

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

October 17th, 2023

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

Absent: Chad Gregory, Lisa McCoy, Jensen Tate, (alternate)

Also Present: Scott Reese, Zoning Officer
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 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 of 5 votes need to be in favor of the application tonight.

Old Business:

None

New Business:

An application from John J. Spagnola 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 does not exceed 75 feet. The proposed front property line setback is 55 feet for the proposed shed. The variance requested is 25 feet from the 80 foot property line setback. The property is located at 68 Grissom Road, Clifton Park, NY.

Applicant:

John Spagnola – Mr. Spagnola stated that he is the owner of the property and has lived there for 48 years. He stated that he is here tonight because he needs more room for storage at his home. Mr. Spagnola showed on a map in the meeting of where the proposed shed would be on his property and stated that it is 109' from the curb. He stated that the shed would be 14'x24' maximum and that the shed would be 25' from the side property line. He stated that the 14' of the shed includes the 2' base and the structure itself would be 12'. He stated that the maximum size of the length of the building would be 24' and it would be dependent on cost, but he could go down to 20' if needed. He stated that there is only one home on the left of him and that all other neighbors are about 50' from his property. He stated that the proposed location of the shed is 55' from the property line and 85' from the center line of the road. Mr. Spagnola stated that the shed would not be closer to the road than the homes around him and that he has a pool in the rear yard and wetlands with uneven land so there is no other place for him to place the shed other than the proposed location. He stated that he is looking for a 25' easement as he needs room between the shed and the fence to gain access to the rear yard. Mr. Spagnola stated that he has spoken to his neighbor and that they have no concerns with his proposal.

Public:

No public comment.

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

Board:

Mr. Lemire asked the applicant why the shed cannot go on the other side of the home. Mr. Spagnola stated that there is only 14' on that side of the home and there is the pool pump as well as the ac unit there. Mr. Lemire stated that this applicant is not the first to request a shed closer to the road than the home. He stated that this is less of an impact due to only having one neighbor to the right.

Mr. Dudick asked why the shed cannot be placed behind the garage. Mr. Spagnola stated that he has a 30' patio that extends past the garage in the rear of his home and there is only 12' from that in the location. Mr. Spagnola stated that there is underground drainage there as well. He stated that he currently rents space for seasonal storage. Mr. Dudick asked the applicant why the shed is

not placed behind the pool. Mr. Spagnola stated that it floods in the rear of his property and due to this he has had to replace his fence a few times. Mr. Dudick asked if the shed would be closer to the road than the neighbor's home. Mr. Spagnola stated that it would measure about the same as the neighboring home. Mr. Dudick stated he would consider a condition if the applicant would be willing to make the shed smaller and push it back the feet that the shed was decreased by.

Mr. Klimes stated that since this has never been granted before the Board would be setting precedence and someone else will want to do the same. He stated that he thinks this is a hard decision as in this case the application makes sense. Mr. Klimes asked if the shed would be permanent. Mr. Spagnola stated that it would be on a stone bed. Mr. Klimes stated that it can be moved if it not on a foundation to access the rear of the yard. Mr. Spagnola stated that there is piping on the side of the house as well so moving for access would be difficult.

Mr. Lemire asked why not after the pool repair the applicant cannot put the shed next to the home. Mr. Spagnola stated that he will then not have access to the rear of the home and the 7' gate needs access as well.

Mr. Febo stated that he does not want to rule out due to having other homes in the area closer to the road than the proposal. He stated that he would like to see the shed match the home as well since it would be potentially in front of the home. He asked if the applicant looked into having a detached garage instead of a shed. Mr. Spagnola stated he did and it is significantly more expensive.

Mr. Klimes asked if the applicant has considered a lean-to on the side of his home. Mr. Spagnola stated that he does not feel it is esthetically pleasing to him and it would be about \$15,000 and that this proposal is what he has been looking to do. He stated that he brings in fill now so he does not trust the rear yard. Mr. Klimes asked what the distance from the shed to the garage would be. Mr. Spagnola stated it would be about 12'-15' so that if a vehicle needs to be brought back to the rear yard it will fit.

Mr. Febo stated that he feels that this is a unique property with a large front yard. He asked if the applicant would be willing to drop the variance to 20' as anything he can do will bring the shed closer to the home. He also asked the applicant if he would bring the shed to the property line. Mr. Spagnola stated that he would then have to bring in fill and level off.

Mr. Styles stated that that the home being bordered on both sides by homes closer to the road and that he is not encroaching makes this property unique. Mr. Styles asked if the applicant would agree to no trees being cut to the east or west so that the neighbors would not be disrupted by the shed.

Mr. Lemire asked if the wetlands are cited on their map. Mr. Reese stated that DEC wetlands are in the area and there is a stream that runs through the corridor to the rear of the property, and it is known to flood a lot. He stated that there are not dedicated wetlands specifically there.

Mr. Dudick asked if there was code in 1976, when the home was built. MR. Reese stated that there was not.

Mr. Reese stated that this is a Type II action and the no further SEQRA is required. He stated that the Saratoga County Planning Board waived the application, the neighbors were notified and that he has gotten no response. Mr. Reese stated that there is a sewer easement on the side of the property so if they ever need to access it the shed would have to be moved at the residence expense.

Mr. Styles stated that if the applicant agrees to provide a robust barrier and what is there is to remain then he moves to approve the application so the shed would not be visible to neighbors.

Mr. Febo stated that he agrees that this is unique property but he would not want to see a metal shed and asked if the applicant would be willing to match the esthetics of the home to the shed. Mr. Spagnola stated he was willing to match the home and that was the plan all along. Mr. Febo stated that he saw another application similar to this one and it was approved and asked what the difference was. Mr. Reese stated that the other application was a corner lot. Mr. Febo stated that there is no code that states the shed cannot be in front of a home, only the setback. Mr. Reese stated that this was correct.

Mr. Lemire asked to look at the neighbor's driveway compared to where the shed proposal is. Mr. Reese pulled up a map and indicated the two locations.

Mr. Klimes stated that applicant that if the plans were denied, then the applicant can still build at 80' and be in compliance with code.

Mr. Styles moved, second by Mr. Febo, to approve the variance with amendments. The property is located at 68 Grissom Drive, Clifton Park, NY.

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

Conditions:

1. Variance reduced to 21 feet
2. Visual barrier will remain to the north and south and no existing trees be cut to the east or west.

The Secretary called the Vote:

Ayes: 3

Noes: 2 - Mr. Klimes, Mr. Lemire

The application is denied.

New Business:

*An application from **Joseph Blair** requests and area variance from chapter 208-11 Space and Bulk Standards, (1) the minimum front yard setback in Residential District R-1 is 50 feet. The proposed attached garage is 45 feet from the property line. The variance requested is 5 feet from the 50 feet front property line setback. (2) the applicant requests an area variance from Chapter 208-11 Space and Bulk Standards, the minimum side yard setback in Residential District R-1 is 10 feet. The proposed attached garage is 4 feet from*

the side property line. He variance requested is 6 feet from the 10 foot front property line setback. The property is located at 7 Dorsman Drive, Clifton Park, NY.

Applicant:

Joseph Blair, property owner state that he is not looking for a front variance but only a side variance now as he would like to put in a 2 car garage with an attached breezeway. He stated it could be about 34'x23' but he can bring it back to 30'x23' so only one variance is needed. He stated that he notified his neighbors and that there were no concerns.

Public:

No public comment

Mr. Dudick moved, second by Mr. Lemire to close the public hearing at 8:13 p.m.

Board:

Mr. Reese stated that there would be a 1' overhang that is included in the measurements. He stated that there will be an attached breezeway with doors to connect the buildings and that the application is for the side setback only. Mr. Reese stated that this is a Type II action per SEQRA and that the Saratoga County Planning Board had waived the application. He stated that neighbors were notified and that he has received no concerns.

Mr. Dudick asked if there would be gutters on the addition. Mr. Blair stated that there would be. Mr. Reese stated that the Board can require this. Mr. Wiener asked if the applicant agrees to this. Mr. Blair stated that he does. Mr. Dudick stated that he appreciates that the applicant has moved the proposal back.

Mr. Lemire asked what is going to be done with the existing garage. The applicant stated that the garage was converted into extra living space before they purchased the home.

Mr. Klimes asked if there was enough room for access to the rear of the home. Mr. Blair stated that there is about 3' of space between the two fences for access.

Mr. Febo asked how tall the garage is being proposed as. Mr. Blair stated that it would be the same height as the home. Mr. Febo asked how close the neighbor is to this application. Mr. Reese stated that it is about 20'. Mr. Febo asked if there would be more living space in the garage or a bedroom. Mr. Blair stated that there would not be and that it is strictly for storage and would have no insulation. Mr. Febo stated he would like this as a condition as well.

Mr. Dudick moved, second by Mr. Febo, to approve the variance as requested. The property is located at 7 Dorsman Drive.

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

Conditions:

1. No living space shall be a part of the addition of the structure.
2. Gutter will be installed to address possible drainage issues

The Secretary called the Vote:

Ayes: 5

Noes: 0

Discussion:

Mr. Reese stated that the Blue Barns project will be withdrawing their application.

Mr. Reese stated that Prime Storage is approaching their 61 days for approval and that the Town is waiting on them to come back. He stated that the company has not heard back from the property owner yet. Mr. Klimes asked if the 3rd unapproved sign has come down yet. Mr. Febo stated that he does not think so. Mr. Weiner stated that they need to be added to the next meeting so that the Board can have a vote on the application if the applicant does not respond.

The chairman made a motion to approve the minutes from the September 19, 2023, meeting. All who were present at the September 19, 2023 meeting voted in favor and the meeting minutes were approved.

The chairman made a motion to approve the minutes from the October 3, 2023 meeting. All who were present at the October 3, 2023 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Lemire second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:23p.m.

The next scheduled ZBA meeting will be held on November 21, 2023.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals