

Town of Clifton Park Zoning Board of Appeals

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CLIFTON PARK
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Zoning Board of Appeals

November 17th, 2020

Present: Chairman Michael Dudick, Jerry Cifor, Mario Fantini, John Klimes, Christopher Lemire, Lisa McCoy

Absent: Randy Gifford, YiFengWang (alternate)

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.

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 538 Vischer Ferry Road, Clifton Park, NY 12065 (Permit #81261)

Applicant:

Dave Pentowski – Attorney representing applicant – Mr. Pentowski stated he is here representing the applicant today. He stated that this site is currently an auto repair shop and that the applicant has tried to run it as such but has not had success. Mr. Pentowski stated that when the applicant took over the property it was left a mess and that he cleaned it up and that the old business owner took existing customers with them to another business. Mr. Pentowski said that he has financial for this year for the Board and that the business is -\$24,000 at the current time after an SBA loan for \$28,000. Mr. Pentowski stated the competition with larger companies they don't feel they will succeed with only 3 bays. He stated that they have thought about selling with the same use but there was no interest. Mr. Pentowski said that the owner would like to continue running the repair shop but have 8 parking spaces in front and a few in the rear for car rental. He stated that he feels this is a much cleaner use than a repair shop as people will be taking and returning cars to the site and they feel there is enough room on the site to support the rental business. Mr. Pentowski stated that they feel that without the rental on the property revenue will not generate. Mr. Pentowski stated that he feels this is not an unreasonable request and that this hardship is through no fault of the owner.

Board:

Mr. Cifor asked how much of the -\$24,000 is COVID related and if there are any other financial statements from previous years. Mr. Pentowski stated that no he does not, but the loan was in June and they are still in the red.

Ms. McCoy asked when the property was purchased Mr. Mohammed Ajzal – property owner – stated it was purchased in January 2018 as a partnership, after 3 months March 2018, of partnership with prior owner the previous owner decided to close stating that there were owed back taxes that could not be paid. Mr. Ajzal stated that he paid \$30,000 to open the business back up in February of 2019 when he made a negotiation with the state and they reinstated their business license. In September 2019 Mr. Ajzal stated that he was the sole owner and operating the business.

Mr. Dudick stated that Mr. Ajzal was able to run his business for 6 months before the pandemic hit. Mr. Ajzal stated that he had to clean up the property in that time and that business was slow. Due to this Mr. Ajzal stated that he could not pay the mortgage for 4 months and then took out the loan in June of 2020. Mr. Ajzal stated that he had looked into selling the property and business but the value was not there.

Mr. Dudick asked if Stewarts was interested in the property during that time. Mr. Ajzal stated that he had heard they were but he was not approached and he believes it was due to an electric line dividing the properties. Mr. Dudick asked if a realtor was used to look to sell the property. Mr. Ajzal stated that there is no value to the business only the property, and the price he was given he thought it was not worth it.

Ms. McCoy asked if they would be renting U-Haul's or cars as she knows U-Haul's have been rented before. Mr. Ajzal stated no big trucks and no U-Haul's, only rental cars. Mr. Myers stated that there is no use difference in renting U-Haul's or cars; they were selling cars and U-Haul rentals without town approval.

Mr. Klimes asked the applicant how this will help bring back the business to profitable and how they can show the Board it will. Mansoor Siddiqui – partner to Mr. Ajzal with the rental car business – stated that 8-10 rental cars will help support the business and that they can start renting cars when the application is submitted and the state gave them permission. Mr. Siddiqui stated that the business is separate from the repair shop and is called EZ Way Transit Car Rental. He also stated that the rental business has brought in about \$15,000 since the end of August beginning of September and has brought in money for the repair shop for maintenance of the rental vehicles. Mr. Myers stated that the state can issue licenses and never check on local zoning for allowable uses.

Mr. Dudick stated that he received a letter from the Saratoga County Planning Department stating there is no County wide or community impact. He stated they also noted in their letter that they have concerns with the amount of space for parking and that the parking is not delineated. Mr. Pentowski stated they have a layout and it was handed out to all in attendance.

Mr. Dudick asked how many parking spots can fit on the property with backing up and turn around taken into account. Mr. Ajzal stated that he can fit 50 vehicles and he only wants 8 spaces for the rental vehicles. Mr. Dudick asked if there was a site plan to delineate the parking spots with 18' long for parking and 9' wide for parking. Mr. Pentowski stated that the parking spaces on the map given out to the Board members are 16'x8'. Mr. Dudick asked what was being stored in the containers behind the building. Mr. Ajzal stated nothing is in the barrels, they are empty containers and they stack them.

Mr. Lemire arrived to the meeting. 7:30p.m.

Ms. McCoy asked the applicant if there were any financial statements from 2018 that shows what happened with the business after the partnership. Mr. Ajzal stated that he does not have them and that his prior partner never told him that there was money owed to the state. Mr. Ajzal stated that he tried to fix the issue and that he currently feels stuck in a situation as he is not a mechanic and was a silent partner. Mr. Ajzal stated that he also has a taxi company that runs out of the Syracuse area. Ms. McCoy verified with the applicant that he bought the business for \$400,000. Mr. Ajzal stated it was not the business but the property, the business had no value and he did not want to lose the property. Ms. McCoy stated that it needs to be proven that the hardship is due to the use on the land, and this does not seem to be validated. Ms. McCoy asked that applicant about the revenue for the rental car business and if it is reflected on the 2020 financial statement. Mr. Ajzal stated that the rental car company is a separate business.

Ms. McCoy asked for the potential revenue for the rental business. Mr. Siddiqui stated that the maintenance work on the vehicles generate money for the repair shop but it generated \$10,000-\$12,000 for the approximate first 40 days for its own company. Mr. Klimes asked at that time how many cars were being rented. Mr. Siddiqui stated 6/7 vehicles.

Mr. Dudick asked the applicant how many businesses are being run on the property. Mr. Ajzal stated he owns the property and the taxi company that is operating in Syracuse County; he also owns in partnership with Mr. Siddiqui the car rental company, and the repair shop that is owned by his son. Mr. Ajzal stated that the taxi company is not associated with the repair shop. He stated that the taxis are not stored at the facility but the taxis are repaired by the repair shop and

dispatched from the site via the phone. Mr. Ajzal stated that the three companies pay the mortgage as their rent.

Mr. Klimes clarified that the car rental company is paying the rent partially. So per rental car is \$1,000 a month, and out of that, how much is each car paying towards the rent. Mr. Ajzal stated that the total rent paid from the rental company to the repair shop for mortgage is \$1,000 per month.

Ms. McCoy asked which company is claiming the hardship as it is a confusing situation. Mr. Ajzal stated that the taxi company and the rental car company pay a portion of the mortgage for rent and that the Repair shop also fixes and maintains the vehicles for the 2 business that also help generate income. . Mr. Dudick asked if there was a lease for the car rental company or the taxi company. Mr. Ajzal stated there was not. Mr. Ajzal stated that the taxi business is run off of his phone not necessarily the property, and that he can run the taxi business from anywhere.

Mr. Myers stated that for all 3 businesses running out of the property is a tenancy concern and needs to be worked out as well as he had no knowledge of the rental company already operating or the taxi company. Mr. Myers stated that this is a Type II action and no further SEQRA is needed. Mr. Myers stated that this property is in a B3 zone and is visible as you enter the town. Mr. Myers stated that the repair shop has been there for a long time but he is not sure that the use is going to be efficient. Mr. Myers stated that he fears the property is small and will become overcrowded again and that the town will keep watch. Mr. Myers stated that he does have concerns with the property as it is visible from the entry to the town. Mr. Myers stated that he would like the barrels cleaned up and the property maintained due to its visibility.

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. Cifor second. The motion was unanimously carried. The public hearing was closed.

Mr. Dudick stated that the applicant has started the business before the start of the pandemic and to rewrite zoning codes and laws does not seem right. Mr. Dudick stated that he feels there is not enough support for him to be in favor of the variance. Mr. Klimes asked the applicant for tax purposes where the taxi company's office address is. Mr. Ajzal stated that it is on the property of the repair shop. Mr. Klimes stated that he feels then the business is on the property. Mr. Dudick stated that he understands there are 3 businesses on the property and the mortgage cannot be met and this does not seem to meet criteria for the variance. Mr. Pentowski stated that this is a hardship due to the pandemic as well. He stated that if the shop does not survive the son cannot pay the mortgage. Mr. Fantini stated the businesses are either profitable or not, and in the past the business was successful, this one is not. Mr. Cifor stated that he feels the zoning regulations should not change due to the pandemic.

Mr. Dudick informed the applicant that he would need 4 out of 5 votes from the Board to approve the application. Mr. Dudick stated that he was not comfortable with voting in favor of this application.

Mr. Ajzal and Mr. Pentowski agreed that they would like to withdraw the application at this time. Mr. Dudick stated that they can withdraw without prejudice. Mr. Pentowski stated that they would like to withdraw the use variance.

Old Business:

Mr. Dudick announced that Mr. Lemire will be a voting member at this time. This application will have 6 members voting.

An application from CCM Pad Partners, LLP requests a variance from Chapter 171, Table 1 which allows one freestanding sign per parcel. A freestanding sign for Clifton Park Center exists. Applicant requests a second freestanding sign for a future business on the parcel. Applicant requests a variance from Section 171-6B(1) which requires 50' between freestanding signs. 21' proposal, 29' variance required. Property is located at 304 Clifton Park Center Road, Clifton Park, NY 12065. (Permit #81266)

Applicant:

Paul Goldman – Attorney representing applicant – Mr. Goldman stated that at the previous meeting there was an error in the advertisement. Mr. Goldman stated that the Board has a map of the area in the application with a proposal for a sign in the northeast corner. Due to an existing sign and an easement it is hard to find a spot for the proposed sign. Mr. Goldman stated he did review the property history and stated there was no consideration given at the time of the sale and it was self-created when the mall was sold to GE and the and the Pier 1 building has a separate owner now. Mr. Goldman showed on a map to the Board a specific highlighted area as to where the sign is proposed to go if approved. Mr. Goldman stated they are trying to work things out and get relief from the adjacent owner for the easement and if that is worked out then then only one variance will be utilized.

Board:

Mr. Myers stated that this is a Type II action and that no further SEQR is needed. Mr. Myers stated that there is a limited area where the sign can go but if the applicant can get relief from the Mobile business then the 29' variance would go away.

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. Lemire second. The motion was unanimously carried. The public hearing was closed.

Mr. Dudick moved, second by Mr. Fantini, to approve the application for CCM Pad Partners, LLC, located at 304 Clifton Park Center Road, Clifton Park, NY 12065.

Mr. Dudick read the Area Variance Criteria, Mr. Dudick answered in favor to all 5 criteria.

The Secretary called the Vote:

Ayes: 6

Noes: 0

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

The chairman made a motion to approve the minutes from the October 20th, 2020 meeting. All who were present at the October 20th, 2020 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Klimes second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:20 p.m.

The next scheduled ZBA meeting will be held on December 1st, 2020.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals