

Approved

ZONING BOARD OF APPEALS

April 1, 2014

Present: Michael Dudick, Chairman, Denise Bagramian, Michael Bloss, Randy Gifford,
Chris Lemire, Mario Fantini, Jennifer Vucetic

Also Present: Joel Peller, ZBA Counsel
Steve Myers, Director, Building & Zoning

Absent: Jerry Cifor

Mr. Dudick called the meeting at 7:10 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicant this is a seven member board with one alternate. He introduced Denise Bagramian, new board member replacing Doug Strother. Tonight Mr. Cifor is absent and Mr. Fantini, as alternate, is designated to sit in for him. To receive approval an application one must receive 4 yea votes regardless of the number of members present. There are seven members present tonight so the applicant must receive four out of seven votes for approval. He explained the applicant has the option to defer to a future date when there might be more members present, but there are no guarantees how many members will be present at any meeting.

OLD BUSINESS

None

NEW BUSINESS

1) An application from Golub Corporation for variances from 1)Section 208-46B, front parking setback required = 30 ft. proposed = 10'-14', variance required = 20' 2) Section 208-46F, green space required = 35%, existing = 26.3%, proposed = 24.7%, variance required 10.3% (1.6% from existing) 3) Section 208-47, one entrance and one exit allowed per establishment, 2 entrances existing, variance required 4) Section 208-48, 15' landscaping buffer required along side property lines. Sides of building are north and east sides, no landscaping existing, variance required.

Property is located at Route 146 & Plank Road, Clifton Park, NY 12065 (Permit #80971)

The application was presented by Philip Koziol, speaking on behalf of Golub Group. He displayed a map of the site and introduced the project discussing the four areas where there is work proposed 1) front of building to add sidewalks 2) adding a drive-through pharmacy on the south side with canopy 3) recycles building and additional sidewalk and relocating parking 15' south putting them over the setback, for which they are asking for a 14' variance. In addition they will add two rows of parking with 24' aisle in the K-Mart parking lot, which puts them over the front yard setback 4) adding two curb cuts into the old K-Mart parking lot to accommodate overflow parking in the future.

The project also proposes two electronic vehicle charging stations and a sidewalk along Park Avenue for pedestrian traffic, which was recommended by the Planning Board.

Mr. Steve Duffy, VP Store Planning & Design with Price Chopper, informed they had already come before the Planning Board. He stated the plan the Zoning Board has before them is the same plan they brought before the Planning Board. They have begun to take a look at the Planning Board comments and want Zoning Board comments with the intent to work out a solution. He informed some of the concerns they are evaluating are comments on the sidewalks and planting of trees and how they will be treating the parking lot.

Mr. Lemire asked if any of the variances before the Zoning Board are dependent on what happens at the Planning Board. Mr. Duffy responded they are interconnected in terms of how they treat the paving, the entire lot, and the setbacks. Mr. Lemire queried whether, since this is an abbreviated presentation; they are putting the cart before the horse.

Mr. Duffy answered "no" that he thinks this is moving through the process.

Mr. Peller clarified, asking if they are looking for a decision from the Zoning Board tonight and just mentioning that what the Planning Board decides may impact the variances.

Mr. Duffy answered that is true, adding there was also discussion about some work the landlord, Mr. Miller, is doing with some off site plans in terms of trees. He explained there was a question about them illustrating the future potential pad (pointing on the map) and stated it has nothing to do with their current work or planning. Mr. Dudick asked if the pad had been approved and Mr. Duffy affirmed it has in terms of eventual work.

Mr. Duffy stated they had provided the Planning Board with a drawing of proposed architecture which includes an enlarged marquee, more glass, additional signage, and pharmacy canopy and on the side, the reverse vending (recycling building) with its own parking. He said there will be more natural materials, more glazing and it will have an exterior entrance to Starbucks.

Mr. Lemire asked if Starbucks is actually in the store, and if there is an entrance to the pharmacy and re-cycling. Mr. Duffy affirmed Starbucks is in the store but will have its own entrance as will the pharmacy and recycle building have their own dedicated entries. He explained there are four entries into the sales floor because the re-cycling does not have an entrance into Price Chopper.

Mr. Chuck Chisholm, Director of Real Estate, explained people will go there and drop off their bottles.

Mr. Gifford commented he has concerns about the parking in the K-Mart lot because of the traffic, asking how they will protect pedestrians.

Mr. Duffy answered that was one of the discussions that came up to plan how they will calm the traffic. He informed they are looking at ways to do it; one idea would be a large striped area and other, a stop bar.

Mr. Bloss asked the net number of parking spaces that will be added. Mr. Duffy informed they will add 48 spaces.

Mrs. Vucetic asked where they would put snow. Mr. Duffy explained they will put it wherever they can but if it becomes an issue, it will be trucked off site.

Mr. Dudick asked what would be the strategy, or would they put it in parking spots for example in the spaces at the K-Mart lot. Mr. Duffy suggested they would put it in a place in the outer fringes where it would not be a problem and if it becomes an encumbrance to parking it would be taken away.

Mr. Gifford asked if a trolley or bus could be provided for those people who walk from the K-Mart area since it is such a long distance. Mr. Duffy answered it was a possibility but it depends on what is going to happen with the center in the future.

Mr. Duffy explained the green areas near the re-cycling building remains unaltered. Discussion ensued regarding current and future lawn.

Mr. Dudick stated there is going to be a decrease in green space. Mr. Duffy said the current decrease in green space would be 1.7%. Mr. Myers interjected it is 1260 square feet.

Mr. Dudick asked for public comments. There were none.

Mr. Myers informed he had been to at least one of the meetings discussing the project. He said there are several issues that are all Planning issues that still need to be looked into. He listed examples: the entrance into the K-Mart parking lot, where the drive through lane exists because

it is on the edge of the sidewalk and mostly parking issues. He stated that Mr. Duffy will be giving him a signage package to review so he can't say what will be needed for that or if they will need to come back for variances. He asserted that Planning is on board with the project but they needed to obtain the variances before they can go beyond the concept.

Mr. Myers explained that Windsor has a "bank" of green space on the other side of Rt 146 and it was suggested by Planning that they use that bank to offset the requested variance for green space. He detailed 35% is required and they are down to 24.7% with this proposal. He calculated that they could use 8115 square feet of the banked green space and they wouldn't need the variance. He added that if they use that, it would leave Windsor about 52,000 square feet for future development. Mr. Dudick queried whether that would bring their green space back up to the required 35% and Mr. Myers said that is correct.

Mr. Peller informed, for the record, he had spoken to Mr. Miller Jr and he has agreed to allow the deduction out of the bank which makes the variance unnecessary.

Referring to the code on entrances and exits, Mr. Myers stated he believes two are necessary given the traffic flow and he didn't think the Planning Board would eliminate that.

Alluding to the landscaping buffer, Mr. Myers informed there are limitations on the building because it has pavement all around it. He stated he thinks the banking of the green space offsets the landscaping requirements.

Mr. Lemire questioned if the green space bank is property that is not contiguous. Mr. Myers answered that this was agreed upon between the Town and Windsor several years ago. Mr. Lemire asked if it could be used anywhere in the town or just off Route 146. Mr. Myers said it is his understanding it applies to areas contiguous to the Windsor mall properties such as on Clifton Country Road, Southside Drive and Shoppers Plaza.

Mr. Peller added that irrespective, the owner has agreed to the deduction of the green space so that variance wouldn't be necessary.

Mr. Lemire asked if they could give green space from exit 9 to cover property off exit 11. Mr. Myers responded they would have to review the agreement to see if it included that property but it is his understanding it is about the properties around the area they discussed.

Mr. Peller informed that ten years ago the Town and Windsor agreed.

Mr. Lemire asked if they could use green space near Price Chopper. He was informed that piece of property would eventually be developed. Mr. Myers added that is a separate entity and there are storm water issues and things are going on around the pond behind it. He said adding additional parking would not affect what is going on in the back.

Mr. Dudick asked Mr. Myers asked if the "bank" pad to the west was approved with 35% green space or was it approved with less. Mr. Myers stated he was not sure.

Mr. Dudick alluded to plans showing it is to be a 3000 sq. ft. one story bank and he was curious as to whether it had the required green space.

Mr. Myers referred to the November 18, 2008.

Mr. Dudick asked Mr. Duffy if he is looking to postpone the vote until after Planning Board makes its decision, or if he wants Zoning to vote tonight.

Mr. Myers informed that any attempt to go beyond this point will require the variances to be in place. Mr. Peller stated that any approvals would be contingent on Planning Board approval. Mr. Myers added that any major changes they would have to come back for variances. Mr. Peller pointed out they will have to come back for signage also.

Mr. Lemire asked about signage for Starbucks. Discussion ensued about signage for stores within stores. Mr. Myers informed he hasn't seen the final layout so he can't give an answer about signage. He stated another thing hinging on signage is the new town center zoning proposal which might have a big effect on signage, if it is adopted. He promised that if they have to come back about signage he will tell them.

Mr. Dudick asked if they are talking about several separate signs on Price Chopper. Mr. Myers answered it is his understanding it is just Price Chopper and Starbucks and the pharmacy is a directional sign.

Mr. Lemire asked if Starbucks would have to come for a variance. Mr. Myers said he doesn't know at this point. Mr. Dudick reminded this is not a meeting about sign variances.

Mr. Gifford asked if Starbucks is enclosed. Mr. Myers said it has an entrance into the store. Mr. Duffy said it is a dedicated entrance into Starbucks for convenience rather than having to go into the store to get to it. He said if they have to come back for signage they will.

Mr. Dudick informed the vote tonight will be contingent upon any decision that Planning has, that if it doesn't approve the designs then this approval would sunset.

Mr. Dudick asked again for public comments. No comments. Mr. Dudick made the motion to close the public hearing. Mr. Gifford seconded. All approved. Public hearing closed.

Mr. Fantini asked for clarification as to whether the board is not to consider the green space because it will be taken from the bank.

Mr. Dudick responded it has been approved by the Town Board and they can draw from the bank. He stated the variance comes off with the stipulation that the total amount in the green space bank will be reduced by 8,115 square feet.

Mr. Dudick said it doesn't meet green space requirements now so they are getting it back into compliance.

Mr. Dudick made the motion to approve the application as submitted with the stipulation that the green space variance is being removed from the application so that 8115 square feet will be taken from the green space land bank that is held by the applicant to cover the green space requirement for this parcel. The entire approval if granted is contingent upon Planning Board approval of this project.

Mr. Bloss seconded the motion. Four eye votes are needed for approval.

Ayes: Bagramian, Fantini, Dudick, Gifford, Vucetic, Bloss Noes: Lemire
Application approved with contingencies.

2) An application from John P. Fry, Jersen Construction Group for a variance from Chapter 171, Chart I which requires 15' setback from front property line for freestanding existing sign installed at 5' from property line. Applicant wishes to leave sign in current location and change sign face to new tenant. Variance required = 10' Property is located at 2037 Route 9, Clifton Park, NY 12065 (Permit #80972)

The application was presented by Jan Freedman, owner of the building. He informed he and his wife purchased the property in December, 2013, with the intention of using the two existing sign posts and putting a new sign on it. He informed it is a lit sign and communicated that the posts has been there for 20 years and the sign changed with change of tenants.

Mrs. Vucetic asked if the sign is electric. Mr. Freedman answered there is electric on the pole.

Mr. Peller commented to Mr. Myers that he is there just to clean up the record and Mr. Myers confirmed that in his investigation he found the sign wasn't in the right spot, but it has been there for 20 years or more. He added they can get it straightened out so in the future they don't have to do it again.

Mr. Freedman explained they own a dance studio and are expanding.

Mr. Gifford asked where they are now located. Mr. Freedman said they are in the Healthplex on Route 9.

Mr. Lemire stated it is a pre-existing problem, and Mr. Myers added he had just caught it.

Mr. Dudick made the motion to close the public hearing (no audience). Mr. Lemire seconded the motion. All approved. Public hearing closed.

Mr. Fantini made the motion to approve the application. Mr. Gifford seconded.

Mr. Lemire commented it is nice to see someone come in and do the right thing.

Ayes: Bloss, Vucetic, Gifford, Dudick, Fantini, Bagramian, Lemire Noes: none
Application approved as submitted.

Mr. Dudick made the motion to approve the minutes for the March 18, 2014 meeting. The motion was seconded by Mrs. Vucetic. Approved, with Mrs. Bagramian and Mr. Fantini abstaining as they had not been present at the meeting.

The next meeting is April 15, 2014.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mr. Gifford. The meeting was adjourned at 8:05 pm.

Respectfully Submitted,

Susan White
Secretary

cc: Town Clerk, Town Board, Town Attorney, Zoning Board Members, Joel Peller, Counsel, Steve Myers, Department of Building and Development, -, ECC, Assessor, Highway