

ZONING BOARD OF APPEALS

October 20, 2009

Present: Michael Dudick, Chairman, Robert Ritter, Dale Gleason, Christopher Lemire, Brian Telesh, James Whalen

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

Absent: Douglas Strother, Deborah Ferro (alternate member)

Mr. Dudick called the meeting at 7:07 p.m.

PLEDGE OF ALLEGIANCE

NEW BUSINESS:

- 1. An application from Allied Sign Co, requesting variances from Chapter 171 – Signs, Chart I, restaurant allowed 32 sq. ft. per tenant at maximum height of 16 feet. Applicant used gross area for signs proposed = 63 sq. ft. Signs actually total 43 sq. ft. Two (2) signs allowed as long as within 32 sq. ft. total, variance requested = 11 sq. ft. The proposed sign height = 21 ft, 9 in. - 16 feet is allowed, variance requested = 5 ft., 9 in. The property is located at Clifton Park Center, 22 Clifton Country Road, Clifton Park, New York. (Permit #80746).**

This application was withdrawn by Mr. Myers prior to the meeting.

- 2. An application from One Fairchild Square, Inc., requesting variances in L-1 Light Industrial Zone as follows: (1) from 208-65c. - 25' planted buffer required along side & rear property lines south side or rear, lot A & B 0' available = 25' variance, east side lot A west side lot B, 25' variance required; and (2) from 208-65 E(2) - 25'**

setback side & rear required & 25' buffer and no parking in buffer; lot A south & east sides 25' variance required, lot B south & west sides, 25' variance required also. The property is located at 1 Fairchild Square, Clifton Park, New York. (Permit #80747)

Mr. Dudick advised the applicant that there are six voting members present and that four yes votes are needed. He asked the applicant if he wished to proceed and the applicant replied yes.

The secretary read the legal notice as it appeared in the Daily Gazette on October 15, 2009.

Tom Andres of ABD Engineers and Surveyors presented this application along with Mark Rekucki, the owner of the property. He described the property, which contains the Fairchild building. There are four or five engineering companies located where the former Shenendehowa district office was. Mr. Andres believes this property is not very visible from Ushers Road. Access is off Van Patten Drive and there is a buffer along the west side adjacent to the Stewarts and the backs of the houses on Huckleberry. To the south there is a piece that is still owned by Country Club Acres which is another industrial zoned parcel. The two lots for the variances were proposed to the Planning Board to be subdivided. They will be part of an overall complex, utilizing the existing entrance on Ushers to a small degree, but the principal access will be from Van Patten.

There are two buildings proposed: One at 20,000 sq. ft.; the other at 7,000 sq. ft.. These are being proposed as office / warehouses. The 7,000 sq. foot building has a higher office component and a smaller warehouse component, but that could change depending on the tenant mixed. It has been designed to have enough parking to accommodate the larger office. The 20,000 sq. ft. building is intended to be mostly warehouse or light manufacturing, with a small office component. Right now they are showing it to be potentially divided into four tenant spaces, based upon the configuration of the building. Mr. Andres stated that they have been at this for two to four years from the beginning. They have been to the Planning Board a number of times with different scenarios to construct other portions of the property. He stated that the Planning Board was very positive about it but the deals fell through. At this point, what they have asked the Planning Board to do is, instead of having to develop the whole thing, start with something reasonable and within their grasp, which is the two buildings proposed.

Mr. Andres stated that the owner has been contacted by Saratoga Economic Development. They want to have pad-ready, preferably building ready sites for the whole development for AMD to come into the area. There has been a lot of interest for people being able to rent anywhere from 2,000 to 5,000 sq. ft. of flexible space to follow the AMD footsteps. This is all being designed as a single unit, but they will have individual property lines going through it. Because of that, the buffers and parking variances are needed.

Mr. Andres described how the driveways, parking and access would occur. They have a lot of green area, but it does not fall along property lines in the traditional way. In this instance, it falls mostly along Ushers Road. They are taking advantage of this by building behind an elevated area so it is less visible. There is a buffer along a residential zone, which contains Stewarts. There is no green within the internal property lines.

Mr. Andres advised that the Planning Board has been concerned with trying to keep the traffic off of Ushers Road. Mr. Andres has an overall plan for significant improvements to the access from Van Patten so they can alleviate traffic from Ushers Road.

Mr. Lemire asked for clarification about Stewarts being zoned residential. He asked if the 7,000 sq. ft. building is 100 feet from the Stewarts line and Mr. Andres replied yes. Mr. Lemire asked if the entrance / driveway from Ushers Road would be coming out and Mr. Andres replied no, that it is staying. There is no change. It will still accommodate access to the 7,000 sq. ft. building, but there will be improved access from Van Patten.

Mr. Lemire asked if there was anything preventing entrance to the larger building from the Ushers Road entrance. Mr. Andres said there is not. They have had conversations with the Planning Board about that and as soon as they get tenants, they will be directed so that they utilize the Van Patten Drive access. There was discussion between Mr. Andres and Mr. Lemire regarding the entrance.

Mr. Lemire asked if the only reason variances are needed is because of the subdivision and Mr. Andres replied yes.

Mr. Peller asked who owns the current building that is there now, and if there is an issue with the common driveway. The response from Mr. Mark Rekucki in the audience was inaudible and the secretary asked who owns the current building. Mr. Peller replied One Fairchild Square, Inc. Mr. Peller asked Mr. Rekucki if he will do a reciprocal driveway agreement and Mr. replied yes.

There was discussion about the architecture of the small building and the industrial larger building behind which is behind a berm.

Mrs. Gleason asked where they are in the Planning Board process and also asked if there is any correspondence from the Planning Board. Mr. Myers replied not about this project. Mr. Andres stated that they obtained subdivision approval for the two lots. They have made applications for site plan approval and the Planning Board has heard the matter for concept. If there is positive action from the Zoning Board they will go back with their final site plan for the two buildings. They have received approvals for smaller additions to the main building as well as modifications for parking. They have never obtained final on other plans because the user has decided not to pursue it. They have tried to build on the whole parcel, but there is another 80,000 sq. ft. or so of building that can be developed on it, but with the change in economy, they went back and determined that it was reasonable to do this in steps. Mr. Andres stated that they will likely be back for parking variances when they build other buildings in the park.

Mr. Lemire and Mr. Andres discussed the driveway / access and Mr. Andres clarified this for Mr. Lemire. Mr. Lemire believes this is very inconvenient and if he worked in one of those buildings he would use the Ushers Road entrance.

Mr. Lemire has no problem with the setbacks but has an issue with the access off of Ushers Road changing the character of the neighborhood.

Mr. Rekucki replied that basically there are about 100 people working there right now. He is

there every day and has yet to see anybody use Ushers Road. Mr. Lemire, Mr. Andres and Mr. Rekucki discussed the entrance further. People will be directed to use the other entrance. Mr. Andres also advised that another large development / senior complex being proposed on the opposite side of Ushers Road that will have an entrance at the Van Patten intersection. At some point the Van Patten intersection will be a four-way intersection with a traffic light. Mr. Lemire is concerned about how busy this will be. He again stated that he is concerned about the character of the neighborhood changing. Mr. Dudick stated that the area is zoned light industrial and just by its nature, by building on it, the character of the neighborhood will change.

Mr. Lemire again stated his concerns about the entrance on Ushers Road – that this may become the main entrance for the two buildings and he does not feel this can be stopped by sending out notices to tenants stating not to use that entrance. Also, you have people turning into Stewarts and then a traffic light. Mr. Andres tried to comfort Mr. Lemire by mentioning an existing lot not owned by Mr. Rekucki which is an industrial lot that has access on Ushers Road. Mr. Rekucki has been in contact with that owner and they are working on potentially putting that into the whole complex. They are aware of the concerns and hope to address them.

Mr. Dudick asked why they are subdividing the property as opposed to building the buildings on the lot. Mr. Andres replied that the reasons are just economic. You would have issues with financing all of the buildings and getting tenants in there. Someone may want to purchase a building. Mr. Rekucki stated that the bank that currently has a mortgage on the property no longer does commercial lending. The rest of his response was inaudible.

Mr. Dudick asked if there was public comment and there was none. Mr. Ritter made a motion to close the public hearing. Mrs. Gleason seconded. Approval unanimous.

Mr. Dudick asked Mr. Myers for his comments. Mr. Myers reminded the board that if these variances are granted, they will also be granting a variance for allowing parking in the buffer without the setback issues. He has been asked by Planning not to grant anymore permits until such time as the fees that are owed are paid. He believes that if this is a Planning issue it does not affect this variance, but Planning will address that before their final approval. Planning has asked Mr. Myers not to issue any permits at this time. Mr. Peller asked if the applicant owes fees to Planning. Mr. Myers stated that this is his understanding, from previous submittals having to do with this parcel. Mr. Peller replied that this has no bearing on this board for this application.

Mr. Dudick asked Mr. Myers for his opinion on the application. Mr. Myers replied that he does not really have a problem with it. He understands Mr. Lemire's concern, but with the proper traffic controls at the site they may be able to minimize the impact, and traffic is not a zoning issue. Mr. Lemire replied that change in traffic which causes a change in the character of the neighborhood is a zoning issue. Mr. Myers said that they can address traffic issues at Planning so that the neighborhood is not affected anymore than absolutely necessary. He also said that the Zoning Board can put any stipulation on a variance, but the Planning Board will have to back it up on site plan approval.

Mr. Dudick agrees with Mr. Lemire that it is within the purview of this board to at least address the issue of traffic when trying to determine whether or not to grant a variance.

Mr. Dudick asked Mr. Andres to clarify where the parking would be, which Mr. Andres did. Mr. Dudick asked about putting the 7,000 sq. ft. office building is placed on the other side of the 20,000 sq. ft. building. Mr. Andres replied that they would not be able to develop as they propose because it would not integrate. He explained that the joint access for the buildings would be affected.

