

## Town of Clifton Park Zoning Board of Appeals

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## Zoning Board of Appeals

October 15, 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, Director, 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. 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 Priscilla Medina is asking for a front yard setback variance of 32 feet, resulting in a setback of 98 feet from the centerline of Vischer Ferry Road. Town Code Chapter 208-98 Special setback lines state, no part of building shall extend nearer to the centerline of Vischer Ferry Road than 130 feet in a nonresidential district. The applicant is adding an addition to an existing structure. The property is located at 514 Vischer Ferry Road, Clifton Park NY.*

Mr. Dudick stated this application has been heard before in January 2024 and a decision was made. He stated the decision is void due to the applicant not on the deed at the time of application and hearing.

**Applicant:**

Ms. Priscilla Medina stated she is the property that she is here for a variance for a front enclosed porch.

**Public:**

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:29 p.m.

**Board:**

Mr. Dudick asked if the applicant lives in the home the application is for. Ms. Medina stated she does live there with her husband and family. Mr. Dudick asked if the home was a multifamily or rental home. Ms. Medina responded it was not for either of them and only family members live with her at the home. Mr. Dudick asked the applicant how many bedrooms are in the home. Ms. Medina stated there are 6.

Mr. Brockbank asked if her name was on the deed before tonight's hearing. Ms. Medina stated it was not but she had thought it was and she is a co-owner of the home with her nephew Christopher Dansler. She stated that he was supposed to help with refurbishing the home but he ended up getting work as a union electrician.

Mr. Dudick asked if Mr. Dansler was living in the home as well. Ms. Medina stated he is not she is living with her husband, 2 children and a 3 year old niece which she has custody of.

Mr. Lemire asked if Mr. Reese could pull up the original application and Mr. Reese showed it on the screen in the meeting for all to review. Mr. Lemire stated he had thought Mr. Dansler was on the original application and reference Rhododendron Drive. Mr. Febo stated this address was on the original deed that was not submitted with the application.

Mr. Weiner stated the deed with the condition is the same as on the deed now and the condition will run with the land not the owner of the land.

Mr. Lemire asked if she owner the building. Ms. Medina stated she did own the building but did not know was not on the deed. Mr. Lemire stated that Mr. Dansler put on the deed that he lived in the home on Vischer Ferry Road but the applicant stated he does not but rather lives in NYC.

Mr. Dudick asked if the home had any applications for state or federal grants. Ms. Medina stated she has not applied for any but she can.

Mr. Reese stated this is a Type II action pursuant to SEQR and no further action is required. He stated the Saratoga County Planning Board waived the application on October 3, 2024, neighbors were notified, and no calls have been made to the Town. Mr. Reese stated the agenda was posted in the local paper on October 4, 2024.

Mr. Dudick asked the applicant why she wanted an enclosed porch for the home. Ms. Medina stated the front of the home has an office and a dining room and she just wanted more space. Mr. Dudick stated he is having a hard time understanding why someone would purchase a home and spend money to alter it without living there. Ms. Medina stated he was supposed to live there with her and her family but there was a change of plans. Mr. Dudick stated that he feels if the application was commercial there should not be an enclosed front porch. Mr. Brockbank seconds the comment. Ms. Medina stated she has nothing to hide and she plans to live in the home with no intentions to open a business.

Mr. Lemire asked the applicant if there was a floor plan available for the home. Mr. Reese stated he can most likely find one to pull up. Mr. Lemire stated the paperwork show the Lands of Pricilla back in 9/2023 but the applicant did not purchase the property until a year later and asked if this was accurate. Mr. Reese stated the plan was a part of the original application in 11/15/23.

Mr. Febo asked if the applicant was still living at 5 Leslie Court. Ms. Medina stated she is not and just has not gotten a chance to change her address yet and the Leslie Court address is not her to sell.

Mr. Dudick stated that there are 2 property owners for this application but one lives in Westbury and the other in Halfmoon. He stated that for voting purposes they could not vote in Clifton Park but in the registered address towns. Ms. Medina stated this is true and she had not thought about voting and her nephew had wanted to move here but not anymore.

Mr. Brockbank stated he is satisfied with the application and would like to move to approve it tonight.

Mr. Febo asked if there was a C.O. on the property. Mr. Reese stated no. Ms. Medina stated she has a temporary C.O. Mr. Reese read from a letter issued by the Town on 9/25/24. He stated starting work needs to be done and no C.O. has been issued but he is unsure about a temporary one.

Mr. Febo asked if the new deed issued had the same conditions on it as the previous one. Mr. Weiner stated they should keep the same verbiage but it is already in the new deed. Mr. Febo stated in the past they have not voted on a nonconforming structure and they are living there without a C.O. so the vote should wait until a C.O. is verified. Mr. Weiner stated that the Town can enforce the Code and the Board looks at the variance.

Mr. Dudick asked how big the home was. Mr. Febo stated it is over 5,000 sf. Mr. Dudick stated it seems large for 2 adults and 3 children. He stated he feels like it is being set up for a multifamily living space. Ms. Medina stated this is not a multifamily and asked if other family members cannot invest in something like a home.

Mr. Febo asked what is holding up the C.O. Ms. Medina stated they have steps and she has a temporary one. She stated she can try to find out tomorrow.

Mr. Weiner stated the Board is preoccupied but this is the ZBA not code enforcement and they need to look at what is appropriate here.

Mr. Lemire asked if they only need a variance for the front porch since it was not enclosed and if it was denied what the applicant has to do. Mr. Weiner stated they would have to take off the front wall if the application is denied.

Mr. Lemire asked if an Air bnb counted as a business. Mr. Reese stated it is not and neither is Verbo in the Town Code. He stated that you can have up to 3 unrelated people living together sharing a kitchen and living space.

Mr. Lemire asked that the motion and the second include the condition from the deed. Mr. Weiner stated the deed already has it and if the condition is met then it would be satisfied and needs to stay on the deed so if there is a change in ownership or the deed is changed the variance is void and the porch needs to be removed.

Mr. Brockbank moved, second by Mr. Styles, to approve the variance as requested. The property is located at 514 Vischer Ferry Road, Clifton Park, NY.

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

The Secretary called the Vote:

**Ayes: 5**

**Noes: 2      Mr. Lemire, Mr. Dudick**

**New Business:**

None

The chairman made a motion to approve the minutes from the September 17, 2024 meeting. All who were present at the September 17, 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 7:59 p.m.

The next scheduled ZBA meeting will be held on November 19, 2024.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals