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Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

January 3rd, 2023

Present: Chairman Michael Dudick , Mario Fantini, John Klimes, Lisa McCoy, Scott Styles (alternate)

Absent: Christopher Lemire

Also Present: Scott Reese, Director, Zoning Administrator
Paula Cooper, Secretary
Neil Weiner Esq., Attorney

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 Mr. Styles would be a full voting member tonight for the vacant Board seat.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 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 of the 5 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 at least 4 votes.

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

Old Business:

An application from Whitney Lane Holdings, LLC has proposed installing an animated sign located at 1208 Route 146. Applicant requests a sign variance from Chapter 171-4H.(3)(n.) to replace a freestanding sign with a freestanding sign with an animated reader board. Variance requested to put an animated sign in a prohibited zone. Property is located at 1208 NY Route 146, Clifton Park, NY 12065 (Permit #81343).

Applicant:

Stephanie Berdard stated that she was here in Novemebr and presented a reader board for Board consideration. She stated that there was a discussion about a sign variance and that it was tabled. Ms. Berdard stated that this sign variance is for a plaza that sits back from the roadway 700 feet and that the building is lower than the road so this is a disadvantage for the owner. Ms. Berdard stated that the owner has struggled with occupancy in the past and this is in the PDD zone and B-3 variance is needed for the signage requested. She stated that this building was originally built for an RV dealer where the product was displayed in the parking area so there was not as much need for signage. She stated that the existing sign has a digital feature and is seeking relief from 171-4-HN so that they can redo the sign. Ms. Berdard red thru the criteria and stated that the new sign would not be a detriment or interfere with traffic patterns, She stated that this sign would fit in with the character of the area because there are digital signs in the area such as a daycare, the Clifton Commons, Price Chopper, and the school. Ms. Berdard stated that this would allow tenants of the property to have visibility while not affecting the highway or be an obstruction. She stated that the location of the new proposed sign would be in the same place as the current one. Ms. Berdard stated that this would help with occupancy and stated that she submitted documentation to show tenancy troubles.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:39 p.m.

Board:

Mr. Fantini asked if a digital sign was permitted. Mr. Reese stated that there is a question of if this is a use or sign variance. He stated that per the code and chapter there are 4 guidelines to look at. He stated that while looking into the code there are code restrictions on signs and that he

spoke to Town Council and he agreed that this falls under Chapter 171-12 but also still falls under the 5 criteria for use. Mr. Reese stated that he did do further research and Glenville has a sign variance for their Town which falls within zones. Mr. Reese stated that schools and churches do not fall under the same restrictions and have unique considerations.

Mr. Fantini asked if a 1,000 sf sign is ok under the sign variance or if a sign and an area variance would be needed. Mr. Reese stated that they would only need one variance and that no revisions have been brought to the Board yet.

Mr. Dudick asked if the application would need a use variance. Mr. Reese stated it would not need a use or area variance, only a sign that they always had. Mr. Dudick stated that they have only reviewed use and area vacancies so this is new to the Board to review.

Ms. McCoy stated that they have never used the actual sign variance.

Mr. Dudick asked council if this was ok. Ms. Berdard read the Town Law. Mr. Weiner stated that what was read from Town Law is correct and it is ok to proceed with the review of the application. Mr. Dudick stated that houses of worship and schools are special and unique and different than commercial. He stated that they need to compare the commercial signage to commercial signage in the area so Shoppers World is in a different zoning area. Ms. Berdard stated that even though they are unique they are included in the character.

Mr. Weiner stated that 171-13 directs the Board to the most restrictive approval as a provision. He stated that they need to look at why there is a restriction in the area and why it is best for the community. He stated that this is an existing plaza where signs are allowed; just the type of sign is restricted. Mr. Weiner suggested the applicant look at conditions for the signage such as turning it off at a certain time. Mr. Reese stated that there are no scrolling, or flashing, but they could look at the minimum time of 8 seconds, and lumen restrictions as a guide to restrictions. Mr. Reese stated that a clock is not considered an animation

Mr. Fantini asked if this would follow guidelines for the sign variance. Mr. Weiner stated it would. Mr. Reese stated that the harmony of the Chapter needs to be followed as well and the questions for the variance need to be answered.

Mr. Klimes state that the Board needs to determine if this is harmony or hardship for the criteria.

Mr. Dudick stated that at the time Market 32 plaza was redone it had many variances but signage for animation even though this is very similar to this application. Ms. Berdard stated that this property is revitalizing the site not demolishing it and rebuilding like Market 32 did. Mr. Dudick stated that the Town wants this area to be a transition from residential to commercial and the Town's vision is what the goal is.

Mr. Fantini stated that that his concern with the variance is it being a nuisance due to flashing lights near the traffic circle and that it would become a distraction and draw attention away from other business in the area that are following code.

Mr. Dudick stated that he does not feel that it is setting precedence by having lights by a traffic circle as the circle by the casino in Schenectady has them. Ms. Berdard stated that if the sign remains on the same visual for an allotted amount of time then it is not flashing. Mr. Dudick

asked how long between sign changes the applicant is proposing. Ms. Berdard sate that she can go back and ask her client and see what would be best per minute or second.

Ms. Berdard stated that she is willing to waive the 62 day rule to allow for more time.

Mr. Dudick stated that he appreciates the applicant looking into specifics of the signage requested and that the Board is not looking for flashing on the signage. Mr. Klimes stated that the Board can appoint certain criteria for the applicant or future applicants to consider.

New Business:

An application from Robert Van Patten Jr. requests an area variance from Chapter 208-98 special setback lines on Elnora-Jonesville Road (Main Street). No building shall extend nearer to the center line of the street than 130 feet in a non-residential district. Proposed front yard setback for the building is 46 feet – variance requested - 84 feet. Property is located at 856 Main Street, Clifton Park, NY 12065 (Permit #81346).

Applicant:

Pat Jeroze stated that he is here tonight from Van Guilder, representing the applicant. He stated that the owner is proposing a home on the property that would be similar to existing homes around it. Mr. Jeroze stated that the lot, if the variance is not approved would not be a buildable lot. He stated that the lot had a home on it until the late 80's and the home was closer to the road than this proposal.

Public:

No public comment.

Mr. Dudick moved, second by Ms. McCoy to close the public hearing at 8:15 p.m.

Board:

Mr. Klimes if neighbors were notified. Mr. Reese stated that they were and there has been no response. Mr. Klimes asked if the home would have the same footprint as the old one. Mr. Jeroze stated that it would be set further back.

Mr. Dudick asked if this would be a single family home. Mr. Jeroze stated it would be either single family or a duplex and the lot is just under an acre of land.

Mr. Reese stated that this has been submitted to the Saratoga County Planning Board and there is no comment and that it has been forward to the Public Works and they stated that they would be interested in the easement and would like to see site distances in either direction.

Mr. Dudick stated that if approved he would like to see a deed restriction for the foliage indicated by the County to maintain sight distances on the roadway. He stated that this application is an unlisted action according to SEQRA.

Mr. Klimes asked why the applicant does not want to move the home further back. Mr. Jeroze stated that they were trying to fit in the neighborhood and in line with the other homes there. He stated that the variance is from the center line and that the County is not interested in expanding the road that he knows of. Mr. Dudick stated that the proposal does match up with the home on the land of Matthew O'Connor.

Mr. Dudick moved, second by Mr. Klimes, to approve the variance as requested. The property is located at 856 Main Street, Clifton Park, NY 12065.

Mr. Dudick read the Variance Criteria, Mr. Dudick answered in favor to all 4 criteria.

Conditions:

1. The established line of site shall be clear of all vegetation and no vegetation or structure exceeding 3 feet in height starting from the far-right northeast corner 30 feet south of the pin and extending from the south west corner 132 feet east and to the edge of the road.

The Secretary called the Vote:

Ayes: 5

Noes: 0

New Business:

*An application from **AJ Signs** requests a variance for a sign permit per town code Chapter 171-signs-Attachment 171c Chart II. The allowance wall sign area for a 6,000 sf, ground floor area is 30 sf – 56 sf proposed – 26 sf variance requested. Property is located at 19 Clifton Country Road, Clifton Park, NY 12065 (81347).*

Applicant:

Tom Wheeler – stated that the application is for a plaza that is set back from the road. He stated that the location is the old Olympia Sports. Mr. Wheeler stated that the letters would be illuminated and that the Petsmart and Bellini's signs that are there now are bigger than this application.

Public:

No public comment.

Mr. Fantini moved, second by Mr. Klimes to close the public hearing at 8:31 p.m.

Board:

Mr. Reese stated that each business has its own frontage. Mr. Reese stated that Olympia Sports was 7,000 sf and this is 6,000 sf. He stated that there is no review from Saratoga County and this is an Unlisted action so no further SEQRA is required.

Mr. Klimes stated that if this new signage is equal to or smaller than the original sign than this is not a concern for him. He stated that he feels this this is in good taste and fills the area.

Mr. Dudick stated that this is smaller than the previous sign so he has no concerns.

Mr. Styles moved, second by Mr. Dudick, to approve the variance as requested. The property is located at 19 Clifton Country Road, Clifton Park, NY 12065.

Mr. Mr. Styles read the Variance Criteria, Mr. Styles 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 December 6th, 2022 meeting. All who were present at the December 6th, 2022 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 8:38 p.m.

The next scheduled ZBA meeting will be held on February 7th, 2023.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals