

**ZONING BOARD OF APPEALS**

*Approved*

February 21, 2012

- Present: Michael Dudick, Chairman, Michael Bloss, Randy Gifford, , Eric Prescott,  
JenniferVucetic, Amy Standaert
- Also Present: Joel Peller, Esq., ZBA Counsel  
Steve Myers, Director, Building & Zoning
- Absent: Chris Lemire

Mr. Dudick called the meeting at 7:05 p.m.

PLEDGE OF ALLEGIANCE

**OLD BUSINESS:**

**An application from Wayne T. Beale for variances to expand nonconforming building.**

**Variances needed:**

- 1) From 208-97B to expand building to approx 6300 SF and add 2500 SF of patio area
- 2) 208-50.3B variance requested for front setback from Rt 9 = 86.6 ft; Setback variance from Biette Rd property line requested = 34.3 ft.
- 3) 208-50.3B variance request for front parking setback = 27 ft
- 4) 208.50.3C variance request for side setback to building = 10.4ft
- 5)208-50.3C variance request for side parking setback = 17.8ft
- 6) 208.5 variance request for side landscape buffer = 12.8 ft
- 7) 208-50.3C Greenspace variance requested = 13%

**Property is located at 1781 NYS Route 9, Clifton Park, NY 12065 (Permit #80845)**

Board member, Randy Gifford, recused himself from hearing the application. Alternate, Amy Standaert, sat in for Mr. Gifford.

Dominick Arico, representing Wayne Beale (Rusty Nail Tavern), continued to present his application. He summarized the application, informing that the property is at the intersection of Rt 9 and Biette Rd. The property consists of 3 parcels which they plan to combine into two parcels and asked the town to dead end Biette Road. They are moving the parking from the front parcel to the back. He reviewed the variances and showed elevation maps.

Mr. Peller asked Mr. Myers whether he had checked with the Planning Board regarding the town abandoning Biette Rd. Mr. Myers stated he had asked but had not received a summary. He provided copies of the Planning Board minutes. He said he had discussed it with the Highway Superintendent who informed him this is all taken care of and everything is in place to do it.

Mr. Dudick informed the audience the public hearing is open. He asked about the ownership of the home behind the property. Mr. Wayne Beale, who was in the audience stated that it belongs to his daughter who purchased it three years ago.

Mr. Dudick expressed concern that instead of trying to increase greenspace they are actually reducing it, which is going in the wrong direction. He indicated they should be trying to correct it to try to get to the goal of the town required 35% as they are taking a non complying property and making it more non complying.

Mr. Arico stated they can only count up to the property line, but in reality they are removing the asphalt along Rt 9 and it will be green along there, but they cannot count that now. He said it would actually be about 38% but by law he can't count that part on his statistics.

Mr. Dudick suggested purchasing some property from the neighbor to increase the greenspace along the patio. Mr. Arico said they will have closer to 30% if they could count the paved area they will remove.

A question was posed regarding removing parking spaces for green space. Mr. Myers stated that parking spaces are Planning Board decisions. Mr. Arico said they now have 40 parking spaces and want to have 68. Mr. Myers stated that with 6000 square feet of building, they need about 80 parking spaces but once you removed the kitchen it may be down to 68. He said if you remove the 6-8 parallel parking spots you would get about 2000 sq feet of green you could gain which might get it back to 25% green.

Mr. Dudick asked who is obligated to maintain the Biette Rd dead end area. Mr. Arico said the town will not be responsible to maintain it. Mr. Myers said the town is not responsible either way.

Mr. Dudick asked if the Biette Road section would be an easement rather than a deed. Mr. Arico said it would be an easement and the town is not obligated to maintain it but might run the plow through it. It will be recorded and documented and will run with the land. The easement will allow the ability for the plows to turn around but the papers will indicate Mr. Beale will maintain. Mr. Peller stated he assumes the Planning Board attorney will make sure they have some type of indemnification if the road is accessible to the town. Mr. Arico added that they have agreed to do whatever the town requires.

Mr. Dudick announced the public hearing and asked for comments. There were none. Mr. Dudick made the motion to close the public hearing, seconded by Mr. Bloss. All approved. Public hearing closed.

Mr. Strother stated he had read the Planning Board Nov 2011 meeting minutes and feels that the greenspace has been addressed although anything they can do to get closer to compliance should be considered. He said although the variances may seem significant but they are no worse than what is already existing and in some cases is improving. He feels it will be an improvement in appearance and may create additional jobs and opportunities. He said he supports the application. He asked if the letters informing the neighbors had been sent.

Mr. Arico said he had. It was confirmed that this proof was in the file.

Mr. Dudick referred to Jason Kemper's letter from the Saratoga County Planning Board, which was not in favor of granting the application. He said the issue is the moving of the road in accommodation to moving a business. Mr. Dudick said it is not a bad thing, but it is unique and the question is does it serve any purpose. He stated it makes it safer and improves ingress and egress, and the widening is an improvement for easier mobility for emergency vehicles. He said he sees no issue with neighbors.

Mr. Dudick made the motion to approve the application as submitted with the understanding that if there is any chance of increasing greenspace in any way, they will try to do so. Seconded by Mr. Strother.

Ms. Vucetic stated she thinks the sacrifice of greenspace for parking is safer than having cars park along Route 9.

Yeas: Prescott, Strother, Dudick, Standaert, Vucetic, Bloss Noes: None

Application approved as submitted with the request to work with Planning to add more greenspace if possible.

**2) An application from Ray Sign Inc (for Men's Warehouse) for variance from Chapter 171 sign law, Table I which allows one freestanding sign per tenant site. Applicant requests second freestanding sign.**

**Property is located at 24 Park Avenue, Clifton Park, NY 12065 (Permit #80848)**

Mr. Gifford returned to sit on the board. Mr. Dudick informed that the alternate, Amy Standaert, will sit in for the absent board member, Chris Lemire.

Mr. Tim Prescott, from Ray Sign, representing Mens Warehouse and Windsor Development, continued to present the application. He presented written authorization from Windsor indicating he is authorized to act on their behalf.

Mr. Prescott discussed they had originally asked for a sign of 35 square feet to put on the other side of the property (Park Ave). He stated they have reduced that down to 8 square feet.

Mr. Dudick asked about the type of sign, whether it is still a monument sign. Mr. Prescott said it would have been a monument sign but has been changed to a post and panel sign, with no bottom on it. He stated it fits the criteria of a directional sign as other companies nearby have. He presented a new rendering of the sign they wish to install.

Mr. Dudick asked if they are keeping the current sign on the south side of the property and adding the new sign to the north side? Mr. Prescott said yes. Mr. Dudick asked if this is a directional sign, and was told it is.

Mr. Myers commented that they are keeping the current freestanding sign and putting this sign in the back instead of the freestanding monument sign. Mr. Prescott said they are keeping the pylon sign.

Mr. Dudick asked what is the hardship that this needs to two signs. Mr. Prescott said Park Avenue has its own separate entrance, and is a busy road. They want to get their customers to see that sign. The sign on the 146 sign is almost invisible. He informed they had turned that sign 90 degrees to face 146 to get more visibility. Now they want a post and panel sign, similar to what the bank has on the other side so they have visibility from that side.

Mr. Myers suggested that the sign is small enough to be considered a directional sign, and is actually smaller than the Mazzone sign which is considered to be a directional sign. He suggested this would be a variance for a directional sign.

Mr. Dudick asked if they put an 8 ft square sign there, couldn't other businesses ask for the same. Mr. Myers said it could be.

Mr. Peller asked why they need a variance for the directional sign. Mr. Myers stated it is larger and exceeds the 2 sq foot limit. Mr. Peller asked if they need to amend the application. Mr. Myers stated they do not as it is not more than they asked for in the original application.

Discussion of comparison to the recently approved Mazzone sign indicated the Mazzone sign is 13 square feet and this is smaller, at 8 square feet.

Mr. Dudick pointed out that discussion with town leaders has outlined this area as a business district. He said this is a unique situation since it has roads on two sides.

Mr. Dudick asked for public comment. There was none. He made the motion to close the public hearing, seconded by Mr. Bloss. All approved. Public hearing closed.

Mr. Dudick stated he has no problem with the sign being 8 square feet. He made the motion they approve the amended application as a directional sign and not a second sign. Motion was seconded by Mr. Strother.

Mr. Strother stated they have done a good job with the building.

Ayes: Bloss, Vucetic, Gifford, Dudick, Strother, Prescott, Standaert Noes: none

Amended application approved for a two sided 8 foot square directional sign.

**NEW BUSINESS:**

*The secretary read the legal notice as it appeared in the Daily Gazette on February 16, 2012.*

- 1) **An application from Frank Fretto for a variance from 208-12A, accessory structure setback in an R-1 Zone. Applicant wishes to build a storage shed on 12 x 17 concrete slab. 80 feet required, 76 feet available, 4 foot variance required.  
Property is located at 7 Hidden Valley Lane, Ballston Lake, NY 12019 (Permit #80850)**

Mr. Frank Fretto, owner of the property, presented the application. He stated he wants to put a shed in the indicated location in his back yard (for tools, etc). The position of the shed is restricted because of existing decks there now so he can only get a 76' setback. He said it lines up with the edge of the house, and he has arbor vitae planted on one side. He said it is the only place usable to put the shed.

Mr. Peller asked about the location of his driveway. Mr. Fretto indicated the driveway is on Hidden Valley Court, but his address is Hidden Valley Lane.

Mr. Strother informed this is an easy decision, it is a minor variance and coming to the board will give him a certificate of compliance.

Mr. Fretto stated someone had called about the shed and he was surprised but went right to the town for a variance when he received the notice.

Mr. Dudick announced a public hearing and asked for comments. There were none. Mr. Dudick made the motion to close the public hearing, seconded by Ms. Vucetic. All approved. Public hearing closed.

Mr. Gifford made the motion to accept the application for the 4 foot setback variance as presented. Seconded by Ms. Vucetic.

Ayes: Standaert, Prescott, Strother, Dudick, Gifford, Vucetic, Bloss Noes: none

Application approved.

*The secretary read the legal notice as it appeared in the Daily Gazette on February 16, 2012.*

- 2) **An application from Doug & Jennifer Neil for area variances for conversion of existing residence in B-1 zone to use of combined commercial office and residence. Variances requested:**

- 1) 208-35C lot size, required = 40,000 sf; avail =19,032; variance req = 20,968 sf
- 2) 208-35C frontage (rt 146) required= 180 ft; avail = 80.52 ft; variance req = 99.48 ft

**3) Front yard setback (rt 146) required = 130 ft; avail = 45.3 from center line; variance req = 84.7 ft**

**4) Front setback (Green Meadow) required = 70 ft; avail = 22.8 ft; variance req = 47.2 ft (208-35D(1))**

**5) Parking setback to Green Meadow required=70 ft; avail = 20 ft; variance req = 50 ft**

**Property is located at 955 Route 146, Clifton Park, NY 12065 (Permit #80851)**

Mr. Dwayne Radco, representing Doug Neil, presented the application. He stated he works for Mr. Neil. He discussed the need for 4 variances. The building is located along Route 146 and Green Meadow. He stated this was once an existing residence, and now they want to make it an insurance business on the lower floor with an upstairs apartment. He said they have separate entrances so they will not intermingle.

Mr. Peller asked if it is 2 story. Mr. Radco responded that it is 1 ½ story. Mr. Peller asked if they were expanding it and Mr. Radco said they are not. It was previously a single family residence. He stated that along that stretch everyone is converting to business or retail and this is the next one.

Mr. Doug Neil, owner of the property, stated that he just wants to keep the building historically sound.

Mr. Dudick made the motion to close the public hearing as there was no one in the audience. Seconded by Mr. Gifford. All were in favor. Public hearing closed.

Mr. Bloss asked how long the home had been vacant. Mr. Neil answered it was about 3-4 months.

Ms. Vucetic asked if how much in and out traffic the insurance business would bring. Mr. Neil answered "hardly any" as it is mostly by phone.

Mr. Dudick asked if they had considered signage. Mr. Radco stated they had not, but would add that to the Planning Board application.

Mr. Peller asked where the entrance to the property is located. Mr. Radco responded it is on Green Meadow. He showed where the four parking spots will be for easy in easy out.

Mr. Dudick asked Mr. Myers if there were any concerns with the business downstairs and apartment upstairs. Mr. Myers stated that is it allowed. He added there were certain fire requirements to be met, but that is not a zoning board issue.

Mrs. Standaert made the motion to approve the application as presented. Ms. Vucetic seconded. Mr. Dudick stated this is consistent with what has been done with other similar homes.

Ayes: Bloss, Vucetic, Gifford, Dudick, Strother, Prescott, Standaert Noes: none  
Application approved.

The minutes of the February 7, 2012 meeting were unanimously approved by members who were present at that meeting.

The next meeting is March 6, 2012.

Mr. Dudick made a motion to adjourn the meeting and seconded by Mr. Gifford. Approval unanimous. Meeting adjourned at 8:20 pm.

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