

Approved

ZONING BOARD OF APPEALS

October 18, 2011

Present: Michael Dudick, Chairman, Michael Bloss, Chris Lemire (7:20), Eric Prescott, Douglas Strother, Jennifer Vucetic

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

Absent: Randy Gifford, Deb Ferro

Mr. Dudick called the meeting at 7:10 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick explained that the board consists of 7 members and an alternate. There were five members present. He notified the applicant that in order to get approval it is necessary to receive 4 yeas of the five. (Another member arrived at 7:20, making six members present). He asked the applicant if he wanted to continue, and he said that he did.

OLD BUSINESS:

None

NEW BUSINESS:

The secretary read the legal notice as it appeared in the *Daily Gazette* on October 13, 2011.

An application from Vincent Esposito/Gold's Gym for a variance from 208-38G – green space required = 35% and 208-38D – parking setback required = 20 feet. Current site plan shows 27.1% existing green space, proposed is 16.7%, variance required = 18.3% from code, or 17.7% from previous site plan. Site plan from 2005 shows parking setback of 5.4

feet, 2.4 feet requested, variance required = 2.4' or 3' from existing, and 17.6' from code. Property is located at 1220 Route 146, Clifton Park, NY. (Permit #80840)

Mr. Vincent Esposito, General Manager of Gold's Gym, presented the application. Mr. William Mafrici from Hershberg & Hershberg, Consulting Engineers, was also present.

Mr. Esposito stated they are there for variances for their parking lot and greenspace and to improve the property. He stated that when Gold's Gym moved into the building they did not modify anything from the previous tenant. He submitted another set of plans for the record.

Mr. Peller asked Mr. Myers if he had located the original site plan for the lot and whether there were variances. Mr. Myers stated the original building pre-dated code and he found no variances.

Mr. Mafrici stated that if the Zoning Board approves the variances they will present the new plans to the Planning Board.

Mr. Esposito stated that they will not encroach any further than the existing pavement. He stated that Gold's is six years old and they have more need for parking. The new plans show greenspace at 17.1% as opposed to 16.1% as originally proposed.

Mr. Peller asked Mr. Myers if this is a reduction in the greenspace variance and was told it is, from 18.3% to 17.9% variance.

Mr. Peller asked Mr. Esposito if he is willing to amend the application for less of a variance. He agreed. Mr. Peller informed that it was not necessary to have the application re-noticed since the change was a reduction in variance request.

Mr. Dudick asked for more detail, specifically if the applicant had attempted to purchase neighboring property. Mr. Esposito said they had had a discussion with the owner and they were not interested. He mentioned that a price of \$1 million was quoted. Mr. Dudick asked how much property was in that piece and was told it was less than one acre.

Mr. Dudick asked Mr. Macrici for more information about the "porous pavement".

Mr. Macrici stated it is black asphalt and aggregate and more porous to allow water to permeate. He added that it is environmentally friendly and mitigates storewater management.

Mr. Dudick announced that since there was no public present in the room to make comments, he was making a motion to close the public hearing. Ms. Vucetic seconded. All approved. Public hearing closed.

Mr. Myers stated that in theory there should be no additional runoff of water due to the porous pavement so it is a green practice although it doesn't affect greenspace.

Discussion ensued regarding cost. Mr. Macrici stated it is actually less expensive because it eliminates the need for catch basins as water runs 5-10 feet before being absorbed.

Mr. Myers added that it is good for parking lots but not for heavy traffic.

Mr. Peller asked about vacant land behind the building. Mr. Myers said it is Northway Commons which is vacant.

Mr. Prescott commented that he had visited the area and confirmed that the parking lot was packed. He said he could understand why they need more parking spaces.

Mr. Esposito stated that business is picking up and he is receiving comments from members about not being able to find parking spaces. They want to reconfigure and add 47 more spaces. They have a problem with people parking in the firelanes.

Mr. Bloss asked if this increase will give them the capacity they need for the future.

Mr. Esposito stated yes, it would. He informed they have 6600 members with a 600-800 per day attendance with a peak of 1100.

Mr. Bloss wanted to know if this would satisfy it. Mr. Esposito said it would help. He added that they are making changes to the class scheduling, adding a 15 minute buffer between them. They are also going to add off peak hours classes. He informed they have expanded the Guilderland facility and if that does well, they will look to purchase the property next to them to expand here.

Mr. Dudick referred to a letter from John Scavo, Planning Board, stating that if the variances are approved, the applicant is encouraged to submit the plans to the Planning Board.

Mr. Lemire asked where the parking variance is located. Mr. Myers informed it is only to the left side. A south side variance is not needed.

Mr. Strother asked what a filtration test is. Mr. Mafriaci explained it determines how much water the ground can absorb per hour under the porous pavement. He stated engineering has performed the test and that ½” per hour is acceptable. Their test showed up to 7” per hour and the results will go to the Planning board.

Mr. Peller asked Mr. Myers if the file has a letter from the owner (Lia) giving Mr. Esposito and Mafriaci permission to act on its behalf. Mr. Myers stated that it hasn't. Mr. Peller informed Mr. Esposito they need this for the record.

Mr. Strother stated this is a tight area with tough boundaries. He asked what else they have tried for greenspace.

Mr. Esposito asked if potted plants would count. Mr. Peller stated it would not.

Mr. Dudick suggested that even if potted plants did not add to greenspace, they could put them around to add to the aesthetics. He stated that Planning Board handles the aesthetics and there might be different things they can do.

Mr. Esposito agreed.

Mr. Lemire asked how much % of greenspace could be added for each parking space eliminated, Mr. Mafriaci calculated it would be 7/10 of 1% added to greenspace if 11 parking spaces were eliminated.

Ms. Vucetic stated this is a dangerous area, and adding anything close to the road will obstruct visibility.

Mr. Lemire asked if the board had to address the previous non compliance to the code. Mr. Myers stated this was prior to the code. Mr. Peller said if there had been a variance then the answer would be “yes”.

Mr. Bloss asked if they will attempt to improve greenspace in the rear, for example, a berm.

Mr. Mafrici said they intend to disturb as little ground as possible, so there will be no berm. Mr. Dudick stated this is a Planning issue. Mr. Strother asked about a fence. Mr. Mafrici stated they do not propose a fence.

Mr. Peller asked Mr. Myers if he was able to find information on the tenant moving into the existing structure. Mr. Myers stated the current non compliance is pre-existing as it was before Gold’s moved in.

Mr. Lemire pointed out it is now to make a non conforming use more non conforming and asked if it needs to be addressed. He brought up cases from the past when they had considered it.

Mr. Peller said this is only required when there has been a structure change and this is distinguishable.

Mr. Dudick made the motion to accept the application with the modification of greenspace variance to 17.9% and with the stipulation the applicant will submit a letter from the owner authorizing them to act on its behalf.

Mr. Strother seconded.

Yeas: Lemire, Prescott, Strother, Dudick, Vucetic, Bloss Noes: None
Amended application approved with stipulation.

Mr. Dudick made the motion to approve the minutes of October 4, 2011. All present at that meeting approved. Minutes approved.

The next meeting is November 15, 2011.

Mr. Dudick made a motion to adjourn the meeting at 8:00pm. Ms. Vucetic seconded. Approval unanimous.

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, ..., ECC, Assessor, Highway