

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

January 7, 2025

Present: Chairman Michael Dudick, John Klimes, Lisa McCoy, Scott Styles, Juliano Febo, Mark Brockbank

Absent: Christopher Lemire

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 6 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.

Other:

Petition for re-hearing-in the matter the application of Schuyler, LLC (Permit #: VAR23 000001) The property is located at 862 Grooms Road, Clifton Park, NY.

This application has been rescheduled to 2/4/25

Other:

Revoke Area Variances from Permit #: VAR23-000478 per Notice of Decision approved on October 5th , 2023. The condition of approval was contingent on the side access easement to NY Route 146. The access easement could not be obtained. The property is located at 1019 Rt 146, Clifton Park NY.

Applicant:

Mr. Reese stated the area variance for M&M Food Mart approval was contingent on the side access. Mr. Reese showed the map of the application with side access. He stated the applicant was before the Planning Board but they need to come back here since the easement for the access was not granted. He stated the Board will look at the same area variances in the future without the side access.

Public:

No public comment.

Board:

Mr. Dudick stated that as a condition of approval, and then does this not automatically void the variance? Mr. Reese stated he has spoken with council and this is what needs to be done. Mr. Weiner asked if there is consent from the applicant. Mr. Reese stated that the applicant has agreed to this with some minor changes that may be heard in the next application.

Mr. Dudick asked if the applicant was still planning to tear down the old building and build a new one. Mr. Reese stated he is. Mr. Dudick asked if there has been any movement on the road from the owner. Mr. Reese stated there has not been and no building permits have been issued yet for the owner of the road. Mr. Reese stated a new application for M&M Food Mart will be heard tonight.

Mr. Weiner stated he sees this tonight as not revoking but as the applicant acknowledging they cannot meet the conditions so a new application was put in.

Mr. Dudick asked if the applicant is willing to vacate the variance that was approved and apply for a new variance. Mr. Kevin Pultorak stated he is here tonight representing the applicant, and

he is unsure of how this will lead. He stated that he agrees that the applicant cannot meet the conditions of the approved variance so they are back with a new application.

Mr. Weiner stated he agrees the old variance needs to be vacated and asked if the applicant agrees to this.

Mr. Febo stated that the applicant may not need the side road access if they are within the Town Code down the road.

Mr. Klimes asked if they would need the Boards permission to connect to the road if it is ever deemed a Town road in the future. He stated the Board had spoken about possible congestion in and out of the site and concerns with curb cuts on state roads with the prior approved application.

Mr. Pultorak stated that he would like to adjourn the application hearing and the vacating of the old variance until he can speak with the applicant now knowing what needs to be done.

Mr. Dudick stated this can be adjourned until the February 4, 2025 meeting, but the applicant needs to come back before 62 days or the Board will have to make a decision. Mr. Pultorak agreed he would come back and be in contact with Mr. Reese.

Old Business:

*A rehearing of an application from **Schuyler, LLC** that requested an Area Variance from Chapter 208-98 special setback lines on Grooms Road-No building shall extend nearer to the center line of the street than 100 feet. The proposed front yard setback for the building is 48 feet - Variance requested = 52 feet. The property is located at 862 Grooms Road, Clifton Park NY. (Permit #: VAR23-000001)*

This application has been rescheduled to 2/4/25

Old Business:

*An application from **Nolan Engineering, PLLC** requests the following Area Variances:*

- a. Per Town Code Chapter 208-38 (B): the minimum net land area per establishment shall be 40,000 square feet, existing land area is 26,572 square feet. The variance for the net land area requested is 13,428 square feet.*
- b. Per Town Code Chapter 208-38 (C) Front yards. There shall be a 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 and no encroachment of commercial usage other than parking space. The gas canopy is located 34 feet from the front lot line. The variance for a front yard setback is 46 feet for the gas canopy.*

- c. *Per Town Code Chapter 208-38 (C) Front yards. There shall be no parking allowed within 30 feet of the front lot line. The parking area is located 16 feet from the front lot line. The variance for parking setback is 14 feet from the front lot line.*
- d. *Per Town Code Chapter 208-38 (D) Side yards. No automobile parking space shall extend nearer to a side property line than 20 feet. The parking area is located 13 feet from the side lot line. The variance for parking setback is 7 feet from the side lot line.*
- e. *Per Town Code Chapter 208-38 (E) Rear yards. No building shall be placed closer to the rear property line than 30 feet with no encroachment by structures or parking. The proposed rear yard setback for the building is 10 feet. The variance requested is 20 feet from the rear lot line setback*
- f. *Per Town Code Chapter 208-38 (G): Green space shall be 35%. The proposed green space is 32%. The variance requested is 3% of the total green space required.*
- g. *Per Town Code Chapter 208-93 (C) Public garages and automobile service stations: no gasoline pump shall be placed closer to any property line than 50 feet. The proposed gasoline pump setback is 39 feet. The variance requested is 11 feet.*
- h. *Per Town Code Chapter 208-98 Special setback lines: no building or part of a building, other than steps, eaves, and similar fixtures, shall extend nearer to the center line of the street or road than 100 feet in the case of a building in a residential district or 130 feet in the case of a building in any other district. The proposed gas canopy setback is 95 feet. The variance requested is 35 feet from the center line of the street setback.*

The property is located at 1019 Rt 146, Clifton Park NY

This application has been rescheduled to 2/4/25

New Business:

*An application from **Ingalls & Associates, LLP** is requesting an Area Variance from Town Code Chapter 208-7 Definition Keyhole Lot: A lot located to the rear of another lot that meets all the requirements of this chapter and has access to a public right-of-way by a strip of land in fee simple ownership, at least 40 feet wide. Proposed strip of land width 25 feet wide. Variance requested: 15 feet. The property is located at 967 Riverview Road, Rexford NY.*

Applicant:

Chad Pagan, representing Virginia Lee, stated he is here tonight for Town Code 208-7, Keyhole lot. He stated that the minimum frontage is 40' and they have that at the front of the property but as you move back it drops to 25' and then widen back up so they are here for a variance. Mr. Pagan stated that on December 16, 2024 the Town Board made a motion to put the existing home on the Town's historic Preservation List.

Mr. Reese stated that he has an email from Mr. John Scavo about the benefits of keyhole lots with the historical features of the home. He stated Mr. Scavo make points of the historical features as well in his letter. Mr. Reese stated that Mr. John Scherer and Ms. Lynda Seymour also spoke on behalf of the project and the home and its historical importance.

Public:

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 8:02 p.m.

Board:

Mr. Febo asked why there needs to be a variance. Mr. Reese stated the 40' minimum is not for frontage only but for the lot and this is a 3 lot subdivision.

Mr. Dudick asked if emergency vehicles could get through. Mr. Pagan stated that both lots have shared access with turnarounds. Mr. Reese stated all the other proposal features of the application the Planning Board will look at and seem to be fine with other than the required minimum lot width. Mr. Pagan stated 20' access is code.

Mr. Febo asked why Mr. Scavo is ok with this as well as Planning Director. Mr. Reese stated that Mr. Scavo feels that flag lots are acceptable in certain areas with unique circumstances and this seems appropriate due to the preservation of the home and the deep lots. Mr. Febo stated he would like comments from Planning that this is the only way they can subdivide. Mr. Reese stated that they will not be using this area for the driveway and there will be a shared access and emergency access to the home, it is not located here.

Mr. Reese stated that originally the applicant had all of the lots having their own drives but the Planning Board suggested sharing and shrinking the land. Mr. Febo asked why they suggested this. Mr. Reese stated there has always been a 25' shared drive and they have not changed from this.

Mr. Weiner asked if the flagstaff would ever be paved or developed. Mr. Pagan stated it would not be. Mr. Reese stated if the owner changes this they could but it would be a lot of pavements and costly to the owner. Mr. Pagan stated there is a drive there now leading to a building so a drive would be there but will not connect to the proposed home and it has egress to the home next door.

Ms. Virginia Lee, owner and applicant, stated the existing drive there is not paved and it is only where it leads to the neighbor's property. She stated that the subdivision will allow her to build a home for herself on the property and one for her son but she will own all 3 homes. She stated the existing home on the property has its own driveway and that connecting to the adjacent road would make more sense but it belongs to Niskayuna Schools and they will not grant an easement.

Mr. Styles asked if the neighbor has consented to the easement. Ms. Lee stated the easement is for the neighbor to use the driveway and is deeded.

Ms. McCoy asked if the easement would have to be re-deeded. Mr. Weiner stated the new deed would legally have to have it carry over. Ms. Lee stated that she would eventually like to build her home, her sons home and then sell the existing historic home.

Mr. Brockbank asked why she is asking for the variance. Ms. Lee stated she cannot bring the property line to the home and there is a stone wall on her neighbor's property line so she cannot get closer to the porch.

Mr. Febo asked why the driveway could not be shared with the neighbor to be able to prevent shared drives on both sides of the home and stated he may want to condition this. Ms. Lees stated the existing garage is on the other side. Mr. Feb stated that there are 3 drives at 20' and 28' so they need to visually look at this. He stated that this could be visually unappealing and not have any traffic concerns.

Mr. Klimes stated today they can still move forward with the driveway to the right of the existing home.

Mr. Dudick stated the driveway could not be shared either way with the existing home.

Mr. Klimes stated this is unique for sure. Ms. Lee stated she has tried every option but this is what they have left to work with.

Mr. Reese stated that the Saratoga County Planning Board stated the would be no community impact and one neighbor looked at the plans and were concerned with the driveway. Mr. Reese stated the Planning Board has declared lead agency for SEQRA.

Mr. Dudick stated he understands the concerns of Mr. Febo but he feels this is a rural part of Town and believes it will stay this way.

Mr. Febo stated that the Chairman has brought up good points and that he has come from Glenville and feels this is also unique property.

Mr. Dudick moved, second by Ms. McCoy, to approve the variance as requested. The property is located at 967 Riverview Road, Rexford NY.

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

The Secretary called the Vote:

Ayes: 6

Noes: 0

New Business:

*An application from **BBC Development** is requesting a Use Variance to allow for a dog boarding business in the Town Center - Neighborhood General Business Zoning District (TNGB). Town Code Section 208- 22 4. A. allows for Pet Grooming and Veterinary Services, but in Town Code Chapter 208-28 Definitions, does not permit for outdoor pens, exercise runs or overnight pet boarding. To allow for an exercise run and overnight pet boarding will require a Use Variance.*

This application has been rescheduled to 2/4/25

The chairman made a motion to approve the minutes from the November 19, 2024 meeting. All who were present at the November 19, 2024 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 8:12 p.m.

The next scheduled ZBA meeting will be held on February 4, 2025.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals