

ZONING BOARD OF APPEALS

March 1, 2016

Present: Michael Dudick, Chairman, Lisa McCoy, Randy Gifford and Michael Bloss

Also Present: Paul Pelagalli, Esq., Planning Board Attorney
Steve Myers, Director, Building & Zoning

Absent: Chris Lemire, Anthony Morelli, Jerry Cifor, Mario Fantini, Joel Peller, Esq., ZBA Counsel

Mr. Dudick called the meeting to order at 7:09 p.m.

PLEDGE OF ALLEGIANCE
ROLL CALL

Mr. Dudick informed the public that this is a 7 member board with 1 alternate member and in order for an application to be approved, 4 votes of approval are required.

OLD BUSINESS

1. An application from Dan Lill and Thomas Lill for a use variance to construct multi-family dwelling units in a B4-A zone. 16 townhouses are proposed on a 1.56 acre lot, which is 2 lots combined. Allowed uses are anything permitted in a B-3 zone except dwellings which will not be allowed by special exception or otherwise. In addition, an area variance is being sought for the front building setback (80' required, 30' available, 50' variance required) and for the rear building setback (30' required, 22' available, 8' variance required). Property is located at 13 and 15 Old Plank Road, Clifton Park, NY 12065 (Permit #81067)

Mr. Myers advised that at the applicant's request, this application has been temporarily withdrawn.

NEW BUSINESS

The secretary read the legal notice as it appeared in the Daily Gazette on February 25, 2016.

1. An application from AJ Sign for an area variance from Chapter 171 Sign Law, Table I which requires 15' setback from property line. Applicant requests 0' setback, 15' variance required. Property is located at 1 Emma Lane, Clifton Park, NY 12065. (Permit #81073)

The application was presented by Tom Wheeler of AJ Sign, who confirmed he had the required authorization to proceed on the owner's behalf. Mr. Wheeler explained that the proposed sign is for the Beacon Pointe Memory Care facility on Route 146 to replace the existing sign which had blown over about a month ago. He stated the proposed sign meets the required 15' setback. He said they would like to put the new sign closer to the road, adding that right now it is 15' from the property line, but they wanted a 0' setback. He indicated they have an issue with a retention pond next to the sign because it is full of cattails and other vegetation that blocks the view from the road, which cannot be maintained any better than it currently is and that the public has problems finding the facility.

Mr. Gifford asked whether the new sign would have lighting and Mr. Wheeler responded it would be lit with the same floodlights as the old sign.

Mr. Dudick inquired as to whether the proposed sign could be moved further away on the property from the water.

Mr. Wheeler responded that the proposed location was the most logical without getting into the area reserved for future parking and that they propose to move the sign straight ahead 15' which would also be easier for the electric.

Mr. Dudick asked how long Beacon Pointe has been there, to which Mr. Wheeler responded, he was not sure, but for a while.

Mr. Dudick asked why they couldn't just move the sign a straight lateral, to get away from the retention pond and eliminate the need for a variance, since the need for future parking has not been established.

Mr. Wheeler explained if that was done, the sign would still be 45' from the edge of the road, which would still be too far off the road and that ideally they would like to move it forward to make it easier for people to locate the facility.

Discussion was had about how far back from the property line other signs along Route 146 were and Mr. Myers explained that the other property lines are a lot closer to Route 146 in this area and that NYS DOT has a very wide right-of-way in this area because of the intersection with Moe Road. He further indicated he was not sure they could put the proposed sign in a spot reserved for future bank parking without Planning Board approval.

Mr. Myers also stated that visibility of the sign is a real issue because it is so far off the road and without getting into DOT right of way, granting a 15' variance so the sign can be closer to the road seemed reasonable.

Mr. Dudick asked if they would be allowed to address the growth in the retention pond or if that was something they could not touch, to which Mr. Myers replied it would be up to the facility and whether the area has been declared a wetland.

Mr. Dudick announced the public hearing and asked for comments. There were none. Mr. Dudick made a motion to close the public hearing and Mr. Gifford seconded the motion. All members voted in favor and the public hearing was closed.

Mr. Bloss made a motion to approve the application as submitted. Mr. Gifford seconded the motion.

Mr. Myers stated for the record that the application would not create an undesirable change to the neighborhood because the sign placement would be similar to others on Route 146. He confirmed that the benefit sought by the applicant could not be achieved by any other feasible method because other features on the property block the sign. He confirmed that the requested area variance was not substantial because the sign would still be 30' off the road due to the large NYS DOT right-of-way; that the proposed variance would not have an adverse effect on the physical or environmental conditions of the neighborhood and that the alleged difficulty was not self-created.

The secretary called the Vote:

Ayes: Lisa McCoy, Michael Dudick, Randy Gifford and Michael Bloss

Noes: None

Application approved as submitted.

The secretary read the legal notice as it appeared in the Daily Gazette on February 25, 2016.

- 2. An application from Mary E. Diesem for an area variance from Section 208-98 Special Setback lines. Per this Section buildings in a Residential Zone (R-3) are required to be 100' from the centerline of Crescent Road. Proposed setback line is 52', 48' variance required. This is a new lot proposed to be subdivided from existing parcel. Property is located at 1733 Crescent Road, Rexford, NY 12144. (Permit #81074)**

The application was presented by Duane Rabideau of VanGuilder and Associates, who confirmed he had the required authorization to proceed on the owner's behalf. Mr. Rabideau stated they were proposing to subdivide a 5.2 acre parcel into 2 lots. Lot A would be 2.69 acres for the proposed house. Lot B would be 2.47 acres with all of the improvements on it. He advised they need to push the house forward on the property due to the very steep bank that goes down into the dam for the Stony Creek Reservoir. He stated they meet all of the other spacial requirements of the zone, except for the 100' setback from the centerline of Crescent Road.

He further explained that the house needed to be located closer to Crescent Road because there is a requirement that the slope is not more than 3 on 1. He indicated on the diagram where the septic system would be located. He pointed to an existing house on the diagram that had been granted an area variance for the same reason, indicating that the top of the bank actually gets closer in that area. He stated they feel the requested variance fits in with the character of the neighborhood.

Mr. Bloss said he had driven by and walked the property and agreed it is a challenging piece of ground to building anything on. He asked if any thought had been given to putting the house closer to the existing house – essentially swapping where the septic area is proposed to be with where the house is proposed to be, as that would move it back a little bit and be about even with the existing house.

Mr. Rabideau said that had been considered, but that they needed the area for the septic system to locate it further away from the top of the bank in order to get the gravity flow to the septic area.

Mr. Rabideau then handed out to the Board Members 3 street view photos, stating they would help the Board get a better grasp of the existing conditions as far as the house on the west and to show that their proposal is not out of line with it. He explained that the photos consisted of a GIS of the parcel; the area west of the westerly most house; and the area showing the existing parking and driveway for the house on the west. He noted that the "X" on the photos marked the proposed location of the house and that the top of the bank gets closer to Crescent Road which is why they are limited on how far back they can go with the house.

Mrs. McCoy and Mr. Gifford both asked how far back the house on the west was, to which Mr. Rabideau replied approximately 52' feet from the center of the road, which is actually closer than what we are proposing.

Mrs. McCoy noted that the house on the west has trees in front and asked if any trees were going to be kept in front of the proposed house. Mr. Rabideau replied he was not sure, but thought it would behoove them to retain as many trees as possible for buffering.

Mr. Bloss asked if the current owner was going to build, as he had seen "For Sale" signs on the property. Mr. Rabideau replied it was his understanding that the owner was going to sell the lot.

Mr. Gifford asked whether the owner had a house in progress with a contract, to which Mr. Rabideau responded, no because they first have to see if the variance will be approved and then go through the process for subdivision approval.

Mr. Rabideau then noted that they also meet the requirement of Section 208-98 for 200' width at the front building line.

Mr. Dudick announced the public hearing and asked for comments. There were none. Mr. Dudick made a motion to close the public hearing and Mr. Gifford seconded the motion. All members voted in favor and the public hearing was closed.

Mr. Myers stated that originally when Mr. Rabideau presented the proposal, the house was farther back on the lot and that it was suggested it be moved up because of the steep slope in the back.

Mr. Myers explained that when the slope drops away from the house, the Building Code requires the house to be so far back from the top of the slope. He said that because of the geography in that area, this seemed to be the most reasonable way to make the lot viable. He indicated that although a significant part of the lot is unusable, the amount of unusable space is comparable with a lot of other homes in Town. He further indicated that in the future, sewer will eventually go down Crescent Road.

Mr. Gifford and Mr. Dudick both asked if there was public water on the road, to which Mr. Rabideau responded, yes. Mr. Myers also confirmed there is water there which runs to the subdivision across the street.

Mr. Dudick inquired as to whether the reservoir could be seen from the home and whether this was water front property. Mr. Rabideau responded it could not be seen from the house, but that as you go down the bank you can see the reservoir.

Mr. Dudick stated he didn't see any real problem with the application, adding that it seems to be in keeping with the character of the neighborhood, advising he would have to defer to planning with regard to whether or not the house and septic locations would be switched.

Mr. Rabideau responded, not really because then they would have issues with the Building Code due to the 3 on 1 slope, which Mr. Myers confirmed was correct.

Mr. Dudick made a motion to approve the application as submitted. Mr. Gifford seconded the motion.

Mr. Myers then stated for the record that the application would not create an undesirable change to the neighborhood because the home would be setback similar to others in the area. He confirmed that the benefit sought by the applicant could not be achieved by any other feasible method because of the steep slope behind the proposed house. He confirmed that the requested area variance was not substantial because the proposed home would still have a 52' setback from the center line of Crescent Road; that the proposed variance would not have an adverse effect on the physical or environmental conditions of the neighborhood and that the alleged difficulty was not self-created.

The secretary called the Vote:

Ayes: Lisa McCoy, Michael Dudick, Randy Gifford and Michael Bloss.

Noes: None.

Application approved as submitted.

Mr. Dudick then made a motion to approve the minutes from the February 16, 2016 meeting. Mr. Dudick, Mrs. McCoy, Mr. Gifford, and Mr. Bloss, who were present at that meeting, seconded the motion and the minutes were approved.

Mr. Gifford made a motion to adjourn the meeting. The motion was seconded by Mr. Dudick. Approval was unanimous.

The meeting was adjourned at 7:39 p.m.

The next meeting is March 15, 2016.

Respectfully submitted,

M. Kathleen Smith
Secretary, Zoning Board of Appeals

Cc: Town Clerk, Town Board, Town Attorney
Zoning Board Members, Joel Peller, Esq., Steve Myers
Department of Building and Development
Town Assessor, Town Highway Department