

Town of Clifton Park Zoning Board of Appeals

One Town Hall Plaza
Clifton Park, New York 12065
(518) 371-6054
FAX (518) 371-1136



Zoning Board of Appeals

March 4, 2025

Present: Chairman Michael Dudick, Christopher Lemire, John Klimes, Scott Styles, Juliano Febo, Mark Brockbank, Caryl Hugg (alternate

Absent: Lisa McCoy

Also Present: Steve Myers, Director, Building and Zoning
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 stated in the absence of Ms. McCoy, Ms. Hugg would be a voting member for tonight's meeting.

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 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 the 7 votes need to be in favor of the application tonight.

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.

Mr. Weiner stated that there was a letter written by the applicant and is on file asking for the previous variance to be removed from the property as the conditions cannot be met. Mr. Reese read from the letter by the applicant.

Mr. Reese stated since the original variance was approved with conditions of having an access road but the adjacent property owner denied the access the ZBA needs to revoke the variance. Mr. Reese stated there has not be permitted construction so far.

Applicant:

Kevin Putorak stated that he is representing the application for the property owner and as almost granted site plan approval from the Planning Board until the easement was denied by the adjacent property owner. Mr. Putorak stated if the Town takes possession of the road they still plan to request side road access.

Public:

No public comment.

Mr. Reese read a letter submitted to the Town by Mr. Ralph Reale opposing the application. Mr. Reese stated the letter has been attached to the file. Mr. Dudick stated that the application is for an already developed property and seems to be an improvement. He stated that there are other convenience stores in the area as well.

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 7:32 p.m.

Mr. Dudick moved, second by Mr. Brockbank to reopen the Public Hearing at 7:57 pm.

Board:

Mr. Febo stated that the Board was given plans dated 12/12/24 but the plans shown in the meeting are from 1/26/25. Mr. Putorak stated that the plans shown tonight are the ones presented to the Planning Board. Mr. Reese pulled up the plans submitted to the ZBA dated 12/12/24.

Mr. Lemire asked if the plans are the same as before. Mr. Reese stated they are the same but the numbers have changed slightly due to the Planning Board's feedback and there is no access for ingress/egress. Mr. Lemire asked if Mr. Reese has why the ZBA had asked for the egress before. Mr. Reese stated it was also requested by the Planning Board so they made a condition for approval.

Mr. Klimes stated they had made it a condition because there was concern on traffic flow in and out of the site.

Mr. Febo asked if DOT has been made aware of the changes and if they approve. Mr. Reese stated that there are no changes to the access on Route 146 so DOT was not resubmitted to.

Mr. Klimes asked if the applicant could show the new and old plans side by side for the Board to review. Mr. Reese pulled up both plans and stated all of the variances asked for are either the same or less with the exception for items 6 and 8, but the green space increasing is a good thing.

Mr. Brockbank asked why the canopy cannot be moved further back to allow more space from the center of the roadway. Mr. Putorak stated it is for circulation for fire and fuel delivery vehicles since there is no longer any side access.

Mr. Lemire asked if this exit would be a right turn only. Mr. Putorak stated it is an egress. Mr. Lemire asked why they are now proposing only one curb cut. Mr. Putorak stated that the Planning Board has asked for the change.

Mr. Klimes asked if the grade would inhibit the egress connection if there are future changes. Mr. Putorak stated the layout there is the same design as before. Mr. Klimes stated he sees concerns for tractor trailers but they had a concern before and pushed it on. Mr. Klimes asked how this application compares to the Cumberland Farms across the roadway. Mr. Reese stated that this is also a small site and it was modified with the traffic circle, and also had setback variances. Mr. Reese stated that the Stewart's has variances as well and it seems to be in line with both. He stated that this applicant is requesting to have the structure pushed back and they plan to connect to the possible future public road.

Mr. Lemire stated that Cumberland Farms has 2 means of access and this only has one. He stated he would be more comfortable with 2 and when or if Ravenswood opens access they can connect and close one of the access points on Route 146.

Mr. Febo stated that due to traffic flow he feels DOT needs to be consulted and notified about this change.

Mr. Dudick asked if the single curb cut could be widened. Mr. Reese stated the Town engineer reviews applications and approves the traffic patterns.

Ms. Hugg asked if the gas station is operating now. Mr. Dudick stated they are, they were only closed for a short bit of time before reopening after purchase.

Mr. Dudick stated he feels that the Planning Board needs to approve a layout first as they would be approving something that is not even there yet. Mr. Klimes state the Zoning Board should at least get a letter from the Planning Board or Department for input on the projects progression.

Mr. Weiner stated that this is a new application and it should be reviewed by the County before the board considers approving this. Mr. Reese stated that if the Board has questions they should make them known, he stated he is not familiar with going back to DOT but the County has already seen this with the old application and stated they said there is no community impact.

Mr. Dudick stated that DOT will see the application eventually but he does not want to take action until County has had a chance to review it. Mr. Reese stated that 10/3/23 he has it documented there is no community impact.

Mr. Febo stated this is an improvement to the site but the applicant is now removing an egress and will get kicked back to both DOT and County and he feels they need to see approval from both of them before a decision is made.

Mr. Reese stated the applicant can be on the Planning Board's March meeting to see if they can get some feedback.

Mr. Dudick stated he would like to see them go back to Planning and then hopefully they will hear from all parties afterward and can move forward.

Mr. Weiner stated the applicant should be showing the same plans to the Planning Board as is shown to the Zoning Board.

Mr. Reese stated that plans for both Boards are usually different because they look at different things for consideration. He stated that Citizenserv makes things easier to access them.

New Business:

An application from Gilbert VanGuilder Land Surveyor, PLLC is requesting an area variance from Town Code Chapter 208-86 B. All setbacks, whether front, side, or back yards, shall be a minimum of 50 feet for the main building/structure. The existing structure has a setback of 44 feet. A variance of 6 feet from the lot line setback is being requested. The property is located at 489 Moe Road, Clifton Park, NY.

Applicant:

Pat Jarosz stated he is here tonight requesting setback variances as the applicant has had the home moved 6' and the builder accidentally went over the setback lines.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 8:05 p.m.

Board:

Mr. Febo asked how many variances the applicant is looking for tonight. Mr. Jarosz state they are only looking for one six foot variance.

Mr. Lemire asked if the home was already built. Mr. Reese stated it was and it was moved due to the home being too close to the water line and this was done when the Town moved from paper to digital and it somehow got overlooked

Mr. Reese stated this is a Type II action and no further SEQR is needed. He stated the Saratoga County Planning Board waived the review and public notice was given February 3, 2025.

Mr. Dudick stated he does not feel this is a large request and was an overlook transferring file storage.

Mr. Febo moved, second by Mr. Dudick, to approve the variance as requested. The property is located at 489 Moe Road, Clifton Park, NY.

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

The Secretary called the Vote:

Ayes: 7

Noes: 0

New Business:

*An application from **ABD Engineers – John Hitchcock, Jr.** is requesting two area variances 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. The existing parcel is being subdivided into two lots. The access width for the existing residence lot will be reduced to 23 feet, requiring a 17-foot variance. The proposed second lot will have a 29-foot access width, requiring an 11-foot variance. The property is located at 3 Woodland Drive, Clifton Park, NY.*

Applicant:

Luigi Palleschi stated he is here tonight for variances. He stated the owner is here tonight as well. He stated the 2 variances are for frontage for a 2 lot subdivision and for the existing home. He stated that 40' frontage is required and they are asking for 23' and 9'. He stated that the frontage has a pinch point but access is over the required amount. Mr. Palleschi stated the existing home is 1.5 acres and he is proposing a keyhole lot behind the existing home. Mr. Palleschi stated that there is water, sewer and utilities and this has been presented to the Planning Board and they chase to have the home rotated but while doing this it has created another variance request. Mr. Palleschi stated that Carrington Court is in the neighborhood and they have keyhole lots so this would be staying within character. He stated that all homes on Carrington Court do have the required 40' frontage. Mr. Palleschi stated that the keyhole is proposed to be 40,000 sf and the minimum lot size for a single family home is 20,000 sf. He stated that Woodland Drive is a dead end and the keyhole lot would be at the end of the road and has privacy for the longer driveway. Mr. Palleschi stated that this is a substantial variance but it is at the end of a dead end. Mr. Palleschi went through the criteria for the variance and explained how they met each.

Public:

No public comment.

Board:

Mr. Brockbank asked if the land at the dead end was Town property. Mr. Palleschi stated it was and donated to the Town by the applicant.

Mr. Dudick asked if the driveway was shared, how wide it would be. Mr. Palleschi stated it would be 16' wide. Mr. Dudick asked if the applicant would be willing to negotiate the second variance. Mr. Reese stated that the second variance would still be needed due to the positioning of the proposed home. Mr. Palleschi stated the neighbors' homes would be facing each other from the sides with this layout.

Mr. Reese stated there would be 3 variances needed a 50' setback for the home is needed as well. Mr. Weiner stated that the application needs to be re-advertised then because only 2 variances were listed.

Mr. Lemire asked if the Planning Board has seen the application yet. Mr. Palleschi stated it has been seen by them and they liked the building rotation that's why it is being proposed now and the impact would be only to the applicant. Mr. Lemire read from the Code and asked why there cannot be a shared driveway. Mr. Palleschi stated they would still need the frontage variance. Mr. Febo agreed. Mr. Reese stated both homes do not meet the 40' frontage required for code and this is for the flag lot requirement not for just the driveway.

Mr. Weiner stated the applicant can be heard tonight for the 2 variances but he would then have to come back for the 3rd if it is found it I needed. Mr. Palleschi stated they are ok with coming back or to repost and do it together.

Mr. Dudick asked if the keyhole was approved by the Planning Board. Mr. Palleschi stated it has not yet been approved. The Board had a discussion on whether they can approve a variance for a lot that does not yet exist. Mr. Dudick stated this has been a long time dilemma and feels the applicant should go back to the Planning Board for approval before asking for a variance.

Mr. Ed Able, property owner stated that before the land was dedicated to the Town, he was the owner and there was intent for a public road to go in and it never materialized. He stated that he had to make a T turnaround for the Town plows and if the property had not been turned over to the Town he may have still had the frontage needed for the application.

Mr. Lemire asked if the Town owns the property for a park. Mr. Able stated it is parkland that is owned by the Town now and is next to a PDD.

Mr. Klimes asked if the applicant has thought about donating more land and pushing the property line back to meet requirements.

Mr. Lemire suggested reversing the lot line. Mr. Able stated having the Town take over land takes a long time.

Mr. Weiner asked if the applicant is averse to going back to the Planning Board. Mr. Able stated he is no afraid to go back but they requested he come here first.

Mr. Dudick stated that the Planning Board needs to decide due to the code and had Mr. Lemire read it aloud again. Mr. Able asked if the ZBA could make the approval a condition of the Planning Boards approval. Mr. Weiner stated this seems in reverse of protocol due to the fact the Planning Board is the only one that can approve keyhole lots.

Mr. Febo stated the applicant could reschedule for the next meeting and this would allow time for Mr. Scavo from the Planning Department to write a letter on behalf of the Planning Board with their recommendations. Mr. Reese stated that the building rotation would need another variance as well. Mr. Palleschi stated that if the third variance needs to be avoided then the rotation of the home would need to be considered.

Ms. Hugg asked if there would be 2 frontage variances needed, they needed to go to Planning for the keyhole and then come back for a possible frontage variance as well. Mr. Reese stated this was correct.

Mr. Lemire stated the Zoning Board puts a variance on a lot and there is no lot yet for them to put a variance on.

Mr. Able stated that if the Planning Board deems there needs to be another variance can he reschedules the application to be heard for all 3 variances in 2 weeks.

Mr. Febo asked if there is no representative for the applicant, can the Board still vote. Mr. Palleschi stated someone would be here to represent the applicant. Mr. Able stated that the home rotation was request of the Planning Board and he is in favor of it. Mr. Reese stated that only the Planning Board can approve the keyhole or not and if the applicant had met the 40' frontage they would not be before the Zoning Board.

Mr. Dudick stated that they cannot approve a lot that is not yet created. Mr. Lemire agrees with the comment.

Mr. Lemire summed up for the applicant what the ZBA would be looking for and asked if a lot line adjustment could be made. Mr. Reese stated that it could not be made or else lot 2 would not have frontage at all to the road.

Mr. Dudick stated if they had guidance for how the Planning Board feels would be more appreciated for the ZBA to make a decision. Mr. Weiner stated that Mr. Scavo cannot not make those decisions; it would have to come by the Planning Board.

Mr. Able stated he would like to come back in 2 weeks and feels hopeful he can get conditional approval for all 3 variances.

New Business:

An application from Reveal Architecture Design, PLLC – Shawn Corp is merging two pre-existing nonconforming residential lots into one in the (CR) Conservation Residential Zoning District. Per Town Code Chapter 208-11, the required lot size for dwellings without central water or sewer is 40,000 square feet. The applicant is combining a 10,454 square foot lot with a 7,841 square foot lot, totaling 18,295 square feet. The first area variance of 21,705 square feet is being requested. The second requested area variance is from Chapter 208-11 Space and Bulk Standards. The minimum front yard setback for a dwelling is 30 feet, but the proposed setback is 16 feet for the structure, requiring a 14-foot variance. The property is located at 23 & 25 Camp Road, Clifton Park, NY.

Applicant:

Shawn Corp, stated the project is in the southwest corner of Town and showed the property on a map. He stated that the lot was at the end of a dead end and there are about 20 homes in the development. Mr. Corp showed photos in the meeting of homes that are existing in the neighborhood and stated the camps have been there for 100 years. He stated that there are some small camps and some properties that have been replaced with larger homes. Mr. Corp stated that the current homes would be demolished and a new single family would be built. He stated the setbacks for the existing homes are 15.3' and 15.7' and the one detached garage will remain. He stated that the new home setback is being proposed at 16' and the rear of the home would be 29' from the road. Mr. Corp stated that the property has an existing leach field and septic to the south which the applicants would be using for the new home and a well on the north side of the property which they would use as well for the new home. He stated that they are trying not to put the home too far to the north to allow the neighbors a view of the river. He stated that to the north of the application is Town property. Mr. Corp stated that a covered porch and a patio with walkways are being proposed in the front of the home and they are looking for a variance as they only have 18,000sf of the 40,000 that is required as well as a front yard setback. Mr. Corp stated that he feels this fits in for the neighborhood as none of the lots are 40,000sf and all of the setbacks are closer to the road than 30'.

Public:

Mr. Dudick moved, second by Mr. Brockbank to close the public hearing at 9:26 p.m.

Board:

Mr. Febo asked if any of the other parcels meet the Code. Mr. Reese stated that the parcels predate the Code but once homes are demolished they need to ask for a variance or conform to code. Mr. Febo asked if this has been looked at before with other homes in the area. Mr. Dudick stated that it has been looked at before like on Eastline in Ballston Lake. Mr. Reese stated there are larger lots on Robinson with paper streets.

Mr. Lemire asked if the front yard variance is due to the porch bump out. Mr. Corp stated they would still need the variance even if there was no bump out due to the location of the septic and well. Mr. Lemire asked if the applicant demos both homes and not merge the lots, would the applicant still be here. Mr. Reese stated they would but for 2 lots. Mr. Lemire asked if the septic would be shared. Ms. Maggie Fronk, property owner, stated they are only keeping one well and one septic from both lots. She stated that they have made and filed a lot line adjustment to create one lot from the 2. Mr. Reese stated that the well and septic would have to be inspected as per usual.

Mr. Febo asked what would be required for a lot with access. Mr. Reese stated it would have to be 20,000sf with public water and sewer and 40,000sf with septic and well. Mr. Febo asked how far from the river the property is. Ms. Fronk stated it is right across the road and they are on the Eric Canal and the Thruway authority owns it. Ms. Fronk stated that her family has lived in 23 for 40 years and she purchased 25 about 10 years ago.

Mr. Reese stated that this is a Type II action and no further SEQRA is need, Saratoga County Planning Board has waived the hearing and mailings have gone out. Mr. Reese stated that he has

received 3 letters from residents all in support. He stated that he sees no issues with the proposal and see this as an improvement.

Mr. Mr. Dudick moved, second by Ms. Hugg, to approve the variance as requested . The property is located at 23 and 25 Camp Road, Clifton Park, NY.

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

The Secretary called the Vote:

Ayes: 7

Noes: 0

Discussion:

Mr. Weiner stated that the Planning Board and the Zoning Board have timeframes for decisions. He stated that if the Planning Board fails to vote in 62 days from the Public Hearing then the application is automatically 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 9:34 p.m.

The next scheduled ZBA meeting will be held on March 18, 2025.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals