

ZONING BOARD OF APPEALS

March 4, 2014

Present: Michael Dudick, Chairman , Michael Bloss, Jerry Cifor, Doug Strother, Jennifer Vucetic, Randy Gifford, Chris Lemire (7:25) , Mario Fantini

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

Absent:

Mr. Dudick called the meeting at 7:18 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicant this is a seven member board with one alternate. Tonight Mr. Fantini, as alternate, is designated to sit in for Mr. Lemire. To receive approval an application one must receive 4 yea votes of the seven members present.

OLD BUSINESS

None

NEW BUSINESS

The secretary read the legal notice as it appeared in the Daily Gazette on February 27, 2014

1)An application from AJ Sign Company for variances to install a single freestanding sign (YMCA) at 47 Clifton Country Road (Kids Lodge) and 1 Wall Street. Sign requested to be installed on 47 Clifton Country Road property but within the town's sewer easement. 2 other freestanding signs (Kids Lodge & Hannaford entrance would be removed. Some

wall signage to both buildings. Sign in easement approved by sewer department.
Variations required: 1) Section 171-4H.(1) No off premises signs allowed, variance required
2) Section 171-6B.(4) No freestanding sign shall be in the public right of way (sewer easement) variance required
Property is located at 47 Clifton Country Road, Clifton Park, NY 12065 (Permit #80966)

Mr. Peller asked if they are referring to the County or Town sewer easement. Mr. Myers informed it is the Town easement and the Town has confirmed the sign will not conflict with the operations of the pump station that is there. Mr. Peller queried whether, irrespective of the fact the sign would be in the easement, the board does not need to be concerned about that. Mr. Myers stated that he has correspondence from the department that verifies they are ok with what is there. Mr. Peller asked that the letter be placed in the file.

The application was presented by Tom Wheeler, from AJ Sign Company and representing the YMCA. Mr. Wheeler submitted verification of notification of neighboring residents. He reminded they had come to the board several years ago with a sign request and that the sewer easement had been a problem with putting the sign there. He asserted that since that time, the problem has been resolved. He informed the YMCA, has gone through a rebranding and the national company requires that all branches change to the new logo.

Mr. Wheeler explained the Kidz Lodge and the Y facility down the road are coming together under one brand which will be the "Y". He said the Kidz Lodge freestanding sign will come down and they are asking for another sign on the same parcel so they will only have one sign on the corner. He added the non-conforming sign on the other side of the road (Hannaford Sign) will also come down.

Mr. Cifor asked Mr. Wheeler if there are two signs coming down and one going up. Mr. Wheeler confirmed there will be only one freestanding sign.

Mr. Dudick questioned Mr. Myers as to why this is a use variance. Mr. Myers explained it is considered an off premises sign because the main branch of the Y is not on the same parcel as the sign.

Mr. Wheeler asserted they are bringing the Kidz Lodge under the same brand as the Y. Mr. Dudick asked if they would have the same issue if they moved the sign off the easement and put it on the Kidz Lodge property.

Mr. Myers offered his opinion that, although the Kidz Lodge is under the same brand, he still believes it is an off premises sign. He added that putting it in the easement also requires a use variance.

Mr. Dudick summarized that it is two separate parcels, Kidz Lodge and the gymnasium parcel. Mr. Myers commented that there is a parcel in the middle. Mr. Dudick asked if the applicant had tried to buy that parcel between them.

Ms. Kindra McHale, Executive Director at the Y, answered that they would love to buy the parcel but the owner will not sell it.

Mr. Dudick asked if there are any “markings” about daycare going on the sign. Ms. McHale answered there will not be. Mr. Myers informed there will be directional signage for the daycare which will require no further approval. He stated he had seen the whole package and he doesn’t feel any of the rest of it will require further action by the board.

Mr. Peller asked about the size of the directional signs. Mr. Myers said they are reasonable.

Mr. Dudick asked why they cannot have the sign on the Kidz Lodge parcel.

Mr. Wheeler explained the pump station and generator are located in a place where they can’t put the sign behind it. He asserted the only place the sign will be visible from the road is to place it in front of the pump station.

Mr. Myers informed the board that there are more trees on the property than the plot map shows. Mr. Wheeler suggested they refer to the picture in the packet which has an overlay. Mr. Myers offered the opinion that this is the only area big enough to put the sign. Mr. Wheeler stated the trucks can still get in and work on the pump if need be.

Mr. Dudick said he sees that the easement creates the use variance but he does not like off premises signs. He went on to explain that, to him, this does not feel like an off premises sign because the branding of the gymnasium is for the Y and all of its holdings. He verbalized his opinion to the board, that the sign is clean and simple and if it were not for having to be in the easement he sees it as a sign for the Y (Kidz Lodge being part of it) and it alludes to the gymnasium down the road.)

Mr. Strother offered the opinion it is a creative solution and is palatable.

Mr. Dudick commented he would have a different opinion if it were a different type of sign.

Mr. Wheeler explained this is a brand, nationwide. Mr. Dudick said he would not like to see it say anything different, such as “daycare and gymnasium” and as long as the building that is currently the daycare is owned by the Y he is ok with it. He suggested that if the Y were to sell that parcel to a different owner the sign would have to come down.

Mr. Fantini suggested they should discuss the requirements needed for a use variance.

Mr. Dudick listed the requirements:

- 1) Cannot realize a reasonable return as shown by competent financial evidence – which he said he would discuss last
- 2) Unique and does not apply to substantial portions of the neighborhood – Mr. Dudick said he did not see this occurring elsewhere
- 3) Does not alter the essential character of the neighborhood – Mr. Dudick said he does not see this changing any part of the town or street
- 4) Has not been self-created – Mr. Cifor suggested this happened because the Y gave the easement to the Town, and at one time it was their property. Mr. Dudick said the self-creation was to make things easier for the municipality so it is a mitigating circumstance and reasonable exception.

Mr. Dudick then referred to the first requirement of showing reasonable financial evidence. Mr. Peller questioned Ms. McHale, asking if the directive for the sign came from national and if it was a requirement they must comply with as a franchise. Ms. McHale explained they have a charter and they must comply with the directive.

Mr. Dudick asked what would happen if they did not comply. Ms. McHale answered the national Y could come in and shut their facility down. Mr. Dudick asked if that would cost them money and Ms. McHale responded it would be significant.

Mr. Dudick asked Ms. McHale to obtain something in writing that says they would be shut down for failure to comply, for example a letter from the national Y to the effect they would lose their charter.

Mr. Dudick informed that, in order for approval of the use variance, such a letter would be a requirement. He stated he would be comfortable to vote on the application tonight, but approval would be contingent on receiving the letter prior to erecting the sign. Ms. McHale agreed.

Mr. Dudick made the motion to close the public hearing (no one was in the audience). Mr. Cifor seconded. All approved. Public hearing closed.

Mr. Cifor made the motion to approve the application conditional to receiving a letter justifying the financial hardship prior to erecting the sign. Mrs. Vucetic seconded.

Mr. Dudick instructed that the letter should specify that failure to comply with the brand "signing" would result in losing their charter and cause the shutdown of the facility. He specified that the erection of the sign could not proceed until the letter was received. Mrs. McHale agreed to provide the letter.

Mr. Dudick informed that four yeas were required for approval.

Ayes: Bloss, Vucetic, Gifford, Dudick, Cifor, Strother, Fantini Noes: none

Application approved with contingency that the applicant provide a letter from the YMCA stating that failure to comply with erecting the sign with the new "brand" puts the applicant at risk of losing its charter and if the charter is revoked, the applicant must close its facility. The letter must be submitted to Mr. Myers prior to erecting the sign.

**2)An application from New Cingular Wireless PCS, LLC for a 1) A use variance from Section 208-9D.(3)(h) and 208-95E.(3)(a) to allow siting of a new telecommunications structure in an R-1 Zone which is not allowed 2) An area variance from Section 208-95D.(4)(a) and 208-95E.(3)(b) which does not allow new telecommunication facilities within 500 feet of an existing residential property line. Distance proposed to property line = 75', 425' variance required.
Property is located at 276 Moe Road, Clifton Park, NY 12065 (Permit #80967)**

The applicant requested to defer to the March 18, 2014 meeting. The application was not read into the record and will be heard at the next meeting.

Mr. Dudick made the motion to approve the minutes for the February 4, 2014 meeting. The minutes were approved by members present at that meeting. Mr. Cifor, Mr. Strother and Mrs. Vucetic abstained as he had not been present at the meeting.

The next meeting is March 18, 2014.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mr. Gifford. The meeting was adjourned at 7:40 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