

Town of Clifton Park Zoning Board of Appeals

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



Zoning Board of Appeals

August 15, 2023

Present: Chairman Michael Dudick, Christopher Lemire, John Klimes, Chad Gregory, Lisa McCoy, Juliano Febo, Jensen Tate, (alternate)

Absent: Scott Styles

Also Present: Scott Reese, Zoning Administrator
Cristi Shuhart, Alternate 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.

Old Business: None

New Business:

The secretary read the legal notice as it appeared in the Gazette on August 10, 2023.

- 1. An application from Cypress Pools requests an area variance from chapter 208-12. No accessory building shall be placed closer to a front property line than 80 feet or closer to a side-street line 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 front property line setback is 39 feet for the proposed swimming pool. The variance requested is 41 feet from the 80 feet front property line setback. The property is located at 2 Panarama Court, Clifton Park, NY.**

Patricia Czachor, homeowner at 2 Panarama Court presented the application on behalf of Cypress Pools.

She pointed out on an aerial map that she is a corner lot on Panarama Court and Rolling Brook with a fenced in yard looking to put in a pool 13 feet (length) by 31 feet (width) within the fence. The house faces Panarama Court. The pool will be far away from both neighbors. The offset is 39 feet, but it is further if you go to the actual road because of the way the lot is.

Scott Reese, Zoning Administrator, explained on the aerial map that This is a corner lot. He pointed out the two public roads and the front facing house which is the requirement of the 80 feet setback. The owner does have a fence that goes along the front line. This location did get a previous variance for the shed which was a 20 foot variance from the front yard setback so it was allowed a 60 foot setback for the shed itself.

Ms. McCoy questioned Mr. Reese as to what year the shed was granted the variance.

Mr. Reese answered that it was granted back in 1999.

Mr. Dudick asked the applicant how long they have lived at the property.

Ms. Czachor answered 8 years.

Mr. Reese went on to explain that the shed on this lot that already received the variance for that. The swimming pool will be a distance closer, and a will need a greater request for a variance on this lot.

Mr. Lemire requested to Mr. Reese if he could go back to the picture where the pool is drawn. He then asked the applicant, Ms. Czachor, if the pool is going in a different direction than where it is drawn in.

Ms. Czachor pointed as to where the pool is going on the map.

Mr. Gregory stated to Ms. Czachor that where she pointed to where the pool is going on the map would make it less of a variance than she would need.

Ms. Czachor answered yes and that they are going to put the pool off the patio they put in about 15 feet from the back property line.

Mr. Dudick asked Ms. Czachor if they were going to Rotate the pool 90 degrees.

Ms. Czachor stated that is correct.

Mr. Dudick stated which is going to require less of a variance needed.

Mr. Weiner asked Mr. Reese about the backyard variance

Mr. Reese stated their setback is 5 feet, which is what they must maintain from their side yard in a residential zone.

Ms. Czachor state the pool would be 20 feet from one side yard and 15 feet from the other.

Mr. Gregory asked Mr. Reese that from looking at the map provided, the applicant would only need the variance from the left side.

Mr. Reese stated that is correct.

Mr. Weiner asked Ms. Czachor if there is any distance for the new placement of the pool.

Mr. Dudick then asked Ms. Czachor how far from the back she going to put the edge of the pool.

Ms. Czachor answered 15 feet.

Mr. Dudick asked Ms. Czachor how wide the pool is.

Ms. Czachor answered 13 feet. She will be 15 feet from the property line. The pool is going to be 13 feet wide, so that is 28 feet.

Mr. Lemire then asked Mr. Reese to read the numbers from the picture given on the application.

Mr. Reese 23.6 feet from the layout from the side property line and 35 feet from the other side property line.

Mr. Lemire asked Mr. Reese if it is 15 feet from the back property line. The pool is 13 feet wide which equals 28 feet which get you to the other side of the pool. The side closest to Panarama Court.

Mr. Reese stated that is correct.

Mr. Lemire asked Mr. Reese does the 28 foot to that side of the road mean roughly 60 feet, which means a 20 foot variance which she probably already has for the shed.

Mr. Weiner stated that she asking for a 41 foot variance she doesn't need that much where the pool is in the other direction. So, the board can reduce the variance.

Mr. Reese stated that the pool is 60 feet from the property line. The variance would be 15 feet, which is less than what they already have. They don't need a variance if they flip the pool around and the pool is 60 feet from the property line.

Mr. Dudick suggested to Ms. Czachor and counsel that the board could table this application.

Ms. Czachor answered that she does not want to table the variance that she wants to keep going forward.

Mr. Lemire suggested to Ms. Czachor to bring the application back to Mr. Reese or the Building Department and show that you have 60 feet from the property line then she wouldn't need the variance.

Mr. Dudick suggested to Ms. Czachor that If Cypress Pools says the pool is going to be closer and it's tabled than the board can come back and revisit the variance. Based on what she told the board he stated that she does not need a variance. Unless she is going to do something different than what she told us than she doesn't need to worry about a variance.

Ms. Czachor stated she does not plan on doing anything different.

Mr. Febo stated to the ZBA Board that they are presenting this based on their own math. If they table this for a month that makes the applicant wait another month.

Mr. Febo stated that if the Board votes on 25 feet, and it's 5 feet over what's been previously approved, it gives her the assurance of a buffer in case the pool gets relocated a bit.

Mr. Dudick stated he is comfortable with that, as it gives her an additional 5 foot 5 inches.

Mr. Lemire asked Ms. Czachor if the fence staying where it is.

Ms. Czachor stated yes.

Mr. Lemire stated that the pool has to stay within the fence.

Mr. Reese told the Board she is seeking a 25 foot variance, instead of a 41 foot variance.

Mr. Dudick stated to Mr. Reese that Instead of a 41-foot variance, Mr. Febo is saying to make it a 25 foot request, which is 5 foot more than was previously requested for the shed.

Mr. Reese said to Mr. Dudick that before they were looking at 60 feet as her setback because that's what it was to the shed. He is saying it can be 55 feet from the property line.

Mr. Dudick stated that's what the board is suggesting.

Mr. Reese concurred that the Board is seeking to grant a 25 foot variance.

Mr. Lemire is asking Mr. Reese that with his approval that the Board can grant a 25 foot variance to give the applicant an extra 5 feet.

Mr. Dudick asked Ms. Czachor if she agrees with what the Board is suggesting.

Ms. Czachor stated she is fine with what the Board is suggesting.

Mr. Weiner explained to Ms. Czachor that the Board is obligated not to grant variances if they are not needed. The Board is trying to work something that is smaller than what the application says so they don't need to readvertise this because it's less of a variance. It will give her the extra room and will be less of a variance than the Board can reasonably grant.

Mr. Dudick asked Mr. Reese what type of action this is.

Mr. Reese answered it is a Type 2 SEQRA action. No further action is needed by this board. He also stated that this is a 25 foot variance. He was in contact with Cypress Pools and they were the ones to notify the neighbors. There are no comments from the Saratoga Country Planning Board.

Mr. Dudick stated that the Board is having discussions of reducing the variance request to 25 feet and asked if there were any other questions or comments. He stated that this is a public hearing,

and if anyone in the public has any questions or comments in regards to this application. He then made the motion to close the public hearing.

Ms. Mcoy made the second motion to close.

Mr. Dudick asked all in favor say aye. All Board members stated aye. The public hearing is closed.

Mr. Dudick asked if anyone would like to make a motion in regards to this application.

Mr. Klimes stated he would like to make the motion to approve the variance amended to 25 feet.

Mr. Lemire made the Second Amendment.

Mr. Dudick asked Mr. Klimes for the five factors.

Mr. Klimes stated the five factors: 1. Whether an undesirable change will be produced to the character of the neighborhood or a detriment to the nearby properties will be created by granting of the area variance. 2. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance. 3. Whether the requested area variance is substantial. 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 5. Whether the alleged difficulty was self-created, which consideration should be relevant to the decision of the Board of Appeals but not shall not necessarily preclude the granting of the area variance. It is self-created but should not be preclusive to approving the variance as requested.

Mr. Dudick asked if there were any other comments. He then called for a vote.

Mr. Reese asked Ms. Czachor to make sure she submits the plan to him before submitting it to the Building Department on how the pool layout is going to be.

All voted in favor and approval was unanimous.

- 2. An application from Tuff Shed requests an area variance from chapter 208[-12]. No accessory building shall be placed closer to a front property line than 80 feet or closer to a side-street line 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 front property line setback is 30 feet for the proposed detached garage. The variance requested is 50 feet from the 80 feet front property line setback. The property is located at 708 Tanner Road, Clifton Park, NY.**

Allison Nelson from Tuff Shed presented the application on behalf of Tuff Shed for the homeowner, Terese and Gary Mazula for their detached garage. She explained to Mr. Dudick that the applicant is semi-disabled and having trouble walking and has trouble with snow removal. She doesn't have a garage in the house. The garage that used to be with the house was not car space. Her proposal is to have the detached garage where it is located on the map to pull a car in and walk directly to the house. If the setbacks were to be met, the detached garage would be in the back of the house which would be a farther walk for her, especially in the winter. The neighbors all have their garages further up their properties. There was a section that talked about the integrity of the neighborhood. The look would be similar to what's on the street. Allison stated that the applicant talked to her neighbors about her project and that they stated they were fine with it. It would increase the property value to have a garage.

Ms. Nelson also stated that there is a shed on the property that is being removed, but the garage would be going behind it. She talked about the setbacks with the applicant. That the garage would not be possible and if they pushed the garage as far back as she could get so she could still walk directly out of the driveway as close as possible to her house.

Mr. Lemire asked Ms. Nelson what was in the non-garage doors.

Ms. Nelson answered that she was not sure. The applicant was not able to make the meeting because of a family emergency. Ms. Nelson stated that it may have items from the house. that it was a converted space and not a garage. That is why the vehicles are parked outside and not in that space. The detached garage would be the primary garage.

Mr. Lemire asked Ms. Nelson about snow removal.

Ms. Nelson stated that the snow removal is on the driveway and if the detached garage were to go back she would have to find a way to go around it and over through the grass. To meet the setback she would have to be in the back which would be a much further walk.

Mr. Dudick asked Mr. Reese would the shed have to be behind the house if the applicant met the setback for the variance request.

Mr. Reese stated that as far as he believes that from the front of the house the setback is about 60 ft from front property line. Placing the garage back would be about $\frac{3}{4}$ of a way back from the front of the house.

Mr. Dudick asked Mr. Reese if the house is 60 feet off the front property line.

Ms. Nelson stated yes.

Mr. Lemire asked Ms. Nelson about the drawing that was with the application.

Mr. Reese asked Mr. Lemire to disregard the drawing that was sent in. He told the applicant to provide a more detailed drawing than what was provided.

Mr. Dudick asked Ms. Nelson why the shed can't be placed alongside the house.

Ms. Nelson explained that the applicant could pull into her existing driveway and right into the detached garage, which would minimize the distance to the house.

Ms. McCoy asked Ms. Nelson if they turn the garage and put it alongside the house that there wouldn't be pavement in front of it.

Ms. Nelson stated that was correct. She then explained that they need to maintain some distance from the house because of the firewall requirements.

Mr. Dudick asked Mr. Reese if that requirement was 5 feet or 10 feet.

Mr. Reese answered that he believes it is 10 feet but it could be 5 feet.

Ms. Nelson stated that either way it is going to be as far back as they can but still have it the distance from the house.

Mr. Lemire asked Ms. Nelson about the blacktop that has a red car parked on it shown on the map. Would the proposed garage be placed past that car on the map.

Ms. Nelson answered that the garage will go further back from where the red car is parked on the map.

Mr. Lemire asked Ms. Nelson will she need more blacktop.

Ms. Nelson explained that there will be a concrete slab under the garage which will be close to the existing blacktop.

Mr. Dudick asked if there were any other comments or questions from the Board.

No comments or questions from the Board.

Mr. Dudick then stated to Ms. Nelson that the variance goes with the property so the question goes to whether the Board should allow an accessory structure to be placed closer than the house itself with such a large amount of land behind the house and ample amount of property next to the house. If the only reason not to place the garage next to the house so that it wasn't in the front yard is to avoid some of the construction costs, then he does not see that as a great motivator from his standpoint.

Ms. Nelson explained to Mr. Dudick that the idea was for the ease of the snow removal. The snow removal would be on the driveway that is existing.

Mr. Dudick asked Ms. Nelson if someone would come in with a plow or if the applicant was going to operate their own snowblower.

Ms. Nelson answered that she might have a plowing service, or her husband will snow blow the driveway.

Mr. Dudick explained how he sees this is if the applicant can operate a snowblower, then he would say the walking distance isn't a great motivator. If they are talking about someone who can't operate a snowblower and have someone come in and provide plowing, then plowing is going to be a lot easier if there is place where you can plow the snow alongside the driveway as opposed to enclosing the structure along the driveway. Creating a tighter space and no place to push the snow off to the side creates its own issues. So, where he can appreciate that you don't want to have an 80-foot setback to go further into the backyard, at the very least have it alongside the house so that the garage is not closer to the front yard setback.

Mr. Lemire asked Mr. Reese does the applicant needs a variance if it is equal to the front of the house.

Mr. Reese stated that if they attached it to the house, then it would be part of the building. But then the garage would need a foundation not a slab and they would have to physically attach it to the house by means of a breezeway, which is acceptable, then they wouldn't need a variance. If they want to keep it as a detached garage, they can put it to the front of the house, but they still need a variance because of the setback.

Mr. Lemire asked Mr. Reese about the shed that is there. Is there a variance for that.

Mr. Reese stated that he didn't have any record of any variance for that shed.

Mr. Lemire stated to Ms. Nelson that there has been a long history of not putting accessory structures in the front of the front of people's houses. That this is nothing new.

Ms. Nelson said she understood.

Mr. Lemire then suggested to Ms. Nelson if they put the garage parallel or perpendicular to the front of the house that maybe it is a couple more steps. There will be more blacktop that needs to be put in. If someone comes in to plow, it will turn and push the snow into the grass or field.

Mr. Dudick commented If it were a snowblower the snow would be thrown off to the side where the proposed shed is going to be and if you're doing a snow plow you don't have to deal with a garage right next to the snowplow.

Ms. Nelson asked the Board if they are proposing to amend the variance to the detached garage being aligned to the side of the house.

Mr. Dudick stated to Ms. Nelson that is what he is recommending or suggesting.

Mr. Lemire asked Ms. Nelson she might want to make it even with the house but will still need a variance. He then checked with Mr. Reese.

Mr. Reese said to Mr. Lemire it will need a variance if it is still detached.

Mr. Febo asked Ms. Nelson what the plan was for the foundation of the shed.

Ms. Nelson stated it was going to be an Alaskan slab.

Mr. Reese stated that would be fine as an accessory structure. If it was part of the building it would need to be a foundation. He will need to check with the Building Department with side yard setbacks as far as if it needs to be 5 or 10 feet from the side yard.

Mr. Reese stated they have set room for the side yard setbacks. They wouldn't need a variance if it was 5 or 10 feet.

Ms. Nelson commented that then they would be adding 10 feet of walking. If they put the garage diagonally. They would need to move it 10 feet over to the neighbor.

Mr. Febo asked Ms. Nelson as to the reason why there is an Alaskan slab being poured.

Ms. Nelson stated that the company Tuff Shed would have more information.

Mr. Dudick asked what an Alaskan slab is.

Mr. Reese answered that Alaskan slab is one slab that goes down around the edges a little bit deeper for the support so that it doesn't go the full three feet.

Mr. Febo stated that you basically pour a Perimeter, call it 10 inches thick to form walls and pour concrete.

Mr. Dudick asked Ms. Nelson if that is better for cold weather.

Ms. Nelson said yes.

Mr. Reese stated it could float a lot more.

Ms. Nelson stated that the cost of an attached garage is at least doubled to a detached garage.

Mr. Febo stated to Ms. Nelson that if you are spending the money to make an alaskan slab with a giant detached garage, you are better off building a smaller addition.

Ms. Nelson explained to the Board that the concrete contractors don't distinguish that much in price with an Alaskan slab. The footings are difficult to form. With an Alaskan slab you don't have to do footings because it is built up on the sides.

Mr. Dudick stated to Ms. Nelson that he stands alone with what he is saying is his concerns here. She may still get what she is asking for from the other members of this Board. He is uncomfortable with the idea of moving an accessory structure closer than the house itself based upon experience and where we have been as a Board before.

Ms. Nelson asked Mr. Dudick even if the neighbors have the same situations, has no bearing.

Mr. Dudick stated that this goes with the property. If another applicant comes with an application that would like to put a structure closer to the road than their house, he can longer say that he has never done that before.

Ms. Nelson stated to the board that she would like to amend the application and table it to the next meeting.

Mr. Dudick asked Ms. Nelson if she would like to table the application.

Ms. Nelson stated yes.

Mr. Dudick stated to Ms. Nelson that she has 62 days to come back to the Board. The next meeting is within 62 days. However, if for some reason you are not here on September 5th, 2023 then the Board will vote on it as to why you are not coming back.

Ms. Nelson agreed.

Mr. Dudick explained to Ms. Nelson she will be first on the agenda because she will be old business.

Mr. Weiner explained there are two meetings in September. The second meeting is September 19th. She has to do it within 62 days otherwise the Board votes on it and the vote is going to be disapproved.

Mr. Dudick explained to Ms. Nelson the only reason they go beyond 62 days is if you contact us and let us know why you can't make it.

Ms. Nelson agreed and thanked the Board.

- 3. An application from Johnathan Adams requests an area variance from chapter 208-12. Applicant requests an area variance from chapter 208-12 A. (1) No accessory building shall be placed closer to a front property line than 80 feet or closer to a side-street line 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 front property line setback is 37.5 feet for the proposed detached garage. The area variance requested is 42.5 feet from the 80 feet front property line setback. (2) No detached barn, garage or other accessory building shall be placed closer to a side or rear property line than 10 feet. The proposed side property line setback is 6 feet for the proposed detached garage. The area variance request is 4 feet from the 10 feet side yard setback. The property is located at 80 East Side Drive, Clifton Park, NY.**

Mr. Johnathan Adams presented the application on behalf of himself as the homeowner for presentation for a proposed detached garage at 80 East Side Drive, Clifton Park, NY. He explained that it is a 24 by 40-foot print to the left of the house. It is 10 feet separation without having fire retardant structure in place. The distance is greater than that. It doesn't fit the setback on the right side. On the front side our setback from the road is 37 ½ feet in that neighborhood. In the back of the property, the reason we can't go back further is there is a creek that runs through the back of our property that flows into Ballston Lake.

Mr. Reese asked Mr. Adams where the creek is on his property map.

Mr. Adams shows Mr. Reese on the map where the creek is on his property.

Mr. Lemire asked Mr. Adams about the shed on his property being on the edge of the creek.

Mr. Adams answered that there is little distance between them. There is water in the creek a portion of the year. There is a lot of overrun vegetation around it also. There is a gravel roadway in the neighboring property where people access these back properties. What they are asking for is very consistent with the street in the neighborhood. There are several detached structures that don't fit the current setback standards along the street.

Mr. Dudick asked Mr. Adams when his house was built.

Mr. Adams answered 1923. He stated the homes are a bunch of camps.

Mr. Dudick stated to the Board that these houses were all three season houses that were all built between 1900 and 1930.

Mr. Lemire asked Mr. Adams if the creek is on this side or the other side of the RV (shown on the map).

Mr. Adams answered in between.

Mr. Lemire asked Mr. Adams if the RV shown on the map is his property.

Mr. Adams answered that it is his property.

Mr. Lemire asked Mr. Adams as to why the garage can't go where the RV is.

Mr. Adams answered that there is no space for it there. He pointed out on the map where the gravel area is about 16 feet wide that he owns and is part of his back lot.

Mr. Dudick asked Mr. Adams where he would put the garage.

Mr. Adams showed Mr. Dudick on the survey map where he is going to put the garage.

Ms. McCoy asked Mr. Adams if he was going to access the garage from the gravel road.

Mr. Adams stated to the Board where he would access the garage from.

Mr. Lemire asked Mr. Adams about the shrubs on the property.

Mr. Adams stated the shrubs would be unaffected. He stated the shrubs are about 5'6" from the property line which abuts against the gravel driveway and the shrubs are in that area.

Mr. Lemire asked Mr. Adams about a telephone pole shown on the map, that road to the right of that is depicted as the alley. He then asked if it was his or a public road.

Mr. Adams said that it is an alley, but someone owns it that lives there.

Mr. Lemire asked Mr. Reese how much space is from the corner of Mr. Adam's house to the private alley road.

Mr. Reese stated that it is 40.5 feet to the corner of their house to the side of the property line. It could be 5' 11 because of the roof line.

Mr. Adams said there is a one-foot roof overhang built in.

Mr. Reese said the setback from the roofline is 5 feet.

Mr. Dudick asked Mr. Adams that according to the picture, is the garage is going to be closer to the road.

Mr. Adams stated the garage will be closer than the house. Further away from the road than the house. He then explained it is 37' 2 inches, the closest point being 37' 5 inches further back.

Mr. Lemire asked Mr. Reese if this is considered a corner lot because of the private alley.

Mr. Reese said the definition of a public street and a public street is how much asphalt that street has. That alley is not a public street, it's a driveway.

Ms. McCoy asked Mr. Adams if the owner maintains the alley in the winter.

Mr. Adams stated the owner has nothing to do with the alley. The people who do maintain it live behind him. There are two people who access their house through that alley, so they maintain it.

Mr. Lemire asked Mr. Adams why the garage is as long as the house.

Mr. Adams answered because the garage is longer than average, and the house is smaller than average.

Mr. Dudick asked Mr. Adams how big his house is, square foot wise.

Mr. Adams answered it is about 1,100 square feet.

Mr. Lemire asked Mr. Adams how long the garage is from front to back.

Mr. Adams stated it is 20 feet wide and 40 feet deep.

Mr. Dudick asked Mr. Adams how long he has lived there.

Mr. Adams said two years.

Mr. Dudick asked if there were any comments or questions.

Mr. Klimes asked Mr. Adams as to why he couldn't put the garage back where the RV is parked even though there is a stream.

Mr. Adams explained that he does not have access to that area because of that road. So, he doesn't want to build property that he may or may not have access to. He explained he doesn't own the gravel road and neither does the town and he can't drive over the creek. He doesn't want to build a structure the forest development park may say that he doesn't own or can't use anymore.

Mr. Dudick asked Mr. Adams if he owned another lot.

Mr. Adams stated that the portion of his lot that is behind the creek is where the RV is parked. He uses the road to get the RV parked there.

Mr. Lemire asked Mr. Reese if there were any wetland issues with the stream.

Mr. Reese stated that there could be, but we don't have anything mapped. Any tributary to Ballston Lake they like to protect as much as possible because Ballston Lake is a protected water body. Right now, where the applicant is proposing it appears it is a grassy area. He then explained from a map that the state has its own setback from Ballston Lake. There is a 500 ft setback of the state wetlands. It doesn't appear that the stream is mapped stream with the state so there are no additional requirements for setbacks.

Mr. Dudick asked if there were any other comments and/or questions. He then made a motion to close the public hearing.

Mr. Klimes seconded the motion.

All Board members said aye and were in favor. The public hearing is closed.

Mr. Dudick stated to the applicant that he had one issue, but he met it with that he was not close to the road. There is not a lot of room in this area in town and with a small lot still able to put the proposed garage not close to the roads. He then asked Mr. Adams if there were any septic issues.

Mr. Adams replied they have public sewers now.

Mr. Lemire asked Mr. Adams if this was a two-car garage or bigger than a two-car garage.

Mr. Adams answered that it is bigger than a typical two-car garage plus a little storage.

Mr. Klimes asked Mr. Adams if he had surrounding neighbors as far as the notification.

Mr. Adams answered that he did notify the neighbors and sent it out by mail 7 days before. He did get text replies. They did not get any negative replies.

Mr. Reese then stated to the Board that he didn't get any inquiries about any of the projects put forth.

Mr. Klimes asked Mr. Adams if it was possible to get a copy of the text that he is good to go. Because if someone complains after the fact at least we show we covered our basis on that.

Mr. Adams stated that he would.

Mr. Dudick asked Mr. Reese if there was anything he would like to say regarding this application.

Mr. Reese stated to the Board that he checked with the Saratoga County Planning Board. There were no comments or requirements for this request since it's a single residence for an area variance. It is a type 2 SEQRE action, so no further action is required by the Board. Notices were mailed out to the adjacent neighbors for this project. He received no additional feedback from those additional neighbors with their concerns.

Mr. Lemire asked Mr. Reese what his thoughts on this project based upon the placement and size of this.

Mr. Reese stated to the Board that as far as his opinion goes that the town doesn't have any requirements as far as a maximum size for an accessory structure. It is a concern for residents

that may live next to one and find a much larger structure that is the same size as the house. But there isn't anything in the code that restricts the size of an accessory structure for a garage.

Mr. Lemire asked about a height requirement.

Mr. Reese stated there is a height requirement but not an area as far as ground coverage. Again, this is a unique situation with this lot being surrounded by a private drive. The applicant doesn't have a given back access to that given back portion worked into his deed. He has a natural stream which is a physical hindrance to access that back portion if there was any blockage by the property owner of that driveway. There was something that happened in the past in the Town of Clifton Park, where we have had privately owned drives that were owned and put up for auction and bought by another private entity and then that private entity wished to enact a toll to the people that lived down on the actual roadway. So, he can understand that argument about the applicant's concerns about placing his garage on that back portion.

Mr. Lemire asked Mr. Adams how much room he has to move the garage back further before he get to the street.

Mr. Adams answered that they have a grinder pump. So, as you go back you will run into the grinder pump before you run into the stream. He does not know is how from the grinder pump manufacturer how close you can get to it.

Mr. Lemire asked about the crushed stone next to the house. Is anything being built in that space.

Mr. Adams said no.

Mr. Lemire told Mr. Adams that he is talking about the garage in the grass where the bushes are.

Mr. Adams stated that is correct. In between where the gravel ends and the bushes. Close to where that gravel ends are where it will start to about to where you see the house.

Mr. Klimes asked Mr. Adams if the garage itself is going to align with the porch not the actual physical structure of the house.

Mr. Lemire pointed out on the map that the house next door has the garage set back a little bit. That is what he is talking about. It would look better than jamming a garage right next to your house. It faces the façade equal if you move the garage back a little bit plus have less of a variance.

Mr. Klimes agrees and would like at least to see the garage pushed back to the actual house line not the porch line.

Mr. Dudick asked Mr. Adams if he could move the garage back so it's not closer than the actual house structure and not the porch.

Mr. Adams stated he would have no problem with that if the Board was confident grinder pumps could sit next to a footing wall.

Mr. Klimes stated yes because all it is, is a large sonotube with a cap base.

Mr. Adams stated the only concern he has with it is the contractor had to go 8 feet deep into the rock to get the grinder pump in. The footing walls are going to be the same thing.

Mr. Klimes asked Mr. Adams where the pipe was.

Mr. Adams showed Mr. Klimes on the map where the pipe is.

Mr. Klimes stated to Mr. Adams that where the garage is going to be the distance in between, it won't be an issue. He's about 7 feet off the house straight back.

Mr. Adams stated he was concerned if they break into rock putting in footing walls a few feet deep is that going to disrupt that grinder pump.

Mr. Klimes stated no

Mr. Gregory asked Mr. Adams if he was going to build right next to it because that pipe goes right to the grinder pump from the road.

Mr. Adams said yes.

Mr. Klimes stated to Mr. Adams that he would like to see the garage aligned with the house not the porch.

Mr. Dudick stated that he agrees with Mr. Klimes.

Mr. Klimes stated to Mr. Adams that his guess is that he is still going to be 7 to 9 feet away because he is coming off that angle from the back of grinder pump. Even if he pushed it back, he is still 3 feet away but not getting that close.

Mr. Dudick commented that pushing it back he's going to have more from the side yard. The variances all decrease. If he had a one foot or less issue with something, he could go to Mr. Reese. He has the authority without variance being looked at because of measurements within a foot.

Mr. Dudick asked Mr. Reese if he was correct on that.

Mr. Reese said to Mr. Dudick he would need to investigate that.

Mr. Klimes asked Mr. Adams on the current variance how many feet he is asking for.

Mr. Adams answered 42.5 feet.

Mr. Klimes stated that if we say 8 feet to push it back that would still push you back farther to align with the house. Eight feet with the intent to align up with the house and eight feet less than what you requested for the variance.

Mr. Adams agreed.

Mr. Lemire stated to make it a 37-foot variance.

Mr. Adams said ok to that request.

Mr. Dudick and Mr. Klimes stated they were fine with that request.

Mr. Lemire stated to Mr. Adams that by moving it back 7 feet, you might not need the front or side.

Mr. Reese stated to the Board the side is still 10 feet. It depends. It may be less of a variance.

Mr. Klimes explained to the Board to just leave the 10 feet in because once they start digging and they realize there is a big stone it may need to be moved 2 feet.

Mr. Weiner stated to the Board the variance is 5 feet requested.

Mr. Dudick stated he is not concerned with the side setback.

Mr. Adams agreed with the Board to amending the front to 37 feet instead of 42.5 feet and leaving the side setback.

Mr. Dudick asked Mr. Reese if this is a type 2 action.

Mr. Reese answered yes.

Mr. Dudick if anyone would like to make a motion.

Mr. Klimes made the motion of the amended variance as requested.

Mr. Dudick asked Mr. Klimes to state that amendment.

Mr. Klimes stated the amendment reducing it to 37-foot variance and the side setback as requested.

Mr. Dudick asked Mr. Adams if he was ok with that.

Mr. Adams said yes.

Mr. Dudick seconded the motion.

Mr. Weiner asked the Board that the front setback is reduced to 37 feet.

Mr. Dudick and Mr. Klimes answered yes.

Mr. Dudick asked Mr. Klimes to read the five factors.

Mr. Klimes stated the five factors: 1. Whether an undesirable change will be produced to the character of the neighborhood or a detriment to the nearby properties will be created by granting of the area variance. 2. Whether the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance - 3. Whether the requested area variance is substantial. 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district. 5. Whether the alleged difficulty was self-created, which consideration should be relevant to the decision of the Board of Appeals but not shall not necessarily preclude the granting of the area variance. It is self-created but should not be preclusive to granting of the area variance.

Mr. Dudick asked if anyone had any comments or discussion.

All voted in favor and approval was unanimous.

The next item is to approve minutes meeting. Four Board members approved minutes from the last meeting.

The next scheduled meeting will be held on September 5, 2023.

Motion was made to adjourn the meeting. All Board members said aye.

Respectfully submitted,

Cristi Shuhart
Alternate Secretary