

Approved

ZONING BOARD OF APPEALS

March 20, 2012

- Present: Michael Dudick, Chairman, Michael Bloss, Chris Lemire (7:07), Eric Prescott, Doug Strother, Amy Standaert
- Also Present: Joel Peller, Esq., ZBA Counsel
Steve Myers, Director, Building & Zoning
- Absent: Jennifer Vucetic, Randy Gifford

Mr. Dudick called the meeting at 7:05 p.m. He informed the applicant that this is a seven member board with one alternate. Two members are absent. He stated Amy Standaert, as an alternate, is sitting in for absent member Jennifer Vucetic. He explained that in order to have an application approved, there must be four members voting yes, regardless of the number of members present. He asked the applicant if he wished to proceed, knowing that there is one member absent, requiring a four out of six vote. The applicant stated he wished to present.

PLEDGE OF ALLEGIANCE

OLD BUSINESS:

None

NEW BUSINESS:

The secretary read the legal notice as it appeared in the *Daily Gazette* on March 15, 2012.

- 1) **An application from AJ Sign Company for sign variances for Christ Community Reformed Church.**
 - 1) **Variance from Chapter 171, Table II: 24 sq ft allowed per freestanding sign, 85 sq ft requested, variance required = 61 sq ft;**

2) Variance from Section 171-4 H (4)(n) animated signs not allowed in PIR Zone, variance required, not an allowed use.

Property is located at 1010 Route 146, Clifton Park, NY 12065 (Permit #80855)

The application was presented by Jim Tuttle, VP from Christ Community Reformed Church. He stated the church had received a donation to pay for a new sign. He said their church is located on Rt 146 and Damask Dr on the west. He stated they have a large yard, and the present sign is too small and cannot be seen well from the road. They are asking for a variance for size and to add animation. He said they are located in a PIR zone and they realize this does not qualify for an animated sign. He stated if they install a sign the size the code allows, it would look out of proportion. The sign they propose would be large enough to be seen and illuminated and the letters would be changed from inside but they would not be moving, flashing or scrolling. He added there is an auto dim feature for nighttime illumination.

Mr. Tom Wheeler, AJ Sign Co, explained the electronics of the dimmer, stating that the sign intensity would be only 10% of the daytime brightness. He stated the sign is “clean and classy” with an aluminum body with the letters appearing to float on air.

Mr. Dudick asked if this is an area and use variance. Mr. Myers confirmed it is. Mr. Bold submitted proof of notification of neighbors for the record.

Mr. Peller asked if there was an authorization for AJ Sign to act on the church’s behalf. Mr. Myers did not currently have this. Mr. Peller stated this is necessary for the record.

Mr. James Bold, chairperson of the church sign committee, presented graphics and photographs of the area pointing out other signs and lands across the street. He pointed out commercial activities and signs and across the road is an area of grass and woods. To the east, he said, is a park. Mr. Bloss informed it is Calico Colony Park. He showed how the sign would look. He reiterated that they are not looking for scrolling, flashing or moving characters.

Mr. Dudick stated that some of the open area across the street is wetlands and is non usable commercial as there are restrictions on it. Mr. Myers added it is part of the Dwaaskill River.

He asked if the existing sign has a changeable message area, and if they are using it.

Mr. Bold said it is too small to be seen. He added that the message area on the new sign will not scroll, flash or have moving characters, only messages.

Mr. Tuttle said the existing sign is back further than the 40 ft required. He said there is an elevation problem which makes it hard to see the sign.

Mr. Dudick explained that the 40 foot right of way is required to allow for road widening if it is needed.

Mr. Bloss asked about the color scheme with the digital message. He said he didn’t want to see a sign rotating every minute.

Mr. Bold said the examples on the board are typical of how the colors would be used and that it would be 2-3 lines with a simple message. He added that they don’t desire to do a lot of copy and

he would be ok if the board puts restrictions on the number of times the message would change. He suggested one to three times a day. He said he would look to the board for advice on that.

Mr. Dudick informed that the new sign ordinance that went into effect because of the greater awareness of the newer technology. He said the town wants to control what and where digital signs go and they don't want them to be bright or changing often.

Mr. Lemire asked the size of the existing sign. Mr. Myers said it is about 28 sq ft, Mr. Bold said it was 41 sq ft. Mr. Myers said the sign is larger than the code allows, but could find no permit for it. It was agreed it was there from about 1965.

Discussion ensued regarding the ownership of Calico Park, and whether the town controlled it. Mr. Myers said it might be residential and may have a town owned parcel. Mr. Lemire asked if members had to be notified. Mr. Peller said the town is the designated controller. Mr. Bloss said it is a water pumping station. Mr. Peller informed that the board can assume the town has received notice by way of the application.

Mr. Lemire asked Mr. Dudick to explain the elements to be considered for a use variance so the board and audience can understand how decisions are made. Mr. Dudick read the hand card describing the four requirements.

Mr. Dudick asked if they could explain how they would lose financially. Mr. Tuttle said as chairman of the stewardship committee, he could tell them they are always trying to get their name out. He said retention affects them and they are always competing for new members. Recognition is a problem given the location. At the time the church was built, they only had egress to Damask Dr, not to Route 146.

Mr. Dudick asked if they could supply documentation of loss of finances. Mr. Tuttle offered to prove the board with their budget for the past five years.

Mr. Peller stated they have to show what the illuminated sign is going to do for them. Mr. Tuttle stated their revenue is decreasing because their membership is decreasing. Mr. Strother stated that if they could provide evidence of that it would show.

Mr. Dudick said the board is looking at three issues. The first is the visibility and size, the second is the illumination of the sign and they third is the type of sign. He said the larger the sign, the more visible it is and considering the size of the property and building he is much easier persuaded to make a decision on the size of the sign and illumination as part of the area variance. He added that area variances are much easier to decide upon than a use variance. He asked if they would be willing to separate them or would it be all or nothing.

Mr. Tuttle said they would have to talk about that and that he would not be prepared to say at this point as he does not have the authority to make that decision now.

Mr. Lemire informed that area and use variance standards are different, and an area variance is easier.

Mr. Peller asked "right now, you are asking them to vote on all or nothing". Mr. Tuttle said "yes."

Mr. Dudick said that he could accept that membership will go up if they have a bigger sign with no problem, but that the animation gives him hesitation.

Mr. Johan Bosman, Pastor, stated they are a community church and traditional and they do not want a sign that contradicts their character. He said the sign is classical with a digital message that will give them flexibility but not destroy their character.

Mr. Strother asked Mr. Bolt how often the message on the current sign is changed.

Mr. Bolt said it is changed more of an occasion, such as Easter and Christmas or special events.

Mr. Strother responded that is not very often or rarely and asked if it is more than once a week and whether the lettering is simple.

Mr. Bolt said yes, and the lettering is simple but it can't be read.

Mr. Dudick announced the public hearing.

Mr. Edward King, 8 Cherry Hill Ct, Clifton Park, member of the church for over 22 years, spoke. He stated he has witnessed many changes in Clifton Park and it is a great place to live. He stated the town had dealt with and embraced change and adapted with flexibility and moderation. He said flexibility and moderation is the key to their proposal to the board and urges the board to approve the use and area variances.

Mr. Frank Anello, 5 Turn Ct, Rexford spoke. He stated he worked with the sign committee and referred to the concern about colors. He pointed out a red LED sign in the room and referred to the gas station sign. He said that is not what they want to do. He stated they tried to be good neighbors and said he feels no one will suffer harm with what they are trying to do. He said they will add a little bit of soft light in a dark area and he thinks it would help. He asked for careful consideration.

Ms. Sue Hansen, 1458 Division St, Charleton, spoke. She also served on the church sign committee. She informed they want to be good neighbors. She reiterated that they want to attract new members and are trying to move forward, adding that their current sign looks like a camp sign. She thanked the board for hearing their application.

Johan Bosman, stated that he has been told by others that they do not know where the church is. He has had to give direction by referring to Pizza Hut and other stores since they could not see the church sign. He suggests the new sign would address that problem. He said many residents don't know there is a church there.

Julia Carosella, 13 Brighton Drive, CP, and member of the church spoke. She discussed the appearance of the right side of Rt 146 going east. She pointed out there is a sign with 10 ft phone numbers, signs for advertising, etc and other signs which she suggests are ugly. She stated the sign they want is class and what others should be striving for because it will add to the community. She stated this is the way to go to have a beautiful Clifton Park. She asked the board to strongly consider the sign.

Mr. Dudick informed that if anyone sees a sign that shouldn't be there, they should contact Mr. Myers in the building department and let him know. He stated they are trying to get away from

everyone putting up 2 poles and banners which should not be there. He explained they have to consider the zoning and a commercial sign is not acceptable in a residential or transitional area. He pointed out that their request is for a sign three times the allowed size for that zone. He informed the variance goes with the property forever and if the church leaves, the sign variance stays. Anyone else in a similar zone could say they want the same thing in their zone. The board would need to find a unique situation to explain why everyone should not have the same thing.

Mr. Donald Aulenbach, 28 Lencher Lane, Clifton Park is a long time resident and 45 year member of the church. He stated the request is unique because the church is not hanging on the highway. Those businesses that are right on the highway put their signs right on it. He mentioned driving on Damask to Lace east at night there is a bright light that shines in the eyes. He continued that this is not what they want. He mentions their building is set back and they are willing to move the sign back.

Mr. Dudick said the farther back, the larger the sign would have to be. He asked Mr. Myers how far into the nonbuildable zone is the sign.

Mr. Myers responded that in looking at it again, he realized he missed a variance. He explained that the sign is supposed to be 15 feet off the property line, and the present sign is directly on the property line.

Mr. Peller stated that the current sign is right on the property line and what they are proposing is to take the old one out and put the sign on the same footprint. Mr. Myers said "correct" and the setback would be an issue. Mr. Peller stated if the old one comes out, the new one would need to be back 15 feet or another variance would have to be granted.

Mr. Dudick stated the application is that they are now looking at the sign 15 feet further back. Mr. Peller informed that AJ Sign needs to confirm the existing location. The application says nothing about the property line setback and they are proposing just to replace that.

Mr. Dudick asked if they can vote on it. Mr. Lemire stated they can if the applicant is ok with moving the sign back.

Mr. Peller informed that if not, the application will need to be re-noticed. Mr. Tuttle said they will consent to that.

Mr. Dudick summarized relocation of the sign moved 15 feet further back, and they are then still dealing with two variances, an area variance and a use variance.

Mr. Myers talked about the sign law that was modified purposely to limit where animated signs are allowed. It was because of something that happened in town that created an uproar because of its location and this zone was specifically taken out for that reason. He went on to say that this particular type of sign was then exclusively limited to heavy commercial areas with very few exceptions. Gas station signs in a neighborhood business zone are the only exception and anything else requires a variance. A use variance for this situation is very difficult to get.

Mr. Peller asked if he had a comment on the area portion of the variance. Mr. Myers stated that not counting the void (on the sign) and taking out the animated portion, you would be down to 65-67 square feet. Due to the setback he does not have an issue with that size.

Mr. Tuttle said with regard to animation the only issue with it is because they are going to change it from a remote location. He said they don't need to do that more often than every three days. He referred to Kulak's sign and the restrictions the board put on it. He said they are willing to go with restrictions and suggested they probably don't need to change it more than 1 time a week except at Christmas holidays or special event. He referred to Mr. Dudick's comment about the variance going with the land, and suggested the board could put a sunset on it, like it did with Kulak's.

Mr. Dudick made the motion to close the public hearing. Mr. Lemire seconded, all approved. Public hearing closed.

Mr. Dudick said he would feel more comfortable with the sign they are asking for if there was a more traditional leader board.

Mr. Strother stated that given that the sign will be 55 feet off the road, it makes a stronger case for an area variance if it was text only and no more than two colors with some agreement as to frequency.

Mr. Dudick called for a ten minute recess for side discussion.

Upon return from recess Mr. Peller informed as a point of order, the owner authorization for AJ Sign has been submitted for the file.

Mr. Dudick announced that the applicant wishes to adjourn until the April 17, 2012 meeting. The applicant will ask for a third variance of a 15 ft front setback which will be be renoticed in the paper.

Mr. Peller asked Mr. Tuttle if he is willing to waive the 61 day notice rule, and Mr. Tuttle agreed. Application hearing is adjourned until April 17.

Mr. Dudick made the motion to approve the minutes of the March 6, 2012 meeting, seconded by Mr. Bloss. Unanimously approved by members who were present at that meeting.

The next meeting is April 3, 2012.

Mr. Strother made the motion to adjourn the meeting at 8:40 pm. Seconded by Mr. Prescott. 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