

# Town of Clifton Park

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## Zoning Board of Appeals



APPROVED  
4-4-17

## ZONING BOARD OF APPEALS March 21, 2017

**Present:** Chairman Dudick, Terry Cosgrove, Mario Fantini and Michael Bloss.

**Absent:** Chris Lemire, Jerry Cifor, Lisa McCoy and Randy Gifford.

**Also Present:** Tom McCarthy, Esq., Town Attorney  
Steve Myers, Director, Building and Zoning

The Meeting was called to order at 7:13 p.m. by Chairman Dudick and he announced that Alternate ZBA Member, Terry Cosgrove would sit in for Mr. Lemire.

PLEDGE OF ALLEGIANCE  
ROLL CALL

### OLD BUSINESS

*The secretary read the legal notice as it appeared in The Gazette on March 16, 2017:*

1. **Application from Ray Sign, Inc. for an area variance for a second wall sign of 19SF. First sign = 40SF. 40SF total allowed per variance #80627. 19SF variance required. (2<sup>nd</sup> sign allowed if within allowable area). Property is located at 309 Clifton Park Center Road, Clifton Park, NY 12065. (Permit #81120).**

Russ Hazen from Ray Sign presented the application and advised that they are seeking approval of a second wall sign on the north side of the building that Smashburger occupies. He explained that because of the building location, they feel a second wall sign would be helpful for identification purposes.

Mr. Cosgrove inquired as to whether the proposed sign was to be illuminated 24/7.

Mr. Hazen replied that although he did not know the answer to that question, he did not believe it would be, as it would not make financial sense to do so.

Mr. Cosgrove commented that the only issue he had with the proposal was the height of the sign in proportion to the size of the building and inquired whether the applicant would consider bringing their sign down to the same height as the Carpet 1 sign.

Mr. Hazen responded that they would if that would obtain approval tonight.

The Chairman opened the Public Hearing and asked for questions or comments. Being none, Mr. Dudick made a motion to close the Public Hearing. Mr. Bloss seconded. All members voted in favor and the Public Hearing was closed.

Addressing Mr. Cosgrove's comment, Mr. Myers pointed out that the façade and the EIFS (exterior insulation and finish system) where the applicant is proposing to mount this sign is much shorter than the façade of the Carpet 1 building. He added that he was certain he could work out the best location for the sign with the applicant.

Mr. Fantini pointed out that the height of the sign was not part of the variance request and Mr. Myers explained that because the height of the roof is not the same all the way across, it does make a difference where the sign is placed.

Mr. Myers advised that when he originally wrote the variance, he thought the applicant had received the maximum SF available at the time of the application for the first sign. After further review, it was determined that the applicant is allowed 43 ½ SF based on the square footage of the building and had only used up 40 SF with their first sign. Therefore, the variance being requested is reduced to 15 ½ SF instead of 19 SF.

Mr. Bloss asked whether Mr. Myers had any issue with how long the proposed sign is to be lit. Mr. Myers responded that he did not and that the Town has never approached that subject with the mall. He added that the Town does control how long some of the freestanding LED signs are lit when they are close to residential areas, but that because this building is in a commercial district which faces the Northway and is off a State Highway, they have never discussed that issue with the mall. He added that this is a Type II action and therefore no further SEQRA review by the Board is required.

Mr. Fantini commented that this is a relatively small request and therefore he did not have any issue with it.

Mr. Dudick agreed, adding that there are two sides to the building and is in a commercial district.

Mr. Bloss made a motion to approve the application as amended by Mr. Myers. Mr. Cosgrove seconded.

Mr. Bloss stated that he did not believe the variance would create an undesirable change in the character of the neighborhood; that he doesn't see how the benefit sought by the applicant could be achieved by any other method; that the request is moderate; that the proposed variance would not have an adverse effect on the physical or environmental conditions of the neighborhood and that although the alleged difficulty is self-created, that does not overwhelm the other criteria.

*The secretary called the Vote:*

Ayes: Mr. Cosgrove, Mr. Dudick, Mr. Fantini and Mr. Bloss.

Noes: None.

**Application approved as amended.**

## **NEW BUSINESS**

*The secretary read the legal notice as it appeared in The Gazette on March 16, 2017:*

- 1. Application from Joseph Urbanski for an area variance from Section 208-11 which requires a 10' side yard setback from property line. 8' available, 2' variance required to construct a third garage onto existing house. Property is located at 123 Wood Dale Drive, Clifton Park, NY 12065. (Permit #81123)**

Joe Urbanski presented the application and advised that he is a contractor who has been asked to construct a garage by Mr. Busta as an addition onto his house and to represent him in front of the Zoning Board. He explained that they would like to construct an extra garage onto the side of the existing structure and that a variance is required because the back left corner of the proposed garage will go into the setback. He added that although the application before the Board currently requests a 2' variance, their engineer had suggested they request a 3' variance instead.

He went on to explain that the proposed garage is needed because Mr. Busta has a couple of classic cars he would like to store; that he and wife have 2 other cars and right now, his wife is parking outside and he wishes for her to be able to park inside.

He explained that the proposed structure is to be 16' and 70' wide; that the siding will match the character of the existing house and that it will be about a foot higher than the existing garage. He added that they are not looking for anything extravagant and the side of the home where it will be placed is wooded.

Mr. Bloss asked the applicant to walk the Board through the reasoning for the requested additional foot.

Mr. Urbanski explained that Mr. Busta would like to park his 1967 and 1968 Oldsmobile Cutlass cars side by side toward the back of the garage and that because they are big cars, an extra foot would be needed to be able to open the doors.

The homeowner, Christopher Busta added that when you go to enter the car you can't swing the door open far enough to physically get in, which is the main reason for requesting the additional foot.

Mr. Cosgrove inquired as to whether the applicant intended to work on the cars inside the garage and whether any motion sensitive lighting would be needed.

Mr. Busta replied that although he may detail the cars, he is not looking to get into any work on the cars and is only looking for some clean, dry storage. He added that he already has a small motion sensor in front of the house and was not looking to put a lot of stuff on the outside of the garage.

As there was no public present in the audience, Mr. Dudick made a motion to close the Public Hearing. Mr. Fantini seconded. All members voted in favor and the Public Hearing was closed.

Mr. Myers advised that this is Type II action and therefore no further SEQRA review by the Board is required. He added that he does not believe the additional foot requested would be a major change that would require re-noticing and that the property directly adjacent to Mr. Busta's belongs to the Town.

Mr. Myers further advised that because the applicant's property slopes down to a stream, the ECC had raised a concern that the stream be protected during construction. He indicated that the Building Department would take care of that issue to make sure no pollution to the stream occurs during construction.

Mr. Fantini stated that because two of the neighbors had submitted letters indicating they were not opposed to the request and because a 3' variance is not substantial, he would be in favor of the application. Mr. Dudick agreed.

Mr. Fantini then made a motion to approve the application as amended. Mr. Dudick seconded.

Mr. Fantini stated that he does not believe the variance would create an undesirable change to the neighbor because the garage will be consistent with the current house. He added that he does not believe the benefit sought by the applicant could be achieved by any other method; that the requested 3' variance is not substantial; and that he does not foresee the requested variance having an adverse impact on the environment. He added that although the alleged difficulty is self-created, that does not outweigh the other factors.

*The secretary called the Vote:*

Ayes: Mr. Cosgrove, Mr. Dudick, Mr. Bloss and Mr. Fantini.

Noes: None.

**Amended application approved.**

The minutes from the February 21, 2017 meeting were not able to be approved as a quorum was not present.

Chairman Dudick made a motion to enter Executive Session to discuss pending litigation against the Town. Mr. Bloss seconded. The Board entered Executive Session off the record, at 7:40 p.m., which ended at 8:00 p.m.

**Mr. Dudick made a motion to adjourn the meeting. The motion was seconded by Mr. Fantini. Approval was unanimous. The meeting was adjourned at 8:04 p.m.**

**The next scheduled meeting is April 4, 2017.**

Respectfully submitted,



M. Kathleen Smith  
Secretary, Zoning Board of Appeals

Cc: Town Clerk, Town Board, Zoning Board Members  
Tom McCarthy, Esq.  
Steve Myers, Department of Building and Development  
Town Assessor, Town Highway Department