

Town of Clifton Park

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Zoning Board of Appeals



APPROVED

ZONING BOARD OF APPEALS

August 19, 2014

Present: Michael Dudick, Chairman, Denise Bagramian, Michael Bloss, Mario Fantini, Jerry Cifor, Jennifer Vucetic

Also Present: Lou Renzi, ZBA Counsel
Steve Myers, Director, Building & Zoning

Absent: Randy Gifford, Chris Lemire

Mr. Dudick called the meeting at 7:03 p.m.

PLEDGE OF ALLEGIANCE

Mr. Dudick informed the applicant this is a seven member board with one alternate. Tonight two of the board members are absent and therefore, Mr. Fantini, as alternate, is designated to sit in for Mr. Gifford. To receive approval an application must receive 4 yeas regardless of the number of members present. There are six voting members present so the applicant must receive four out of six votes for approval. 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.

Mr. Dudick requested that cell phones be turned for the duration of the meeting.

OLD BUSINESS

None

NEW BUSINESS

The secretary read the legal notice as it appeared in the Daily Gazette on August 14, 2014

1)An application from Zubair Ansari for a variance from Section 208-11, Rear setback required in CS (cluster subdivision) with R-1 zoning is 25', 18' available, 7' variance required.

Property is located at 9 Madison Way, Clifton Park, NY 12065 (Permit #80989)

The application was presented by Randy Batchwenger, project manager for Capital District Contractors on behalf of Zubair Ansari, owner of the property. Mr. Batchwenger informed they wish to install a four season room to the home and a portion of the room would extend 7' beyond the rear setback line. He said Capital District Contractors always build a quality product.

Mr. Cifor queried whether it is an insulated full foundation four season room and Mr. Batchwenger confirmed it is.

Mr. Dudick inquired whether it is possible to make the room smaller.

Mr. Ansari responded they prefer not to make it smaller. He explained they are at the end of the cul du sac and the way the property is set up makes it difficult not to cross the setback line. He said it will only be 16' x 18' and would not look good smaller. Mr. Batchwenger agreed that a 9' room is very small.

Mr. Fantini asked if they could put the addition on the right side of the house.

Mr. Ansari answered that would place it behind the kitchen and would mean the kitchen would get no light.

Mr. Dudick announced the public hearing and asked for comments. There were none.

Mr. Bloss inquired about the property behind the home. Mr. Ansari informed they are bordered by a common area and there are no neighbors behind them.

Mr. Myers commented this is a cluster subdivision which means there are small lots, less than ¼ acre making it difficult to add on to the homes. He explained that many cluster subdivisions have reduced setbacks and this one does not. He reiterated that the home is bordered by a common area which creates an additional buffer and stated he has no issue with the variance requested.

Mr. Dudick made the motion to close the public hearing, seconded by Mrs. Vucetic. All approved. Public hearing closed.

Mr. Dudick summarized this is a small diamond shaped lot and his opinion is the expansion will not make a substantial change to the neighborhood. He made the motion to approve the application as submitted.

The motion was seconded by Mr. Fantini.

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

The secretary read the legal notice as it appeared in the Daily Gazette on August 14, 2014

2) An application from Jonathan Messinger for a variance from Section 208-11, for an addition to house; 10' side setback for house required in CR zone; 7' setback available, 3' variance required.

Property is located at 34 Country Club Drive, Rexford, NY 12148 (Permit #80990)

Mr. Dudick made a public disclosure announcement informing that Mr. Messinger has been his sons' teacher.

The application was presented by Jonathan Messinger, owner of the home on 34 Country Club Drive. Mr. Messinger stated he and his wife had purchased the home in 2008. The home is 1200 square feet and they need to add space for a study on the right side of the house. Currently there are only bedrooms, a living room and kitchen.

He presented pictures of the front of home, back yard play area for the children, and the right side of the house which has a steep grade. He pointed out that since that area is not usable; it is a good place to put the addition. He stated that the addition to the home will put it on par with the square footage of the other homes in the neighborhood. He informed the left side of the house is where the driveway is located.

Mr. Dudick announced the public hearing asking for comments. There were none.

Mr. Dudick entered for the record written acknowledgement from 6 of Mr. Messenger's neighbors including one person who is renting, all indicating they have no problem with the addition.

Mr. Myers commented the home is very small, on less than ½ acre lot. He informed the septic system is in the front of the home, and he understands Mr. Messinger wants to preserve some of the back yard. He pointed out there is a tree barrier between him and the next house. He indicated he has no issue with the 3' variance.

Mr. Cifor made the motion to close the public hearing, seconded by Mr. Fantini. All approved. Public hearing closed.

Mr. Dudick commented that a 3' variance is not significant, adding it is only a few feet in the corner which has no substantial impact on the community.

Mr. Fantini made the motion to approve the application as submitted, seconded by Mr. Cifor.

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

The secretary read the legal notice as it appeared in the Daily Gazette on August 14, 2014

3) An application from Michael Vopelak for a variance to subdivide property into 2 lots, currently 2 residences on one parcel is pre-existing, non-conforming. Lot 10A will be conforming if sewer service provided, Lot 10B, even with sewer service, requires 2 variances: Minimum lot size allowed with sewer = 20,000 sf, 15,393 sf proposed, variance = 4607 sf required; rear setback required = 25', 7.5' proposed, variance = 17.5' required Property is located at 10 Katherine Terrace, Clifton Park, NY 12065 (Permit #80991)

The application was presented by Mr. Scott Ronda, attorney representing Mr. Vopelak. He informed they are seeking two area variances. He stated his client purchased the property initially thinking it was a single family home with a garage and found the garage had had extensive renovation into a single family residence. Mr. Vopelak stated it is a two bedroom house.

Mr. Ronda informed they had done research and found there were no building permit for the second garage home and no variance in place. He explained they are trying to right the wrong.

Mr. Dudick asked Mr. Vopelak if he had already purchased the property when he found out the garage was a house.

Mr. Vopelak said when he drove by it looked like a garage and a house, but when he went to look at it he realized there was someone was living in the house/garage.

Mr. Dudick asked if, by the time they closed on the property, Mr. Vopelak knew it was a residence. Mr. Vopelak said he did.

Mr. Ronda informed that the prior owner had invested more money in the garage than he had invested in the home. Mr. Vopelak stated the former owner asserted he invested approximately \$160,000 in the residence.

Mr. Myers commented Mr. Ronda's research is correct and the assessor has it as two homes on one property and could not explain it either. He said the owner had put in for a permit to make the garage a recreation room late in 1980's and then ignored code and transformed it into a home without obtaining any other permits. Mr. Myers said he has no problem with the variances of dividing the property as long as the sewer is brought in to both homes as a condition of approval.

Mr. Ronda informed they are going to bring in the sewer and pointed out there is a quote for sewer in the application packet.

Mr. Myers stated this is a pre-existing non-conforming home and any improvement is good, but any improvements made must meet the current code, and if during that time anything found that is not code compliant must be fixed.

Mr. Dudick speculated this situation is like the Ballston Lake bungalows and Mr. Myers agreed. He commented the home was built in 1973 and the garage in 1988. Mr. Ronda added the house is immaculate.

Mr. Cifor asked if Mr. Vopelak he intended to subdivide when he purchased the property.

Mr. Vopelak responded he knew he would have to look into it as he was aware something had to be done.

Mr. Myers said both lots are too small for septic systems by themselves because each property must be 40,000 square feet, which is why they need to have sewers.

Mr. Fantini asked if this is a use variance. Mr. Dudick informed him it is an area variance.

Mr. Myers commented the applicant is just trying to make the homes legal.
Mr. Dudick inquired about Mr. Vopelak's occupation to which he answered "real estate and insurance as well".

Mr. Bloss stated there is not much you can do about this one.

Mr. Dudick asked if anyone is living in the garage home. Mr. Vopelak explained the former owner (by contract) was allowed to remain there for 8 months, but it is now empty and his father is living in the other house.

Mr. Fantini asked Mr. Myers if they would still require sewer lines if the garage had not been made into a house.

Mr. Myers answered if the garage was just an accessory structure it would not have needed sewer but would need a front setback variance because it is 80' off the road.

Mr. Dudick asked for public comments. There were none. He made the motion to close the public hearing, seconded by Mr. Bloss. All approved. Public hearing closed.

Mr. Cifor suggested that, at a minimum, a contingency must be placed to require that sewer be brought in to the houses by the end of the year.

Mr. Dudick commented it is strange, buying two houses on one lot as that had never been granted in Clifton Park. He indicated, ignoring the history, that because these are fairly substantial sized lots he doesn't believe they are being "shoe-horned" in.

Vopelak agreed, adding he has learned a great deal in the last eighteen months while trying to figure out what to do.

Mr. Dudick made the motion to approve the application with the stipulation that sewer line must be added by the end of the calendar year, or the variance sunsets and will require further town action. Mr. Vopelak promised he would get it done by then. He asserted he has spoken to the neighbor about putting a sewer line through his yard, and also considered putting the line out to Moe Road.

Mr. Myers agreed that it should be by the end of the year, and if he has a problem he can come back to him.

Mr. Cifor seconded the motion.

Mr. Renzi questioned if there is a potential to for an easement to put the line through the neighbor's property. Mr. Ronda confirmed that is so if they decide to go that route.

Ayes: Bagramian, Cifor, Dudick, Vucetic, Bloss Noes: Fantini
Application approved with stipulation.

The secretary read the legal notice as it appeared in the Daily Gazette on August 14, 2014

4) An application from Robert Schreifels for a variance from Section 208-97B (no non-conforming use can be enlarged) and 208-16D (permitted use in a CR Zone.) Applicant requests to expand non-conforming use (office trailer) in a CR Zone by the addition of a permanently installed office trailer.

Property is located at 561 Waite Road, Rexford, NY 12148 (Permit #80988)

Mr. Renzi informed that Mr. Peller had taken ill today and asked him to sit in for him. He disclosed that, should the matter about this property end up in court, he would be the attorney representing the Town in a prosecutorial mode. He explained that his function here, as would be Mr. Peller's role, is only to represent and advise the Chairman and the Board. He added he does not want anyone to be confused that he may end up playing two different seats as the matter unfolds down the road. (He asked if there were questions, there were none.)

Mr. Renzi commented that there is a large stack of material that was presented to the Board for review and asked if the material has also been supplied to the applicant. Mr. Andress, ABD Engineering and Surveyors responded they had not seen the material, only a copy of the handwritten letter.

Mr. Renzi stated a lot of material the applicant does not have that the Board has which may be used in making a decision and he is unsure how that will play into the discussion. He clarified he wanted that information in the record. Mr. Dudick confirmed it is more than one letter.

Mr. Tom Andress, ABD Engineering and Surveyors, presented the application, representing the applicant. He stated they are asking for a use variance for the property on Waite Road asking the Board to consider allowing the temporary trailer to be permanent. He described it as a 12' x 45' trailer for which they have a temporary permit. Before the temporary trailer, they were operating out of a 12' x 15' office attached to the maintenance garage on the site.

He asserted it might have worked in the beginning, stating the applicants acquired the property in the mid 1970's and he believes it pre-dated the zoning laws. He said the current CR zoning was put in place in 2005 and the use does not conform to the zoning. He claimed that, because this was pre-existing before the CR zoning, they are grandfathered. He informed the business does trucking, has a maintenance garage, and processes and removes tree clippings and branches. He stated they are DEC approved and have a permit for a maximum 10,00cu yards on site.

Mr. Cifor confirmed with Mr. Andress that they are registered for that, but it is not a permit.

Mr. Andress claimed they are not proposing to expand use or type of business or get more vehicles but want to work out of a larger and cleaner area that is not attached to the garage. He asserted the most important thing is they are grandfathered in and exempt from the 2005 zoning changes and are under a hardship situation is not self-created.

He provided a picture of the property, describing the adjoining structures as about 100 ft. away. He said he believed at one time this was once zoned as corporate commerce.

Mrs. Vucetic asked how the business is classified.

Mr. Andress responded it is a trucking company with all work done off site which includes their logging business. Their property is open for residents and private businesses to drop off tree cuttings which, he said are periodically ground up and trucked to a burn facility under the renewable green program.

Mr. Cifor asked if it is also for grass and leaves and Mr. Robert Schreifels, owner, answered it is just for wood.

Mr. Fantini questioned if they had been before the Planning Board. Mr. Andress responded they are not asking for site plan approval but if they were, this would be the first step.

Mr. Myers commented he is not aware of Planning Board involvement, and going to zoning would be the first step.

Mr. Dudick commented the owner of the property is Stephanie Van Aukin and the applicant is Robert Schreifels, asking whether this is a family owned property. Mr. Andress confirmed it is.

Mr. Dudick repeated this is for trucking and mulching and an offsite logging company. Mr. Andress corrected it is a trucking company and most of the time the trucks are off site doing work such as excavation. He asserted in most instances the trucks are off site unless for maintenance or picking up ground up material.

Mr. Dudick questioned whether there is no new business taking place on the property. Mr. Andress responded there is no change in the business and this is just for an office for Maria as she needs room for a printer and office equipment. He pointed out the bidding on jobs is now done electronically.

Mr. Dudick queried that there is no more business or new business, this office is for the same business. Mr. Andress repeated that is correct, he said the 12' x 15' office is what they have now used for viewing plans, holding meetings, etc.

Mr. Dudick asked how long they have been mulching and was told it was since 1988. Mr. Dudick summarized this is not a new business.

Mr. Cifor inquired how long they have been selling to Finch Paper. Mr. Schreifels came to the podium and responded it has been since 1989 for renewable energy. He explained they do a job

for a developer and clear areas and bring products brought back and grind and sell to renewable energy sources and to a facility that processes it for Home Depot and Lowes.

Mr. Cifor questioned how long before material is processed. Mr. Schreifels answered they wait until they get about 1000 cubic yards because it does not warrant bringing the machine back for less than that. They make a raw product, not mulch product.

Mr. Fantini asked if they can provide written financial evidence of hardship and Mr. Schreifels responded they do not have that tonight.

Mr. Dudick reminded that for a use variance they need written financial evidence of need.

Mr. Address said they recognize the issues and this is a unique situation, explaining this is not a change in use because they just need a larger office. He repeated they want to go from a 12 x 15' to a 12 x 45' trailer which is currently under temporary permit for one year. He suggested they could probably show the financial hardship as they wouldn't be able to bid on as many jobs.

Mr. Dudick asked if their customers have some requirement that says they must have something in an electronic form. He suggested that he would like to see anything that shows the requirement for electronic bids, meaning they are moving from paper to electronic communications.

Mr. Address agreed and added there is no room for a table in the small office and they need a work area for layout and one for office. He commented there is no place to have a private discussion with employees.

Mr. Cifor asked if the temporary trailer is the one they want to permanently install. Mr. Address said it is, and added they have the option to purchase it.

Mrs. Vucetic questioned the presence of the tent and an addition on the garage which is depicted on the plan. Mr. Address said that was an old map and explained a new map showing the areas on the plan and said the tent is for storage.

Mr. Dudick asked if they could provide the financial cost of the rental vs purchase of the trailer. Mr. Address replied they can, but from his understanding they cannot have the trailer for longer than the permit allows. Mr. Dudick said he would like the information anyway.

Mr. Tom McCarthy, Town Attorney, asked if the mulching began in 1998, was there any point in time that the operation grew. Mr. Schreifels responded there was no big expansion as they have always "done it", but some years may have been slower than others.

