

Clifton Park Zoning Board of Appeals Meeting Minutes

January 21, 2003

Present: Dale Kelley, Chairman, Michael Dudick,
Skye Heritage, Dale Gleason,
Donna Lawton, Gil Kortz

Absent: Sandra Pace

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

Mr. Kelley called the meeting to order at 7:00 PM. He welcomed new Board member Skye Heritage and Louis Renzi, ZBA Counsel.

Mr. Kelley read a letter he received from Keith Giles clarifying legal representation for himself and the Boni's, purchasers of the property.

OLD BUSINESS

1. An application from Gordon P. Nicholson, RLA, agent for Vinciguerra, requesting an area variance from Section 208-35D(1) from the required 70 ft. front yard setback for parking - proposed setback = 30 ft. - variance requested = 40 ft.; an area variance from Section 208-33B from the maximum building area to lot size of 12% - proposed = 14.4% - variance requested = 2.4%; and an area variance from Section 208-33B from the maximum building size of 4,800 sq. ft. - proposed = 30,000 sq. ft. - variance requested = 25,200 sq. ft.. The property is located at the East side of Maxwell Road, Clifton Park. Permit #80415.

Gordon Nicholson presented this application. He presented some additional information and introduced the developers for this site, Jackie Phillips Murray and her husband Peter Murray, and Bob Phillips. He continued, he was asked by this Board to present a site plan showing a 25,000 sq. ft. building that would be consistent with the 12% usage for the site and also showing the 4 or 5 building concept of 4,500 sq. ft. each. He explained that he had discussed this request with the architect, Mr. Phillips, and

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potential tenants and it was agreed that that concept is not consistent with the existing zoning. The parking setback being requested is consistent with other sites in the area. The percentage of building area to lot size - from 12% to 14.4% is due to the increase in square footage from 25,000 to 30,000 sq. ft. and is consistent with the neighborhood and would not be a detriment. The practical difficulty with the area criteria is that Mr. Vinciguerra has owned the property since the 1970's and it has undergone multiple zoning changes.

Jackie Phillips Murray, an attorney in Albany, stated she grew up in Clifton Park and has stayed involved in the community. She would like the prospect of attracting young professionals to work, not only live, in Clifton Park. She explained the concept being considered for this site. The building would have office space and video conference rooms that would be affordable for young professionals. It would be an attribute to the community and create new opportunities for young professionals.

Bob Phillips stated that from his experience in the business community and organizations that he belongs to he has found that young people leave an area because there are no new jobs to keep them there. This prompted him to look at this type of concept. It is too expensive to have one business afford a video conference room for large groups. It is important to have class "A" buildings to create jobs and you need extra added services. He continued, you need to create an infrastructure.

Mr. Kelley noted that it is important to understand the concept that they are trying to develop. He stated that he looked at the site and with the topography as it is it is difficult to place several 4,500 sq. ft. buildings around the site. It is also not in the character of the area which are multiple story large buildings. He believes this is a good concept.

Mr. Dudick agreed with the single building concept versus several smaller ones on the site. He asked what consideration was given to keeping within the 25,000 sq. ft. building size.

Mr. Nicholson responded the 30,000 sq. ft. building is critical for the conference space and video systems to provide the large conference space that will be needed.

Mr. Phillips also noted that the design calls for 1,000 sq. ft. atrium that is unusable space but will make the building more attractive to potential tenants.

Ms. Murray also noted that it will also help to keep the rent more affordable.

Peter Murray stated that the sharing of the video conferencing area

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will be a true asset that will be available for anyone in Clifton Park to rent and the atrium area will enhance the building.

Mr. Dudick asked if the additional 5,000 sq. ft. is necessary for the video conferencing.

Mr. Murray explained they want to have a large conference room with the capability of video conferencing for large groups, 30-50 people.

Mr. Dudick asked, if the conference room stays the same size and you reduce the office space, how would that work?

Mr. Phillips stated he paid a lot for the land and that would make it difficult financially.

Mr. Dudick asked if he already owned the property? Mr. Phillips responded the sale is contingent upon this approval.

Mrs. Gleason made a motion to approve the variances as submitted. Mr. Kelley seconded.

Mr. Kortz inquired about the prior zoning. Mr. Clemens stated that it was B-1 for quite some time.

Mr. Kortz asked when the zoning change occurred and if the zoning became more restrictive.

Mr. Kelley stated it changed in the late '80's or early '90's. It took over the BNR zone that was created as a buffer between the residential and business areas.

Mr. Kortz asked for some clarification on the site plan.

Mr. Nicholson reviewed the adjacent sites. He also stated they will tie into the existing drainage area.

Mr. Phillips explained that he would like a larger type tenant that will bring in higher paying jobs.

A vote was called on the motion. Ayes: Kelley, Dudick, Kortz, Gleason, Lawton, Heritage. Noes: None.

NEW BUSINESS

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

The secretary read the legal notice as it appeared in the Daily

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Gazette on January 16, 2003.

Mr. Kelley asked Mr. Clemens to explain exactly what is an interpretation?

Mr. Clemens stated the applicant requested permission to start a farmers market. He asked if it is allowed and he really did not know. He continued, the bottom line is, is a farmers market an agricultural use or business? If it is a business, it is not allowed.

Mr. Green explained that he purchased the property approximately three years ago. He went to the Building Department to see what he could do with the land. He stated that he has improved the power and drainage and noted that he currently raises honey bees on the site.

Mr. Green remarked that there is considerable competition from farm stands in the area. He stated he plenty of room for parking. He needs to know what he can sell.

He explained that the Saratoga Farmers Market is a non-profit organization and allows farmers to sell their products. He would like to sell goat meat, honey, and garlic. He would also like to offer the site to other farmers to help make it viable. He would open 10-3 on Sundays and hopefully expand to Saturdays at a later date. He asked if he could sell products other than what he produces.

There was no public comment.

Mr. Kortz read the zoning requirements. He asked Mr. Green how many acres he owned. He replied 26.5 acres.

Mr. Kortz continued, in an R-3 zone the sale of farm products is allowed with 5 acres or more, if he is selling farm products he would not be in violation.

Mr. Dudick stated that the business of farming should allow for not only the growing, but the selling of farm products.

Mr. Kelley remarked that since this is this Board's first experience with an interpretation he would like to suggest Mr. Renzi do research and give the Board guidance in making a decision.

Mr. Kortz made a motion to close the public hearing, Mrs. Lawton seconded, approval unanimous.

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2. An application from Special Projects Development, Inc., requesting an area variance from Section 208-35C from the minimum lot width of 180 ft. at the front building line - actual width = 15 ft. - variance requested = 29 ft.. The property is located at 947 Route 146, Clifton Park. Permit #80413.

Mr. Kelley stated that this application was adjourned at the request of the applicant.

3. An application from Brinker Restaurant Corp., c/o Bohler Engineering, requesting an area variance from Section 208-48 from the required 15 ft. planted buffer at sides of the property - proposed east side = 9.2 ft. - variance requested = 5.8 ft. and from the proposed west side = 5 ft. - variance requested = 10 ft.. The property is located at 5 Northside Drive, Clifton Park. Permit #80414.

The secretary read the legal notice as it appeared in the Daily Gazette on January 16, 2003.

Jim Giarrusso, Bohler Engineering presented this application. He introduced Rich Fernicola, Property Development Manager, from Brinker International.

Mr. Giarrusso presented a letter from Comfort Suites in support of this request.

Mr. Giarrusso stated the site will be for a Chili's Restaurant. He explained that due to the configuration of the lot, it narrows at the sides, and a request by the Fire Department stating the need for full circulation around the building for safety reasons, the buffer areas will be impacted, therefore the variances are needed.

Mr. Clemens noted that the requests are to satisfy the request of emergency services and he stated he has no objections to this variance.

Mr. Kelley noted that there is no impact on neighboring sites and referred to the letter from the neighbor on the east.

There was no public comment.

Mr. Kortz questioned the need for 125 parking spaces that exceeds the requirement.

Mr. Giarrusso responded that is the typical parking requirements for most of these restaurants. The additional parking is required to meet the customer needs. He stated the variance also allows for the handicapped parking to be around the building instead of in the main lot area.

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Mr. Kelley noted that the applicant had a letter of support from the hotel but yet they would not let them use their access.

Mr. Giarrusso stated that the hotel had concerns about the restaurant customers using the hotel parking nearest the front door.

Mr. Dudick asked when the restaurant will be opening.

Mr. Giarrusso responded in October.

Mr. Dudick made a motion to close the public hearing,

Mrs. Gleason seconded, approval unanimous.

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

4. An application from New York Development Group, LLC, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback in an R-1 zone - proposed setback = 30 ft. - variance requested = 20 ft.. The property is located at 417 Moe Road, Clifton Park. Permit #80416.

The secretary read the legal notice as it appeared in the Daily Gazette on January 16, 2003.

Gil VanGuilder, Land Surveyor, presented this application. He introduced Jeff Booth and Jeff Knox from New York Development Group.

Mr. VanGuilder reviewed the site stating that it is 7.3 acres, 315 wide and 1,000 ft. deep in an R-1 zone. They would like to construct single family homes on a cul-de-sac 1,100 ft. long. He explained to the Board that they can meet all zoning requirements except for the setback. They will be connected to municipal water and sewer. All the lots are over 20,000 sq. ft. with an average depth of 125 ft. with a 50 ft. front setback and 25 ft. rear setback it does not leave a lot of room for a house.

Mr. VanGuilder referred to cluster zoning that allows for a 30 ft. front setback in several sections of the Town. He would like the Board to consider reducing the front yard setbacks to 30 ft..

Mr. VanGuilder also noted that he believes the Planning Board would be in favor of a "no cut" buffer in the rear of the lots and moving the houses forward will allow for that.

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Mr. Clemens agreed that this is a good proposal. He explained the 50 ft. setback is usually to allow for road expansion and in this instance this will never be a connector street and therefore would never need to be widened. He continued, by moving the houses forward it will allow for better usage of the rear yards.

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

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

5. An application from Timothy E. Oakey, requesting an area variance from Section 208-11 from the required 50 ft. front yard setback in an R-1 zone - proposed setback = 29 ft. - variance requested = 21 ft. The property is located at 642 Kinns Road, Clifton Park. Permit #80417.

The secretary read the legal notice as it appeared in the Daily Gazette on January 16, 2003.

Timothy Oakey presented this application. He stated when he bought the property on Kinns Road he made sure it was zoned R-1. He contacted the Army Corps of Engineers to see if wetlands were on the property. Alan Koechlein, NYS DEC sent him a letter stating they withdrew the wetland jurisdiction on this and adjoining properties. He then had the house designed and later found out about the LC zone on the property, therefore a setback variance is needed to fit the house and septic on the lot.

He noted he is approximately 118 ft. from the rear of the adjacent house to his property line. He continued, if there is any issues he would be willing to plant evergreen trees as a buffer. He presented pictures of the site.

Mr. Clemens stated that this property was part of a subdivision that was approved prior to the LC zoning. When the constraints are put on the lot it makes it very restrictive, therefore the applicant decided to move the house forward instead of intruding into the LC zone, which is a much better plan.

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

Mr. Kortz asked if this site will go to the Planning Board.
Mr. Clemens responded no, the subdivision was approved in 1989.

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Mr. Kortz asked if this Board can add provisions of the Environmental Specialist into this motion.

Mr. Clemens noted that they are standard in this type of a sensitive area.

Mr. Kelley noted that this is a nice compromise situation for the LC zone, it keeps it out of the Use Variance area. He also noted that there are no negative impacts on the neighborhood.

Mr. Oakey asked about the use of pesticides and fertilizers.

Mr. Kortz responded if you use common sense there should be no problem.

Mr. Dudick asked about the use of salt on ice. Mr. Kortz responded no you must be mindful of the runoff.

Mr. Kortz made a motion to approve this application as requested with the following statements that should be added to the plot plan and adhered to by the applicant: 1) The LC zone has been delineated in accordance with Section 208-69 of the Clifton Park Town Code. Uses in this area are restricted. The Town of Clifton Park Building Department shall be notified before undertaking any land disturbance activities in the LC zone; 2) no salts, fertilizers, pesticides or other materials may be used on this property where they

will contaminate any wetland areas or surface water through runoff, leaching, or in any other manner which violates the NYS Environmental Conservation Law (ECL); 3) the borders of all land that is to remain undisturbed shall be clearly marked on the site before site preparation begins. These on-site boundary markers shall remain until construction is completed and soils are stabilized; 4) all erosion and water quality controls shall be put into place at the initial phase of site preparation and shall be maintained until all construction ends and soils are stabilized; 5) the application will control fugitive dust and debris during the construction/demolition phase of the project. Mrs. Lawton seconded. Ayes: Kortz, Lawton, Dudick, Kelley, Heritage, Gleason. Noes: None.

Mr. Kortz made a motion to approve the minutes of January 7, 2003, Mrs. Gleason seconded. Ayes: Kortz, Gleason, Lawton, Dudick, Kelley. Noes: None. Abstained: Heritage.

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Mrs. Lawton made a motion to adjourn the meeting at 8:26 PM, Mr. Kelley 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