

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

October 20th, 2020

Present: Chairman Michael Dudick, John Klimes, Christopher Lemire, Lisa McCoy,
Randy Gifford, YiFeng Wang (alternate)

Absent: Mario Fantini, Jerry Cifor

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

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken. Mr. Dudick stated that in the absence of Mr. Fantini, Mr. Wang would be a voting member of the Board tonight.

Old Business:

*An application from **Mohammed Ajzal** requests a variance from Section 208-37B – allowed uses in a B-3 zone. This is a use variance to allow rental of cars and U-Haul type vehicles. Property is located at 528 Vischer Ferry Road, Clifton Park, NY 12065. (Permit #81261)*

The applicant or a representative for the applicant was not present at the meeting. Mr. Dudick stated the application will be on hold until the end of the meeting.

At the end of the meeting, Mr. Weiner stated that the Board has 62 days to review and close out the application. Due to 62 days not yet being fulfilled, and no representative present, Mr. Weiner suggested the application not be heard tonight, but put on the next meeting's agenda.

Old Business:

An application from Thomas Laiacona requests a variance from Section 208-12A, accessory structure setback. 80' required, 25' proposed, 55' variance required. Property is located at 22 Mallard Drive, Rexford, NY 12148. (Permit #81265)

Applicant:

Mr. Laiacona stated that he is here tonight to request a variance for a 16x24 foot garage. He stated that he was at the last meeting and got feedback from the Board members and is back to present his application with modifications. He is here today to asking for a 26' variance as he has rearranged the layout and has put the garage next to the existing home. He stated that it would require a 54' setback and a 26' variance for the front setback. He showed the front and side elevations to the Board and stated he has discussed the new plans with his neighbor and the neighbor likes this plan better. He stated that the neighbor to the left where the garage would go and that neighbor had no complaints either. Mr. Laiacona provided to the board a picture with stakes in his yard of where the garage would go and also has plans drawn up for the garage for review.

Board:

Mr. Dudick thanked the applicant for the pictures, and stated that he likes the new layout better than the original. He stated that he feels it is more in line with the code and the area. Mr. Dudick stated that the only variance needed now would be a setback from the road and it is less than what was being asked for before and the application is within the building envelope.

Mr. Klimes thanked the applicant for revising the plan.

Mr. Myers stated that this seems to be a reasonable request and that Mr. Wang may want to abstain from the voting as he is not familiar to the application.

Mr. Dudick asked if Mr. Wang would like to be a voting member for this application tonight. Mr. Wang stated he would like to abstain from voting.

Mr. Dudick asked if there was anyone from the public that would like to speak. There being no public comments Mr. Dudick called to close the public hearing Mr. Gifford second. The motion was unanimously carried. The public hearing was closed.

Mr. Klimes moved, second by Ms. McCoy, to approve a 26' front setback variance for an accessory structure. The property is located at 22 Mallard Drive, Clifton Park, NY 12065.

Mr. Weiner read for Mr. Klimes the Area Variance Criteria, Mr. Klimes answered in favor to all 5 criteria.

The Secretary called the Vote:

Ayes: 5

Noes: 0

Abstain: 1

The motions to grant the modified variance required for this project have been approved.

New Business:

An application from CCM Pad Partners, LLP requests a variance from Chapter 171, Table 1 which allows one freestanding per parcel. A freestanding sign for Clifton Park Center exists. Applicant requests a second freestanding sign for a future business on the parcel. Property is located at 304 Clifton Park Center Road, Clifton Park, NY 12065. (Permit #81266)

Applicant:

Paul Goldman – Attorney – Mr. Goldman stated that he has given the Board survey of the property along with another document that depicts some of the land as being restricted in the north and western portion of the property that lies between the Mobil station and the old Pier 1 building. He stated that this area limits where a sign can be placed. He stated that the applicant would like to put in a sign within 50 ft. from the current mall sign on Route 146 but much lower. He stated it will not be an undesirable look and that this was not a self-created hardship and there is no other way to put in signage to be able to attract a new building occupant. Mr. Goldman stated that they are seeking an area variance to put in another sign and would like the restriction line removed.

Board:

Mr. Dudick clarified that there is an easement for the Pier 1 property and the pylon sign, and then there was another building restriction line as well. Mr. Goldman stated they are 2 different restrictions and the restriction line is a part of the Pier 1 property and cannot have any improvements made on it. Mr. Dudick stated that even though the area is restricted it is a part of the Pier 1 property and the trees can be removed, just not developed. Mr. Goldman stated that the area would need to be cleaned up and then go for a site plan approval, but the existing trees may be a part of an approved site plan and therefore not able to be removed without approval.

Mr. Lemire asked the applicant if CCM granted the easement on the Pier 1 property and who owns the property, as it seems Pier 1 does not. Mr. Goldman stated that the variances are for

GE/ITW who is now the owner of the Pier 1 property since 2015. The mall sign is owned by ITW whom also owns the mall, and the variance runs with the land, who was not the owner when the variance was granted. Mr. Goldman stated that at one point the mall and the Pier 1 building were owned by the same company and this is no longer true, but the variance for the signage remained with the land when it changed owners.

Mr. Lemire asked if when the Pier 1 property was separated from the mall if there was consideration given to this easement and its effect on the property. Mr. Goldman stated he is unsure but the easement was granted. Mr. Goldman stated that the variance ran for the benefit of the mall and Mobil. Mr. Lemire asked if there was consideration given to the Pier 1 owner when this was done. Mr. Goldman stated he does not believe so. Mr. Goldman stated that he does not believe there was any money exchange for the restricted area to buffer Mobil even though it was to benefit Mobil. Mr. Lemire asked how long Pier 1 was a tenant of the building. Mr. Goldman stated that they are no longer a tenant but he believes that they were there for 15/20 years and they never had a pylon sign.

Mr. Dudick asked if the variance was granted that if the applicant would then need approval from the owner of the mall sign. Mr. Goldman stated that it would not as the proposal would have the sign out of the easement area. Mr. Dudick asked if there is a shared driveway for the Pier 1 building and the 99. Mr. Goldman stated there was a shared driveway.

Mr. Myers stated that in conversation with the applicant, they are looking for a sign similar to the 99 sign. Mr. Goldman stated it would be 50 feet away from the 99 sign. Ms. McCoy asked if the sign would be similar to the 99 sign. Mr. Goldman stated it would be. Mr. Myers stated the applicant does have a right to a sign but due to past transactions there is already a sign on the property but it is not for the Pier 1 building and now they are asking for a variance to grant them the ability to install one. Mr. Myers stated that based on previous applications both properties were once owned by the same company which is no longer true. Mr. Lemire stated that when the mall was separated from the Pier 1 building the transaction must have stated that there were signage restrictions.

Mr. Lemire asked if there is a potential tenant for the building yet. Mr. Goldman stated there is not and being able to install a sign would be a significant part of whether a tenant would find the building desirable. Mr. Lemire stated that if the rights to the sign were given to the mall then it must have been paid for and thus not a hardship and self-created. Mr. Goldman stated he is unsure of this, only that there was an easement granted in the past for this sign.

Mr. Myers stated that this is a Type II action and no further SEQR is needed. Mr. Myers stated that the position of the sign is as far away from the as the applicant can make it. Mr. Myers stated that if the trees can be removed the sign can be moved further to the west and thus decrease the variance needed, and then the easement variance may not even be needed.

Mr. Dudick suggested attaching a smaller sign to the existing one; Mr. Goldman stated that they cannot due to the fact that they do not own the signage.

Mr. Dudick asked if there was anyone from the public that would like to speak. There being no public comments Mr. Dudick called to close the public hearing Ms. McCoy second. The motion was unanimously carried. The public hearing was closed.

Mr. Dudick verified with Mr. Myers that the original sign was approved in 2000 and Mr. Dudick stated that money exchange at the time seems unlikely as the owner of both properties were the same at that time, but believes it is a self-created hardship. Mr. Dudick stated that this is a unique part of the community and as the sign would seem out of place he does acknowledge that due to current market a sign would benefit the property.

Upon review of the County letter, the letter stated there are 2 variances requested and the meeting notifications does not, Mr. Myers stated that a sign within 50 feet of the existing sign was not on the public notification. Mr. Weiner stated the public notification will need to be revised and the applicant can come back on November 17th, 2020 meeting.

New Business:

An application from DCG Development Company requests variances from Section 208-98 as a result of a proposed subdivision from an existing parcel. Three new lots are being proposed. 1. Lot 1 will be a vacant parcel requiring a lot width variance. 200' width required, 145.5' proposed, 54.5' variance required. 2. Lot 2 will require a width and setback variance. 200' width required, 146.8' proposed, 53.92' variance required. 100' from center line of Route 146A required, 52.9' available, 47.1' variance required. Property is located at 750 Route 146A, Clifton Park, NY 12065. (Permit #81268)

Applicant:

Joe Dannible – EDP – Mr. Dannible stated that the variances that are being brought to the board tonight are for Mr. Donald Green. He stated that the subdivision has been brought to the Planning Board. He stated that Planning Board has had conversations about the breakup of this parcel and its joining to other parcels but the Planning Board has had no issues with this, but all respective town officials have reviewed this and all have found this within town codes. Mr. Dannible stated that the variance for the width variance on Lot 2 is no longer needed and is comfortable making sure the width meets code. Mr. Myers agreed that the variance is no longer needed. Mr. Dannible explained the variances needed for this application to the Zoning Board and stated that the existing home on the property will be remaining. Mr. Dannible stated that this is a natural progression of the area and that the owner of the land wants to keep the land to the north undeveloped.

Board:

Mr. Lemire asked the applicant if this was all one lot at one time. Mr. Dannible stated that he does not know but Mr. Greene did buy them separately.

Mr. Weiner stated that there is a lot line going through a building. Mr. Dannible stated that some of the buildings will be removed and this is one of them.

Mr. Lemire asked what the original parcels were. Mr. Dannible showed on his map shown to the Board what was is being separated from the others. Mr. Lemire asked why there needs to be a variance for the existing home. Mr. Dannible stated the lot is smaller in width than code requires. Mr. Dannible stated that there will be 2 building lots created and then the third lot will be merged

with an existing open lot that will be protected and restricted. He stated that the third lot will not be eligible for deed restriction because it is not eligible to be built on with it being merged with the existing open space area. Mr. Lemire stated that buildable lots would be 1 and 2 and that the back land or lot 3 would be donated to the restricted lot to the rear and Mr. Green would like to keep.

Mr. Dudick asked why the applicant isn't moving the original lands to the others to make the required with and make 3 acre lots. Mr. Dannible stated that the land owner wants to keep lands open for him and green space.

Mr. Myers stated that everything that is being proposed has been reviewed and is within the town requirements. Mr. Myers stated each home would have .75 acres.

Mr. Lemire stated that he has concerns about 10 years down the road and the land is sold but now has been merged with the 45 acres and counted as green space twice. Mr. Dannible stated this cannot happen as there are papers to be filed with the town depicting the separation.

Mr. Myers stated that this is a Type II action and there is no further SEQR is required.

Mr. Dudick stated that he has a letter from the County and it states there is no community or county wide impact.

Mr. Dudick asked if there was anyone from the public that would like to speak. There being no public comments Mr. Dudick called to close the public hearing Ms. McCoy second. The motion was unanimously carried. The public hearing was closed.

Mr. Klimes moved, second by Ms. McCoy, to approve a 54.5' width variance for Lot 1 and for a 47.1' center line setback variance for Lot 2. The property is located at 750 Route 146A, Clifton Park, NY 12065.

Mr. Weiner read for Mr. Klimes the Area Variance Criteria, Mr. Klimes answered in favor to all 5 criteria.

The Secretary called the Vote:

Ayes: 6

Noes: 0

The motions to grant the modified variance required for this project have been approved.

The chairman made a motion to approve the minutes from the September 9th, 2020 meeting. All who were present at the September 9th, 2020 meeting voted in favor and the meeting minutes were approved.

The chairman made a motion to approve the minutes from the October 6th, 2020 meeting. All who were present at the October 6th, 2020 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Gifford second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:25 p.m.

The next scheduled ZBA meeting will be held on November 17th, 2020.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals