

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

September 5, 2023

Present: Chairman Michael Dudick, Christopher Lemire, John Klimes, Scott Styles, Lisa McCoy, Juliano Febo

Absent: Chad Gregory, Jensen Tate, (alternate)

Also Present: Scott Reese, Zoning Administrator
Paula Cooper, Secretary
Robert Wilcox, 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 out of 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 of 5 votes need to be in favor of the application tonight.

Old Business:

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 1/2 of the width of the lot at the front building line up to a distance which not exceed 75 feet. The proposed front property line setback is 60 feet for the proposed detached garage. The variance requested is 20 feet from the 80 feet front property line setback. The property is located at 708 Tanner Road, Clifton Park, NY.

Applicant:

Applicant was not present. Mr. Dudick stated that if the applicant comes in later in the meeting the Board can come back to this application.

New Business:

An application from Vladimir Manreka requests and 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 1/2 of the width of the lot at the front building line up to a distance which not exceeds 75 feet. The proposed front property line setback is 25 feet for the proposed shed. The variance requested is 55 feet from the 80 feet front property line setback. The property is located at 53 Dorsman Drive, Clifton Park, NY.

Mr. Lemire arrived at 7:06pm.

Applicant:

Mr. Vladimir Manreka stated that he is the owner of the property and that he has been here for 4 years and due to his public service job he is not around a lot and is call away at a moment's notice. He stated that he is asking for this variance due to his home sitting on the top of a hill on his property. He stated that he has a 2 car garage and that he would like to put a shed to the right of the garage so that some things in the garage can be moved but within reach when needed like the snow blower. Mr. Manreka showed pictures of the rear yard to show how he thought it was too steep.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:23 p.m.

Board:

Mr. Klimes asked why the applicant is looking for a detached shed instead of an attached garage. Mr. Manreka stated that the shed is to be able to remove things from the garage and that he is not looking for another garage. Mr. Klimes asked what the distance would be from the home to the shed. Mr. Manreka stated it would be 5 feet away and the shed will be 10'x12'. Mr. Reese stated that there is a 5' setback from the side of the home and that the applicant meets this.

Mr. Styles asked if both of the neighbors were notified of the variance request, and if they had concerns. Mr. Reese stated one of the neighbors had some concern with build up or fill for the shed placement. Mr. Reese stated that he told the resident that the owner can put fill in up to the property line.

Mr. Lemire stated that the rear yard appears flat to him and asked the applicant why the shed cannot be pit further back in the rear yard. Mr. Manreka stated that he would like to keep the snow blower closer to the front of his home instead of trying to push it up the hill as he feels this would not work well.

Mr. Dudick asked why the applicant cannot fit 2 cars and a snow blower in his garage. Mr. Manreka stated that he only parks one car in the garage now and that he would like to park both in there and have the shed for his tools as well as his snow blower. Mr. Dudick asked if the applicant could put the shed on the other side of the home and then it would have support. Mr. Manreka stated that he could but then he would have to pave to connect it to the driveway. Mr. Reese stated that support for the shed is up to the homeowner as it is not a permanent structure. Mr. Dudick stated that he could appreciate an elevated platform for the shed. Mr. Dudick stated that the drawing of the shed placement shows the shed in front of the home. Mr. Manreka stated that the drawing is incorrect and that the shed will be in line with the home.

Mr. Lemire asked where the property line is for the home on the side the shed is being proposed. Mr. Reese stated it is between the utility boxes and showed an image to the Board members. Mr. Lemire asked if the doors to the shed would be facing the road or the home. Mr. Manreka stated that he is unsure currently but that they would probably face the road. Mr. Lemire asked how much fill would be brought in to accommodate the shed. Mr. Manreka stated he is unsure yet.

Mr. Reese stated that this variance has been changed and is of lesser impact than the application as the shed is pushed back by 10' so it will be 36.9' from the front property line.

Mr. Febo asked if the applicant would comply with a possible condition of the shed not exceed the front of the home. Mr. Manreka stated that he would.

Mr. Styles asked if this was an attached garage if the applicant would be here tonight in front of the Board. Mr. Reese stated that he would not be here but that it would need a foundation. Mr. Styles asked if the shed would touch the exterior of the fire place in the home. Mr. Manreka stated it would not, the shed ends before the fire place.

Mr. Klimes asked if the neighbors were ok with the application. Mr. Dudick stated that the public notices were sent.

Mr. Lemire asked what size shed is permitted in Clifton Park. Mr. Reese stated that a permit is needed for anything over 144 square feet.

Mr. Reese stated that neighbor notification was sent out on August 25th and that a neighbor did call and ask about fill. He stated that this is a Type II action and that no further SEQ is required. Mr. Reese stated that the Saratoga County Planning Board did not review the application.

Mr. Dudick moved, second by Mr. Klimes, to approve the variance as amended to 42'. The property is located at 53 Dorsman Drive, Clifton Park, NY.

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

Conditions:

1. The shed shall not break the plane of the front of the home.

The Secretary called the Vote:

Ayes: 5

Noes: 1 – Mr. Lemire

New Business:

*An application from **AJ Signs** requests variances from Chapter 171, Table 1 – a business is allowed 2 wall signs not to be greater than 60 square feet in size. The site already has a sign area variance (#81240) to include an additional 139 square feet of wall signs. The applicant is requesting two additional wall signs that will total 112 square feet. A sign variance (1) for two additional wall signs will be required. A repeal and replace of Permit #81240 is requested with a sign area variance (2) needed for 311 square feet- 60 square feet allowed = variance required 251 square feet. The property is located at 2 Crossing Boulevard, Clifton Park, NY.*

Applicant:

Carl Wheeler from AJ Signs stated that he is here tonight for a previous sign variance that is already not being followed. Mr. Wheeler stated that there is a 24 square foot sign on the property that was supposed to be previously removed but had not been. He stated that they would like to instead remove the 52sf sign on the west side of the property and then keep a larger sign and also install another sign on the property facing south.

Mr. Reese stated that the applicant has 3 signs, is proposing to take down one, and requesting to add 2 more.

Public:

No public comment.

Board:

Mr. Lemire stated that the applicant is asking for what they have already asked for in the past as they have heard an application similar to this one from the applicant before. He stated that they had asked for 4 but granted 2 with larger square footage about 3 years ago.

Mr. Febo asked if the applicant asked for 4 signs in the past. Mr. Dudick stated that they did but it was not granted but instead the applicant was given more square footage to use for 2 signs.

Mr. Dudick stated that he feels that the one larger sign to the south is still the best sign and location for the site. He stated that he is still on the same page as he was 3 years ago.

Mr. Reese stated that previously 2 wall signs and 199 square foot total was granted to the applicant. Mr. Reese read from the original application from 2020 as well.

Mr. Febo asked what the square footage of the 2 wall signs are with no other signs. Mr. Wheeler stated that the one on the west side is 84.1 and the one on the south side is 53.8, with a total of 137.9 square feet.

Mr. Dudick stated that if the larger sign is relocated then the applicant can keep 199 sf total and have 2 wall signs as previously approved and no additional variance would be needed. Mr. Reese stated that the third wall sign would also have to be removed as it was not a part of the original variance. Mr. Dudick stated that there has been a number of businesses in the Town that have asked for more wall signs and have been denied such as Taco Bell, Chick-Fil-A and Staples. He stated that the business requested that they have signage on each side of the building that was visible on a roadway and that none of them were granted as requested.

Ms. McCoy clarified that the applicant currently has 3 signs and is now asking for 4. Mr. Wheeler stated that this is true.

Mr. Dudick asked if the applicant would like to table the application to talk to the owner and possibly come back at another meeting. Mr. Wheeler stated he would like to table the application tonight.

Mr. Wilcox stated that the applicant needs to come back within 62 days or the Board will make a decision on the application.

Mr. Dudick stated that he will keep the public hearing open for the next meeting that will be held on September 19, 2023.

Mr. Reese stated that the 500' notices were sent out on August 25, and that he has received no calls. Mr. Reese stated that this is an Unlisted Action pursuant to SEQRA and that the Saratoga County Planning Board found no significant community impact. Mr. Reese stated that there are no blade signs allowed.

New Business:

*An application from **Elizabeth Ganem** requests a use variance to rent space to a personal service establishment in the Light Industrial 2 Zoning District. Section 208-64 B. does not have personal service establishments as a permitted use. The property is located at 2023 US Route 9, Clifton Park, NY.*

Applicant:

Elizabeth Ganem, trustee for trust that owns the property, stated that her family moved here in 1969 and that her father is still the original owner of his home off of exit 10. She stated that before now she never knew that the property was in the LI zone and that her neighbor to the south is Corpus Christi Church and a dance studio to the north. She stated that the property is adjacent to Wood Road and the property was purchased 40 years ago. Ms. Ganem stated that the

family business is run out of one of the offices there and 2 others are available for rent. She stated that she tried renting, looking to run her won spa out of the space with only herself as an employee and the potential tenant. Ms. Ganem stated that the offices are about 400 sf, and the larger one is between 800-900 sf, and this is the one the spa would like to go into. Ms. Ganem stated that her business pays rent for the office space as well. Ms. Ganem stated that her company does concrete restoration and has done things in the area such as the restored steps in Saratoga and has on the cathedral in Albany.

Public:

No public comment.

Board:

Ms. McCoy asked what was in the smaller office. Ms. Ganem stated there was a small gutter business there, which is allowed. Mr. Reese stated that a spa is a personal service and not industrial.

Mr. Dudick asked how big the entire building is as the variance would run with the property and not the business. Ms. Ganem stated that she would be willing to adhere to conditions. Ms. McCoy stated that a use variance is strict as it would be changing the zoning of the property. Mr. Wilcox stated that they are unable to condition the variance for the use as the variance runs with the property and not the business and would be considered spot zoning. Mr. Lemire stated that this is done to keep LI in specific areas.

Mr. Reese stated that the LI zoning goes all the way north even into farm land the area is starting to turn over and be developed. Mr. Dudick stated that this area is off the highway and near a rail line and interstate so this was purposely done and a part of the Town's plan. Ms. Ganem stated that this property used to be someone's home and her family turned it into a business. She stated that this would not be a full service spa and that there would only be one person there and she would be serving her current clients there if approved.

Mr. Febo asked if they would not be a use variance but a Special Use Permit. Mr. Reese stated that an SUP would be ranted or denied by the Planning Board. Mr. Febo stated that he feels that the big picture is looking at the entire parcel and this may be a SSUP and not a variance.

Ms. McCoy stated that this is asking for one unit and not the entire footprint so how can the Board look at it in pieces when it's a single property and how it would affect the other 2 offices as well. Mr. Reese stated that this follows the property and not the owner so if this is granted someone could eventually build a full spa there or even something else.

Mr. Dudick stated that he does not like to do this and tries to avoid spot zoning because spot zoning is no zoning and gave examples of different areas in Clifton Park. Mr. Dudick stated that he would like to see an appropriate use for the zoning.

Mr. Lemire asked what was last in the middle unit. Ms. Ganem stated that there was a small security business that left in August of 2023, and that she has been trying to release the space and that there was a roofer in the smaller unit, and now a gutter man since July. Mr. Lemire clarified

that there is no one in the middle unit and that it has only been vacant for a month. Ms. Ganem confirmed this.

Mr. Dudick read from the criteria that the Board has to look at for a Use Variance and stated that a hardship is not proven by one month of vacancy and the Board would like to see concrete proof of this. Mr. Wilcox stated that predicting the future is not qualifying a hardship. Ms. Ganem stated that the prior tenant gave her 2 months' notice and she has been looking for that long and only found one potential tenant. Mr. Dudick state that the variance goes with the property and not the owner or the business.

Ms. Ganem asked if she would be able to get a SUP. Mr. Reese stated not for this reason.

Mr. Styles asked how long is considered a hardship. Mr. Dudick stated it depends on what the Board feels. Mr. Styles asked if the applicant has hired a realtor instead of self-advertising for the space. Ms. Ganem stated that she has in the past but they found nothing.

Ms. McCoy asked that in the last 3-5 years, how long of a stretch one of the offices has been vacant. Ms. Ganem stated that this is the first time she has had trouble as there are a lot of vacant offices closer to the center of town that people are going to.

Mr. Wilcox stated that the applicant could also go to the Town Board and move to have the zoning changed for the use if it falls into the timeframe the applicant is looking for. Mr. Wilcox stated that statewide that only about 3% of use variance are granted due to spot zoning.

Mr. Dudick stated that at this time the applicant is able to table the application and come back in 62 days, have the Board vote on it, but then the applicant cannot comeback if it is denied, or withdrawal and then the applicant can always come back later. He stated that the applicant can get together financial documents for proof of hardship and the attempt to fill the space.

Ms. Ganem stated she would like to withdrawal her application.

The chairman made a motion to approve the minutes from the August 15, 2023, meeting. All who were present at the August 15, 2023 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 8:45 p.m.

The next scheduled ZBA meeting will be held on September 19, 2023.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals