

*Approved*

## ZONING BOARD OF APPEALS

December 15, 2015

Present: Michael Dudick, Chairman, Denise Bagramian, Michael Bloss, Chris Lemire,  
Tony Morelli (7:07), Mario Fantini

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

Absent: Jerry Cifor, Randy Gifford

Mr. Dudick called the meeting at 7:06 p.m.

### PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicants this is a seven member board with one alternate. Tonight five members are present, plus the alternate. Mr. Fantini, the alternate, will be sitting in for Mr. Gifford. To receive approval, an application one must receive 4 yea votes regardless of the number of members present. There are six voting members present tonight so the applicant must receive four out of six votes for approval.

### OLD BUSINESS

None

### NEW BUSINESS

*The secretary read the legal notice as it appeared in the Daily Gazette on December 10, 2015*  
**An application from Kevin W Hunter for a variance from Section 208-12A which requires an 80' front setback from front property line for accessory structures. Applicant wishes to install an in ground pool. 20' available, 60' variance required.**  
**Property is located at 314 Vischer Ferry Road, Clifton Park, NY 12065 (Permit#81063)**

The application was presented by Mr. Kevin W Hunter, owner of the property at 314 Vischer Ferry Road.

Mr. Hunter stated their intent is to install an in-ground pool on their keyhole lot and explained he has exhausted different options for another location. He clarified that on the property he has laterals for the sewer, utility easements and a buffer zone for wetlands. He stated the way the house is placed, although the pool will be to the side, it is still considered to be the front because it runs parallel to Vischer Ferry Road.

Mr. Dudick asked if it will be an in-ground pool and Mr. Hunter responded it will.

Mr. Hunter further explained that the pool will be away from the neighbor's house, repeating it is actually on the side of the house.

Mr. Dudick asked if he has been in contact with his neighbor. Mr. Hunter assured he had, saying the owner is currently renting it out, but he did speak with him and he has no issue with it.

Mr. Dudick asked Mr. Myers to explain why the side of the house is designated as the front. Mr. Myers clarified that normally the front of the house is facing the street but this house, because of the nature of the lot, does not because it is parallel to Vischer Ferry Road.

Mr. Myers advised this is a Type II action so no further (SEQRA) review by the Board is required. He stated he will inform the Board when it needs to take action on an application.

Mr. Myers opined Mr. Hunter is very limited where he can put the pool because of the wetlands and several other things and he does not have an issue with it, adding it is far off the road. He explained because of the nature of the law, Mr. Hunter had to come for a variance.

Mr. Lemire asked Mr. Hunter to explain the area behind the house as it appeared to him there was more space in the yard. Mr. Hunter informed it is a buffer zone, and although it appears to be more, it is only 50 feet to the heavily wooded area and the buffer zone and the pool would encroach on that. Mr. Myers interjected that there is a 100' buffer for DEC wetlands and one corner of his house is only 25 feet from the line.

Mr. Fantini informed he has no problem with the application and is in favor of it due to the size of the lot and the unique circumstances.

Mr. Lemire asked Mr. Myers if this were a normal size lot would Mr. Hunter need a variance. Mr. Myers said he would not; it is only because the side of the house is considered the front. Mr. Lemire summarized that if this was a normal street Mr. Hunter would not be here. Mr. Myers confirmed that is so.

Mr. Dudick stated he agrees with Mr. Fantini and only the description of the law dictated that it needs a variance. He commented this being a keyhole lot the house is rotated and defined by where the driveway comes in as opposed to where the road comes in which creates an unusual aspect of this property. He said it is not out of character with the neighborhood and he has no problem with it.

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

Mr. Fantini made the motion to approve the application as submitted. Mrs. Bagramian seconded the motion. Mr. Dudick informed the applicant he needs four of the six for approval asking Mr. Hunter if he wants a vote. Mr. Hunter affirmed he does.

Ayes: Bloss, Morelli, Fantini, Dudick, Bagramian, Lemire Noes: none  
Application approved as submitted.

*The secretary read the legal notice as it appeared in the Daily Gazette on December 10, 2015*

**An application from AJ Signs for a variance from Chapter 171 sign law Table I:  
60 sq. ft. maximum wall sign allowed; 98 sq. ft. proposed; variance required = 38 sq. ft.  
Property is located at 1783 Route 9, Clifton Park, NY 12065 (Permit#81064)**

The application was presented by Tom Wheeler, AJ Sign Company, representing the owner of the property. Mr. Peller asked Mr. Myers if he had a copy of the authorization signed by Columbia Development.

Mr. Wheeler informed he has the authorization which is a signed form sent to his phone but would present a hard copy to Mr. Myers.

Mr. Wheeler said they are asking for a variance for a wall sign for Community Care Physicians. He explained the building is set back from the road and they are not allowed to alter the Community Care Physicians logo. He described the letters "pc" are very small and he wants them to be seen from the road and also would like to make the "Community Care" in proportion to the building. He stated they need a 27' variance for Community Care.

Mr. Peller asked Mr. Myers if he is combining the Community Care and the Albany Med signs and considering them as one for square footage.

Mr. Myers agreed that was his intent. He said even with two wall signs you have to stay within the maximum allowed. He explained that, depending on the space they have, every tenant is allowed a sign up to a maximum of 32 sq. ft.

Mr. Lemire asked if the 98 square feet includes both signs together. Mr. Myers answered it is considered as one unit.

Mr. Peller questioned whether there are two tenants in the building. Mr. Dudick commented he believes they are two separate companies with two separate CEOs. Mr. Myers remarked that is not the way he understood it.

Mr. Wheeler informed that Albany Med is a tenant and Community Care is a tenant and there are a couple of other tenants that are not getting walls signs. Mr. Myers responded he was not aware of that.

Mr. Peller counseled that if they are separate tenants they do not need a variance.

Mr. Myers agreed saying a variance is not needed as the signs each meet code.

Mr. Lemire asked about the monument sign. Mr. Myers answered they are working on that as Mr. Wheeler thinks it might need to be larger. Mr. Wheeler advised it is a directory sign.

Mr. Peller asked Mr. Wheeler if he would withdraw the application advising him the Board is not going to take any action on it in case he needs to come back.

Mr. Wheeler agreed to withdraw the application.

Mr. Dudick summarized there are two separate companies and two separate signs that are allowed by code.

Application withdrawn.

*The secretary read the legal notice as it appeared in the Daily Gazette on December 10, 2015*

**An application from AJ Signs for a variance from Chapter 171 sign law, Table I: Setback required = 15'; 10' available; variance required = 5'.**

**Property is located at 1245 Route 146, Clifton Park, NY 12065 (Permit#81065)**

Mr. Tom Wheeler, AJ Signs Company, presented the application. Mr. Dudick confirmed there is written authorization for Mr. Wheeler to represent the owner of the property.

Mr. Wheeler informed this is to replace an existing sign which has been there for years and is too close to the road. There is a water line in front of it and a sewer line in back of it.

He related that he has worked with Saratoga County Sewer and presented a letter which indicates they are ok with putting the sign in their easement. They split the difference between the water and sewer line and moved the sign back as far as they could get it, ten feet back, but they still need a variance. He asserted it is the only spot they can put it.

Mr. Peller asked to see the letter from Saratoga County Sewer.

Mr. Dudick inquired whether the new sign would be in the same place as the old sign, in the easement between the water and sewer. He asked if it is directly over water or sewer or just in the easement.

Mr. Wheeler explained it will be farther back than the old sign and is only in the sewer easement not over a line.

Mr. Myers said the county easement setback is 30'.

Mr. Peller commented the letter says if something happens (and the sewer company needs to make repairs and has to move the sign) the County is not responsible for replacing the sign or

for repairs. He counseled the owner will be entirely responsible for paying to put the sign back. Mr. Wheeler agreed that is so.

Mr. Lemire asked if the picture Mr. Wheeler presented is in the location of the proposed sign. Mr. Wheeler repeated it will be a little farther back.

Mr. Peller asked if the County is asking the owner to sign something. Mr. Wheeler responded the owner will sign the letter from the County and bring it back to them. Mr. Peller pursued, asking if the county is going to file anything or if there is anything of record. Mr. Wheeler answered "just the letter signed by the owner and returned".

Mr. Peller asked if the new sign will be in the same place and if existing sign has ever been taken down because of a sewer issue. Mr. Wheeler answered the new sign will be farther back, and old sign had never been taken down for a sewer problem. Mr. Peller reminded the board needs a copy of the letter for the record. Mr. Myers said he would include it when he gets a copy.

Mr. Dudick asked what the setback is for a state road. Mr. Myers said the property line is the setback which is why the sewer easement is beyond it.

Mr. Peller asked if there is any issue with the state or is it just the county. Mr. Myers said there is nothing with the state.

Mr. Dudick summarized the new sign will be more compliant than the current sign. He opined the request is reasonable and he has no problem with it.

Mr. Lemire asked if the Zoning Board will also be held harmless with that letter. Mr. Peller answered the Board is responsible for anything they do.

Mr. Myers informed this is a Type II action (SEQRA) and no further review is required by the Board.

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

Mr. Dudick read into the record a letter from the Saratoga County Planning Board, signed by Jason Kemper. The letter indicated the Board saw no significant county-wide impact.

Mr. Fantini made the motion to approve the application as submitted. Mr. Morelli seconded the motion.

Ayes: Bloss, Morelli, Fantini, Dudick, Bagramian, Lemire Noes: none  
Application approved as submitted

Mr. Dudick made the motion to approve the minutes for the November 17, 2015 meeting. Mr. Bloss seconded the motion. Mr. Dudick, Mrs. Bagramian, Mr. Bloss, Mr. Lemire and Mr.

Morelli who were present at that meeting approved the minutes. Mr. Fantini deferred as he was not sitting on the board that evening.

The next meeting is January 5, 2016.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mr. Morelli. The meeting was adjourned at 7:37 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