

## 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 15<sup>th</sup>, 2021

**Present:** Chairman Michael Dudick, Christopher Lemire, Randy Gifford, Mario Fantini,  
John Klimes

**Absent:** Jerry Cifor, Lisa McCoy, YiFeng Wang (alternate)

**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 he would be recusing from the first agenda item due to conflict of interest.

Mr. Dudick stated that in his absence for the first item, Mr. Lemire would be leading the hearing.

**Old Business:**

*An application from AJ Signs requests a variance from Chapter 171, Table 1 combined with previously approved Variance #80274 which granted an additional 213 sf to freestanding sign. Applicant requests an additional 84 sf variance for a total of 447 sf. Applicant also needs a variance from Section 171-4H(1) for each new proposed sign since off premises signs are not allowed. Property is located at 304 Clifton Park Center Road, Clifton Park, NY 12065 (Permit #81287)*

**Applicant:**

Jacqueline Murray – DCG Development – Ms. Murray stated that Mr. Tom Wheeler is also here from AJ Signs and Mr. Donald McElroy from DCG is here as well. Ms. Murray stated that tonight she is looking for a variance so that 2 panel signs may be able to be installed to the existing sign fronting Route 146 similar to the existing ones on it for Regal Cinemas and Boscov's. She stated that the signs would go under these two existing signs and there would be no ground disturbance to the area and there will not be any height added to the existing sign. She stated that she feels this is straight forward. Ms. Murray stated that they would be 2 panel signs under the existing ones. She stated that in 2000 there was a sign variance granted with no conditions to that variance or related to future variance. The variance was for 362.75 square feet. She stated that on the plans it states that there are an additional 84 square feet would be added to this. She stated that the variance is for 42.75 square feet due to the square footage from the previous variance. Ms. Murray stated that the total square foot of the sign with this variance, if approved, would be 405.25 square feet. She stated that this would not present any visual obstruction to travelers on Route 146. She stated that the signs would be for Homewood Suites and the Hilton Garden as they are not visible from Route 146. She stated that when the Town Center Plan was put into place that these hotels were placed here. She stated that there could be confusion for travelers going the wrong way and not being able to find them readily and that the signs would help direct traffic to the hotels. Ms. Murray stated that the variance request does meet all the criteria for the Town Code and traditional variances. Ms. Murray stated that the variance is not a detriment to other properties as they do not have low overhangs, the variance does not create a hazard or nuisance as DCG is planning to use the existing sign. She stated that it does not interfere with any public land or highway and would be helpful to direct unfamiliar travelers and that the sign will be in harmony with the sign code as they will be using an existing sign to add the requested signage. She stated that it would not interfere with open space either and would be compatible with the existing sign. Ms. Murray stated that each panel would be 4' long so it would not be bulky and that this variance is less than others that were granted in the area such as the Shoppers World sign.

**Public:**

No public comment.

There being no public comment, Mr. Lemire moved, second by Mr. Fantini to close the public hearing at 7:20 p.m.

**Board:**

Mr. Klimes asked if there would be a height change to the existing sign and if this could be a contingency for this. Ms. Murray stated there would not be a change to the existing height; the signage would go under the Boscov's and Regal signage and the condition would be fine.

Mr. Lemire stated that the drawing was done by AJ Signs but the customer is DCG and he asked if they are the owner of the property. Ms. Murray stated that DCG is the owner of the sign and that there is an easement for the sign to be in the current location.

Mr. Lemire asked about the 2011 variance that was granted and the fact that wall signs were granted with the elimination of a monument sign. Mr. McElroy stated that back in 2011 the Hilton was developed and had predated the Town Center Code. He stated that the Hilton was allowed 2 wall signs and a monument sign. He stated that they were granted 3 wall signs but had to decrease the size of the signs. Mr. McElroy stated that due to the pandemic the hotel has seen dramatic losses with occupancy dropping to 30% and this has hurt the business. He stated that he has seen other variances granted for larger signs with smaller properties and that they want to solve problems with visibility. He stated that he has received calls from management of the hotels that they have customers calling having a hard time finding the facilities. Mr. Lemire stated the Notice of Decision stated that the owner waived the right to a pylon sign on the property. Mr. McElroy stated that the monument sign would be on Clifton Country Road and not on Route 146 as to be on the same property. Mr. Lemire asked if the hotel is on its own piece of property. Mr. McElroy stated that they are. Mr. Lemire asked if the monument sign would be on the same piece of property. Mr. McElroy stated it is and that they waived the monument sign for being on that property. Mr. Lemire asked if there would be an off premises sign since the hotel is on its own land. Ms. Murray stated it is the second half of the variance that is being heard tonight. Mr. Lemire asked how many tenants the mall has and how they would keep them from requesting their own. Mr. McElroy stated that they have about 50 and that they were told that they would not approve any additional signs for the tenants other than the digital sign. Mr. McElroy stated that the digital sign is for the tenants and advertise sales as well.

Mr. Klimes stated that trees in the area are growing and at what point will the signs be blocked by the trees. Mr. McElroy stated that he believes the trees in that area have been removed by the property owner. Mr. Klimes asked why the digital sign cannot be used for the hotels as well as the tenants of the mall. Mr. McElroy stated that it is on a 7 second rotation and patrons are not always passing at the right time for them to see. Ms. Murray stated that the digital is for mostly locals but the block signs are for out of town patrons. Mr. Klimes stated that studies have shown that digital signs are more looked. Mr. McElroy stated that patrons need to see these hotels on a consistent basis.

Mr. Lemire stated that for the next meeting the Board needs a form stating that Ms. Murray is authorized to speak for the application.

Mr. Lemire told the applicant that per Town Code that the applicant would need 4 out of 4 of the Board members to vote in favor of the application to pass. He let the applicant know that there are only 4 voting members of the Board here tonight, so that all 4 members need to vote in favor tonight to grant the variances. He asked the applicant 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 table the application until the next meeting in hopes of better Board attendance.

**New Business:**

*An application from Katie Alessi requests a variance from Section 208-12A for an accessory structure setback in an R-1 zone. Pool installed at 57' from property line, 80' required, 23' variance required. Property is located at 2 Midland Court, Clifton Park, NY 12065 (Permit #81290)*

Mr. Dudick returned to the meeting.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 5 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 5 voting members of the Board here tonight, so that 4 members need to vote in favor tonight to grant the variances. He asked the applicant 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 4 votes.

The applicants stated they would like continue with the application knowing that they would need 4 out of 5 votes in their favor.

**Applicant:**

Katie Alessi – property owner – Ms. Alessi stated that she lives in the Clifton Knolls and last fall she had ordered a pool to be installed at her home. She stated that the pool company never followed up with her and the manufacturer called her and installed the pool. She stated that as the pool was being installed she looked up to see if she needed a permit for it. She called the town for the permit but it was after the pool had been installed. She stated that her home is on a court and that her backyard is thin and wooded. She stated that the side yard was the only option to put the pool and it to keep it from being visible from the roadway. Ms. Alessi stated that she has a fence up for privacy. She handed out pictures for the Board members to see.

**Public:**

No public comment.

There being no public comment, Mr. Dudick moved, second by Mr. Gifford to close the public hearing at 7:40 p.m.

**Board:**

Mr. Dudick asked when the pool was installed and what company she used. Ms. Alessi stated that it was purchased by Casual Living Pool and installed by Paramutual Pool at the end of April and that she has had no problems with the company. Mr. Dudick asked Mr. Myers if Casual Living Pools has had any issues with the Town. Mr. Myers stated that he has not.

Mr. Myers stated that this is a Type II action and that no further SEQR is needed. He stated that 57' is accurate measurement as he went to the property himself and that he feels that the applicant didn't have any other choice for placement. Mr. Myers stated that he has no issues with this and stated that the applicants didn't know they needed a permit for the pool or a variance before installing.

Mr. Dudick stated that per the picture this does not look to be a problem. Mr. Dudick asked if the neighbor have any issues with the pool. Ms. Alessi stated that the neighbor do not and that he is sorry that she has to go through this. Mr. Dudick asked how far the pool was away from the fence. Ms. Alessi stated it is 10 feet and that they have 2 dogs and moved the fence in from the property line to give neighbors room.

Mr. Klimes moved, second by Mr. Mr. Fantini, to approve an accessory structure variance. The property is located at 2 Midland Court, Clifton Park, NY 12065.

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

The Secretary called the Vote:

**Ayes: 5**

**Noes: 0**

The chairman made a motion to approve the minutes from the June 1<sup>st</sup>, 2021 meeting. All who were present at the June 1<sup>st</sup>, 2021 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 7:41 p.m.

The next scheduled ZBA meeting will be held on July 20<sup>th</sup>, 2021.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals