

ZONING BOARD OF APPEALS

May 15, 2012

Present: Michael Dudick, Chairman, Michael Bloss, Chris Lemire, Amy Standaert, Doug Strother,

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

Absent: Randy Gifford, Jennifer Vucetic

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

PLEDGE OF ALLEGIANCE

Mr. Dudick informed that Eric Prescott has moved to the Planning Board, and is no longer a member of the ZBA board. Amy Standaert, who had been serving as the ZBA alternate, has been moved up officially to a full ZBA board member status, replacing Eric Prescott. A new alternate will be appointed at a later date.

OLD BUSINESS:

None

NEW BUSINESS:

The secretary read the legal notice as it appeared in the *Daily Gazette* on May 10, 2012.

1) An application from Panera Bread for modification to original sign variance #80518. Applicant requests to move wall sign on East face of building to South face of building. Property is located at 22 Maxwell Drive, Clifton Park, NY 12065 (Permit #80870)

Mr. Dudick asked the representative for Panera Bread to present the application. No representative was present. Mr. Dudick moved to the next applicant.

The secretary read the legal notice as it appeared in the *Daily Gazette* on May 10, 2012.

2) An application from Brooks Teele and Timothy Mitchell for variances for 3 residential properties.

Lot 1:

1) 208-35D(1) front building setback required=130', 78' available, variance required = 52'

Lot 2:

2) From 208-35C: 40,000 sf min area req, 30,200 sf proposed, variance required=9800 sf

3) From 208-35C: 180' width req at building line, 54' available, variance required=126'

4) From 208-35D(2) Side yard setback for bldg and parking is 25' required, 14' for building and 0' for parking available, variance required= 25'

5) 208-35D(4): 10' landscape buffer req along side and rear property lines, 0' available, variance required =10'

Lot 3:

6) 208-35C: 40,000sf min area req, 26,750 sf available, variance req = 13,250sf

7) 208-35C: 180' lot width req at building line, 71' available, variance req=109'

8) 208-35D(2): 25' side and rear yard setback for parking req, 0'available, variance required=25'

9) 208-35D(4): 10' landscape buffer required at side and rear yards, 0'available, variance required=10'

Driveway easement for lots 2 & 3 required.

Property is located 995/997 Route 146, Clifton Park, NY 12065 (Permit#80866)

Gavin Vuillaume with Environmental Design representing the applicants, Brooks Teele and Timothy Mitchell presented the application.

Mr. Vuillaume informed that the applicant is requesting several variances in relation to a 3 lot subdivision. He explained that there are three residential structures on the property. On lot one is an older residential home, close to the road, which has its own driveway. An elderly woman resides there who has a lifetime estate. The other two buildings are duplex rental properties. The idea is to separate the property so each building has its own parcel. There are no current plans to do anything with it. The division is for tax purposes and so the residents can have their own home on its own property. The structures were built in the 1970's, prior to the 1991 zoning ordinance.

He explained the division would give the existing home its own property and driveway, and the rentals would have a shared driveway. Their plan is to obtain the variances and then go to the Planning Board and request a shared access easement for the two properties.

He described the most notable variance requests which he named as the setback from 146 on Lot 1 and the area requirements for Lots 2 & 3. He described the lot frontages would be 180' and they would be providing 50' and 74'. He said the other variances are minor.

Mr. Peller asked if the easement would follow the existing driveway, and Mr. Vuillaume said it would.

Mr. Lemire asked if the property on Lot 1 is owned by the same person and was told it is. He asked if he divided the parcel differently could they get the 40,000 square feet and was told "yes".

Mr. Peller questioned if the person residing in the home on Lot 1 was going to be there for a while, and Mr. Vuillaume said she is. Mr. Peller asked how much of the design on Lot 1, which is a lifetime estate, is based on this.

Mr. Vuillaume said they considered the privacy issue as it is a single family home as opposed to the other two which are rental. He said it has a good buffer area and he is trying to follow the treeline.

Mr. Dudick stated when they grant variances they try to minimize to the least intrusive variance necessary. He asked why there is such a large side yard setback for Lot 1. He asked why not move the property lines over. Mr. Vuillaume said they probably could move it over, but said it is more of a privacy issue.

Mr. Dudick said the house is so close to Rt 146 he doesn't know if privacy is such an issue because it is so close to the road.

Mr. Vuillaume said this is the most conservative breakup of the subdivision and if the Planning Board decided that there is a better outline, they could do it at that time.

Mr. Dudick added that they could do it here, to minimize the variances. He said the lots are narrow, and asked if there was a reason why Lot 2 couldn't have its own driveway.

Mr. Vuillaume said it could, but it is on Rt 146 and it would require another curb cut and the state of NY is always trying to combine driveways.

Mr. Dudick asked Mr. Myers what would be more desirable, two driveways leading to three separate lots or having each one having its own driveway.

Mr. Myers stated he is not sure they could get three curb cuts as you need 100 feet between curb cuts and the DOT wants to minimize that. He added that getting a third driveway there would be close.

Mr. Lemire and Mr. Myers discussed that the minimum lot width is 180 feet.

Mr. Vuillaume stated that he doesn't see any reason to move the property line when it is just a driveway. He said they also talked about making it a keyhole lot, and discussed with the Planning Board but decided this is more appropriate.

Mr. Dudick said when they talk about squeezing, he doesn't see that a property that is almost two acres is being squeezed. He said they are trying to separate the lots so if they wanted to sell one they could. He added that the way they are cutting it up, he could minimize the amount of

variance by moving the line over and still have a significant size lot and give more acreage to Lot 2 & 3.

Mr. Vuillaume said they could move it over a little bit.

Mr. Lemire asked if they could move it over to make more space for Lot 2.

Mr. Vuillaume noted that if they are referring to the back part of the parcel, for Lot 2, the only variance required for that is lot size but they could get the 40,000 for it by moving the line over. He said it would move it over 8 to 10 feet to meet the 40,000 square feet for Lot 2.

Mr. Lemire asked if he could move the line for both Lots 2 & 3.

Mr. Vuillaume said they couldn't because they want to run the line along the driveway and he wants it in the center of the driveway.

Mr. Myers added that if they move the line, you would end up having more variances because there would be a lot line in front of the building. Mr. Dudick suggested it would create more of a keyhole lot, and Mr. Myers agreed.

Mr. Lemire said not if you move the line between Lots 1 & 2.

Mr. Myers explained that then you would need an easement and there is concern that if you move that line to the west it would be closer to a keyhole lot because the house on lot 3 would be more physically behind lot 3 and would add more variance needs.

Mr. Dudick said it would create a keyhole flag. Mr. Myers stated it is allowed but not desirable.

Mr. Dudick said if he were to choose he would want to avoid the keyhole flag.

Mr. Lemire questioned if it is not already a keyhole lot and read the definition. Mr. Myers said he disagreed and clarified that it is not because of the angle. He said creating a keyhole would require a 50' setback. Mr. Lemire suggested another way of moving the line. Mr. Myers said you would have to be careful of getting too close to the other house and creating more setbacks.

Mr. Vuillaume said physically moving the line doesn't do anything for the people on lot 2. He suggested he could move the line to gain the 40,000 on Lot 3, and maybe gain a little on Lot 2, but he would like to leave that to the Planning Board since they are the ones to design the subdivision.

He said he wants to get the variances they need so the PB can do what they need to to design it.

Mr. Lemire asked if they shouldn't go before the Planning Board first. Mr. V said that they did. He informed that originally they were dividing into two lots and they found that two buildings could not sit on one lot. Mr. Myers added, "without it being a planned development". He said they would have to go through the town board and zoning and "that isn't going to happen".

Mr. Peller asked if he had been before the Planning Board with this plan, and Mr. V said he had not but felt it was one they would be comfortable with.

Mr. Dudick stated he has no problem with 3 lots but if there is a chance of doing 2 lots at 40,000 and the other being bigger he would prefer it. He added he would like him to move the line over and get things closer.

Mr. V said he would move the line and then the variance request for lot 3 area can be pulled. He discussed the other variances, citing some could be explained by existing structure. He mentioned that he would like to get it done tonight as some of the variances wouldn't change by moving the line.

Mr. Dudick stated they can't do it without numbers, and if he returned to the next meeting he would be one of the first on the agenda. He informed the public hearing would remain open.

Mr. Lemire suggested the Planning Board should see the plans. Mr. Myers stated Mr. Scavo has seen it and is ok with the idea.

Mr. V stated maybe they would go with the two lots again as it would be ideal and go for a use variance.

Mr. Myers said he didn't think they could meet the tenents of the use variance and he doesn't know if the town board is entertaining it. He said it would be an uphill battle.

Mr. Lemire stated he would rather have two than three lots.

Mr. Myers informed it doesn't meet the tenents of the use variance.

Mr. Peller informed Mr. V that he needs to come back.

Mr. Dudick stated that if he goes with the three lots, they won't have to re-notice it.

Mr. Peller asked if he agreed to adjourn until the next meeting and waive the 2 day rule.

Mr. Vuillaume stated he would.

Mr. Dudick noted that the representative from Panera is a "no show." Mr. Peller added that the application will be deferred to the June 5, 2012 meeting. Mr. Myers said he would contact DCG Development to notify them.

Mr. Dudick asked for approval of the minutes of the May 1, 2012. The requirement to have a minimum of four votes of those members who were present at that meeting was not met. Approval of the minutes for May 1, 2012 will be deferred to the next meeting.

Mr. Lemire made the motion to adjourn the meeting, seconded by Mr. Strother. All approved. Meeting adjourned at 7:50pm.

The next meeting is June 5, 2012.

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