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**Town of Clifton Park Zoning Board of Appeals**

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CLIFTON PARK  
TOWN CLERK



**Zoning Board of Appeals**

March 7<sup>th</sup>, 2023

**Present:** Chairman Michael Dudick, John Klimes, Lisa McCoy, Juliano Febo, Jensen Tate  
(alternate)

**Absent:** Christopher Lemire, Scott Styles, Chad Gregory

**Also Present:** Scott Reese, 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 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 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.

**Other:**

*Petition for re-hearing the matter the application of Robert Van Patten, Jr. (Permit#81346)*

**Mr. Phil Barrett, Town Supervisor** - 25 Shadow Wood Way, Ballston Lake – Mr. Barrett thanked the Zoning Board for all that they do for the Town. Mr. Barrett stated that this is his first time speaking before the Zoning Board of Appeals. He stated that he is here tonight to ask the Board to re-hear an application that was already approved. Mr. Barrett stated that the previously approved application was on Main Street in Jonesville, and that some of the new Board members may not be familiar with the application. He stated that the Town has strict rules of transparency if an employee with a project is asking for an approval. Mr. Barrett stated that this person has been addressed and told that if a Town employees is before a Board there needs to be full disclosure and that it needs to be made clear to the body making decisions that they are involved. Mr. Barrett stated that since this was not done he is asking for the application to be re-heard at a later date.

**Board:**

Mr. Weiner stated that the vote to re-hear needs to be unanimous for the ZBA and then the applicant can come back with full disclosure.

Mr. Reese showed a map of the application is in Elnora and stated that this was for a 130' required setback and that the applicant was granted a 48' setback from the center line.

Mr. Dudick asked if there was record of who from the ZBA had voted for the application approval. Ms. Cooper stated it is in the minutes that were present at the meeting. Mr. Dudick stated that he would like the site line to be kept and be clear as in the last meeting for this.

Mr. Febo asked who has heard the application before. Mr. Dudick stated everyone in attendance tonight but the two new members but whatever was said before can be read and will be caught up to date as it will be re-heard.

Mr. Dudick stated that he has concerns with who owns the property now as the applicant made a presentation with a representative; he stated that it may change the application because this could be considered a hardship. Mr. Dudick asked Mr. Pat Jarosz from Gil Van Guilder & Associates if the owner/applicant is still the same as when they approved the application. Mr. Jarosz confirmed that the owner/applicant is still the same as before, Mr. Van Patten and stated that no one would buy the property without the variance approval.

Mr. Dudick moved, second by Mr. Klimes, to re-hear the application on 856 Main Street.

The Secretary called the Vote:

**Ayes: 5**

**Noes: 0**

**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 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:**

Ms. Stephanie Bitters – Ms. Bitters stated that this application has been before the Board since the fall. She stated that the application includes Ocean State Job Lot and Cartwheels Gymnastics. She stated that the plaza is set to have a revitalization to draw more tenants and the objective is to get a freestanding sign with occupants on it and for it to change it to digital. Ms. Bitters stated that the main building sits 700' back from the roadway and there is down sloping, so the building is lower than the street. She stated that the Board has looked at a use variance and an area variance, but she is looking for a sign variance for the digital sign to incorporate all the tenants. She stated that the objective is not to distract traffic and has worked with Mr. Reese to draft a letter. Ms. Bitters stated that per Chapter 171 the sign will not cause a traffic hazard and it would not interfere with public lands or DOT. She stated that all setbacks are in place. Ms. Bitters stated that the sign keeps within character of the area as a church and a gas station nearby have digital signs as well. She stated that she feels there is no other way to help promote other tenants in the building. Ms. Bitters stated that this is a PDD and that there used to be an RV dealer at the location which was almost self-promoting. Ms. Bitters went over the stipulations that would help. Each line of text should be one color in order to limit visual distraction, images, symbols and pictures can be allowed with unlimited color pallets. There would be two-line message limits. No flashing, scrolling, or moving messages. Automatic light dimmers at .3-foot candles above ambient light. Night brightness must automatically be significantly lower than daytime. Messages can change but must follow Federal Guidelines no more than every seven seconds the message must fade in and out similar to Shopper's World. All messages shall be relative to the applicants property. Applicant will eliminate all other temporary signage and banners unless temporary signage permits have been obtained. Applicant agrees to post emergency messages from the town in a timely manner upon their request.

**Public:**

Public hearing closed at prior meeting.

**Board:**

Mr. Dudick asked what federal guidelines are for the digital signs. Ms. Bitters stated she is unsure, but they would be followed.

Mr. Febo asked who would be monitoring the night brightness. Ms. Bitters stated that the owner of the property would control the brightness and they can verify compliance with Mr. Reese and adjust the lumens as needed. Mr. Dudick asked how the Town would monitor. Mr. Reese stated that the Town would have to hire out if complaints came to them. Mr. Febo stated that LED signs are new to the area and asked when the PDD was created. Ms. Bitters stated it was created in the 1990's.

Mr. Reese stated that the Town has its own code for signage with animated allowed in certain areas, which are mostly B-3 zoning. He stated that the applicant has already asked for different variances for various tenants and that church, schools and municipalities are exempt from the sign codes. He stated that gas stations are allowed to have digital signs for gas pricing only. Mr. Reese stated that Saratoga County issued a letter stating there was no significant countywide or intercommunity impact. He stated that this is an unlisted action and will not result in any significant adverse environmental impact, and that neighboring properties have been properly notified.

Mr. Wiener stated that Chapter 171-4 H.(3)(n) states that these signs are prohibited except in certain zones. Mr. Dudick stated that there is B-3 to the rear of the PDD as well as the left, and right of the property. Ms. Bitters stated that due to the uniqueness of the property they are requesting a variance. She stated that the sign is older as well and needs replacement.

Ms. McCoy asked if the plaza across the street could have a digital sign. Mr. Reese stated that they are not permitted as well. Ms. McCoy stated that the sign requested is smaller than the one now so the variance is only for a digital and not size. Ms. Bitters stated she was correct.

Mr. Febo stated that he goes to the gym next to the property and stated that it does not take him long to leave the parking lot so if the sign stays at 7 second intervals he would only see one tenant. Ms. Bitters stated yes, but he would see a different tenant every day and that people from out of Town would see the sign and be drawn to the businesses.

Mr. Dudick stated that it is up to the Board to decide what the Town had in mind when the law was written and if the PDD needs an amendment or a zoning variance. He stated that there is residential across the street from the application and businesses. Ms. McCoy stated that she agrees that this may be a PDD amendment and not a variance.

Mr. Weiner stated that Chapter 171-13 states that the highest restriction is to be enforced. Mr. Reese stated that signs have their own chapter.

Mr. Dudick stated that the Board needs to make a motion to approve not one to not approve as this gets confusing, he stated that he thinks that the Town Board would better to go for the sign approval since the property is a PDD. He stated that the applicant can choose to table the application or withdraw it. Mr. Dudick stated that it can be tabled for 62 days or if the applicant requests for longer.

Ms. Bitters stated that she would like the application tabled and not withdrawn.

**New Business:**

*An application from Rexford Self Storage, LLC requests an area variance from Chapter 208-43.3B.(1)(a)[1] office uses: 4,000 gross square feet per acre. The parcel size is 6.47 acres x 4,000 = 25,880 gross square feet. Currently there is 25,880 square feet of self-storage. The applicant requests an additional 8,400 gross square feet of self-storage. This would equate to 5,300 gross square feet/acre. Variance requested is an additional 1,300 gross square feet/acre. Property is located at 8 Daggett Drive, Rexford, NY 12148 (Permit #81348).*

**Applicant:**

Brian Bellamy – owner - Mr. Bellamy stated that he is here tonight to ask for more buildings to the rear of the site. He stated that the new buildings would be shielded by the existing architecturally enhanced buildings. Mr. Bellamy stated that no neighbors will be affected by this since the proposal is to put the new buildings to the rear of the site where it is wooded. He stated that the 14 buildings would be 20'x30' units. They are at 80% occupancy now and this is why he is asking for more buildings. He stated that he is not looking to expand the footprint of the original disturbance but there would be some blacktop removal for the new buildings as well as placing the units in existing gravel areas. Mr. Bellamy stated that stormwater was looked at by their engineer and would handle the new buildings. The requested variances are about 32% greater than what is allowable for the density. Proposed development will use the existing driveway and there would be no more impervious disturbance.

**Public:**

No public comment.

Mr. Dudick moved, second by Ms. McCoy to close the public hearing at 8:36 p.m.

**Board:**

Mr. Klimes asked if there were any other variances like this in Clifton Park. Mr. Reese stated that the storage on Miller Road and Route 146 do not have variances, he is unsure of any variances for the Sitterly Road storage, and that the U-Haul in Synergy Park is within their parameters.

Ms. McCoy asked why the buildings would be smaller than the others. Mr. Bellamy stated that it would be to have access all around the building and that the buildings would have metal siding while the ones up front is vinyl.

Mr. Reese stated that per Town Code the buildings need to look residential. Mr. Bellamy replied that the buildings up front are well enhanced.

Mr. Weiner stated that per the code all buildings need to look residential not just the front ones. Mr. Bellamy stated that they will match the other buildings but the rear ones would have metal,

not vinyl siding. Mr. Weiner asked if there were any setbacks for the proposal. Mr. Reese stated that the side yard setbacks are 0' (20 feet adjacent to residential uses) for commercial uses.

Mr. Dudick asked if the applicant has renderings to show the Board. Mr. Bellamy stated that he does not at this time. Mr. Weiner asked if the applicant is willing to come back with them. Mr. Bellamy stated that he could. Mr. Bellamy stated that per the Planning Board approval only buildings 1 and 4 were required for approval. Mr. Reese stated that if the variances were approved then the applicant would have to go back to the Planning Board for site plan approval. Mr. Bellamy stated that buildings 2 and 3 are not facing the road and has vertical metal siding with flat roofs and that buildings 1 and 4 are vinyl. He stated that he can plant trees along the side of the property for buffering from potential neighbors. Mr. Dudick asked if there is room for trees if they are asked for. Mr. Bellamy stated that there is room for them and there is green space there now. Mr. Dudick asked if the greenspace is being met. Mr. Reese stated it is.

Mr. Febo stated that the lot next to this is currently vacant and asked what the zoning is on it. He stated that if this is residential, he would not personally like to live next to this.

Mr. Reese stated that Saratoga County found no significant countywide or intercommunity impact, this is an unlisted action per SEQRA and will not result in any significant adverse environmental impact, and all required neighbors have been notified.

Mr. Febo moved, second by Ms. McCoy, to approve the variance as requested. The property is located at 8 Daggett Drive, Rexford, NY 12148.

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

Conditions:

1. Applicant is to plant trees to buffer from the current self-storage to the fore bay.
2. Buildings shall not be closer than 20' to the northern property line.

The Secretary called the Vote:

**Ayes: 5**

**Noes: 0**

**New Business:**

*An application from Schuyler, LLC requests an area variance from Chapter 208-98 special setback lines on Grooms Road – No building shall extend nearer to the center line of the street than 100 feet. Proposed front yard setback for the building is 48 feet – Variance requested = 52 feet. Property is located at 862 Grooms Road, Clifton Park, NY 12065 (Permit #81349).*

**Applicant:**

Michael Bouchard – Schuyler LLC – Mr. Bouchard showed a map from EDP from the 1980's and stated that the lot that is in this application is lot 4. He stated that this map predates DEC mapping and that the stream shown on the map is now closer to the building line and wetlands. He stated that Gil Van Guilder & Associates has done the mapping. Mr. Bouchard stated that there are 2 small wetland patches to the south, one being on his property and the other on both properties. He stated that the 100' buffer is close to the building line so the home needs to be further from the buffer zone. He stated that he spoke to DEC about working in the buffer zone and that they said no. He stated that he has submitted a letter from Van Guilder that states that there is no undesirable change to the neighborhood if this is approved as the neighbor is 38' from the road currently and that no other method can be used to achieve compliance due to the environmental constraints.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Febo to close the public hearing at 9:27 p.m.

**Board:**

Mr. Klimes asked if this has been seen before. Mr. Bouchard stated it was in October of 2020 and they decided to table it at that time to allow the applicant to explore more options. Mr. Weiner asked if there was a decision made at that meeting. Mr. Bouchard stated that there was no decision and without the variance the lot is dead. Mr. Klimes asked if the only place to put a home on the property is this location. Mr. Reese stated that this land has state and federal wetlands. He stated that Federal wetlands can be built up to the line but the state cannot, it has a 100' buffer. Mr. Reese stated that the lawn can be in the 100' buffer but no fill can be brought into the area.

Mr. Dudick asked if there was a buildable area to the rear of the wetlands. Mr. Reese stated there was but also has the 100' buffer. Mr. Dudick stated that this lot was already subdivided before.

Mr. Klimes asked if the crosshatched area on the map is a low lying area. Mr. Bouchard stated it was but nothing can be built on the other side of the wetlands due there are no access easements, plus it is not on his property. Mr. Klimes asked how long the owner has had the property. The owner, Anthony Vaccarielli, answered 3-4 years. Mr. Klimes asked if this was for occupancy or if the land is to be sold. Mr. Vaccarielli stated that his intent is to build and sell the lot. Mr. Klimes asked if the applicant bought from the original subdivision based on buildability. Mr. Vaccarielli stated he did and that he is currently building on the adjacent subdivided parcel as well. He stated that he bought 3 lots from 3 separate owners.

Mr. Dudick asked why the applicant is coming in now looking for a variance but it was ok to build on the property before. The DEC issued the permit to Mr. Vaccarielli to construct within the 100-foot adjacent area for one of the residential lots. Mr. Vaccarielli stated that DEC Region 5 is now cracking down on allowing this so he needs a variance. Mr. Dudick asked how long it

has been from the prior DEC approval until now. Mr. Bouchard stated about 6-7 years. He stated that about 3 years ago the lot was purchased assuming that the lot could be built on, but DEC said no. Mr. Vaccarielli stated that the stream has changed its course over the years and now has made it difficult to build.

Mr. Reese stated that the CR zone allows for a single family home. He stated that this is a Type II action and no further SEQRA action is required. Mr. Reese stated that the County has reviewed this application and has found no significant countywide or intercommunity impact.

Mr. Reese asked the applicant how construction would be without the fill. Mr. Vaccarielli stated that it would be a stepdown foundation with a walk out basement.

Mr. Febo asked if there was documentation from DEC for this denial. Mr. Bouchard stated that they don't have it but could ask for it. He stated that there was no formal application put into the DEC but all through conversations with a representative. Mr. Weiner stated that a letter from the DEC would be acceptable or a formal denial.

The chairman made a motion to approve the minutes from the January 3<sup>rd</sup>, 2023 meeting. All who were present at the January 3<sup>rd</sup>, 2023 meeting voted in favor and the meeting minutes were approved. Mr. Styles approved via email.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Febo second, all voted in favor and approval was unanimous. The meeting was adjourned at 9:38 p.m.

The next scheduled ZBA meeting will be held on March 21<sup>st</sup>, 2023.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals

**From:** Paula, Cooper

**Sent:** Tuesday, January 31, 2023 5:41 AM

**To:** Christopher Lemire; John Klimes; Lisa McCoy ; Michael Dudick; Neil Weiner Scott Styles; Scott Reese

**Subject:** Meeting Minutes Review

Good morning,

Attached are the meeting minutes for review and possible adoption at tonights meeting.

Have a great day,

Paula

<ZBA Minutes 1-3-23.docx>

**Re: Meeting Minutes Review**

Scott Styles

Fri 3/17/2023 11:35 AM

To: Scott Styles

Cc: Scott Reese

Ohh!!! I'm sorry. I thought it was the February minutes! Yes, I approve them!

Scott