



**Zoning Board of Appeals
Minutes
March 3, 2020**

Present: Chairman Dudick, David Donohue, Chris Lemire, Lisa McCoy, Randy Gifford,
John Klimes

Absent: Jerry Cifor, Mario Fantini

Also Present: Neil Weiner, Esq., ZBA Counsel
Steve Myers, Director, Building and Zoning
Meg Springli, Secretary

The meeting was called to order at 7:02pm

PLEDGE OF ALLEGIANCE

Mr Dudick stated that there were 6 members in attendance at the meeting, so that 4 out of 6 members would need to vote "aye" in order to pass any variance. The chairman offered that any applicant that would prefer to wait until there were more members present, they could be placed on the next agenda. Mr. Gifford was designated as a voting member in the absence of Mr. Cifor.

OLD BUSINESS:-

- 1) An application from **Robert T. Frazier** requesting a variance to construct a new house on lot. Lot is 29,192 sf. Variances required: 1) 40,000 sf required for house with septic, 29,192 available, 10,808 sf variance required, Section 208-11. 2) Section 208-98 minimum lot width required= 200', 57.69' available, 142.31' variance required. 3) Section 208-98, 100' setback from road center line required, 50' available, 50' variance required. 4) Section 208-11, 50' front setback from property line required, 17' available, 33' variance required. Property is located at 973 Main Street, Clifton Park, NY 12065. (Permit #81239) continued from February 18, 2020.

Consultant:

Duane Rabideau, a consultant with VanGuilder and Associates stated that the required neighbor notices were sent out and that the proof of mailing was provided to the Chief Zoning Officer. Mr. Rabideau then gave an overview of the variances being requested for 973 Main Street in order to construct an ADA compliant single-family home for a family member with public water and septic.

Mr. Myers noted that this was a Type II action with no further SEQR required. He stated that there are several other houses on lots of this size in the area, so it was his opinion that the proposed residence was in line with the surrounding neighborhood.

Discussion ensued about the hamlet of Jonesville and that the existing R-1 zoning does not fit all of the existing lots and setbacks in this location, so that when the owner of one of the vacant lots applies for a building permit, they are required to seek area variances due to pre-existing non-conforming conditions.

Public Comment:

William Rabbit, resident of 975 Main Street, asked if the lot would be filled in to make it level with the road and if it would affect his property with additional runoff once built. Mr. Rabideau stated that the intention was to raise the level of the lot and design the slope so that surface runoff would go to the back of the property.

Mr. Myers stated that by code any runoff from a new lot would have to be contained within the property and was not allowed to be a nuisance to the existing neighbors.

A motion to close the public hearing was offered at: 7:15pm

Moved by: Dudick

Seconded: Gifford

The motion was unanimously passed.

ZBA Discussion:

Mr. Dudick stated that he did not see any problems with the requested variances and felt that this was a lot that was intended as a single-family residential lot.

Mr. Dudick moved, seconded by Mr. Klimes to approve the variances as submitted.

Mr. Dudick stated that the variance would not create an undesirable change, and that it would not be detrimental to nearby properties. Then he stated that there were no other reasonable methods of achieving the result, and that he felt that the proposal was not substantial; he did not feel that it would create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created, but not preclusive.

Roll Call

Ayes: Chairman Dudick, David Donohue, Chris Lemire, Lisa McCoy, Randy Gifford,
John Klimes

Noes: None

Variance was unanimously approved

- 2) An application from **Bret and Joni Wade** requests a review of the zoning officer's determination that a commercial use is not allowed on the property. Property is located at 742 Waite Road, Clifton Park, NY 12065. (Permit #81236)

Consultant:

The audience was polled and no one showed up to represent the application.

A brief recess was taken to consult with Town Attorney, Tom McCarthy.

Meeting reconvened at 7:40pm.

Board members stated that they had studied all the materials submitted and felt ready to review the application. Mr. Wiener and Mr. Dudick stated that after conferring with the Town Attorney, that residents who had been notified of the public hearing and the professional consultant that had been retained should be given the opportunity to be heard.

Public Comment:

Wendy Lee Wagner, resident of 608 Waite Road for over 30 years noted that she had a letter and a petition signed by neighbors. She read the letter and presented it for the file.

Ms. Wagner stated that she supported the original determination of Mr. Myers in opposition of Wade's Tree Service operating a commercial business from a residential property for the following reasons:

- Concerned with the increase of traffic
- Safety at the intersection
- Large crane lifting trees and heavy equipment in the wetlands
- Chipping/shredding mulch and noise factor in the residential neighborhood

Steve Myers, Chief Zoning Office, explained that the applicant asked the Planning Board to grant a change of use to a tree farm for the property, and then stated that they wanted to store all the equipment of the tree service business at the property also. Mr. Myers then said that the tree service business was separate from the tree farm and the same equipment was not needed there. Mr. Myers then stated that over 30 of the 37 acres were wetlands and that he agreed with the opinion that a tree farm was not appropriate for this location.

Mr. Lemire asked for clarification of the procedure the applicants had followed in filing the request for a review of the Chief Zoning Officer's determination. It was noted that it was not a common application and none of the sitting ZBA members could remember having reviewed such a request before.

Mr. Myers added that the Town asked an expert for his opinion and he was present.

Mr. Cipperley, a forester for more than 50 years had been contacted by the Town to review this property. He explained that more than 30 acres of the property was classified as wetlands and that a tree farm would not be an appropriate use of wetlands as trees matured. He added that he felt that the equipment that was associated with the tree service business would not be needed with a commercial tree nursery or farm. The ACOE had issued a letter stating they had no jurisdiction as long as everything being done on the property was above the ground, but Mr. Cipperley felt the ground would be disturbed through digging for planting and removing root balls, and therefore might become involved.

Mr. Klimes asked if Mr. Cipperley was familiar with TB HU 254 which delineates Highway Use Tax for tree farms. Mr. Lemire noted that he felt the equipment of the existing business might be used for the tree farm as long as it was solely for farming use and not using town roadways. Mr. Klimes said that removing license plates and maintaining vehicles solely on the property would be consistent with agriculture use.

Mr. Lemire asked Mr. Cipperley if he had prepared and submitted documents in his review of the request. Mr. Cipperley replied that he had and that his opinion had not changed.

Discussion ensued regarding uses of wetlands for purposes such as farming or timbering.

There being no further comment, a motion was made to close the public hearing at: 8:44pm
Moved by: Dudick
Seconded: Gifford
So Moved.

Mrs. McCoy noted that there was a letter from an attorney retained by the Wades stating that a tree service would be operated from the property.

Mr. Lemire stated that he spent much of the afternoon reviewing the paperwork, and that he would have liked the opportunity to ask some questions of the applicant, but that after reviewing the application and the Code, he felt comfortable being able to make a determination. The chairman and other Board Members indicated that they also felt ready.

A motion to affirm Mr. Myers' original decision as written was offered.

Moved by: Chairman Dudick
Seconded: Mr. Lemire

Ayes: Dudick, Donohue, Lemire, McCoy, Gifford, Klimes

Noes: None

Motion was unanimously carried.

[Author's Note: On Wednesday March 4, 2020 at 7:53am, the Zoning Board of Appeals members were sent an email from the law firm representing Brett and Joni Wade stating the applicant's had intended to withdraw their application the previous day and that a clerical error had been made and therefore the ZBA was not notified before the decision was made.]

NEW BUSINESS:

- 3) An application from Exit 9 Self Storage requests variances from Chapter 171, Table 1. A Business not a building is allowed two wall signs not to total greater than 60 sf. Existing wall sign of 84 sf to be removed. 1) Variance needed for three wall signs. 2) Variance needed for 264 sf-60sf Allowed variance requested=204 sf. Property is located at 2 Crossing Boulevard, Clifton Park, NY

12065. (Permit #81240)

Consultant:

Mr. Myers noted that AJ Signs is now representing the application and they handed out a modified packet with smaller signs than was originally advertised. Tom Wheeler with AJ Signs described the project which consists of 2 signs that can be seen from northbound and southbound traffic on the Northway of a new self-storage building. They are also going to replace the two existing signs with one on the original building.

Todd Fischer, of Equinox Companies, owner of the facility. Mr. Fischer stated that the reduction in the size of the sign from the original application was that they had brought in a design professional who has recommended what is proposed at the meeting.

Public Comment:

No Comment

A motion was made to close the public hearing at 7:42pm

Moved by: Dudick

Seconded: Klimes

So moved

Mr. Myers stated that it was a Type II Action and no further review pursuant to SEQR was required. The Chief Zoning Officer said that he did not see an issue with the request, felt it was in proportion to the size of the building.

A member asked Mr. Wheeler and Mr. Fischer if they would also want to put additional signage on any additional approved buildings being built. Mr. Fischer stated that they would not. Mr. Myers then stated that they were able to place a larger monument sign on Sitterly Road.

ZBA Discussion:

Mrs. McCoy asked if this was a bit unique given that it was multiple buildings. Mr. Myers noted that by code it was still considered one business and that the code stated that 2 signs were allowed per business.

Discussion ensued about options for enlarging the monument sign and putting 2 signs on the buildings and eliminating the west facing sign on the newer building. Board Members expressed that they felt that the applicant was asking for too many signs and they may have other options that they can pursue that do not require such large variances. The applicant was informed that they could ask the board to approve or disapprove the application presently or they could return at a later date with a modified application.

The applicant requested that they would like to come back to the next meeting. Mr. Dudick informed them that they have 62 days to appear.

- 4) An application from Quick Response Restoration requests a variance from

Chapter 171, Table I which Requires freestanding signs to be setback 15' from property line. 3' requested, 12' variance required. Property is located at 2095 Route 9, Round Lake, NY 12151. (Permit #81242)

Consultant:

Adam from Adirondack Sign Company, representing Quick Response indicated that the applicant would like to replace an existing sign at a location they have recently purchased.

There being no public comment, a motion to close the public hearing was made at 8:52pm.

Moved by: Dudick

Seconded: Lemire

So moved.

Steve Myers noted that the application was a Type II Action, no further review pursuant to SEQR was required. Mr. Myers said that he felt that the DOT had significant right-of-ways in the area and this sign would still be set back far enough from Route 9.

An offer to grant the variance as requested was offered.

Moved by: Lemire

Seconded: Klimes

Mr. Lemire stated that the variance would not create an undesirable change since it was actually a replacement, and that it would not be obtrusive to nearby properties. Then he stated that there were no other reasonable methods of achieving the result, and that he felt that the proposal was not substantial; he did not feel that it would create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created, but not preclusive.

Ayes: Donohue, Lemire, McCoy, Gifford, Klimes, Dudick

Noes: None

The motion was unanimously carried.

The chairman moved to approve the minutes of February 18, 2020

Ayes: Donohue, Lemire, McCoy, Gifford, Dudick

Noes: None

Abstain: Klimes

The meeting was adjourned at 8:54 p.m.

Respectfully submitted,


Meg Springli