May 17, 2005

ZONING BOARD OF APPEALS

May 17, 2005

Present: Dale Kelley, Chairman, Dale Gleason, Jessica McCarthy, Gil Kortz, Joel Koval, Robert Ritter (arrived 7:02 PM), Michael Dudick (arrived 7:54 PM)

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

Mr. Kelley called the meeting to order at 7:00 PM.

NEW BUSINESS

1. An application from Richard Irish, requesting an area variance from Section 208-12A from the required 80 ft. front yard setback for an accessory building – proposed setback = 40 ft. – variance requested = 40 ft. The property is located at 9 Nottingham Way South, Clifton Park. Permit #80551.

The secretary read the legal notice as it appeared in the Daily Gazette on May 12, 2005.

Mary Irish presented this application. She explained that they would like to build a shed but there is a ravine in the back of the lot with a steep drop off. If the 80 ft. setback were met it would be located where the lot drops off steeply. She also noted that the lot is wide but narrows from the back of the house to the ravine and if the shed were placed there it would take up most of the back yard play area.

Mrs. Irish stated that they have signatures from the neighbors stating that they have no objections to this request.

Mr. Clemens noted that there is adequate practical difficulty established to grant this variance and stated that he has no objections to this request.

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

Mr. Kelley explained that this is a corner lot and therefore has two front yard setbacks.

Mr. Ritter made a motion to approve this variance as requested. Mrs. Gleason seconded. Ayes: Kelley, Gleason, Koval, Kortz, McCarthy, Ritter. Noes: None.

2. An application from Sierra Recycling Group, LLC, requesting a Use Variance from Section 208-64B to allow a solid waste recycling facility in the Light Industrial zone. The property is located at 1927 Route 9, Clifton Park. Permit #80550.

The secretary read the legal notice as it appeared in the Daily Gazette on May 12, 2005.

Joe Bianchine, ABD Engineers & Surveyors, presented this application. He introduced Scott Earl, County Waste representative and explained that they are here requesting a Use Variance. He gave some background information as to location and history of the site. He explained that the site is bisected by the town lines for Halfmoon and Clifton Park. He indicated that in the Town of Halfmoon they are in a Planned Development District that is an allowed use, but in the Town of Clifton Park they are in a Light Industrial zone and this use is not in accordance with the allowed uses for that zone.

He explained that approximately a year and a half ago a site plan was approved that showed the building and garage in a location in the Town of Halfmoon. Since that time County Waste in conjunction with Sierra Waste, which operates two facilities, one in Albany where they process cardboard and paper, and one in Schenectady where they process the curbside recyclables, i.e. bottles, glasses, tins, etc., where they are recycled and taken to vendors. Both of these facilities are now closing and they would like to combine both these facilities and locate in Clifton Park where they would process the recyclables and ship it out. The trucks would come inside the building where the materials would be sorted, baled, crushed, etc. and processed to be shipped out to the end user market.

He continued, the building being proposed for this processing primarily sits within the Town of Clifton Park. There is a small separate portion of the building that will be using the same process but for commercial users. This is considered municipal solid waste, i.e. cardboard, boxes, wood, and other debris from stores and commercial vendors, that would be separated and processed.

Mr. Bianchine explained that County Waste, being a service to the community, is somewhat considered a public utility so the standards for a Use Variance are not quite as rigid as they would be for a typical commercial vendor.

Mr. Bianchine referred to the criteria needed to be met for a Use Variance to be approved. As to reasonable return, he noted that this will save a considerable amount of money for Sierra Waste because now they have to have their trucks collect the recyclables, come back here and transfer their materials to another truck to take them to either to Albany or Schenectady to be processed

and then the truck has to return to Clifton Park. They will save quite a bit in transportation costs by having this process completed in Clifton Park. He explained that all their trucks would come out of this facility and return to this facility. This will also help to keep the cost down to the homeowners.

He noted that this is a unique situation because they have been at this location since 1994 and is in two different towns with two different zonings. He stated that they need to do this to keep up with current trends in recycling and to provide these services for the Town of Clifton Park and Halfmoon and other communities in this area.

The character of the neighborhood will not change. This is not self-created; they are losing their facility in Schenectady due to the County taking back the building and because of a need to expand to service the community.

Mr. Clemens stated that he has no comments. He noted that this use is not specifically prohibited; the law is silent on this issue.

Mr. Kortz referred to the material provided by the applicant that states that the recycling service is an important public service and thus should be characterized as a public utility. He noted that under Light Industrial public utilities are an allowed use. He stated that he is confused.

Mr. Renzi responded that the applicant submitted a memorandum of law outlining case law that they believe applies here. He referred to the Rosenberg case that applies to cellular telephone equipment that has been held by a court to be a public utility. The application of that theory to a solid waste management plan may make some sense but he is not aware of any case where a court has actually done that. He continued, there is no case law, that he is aware of, that says that a waste management company is a public utility. He noted the applicant would like this Board to look at it in the same light that it might at a telephone company for much the same reasons.

Mr. Renzi noted that that is why the applicant is here because
recycling is not an enumerated allowed use and it hasn't specifically been characterized as a public utility. Although the arguments speak somewhat in favor of it, there is no specific item to say that this applicant already has, by rule of law, in some fashion has the right to do what he wants to do so therefore the applicant needs to be here for a Use Variance.

Mr. Kortz asked if he should not consider in his judgment whether they are a public utility or not. Mr. Renzi responded he could consider the arguments put forth and decide whether it should be looked at the same way for purposes of this application.

Mr. Kelley noted that historically the public entity has been in charge of solid waste.

Mr. Kortz asked if a recycling plant and solid waste plant are the same.

Mr. Earl noted that basically this is a consolidation point for Saratoga County. He noted that there are five recycling drop stations in the County but they don't have a package

facility and they have to be packaged and shipped. There is a public benefit in that every single recyclable in this County, as well as Albany and Schenectady County, will have to be processed. This will eliminate a considerable amount of traffic.

Ms. McCarthy inquired about the impact on pollution. Mr. Earl explained the process that will take place and stated that it will all take place inside the building and should not have any effect on pollution. Anything coming off the floor will go to a holding tank on the site and then will be trucked off site.

Mr. Koval asked if because there is nothing specific on this use in the Light Industrial zone would a precedent be established. Mr. Clemens responded he does not believe so. He stated that the granting of a variance does not set a precedent.

Mr. Earl noted that recently the Town Board split the Light Industrial zone with the east side having one characteristic and the west side having another characteristic.

Mr. Clemens explained that this area is basically staying the true Light Industrial zone while west of exit 10 is now more of a Corporate Commerce zone than Light Industrial, but in this area there are really no changes.

Bill Engleman, 6 Partridge Plateau, Ballston Lake, asked if this use would be allowed on the western side of the LI zone. Mr. Clemens responded no, not in his opinion.

Mr. Engleman noted that some time ago there was a lot of concern about a facility in that location that would have involved transfer and recycling as well.

Mr. Kortz explained that if a variance is granted it is for this facility only, it does not affect the zone.

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

Mr. Kelley commented that this made a lot of sense for this site for recycling and the fact that there will be a lot of heavy trucks taken off the road.

Mr. Ritter made a motion to accept this application as submitted. Mrs. Gleason seconded.

Mr. Kortz noted for the record that under the Light Industrial zone there are a lot of performance standards that will have to be adhered to, i.e. noise, obnoxious vibration, etc. and therefore this would not be considered detrimental to the area.

Mr. Kelley asked about the noise level. Mr. Earl responded everything will be moved inside and there should actually be less noise.

A vote was called on the motion. Ayes: Gleason, Koval, Ritter, Kelley, McCarthy, Kortz. Noes: None.

3. An application from Gretta Mawad, requesting a Use Variance from Section 208-69-2 to build an 18,222 sq. ft. office/warehouse building in the Land Conservation zone contrary to the permitted uses allowed. The property is located at 2041 Route 9, east side, north of Ushers Road, Round Lake. Permit #80548.

The secretary read the legal notice as it appeared in the Daily Gazette on April 28, 2005.

Kevin Dailey, attorney, presented this application. He indicated the location of the property in the Light Industrial zone on Route 9, north of Ushers Road about halfway between Ushers Road and the Round Lake Village line. He explained this is the property just before Neet's Automotive.

Mr. Dailey informed the Board that there is a site plan application before the Planning Board and explained that he has met with Jason Kemper and Steve Bulger and he believes they are looking at this in a receptive fashion.

Mr. Dailey noted that there are a number of problems with this parcel. He gave a brief history of the site stating that his client purchased a small triangular piece of property on Route 9 that had a small building on it. He referred to a map he handed out to the Board and indicated that this piece of property is highlighted in pink. He continued, the building purchased is shown in green and is not totally on the piece of property originally purchased by his client, it is partially on the piece of property highlighted in blue. He explained that in 1998 the State of New York owned a large parcel of forested land, approximately 90 acres, they split it into two pieces shown as parcel B, the northern half was deeded to Mr. Neet for his automotive business and there was an auction for the other half of the property and his clients purchased it in 1998 for the purpose of having the building totally on their property. It became apparent that they could not use the property because there was no where to park any cars, so they purchased a piece of property from Don Greene (indicated in yellow) that was an extension of a 100 acre parcel of property he owns on the other side of Route 9 (west side). He explained, the splitting of the property was due to the rebuilding of Route 9 around 1965. They felt that they would have a viable piece of property if

they could put all three parcels together. He noted they acquired the last piece of property by deed in April 2003.

Mr. Dailey explained that the application before the Planning Board seeks a minor subdivision of the Greene parcel so it becomes legal and a new deed will be filed consolidating all three parcels into one.

He continued, they believe that in the 1980's, and continuing into the late 1980's, there was fill placed on this parcel. The owner of the parcel was tying to create some depth in the back of the building. He stated that they plan to knock the building down because it is not viable and is right on the road. He stated it is not a place you would want to use for a commercial purpose. He noted that the ideal endpoint is to build a new building on the filled area. He stated, that in his opinion, the fill was not placed in wetlands; it was placed in an upland area. He indicated the limits of the wetlands on a larger map posted for the Board's review and noted that it is clear that there is no fill placed in wetlands. He stated that the Corps of Engineers asserts that from the mid 1980's on, when the jurisdiction was given to the Corps of Engineers to monitor wetlands, no fill could go into any wetlands. He noted that the Town was not aware of these rules until the late 1980's but the jurisdiction goes back before then. He continued, he can safely say that the fill placed there by a previous owner was placed in an upland. He indicated the wetlands start further back.

Mr. Dailey continued, the purpose for being here is to get a variance because in 1991 the LC zoning went into effect and if you measure the 100 ft. buffer zone from the edge of the wetland it actually takes in a lot of the filled area. They want to set the building back properly from Route 9, which is a desire of the Town, and they are able to meet the setback lines from the centerline of Route 9, the building shown on the map is in back of the setback. He noted they have tried to come up with a plan to use the property. He indicated that the setback line from Route 9 and the LC zone line overlap and take in the area of the lot that could be used for any type of Light Industrial use. He again noted that the area is Light Industrial, the use of the property would conform to that, there is a site plan before the Planning Board, but to proceed a Use Variance is needed to build within the LC zone. He stated that the variance would apply only to this piece of property; they would not be setting a precedent. He stated, but to not grant the variance in effect would deny the use of the property to the property owner and, in effect, be a taking. He would not be able to use the property for any purpose unless the building was moved closer to Route 9 and that is not a desired result from the Town of Clifton Park's point of view.

Mr. Dailey discussed the requirements to be met in granting a Use Variance. He referred to the narrative submitted with the application indicating that no reasonable return can be realized without the variance because the property cannot be used. He referred to the unique circumstances in that the LC zone came into effect after the parcel and building were there, a light industrial use in a building in a Light Industrial zone will not alter the essential character of the neighborhood, and the hardship was not self-created.

Mr. Ritter noted that the LC zone was in effect prior to the owner acquiring the property in 2003. Mr. Dailey noted that the original property was acquired in 1991, the land was acquired from the State, where the wetlands are, in 1998.

Mr. Kortz noted that the LC zone went into effect in 1991.

There were questions on when the yellow highlighted section of land was acquired. Mr. Dailey stated that piece is really not affected by the LC zone. That is where the parking will go.

Mr. Kortz inquired about the blue highlighted parcel of land. Mr. Dailey stated it was acquired in 1998 with the intention of using the filled area for building. He indicated there is quite a drop off in back of the filled area and then there are upland areas and then there are the existing wetlands. He noted his client only desires to use the filled area and the building would actually be on the elevated area. He noted there is a demarcation between the fill area, which is an upland, and then it goes down in back to where the wetlands begin. He continued, he does not see where the two have any interplay with one another. Anything that would happen would be on the filled area, which is where the septic system, the wells, the parking, and storm water management area would all be in the filled area portion of the property.

Mr. Ritter asked what color is the filled area. Mr. Dailey referred to the larger map presented with the application. He explained that they made an application to DEC, have talked with the Corps of Engineers, and if in fact none of the fill was placed into the wetland, and John Connell has been out to take a look at it, they would not have a problem with it, and that appears to be the case.

Mr. Kelley entered into the record the Saratoga County Planning Board's recommendation for disapproval of this variance request. They noted that the owner purchased the property after the fact.

Mr. Dailey also noted that they urged that if possible a building could be moved out of the LC zone closer to Route 9. He stated there really isn't any room to put a building closer to Route 9 so essentially that is why there are variances, if you have an impossible situation where you can't meet the zoning law you come to the ZBA and ask for a variance.

Mr. Ritter asked if there was already a tenant for the building. Mr. Dailey responded no, they have to finalize the site plan before they can build a building.

Mr. Koval asked how this was not self-created since the initial purchase of the building on the pink area was of a building already on Route 9. He asked if the intention at that time was to develop the property further. Mr. Dailey responded the owner believed that all of the filled area came along with the initial parcel and until a modern survey was done by the State they did not know that half of the building was not on the parcel, they didn't know that it was so limited in size that it was just a small triangle. He believed that he was buying the building and the filled area immediately in back of it. He continued, the same situation exists with Mr. Neet next door, where he has a building, he had some filled area and the Town has given him approval for exactly the same set of circumstances next door, so there is a precedent that exists immediately on the next

parcel where approval was given for the exact same type of application, exact same circumstances.

Mr. Kelley stated that he is not sure it is the exact same circumstances.

Mr. Clemens responded he does not exactly recall. Mr. Neet went through the Planning Board site plan review a few years ago when he put an addition on the auto body shop but he does not remember if he received an LC zone variance.

Mr. Ritter asked if the proposed building could be built without the piece outlined in yellow.
Mr. Dailey responded that area is outside the LC zone. He stated they had to acquire the yellow outlined piece to be able to have a septic system and sufficient parking.

Mr. Kelley asked Mr. Clemens for his comments on this request. Mr. Clemens responded there seems to be some confusion as to when the LC zone was created. It was actually created by Local Law 23, 1990, adopted on November 27, 1990. He continued, by the applicant's own submission they purchased the property on September 26, 1991 that is ten months after the LC zone was adopted. Obviously the other purchases were well after that date by many years. When the applicant purchased the property they purchased the building and used it for a number of years as a used car lot. When they purchased it, it was a single-family residence that they converted into an office and a small garage and Mr. Chawla, the applicant's husband, operated a used car business out of it for approximately five years. They subsequently leased it out to another used car dealer and since then there has been a construction company, and a couple other businesses that went in and out. Each one has made improvements to the building and it is in far better shape today then when it was purchased in 1991, it can still be used. He stated that may address the self-created hardship issue. As far as the variance being requested, an 18,000 sq. ft. building is quite a large replacement for a 1,200 sq. ft. building that is there now. He noted that the applicant could build a two-story building of approximately 4,000-5,000 sq. ft. with only asking for a setback variance of 30-40 ft. and be completely out of the LC zone.

Bill Koebbeman, 861 Riverview Road, Rexford, expressed his concern with the LC zone. He stated he believes this is a self-created hardship. He also noted his concern with profiting from the illegal dumping that was done on the site. There were no permits as he understands it and no

application for permit to do the dumping that is close to the Army Corps wetlands. He also noted that there appeared to be no alternative approach offered. He feels something smaller could be built.

Bill Engleman, 6 Partridge, Ballston Lake, commented that all property owners have rights, however no property owner has unlimited rights. All their rights are bounded by

applicable and duly enacted laws. He addressed the issue of variances in the LC zone as a way of providing a background to his comments on this application. He continued, in 1988, Supervisor Kevin Dailey reinvigorated the Environmental Conservation Commission and there was in existence prior to that, and began to be used in 1988, a town fresh water wetlands law which involved the ability of the ECC to conduct public hearings and to issue permits on applications for a wide variety of changes and actions within a fresh water wetlands. In late 1988, early 1989, the permit ability was withdrawn despite the fact that all the permits requested were granted and the provision to protect streams was added to that law. In 1990 the LC zone was adopted under supervisor Joseph Reilly that provided greater protection to wetlands, wetland buffers, and stream corridors, than previously existed including through the State permit application process.
At the time the town was encouraged by the state to provide an additional layer of protection as it has been on other issues subsequently. In the early to mid 1990's the separate hearing provision of the ECC under the fresh water wetland law was removed under supervisor LeRoy's administration and it was merged with the ZBA's authority to conduct public hearings on Use Variances in the LC zone. There were a number of joint public hearings held at that time. Sometime in the late 1990's those joint hearings ended on wetlands and LC zone variance issues which brings us to now. He stated the ZBA are the sole stewards of the integrity of the LC zone when someone seeks a Use Variance for a non-permitted use there. He feels this is quite a responsibility and the community is counting on the Board to protect that zone and to allow as few incursions in it as possible, and only those that are absolutely necessary and justified by a strong showing of hardship.

Mr. Engleman made the following comments with respect to this application. He opposes the proposed Use Variance because among other reasons, the entire building is proposed to be entirely within the LC zone and a significant portion of the parking and paving. He believes it is out of character with the adjacent NYS forest preserve land that is a dedicated forest preserve owned by the state. He believes there is a SEQR form with this application in which all the questions, including Part II, have been answered no, i.e. that there would be no impact on the short form. He does not believe that it represents a substantial or thorough and hard look at the SEQR process, at some of the impacts enumerated there, including those to the character and adjacent lands such as forest preserves. He also noted that somewhere in the application it stated that all the adjacent lands are zoned Light Industrial, however some are zoned Land Conservation. He also referred to zoning changes made last night to the Light Industrial zoning code and map, the entire forest preserve area has been re-designated public institution recreational so it is no longer zoned Light Industrial according to the map and the actions and statements of the Town Board. He cannot prove or disprove any statements as to when or under

what circumstances the previous filling of the site took place but he questions the ascertain that
all of the fill that was placed there at some previous date was placed within an upland area, and he feels that no proof has been provided of that ascertain, instead it seems only

to be based on a statement that there is an area of upland between the level parking area and the nearby wetland area. He feels the purpose of filling in a wetland area, be it designated or not, is to remove the wetland characteristics and create an upland area that can be used for other purposes; so there obviously will be a sloping area of land, apparently in this case a very steeply sloped area that has upland characteristics between the wetland and the flat area to be used as parking for the building site. The fact that there is some upland between the flatland and the wetland area is not proof that the fill did not go into a wetland.

Mr. Engleman read the County's comments recommending disapproval of the Use Variance. He referred to guidelines he received at a recent program addressing the issues of zoning. He listed the four criteria that must be proven in order to grant a use variance and he referred to the last one, being that the hardship is not self-created, and it states that if any one or more of the above factors is not proven, state law requires that the ZBA must deny the variance. He expressed his feelings that one or more of the factors are questionable, but certainly based on the timing and the actions taken, it appears to him that the hardship is self-created in that the land was acquired after the LC zone was in place.

Mr. Dailey responded that he went to the county and reviewed aerial maps of the site to determine when fill was placed there. He stated it appears that fill was there as early as 1968 and up through 1982. He responded to the comments on illegal dumping or filling, and stated that the property owner is not aware of that, if that happened it was with a previous property owner.

Mr. Koebbeman responded it's not that his client did it, there were no permits issued. Mr. Dailey noted that there were a lot of areas along Route 9 that had a lot of fill placed and no one was ever punished. It was a necessity to use your property off Route 9 to bring fill in, there was no intention to fill wetlands, people did not know what wetlands were at that time.

Mr. Kelley noted that the fill issue is not a major concern at this time.

Mr. Dailey stated that all they are asking for is what this town has granted to a neighbor. The neighboring property was acquired in 1998 and they were given permits to proceed with their project. He does not know how that was done or how those permits were received, but he feels that calls into question the whole planning process.

He feels it is proper for his client to get the same relief that the neighbor got especially since it was from the same transaction where the land was received from the state. He presented for the record a statement of "dollars and cents proof" that there is a substantial investment on the part of the applicant.

There was no additional public comment; Mr. Ritter made a motion to close the public hearing, Mrs. Gleason seconded, approval unanimous.

Mr. Koval stated that he feels the situation was self-created; it appears the applicant proceeded with the purchase of the properties with full knowledge that there was an issue with the Land Conservation area.

Mr. Dailey responded not all property owners are familiar with the town zoning laws. He did not know about it until after 1998, when I was contacted to see what could be done with the property. He did admit that they acquired property subsequent to 1991 but they had to do that to protect their investment.

Mr. Kortz stated that every request is judged on its own merits. He addressed the Use Variance issue of a reasonable return not being able to be realized. Mr. Kortz stated that he feels there is not sufficient evidence presented that alternatives were not explored, also no evidence was presented to substantiate that the size of the building being requested is necessary for a reasonable return, and no substantiation that this is the minimum variance necessary to address a hardship, if indeed a hardship was proven by any competent financial evidence. He noted the submission shows costs but he sees no exploration of alternatives for allowed uses or reducing the size of the building and mitigating the size of the variance request. He continued, he believes this is a self-created hardship in that the property was purchased after the LC zone was in effect.

Mr. Kortz made a motion to deny this variance. Ms. McCarthy seconded.

Mr. Kelley stated that he is having trouble with at least three of the criteria out of the four. He stated the only one met is that it will not alter the essential character of the neighborhood. He cannot see where the applicant has met the criteria necessary for approval.

Mr. Kelley also noted that since the County has recommend disapproval of this request a super majority vote is required for approval.

Mr. Renzi informed the Board that since Mr. Dudick arrived late he will be abstaining from the voting on this application.

Mr. Kelley called for a vote on the motion to deny this application. Ayes: Kortz, McCarthy, Kelley, Ritter, Koval, Gleason. Noes: None. Abstained: Dudick.

4. An application from Clifton Hospitality, LLC, requesting an area variance from Chapter 171 of the Town Code (Sign Law) to allow a wall sign of 98 sq. ft. – maximum allowed = 60 sq. ft. = variance requested = 38 sq. ft. and a height variance from the maximum 20 ft. allowed to 42 ft. – variance requested = 22 ft.. The property is located at 18 Clifton Park Village Road, Clifton Park. Permit #80546.

5. An application from Clifton Hospitality, LLC, requesting an area variance from Chapter 171 of the Town Code (Sign Law) to allow a second wall sign of 98 sq. ft. and a height variance from the maximum 20 ft. allowed to 36 ft. – variance requested = 16 ft.. The property is located at 18 Clifton Park Village Road, Clifton Park. Permit #80546.

The secretary read the legal notices as they appeared in the Daily Gazette on April 28, 2005.

Mike Cleary, representing the applicant, apologized for missing the last hearing on the applications. He explained that he is developing as well as constructing the hotel.

He explained that they are seeking relief for two aspects of the typical and prototypical Holiday Inn Express wall signs. He noted that corporate requires four wall signs. The building is situated with a main hip roof and four gables on each end. When they went through the planning process they became aware that the wall signs were not applicable, not even in use. He stated the building is a three-story building that meets all applicable zoning and based on that, the only place for a wall sign would be on the gable ends of the building since the rest of the building is a hip construction.

He explained that they removed two of the wall signs based upon the north part of the building facing a wooded lot and the east side of the building will have a pylon sign that is allowed in the current zoning. What they are looking for is to place a prototype wall sign on the south side of the building and the west side of the building, basically that accounts for the height variance request and secondly to increase the wall signs to be in proportion to the actual gable walls that are built for the wall signage.

He indicated that the other local competitive hotels in the area all have two substantial walls signs. He noted that they are just trying to configure their hotel similarly, one street side sign and one facing the Northway.

Mr. Clemens gave the sizes of the signs granted to the other local hotels within the last two years and noted that this request is similar in size.

Mr. Koval asked if they also had pylon signs. Mr. Clemens responded yes.

Mr.Koval asked if the pylon sign and the south wall sign both be essentially accomplishing the same thing. Mr. Cleary responded not the way it is positioned. He noted that they eliminated the request for the east side due to the pylon sign and eliminated the north side because it is a blind
side to the hotel. He noted they are basically coming with what they could eliminate instead of
over reaching for four signs. They wanted to do it in a fashion that would market the hotel to an equal character to the other hotel properties.

Mr. Cleary explained that the sign facing Clifton Park Village Road is more for brand recognition of the hotel. Holiday Inn will make them put this sign on the front of the hotel.

Mr. Cleary explained that a substantial portion of the sign is the logo. It is not the text.

Mr. Dudick asked for clarification on which application is for the southern exposure. Mr. Cleary answered that application number 80546 is for the southern exposure. He gave an explanation of the site and explained that Holiday Inn requires signage be put on the front of the building which will be the southern exposure whether or not it is the best location.

Mr. Cleary explained that now that the third floor has been added to the building the sign on the southern exposure will be visible and it is important to the client. The sign must now include "hotel and suites" in the wording that increases the sign size and the amount of script put on the sign.

Mrs. Gleason stated she supports the applicant's request for the two signs due to safety issues but she would like to discuss further the sizes being requested. She asked if it is possible to reduce the size of the sign on the western exposure.

Mr. Ritter suggested limiting the number of signs for this building so they cannot return in the future for additional signage.

Mr. Cleary assured the Board that they will not be asking for any other signs for this site.

Tony Audi, owner of the property, stated he will agree to no additional signs on the building.

Mr. Cleary stated the premise of the 98 sq. ft. request is to put the sign in close proportion to the gable size to make it aesthetically attractive.

Mr. Kortz asked if any consideration was given to visibility from the Northway side and asked if the sign could be smaller and still be seen. Mr. Cleary responded it could be.

Mr. Kelley stated he has no problem with the size of the sign on the western exposure, but he feels a compromise could be made on the 98 sq. ft. sign on the southern exposure.

Mr. Cleary stated that the Holiday Inn signs are of a specific size and would like to be able to use one of the standard sizes; he is not aware of the actual sizes available but will provide literature to Mr. Clemens if agreeable to the Board.

Discussion continued on the size of the signs being requested and how to limit the size of the sign.

Mr. Koval suggested granting a variance for a maximum of 20% over the allowed limit that would equate to 72 sq. ft.. The Board members agreed. Mr. Cleary stated he can make it work up to the 72 sq. ft..

Mr. Engleman asked what the square footage of the western side of the building is. Mr. Cleary responded 1,800 sq. ft. plus the gable (approximately another 200 sq. ft.). Mr. Engleman noted the sign would be approximately 5% of the western exposure. Mr. Cleary responded probably less with the including the gable.

Mr. Kelley made a motion to close the public hearing, Mr. Ritter seconded, approval unanimous.

Mr. Ritter made a motion to approve the application as submitted for the western exposure of the building, Permit #80547. Mr. Koval seconded. Ayes: Kelley Dudick, Gleason, Koval, Kortz, McCarthy, Ritter. Noes: None.

Mr. Ritter made a motion to approve Permit #80546 as amended for a maximum sign on the southern exposure of the building not to exceed 72 sq. ft. with a height of 42 ft.. Mrs. Gleason seconded. Ayes: Kelley, Gleason, Koval, Kortz, McCarthy, Ritter. Noes: Dudick.

Mr. Renzi noted that the date on the minutes is May 2, 2005 and should be corrected to May 3, 2005.

Mr. Kelley made a motion to approve the minutes of May 3, 2005as amended, Ms. McCarthy seconded. Ayes: Kelley, Dudick, McCarthy, Kortz, Koval, Gleason. Noes: None. Abstained: Ritter.

Mr. Dudick made a motion to adjourn the meeting at 8:40 PM, Mr. Kortz seconded, approval unanimous.

Respectfully Submitted,

Judy Lamb
Secretary