

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

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## **Zoning Board of Appeals**

**March 16, 2026**

**Present:** Chairman Michael Dudick, Lisa McCoy, Juliano Febo, John Klimes, Mark Brockbank, Gerald Schuth (alternate)

**Absent:** Scott Styles, Christopher Lemire

**Also Present:** Scott Reese, Zoning Administrator  
Paula Cooper, Secretary  
Kevin Luibrand, 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 Mr. Lemire, Mr. Schuth would be a voting member tonight.

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 the 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 the 6 votes need to be in favor of the application tonight.

### **Public Privilege**

*Any member of the public may speak for up to three (3) minutes on matters currently before the Zoning Board of Appeals as open projects. Comments should be relevant to the Zoning Board of Appeals' jurisdiction. This opportunity is intended to allow the public to provide input or raise concerns related to active applications under review.*

### **New Business:**

An application from **Danielle Urkevich** requests an area variance from Chapter 208-12 of the Clifton Park Town Code. No accessory structure shall be placed closer to a front property line than 80 feet. The proposed front property line setback is 35 feet for the proposed swimming pool. The variance request is for a 45-foot relief from the 80-foot front property line setback. The property is located at 14 Kain Terrace, Clifton Park, NY.

### **Applicant:**

Danielle Urkevich stated she is here tonight for a possible pool in her back yard. She stated her husband cannot be here tonight with her. She stated she lives in the R-1 district on a corner lot with a large side yard and a shallow rear yard that has sloping and wetlands. She stated that they will maintain natural landscaping and they are asking for the minimal relief possible. Ms. Urkevich stated they are looking to install a pool for therapeutic and healing purposes for best cancer recovery. Ms. Urkevich stated the neighbors have been notified and they do not have any problems with the application.

### **Public:**

No public comment.

### **Board:**

Mr. Brockbank asked why the pool cannot be placed on the right top of the map shown. Ms. Urkevich stated it does not fit in that location and there are slopes in that area as well as on the other side. She stated they are also trying to keep the pool with the tree line.

Mr. Dudick asked why the pool cannot be pushed further back from Kain Terrace and if it was an in ground or above ground pool. Ms. Urkevich stated they would have to remove the swing set to move it back and this is a flat area of ground to put the pool, if they move the location a lot of grading would have to be done.

Ms. McCoy asked if the pool would be in front of the home. Ms. Urkevich stated it would be, with a 6' fence for privacy and a fence around the pool and then another around the yard.

Mr. Dudick asked how much more it would be to move the pool back. Ms. Urkevich stated it would depend on the cost of the trucks and dirt.

Mr. Klimes stated that generally the Board does not like structures in front of the home. He suggested to the applicant rotating the pool to allow it to be in line with the front of the home and reuse the material removed from the pool installation to help with the slopes.

Mr. Dudick stated corner lots propose setback issues the Board can consider but the Board has never approved something closer to the road than the home and in the front yard. He stated that if the pool can be moved to be inline or behind the home maybe the Board and the applicant come to an agreement. He stated that he would like the applicant also should show significant cost differences for the varying placements. He stated this is not about visibility or privacy, but the development site. Ms. Urkevich asked if the Board would be looking for 50' back from the road. Mr. Dudick stated they are.

Ms. McCoy stated the applicant should reach out to the pool company and see what they can do to keep the pool behind the front corner of the home.

Mr. Febo asked what type of pool is being proposed. Ms. Urkevich stated it would be fiberglass.

Mr. Dudick stated the applicant can choose to table the applicant and come back after speaking to the other interested parties, however the applicant must come back within 62 days. Ms. Urkevich stated she would like to table the application.

### **New Business:**

An application from **Environmental Design Partnership** requests the following area variances:

- a. Per Town Code Chapter 208-35 D. (2) No building shall be placed closer to a side property line than 25 feet. The proposed building is located 15 feet from the side property line. A 10-foot relief from the code is being requested.
- b. Per Town Code Chapter 208-35 D. (2) No building shall be placed closer to a rear property line than 25 feet. The proposed building is located 10 feet from the rear property line. A 15-foot relief from the code is being requested.

The property is located at 898 Route 146, Clifton Park, NY

### **Applicant:**

Joe Dannible stated he is here tonight for an accessory structure of a 2,400 sf garage for the company to store vehicles in and who owns the property. He stated this is an HVAC company who has been in the Town for 25 years. Mr. Dannible stated the Planning Board needs to approve the site plan but he is here tonight for an area variance. Mr. Dannible stated they have already decreased the size of the building an plan to keep the vegetation and buffering. He stated it will look like a detached garage and there is no way to obtain this for the property other than an area variance. He stated they have already looked at adding onto the existing building but it is not feasible, and if this is not approved then the applicant may have to look at other properties to

run their business from. Mr. Dannible stated they feel this is not substantial and they are keeping with the other variances that were granted on the property. He stated the runoff will be treated and some of the vegetation and trees will be removed for construction but the buffers will be replaced. Mr. Dannible stated this is a successful business in Clifton Park and they would like to stay here.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:50 p.m.

**Board:**

Mr. Dudick asked if the garage would be connected to the office and if it is within size. Mr. Dannible stated it is within required size and they will not be connecting as it is expensive and then require sprinklers.

Mr. Brockbank asked why the garage needs to be so big. Mr. Dannible stated it is not big, 40'x60', in relation to theirs in the area and this is what the applicant has decided he needs.

Mr. Reese stated this is an Unlisted action pursuant to SEQRA, the Saratoga County Planning Board stated there is no intercommunity impact and Public notices and mailings have been sent. Mr. Reese stated there was inquiry by the owner to the east of the site and stated they did not want to see clearing closer to their property.

Mr. Febo stated this if this is for the Four Seasons building, and then it is already visible from the property and asked if they are asking for anything other than storage. Mr. Dannible stated that there will be no office in the garage and no basement. Mr. Febo asked if there would be plumbing in the proposed garage. Mr. Dannible stated he was unsure of this. Mr. Reese stated that zoning looks at the accessory building use and the Planning Board would make site determination and if the applicant changes anything they would have to go back to the Planning Board if the site plan is approved. Mr. Dannible stated there is not enough parking on the site to change the storage to an office.

Mr. Reese read from the Code for B-1 zoning.

Mr. Febo asked if the 10' vegetative buffer would remain. Mr. Dannible stated some of it would but some would come down for construction. Mr. Febo stated some will be replaced and they can condition this. Mr. Dannible stated he is not opposed to it but this is a requirement.

Mr. Klimes asked why the applicant is looking for variance (b) when the building can be pushed more forward to eliminate it. Mr. Dannible stated they did already look at this but the room needed for the box trucks to make turning movements are considered. Mr. Klimes stated that he is ok with it to the south but it should be looked at for the east side. Mr. Dannible stated they could push back to 18' so the relief would decrease from 10' to 7'. Mr. Dannible stated that the neighbor to the east has already cleared his land on their property so keeping 10' is reasonable.

Mr. Klimes moved, second by Mr. Dudick, to approve the variance as amended. The property is located at 898 Route 146, Clifton Park, NY.

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

Amendments:

- a. Per Town Code Chapter 208-35 D. (2) No building shall be placed closer to a side property line than 25 feet. The proposed building is located 12 feet from the side property line. A 7-foot relief from the code is being requested.
- b. Per Town Code Chapter 208-35 D. (2) No building shall be placed closer to a rear property line than 25 feet. The proposed building is located 10 feet from the rear property line. A 15-foot relief from the code is being requested.

The Secretary called the Vote:

**Ayes: 6**

**Noes: 0**

**New Business:**

An application from **Gilbert VanGuilder Land Surveyor, PLLC** requests an area variance from Chapter 208-11 of the Clifton Park Town Code. The minimum land area per dwelling unit for a parcel in the R-1 with central sewer and central water is 20,000 square feet. The existing lot area is 14,826 square feet. The area variance request is for a 5,174 square feet relief from the 20,000 square feet minimum lot size. The property is located at Woodcliffe Drive (Tax Map # 265.-2- 72.2)

**Applicant:**

Pat Jarose stated he is here tonight on behalf of the property owner to allow for a home to be built by their daughter. He stated the lot was created in 1980 and owned by the current owners for since 1991.

**Public:**

Patricia Schwankert, 2A Woodcliffe Drive stated she is here tonight for herself as well as 2B. She stated that she is the original owner of the duplex and stated there are significant slopes in the area. Ms. Schwankert stated she has concerns with light and noise. She stated that her home is 25'x32' and the applicant has arborvitae and fencing along the property line. She stated across the street from her are 2 single family homes and the footprint of the homes are comparable. She asked to see the measurements of the proposed home.

Mr. Dudick moved, second by Mr. Febo to close the public hearing at 8:21 p.m.

**Board:**

Mr. Febo asked what the square footage of the parent's lot is. Mr. Jarose stated he is unsure but around an acre. Mr. Febo asked if they could do a lot line adjustment. Mr. Jarose stated this cannot be done due to the placement of the shed on their property and he does not know how the shed is constructed and it may also be a pool house.

Mr. Dudick stated that if both lots are owned by the same people the variance could be reduced with a lot line adjustment or even eliminated.

Mr. Febo stated these lots do not match the character of lot sizes in the area at all.

Mr. Reese showed the zoning map in the meeting and stated this lot is part of the PDD and not the subdivision and is in the R-1. He stated he believes this was subdivided by deed.

Mr. Dudick stated then if a lot line adjustment is done then the lot would be in 2 zones. Mr. Jarose stated then they need to look at the corner lot to keep it conforming. Mr. Reese stated the deed says it is in the R-1.

Erik Fernil, owner's son in law, stated the existing home has a well and septic so they do need 40,000 sf for the lot. He stated the lot line could be adjusted but that would bring the line to the shed. Mr. Reese stated 20,000 sf is required for public water and sewer and stated the applicant could offer 1,720 sf of land to the vacant property.

Mr. Febo asked if there is any other PDDs or cluster subdivision done in the last 10 years where the lots are that small. Mr. Reese there is in the CR zone so yes. Mr. Reese stated the lot size minimum for the PDD is 10,000sf per duplex side. Mr. Febo asked who owns the duplexes. Mr. Reese stated he is unsure but the property line goes through the division of the duplex so there are most likely 2 owners. Mr. Febo stated then this makes it within character of the neighboring properties due to duplex lot lines.

Febo asked if the proposal keeps in character with what is there. Mr. Reese stated it does, 10' side yard setbacks and 50' front and the proposed home looks to be smaller than the single family homes across the road. Mr. Reese stated that 35' is the total allowed height for a home so this could be a 2 story.

Mr. Reese stated this is a Type II action pursuant to SEQRA, the Saratoga County Planning Board waived the review of the application, Public notices were made on 3/12/26 and mailings went out on 3/4/26. Mr. Reese stated there was no public inquiries.

Mr. Dudick stated this is an unusual situation with the property owner in 2 zones so lot line adjustments are not easy.

Mr. Febo moved, second by Mr. Brockbank, to approve the variance as requested. The property is located at Woodcliffe Drive (Tax Map # 265.-2- 72.2) .

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

The Secretary called the Vote:

**Ayes: 6**

**Noes: 0**

**New Business:**

An application from **Kevin Bowman** is proposing a year-round farm stand to replace a seasonal farm stand and will require the following area variances:

- a. Per Town Code Chapter 208-10 B (1)[3] Roadside stands or other structures for the sale of farm products require a lot size larger than 5 acres. The existing parcel is 1.42 acres in size. The applicant requests a relief of 3.58 acres (72%) of the 5-acre requirement to allow a year-round farm stand.
- b. The proposed location of the year round farm stand is located on Grooms Road. Grooms Road is identified as a street the requires a special setback. Per Town Code Chapter 208-98 no building or part of a building shall extend nearer to the center line of the road than 100 feet in case of a building in a residential district. The proposed building is approximately 68 feet from the centerline of Grooms Road. The applicant requests a relief of 32 feet (32%) from the 100 feet required special setback.
- c. The proposed year-round farm stand is located on a corner lot. Front yard building setbacks are applied for both Grooms Road and Moe Road. Per Town Code Chapter 208-11 the front yard setback in a R-1 district is 50 feet. The proposed building setback from Moe Road is 45 feet. The applicant requests a relief of 5 feet (10%) from the required 50 feet building setback.

The property is located at 536 Grooms Road, Clifton Park, NY.

**Applicant:**

Ken Bowman stated he is the son of the owner of the orchard and they want to turn the farm stand at 536 Grooms Road from seasonal to year round. Mr. Bowman stated they need to build a new structure to be able to sell year round so they are her for the listed variances.

**Public:**

No public comment.

**Board:**

Mr. Brockbank asked what is seasonal. Mr. Bowman stated they currently run from May to October.

Mr. Reese stated they are selling product on less than 5 acres; however the time they are selling is not restricted by the Town.

Mr. Dudick asked if the County has weighed in on the application. Mr. Reese stated they have but they did not speak on the seasonal sales. Mr. Dudick stated then if there are no county or Town restrictions then the applicant is allowed to sell year round.

Mr. Brockbank asked how much bigger they were looking to make a building. Mr. Bowman stated not too much bigger but they need to move it back.

Mr. Dudick stated the Board needs to know the size of the building proposal to consider the application.

Mr. Reese stated the applicant also needs to go before the Planning Board, the applicant is looking to see what the ZBA feels about the application for the variances.

Mr. Dudick stated he would like more concrete information on what is there now and what is being proposed. He stated he is willing to table the application to allow the applicant to gather information for the Board to review.

Mr. Klimes stated the application is due to a new building but what if the applicant decides to change the existing building or remodel. Mr. Reese stated they would still need variances if a building permit is needed.

Mr. Reese stated he will look into Code about seasonal sales and hours of operation.

Mr. Febo asked what the lot dimensions are. Mr. Reese stated they are about 318'x 190'. He stated the setback from Grooms is 100' and from Moe is 50' but they do not need side and front setbacks. Mr. Reese stated there is water on the property the applicant needs to be aware of as well.

Mr. Febo stated if the applicant could put stakes where they intend to put the building along with the stakes as building lines it would help the Board visualize the application.

Mr. Dudick stated the applicant can table and has to come back in 62 days. Mr. Bowman stated he would like to table for tonight.

### **New Business:**

An appeal of administrative determination submitted by **Kamran Baig** regarding the property located at 1532 Crescent Road, Clifton Park, NY. The appeal challenges an administrative decision issued by the Town Zoning Administrator concerning the interpretation and application of the Town Zoning Code as it relates to the application listed below under Item 6(a)

Mr. Dudick stated this is an appeal of a determination from Mr. Reese. He stated this is being presented to the Town and information provided to the Board tonight needs to be reviewed and asked for 20 minutes to allow the Board to review the information given to the Board tonight in this meeting. The time was 8:40pm.

Return to session at 9:00pm.

Mr. Dudick moved second by Mr. Febo to go into Executive Session.

Return to session at 9:10pm.

**Applicant:**

Kamran Baig stated he lives at 20 Wellington Court and is here to request an appeal for an administrative decision for an area variance for proposed pumps at 1532 Crescent Road. He stated Chapter 208-7 of Town Code the project meets the standards of an auto service station, and it is not allowed in the B-3 zone. Mr. Baig stated this should be a use variance and not an area variance based on the definition in the Code. He stated he is not opposed to building in this location but wants law to be followed. He stated use variances require different criteria to be followed and considered. Mr. Baig stated he would like the Board to look at this as a use variance and not an area variance.

**Public:**

Helen Farrell, 33 Wellington Court, stated that when she read from the Code she agrees with Mr. Baig. She stated it seems clear so she is unsure of why there is confusion. She stated at over the last 2 months the community has collected over 500 signatures of residents in the petition against this store. Ms. Farrell stated there is a daycare within 400' of this property and benzene fumes are harmful to people so this is concerning. Ms. Farrell gave copies of the residents signature and petition and a letter from QuickCheck stating they do have stores that do not sell gas and is only a convenient store. She stated a convenient store is welcome for her. Mr. Dudick stated that members of the Board and Town have changed over the years and they are trying to do their best with interpreting and trying to decrease confusion.

Pat Hogan, 10 Easton Drive, read from a letter he wrote to the Board. He stated there is nowhere else this number of gas stations exist in the Town off of I-87 and they are 7/10s of a mile apart. Mr. Dudick stated that from 1997 until the early 2000's he lived on Southbury so he understands the concerns of development in the corridor. He stated there is planned zoning comprehensive plan and this is where known and certain types of business can go.

Qui Wou, 22 Wellington Court, stated he is here to represent his family and his child goes to the daycare near the application. He stated that the change in use makes everyone here concerned for the area and the safety of the children. He stated the children walk here regularly in the community and this increases their risk. He stated they need to limit activity to the site and if this I approved he may choose to leave his home for the safety of his family.

Kathleen Kennett, 15 Hiawatha Drive, thanked the Board for their service and stated that their decisions affect the residents and that they should look at this as an auto service station as Mr. Baig had requested. She stated there is a reason this was put into the Code and this will change traffic patterns.

Paula Meloney, 10 Courtland, stated that just because a use vs. area variance was missed with the Stewart's application does not mean it should be overlooked here. She stated she has been to their no pump stores. She stated she has been here for 20 years and would like to see this Code followed.

Ralph Reale, 13 Hiawatha Drive, stated he keeps hearing the term interpret and questioned what is being discussed because he feels the Code is clear. He stated if the Board questions this then they should question every other definition. Mr. Reale stated that Ms. Farrell got over 500 signatures and that should say something about what the community wants.

Violet Dalumbo, 2 Eastern Drive, stated she lives near the proposed gas station and she welcomes development but is against the variances. She stated Exit 8 is a low intensity area and his is too many gas stations. She stated there is a preschool 400' from the site and the owner has options that do not involve gas or a QuickCheck without fuel is ok with her.

Tom Burke, applicant and property owner, stated that Board must consider whether the decision by the Administrator was rational and if it is consistent with prior decisions and based on evidence and not public sentiment. He stated that the law says if there is ambiguity in the Code the decision must be in favor of the applicant. He sated he is from Clifton Park, graduated from Shen, and his family is involved with the community. He stated that this application was consistent with what exists now and 2 more pumps doesn't mean much to people except those who want gas. Mr. Burke stated that he will follow all Federal, State and Town Laws. Mr. Burke stated that the property cannot be seen from the housing development. The proposed improvements are less in size than the existing building and what it was used for.

Mr. Dudick moved, second by Ms. McCoy to close the public hearing at 10:39 p.m.

### **Board:**

Mr. Brockbank asked the applicant why he did not challenge the prior 3 application with increased pump counts. Mr. Biag stated he was either not here at the time of approval or he was unaware of the applications. Mr. Baig stated he purchased his home in 2022. Mr. Dudick stated the last variance was granted in 2015. Mr. Baig stated precedence should not lead a decision. He stated that he feels the language is clear and he did not know what was required for notifications and mailings at the time of submittal and read from the Code regarding the application.

Mr. Dudick asked the Town Representative to provide how they came to the decision. Mr. Reese stated he looked at the application and the way he saw this and interpreted the Code. He read from a letter he submitted to the Board members and stated it will also be available to the public. Mr. Reese stated when he looked at it at first it seemed to be a use but looking further into it and Case Law he determined due to dimensional and numerical changes this is an area variance and not a use variance. Mr. Reese reviewed other gas stations in the B-3 zone; which was created in 1996; in Clifton Park and stated this was his assistance for his determination. Stewart's was granted as dimensional across the street and throughout Town there is 7 convenience stores in the B-3 zone, and 2 are compliant with Code and one is compliant with a variance. He stated the Sunoco up the road has more nozzles and on Vischer Ferry Road there were 11 variances as well and this assisted in his decision.

Mr. Brockbank asked how the third paragraph of the Code. Mr. Reese stated it does list an auto service station and originally thought it would be a use variance but then he looked at the others in the area and changed his decision.

Mr. Dudick asked why the section is in brackets. Mr. Reese stated there are different quotations and brackets. He stated that sometimes the brackets indicate sections taken out of Code and bold are changes made.

Mr. Brockbank asked if there is anywhere else in the Code that use changes with a numerical value. Mr. Reese stated there is nothing as specific as this but there are some similar like heights in the Town Center and needs to be voted on by the Planning Board. Mr. Reese stated the ZBA is

familiar with the sign variances and how it has its own criteria with the area variance but the State decided it would be other use or area. Mr. Dudick asked about the sign variances and stated there are different allowances for difference zones. Mr. Reese stated this is correct such as home offices.

Mr. Febo stated that in the packet there are definitions and there are differences in them according to use variance and area variance and read from them. He asked physical and dimensional are the difference. Mr. Reese stated he looked at as a use, and the gas station is permitted and limited to pumps and nozzles so the change in the pump count it is dimensional.

Andy Brick, representing the applicant for 1532 Crescent Road, stated he is here tonight and feels this is a density requirement that the applicant needs relief from, and this is an area variance as the underlying use of the property is not changing. He stated there is confusing or a difference of opinion in the definition of the auto service station and there are 2 definitions. He stated there is one for sale and installation of accessories for vehicles and then a separate one for the convenience store. Mr. Brick stated they are proposing a convenience food store and looking for relief of the 4 pumps and 12 nozzles so this is a density relief. Mr. Brick stated the Courts have found that if there is a conflict in the Code and it is up to the Board to decide then it is required to be in favor of the applicant. Mr. Brick stated at a previous meeting there was a long discussion about use vs. area and there did not seem to be concern until Mr. Baig has brought it up. Mr. Brick stated the Board has the ability to allow the Zoning Administrator to give his interpretation and help the Board with discrepancies and it is ok for the Board to ask him questions and make decisions off of his answers. He referred to a court case that was mentioned in a letter submitted to the Zoning Board and stated that Stewart's across the road from the application were granted variances for similar pump count and stated it is unfair to treat this applicant differently. Mr. Brick stated that changing the use is a big challenge and should be looked at closely but this is not what is being done here. Mr. Brick stated he feels Mr. Reese is correct in his decision.

Mr. Febo stated the Zoning Board members are here due to their interest of the Town. Mr. Dudick stated this is a volunteer Board and they were asked by the Town to be here and help with decision making. Mr. Dudick stated they all come from different professions and backgrounds and one of the members, not present today, that is an attorney and they do the best they can. Mr. Febo stated they want to contribute to their Town and one of the reasons he is here is to be able to interpret the Code as written to the best of his ability and those who are here do the same and understand what people need and don't need. Mr. Febo read from the definition of the convenient store and Mr. Brick stated yes to all of them listed. Mr. Febo stated then he feels the application meets the criteria. Mr. Febo then read from the auto service definition and Mr. Brick stated no to the criteria. Mr. Febo stated based off of both the Codes he interprets that this is a convenience store and not an auto service station. Mr. Brick stated he appreciates the Board and stated they do their homework and appreciates they volunteer for this and for the Town.

Mr. Baig stated that this is intensity of use not the dimensional and this is why he sees a difference in use. He stated there would be more vehicles come to the site and the definition does not say it has to have certain things but can have certain criteria. He stated the Code is well thought out and the neighboring area should not be interrupted by the use.

Mr. Dudick asked if the development would have a direct impact on him. Mr. Baig stated it would for him and his development. He stated he does not feel Stewart's did not have the same

impact as this would because they are not abutting a residential area. Mr. Dudick asked if the applicant modified the application to be within the convenience store criteria, would he be in favor of this. Mr. Baig stated he is not saying he would be in favor, there is not another gas station needed in the area.

Mr. Febo stated that this Board does not approve a gas station but looks at variances and approves or disapproves them, or modifies them as necessary. Mr. Febo stated this is a permitted use but they are looking at the variance requested. Mr. Baig stated he still would not like this here and supports the petition collected by his neighborhood.

Mr. Reese stated SEQR is not a requirement, the Saratoga County Planning Board did not require review, notices went out on 3/12/26 and mailings were sent on 3/5/26. Mr. Reese stated he has received 5 emails since March 5 against the project, 31 emails against the projects well as petitions. Mr. Dudick asked for the letters to be submitted into the record and forgo reading them tonight.

Mr. Dudick stated that Mr. Brick brought up 2 definitions of service stations and stated more than 12 shall be considered. Mr. Dudick stated that the 2 definitions cause ambiguity and then decisions will fall on Mr. Reese, predecessors, and attorneys. He stated that the Zoning Board takes into consideration the Zoning Administrators and attorneys comments.

Mr. Luibrand stated the Board has had legal advice from the ZBA attorney, the Town Board attorney, and the Planning Board attorney and all of them agree with Mr. Baig. He stated that Mr. Reese did not agree and did not change his decision. He stated the Zoning Board should grant the appeal and make the application a Use Variance based on the advice from the Town Attorney's office.

Ms. McCoy asked if they are interpreting the 2 definitions then should they both be considered in the decision. Mr. Luibrand stated the vote should not be the breakdown of the definitions but if the appellant's appeal should be granted as this should not have been granted as an area variance.

Mr. Febo stated that he has served on ZBA before and he has never been told how to vote. Mr. Luibrand stated he is advising not telling what needs to happen. Mr. Febo stated he appreciates his time and effort but it is the Boards decision. Mr. Luibrand stated it is the attorney's job to help the Board apply the Code. Mr. Luibrand stated he is not telling the Board how to vote, but rather in the event the appeal goes to litigation, he needs information on how the Board feels to be able to represent them.

Mr. Klimes moved, second by Mr. Schuth, to approve the appeal as requested.

The Secretary called the Vote:

**Ayes: 3            Mr. Klimes, Mr. Schuth, Ms. McCoy**

**Noes: 3            Mr. Dudick, Mr. Brockbank, Mr. Febo**

**The appeal is denied.**

**Old Business:**

An application from **Bohler Engineering** requests the following area variances:

- a. An area variance from Town Code Chapter 208-7, which limits convenience stores to no more than 4 pump islands or 12 nozzles. The proposed plans include 6 pump islands with a total of 16 nozzles. Accordingly, the applicant is requesting a variance to allow 2 additional pump islands (for a total of 6) and 4 additional nozzles (for a total of 16).
- b. An area variance from Town Code Chapter 208-7, which defines a convenience store as a facility with a gross floor area of 5,000 square feet or less. The proposed convenience store is 5,852 square feet. Accordingly, the applicant is requesting 852 square feet of relief from the 5,000-square-foot limit.

The property is located at 1532 Crescent Road, Clifton Park, NY.

**Applicant:**

Andy Brick stated that the variance is for building size and 6 pumps and 16 nozzles.

**Public:**

\_\_\_\_\_ moved, second by \_\_\_\_\_ to close the public hearing at \_\_\_\_ p.m.

**Board:**

Mr. Febo asked where the Planning Board is in their review. Mr. Reese stated they need site plan approvals. Mr. Febo stated there was talk about reducing nozzles. Mr. Brick stated they asked had spoken about reducing from 8 pumps and 20 nozzles to 6 pumps and 16 nozzles to have 2 for 4 diesel nozzles. Mr. Brick went over the changes that have been made since the application was first seen. Mr. Febo asked how big the tanks for the gas would be. Steve Wilson, Bohler, stated here would be 3 tanks at 20,000 gallons. Mr. Febo asked if the pumps were reduced would the tanks change size. Mr. Wilson stated they would be the same tanks. Mr. Febo stated that the concern is the number of pumps and 4 diesel options seem like a lot.

Mr. Dudick asked if the applicant could come down in pump and nozzle numbers to match what is across the street at Stewart's.

Mr. Febo stated he is having a hard time still with the number of pumps and why they need more than others in the area. Mr. Wilson stated this is the number the company calculated and it would not generate more traffic as there is the same amount of pumps.

Mr. Dudick moved, second by Mr. Brockbank, to approve the variance as amended. The property is located at 1532 Crescent Road, Clifton Park, NY.

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

Amendments:

1. Square footage of the building to be 5,852 sf
2. 6 pumps and 14 nozzles

The Secretary called the Vote:

**Ayes: 4**

**Noes: 2**

**Public Privilege**

*Any member of the public may speak for up to three (3) minutes on matters currently before the Zoning Board of Appeals as open projects. Comments should be relevant to the Zoning Board of Appeals' jurisdiction. This opportunity is intended to allow the public to provide input or raise concerns related to active applications under review.*

The chairman made a motion to approve the minutes from the March 2, 2026 meeting. All who were present at the March 2, 2026 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Brockbank second, all voted in favor and approval was unanimous. The meeting was adjourned at 11:19 p.m.

The next scheduled ZBA meeting will be held on April 6, 2026.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals