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**Town of Clifton Park Zoning Board of Appeals**

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CLIFTON PARK  
TOWN CLERK



**Zoning Board of Appeals**

**August 20, 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  
Robert Wilcox 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 6 voting members of the Board here tonight, so that 4 of 6 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 6 votes need to be in favor of the application tonight.

**Old Business:**

*An application from **Irene Cullagh** requests and Area Variance from Town Code Chapter 208-10B.(1)(a)[1] The keeping of livestock or poultry, such as hogs, cows, horses, goats or chickens, with a lot minimum of five acres. Existing lot size 0.50 acres. The property is located at 17 Oakwood Blvd, Clifton Park, NY.*

**Applicant:**

Ms. Irene Cullagh was in the meeting via Zoom. Mr. Dudick asked Mr. Reese to explain a letter written from Mr. Weiner to the Board on July 11, 2024. Mr. Reese stated that Mr. Weiner had stated in the letter that he had looked into provisions for the application and that a sunset clause was not available.

Ms. Cullagh stated that she had previously spoken about how she had wanted to have the Nigerian dwarf goats as pets in her home. She stated they have been mostly indoors since the last meeting. Ms. Cullagh stated that when she called the Town initially to ask about a variance for them she stated they made her feel like this process was a formality and that she would have never taken them if she had known the full process beforehand. Ms. Cullagh stated that one of the goats has become an emotional support animal for her son and she has a written letter from his doctor for this. Ms. Cullagh stated that the males have been neutered and all of the goats have been seen by a veterinarian.

**Public:**

Justin Granado, 18 Oakwood Blvd., stated he works from home and feels the goats are a distraction for him. He stated he can hear the applicant's goats from his home and he needs to keep his windows shut.

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 7:16 p.m.

**Board:**

Mr. Dudick asked the applicant if what they had stated was that they felt misled. Ms. Cullagh stated she does feel misled from the beginning and that all they had to do was file paperwork and this is not the case. She stated the goats are attached to them and they are attached to the goats as well. Mr. Dudick asked why the applicant wanted goats and not dogs or cats. Ms. Cullagh stated that she has always wanted one since a child and they have cats and dogs as well. She stated that they are loveable, trainable and herd animals and that she has learned as much about them as possible. Mr. Dudick asked the applicant why the application was filled out and then the goats were brought to her home. Ms. Cullagh stated that they only got them before the ZBA hearing because of the living conditions they found the goats in.

Mr. Lemire stated he was not at the last hearing for this application but he has reviewed the materials and he feels he is prepared for the hearing tonight.

Mr. Reese stated that this application is a Type II action and no further SEQRA action is required. He stated the Saratoga County Planning Board has waived the review of the application, because it is a residential application and neighbors have been notified of the

application on June 11, 2024, and it has been posted in the newspaper on June 7, 2024. Mr. Reese stated that there was one call to animal control asking about goats. To address the applicant feeling misled, Mr. Reese stated he discussed the process of the application, that he cannot speak on the behalf of the Zoning Board members and they cast their votes independently and that he did not portray it was just an application.

Mr. Dudick stated that he understands that the family can make an attachment to the goats and other animals such as pigs or iguanas but has trouble with if they should be allowed where they are usually not. He stated that he does not feel this is a good idea in a residential area as well as the lot being small. He stated he feels this may not be fair to the neighbors due to sounds and smells that can come from the goats. He stated he is not in favor of the application.

Mr. Brockbank stated he agrees with the Chairman and his concerns and comments.

Mr. Febo stated he understands wanting additional pets in the home but the Town has not identified what a boutique animal is and this creates a challenge. He stated that he feels the Town needs to define this and encouraged the applicant to go to the Town Board to help with a Town resolution, however he does not feel he would be in favor of the application if there was a vote tonight.

Mr. Reese stated he has had discussions with other Town employees so he did not take this application lightly and the answer is a larger process than the ZBA.

Mr. Dudick asked if the goats were with the applicant on vacation and how long the applicant has been away from them. Ms. Cullagh stated they have been gone since Friday and they brought the goats to a farm in Connecticut to be cared for however, on an ordinary day they have pet sitter come to the home. Mr. Dudick asked when the last time the goats were out for the public to hear. Ms. Cullagh stated she treats the goats like dogs and if they are noisy she brings them inside. Mr. Dudick stated there are laws in place for regulating dogs but there are none for residential livestock.

Mr. Dudick asked the applicant if they would like to move forward with the application and have a vote to approve or disapprove or if the applicant would like to withdraw the application. Ms. Cullagh stated they would like to withdraw the application.

Mr. Reese stated that it is unfortunate that time and emotions have been spent and his understanding of the original plan was the applicant was to get approval before bringing the goats into the home. Ms. Cullagh agreed that it was the plan but the living conditions for the goats were not acceptable.

#### **New Business:**

*An application from Bohler Engineering and Landscape Architecture NY, PLLC proposing an automobile service station and convenience store with a drive thru requests two variances. The first being from Town Code Chapter 208-93 (C) Public garages and automobile service station: no gasoline pump shall be placed closer to any property line*

*than 50 feet. The proposed gasoline pump setback is 33 feet. The variance requested is 17 feet.*

*The second being from Town Code Chapter 208-50.3B. No sign larger than 20 square feet shall be within the 80-foot front yard setback. The proposed sign area is 45 square feet. The variance requested is 25 square feet. The property is located at US Route 9, Clifton Park, NY.*

Mr. Lemire stated the public notice had no property address attached and asked if this was a valid notification to the public and if they could move forward with a hearing. Mr. Reese stated that 500' notices went out as required and others further away have been notified as well. Mr. Wilcox thinks this application can move forward because of the notice, the people that would have been impaired or detrimentally affected that they have notice and the ability to appear if they have an issue with the application. Mr. Reese stated that 160 residents were notified for the application. Mr. Lemire questioned if the publication in the newspaper the public notice. Mr. Wilcox stated that if the appropriate parties had been noticed, it would have been better in the SBL number could have been addressed, but he does not feel its fatal as long as the notices have gone out. The notices are the biggest issue, which they have the ability to appear. He suggests in the future that SBL's to be added if there is no property address. Mr. Dudick stated that Council says that legal notice has been served and asked Mr. Reese if he believes this was properly noticed. Mr. Reese stated he believed this was over notified. Mr. Dudick will rely on legal council and the Building Department that the public notice has been addressed.

**Applicant:**

Mr. Chris Boyea stated he was here on behalf of the owner and he has been with Bohler for 23 years and this is the most notices that they have sent out. He stated the application is next to the Jeep dealership on Route 9 and is in front of the I-87 rest top, with Parkway Music across the street. Mr. Boyea stated that the applicant has been before the Planning Board twice now and they like the setup of the gas station proposal. He stated that this site plan needs 2 variances. He stated they need a variance to have a diesel pump less than 50' from the property line as well as a variance for a sign closer to the road than 80'. He stated there would be 4 dispensers out front of the property and a drive through for food and a diesel stations. Mr. Boyea stated they meet most of the code and the Planning Board thinks this may be the more favorable layout for the property and the ZBA. He stated that this is a sizeable investment so signage out front is important so if the applicant pulls back from the frontage of the existing building, formally Matchless Stove, the signage would be blocked. Mr. Boyea stated there is a large billboard across the road from this property and other sites in the area have signs closer to the road so it would not be out of character and in line with the dealership next door. He stated that there is a large right of way here and code stated's that they measure from the property line and is about 30' so he feels this may be a struggle for everyone.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 8:11 p.m.

**Board:**

Mr. Reese stated that the zone has its own laws and this is in the B-4A zoning and Chapter 208-50.3 B. The minimum front yard of 80 feet, into which space there shall be no encroachment of structures other than a fence, a wall or a sign not larger than 20 square feet. The applicant is proposing to put a sign larger than that within the 80 feet. Per the Towns Sign Law it is permitted to install a freestanding sign larger than 20 square feet in size, only 15 feet back from the property line. This may be the first time the ZBA has heard an area variance for a sign location outside of the Town's Sign Law. There are in fact other signs closer to the road in this area that are larger than 20 square feet in size that may have been only looked at by the Town's Sign Law and not under the space and bulk standards for Highway Business / Restricted Retail District B-4A.

Mr. Brockbank asked how large the sign is that they are asking for. Mr. Boyea stated 45 sf. Mr. Dudick confirmed they are in line with other signs.

Ms. McCoy asked if there were any changes to the B-4A zoning that would have allowed this before. Mr. Reese stated there is nothing he is aware of.

Mr. Lemire asked how big the sign was for Matchless and guessed about 50 sf. Mr. Reese stated there were 2 businesses on one sign. Mr. Boyea stated they tried balancing with the Planning Boards recommendations and conserving greenspace but then he would need a variance for parking.

Mr. Lemire asked if there was a single access point for the application. Mr. Boyea stated that this was all that DOT would allow. Mr. Lemire asked how many signs the applicant would want total. Mr. Boyea stated they would want one on the road, one on the building and possibly one on the canopy. Mr. Lemire asked if there would be a sign package with the application and if so, why not ask for the signs all at once. Mr. Boyea stated that he feels this could be a deal breaker for the project to wait.

Mr. Dudick stated it is hard to look at a sign variance when they don't know what else there may be within the project. Mr. Boyea stated they have a lot more to do here but they cannot move forward if these variances are not granted.

Mr. Lemire asked if the applicant would want other signage if they approve this variance or would the applicant be willing to agree on just this one. Mr. Boyea stated they need more signage as they want one on the building as well but the intent is to use what is allowed on the building.

Mr. Reese asked who the supplier would be for the gas. Mr. Boyea stated it would most likely be Valero but there is no guarantee yet, Sunoco is another option. Mr. Reese stated this is not a sign code but a Town zoning code. Mr. Boyea stated the fuel dispensers need to be 50' from the property line and this is 33'. He stated they found a solution not to need a variance for this but the Planning Board wanted them to ask the Zoning Board for approval as moving the bypass to an outside lane was not logical to them. Mr. Boyea stated Bohler did the 2012 x-tramart on exit 10 and they have a similar layout to what they are proposing here and they had a variance granted as well then. He stated that the lanes are mainly for box trucks but the larger trucks are shown to fit per the Planning Boards request. He stated that many of the larger trucks have 2 tanks for gas so the outside lane would only have one pump while the others would be satellite.

Mr. Febo and Mr. Klimes asked why the Planning Board requested a change in the layout and then sent them to the ZBA. Mr. Wilcox stated this is on the Planning Board and they had thought about this and the engineer with the Town thought this was the best layout. Mr. Boyea stated that they saw trucks making minimal turns would be best.

Mr. Lemire stated if the applicant gets rid of the dispenser then the variance would go away as well.

Mr. Brockbank stated to him it doesn't make sense to get rid of the dispenser. Mr. Boyea stated that this is a singular dispenser so it would most likely not be used regularly.

Mr. Lemire asked if all of the pumps would have diesel available. Mr. Boyea stated they would not but cars could go to the sides of the diesel pumps.

Mr. Reese stated this is an unlisted action pursuant to SEQRA, mailings were sent out August 9, and the Saratoga County Planning Board stated there are no community impacts.

Mr. Dudick stated he does not feel he is concerned with keeping the character of the neighborhood and they have granted one before at exit 10.

Mr. Brockbank stated he does not have a problem with the sign variance as other large signs are closer to the road in the area and are similar to this application. He stated he would like to continue with the project and put a restriction that the applicant cannot come back for more sign variances.

Mr. Dudick stated if the applicant comes back for more sign variances this variance could be void. The applicant agreed to this condition.

Mr. Dudick moved, second by Mr. Brockbank, to approve the variance as requested. The property is located at US Route 9, Clifton Park, NY.

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

Conditions:

1. The applicant will not come back for another sign variance or the current sign variance would then be void.

The Secretary called the Vote:

**Ayes: 4**

**Noes: 2 – Mr. Lemire, Mr. Klimes**

The chairman made a motion to approve the minutes from the June 18, 2024 meeting. All who were present at the June 18, 2024 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Brockbank second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:28 p.m.

The next scheduled ZBA meeting will be held on September 3, 2024.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals