

Town of Clifton Park Zoning Board of Appeals

One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6054
FAX (518) 371-1136

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Zoning Board of Appeals

June 1st, 2021

Present: Chairman Michael Dudick, Jerry Cifor, Randy Gifford, John Klimes, Lisa McCoy, YiFengWang (alternate)

Absent: Mario Fantini, Christopher Lemire

Also Present: 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 tonight.

Mr. Dudick told the applicants that per Town Code that the applicants would need 4 out of 6 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 6 voting members of the Board here tonight, so that 4 members need to vote in favor tonight to grant the variances. He asked the applicants if they would like to come back at a later date or if they would like to proceed knowing the Board tonight needs to vote in favor of the application with all 4 votes.

The applicants stated they would like to continue tonight knowing 4 out of 6 votes need to be in favor of the application tonight.

Old Business:

None

New Business:

1. *An application from Derek Loomis requests a variance from Section 208-12A which requires 80' setback from front property line for accessory structures. Property is corner lot. Proposed shed to be 11' from property line, 69' variance required. Property is located at 17 Nottingham Way South, Clifton Park, NY 12065. (Permit #81284)*

Applicant:

Mr. Derek Loomis, property owner, stated that he would like to build a custom shed on his property. He stated that the shed would be 14'x10' and would match the exterior of the house on the property. Mr. Loomis stated that there is a stone wall on the property and due to this as well as his property is a corner lot with 2 fronts he only has one area to place the shed. He stated that the shed would be about 25 feet off the curb.

Public:

No public comment.

There being no public comments Mr. Dudick moved, second by Ms. McCoy to close the public hearing at 7:06p.m.

Board:

Mr. Gifford asked if the shed would be going next to the existing gazebo. Mr. Loomis stated that it would go near the gazebo.

Mr. Cifor asked if there is fencing on the property. Mr. Loomis stated that there is lattice fencing with vine growing on it so it will not be visible from the road and that on the other side of the property there are bushes along the road.

Mr. Klimes asked the applicant why the shed could not go to the right of the rear of the home. Mr. Loomis stated that if it were placed to the right of the home it would be close to his neighbors. Mr. Klimes asked if there was a fence there. Mr. Loomis answered that there is no fence but there are bushes.

Mr. Myers stated that this is a Type II action and that no further SEQR is required. Mr. Myers stated that this is a typical problem with corner lots. He stated that he does not have issues with the application and that the shed in any other place on the property would not work.

acres be a loophole. Mr. Weiner stated that this is for the benefit of the animal. Mr. Miller stated that it in fact does only take 1 acre to keep a horse alive. He stated that he feels there is more the Anna's story and that she is a smart beautiful girl and since the horse has been bough to the property she has changed for the better. He stated that moving with kids is not easy and this makes it better. He stated that there are dogs on the property as well but he notices it does not compare to how she interacts with Peaches.

Board:

Mr. Cifor asked the applicant if he intends to replace the support animals of one horse and 4 hens once they have passed. Mr. Frazier stated that they do not intend to replace the animals they are to help his daughter in a tough time in her life. He stated that the horse, Peaches, is older and may only have a few years left.

Mr. Weiner asked where the neighbor lived in relation to the applicant that had a complaint. Ms. Tanya Frazier (spouse, property owner) stated that he lived down the road and across the street from his property, and the property is pending sale at this time.

Mr. Dudick asked about the applicant's daughter and her illness. Mr. Frazier stated that she was born in Japan and as a newborn had gotten a virus that impacted her brain. He described the medical challenges and diagnosis to Mr. Dudick as well as schooling challenges. Mr. Dudick asked how the determination was made that the animals benefit the child. Ms. Frazier stated that the chickens were purchased to help her daughter in summer of 2020 and the horse came from out of state with them. Mr. Dudick asked how the animals helped if the daughter was still have increased mental health issues. Ms. Frazier stated that Peaches was not on the property when the increase anxiety occurred. Ms. Frazier stated that she has spoken to her daughter bout getting rid of the chickens if the Board was willing to work with them. Mr. Dudick asked why Peaches was chosen over a cat or dog. Ms. Frazier stated that her daughter had so many troubles that she was willing to do anything to help her daughter and this is what helped. She stated that Hannah (Ms. Frazier's daughter) has improved since Peaches was brought home. Ms. Frazier stated that they had cats and dogs prior but they did not have the same benefits as the horse does. Ms. Frazier stated that since the horse has been removed from the stable and brought back to the home they have seen great improvements in Hannah. Mr. Dudick asked how the horse has enough room to thrive as they need to look at the best interest of the horse as well. Ms. Frazier stated that horses only need 1 acre of land and that at the boarding facility they are turned out less than on her property.

Ms. McCoy asked if there is a barn on the property for Peaches. Ms. Frazier stated that they have a barn for the horse on the property.

Mr. Klimes asked if there could be a sunset clause for the life of the horse. Mr. Weiner stated that he is looking into this as the clause has to relate to the land not the person or animal. Mr. Klimes stated that this is the challenge as if this was approved another owner of the property years from now could put a horse on the property. Mr. Klimes asked if there are trees on the property and if so in 20 years the trees would be too big to house a large animal.

Mr. Cifor asked why there can be a temporary easement can be granted but not a variance. Mr. Weiner stated that zoning variance runs with the land.

Mr. Weiner asked if the horse is confirmed by a licensed clinical provider. Ms. Frazier stated that they are and she has the paperwork. Mr. Weiner stated that he has asked Mr. Myers to adjourn the hearing so that Mr. Weiner has more time to look into the sunset provision or if there are any other outlets that can be explored. He stated that he thinks an 80% variance is substantial and seems problematic. Mr. Weiner asked if there was a corral that extended to the neighbor's yard. Mr. Frazier stated it does not, but the neighbor stated they would let them. Mr. Dudick stated that if the neighbor would grant an easement it would lessen the variance. Mr. Weiner stated that the easement could be timed whereas the variance could not. He stated that it needs to be filed and recording fees would result and stated he recommends them finding an attorney to help with this and do some research on behalf of the applicants as well as Mr. Weiner doing some, and it may be costly, but may be an option for the applicant to look into until the July meeting but maybe not move forward until they come back to the ZBA for him to look more into this more. Mr. Myers asked if the land can be borrowed from the neighbors for an easement to avoid a variance. Mr. Weiner stated he would look into this as well. Mr. Weiner asked if when they moved from North Carolina if they looked at other homes. Mr. Frazier stated that they moved into his parents' home.

Mr. Dudick asked if the chickens are necessary. Ms. Frazier stated that they would be willing to remove the chickens to keep the horse.

Ms. McCoy asked if there is a use variance with this. Mr. Myers stated that this is only an area variance. Ms. McCoy stated to the applicant the reasons why she was asking and the complications that may arise with a use variance.

Mr. Weiner asked how the applicant does manure removal. Mr. Frazier stated that he digs a hole and buries it in the back yard and he cleans up after the horse three times per day.

Mr. Cifor and Mr. Wang agreed that if the variance could be decreased by bringing the neighbors together it would help with the application.

Mr. and Mrs. Frazier agreed to adjourn the application until the July meeting.

3. *An application from Stormy View Stables, LLC requests a variance from Section 208-12A. 80' required, 30' proposed, 50' variance required. Property is located at 427 Schaubert Road, Ballston Lake, NY 12019. (Permit #81286)*

Applicant:

Lois New, applicant, stated that she operates a small boarding and breeding facility since 2009. She stated that she composts manure and is an active member in the local farming community. Ms. New stated that the business is in need for additional storage for hay as well as other large pieces of equipment for the farm. She stated that the facility for storage now is deteriorating and unsafe for hay storage and is causing more damage to equipment. She stated that help to find help to put hay in the areas needed now is challenging. Ms. New stated that some other difficulties are the freezing of equipment and difficulty moving hay. Ms. New stated that she has worked with Agriculture and Market to come to this plan on Hubbs Road. She stated that she would like to put an additional structure about 120' by 30' and would have a 90 foot setback from

Hubbs Road and Schaubert Road which accommodates previous comments by the Zoning Board. She stated that there would be no concerns with line of site at road intersections where they would like to put this building and that it is 30' shorter and 12' narrower than the last discussion. Ms. New stated that there is already a 35' variance in place and the northeastern part of the proposal falls into this variance, however they would need 5' of an additional variance for the northwest corner. She stated that she has had a 305A review by Ag. And Market with a letter stating the proposal was considered and meeting requirements for buildings as well as a map with the proposal. Ms. New stated that she feels there is no other way to construct what they need and it would only add neatness to the property.

Public:

Gary Jensen – employee – Mr. Jensen stated that if the buildings would be connected the snow would fall off the roof right to the entrance of the new building

Tony Papa – neighbor – Mr. Papa stated that he lives next door and that the property is well kept with no smells and supports the application.

There being no further public comments Mr. Dudick moved, second by Mr. Cifor to close the public hearing at 8:58p.m.

Board:

Mr. Klimes stated that the last time it was discussed pushing the building back and if the previously granted building. Mr. Myers stated that the buildings requirements are the same for the buildings and the variance is previously granted are for the main building. Mr. Klimes asked the applicant why there would not be a building in a certain area of the parcel. Ms. New stated that the area he questioned is to the rear of the property and is difficult to get to in the winter with snow and the trailers could not make the turns around the existing fencing and gates. Mr. Klimes asked if the structure would be for hay and machinery only. Ms. New stated it would only be used for hay and machinery.

Mr. Dudick referred to the map with the proposal on it and asked what the hash line indicated. Ms. New stated that the hash is where the building ends and the rest is for open space for equipment turnaround. Mr., Dudick asked how many horses and trailers are on the property. Ms. New stated that the property is 7 acres, has 10 horses, which are what the land is approved for, 2 trailers, and a utility trailer. Mr. Dudick clarified that this is less than what has been previously requested.

Mr. Myers stated that Mr. Tom McCarthy who spoke with Ag and Market and stated that they found no issues with the proposal and stated that it is a required building for this facility. He stated that the County got back to him and they have no concerns as well as Ms. Jen Viggiani from the Open Space and Trails Committee. Mr. Myers stated that the ECC is due to review the application. Mr. Myers stated that this variance they are asking for is separate from the previously granted main building variance and the placement is a concern. Mr. Myers stated the application is a Type II action and that no further SEQR is required.

Ms. McCoy clarified that the neighbors had an issue with the previous application.

Mr. Klimes asked if the existing building could be expanded. Mr. Myers stated it could not be as it is nonconforming. Ms. New stated that neighbors on Hubbs Road signed a letter in support of the new building that were submitted previously but not taken into account due to signatures not on the same page as the date. Mr. Klimes asked if this is a significant reduction from the previous application. Mr. Myers stated that the building size has changed but so has the location.

Mr. Cifor asked why the building could not have an extension on it so it would not be considered an accessory. Ms. New stated that an extension would not allow for the horse trailer to fit in.

Mr. Dudick asked why there is a 10 foot space between the buildings. Mr. Myers stated that it is due to fire code.

Mr. Cifor moved, second by Mr. Klimes, to approve a 50' variance. The property is located at 427 Schauber Road, Ballston Lake, NY 12019.

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

The Secretary called the Vote:

Ayes: 6

Noes: 0

The chairman made a motion to approve the minutes from the May 18th, 2021 meeting. All who were present at the May 18th, 2021 meeting voted in favor and the meeting minutes were approved.

Mr. Gifford, made a motion to adjourn the meeting, Klimes second, all voted in favor and approval was unanimous. The meeting was adjourned at 9:06 p.m.

The next scheduled ZBA meeting will be held on June 15th, 2021.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals