

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

May 12, 2024

Present: Chairman Michael Dudick, Christopher Lemire, John Klimes, Lisa McCoy, Scott Styles, Juliano Febo, Mark Brockbank (alternate)

Absent: 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. Lemire arrived at 7:04 p.m.

Mr. Dudick stated in the absence of Mr. Gregory, Mr. Brockbank would be a voting member.

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 7 voting members of the Board here tonight, so that 4 of 7 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 7 votes need to be in favor of the application tonight.

Old Business:

An application from Environmental Design Partnership LLP requests an area variance to propose a cluster subdivision on a 6.1-acre parcel. Town Code Section 179-35B.(1)(a) total land area included in the proposed subdivision or contiguously held by landowner, whichever is greater, is 20 acres or more. The current lot size is 6.1 acres – area variance requested is 13.9 acres. The property is located at 377 Moe Road, Clifton Park, NY.

Applicant:

Joe Dannible stated he is here tonight on behalf of Kohler Homes for an area variance for an allowed cluster subdivision. He stated that proposal is on Moe Road and ¼ of a mile north of Grooms Road. Mr. Dannible stated that Acorn Ave is to the south and to the north of the parcel is Clifton Park Open Space with access in 2 areas. Mr. Dannible stated that this proposal is for development of 6.6 acres of land with an existing single family home on it as well as accessory structures. He stated the property is surrounded by residential and they were last here in February to allow a cluster on the 6.6 acres. He stated that they wanted duplexes on the property but due to feedback from the neighbors they are now asking for 10 conventional lots. Mr. Dannible stated the Planning Board had also had concerns at that time about buffers and they are trying to increase the buffers here now. Mr. Dannible showed the proposal in the meeting and stated that they are proposing to have 7 lots on the leg of the road and 3 on the cul-de-sac. He stated that the buffer from the street would increase from 16' to 26' from the road to the property line and 110' down to 95' from the home to the rear yards, and 95' up to 190' from the rear property line which is around the cul-de-sac. He stated the applicant is trying to cluster and preserve the property. Mr. Dannible stated they can clean this up more to allow access and behind lots 1-3 there would be dedicated open space under the cluster provisions. He stated that with these changes they are able to preserve vegetation and increase buffer. Mr. Dannible stated they would also be creating linkages to open space and trails instead of roadways.

Public:

Randy Rosette 393 Moe Road – Ms. Rosette thanked the applicant for more information at the meeting tonight and for considering concerns. She asked how much would be a tree buffer. Mr. Dannible stated there would be an increase of distance by 10' and with the conventional layout it would be zero feet, they are increasing the buffer with the cluster proposal. Ms. Rosette asked if they would be adding evergreens as they have a kitchen window in the area of the buffer. Mr. Dannible stated the planning process would indicate what would be needed in the area and they are attempting to appease all land owners. Ms. Rosette stated that water runoff is a concern as there is already moisture in her basement and fears the vegetation that is removed will only increase this. Mr. Dannible stated in January 2024 was the wettest in history and March 2024 was the 3rd wettest and that they would need to comply with the SWPPP findings and regulations. He stated that they are looking at the north side for a swale at the roadside.

Mr. Reese asked if the Planning Board has the public hearing open. Mr. Dannible stated the Planning Board has given SEQR approval and preliminary approval in November but they still need to go back for changes and they may reopen the public hearing but this is up to the Board.

Mr. Reese stated that public can also always write letter to the Planning Board of their concerns for review.

Debbie Harrington 12 Acorn Ave – Ms. Harrington asked if the homes would be 2 levels and if they would have a basement. Mr. Dannible stated they would have both. Ms. Harrington stated that the rear of her property backs up to the opens space and trees have fallen in the past from that area and have damaged her fence on her property. She stated that she does not know if trees in the proposed open space are healthy but if they are restricted they cannot be removed or cared for and then her property cannot be cared for. She asked for the trees to be removed and then replaced with new ones. Mr. Dannible stated the Planning Board will set the size of the lots and what they change after this approval is up to them. Mr. Dannible stated that dead, dying or diseased trees are able to be cared for in the buffer area. Ms. Harrington asked if the open space would be turned into a walking path. Mr. Reese stated it all depends on what gets approved by the Planning Board and if the land is privately or publically owned. Ms. Harrington asked how deep the stormwater management area would be and what would happen if it overflows. She asked if the developer would consider not developing Lot 7. Mr. Dannible stated that other agencies may connect to the roadway and he can condition no paths built in the rear yards of the lots that back up to existing lots. Mr. Dudick asked Ms. Harrington how many trees have fallen over how long. Ms. Harrington stated she has lived there for 29 years and 3 large trees have fallen onto her property as well as large branches and now the trees are older and they will fall more frequent. Mr. Dudick asked how many trees does she think need to come down. Ms. Harrington stated she thinks maybe 4. Mr. Weiner stated the Town may not want the property. Ms. Harrington stated they do not want to be bad neighbors.

Margret Berring 6 Acorn Ave – Ms. Berring asked who decides what happens with the open space. Mr. Dannible stated that the Town has already taken some of the space for trails. Ms. Berring stated there is concern with more traffic with more homes and she would like to have a buffer as her home backs up to the field and not the wooded area. She stated that she has concerns with the water table because there has been an increase in the swampy areas. She asked where the animals that live in the area are to go and asked how many homes are near the existing power lines. Mr. Dannible stated many of the questions are site plan related and will be addressed with the Planning Board. He stated tree removal with deed restriction would allow for certain trees to be removed that cause a safety concern. He stated the ownership of the land will be for the Planning Board to determine as well but he thinks the Town does not want the land and it would be privately owned with deed restrictions and signage would then be required and followed up with the Building Department.

John Herrington 12 Acorn Ave asked if there would be an HOA associated with this. Mr. Dannible stated they are not proposing one. Mr. Harrington asked how he would get a private owner to remove a dangerous tree. Mr. Dudick stated they would ask the owner permission. Mr. Dudick stated that the resident could ask the current owner to work with the dying trees. Mr. Herrington stated if the people doing the site work and the homeowners want trees down they will work with them.

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 8:08 p.m.

Board:

MS. McCoy asked if the applicant could move forward with the application without the variance if they stuck with the original design. Mr. Dannible stated they could but they are trying to consider feedback they were given and enhance the community.

Mr. Dudick asked what the hash tag lines on the map represent. Mr. Dannible stated the hash tags mark out the open space that would be dedicated to the Town or held in the deed of the owner as open space. He stated that it is up to the Planning Board to decide who the land will go to.

Mr. Brockbank stated that the code requires 20 acres. He asked what allowed here. Mr. Dannible stated that the code allows for 30-40 lots on 20 acres, and this is 10 lots with 0.66. Mr. Reese stated in the R-1 district 20,000 sf is allowed with public water and sewer but with a cluster they can go down to 10,000 sf lots and this is why the setbacks change as well. He stated that the idea is to preserve land and makes a "fair trade" with less roadway and infrastructure. Mr. Dannible stated that Planning sees the benefits to clusters.

Mr. Dudick stated this is for 10 single family homes, and asked if the stormwater will change. Mr. Dannible stated that one area may end up being bigger but this is the representation.

Mr. Styles stated he had read a letter from Rosette and Jensen and asked if the applicant reviewed and addressed their concerns. Mr. Dannible stated he believes he did, he stated there is a 50' right of way adjacent to them and with the cluster it is now 60' and the distance from the rear of the home is increased by 15'. He stated the fronts of the homes are closer to the property line and the buffer to the rear gives more rear lawn space.

Mr. Lemire asked if the second variance from February 29 is still needed. Mr. Reese stated that it is no longer needed as the necessary setbacks are different with clusters. Mr. Dannible stated this can be reduced 50% or further if a waiver is granted by the Planning Board. Mr. Lemire asked if the applicant would not need variances for the conventional layout. Mr. Dannible stated the conventional layout meets all requirements and he then listed them. Mr. Dannible stated that they originally wanted duplexes but the developers received a letter from the Planning Department that a cluster is preferred. Mr. Reese stated that showing conventional vs. cluster is typical for reference and duplexes are allowed but not with a cluster. Mr. Weiner stated the variance is for acreage only.

Mr. Febo asked what the sizes of the homes would be. Mr. Dannible stated they would be a standard single family home, about 20,000-2,200 sf. Mr. Febo stated that if the private owner has claim over the open space they now have responsibility of the dangerous trees. He stated that before the deeds are opened the at risk trees need to be identified and addressed. Mr. Weiner stated the land owner is responsible for the negligence and it gets complicated. Mr. Febo asked if the Planning Board could ask for an arborist to come in for approval. Mr. Reese stated that if the Town takes over the property and certain characteristics are noted.

Mr. Reese stated that this application is an unlisted action according to SEQRA and Saratoga County Planning Board is not required to review the application. He stated that mailings were sent January 2024 and there are residents here tonight with concerns. Mr. Reese stated that this

application has been reviewed by Clifton Park's Open Space Committee and the ECC and both are in favor of single family homes.

Mr. Brockbank moved, second by Mr. Febo, to approve the variance as requested. The property is located at 377 Moe Road, Clifton Park, NY.

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

Conditions:

1. No public paths in any dedicated green space on the property except connecting to the existing trail on the north side of the parcel.
2. Adequate buffering shall be provided on the northern boundary with the lands of Jensen and Rosette. Buffering requirements will be decided by the Planning Board

The Secretary called the Vote:

Ayes: 7

Noes: 0

New Business:

*An application from **Luigi Corcione** requests an areas variance from Chapter 208-12. No accessory building shall be placed closer to a front property line than 80 feet. The proposed front property line setback is 52 feet for the proposed detached garage. The variance requested is 28 feet from the 80 feet front property line setback. The property is located at 5 Guilder Place, Clifton Park, NY.*

Applicant:

Mr. Luigi Corcione stated he has put in an application to build a garage. He stated he has been a resident for 40 years and would like to park his car in a garage. He stated he has 3 cars and he wants to have a 2 car garage with a lift to allow space to store things and work.

Public:

No public comment.

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

Board:

Mr. Brockbank asked if the garage was attached to the home, would the resident need a variance. Mr. Reese stated they would not. Mr. Corcione stated he is looking at doing a walkway with a covered door and a base connection but not attach it to the home. He stated he will bring electric to the garage but not water.

Mr. Lemire asked if the trees in the area would be removed. Mr. Corcione stated 3 trees and a bush would be removed. Mr. Lemire asked if it would have a bump out or if the driveway would be extended to the roadway. Mr. Corcione stated he is just going to do a bump out and be 10' off the property line.

Mr. Dudick asked if the garage would be closer to the road than the home. Mr. Reese stated that it would not be and the owner would have a 16'x24' garage so he can have a shop in the rear.

Mr. Febo asked if this would be staying in character with the neighborhood and if the esthetics could match the home. Mr. Weiner stated that the Zoning Board does not get to condition this. Mr. Corcione stated that he planning to have the garage matches the home. Mr. Reese stated that there are no regulations within code for esthetics and that this is usually only found with an HOA.

Mr. Klimes stated he is unaware of any standalone garages in the neighborhood. Mr. Corcione stated there are 2 on Gretel Terrace.

Mr. Lemire asked if the garage could be pushed back any further. Mr. Corcione stated he could line up the front of the garage with the rear of the home but he would like to keep some space. He stated that it will be even with the front of the hoe and he would like some symmetry either in the front or the rear to line up.

Mr. Brockbank asked if the Board would be setting precedence if they require it to be aligned with the back of the home. Mr. Dudick stated as far as he has been on the Board they have always wanted the accessory structure to be equal to or behind the front of the home at a minimum but prefers it to be behind the home.

Mr. Weiner stated that they would be looking at a 26' variance down from a 28'.

Mr. Reese stated this is a Type II action according to SEQRA and the Saratoga County Planning Board has waived the application and neighbors were notified on 4/18/24. Mr. Reese stated the application was publically posted on 4/26/24 and 5/10/24.

Mr. Dudick moved, second by Mr. Febo, to approve the variance as amended to a 26' setback. The property is located at 5 Guildler Place, Clifton Park, NY.

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

Conditions:

1. The front of the accessory building will be no closer to the front of the home than 2 feet.

The Secretary called the Vote:

Ayes: 6

Noes: 1 - Mr. Klimes stated that he has concerns with the slanting of the land as well as challenges with the foundation.

Discussion:

Mr. Weiner stated that Ms. Cooper sent out a letter for review. Mr. Weiner asked the Board to review the letter and he is waiting to hear back from the applicant about the new cell tower application regarding this.

Mr. Reese stated that the applicant for Schuyler LLC has requested the application be tabled for a 3rd time. Mr. Reese asked if the Board would be willing to extend to tabling while the applicant works with DEC and the ACOE. He stated that this is going over the 62 day mark. Mr. Weiner asked if the Board was willing to give them one more extension and they would need to withdraw or vote. Mr. Dudick stated that the applicant is communicating with Mr. Reese so he has no problem with one more time. The Board agreed on one more extension.

The chairman made a motion to approve the minutes from the May 7, 2024 meeting. All who were present at the May 7, 2024 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Febo second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:53p.m.

The next scheduled ZBA meeting will be held on June 4, 2024.

Respectfully submitted,

Paula Cooper

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Secretary, Zoning Board of Appeals