

RECEIVED

MAY 01 2023

Town of Clifton Park Zoning Board of Appeals

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

CLIFTON PARK
TOWN CLERK



Zoning Board of Appeals

April 4th, 2023

Present: Chairman Michael Dudick, Christopher Lemire, Scott Styles, Lisa McCoy,

Absent: John Klimes, Chad Gregory, Juliano Febo, Jensen Tate, (alternate)

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 4 voting members of the Board here tonight, so that 4 of 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.

and fits the use. She stated that this sign is not unlike other digital signs in the vicinity of this property and stated that this property is unique and that the applicant is trying to revitalize the existing building and not demolishing it to create new ones. Ms. Bitter stated that she feels this is a minimum impact variance that she is asking for.

Public:

Public hearing closed at prior meeting.

Board:

Mr. Lemire stated that there is a church, school, and Town signs in the area that are animated and they are all exempt from this sign Law. He asked what the purpose of the B-3 area is. Mr. Reese stated that B-3 is a neighborhood and business area and that gas stations only are allowed to have digital signs for the purpose of gas pricing only and that this zoning is a buffer for the business and residential areas.

Mr. Dudick stated that all of the 3 other signs are not businesses. Ms. Bitters agreed but stated that the signs are still present. Mr. Dudick stated that there are no commercial owners with digital signs in the area and that B-3 zoning was to have more of a residential feel. He stated that as the Town Board did not decide they wanted to amend the PDD for this, therefore he interprets this as the Town Board not supporting the sign variance. He stated that he does agree that the building dips down from the roadway and is older but he stated that this is not unique as their neighbor as Market 32 re-did the site across the roadway from this application. Ms. Bitter stated that a number of variances were given to that plaza for the re-design. Mr. Dudick stated that with all the variances granted, an animated sign was not proposed. Mr. Dudick stated that he feels that the applicant is taking a piece at a time and not providing a comprehensive plan for the site. Ms. Bitter stated that this is a renovation not a new site plan.

Mr. Lemire asked what actual proof, beyond mere desire, does the applicant have that would show that an electronic sign will be any more likely to assist the businesses than a non-electronic sign that is code compliant. Ms. Bitter responded that she feels there is a need for more visibility with an electronic sign. Ms. Bitter stated that she lives close to the site and did not know a number of the businesses existed in that plaza until she started working on the project. Mr. Lemire stated that the applicant can remove the tree that is in close proximity to the existing sign to make it more visible. He stated that if there were an electronic sign he would only see one business instead of most of them as they are posted now. Mr. Lemire stated that the applicant has come before the Board stating that the church and school have animated signs and that they have established that those places are exempt from the sign codes.

Mr. Lemire asked why the mall further down on Route 146 was allowed to have one. Mr. Reese stated that the mall is in different zoning which allows for that type of signage.

Mr. Reese described the Sign Chapter in the code and stated that this chapter is for signs only.

Mr. Dudick asked if there were any guidelines from the Town for the animated signs. Mr. Reese stated that the Town worked with the church to set up guidelines. Mr. Dudick asked if it would be acceptable if the applicant is willing to work within the same guidelines the Town has for the church.

After a brief intermission Mr. Dudick stated that he feels the applicant has 2 options, to either withdraw the application or ask for a determination by the Board with the understanding that there would be a possible denial on the application. Ms. Bitter stated that she would not like to withdraw the application and is ready for a vote from the Board.

Mr. Lemire asked how the 4 criteria were taken into account for the vote and asked if all 4 were not met then the applicant would not be meeting the code criteria for a variance. Mr. Lemire read aloud from the Code Chapters 171-A, 171-B as well as 171-13.

Mr. Lemire moved, second by Mr. Dudick, to deny the variance as requested. The property is located at 1208 NY Route 146, Clifton Park, NY 12065.

Mr. Lemire read the Sign Variance Criteria, Mr. Lemire answered the criteria.

Criteria:

1. The property is surrounded by a B3 Zone which is a transition zone between commercial and residential and while there is a shopping plaza there, putting up an animated sign, so close to a residential neighborhood would create a detriment to a property.
2. There is an existing sign there with the appropriate tenants listed on it which meets the requirements / goals. There has not been any hard evidence that an animated sign will help a business, create visibility, or increase the traffic in the plaza.
3. No, it will not interfere with the use of public lands or highways, it does not appear to be an element.
4. The intent of the Town Code / Sign Law that an animated sign in a B3 Zone is outside of the purpose of the intent of the Town Code.

The Secretary called the Vote:

Ayes: 4

Noes: 0

The application is denied.

New Business:

An application from Daniel Valente requests an area variance from Chapter 208-12 A. no accessory structure building shall be placed closer to a front property line than 80 feet or closer to a side street than a distance equal to ½ of the width of the lot at the front building line up to a distance which need not exceed 75 feet. The proposed side-street setback is 38 feet for the proposed swimming pool. Variance requested is 37 feet from the

75 feet side-street setback. Property is located at 5 Holbrook Drive, Clifton Park, NY 12065 (Permit #VAR23-000455).

Applicant:

Daniel Valente – applicant – Mr. Valente stated that he would like to install a pool in his back yard and has learned there are restrictions since he lives on a corner lot. He stated that his restricts where he can put his pool. He stated that the pool is about 16' by 38' and is oval shaped and is proposed to be 10' off his home and is in the best location for line of site from the home for the safety of his family. Mr. Valente stated that the other side of the property has in ground sprinklers installed and if he were to move it there they would have to be removed. Mr. Valente stated that they will be installing a privacy fence with the pool an that they would abide by all safety codes.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Lemire to close the public hearing at 8:26 p.m.

Board:

Mr. Reese stated that a fence is required by law, but not a privacy fence and that there are utility easements on the property, but if the applicant chooses he can put the fence over them but it would have to be replaced at the applicants cost if the utilities need to be accessed.

Mr. Lemire asked if there was the same setback for both streets. Mr. Reese stated that that the applicant needs 80' from Holbrook and ½ the width of 154' but not exceed 75' from the adjacent street on the corner.

Mr. Weiner stated that a corner lot has 2 front setbacks and not a side street setback, and it was always addressed this way so the applicant may need an additional 5'. Mr. Reese read from the Code stating that the Code says side street. Mr. Dudick stated that this clears up the question and that he feels comfortable moving forward.

Mr. Dudick stated that they see this often with corner lots and asked the applicant if the pool can be configured differently in the yard. Mr. Valente stated that there would be no other good lone of site if the pool was moved and that they would have to remove the in ground sprinklers as well.

Mr. Reese stated that this is a Type II action and no further action is required. Mr. Reese stated that the County state they have no interest in the application and all the neighbors were notified.

Mr. Dudick moved, second by Mr. Lemire, to approve the variance as requested. The property is located at 5 Holbrook Drive, Clifton Park, NY 12065.

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

The Secretary called the Vote:

Ayes: 4

Noes: 0

The variance is approved

The chairman made a motion to approve the minutes from the March 7th, 2023 meeting. All who were present at the March 7th, 2023 meeting voted in favor and the meeting minutes were approved.

Mr. Lemire made a motion to adjourn the meeting, Ms. McCoy second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:32 p.m.

The next scheduled ZBA meeting will be held on May 2nd, 2023.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals