

## Zoning Board of Appeals

February 4, 2025

**Present:** Chairman Michael Dudick, Christopher Lemire, Lisa McCoy, Juliano Febo, Mark Brockbank

**Absent:** John Klimes, Scott Styles

**Also Present:** Scott Reese, Director, Zoning Administrator  
Neil Weiner Esq., Attorney  
Cristi Shuhart, Alternate Secretary

The meeting was called to order at 7:03 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

**Other:** Petition for re-hearing in the matter the application of Schuyler, LLC (Permit # Var23-000001) the property

Mr. Dudick addressed the board about a petition to re-hear an application from Schuyler, LLC. He asked Mr. Reese if the secretary needs to read something with regard to a petition.

Mr. Reese stated that the Board can note the letter that was submitted to the Zoning Board for the petition and read it and see if there are any further questions to address or if they would like him to read it.

Mr. Dudick asked Attorney Weiner about how to proceed on a petition.

Attorney Weiner stated that the vote must be unanimous and that he would like everyone to confirm on the record that they have read Mr. Reese's letter. He then asked Mr. Reese if the applicants themselves have been provided a copy of it.

Mr. Reese stated that is correct. He uploaded the letter into the Citizenserve portal.

Mr. Dudick then gave the Board a couple of minutes to read the letter in case they had not read it yet.

Mr. Lemire asked if they could address questions to Mr. Reese.

Attorney Weiner stated that when everyone has read the letter to get their information. He then went on to state Under 267 of the Town law, Section A12, a motion for the Zoning Board of Appeals to hold a hearing or review of any prior decision or determination may be made by any member of the Board. So, Mr. Reese himself can't make the motion. A unanimous vote to rehear those in attendance tonight must be unanimous for the re-hearing to be approved. If there is a re-hearing approval, the applicants are not going to present a new application tonight. He asked Mr. Reese if that was correct.

Mr. Reese stated correct.

Attorney Weiner then said this is just to determine whether there shall be a re-hearing on the application which he assumed will be presented later this month.

Mr. Reese stated to Attorney Weiner that if the Board does vote unanimous than the applicant would want to be on the next agenda which is March 4<sup>th</sup>, 2025.

Attorney Weiner asked the Board if anyone had any questions about that.

Mr. Lemire asked if they are voting to reconsider an application that was previously approved.

Attorney Weiner said correct. It's for a re-hearing based upon a question whether you find that there's additional information which would have been important to consider which wasn't available with the original approval.

Mr. Dudick stated that he didn't know if it was additional information or the information that was provided was incorrect.

Attorney Weiner stated that is correct. It appears to have been incorrect, although not intentionally.

Mr. Reese asked if he wanted the Board to state his procedure as to why he wrote this letter.

Mr. Dudick asked Mr. Reese to go ahead rather than having the minutes reflect to be read the letter, and the letter is part of the record. If he could just give a summary as to what this

petition is in reference to.

Mr. Lemire asked Mr. Reese what was the variance that was requested and granted.

Mr. Reese brought up the Notice of Decision. Applicant requests an area variance from Chapter 280-98 Special Setback lines on Grooms Road where no building shall extend nearer to the center line of the street than 100 feet. The proposed front yard setback of the building is 43 feet. Variance requested is 57 feet. They have a 57-foot relief to the 100 feet setback. When the project was being looked at, the approximate location of the house was showing a 43-foot setback from the centerline of the road as per MR-2. MR-2 is a map reference that is saying its proposed plot plan of lot 4. That map was also showing a 43-foot setback from the centerline of the road. They said the existing house location is from aerial imagery. The Zoning Board then approved the variance to at least with the reference of where that house was. Then the applicant moved forward with a building permit. When he visited the site, before signing off on the permit, it appeared that the proposed house was going to be much closer to Grooms Road than where the existing house was. He then requested the applicant's surveyor to go out and verify the distance of the house from the centerline to the road. They were stating that it was at 60 feet from the centerline of the road. With that information, it just wasn't off a couple of feet. It was off 17 feet further back. So, instead of 43 feet back it was 60 feet back.

Mr. Lemire asked Mr. Reese from that information if they needed a smaller variance.

Mr. Dudick stated that no, the house next door was 60 feet back, they said it was 43 feet back.

Attorney Weiner said at the time of the application they were under the belief that their house would be like the house next door which they thought was 47 feet back. So, they got a variance because it was similar to the house next door. It turns out the house next door is much further back than they had understood.

Mr. Febo asked Mr. Reese if there were few other houses in the direct vicinity or within a quarter mile that was referenced if they got checked.

Mr. Reese stated that the applicant is going to present some of that data.

Mr. Lemire than asked Mr. Reese is the property that the Board granted the variance to 860 Grooms Road. That's the one next door that we used as a template.

Mr. Reese stated there's no address on a vacant lot.

Mr. Lemire stated that according to the letter there is 862 and 860.

Mr. Reese said 860 Grooms is the existing lot.

Mr. Lemire said yes, that's what we based it off.

Mr. Reese stated that 862 Grooms Road is the vacant lot.

Ms. McCoy asked Mr. Reese that with that change of information does the variance the Board granted still stand or will it be reneged.

Mr. Reese stated that if this is a smaller or larger ask, the setback would be moved back further, but the issue about that is that if there was a change, and the house is moved back along with the distance of the existing house as it exists on the side, it would push the house within the 100-foot setback.

Mr. Dudick asked Mr. Reese if there are two options here. We could reaffirm the variance with the understanding that this house would be closer to the road than the house next door. Or, if we said we wanted the house to be at the same distance as the house next door than they would be asking for a greater variance.

Mr. Reese stated that the Board would want to see if this is worth on deciding.

Mr. Dudick asked Mr. Reese that there are different options on what that final decision would be.

Mr. Reese stated that if the Board is comfortable with the variance that they approved being granted than they can vote if they want to re-hear this or not. The situation is that the ZBA members that are presented with this setback of this house, but also looking at the other houses on the roadway. As far as what was approved is that this setback is similar 43 feet from the centerline as well as the pre-existing zone from the existing house.

Mr. Lemire asked Mr. Reese if it is supposed to be a 100 feet setback.

Mr. Reese stated that it is supposed to be 100 feet setback.

Mr. Lemire asked Mr. Reese they had 57 feet on the property which they were requesting the variance for and they requested a 43-foot variance and got that.

Mr. Brockbank stated that they requested a 57-foot variance.

Mr. Lemire asked Mr. Reese that they have 43 feet, and they requested 57-foot variance, they got a 57-foot variance.

Mr. Reese stated that was correct.

Mr. Lemire asked Mr. Reese after that people went out and measured. Then we got this e-mail and it turns out that there was actually 50 feet to the neighbor's house. Not this property. Someone else's property has the 60 feet.

Mr. Reese stated correct. It's an existing house.

Mr. Dudick stated that one of the arguments that was made as to why this variance was to be granted was that they were not going to be placing the proposed house closer to the road than the neighboring house.

Mr. Lemire stated that now this house that we granted the variance for would be closer to the road than the existing house.

Mr. Reese stated correct. 17 feet closer.

Attorney Weiner asked Mr. Reese if they have a problem because of the wetlands.

Mr. Reese stated yes, they have a situation with the wetlands which is why they want to place their house where it's located.

Mr. Lemire asked Mr. Reese who is requesting the re-hearing.

Mr. Reese stated that he is. The reason being is that the Board was looking at this dimension of 43 feet. They then were requesting 43 feet back from the centerline as well. If this was 60 feet, would the Board still approve the 43 feet or would they say that 60 feet so it matches the existing surrounding neighbors which is one part of the decision. Since this was on the plans showing at 43 feet, it was actually 60 feet.

Ms. McCoy asked Mr. Reese if the Board doesn't unanimously vote to re-hear, what happens to the variance we granted.

Mr. Reese stated that it remains.

Mr. Dudick asked Mr. Reese for his understanding. If we unanimously vote to re-hear, then at the time of re-hearing we could still keep the variance as it is. This is just so the Board could hear this request with the understanding that this house be closer than the

neighbor's house which would which was not what was stated originally. because this 17-foot difference. It was felt that was materially significant and may have an impact as far as the decision of the Board. A vote to re-hear does not mean that the variance goes away it simply means that we get to consider that aspect. We could vote no or yes upon the re-hearing in which case the lead variance stays as is.

Attorney Weiner stated we do have a problem with the wetlands which is one of the reasons they wanted to locate it where they are proposing.

Mr. Lemire stated that if we re-hear it, then the variance that was granted goes away and comes back in front of the Board like a new application.

Attorney Weiner stated that it's as if it's a new application and we consider everything all over again. With this time knowing what we are doing more accurately than we understood before. That it would be closer to the centerline than the neighboring home.

Mr. Febo asked a question to Attorney Weiner is the decision to re-hear solely based on the fact that there was information provided in the last application that was incorrect. Or can it be based on the new application and the new ask.

Attorney Weiner stated that there is no actual statutory standard as to what is required in order for the Board to consider re-hearing it. Somewhat intuitive and a little ambiguous as to whether you consider the information we now have from Mr. Reese that the applicant did not understand correctly the setback of the neighboring home ,but which we rely on. If you think it's important, you can re-hear it. If not, you can vote no and then the variance stays. If it is a unanimous decision to re-hear then we will hear all over again about the wetlands issues which are restrictive. Which is why they were asking for this in the first place. At least we would have the right information if we grant the variance after a re-hearing.

Mr. Febo asked if the Board should assume that we are now going to be hearing an application for an additional 17 feet in the variance.

Mr. Lemire stated that only if we grant the re-hearing, if we don't grant the re-hearing the variance that's already granted stays.

Mr. Febo asked the Board if we are voting based on that assumption. Or are we voting Based off of new information. As of January 1<sup>st</sup>, there was new DEC guidelines and regulations. What are they going to be asking for in the new application. Is that something we should be considering here.

Attorney Weiner stated we are not weighing it on the re-hearing. Basically, it comes down to is if the 17-foot error material worthy therefore of re-hearing the application. He wasn't sure if the wetlands would change the agenda.

Mr. Reese stated that there are new regulations with the wetlands, but they would have to then be looked at because certain projects have been looked at prior of the end of the 2024 year which are grandfathered in. This could still be considered that this area had been looked at.

Mr. Weiner stated to Mr. Reese that the new regulations shouldn't have any impact on This.

Mr. Reese stated that most likely the new regulations will not impact this.

Mr. Dudick asked if there was any questions or comments.

Mr. Brockbank stated that he didn't mind re-hearing this, but he said he would vote affirmative as he did at the first hearing.

Mr. Dudick stated to Mr. Brockbank that he didn't need to give his position beforehand.

Mr. Brockbank stated that he doesn't mind re-hearing it, but if he votes no, then it won't be re-heard.

Mr. Dudick stated correct.

Mr. Brockbank then stated that he is unlikely to change his vote.

Mr. Dudick stated ok and gave a reminder to the Board here that this is actually the second re-hearing of an application we have had within the last 24 months. Sometimes you get significant additional information which is worth considering with regard to whether that should have an impact on a variance which was already heard.

Ms. McCoy asked Counsel if it is cleaner and preferred to re-hear with accurate information so, the Board's decision is based on the facts.

Attorney Weiner stated that yes, overall it is, but in this case if you know what the one issue is and you are comfortable with it then the Board can spare the re-hearing. The issue being that it is 17 feet closer to the centerline than we had understood.

Mr. Reese stated to Attorney Weiner that it is 17 feet further away from the centerline.

Mr. Dudick explained that the house next-door would-be setback if this goes forward as approved. The old house, house next door, would be 17 feet further back than this new house that is in the process of getting built. The question is, was that a major consideration upon the people who were voting at the time or the people who will vote in the future if we re-hear this. Do we want to have a house closer with a greater variance requirement for than the neighboring houses.

Mr. Brockbank stated that he thinks it is important that we have houses uniform along the Road. That he would think it is important that the neighboring house is approximately the same. This blueprint in error is supposed to be 60, but it's at 43 so he understands. That road does have a lot of houses near the road. He also thinks that those wetlands really make this property very difficult to work with.

Mr. Dudick wanted to remind everyone that this is a vote to see if we are going to re-hear. The Board doesn't need to re-hear it at this point. But it does have to be unanimous among us all. If we are willing to sit and listen to the application again with the additional knowledge that this would not be at the same distance as the neighboring house.

Mr. Lemire asked Mr. Reese based upon the additional information that been presented since the first time we initially reviewed this application, he wants to make a motion to re-hear this application.

Mr. Reese asked the Board if they want to hear from the applicant's as well.

Attorney Weiner stated to Mr. Reese, no not on the motion to re-hear based upon his information. We can either vote unanimously to re-hear or if it's not unanimous then we are done and the variance as granted remains.

Mr. Dudick asked if the applicants were in the room. They stated they were in the room. He then asked if they had anything to say before the Board votes on this, they should go to the podium and state what they needed to say.

Mr. Michael Bouchard, Project Assistant for Shuyler Homes, presented the case for the applicant. He sees the fact on June 4, 2024, when the variance was granted. He stated that yes, the house next door on the original Gilbert Vanguilder map has 43 feet from the road. He spoke with Bob Wilklow at Vanguilder's office, and he confirmed that according to the map it was done by aerial imaging, was not a physical visit to the property. The dimension to the front of that house to the road. Then the other map that was multi-colored was done by Mr. Metzger and he also followed the aerial imagery. That is why the other house is showing at 43 feet with no physical survey. The issue with the property is

the buffer zone. If the house gets pushed back into the buffer zone, the DEC will not grant a building permit for that purpose, so Schuyler Homes is only allowed in a certain area out of wetland/buffer zone.

Mr. Dudick stated to Mr. Bouchard that they, Schuyler Homes, almost reached out to DEC and never actually got a denial.

Mr. Bouchard of Schuyler Homes stated that they never submitted an application. Paul Male at MJ confirmed his communications with DEC that you will not be able to build in The buffer zone. In about a year before that around the summer of 2023 he spoke with a person named Jed Hayden (NYS DEC). Jed had stated that the policies had changed and DEC will not grant a permit to build in the buffer zone. They used to do that, but now they didn't as of the new administration that came into office. Mr. Vacarelli did provide Mr. Reese with some information regarding other properties in the vicinity that are closer to the Road.

Mr. Dudick then reminded Mr. Bouchard that the Board is not going to rehear this today. That this is a petition for the Board to reopen the application. He stated to Mr. Bouchard that he didn't have to make the entire presentation as to why it should be approved. He wants to give the applicant time to say something with regard to whether we should have a vote on this petition. Just not to have a full re-hearing of the application.

Mr. Bouchard stated he understood. He explained that there are other properties in the vicinity that are closer to the road similar to the other house and in the vicinity of 43-50 feet, but without building into them, they exist and Mr. Reese has a thumb drive with some of the information that Mr. Vacarelli will table to pull out. But those exist and this is not full blown presentation. Back on June 4th this Board went through all the factors necessary for distance of the neighboring houses which is part of the whole package in this Board voting to grant the variance that he believes was a 5 to 1 vote that day. If that's the only factor that's changed that would undermine the particular variance that was granted back in June.

Attorney Weiner stated that Mr. Lemire made a motion to re-hear.

Mr. Febo Seconded the motion.

Mr Dudick stated that a vote of yes is to re-hear. A vote of no is not to re-hear and then the application stands as submitted.

Attorney Weiner stated that there is no re-hearing and the variance as previously granted stands.

The Secretary called the vote:

**Ayes: 4**

**Noes: 1**

**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 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. The property is located at 31 Old Rt 146, Clifton Park, NY.

Mr. Adam Field, commercial real estate broker for Christman Wakefield, representing BBC Development and all properties in New York State. He explained that the situation with this building is that currently the tenant is a motorcycle sales and facility substantially behind on their rent. As partial payment to the behind rent they have offered up to the owner of the building franchise rights of four (4) motorcycle franchises. the owner of the building and business is separate.

Mr. Dudick asked Mr. Field for clarification that the current tenant is a motorcycle company behind on their rent. They are offering their franchise license to the owner of the building as partial payment to the back rent.

Mr. Field stated that is correct. He then went on to explain that he marketed this business the best they know how. They weren't able to secure a contract for someone to buy this business. They then listed the building for sale. Based on the zoning restrictions on this single tenant building, we had a hard time finding a tenant. We now have a tenant in place that is a current Clifton Park business. A Time Four Paws dog grooming and dog care business. They are looking to triple their space and move into this business. They are asking for a variance. We feel that the positive aspect to the community would be people would come to this building to pick up and drop off their pets.

Mr. Brockbank asked Mr. Field how long it was on the market for.

Mr. Field stated that the business was listed for sale, and is currently still listed for sale about 120 days. The building was on the market for 180 days.

Mr. Brockbank then asked Mr. Field how much he was asking.

Mr. Field stated that asking rent for the building was \$13,000 a month triple net.

Mr. Brockbank asked Mr. Field if that was roughly comparable.

Mr. Field stated that it's not substantially less but it's less. It's priced to sell.

Mr. Dudick asked Mr. Field if the building is also for sale.

Mr. Field stated the building is not for sale.

Mr. Brockbank asked Mr. Field there was an issue about possibly a dog getting out and what precautions can be taken.

Mr. Field stated that they are asking for an outside fenced in area as one of the main precautions they can take.

Mr. Dudick then explained to Mr. Field that the issue regarding a Use Variance is The owner of the building cannot realize a reasonable return by substantial as shown by competent financial evidence. The statement is that the building has been available for rent for 120 days. Do you have any information in writing that would substantiate that buildings or properties of this size were able to lease anywhere in this area, but that this one couldn't. Simply saying that you are having a hard time leasing the space, makes him reflect to that there is space in other areas of Clifton Park which are larger and smaller that haven't leased for long periods of time because of zoning issues. What is it with this one that makes it unique that you have financial evidence.

Mr. Field explained that the building is unique because of the way the zoning is set up now. That it's set up for auto sales, garage and rentals and pet day care but not for overnight boarding.

Ms. McCoy asked Mr. Field that there are a lot of other uses that technically could be for this. Those are not the only permitted uses on this property.

Mr. Field stated that is correct.

Mr. Lemire asked Mr. Field who the owner is.

Mr. Field said the owner is Hratchia Bardakian. He owns BBC Development and multiple companies in Clifton Park.

Mr. Lemire asked Mr. Field if Mr. Bardakian is BBC Development and that Mr. Field works

for Cushman Wakefield.

Mr. Field answered correct.

Mr. Lemire then asked Mr. Field that the current tenant, Motostar Incorporated, offered to sell their franchise to your client.

Mr. Field explained that they were \$200,000 behind in their rent. They offered up the franchise rights to four new motorcycle franchises.

Mr. Lemire asked that it was four new motorcycle franchises.

Mr. Field said that was correct.

Mr. Lemire asked Mr. Field that, the current tenant was marketed for sale for 120 days. you were trying to sell that to get the money to pay the back rent.

Mr. Field stated yes.

Mr. Lemire asked Mr. Field that the motorcycle business could still stay there.

Mr. Field said they were still operating the business during that time.

Mr. Lemire asked Mr. Field that the building was on the market for rent for 180 days.

Mr. Field said correct.

Mr. Brockbank corrected that it was 120 days.

Mr. Field stated 120 days.

Mr. Lemire asked Mr. Field that they haven't tried to sell the building.

Mr. Field said no.

Mr. Dudick asked Mr. Field to explain the financial evidence.

Mr. Field stated nonpayment of rent for close to fourteen months.

Mr. Lemire asked Mr. Field if they were evicted.

Mr. Field stated no, they were very lenient. The owner of the building thought they would come back and do better.

Mr. Dudick stated to Mr. Field that's financial hardship. He then asked Mr. Field what is the evidence of financial distress because of the zoning. In other words, the zoning has nothing to do with the tenant not paying the rent. That could happen in any zone, residential, commercial, business, so, that is an independent factor. It does create financial hardship if you are owed \$200,000. That doesn't impact the issue of a need for a use variance. For example, my tenant didn't pay my rent so I need to change the use of my property.

Mr. Field explained that they had close to 40 people through the building since we listed the building. This is the only possible tenant they have right now.

Ms. McCoy asked Mr. Dudick if he could go through the criteria of a use variance.

Mr. Dudick stated he would.

Mr. Lemire then asked Mr. Reese about a chart and what it is.

Mr. Reese stated that TIGE is the zone that they are in which is Neighborhood General Business. Anything in the green area is permitted in the area. Anything that is white is not permitted. Anything that is yellow is a special use permit. Section 208-22 4A. He explained that yellow is a special use permit, so it's permitted along with additional precautions.

Mr. Dudick then explained the definition of a use variance. He stated the summary of a use variance criteria to allow a use not otherwise allowed in the zoning, an applicant must demonstrate to the Board unnecessary hardship. Such demonstration includes all of the following for each and every permitted use. Cannot realize a reasonable return substantial as shown by competent financial evidence. Alleged hardship is unique and does not apply to substantial portion of district or neighborhood. Requested variance will not alter the essential character of the neighborhood. Alleged hardship has not been self-created.

Mr. Febo asked Mr. Reese to clarify where in the Town Code it says that pens and outdoor runs are not allowed.

Mr. Reese explained that you have animal pet grooming. Under definition 208-28 pet grooming is an establishment engaged in providing services for common household pets including bathing, clipping, grooming, feeding and daycare, may include retail sales, does not include overnight pet boarding. Veterinary services an establishment for the medical care of dogs, cats and other domestic small animal pets by practitioners of the sciences of veterinary medicine, may include on-site boarding services, does not include outdoor

pens, exercises runs or overnight boarding. So, the two uses that are permitted you then have to go into the definition of what a kennel is and a kennel allows for overnight and exercise runs as long as long as it is further than either 100 or 500 feet of a residential district.

Mr. Febo asked Mr. Reese if the parcel meets that criteria.

Mr. Reese stated the parcel is further than 500 or 100 feet from a residential district and meets the criteria.

Mr. Lemire asked Mr. Reese that the only problem is the overnight boarding and the outdoor pens.

Mr. Reese stated that is correct.

Mr. Lemire asked Mr. Reese that the business, Time Four Paws, decides they want to go in there can do that, but they can't have overnight boarding and outdoor pens.

Mr. Reese answered correct.

Mr. Brockbank asked Mr. Field as to why they had 40 people come in and why they didn't like the place.

Mr. Field stated it was the parking. It was also a large single tenant building. A lot of people want to split the building up which wasn't possible to do.

Mr. Dudick commented to Mr. Field that the parking is not great there. For a building that size. It used to be a Salvation Army.

Ms. Mcoy asked Mr. Field why the building can't be split into two separate spaces.

Mr. Field explained that it is two separate levels.

Mr. Brockbank asked Mr. Field why the other uses don't work.

Mr. Field answered Mr. Brockbank it was the price, parking, size of the building.

Mr. Dudick asked Mr. Field when the owner bought the building.

Mr. Field stated 2006.

Mr. Febo asked Mr. Field how long the motorcycle business has been there.

Mr. Field stated close to 40 months.

Ms. McCoy asked Mr. Field what the average length listing right now of a commercial space Of similar square footage in Clifton Park.

Mr. Field stated six to nine months.

Mr. Dudick asked to Mr. Field that it's been on the market for 4 months when the average takes 6 to 9 months to lease. And that's a hardship for the owner that he can't lease it twice as fast as other properties the same size.

Mr. Field stated correct.

Mr. Lemire asked Mr. Field if the motorcycle business hits the lottery, secures a line of credit and pays back rent then it's not a hardship anymore.

Mr. Field stated that would be partially correct because they already signed over the franchise rights to the owner of the building so they'd be able to operate.

Mr. Lemire stated to Mr. Field that in order for us to properly evaluate whether you met the criteria for a use variance, you have to come here with competent financial evidence that says your client can't generate or realize a reasonable return for each one of those uses.

Ms. McCoy explained to Mr. Field that the Board needs proof. The fact that it's been on the market for about 120 days. Verbally you are saying the average life span of a listing is 6 to 9 months. That goes against your case. You would have to come in with hard financial evidence to say here are the multiple listings that have been listed for lease for the last 18 months. We reduced the price "X" percentage per so many months. The average listing right now, for this square footage is going to the 4 months. That would potentially be dollars and cents proof.

Mr. Dudick stated to Mr. Field that he is looking at evidence as something he can physically read, hold or review. Just stating something is an argument not evidence.

Ms. McCoy stated to Mr. Field that the current tenant being back on rent is a financial Hardship. That's not the Board's criteria to grant a use variance.

Ms. McCoy stated to Mr. Field that use variances are very difficult. There's a lot of criteria that has to be met before the Board can approve.

Mr. Field stated that he understands.

Mr. Dudick stated to Mr. Field that there are two options we have here. The Board could vote on what we have here in front of them right now. Or, if he would like additional time so that he can gather financial documentation to show the hardship and what the unique situation is for this particular property that justifies a use variance comparing it to other properties of similar size. Or, anything else that shows dollars and cents and what the finances of what the issue is. You stated that the property owner purchased the property in 2006. In 2006 there was a tenant right up until now. There has not been very few times when the property has not had a tenant. So, that doesn't seem like a good argument as to why a use variance is necessary because there has been a tenant continuously with very little empty time over the last 9-10 years. It doesn't sound like there's any real difficulty in being able to find a tenant that fits zoning.

Mr. Dudick then explained to Mr. Field he can either vote right now or he asks the Board to adjourn so that he can come back at a later date.

Mr. Field asked for an adjournment.

Mr. Dudick reminded Mr. Field the board can put him on the schedule at a later date when he has additional information. There is a 62-day rule which if for some reason you don't come back to the Board within 62 days then if there is no rational reason as to why you might need additional time. At that time the Board would vote on it whether you were here or not so that we can close the application. He can contact Mr. Reese and coordinate with him as far as whether you come back on the next meeting or the one after that.

Mr. Field stated that he understands.

Attorney Weiner suggested to Mr. Field to take a look at Town Law Section 267-V2. That sets forth standards for consideration of this Board must meet for a use variance. To have his client's attorney take a look at it.

Mr. Dudick stated that this is a public meeting. The public is allowed to ask questions and comments. He invited someone who raised their hand to come to the podium and state their name and questions they have.

Marliss Rudick stated to the Board that she is a customer of Time Four Paws. The owner has had a difficult time trying to find a place to move her business.

Mr. Dudick asked where on Route 9 the business is.

Ms. Rudick stated next to the Key Bank and Dunkin Donuts approaching Grooms Road. across from Walmart.

Mr. Lemire asked Ms. Rudick if it's in Halfmoon.

Mr. Reese stated to the Board it is in Halfmoon further up the street located across from GT Toys.

Ms. Rudick stated to the Board that she is a customer and has two dogs. The owner of the business is excellent at her business and has had a hard time finding some place to rent because of the dogs barking and not being close to residential areas. She appreciated the Board of what they did with the client because the hardship information is not what she knows about.

Mr. Dudick stated to Ms. Rudick that they love businesses in Town. If she is looking to expand the size or looking to have boarding and running of the pets, there are places within zoning where a use variance wouldn't be necessary.

Ms. Rudick asked Mr. Dudick if he could give her any information to tell the owner of Time Four Paws. The current landlord wants her out of the space she is in now.

Mr. Dudick gave Ms. Rudick some options. She should have a real estate agent that knows The area, zoning and spaces. She or the owner of the business could have a conversation with Mr. Reese that could show the areas in Town where such a business is allowed.

Mr. Reese stated that you would have to look through Town Code. B4A allows for the Kennels.

Ms. McCoy stated to Ms. Rudick that a good commercial real estate agent would know that. The real estate agent representing the applicant was for the property.

Mr. Dudick stated to Ms. Rudick that someone that would represent the business owner of Time Four Paws.

Ms. Rudick stated to the Board that the business owner was under the impression that it was no problem and that she could move in.

Mr. Dudick stated that he knows that there are places to board dogs.

Mr. Reese stated to Ms. Rudick that he could give her the areas that she could get some Information on.

Mr. Dudick stated that the Clifton Park web page has each zoning agenda so you can see what's on the next meeting.

Mr. Dudick made a motion to approve the minutes from January 27, 2025, meeting. All who were present at the January 27, 2025, meeting, himself, Ms. McCoy, Mr. Febo, Mr. Brockbank voted in favor and the minutes were approved.

Mr. Dudick, Chairman, stated the next scheduled ZBA meeting will be held on March 4<sup>th</sup> 2025.

Mr. Dudick, Chairman, made a motion to adjourn. Mr. Febo seconded the motion, all voted in favor and approval was unanimous.

Meeting adjourned at 8:06 pm.

Respectfully submitted,

Cristi Shuhart  
Alternate Secretary, Zoning Board of Appeals

