

AMENDED: September 21, 2010

ZONING BOARD OF APPEALS

August 17, 2010

Present: Michael Dudick, Chairman, Dale Gleason, Robert Ritter, James Whalen, Christopher Lemire (7:08), Douglas Strother, Brian Telesh

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

Absent: Deborah Ferro

Mr. Dudick called the meeting at 7:04 p.m.

PLEDGE OF ALLEGIANCE

OLD BUSINESS:

Mr. Dudick stated that there are two items that were on the agenda for Old Business, the first an application from Jennifer Zaccaria. The secretary re-read the public notice that was printed in the newspaper.

- 1. An amended application from Jennifer Zaccaria, requesting variances for a subdivision in a B-1 zone at 932 & 934 Rt 146, Clifton Park, New York (Permit #80776).**

Variances requested as follows:

- 1: 208-35C - Required lot A width = 180 ft, available = 174.45 ', variance required = 5.55ft.**
- 2: 208-86A - Keyhole lot formed by subdivision - not allowed per this section.**

- 3: **208-86B - Minimum setback for all sides = 50' in keyhole lot, available on east side = 34' plus lot B, variance required = 16' plus/minus.**
- 4: **208-35D.(3) greenspace required lot A = 50%, available = 41.3%, variance required= 8.7%.**
- 5: **208-35D.(1) no parking in front yard in B-1 zone. Lot B all parking in front yard - variance required.**
- 6: **208-35D.(2) no parking closer than 25' to side & rear property line. Lot A parking on side & rear property lines 25'. Variance required for both (2 variances).**
- 7: **208-35D.(4) 10' buffer required along side & rear property lines. Lot A requires variance for both west side and rear property lines (2 variances).**
- 8: **208-35C required lot B width = 180', available = 26.14' available, variance required = 153.86'.**
- 9: **208-35D.(3) building & parking area maximum coverage = 50% of total lot area. Lot A = 58.7% variance required = 8.7%.**

Mr. Dudick informed that the public hearing was still open. Tom Andress, with ABD Engineers and Surveyors representing Jennifer Zaccaria, presented the continuing application. Jessica Richards, real estate agent was also present. Mr. Andress stated it was the third time before the board and reviewed the main points of the application. The parcel is 5.2 acres to be subdivided to create two lots or combined with one of the adjoining owners. If the adjoining owners purchased part of it, it would not be in violation of the subdivision rules. He understands based on a discussion at the last meeting that if those parcels were purchased by adjoining owners access would be through their property. He cited Blue Spruce apartments as an example of other properties subdivided as individual tax map lots. He pointed out the front lot size was modified to meet compliance. This reduced green space so they are asking for a variance on that. Another issue was a signage setback. He stated they have modified the lot so that there is now enough area to place a sign so they don't have to come back and ask for another variance. He stated the application was an area not a use variance. He indicated that they have presented a financial letter from the attorneys regarding the mortgage and some of the issues Ms. Zaccaria has. A summary of the different buildings was also provided representing dollar amounts from 1999, 2005 and improvements in 2009. The amount is close to the asking price when you take out the other costs. The mortgage amount is close to the potential foreclosure costs. He stated this is not a win-win for the applicant who is trying to get out of the situation. He stated the attorneys for the filing have asked for a stay on foreclosure so they can get approval from the board to proceed with sale. He believed there is still someone interested in purchasing the property.

Mr Dudick polled the board whether those absent from the last meeting had read the minutes and if they felt comfortable in voting on the application. Those members stated they were able to vote.

Mr. Ritter asked the asking price of the property. He was told it is \$839,000 approximately for the front building.

Mr. Dudick asked the public if there were any questions or comments with regard to the application. There were none. Mr. Dudick made the motion to close the public hearing. Mr. Telesh seconded. The motion was carried unanimously.

Mr. Peller asked if they had asked Wilbur (bank) to give them a partial release on the mortgage if the front parcel sells so the mortgage will be less encumbering on the second building and whether it would cure the default. Mr. Address stated he was not aware of that situation. He stated that based on letter between the attorneys, there seems to be some cooperation because of the economy. He guessed that there might be some sort type of negotiation of partial release of mortgage.

Mr. Peller asked the value of the building in the back. He was told that \$900,000 was the asking price, which includes the daycare business and the land in the rear. He asked if there is a foreclosure sale. Mr Address stated there is a Saratoga County index number, but no foreclosure sale pending. It would be moot if the property is sold.

Mr. Dudick stated many of his concerns have been addressed. He reiterated that the way they are looking at it now is that this will be only two lots and if there were to be separation of a third lot, it would only be sale to an adjacent lot so that it would still remain two lots. Mr. Address agreed and added that any access to the piece in the back would not be through the property. Mr. Dudick stated he is comfortable with these changes.

Mr. Dudick made the motion to approve the application as presented with the stipulations as mentioned; 2 lots only with no further subdivision, except sale to a contiguous property to be combined with that property with no access. The wording would be worked out between Mr. Peller and Mr. Address' office.

Mr. Ritter thanked the applicant for his efforts and the information, however he is still uncomfortable with it because approval is setting a precedent which will cause more of these applications to subdivide.

The motion was seconded by Mr. Strother. Ayes: Gleason, Whalen, Dudick, Strother, Telesh
Noes: Ritter, Lemire. Application approved.

2. An application from Melissa D. Lescault, Esq., for a variance from Section 208-86B, for a front (not side) setback for an existing addition to their home (front faces the street). Fifty (50') feet required, 41' available, 9' variance needed. (Note: addition does not appear to have building permit) The property is located at 6 Hilltop Court, Rexford, New York. (Permit #80775)

Mr. Dudick informed that the next application was from Melissa Lescault, Esq. of 6 Hilltop Court. The public notice had been read at the previous meeting. Melissa Lescault, attorney for the applicant presented. Also present was Patricia Collins, resident of 6 Hilltop Court.

Ms. Lescault stated that the first meeting with the board was tabled so that she could present more information. She summarized the situation. In 2009 the client purchased the property with a paved patio off the master bedroom. The clients enclosed the patio on its footprint with a three season room. She presented photos taken from different angles around the property, and which she states show the porch cannot be seen from either the neighbors or from the road. She states there is no visual effect on adjacent neighbor.

She submitted a copy of the survey. She summarized that setback of 41' results in 110 square feet of the porch being in violation with respect to the setback requirement of 50'. She states there are 9' in violation of the setback, which is $\frac{1}{4}$ of the entire porch, and that $\frac{3}{4}$ of the porch is not in violation. She stated the purpose of setback is to create a separation of structures. She mentioned that what is required in a normal conservation district, the front setback is 30' and side setback is 10'. Normal separation is 20' and keyhole zone front and side setback is 50' because they are not fronting on a town road. She stated the town more than doubled the setback requirement on a keyhole lot and that the intent of the town was that there be a separation of 100' between houses. She summarized by saying that on Hilltop, there is actually 166' between the porch and the neighboring house, which is 66% beyond what the town planners required which is more than double what they require on a normal conservation residential zone.

She listed the following factors that the board should consider in its balancing of the benefit to the applicant vs the detriment of the health, safety and welfare of the neighborhood. She stated that this is the last house on the road and the addition will not have any effect on anyone in the neighborhood because it sits all the way in the back and no one can see it unless they go on the applicant's property. She states the second consideration as to whether there is another avenue the applicant can pursue other than an area variance. She indicated that they had submitted in writing to the neighbor to enter into a boundary line adjustment of over 540 sq feet in order to alleviate the client's need for a variance. This was sent certified mail and they have not received a response from the neighbor.

She said that the cost of construction of the porch was \$75,000 and that in order to relocate it, the cost would be \$25,000 to tear it down and \$95,000 to rebuild. This is due to the fact that they used the pre-existing patio and in relocating it they would have to do a different layout in the back yard and additional work. She stated they have made every attempt to do a viable alternative.

The third aspect of consideration is whether the variance is substantial. She reiterated it is a 9' variance of a 50' setback which is 18% which she stated is insignificant and is only one variance as opposed to multiple variances. She said the separation between houses is 166 feet which is more than the 100' separation distance the town planners had in mind.

The fourth factor she stated for board consideration is whether the variance would have an adverse impact on the physical or environmental conditions in the neighborhood or district. She indicated that there has been nothing presented in the public that would show an impact on the environment in the neighborhood, and that it doesn't change the aesthetic character of the neighborhood.

The final factor presented is whether the alleged difficulty was self created. She stated the property owner purchased the property and the patio already existed and he did not know at the time that it violated the 50' setback. He enclosed just the footprint of the patio and after construction was made aware of the fact that it violated the setback by 9'. She acknowledges that it is self created, but stated that it is diminished by the fact he was not aware of it at the time the construction occurred.

Mr. Peller asked Ms. Lescault if she had seen the letter sent by the Mariotti's on July 20 and she stated that she had.

Mr. Dudick confirmed that the Mariottis were present.

Ms Gleason asked how did it come about that the application for the variance came to the board. Mr. Myers stated that it came about when the business came in to apply for a permit. Ms. Lescault stated when they had a survey done they realized they were in violation and needed a variance.

Mr. Dudick asked Mr. Myers if he had an update on the planning board and where they are in the process. Mr. Myers said he believed that the planning board has not addressed it and is waiting for the zoning board decision. Ms. Lescault stated that the planning board will not make a decision until this violation has been cured.

Mr. Ritter asked why that is. Mr. Myers stated the planning board always tells applicants to get their violations straightened out prior to them doing any approvals. His understanding is that they believe there is no sense in giving approval if they can't get a variance.

Mr. Ritter stated that the fact that the business is being operated out of the house is a separate issue from the addition. He said if you take the business out of the equation, the matter would have been decided months ago. He stated the issue is to bring a non-conforming use into compliance. He stated that he doesn't like the idea of the business operating illegally in a residential neighborhood but at the end of the day it comes down to a three season room that needs a 9' variance.

Mr. Telesh asked if the board can grant a variance for a structure that was built without a permit and if it is not built to code.

Mr. Myers stated he has plans on the structure and a letter from an engineer about how the structure was built. He told them there was no sense in addressing that until such time as they get a variance. If they do not get the variance, they have to tear it down. If they do get the variance, Mr. Myers will approach the problem of ensuring it meets the code.

Mr. Dudick informed that the board can give a variance if a structure does not meet code.

Mr. Telesh stated that he is asking because there have been no plans or pictures of the actual structure. Mr. Myers said he would provide Mr. Telesh with pictures. Mr. Lemire asked if it is relevant to discuss a variance when it is unknown if the building would meet code. Mr. Dudick stated that almost any structure could probably be brought into code and it is cheaper to bring it to code than tear it down.

Mr. Whalen mentioned the applicant is operating a business without a permit. Mr. Dudick stated he is not concerned with the corporate ownership requesting a variance, but he is concerned with a business operating in a district zoned on a private road where business should not operate. He said those people doing business are driving past all the other properties on that road. He pointed out to Ms. Lescault that the business impacts everyone on the road because every home is being passed. He informed that a building permit should be obtained any time a building takes place, and that because the patio was already there doesn't make it right. It could have been avoided if the law had been paid attention to.

Mr. Dudick stated that referring to the 166' foot distance between houses is making the assumption that the neighbors would never build an extension off their property which is fully within their rights, up to the line where they wouldn't require a variance. He stated if the Mariotti's build an extension to that line, then it would be 91' foot distance which is less than the code. He informed that the argument is based on their not building and you can't take that right away from them.

He stated Ms. Lescault referred to the 110 sq feet as insignificant and he thinks it is significant. He indicated that if it were, they could chop that 110 sq feet off and make it into a different shape porch but it is not practical due to cost. Since it would cost a lot, it is not insignificant.

He mentioned that by granting the variance, the square footage of the home would increase the available space for operating the business, which is already operating illegally. He states he does not want to make a decision until the planning board decides what they are going to do. He stated the solution if neither board wants to make a decision is that the business could no longer operate in the building. If he were to make a decision tonight he would be uncomfortable to allow something like that because the business is there. He suggested moving the business out and see what planning board decides, or it can be voted on now and see where it goes. He stated he does not want to grant a variance for greater space to a non conforming business.

Ms. Lescault stated that on July 27 a letter was submitted to the board to clarify the application for a special use permit relating to the business operation at the house. She said that it is a matter of jurisdiction for the planning board and has nothing to do with what is before the board tonight. She asks that it be completely unrelated. She questioned whether, if the planning board approved their permit today, would the board look at the information differently.

Mr. Lemire cited 208-109.3b which Ms Lescault mentioned in the letter. He explained that if the planning board approved the permit it would then be an allowed use and therefore the applicant of today would not the same applicant as tomorrow.

Ms. Lescault believes the two issues are separate. She stated that total square area, including the basement without the addition is 5,945 sq. ft. In order to have a lawful accessory use of the house it can only occupy 25% of the house which would be 1486 sq ft. The current business occupies 1000 sq ft. so it already complies with the accessory need.

Mr. Dudick reiterated that the addition would still add a greater amount of square footage to do business in the building if the board were to grant the variance because of the 25% rule so it has

to be taken into consideration. Ms. Lescault stated that is not the intent of the variance request, but that is where the patio was, so that is where the room was built.

Mr. Lemire asked how much of the room is out of compliance. The answer was 110 sq ft which is the area used for storage of the pottery room supplies.

Mr. Dudick asked if there was plans to move the business and was told “no”, that they are waiting decision from the planning board.

Mr. Dudick called for public input.

Michelle Wildgrube, attorney representing the Rotundis, Mannings and Mariottis, residents who live on Hilltop. Ken Manning and the Mariottis were also present.

Ms. Wildgrube stated this is the third issue with the town, naming the current issue with the planning board, the zoning board and another zoning issue concerning a cement pad that was placed in the setback area which was required to be removed. She states it is a quiet residential street bordered by a golf course on one side and is zoned conservation residential.

Ms. Wildgrube stated that they are struggling with how the 166’ figure was derived as they feel it is not correct. She suggested it might have been measured at a diagonal. The square footage of the home is also in question. She stated that the applicant claims 5945 sq ft of liveable space, but the town assessor’s office lists it as 3633 sq ft. She listed 5 issues to be considered.

- 1) Whether an undesirable change will be produced in the neighborhood. The encroachment on the Mariottis back yard affects their enjoyment of the yard.
- 2) Whether another solution could be found. They feel the structure could be relocated and because a permit was not obtained and it violates the setback.
- 3) Whether the variance is substantial. They feel that 20% of the variance is a substantial amount and the Mariottis have the right to build on their house which would make the structure closer to their home.
- 4) Adverse impact on environment and neighborhood. They state this is a premium conservation lot and the areas should be kept open. The residents moved to the area because of the zoning
- 5) Whether the difficulty was self created. They state that it is self created.

Mr. Ritter asked when the concrete slab was built and which owners. He was told it was located in the wetlands area in the back of the lot and the date was Oct 2009 with the existing owners.

Mr. Myers stated he was not aware of that issue. He added that he lets the business continue until such time as the Zoning and Planning boards make their decision. However if a variance is not granted, it has to come down and if Planning does not render a decision soon, he will have to tag them as having an illegal business. From the building office’s position, the issues are connected.

Ms Wildgrube stated the business has been operating for months and is resulting in much increased traffic.

Mr. Peller asked if she would like their letter of July 27, and the Mariotti’s letter placed in the record. She said “yes”. Mr. Dudick clarified that the Mariottis are present but are not going to speak. Mr. Dudick will refer to their letter.

Ms. Gleason asked how many houses are on the street. She was told there are four houses. She asked about the number of employees and was told there are four that go in and out of the house several times a day. The road is a private road. She asked about the width of the road, and Mr. Myers said it is approximately 20' wide, probably less.

Mr. Dudick asked Ms. Lescault to repeat the square footage used for the business. She stated it is 1000 sq feet. He referred to the cost of re-building the structure and mentioned that it could be alleviated by finding space for the business. She asked if he was saying if they move the business that they would grant the variance. Mr. Dudick said “no” he was just asking if this was ever a consideration. He said he did not know how each member of the board would vote. She stated that they are asking the board to consider the application separately.

Ms. Lescault stated they would go to the planning board again and ask that they hear their case. She asked that the application be tabled again.

Mr. Strother stated that he could take this on without respect to the planning decision. He asked if there is a full time resident in the home. The answer was affirmative: Patricia Collins who has lived there one year since the house was purchased. She is the girlfriend of the full member of the business, and he also resides there.

Mr. Lemire asked about employees who are not family members. He was told there are four, who do not reside in the house.

Mr. Strother asked if this is part of the zoning code and was told yes. He stated he is prepared to vote tonight. Mr. Dudick asked if the board would like to vote. Mr. Peller informed that the applicant has the right to table. Mr. Whalen stated the business is a red herring and they should be focusing on the zoning issue on its own. He stated that he has serious reservations about it and would vote “no” because the hardship is entirely self created.

Mr. Lemire pointed out that the benefits of the three season room could be achieved by some other method, short of granting a variance, such as making the room smaller. Alterations could be made.

Mr. Telesh feels that the issue is a self created hardship but would not consider the business or other issues. He felt the increase of square feet is insignificant. He mentioned that in many other cases, buildings that ignored building code had to be torn down. Mr. Strother agreed the fault lies in construction and the objections of the neighbors. Mr. Ritter stated he respects the applicant's right to table even if the board was ready to vote on it.

Mr. Dudick informed that 4 yes votes would be required and asked whether she wanted a vote. Ms. Lescault indicated she would like to table the vote until after the planning board has made a decision. The 61 day waiting period was waived. The continuation is tabled until the September 21, 2010 meeting.

NEW BUSINESS:

The secretary read the legal notice as it appeared in the *Daily Gazette* on August 12, 2010.

- 1. An application from Paul and Joanne Coons requesting a 20' variance from 208-86 B to construct a barn on keyhole lot. Barn is to be attached to house by breezeway. As part of main structure 50' setback applies. The property is located at 4 Balsam Way, Clifton Park. Public road access and front of lot is Balsam Way. (Permit #80788)**

Paul Coons presented the application with his wife, Joanne. He explained the house in question is the original Carlson farm, which is now subdivided. The house is the original house and was subdivided off. The house originally had direct access from Moe Road but with the new subdivision the driveway was re-located to the new street of Balsam Way. The property is an historic property. The old garage was not in character of the building and an architect has designed a new one. He wishes to build a detached garage for ecological reasons. Due to the new subdivision, the lot is now a keyhole lot. It is 2 acres in size with an 80' front on Balsam Way. The rear of the property is restricted as an archeological area and the front 10' feet off the front of the property is a 100' buffer zone for wetlands and they are restricted by DEC. The only area left is the area they are requesting.

Mr. Dudick asked Mr. Myers how a corner lot becomes designated keyhole. Mr. Myers explained that the definition of a keyhole lot is one residence behind another, which will be the case now that the land was subdivided. The road access became Balsam Way. The access to the Coons land runs across property which has been ceded to the town and an easement is needed for the driveway. If they cannot get the easement, the driveway will have to be relocated on the 80' frontage, but there is a fire hydrant in the southwest corner of the property and to the north, they have to place the sewer that runs to the house.

Mr. Peller asked if the building has been designated as historical, and was told it is. He asked if there were any issues with the proposed addition. Mrs. Coons stated there is no problem and they are working with the town historical people.

Mr. Dudick asked for comments. Mr. Ritter asked about which structure would be built, and Mr. Coons indicated the one without the extension. Mr. Myers suggested if they want a wing on it, now is the time to ask for a variance. The Coons stated they did not and if they did later it would be in the back and wouldn't need a variance.

Mr. Dudick asked for public hearing comments. There were none. Mr. Ritter made the motion to close the public hearing, seconded by Mr. Whalen. All were in favor. Public hearing was closed.

Mr. Dudick stated he was in favor of the application. Mr. Ritter made the motion to accept the application as presented by the applicant. Mrs. Gleason seconded. Mr. Telesh complimented

them on their presentation. Yeas: Gleason, Ritter, Whalen, Dudick, Strother, Lemire, Telesh
Noes: none. Application approved.

The secretary read the notice as it appeared in the *Daily Gazette* on August 12, 2010.

- 2. An application from Alexandra Gutelius requesting a 6 sq ft variance from Chapter 171, Chart II. Applicant requests increase in allowable LED signage. Current total area is 56 sq ft (Permit #2005 0941) Maximum allowable area is 60 sq ft. New signage increases sq ft area to 65 sq ft. Property is located at 475 Moe Road, Clifton Park, NY. (Permit #80789)**

Mr. Ritter recused himself due to the relationship he has with the applicant. Alexandra Gutelius, director of the Clifton Park Halfmoon Library presented the application.

Ms. Gutelius stated that in July 2009 the existing sign was struck by lightening. The north side of the sign does not work. After efforts working for 5 or 6 months with the original manufacturer of the sign and other sign companies, they have found they cannot repair the sign or replace just one side. They wish to replace the sign. There was some concern about the size of the white LED 6” letters which are difficult to read during the day. They would like to replace it with a sign with 9” letters to improve readability. The sign they want to install has the same number of characters, but larger letters. In order to accommodate the sign they need 6 sq ft more than the allowable size. She states it has color, but not graphic capability. The advantage of the sign is that they would be able to turn it on and off, which they cannot do with the current sign.

Mr. Strother asked for clarification as to whether she meant graphics as animation. She stated there is no animation. The letters or color will change but it will only have text similar to the existing sign.

Mr. Peller asked if there was a previous sign variance. The answer was no, the permit was only a sign permit.

Mr. Dudick asked where the sign would extend on the bottom. Ms. Gutelius stated it would extend down to the bottom of the lip. Mr. Meyers said the total size is 66 sq ft and the LED part puts it over the 60 sq ft max. Ms. Gutelius said to replace the current sign it would have to be custom made and very expensive. The proposed sign will cost \$16,500, with \$11,000 of that will be paid for by the insurance company.

Mr. Dudick asked for public comments. There were none. Mr. Dudick made the motion to close the public hearing, seconded by Ms. Gleason. All board members were in favor.

Mr. Dudick made the motion to accept the application. A discussion ensued regarding visibility and hour of day the sign might possibly be turned off. Christen Thurston, Trustee for the library, participated. Mr. Myers asked if anyone had ever complained about the sign not being turned off at night. His answer was “no.” He stated the sign was approved with the LED panel on it to be on 24 hours a day. He suggested that it is not certain that LED is considered an illuminated sign. Ms. Thurston stated they had no intention of leaving the sign on all night. She stated that the

sign would be on a timer, and if the time to turn it off is determined to be different than the current timer, it would require difficult installation of another timer. At the end of the discussion, the board agreed that a “turn off hour” would not be stipulated in the board’s vote.

Mr. Dudick made the motion to approve the application as presented without any change. Mr. Telesh seconded. Ayes: Gleason, Whalen, Dudick, Strother, Lemire, Telesh Noes: none
Application approved.

The secretary read the notice as it appeared in the *Daily Gazette* on August 12, 2010.

3) An application from Stewarts Shops Corp requesting a variance from Chapter 171 sign law, Table III which requires 15 foot front setback. Variance requested a two foot (2’) setback or thirteen (13’) foot variance. The property is located at 322 Ushers Road, Clifton Park. (Permit #80790)

Mr. Tom Lewis, real estate representative of the Stewart Shops presented the application. He stated that they purchased the store in 1995 when they bought out 44 Bonfair shops. He said that the sign is hidden behind trees and is not safe. The store is 33% behind the company average in income. They are asking to locate a new freestanding sign which will be 8’ (6’ is the current sign) from the 15’ setback to 2’ setback. He presented several pictures to show how the sign is not visible from many angles of the road. He pointed out that the SixNet sign across the street is 6 paces from the white line. The Stewart’s sign is 13 paces from the white line. He also noted that further east is a sign (Roselle Park) is 3 ½ paces. He states that the road is well wooded and people cannot see the sign until they are on top of the entrance, which is a hardship.

Mr. Lemire asked if the new sign would be larger than the old. Mr. Lewis stated it would be 2 feet larger.

Mr. Dudick asked how far away would the sign be from the trail.

Mr. Myers stated his guess is that the trail is about 2 feet from the property line, but he would have to investigate.

Mr. Lewis stated that if it had to be located 3 feet from the trail that would be fine.

Mr. Lemire expressed concern that the sign would block the visibility to see people on the trail.

Mr. Lewis stated they would be happy to back it off so that it wouldn’t block the trail. Mr.

Myers stated that if the board grants the application, he would go there before they install the sign and take Planning to make sure they agree on far back from the trail it needs to be.

Mr. Lemire expressed concern that the pole would be 2 feet from the trail. Mr. Myers informed that the offset is two feet from the edge of the sign.

Mr. Ritter confirmed that the pole would not be 2 feet off the trail, but would be 5’ off the trail. He asked how high the sign is.

Mr. Lewis stated it would be the height it is now, which is 7’6” from the ground to the bottom of the sign.

Mr. Myers said 7’6” gives plenty of sight distance under the sign for people on the trail.

Mr. Dudick mentioned that Stewarts owns the property around the site, and asked why they do not clear the trees.

Mr. Lewis stated there are a lot of trees and Mr. Dudick suggested it is a balance of greenspace and signage placement.

Mr. Telesh said he would not recommend encouraging removal of more trees. Mr. Ritter agreed. Mr. Strother suggested that saturation of Stewarts stores is a factor of why business is not as good. He recommended adding a second identical sign rather than move and enlarge the current sign. He wants to avoid postage stamping of the area from the aesthetic point of view.

Mr. Myers stated they are allowed a much bigger sign there.

Mr. Telesh stated that he lives in the area, and often drives by and almost passes it because it is hard to see it until you are right on top of it. He stated hitting the brakes causes a more dangerous situation. He felt a change in signage is an overall safety benefit in the area.

Mr. Lemire stated he would like to see the new sign placed within the flowerbed.

Mr. Lewis stated they are hoping the board gives them the 13' and then if Mr. Myers views it and suggests going for less, he does not have a problem with it.

Mr. Dudick asked if it was a one pole sign and was told "yes".

Mr. Ritter made the motion to close the public hearing, Mr. Telesh seconded, with all in favor.

Mr. Myers feels the sign is high enough to prevent visibility problems. He stated if there is a conflict, if Stewarts is willing, they will put it where they think the best place is and he will find out where the property line is. Mr. Lewis was in agreement.

Mr. Ritter made the motion to accept the application and Mr. Telesh seconded. Discussion from Mr. Lemire stated he doesn't want the sign close to the road and would want the edge of the sign and post in the flowerbed. The board will delegate the exact placement to the discretion of the building director. The applicant agreed. Mr. Dudick called for a vote based on motion made.

Ayes: Gleason, Ritter, Whalen, Dudick, Strother, Telesh Noes: Lemire. Application approved.

Mr. Ritter made a motion to approve the minutes of July 20, 2010 as presented. Mr. Telesh seconded. Ayes: Ritter, Whalen, Dudick, Telesh, Strother. Abstain: Lemire, Gleason Noes: None.

The next meeting is September 7, 2010.

The meeting was adjourned at 10:02 p.m.

Respectfully Submitted,

Susan White
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