

Clifton Park Zoning Board of Appeals Meeting Minutes

March 4, 2003

Present: Dale Kelley, Chairman, Michael Dudick,
Skye Heritage, Sandra Pace, Dale Gleason
(left at 7:45 P.M.)

Absent: Donna Lawton, Gil Kortz

Also Present: Don Clemens, Director Building & Development
Louis Renzi, ZBA Counsel

Mr. Kelley called the meeting to order at 7:04 P.M.

OLD BUSINESS

1 An application from Richard Green, requesting an interpretation - is a Farmer's Market allowed in an R-3 zone? The property is located at 177 Ashdown Road, Ballston Lake. Permit #80411.

Mr. Kelley stated that Counsel has researched this request and there are no issues or problems with this application. He noted that the Town has always supported agricultural activities. If it is truly going to be a small farmers type market there are no issues with this request.

Mr. Renzi noted that since this request is for a small agricultural type operation and does not require any further building or infrastructure it comes within the purview of the generally stated intentions of the Town to support the agricultural neighbors and character of that part of Town. Given these conditions and constraints this use is permitted for this specific application based on the presentation made by the applicant.

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Mr. Kelley made a motion, based on the information provided by the applicant and legal research done by Counsel, to grant a positive interpretation that a farmer's market, specific to this application, is allowed in an R-3 zone based on the circumstances outlined by Counsel. Mrs. Gleason seconded. Ayes: Gleason, Heritage, Dudick, Pace, Kelley. Noes: None.

NEW BUSINESS

1 An application from The Crossings, LLC, requesting an area variance from Section 208-46C from the required 30 ft. side yard setback for buildings - proposed setback = 0 - variance requested = 30 ft., and an area variance from Section 208-

46C from the required 2- ft. side yard setback for parking - proposed setback = 0 - variance requested = 20 ft.. The property is located at 48 & 54 Crossing Boulevard, Clifton Park. Permit #80418.

The secretary read the legal notice as it appeared in the Daily Gazette on February 28, 2003.

Paul Goldman, legal representative, presented this application. He presented the subdivision application and subdivision site plan approved by the Planning Board. He outlined where the old Grand Union building has been removed and the proposed Kohl's parcel in relation to the rest of the Crossings.

Mr. Clemens explained that the subdivision is basically for the financing of the department store. He noted that the County and Town Planning Board's have given their approval to this project.

This is strictly a formality for the two separate lots. They are still joined forever by an integrated site plan. They cannot be separated. He stated he has no objections to this request.

Mr. Goldman noted that there are still notes to be added to the site plan which will indicate that this is approved pursuant to integrated site statistics and if the building is ever to be knocked down by other than this applicant these area variances will not apply.

There was no public comment. Mrs. Pace made a motion to close the public hearing, Mrs. Gleason seconded, approval unanimous.

Mrs. Gleason made a motion to approve this application as submitted. Ms. Heritage seconded. Ayes: Dudick, Kelley, Gleason, Heritage, Pace. Noes: None.

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2 An application from Stewart's Shops Corp., requesting an area variance from Section 208-12 from the required 10 ft. rear yard setback for an accessory building - proposed setback = 8 ft. - variance requested = 2 ft.. The property is located at 923 Riverview Road, Rexford. Permit #80421.

The secretary read the legal notice as it appeared in the Daily Gazette on February 28, 2003.

Tom Lewis presented this application. He handed out a larger scale map. He noted that due to the high volume of traffic on the road at this location they lack a certain amount of storage space. He stated they worked very hard trying to ask for the minimum amount of variances when this shop was approved. At that time they met the rear yard setbacks. He stated this is a modest rear yard variance request. He noted he has highlighted the 6.5 ft. proposed setback. When the application was submitted someone picked up that figure as

8.0 ft. therefore the request for a 2 ft. variance when in reality it will be a 3.5 ft. variance. He explained that he has outlined the shed that was on the site prior to this store being built and noted that it was even closer to the rear yard setback than this proposal. He also presented photos of the proposed shed and listed items that would be stored there, i.e. empty milk crates, totes, ice cream baskets, soda trays, etc. By moving these items into the shed it will increase the efficiency of the delivery trucks, less trucks on the lot. The practical difficulty is that they need these items and they cannot find any other place for them. There will be no impact on the neighborhood. He also noted this is the minimum variance they can ask for.

Mr. Clemens commented that having these items under cover are well worth the setback variance.

There was no public comment. Mr. Kelley made a motion to close the public hearing, Mr. Dudick seconded, approval unanimous.

Mr. Kelley inquired about the screened in dumpster indicated on the plan. Mr. Lewis stated it will be moved to the left and the site will be cleared by putting these items under cover.

Ms. Heritage made a motion to approve this application as amended for a variance of 3.5 ft. for a rear yard setback of 6.5 ft..

Mr. Dudick seconded. Ayes: Pace, Gleason, Heritage, Dudick, Kelley. Noes: None.

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1 An application from Anthony J. Hynes, requesting an area variance from Section 208-64B(1) to allow 75% of the building to be used for assembling fabrication - allowable area = 10% - variance requested = 65%. The property is located at 2101 Route 9, Round Lake. Permit #80422.

The secretary read the legal notice as it appeared in the Daily Gazette on February 28, 2003.

Anthony Hynes presented this application. He stated he currently runs a robotics company in Halfmoon and is outgrowing the facility. They build custom machines and ship them throughout the world.

He has the opportunity to buy a building in Clifton Park. The building is well suited for his business. It has adequate size, parking, etc. but only being allowed to use 10% for manufacturing is a very limiting factor therefore he is making this application.

Mr. Clemens noted that this building was formerly Steve's Auto Repair on Route 9. They had been there approximately 6-7 years and have since gone bankrupt. He stated that he feels the auto repair business probably had more of an impact on the neighbors than this business would have. This is a light industrial zone and this would be a good fit for the

area.

Mr. Kelley asked Mr. Clemens why the limit of 10% manufacturing. He responded that he feels it was a fear of heavy industry. He noted that there are no limits on the other side of Route 9.

Mr. Kelley noted that they discussed the restrictions of a Use Variance and Mr. Clemens suggested the variance request for floor space.

There was no public comment. Mr. Kelley Made a motion to close the public hearing, Mrs. Gleason seconded, approval unanimous.

Mrs. Pace asked if they would be producing parts or just assembling. Mr. Hynes stated they will mostly some assembly. He noted most parts are made by other local shops. He stated it will be mostly for final integration, doing final assembly.

Mr. Kelley asked if noise would be minimal. Mr. Hynes stated that the factory they are now in borders Timberwick II and they have not had any complaints.

Mr. Dudick asked if they were leaving their current space.

Mr. Hynes stated no, they are expanding to this space. He asked if they used any hydraulic or pneumatic devices in the assembly. Mr. Hynes stated they do not use hydraulic but do use pneumatic. He noted they use an air compressor because the machines run on

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compressed air but they do not use compressed air to run any tools that build the machines.

Mr. Dudick asked about noise from these devices. Mr. Hynes noted that they need the compressed air to make the machines actuate along with other computer driven components but there is no noise generated, it is a quiet process.

Mr. Dudick asked for clarification on the variance request.

Mr. Clemens explained that they are now restricted to using only 10% of the floor area for assembly. What they are asking for is to use 75% of the floor area for assembly.

Mr. Kelley noted that this is a light industrial zone and he agrees with Mr. Clemens that this is a much less complicated way to work with the applicant versus a Use Variance.

Mrs. Pace made a motion to approve this variance as requested.

Mrs. Gleason seconded. Ayes: Gleason, Pace, Heritage, Dudick, Kelley. Noes: None.

2 An application from Brinker Restaurant Corp., c/o Bohler Engineering, P.C., requesting an area variance from Chapter 171 of the Town Code (Sign Law) for a wall sign of 47 sq.

ft. - allowable = 28 sq. ft. - variance requested = 19 sq. ft.; an area variance for a second wall sign of 11 sq. ft.; an area variance for a third wall sign of 32 sq. ft.; an area variance for a fourth wall sign of 47 sq. ft.; and an area variance for a fifth wall sign of 61 sq. ft.. The property is located at Northside Drive & Route 146, Clifton Park. Permit #80423.

The secretary read the legal notice as it appeared in the Daily Gazette on February 28, 2003.

Chris Bouyea, Bohler Engineering presented this application. He also introduced Rich Fernicola from Brinker Restaurants.

Mr. Bouyea presented colored drawings of the proposal. He noted that one variance is only a partial request due to the Chili Pepper. It is more of a building element than a sign. He explained that the "To Go" sign is for identification and identifies a service, not the restaurant. It is to direct customers into that door that is for "to go" only. He also noted that there is no entrance from Route 146 and these signs will offer direction for customers. There also is no freestanding sign at this location.

Mr. Bouyea indicated the sign on the rear of the building that faces the service road and stated that it would be visible to the hotel customers and is important to them for identification. He

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also noted their concern for drawing in customers due to this location.

Mr. Clemens stated that he can understand the need for the front and rear signs. They are needed to be seen and to be effective. He also noted that the "to go" sign is self-explanatory and is acceptable. He finds the chili pepper is not acceptable. He recommends that the sign on the east side of the building could be smaller and painted on the building. It is only visible to the hotel. Mr. Clemens suggested 40 sq. ft.. Mr. Bouyea agreed.

Mr. Clemens also noted that there will probably be a restaurant on the adjoining vacant lot.

Mr. Kelley noted that most of the requests are reasonable but he agrees that he sees no need for the chili pepper on the front of the building. Mr. Dudick agreed.

Mr. Fernicola stated that this is very important to them because it is an immediate recognizable symbol of their company.

Mr. Dudick noted that it is not recognizable from the east and the west. You can only see it from Route 146. Mr. Fernicola noted that the building is over 100 ft. from the road.

Mr. Dudick inquired about precedents for restaurants of this size having signs on three

sides of the building.

Mr. Clemens stated that Taco Bell was just granted three signs but they were considerably smaller in size.

Mr. Bouyea suggested a one dimensional chili pepper added to the front sign which will reduce the size of the variance request. The Board agreed.

Mr. Kelley summarized the request. He noted they will downsize the right elevation graphic, take the large chili pepper away and incorporate a smaller version into the front sign using the same dimensions. The remaining signs will remain as requested.

Mr. Bouyea agreed. Mr. Clemens noted that they will now be asking for approximately a 60 sq. ft. sign for the front.

There was no public comment. Mr. Kelley made a motion to close the public hearing, Mrs. Pace seconded, approval unanimous.

Ms. Heritage made a motion to approve this application as amended. Mrs. Pace seconded. Ayes: Kelley, Pace, Dudick, Heritage. Noes: None.

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1 An application from Gilbert VanGuilder, requesting an area variance from Section 208-98 from the required front yard setback from the centerline of NYS Rte. 146 - proposed setback = 84 ft. - variance requested = 46 ft.; an area variance from Section 208-35D(1) from the required 70 ft. front yard setback from Lace Lane - proposed setback = 65 ft. - variance requested = 5 ft.; an area variance from Section 208-35D(2) from the 25 ft. side yard setback for parking - proposed setback = 14 ft. - variance requested = 11 ft.; and an area variance from Section 208-35C from the required minimum lot size in a B-1 zone of 40,000 sq. ft. - actual = 33,699 sq. ft. - variance requested = 6,301 sq. ft.. The property is located at 988 Rte. 146, Clifton Park. Permit #80424.

The secretary read the legal notice as it appeared in the Daily Gazette on February 28, 2003.

Gil VanGuilder presented this application. He gave a brief history of the site. He noted that in 1989 he was granted a Special Use Permit and site plan approval to conduct his business in an R-1 zone. It was a single family home that he converted into an office. When the BNR zoning came into place the setbacks were more restrictive. He continued, he is proposing to construct a 1,184 sq. ft. addition which will not increase the need for variances. These requests are to make existing conditions in compliance with current zoning requirements.

Mr. Clemens noted that he encouraged the applicant to apply for the variances.

There was no public comment. Mr. Kelley made a motion to close the public hearing, Mrs. Pace seconded, approval unanimous.

Mrs. Pace made a motion to approve this application as submitted. Mr. Dudick seconded. Ayes: Pace, Heritage, Dudick, Kelley. Noes: None.

Mr. Kelley made a motion to approve the minutes of February 4, 2003, Mrs. Pace seconded. Ayes: Dudick, Kelley, Heritage, Pace. Noes: None.

Mr. Renzi voiced his concern over the Town being able to review the conditions of the variance granted to Mr. Green if they were not being met. Mr. Clemens stated he would investigate any complaints and if conditions are not met the Town can rescind the variance.

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Mr. Dudick made a motion to adjourn the meeting at 8:00 PM, Ms. Heritage seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary

cc: Town Clerk, Zoning Board Members, Oscar Schreiber, Counsel,
Don Clemens, Department of Building and Development, Planning Board, ECC
Members