building. He explained that he feels they will be coming before this Board for a sign variance on the south side of the building. Mr. Miller asked if he could have some leeway in the Community Care sign in case they already have it designed to say Community Care Physicians and will not be able to meet the 21 sq. ft. envelope.

Mr. Kelley amended his motion to include that sign #2 will be no more than 20% larger than the current Nationwide sign on the north side of the building, signs #1 & #10 will be as requested, all remaining signs, #'s 3-9, will be 45 sq. ft., and height variances will be as indicated on the chart submitted with the application. Ms. McCarthy seconded. Ayes: Ritter, McCarthy, Koval, Kortz, Gleason, Kelley. Noes: Dudick.

Mr. Kelley made a motion to approve the minutes of October 4, 2005, Mr. Koval seconded. Ayes: Kelley, Dudick, Gleason, Koval, McCarthy, Ritter. Noes: None. Abstained: Kortz.

Mr. Dudick made a motion to approve the minutes of October 18, 2005, Ms. McCarthy seconded. Ayes: Kelley, Kortz, McCarthy, Dudick, Gleason, Koval. Noes: None. Abstained: Ritter.

Mr. Kelley made a motion to adjourn the meeting at 8:20 PM. Mr. Dudick seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary

Cc: Town Clerk, Zoning Board Members, Louis Renzi, Counsel, Steve Myers,
Department of
Building and Development, Planning Board, ECC, Assessor