Mrs. Gleason stated that she was on the school board when the Shenendehowa district office was there. She recalls there being a lot of property there. Mr. Andres explained their plan for development, subdivisions and parking lots. Mrs. Gleason mentioned multiple buildings and Mr. Andres again discussed the problems with financing and leasing.

Mr. Lemire asked if those buildings are later sold, what would prevent any new owners from using the Ushers Road entrance. Mr. Andres replied that Planning would put restrictions on it depending on how it is used.

Mr. Lemire asked what the difference between office / warehouse. He understands that it can be either. Mr. Andres said it cannot be because it is based upon parking ratios. Mr. Lemire asked for clarification on how the office space / warehouse space would be used, which Mr. Andres provided.

Mr. Dudick asked about what they plan to do regarding additional stages of development. Mr. Andres described three or four overall master plans for the Planning Board as they progress. There will likely be two more buildings on the site. The exact location and design will depend upon the needs of a prospective purchaser. There was discussion about the potential size of the buildings.

Mr. Lemire asked about density issues. Mr. Myer replied there are none that he is aware of at this point. Mr. Andres stated that there is enough buffer / green space on the overall project.

Mr. Dudick believes that the applicant has gone over the development of this light industrial space. He feels it is the owner's prerogative to decide how to develop his property.

Mr. Dudick made a motion to approve the application as presented. Mr. Ritter seconded. Ayes: Gleason, Ritter, Whalen, Dudick, Telesh. Noes: Lemire. Application approved.

- 3. An application from John Lucarelli, requesting setback variances for a new motel proposed in B4A zone. Building location modified from original proposal per planning board's request resulting in setback variances being required as follows: (1) required front building setback = 80', proposed maximum setback = 48.1 feet, variance requested = 32 feet; and (2) Required front parking setback = 30 feet, proposed setback = 9.5 feet, variance required = 20.5 feet. The property is located at 45 Old Route 146, Clifton Park, New York. (Permit #80750)**

The secretary read the legal notice as it appeared in the Daily Gazette on October 15, 2009.

There was discussion regarding an email received by Jason Kemper of Saratoga County Planning Board. The email stated that there appears to be no significant countywide or intercommunity impact.

Mr. Dudick referred to a letter by Mr. Bulger, chairman of the Clifton Park Planning Board. Mr. Bulger recommended the granting of an area variance for this project.

Dominick Errico of Boswell Engineering presented this application. He explained that there was an original layout. They went to the Planning Board, and it met all zoning requirements, parking and building setbacks. While in front of the Planning Board there were questions about why the building was rotated and not more parallel to Old Route 146. At that time, Mr. Errico explained that they cannot do that and meet the setback requirements. The Planning Board suggested making it more parallel to Old Route 146 so that there could be more parking in the rear. When he came back with the second proposal, which is what they were looking for, now it requires a front setback for the building and setbacks for some of the parking and side. He believes that this plan works better as there is less grading and cutting required and parking would be in the back. The original plan would have required them to cut into the hill in order to get the building set back further. It is a three-story building, a 101 unit motel with 105 parking spots. They meet the greenspace requirements.

Mr. Ritter asked where the entrance would be. Mr. Dudick stated it is at the turn by the firehouse.

Mr. Lemire asked if the turnaround across the street part of his development. Mr. Errico replied no, that it is just part of the pavement and has nothing to do with this.

Mr. Dudick asked for public comment and there was none. Mr. Dudick made a motion to close the public hearing. Mrs. Gleason seconded. Approval unanimous.

Mr. Dudick asked Mr. Myers for his comments. Mr. Myers did not have much to say because the Planning Board requested that this be moved to be more in line with the character of the area. The homes and businesses are all fairly close to the road. He had a question about the structure on the site, and where is it going. Mr. Myers has heard that there is an historic gas station there. Mr. Peller asked where the tanks are. Mr. Myers did not know.

Mr. Lemire asked if there are any plans to have access off of or onto Route I87. Mr. Errico replied no.

Mr. Dudick asked if there would be any visibility of the building from the Northway. Mr. Errico replied no, except from the entry ramp on from Exit 9.

Mr. Ritter asked if the owner of the proposed motel anything to do with the other hotel being proposed on the other side of the Holiday Inn and Mr. Errico replied no.

Mr. Ritter asked Mr. Errico if the application would take the ECC's recommendations regarding greenspace and the consideration to purchase land to the south of the current property for purposes of retaining existing foliage in order to screen the project from the Northway. Mr.

Errico stated that they have tried. This is a corner containing about 500 or 600 feet. They are not going to grade that area and will maintain it.

Mrs. Gleason made a motion to approve the application as submitted. Mr. Whalen seconded. Ayes: Gleason, Ritter, Whalen, Dudick, Lemire, Telesh. Noes: None. Application approved.

Mr. Dudick made a motion to approve the minutes of October 6, 2009. Mr. Ritter seconded. There was no vote taken. The vote was postponed pending further review of the minutes by Mr. Lemire.

Mr. Dudick made a motion to adjourn the meeting at 8:15 p.m. Mr. Ritter seconded. Approval unanimous.

Respectfully Submitted,

Jessica McCarthy
Secretary

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