Mr. McCarthy questioned whether they had purchased new equipment and when. Mr. Schreifels answered yes, in 2009, but it was the same size as the old equipment they bought in 1998. He offered records.

Mr. McCarthy asked for records that show volume. Mr. Schreifels said he has those records from the paper mill.

Mr. McCarthy requested Mr. Andress double check the prior zoning as he does not believe the property was ever zoned corporate commerce, but he believes it was zoned R3. Mr. Andress said it was hard to tell and it might be the adjoining property.

Mr. McCarthy said he believes it was R3 before it was changed to CR.

Mr. Dudick asked if, before 1974 there was no zoning, and in 1974 it became R3 what it is now. Mr. McCarthy responded that it was always zoned Residential. Mr. Dudick commented before 1974 there was no zoning. Mr. McCarthy corrected, saying zoning preceded 1974.

Mr. Myers informed the zoning laws began in 1967.

Mr. Dudick questioned that, if in 1967 it was residential, how did the trucking company start up in 1974?

Mr. Myers explained that the building department was not developed until 1978.

Mr. Dudick continued to question the zoning. Mr. Andress informed they had moved from Altamont.

Mrs. Stephanie Van Aukin spoke, explaining her father-in-law started the business and they had moved from Altamont to Saratoga then to Clifton Park because the main part of her husband's trucking company was Albany, Schenectady and Saratoga. She commented that when the neighbors moved into the neighborhood, they knew the business was there and that they didn't cover up anything.

Mrs. Van Aukin stated they have been there since 1974, done work for the Town and everything no one wants to deal with or pay for. She repeated that they have not hidden anything from the neighbors; she met the neighbors as they moved in repeating they knew they are a trucking company.

Mr. Dudick reminded the Zoning Board is not here to decide anything about the company business except whether to approve a variance for the office space. He said he was trying to find out if more business is taking place, in other words, if the business has expanded.

Mr. Schreifels responded that their outside business has grown as far as developing roads and clearing land. He said they have had three tractor trailers and a dump truck for the past five to eight years and 90% of their employees come to their shop in the morning and go right to a job site. He said customers send things to them as PDF files.

Mr. Dudick announced the public hearing and asked for comments. He explained everyone would have the opportunity to speak and each speaker would be allowed five minutes.

Mrs. Elaine Standish McCain, 541 Waite Road, stated her parents had built their home in 1954 and showed the location of the home. She said they had been good neighbors to the Van Aukins and expressed understanding that the excavation company needs trucks and equipment. She stated she and her husband has seen a big expansion in the past few years. She described seeing large tractor trailer trucks going up and down the road several times a day as well as truckloads

of logs going in and out. She said there is a huge grinder on site. She pointed out that the letter the residents received about the request for the variance states they need the office space because of their expanding business. She said that alarmed her.

She said they have as much business as they can fit on their five acres, expressing the opinion it is a mess with trucks and trash and other vehicles and mountains of material. She asked when the trucking and excavation business became a mulching business.

Mr. Dudick asked how long this has been going on. Mrs. McCain answered that over the last 3-4 years it has become worse. She admitted they knew they had a grinding machine there, but now it has gotten worse and runs day in and day out and makes an ungodly amount of noise. She keeps the windows on that side closed when the machine is running because it is so noisy. She concluded it is not a truck or excavation business that is making that noise.

Mr. Dudick asked if she had notified the authorities. Mrs. McCain responded she did not but her neighbors have complained and her brother had spoken to Mr. Schreifels. She commented that the trucks in the afternoon are loud, and they rumble. She alluded to the trucks that bring wood to be mulched which speed more than the 35 mph limit. She said they did notify the sheriff and some of the speeding has stopped.

Mr. John Stolk, 546 Waite Road, has been living there since 2010. He stated he is amazed at the description by the applicant of the property because it doesn't fit the description he has or fit the proof given to the board. He commented that "trucking company" does not fit the description of the business. Referring to the aerial photo he pointed out the extent of the business that has been dramatically expanding since 2008 indicating the whole property is filled. He said the mulcher has been running non-stop supposing they might have had it at another location but since 2008 or 2009 it is on the property. He asserted they are not grandfathered in for the trucking and most definitely not for the mulching business. He informed he has a recording of the machine that runs from 6:30 am to 10pm and said he has filed complaints and called the sheriff several times. He commented it was a trucking business but the mulching business is not grandfathered.

Mr. Dudick asked Mr. Myers if he has records of those complaints and how far back they go. Mr. Myers answered he recalls three years ago when they thought they were going for another use variance but it didn't happen. Mr. Dudick summarized it has been over the last few years. Mr. Stolk confirmed and added that it also includes calling Jonesville Fire Department in 2010 for the burning that was going on.

Mr. Stolk played a recording he made with his cell phone of the mulcher operating from 1000 feet away which he indicated was in front of his home. Mr. Dudick asked if the quality or sound changed and Mr. Stolk said it is always the same. He explained that when the wind blows they have to close the windows because of the pulp that blows in.

Mr. Cifor asked if he had purchased the house knowing that operation was there. Mr. Stolk responded that he had moved in with Mrs. Gibson, but the operation was not like that when he moved in. Mr. Cifor followed up his question, asking what he had seen in the last four years.

Mr. Stolk responded he has seen more trucks on the road including other contractors coming in and dumping their loads. He described piles and piles of trash and trees being dumped there and garbage being thrown into their ditch. He related they had he had called the sheriff on a person who had dumped his trees at the business and then came on his property asking for work, and would not leave, sitting on his steps smoking. He commented that if they owned a grinder it was not on the property. Mr. Cifor questioned when that was and Mr. Stolk responded it was in 2008 or 2009 and has gradually been getting more and more use.

Mr. Stolk summarized by asking the Board to imagine what it is like to hear the grinder operate from 6:30 am to 11 pm.

Mr. Jim Hansen, 579 Waite Road, informed he is speaking for himself and for the residents of Meadowview senior housing. He referred to the business as a lumber operation that is very loud and disturbing to the residents. There are 72 apartments at Meadowview and the noise is so excessive that many residents are unable to sleep in the early hours of the morning. He pointed out that some residents have oxygen tanks and their residence is smoke free, but there is smoke byproducts coming from the lumber operation that affects their breathing. He complained the trucks are excessively loud sound like they have no mufflers and, in addition, they hear bulldozers and other heavy equipment on an ongoing basis. He suggested that Waite Road was not built to accommodate the heavy trucks, adding it is too narrow for tractor trailers. He commented he thinks the founding fathers of Clifton Park never intended for huge tractor trailers to be driven on Waite Road. He asserted that the intersection of Waite and Route 146 is a dangerous intersection and believes it needs a traffic light not stop signs. He pointed out the long heavily loaded trucks turning and crossing 146 cause traffic to stop and suggested this an accident waiting to happen. He concluded, saying the condition of the grounds at the business is deplorable with trucks parked 24 hours a day and a number of unregistered vehicles and junk vehicles on the property.

Mr. Fantini again referred to the fact that the application is incomplete because there is no financial evidence of hardship, asking if they were not voting on it tonight, should they continue.

Mr. Dudick disagreed, saying that is to be determined, but they can listen to the application and the public has the right to speak and then they will take into consideration all the information. He added he would like more time to go through the documentation that has been presented.

Mr. Fantini asked if they should consider whether the larger trailer would create more business and bring in more trucks.

Mr. Cifor pointed out it is already there, that this is a request for temporary to permanent. Mr. Dudick repeated it is creating a permanency of a temporary expansion.

Mr. Fantini questioned if the trailer is bigger, doesn't the Board consider it will allow for business expansion. Mr. Dudick responded his advice to the Board is that they consider it as they wish to consider it and each member has to decide that for themselves. They can openly discuss whether it is an expansion that creates more business or not.

Mr. Jim McCain, 541 Waite Road, has lived adjacent to the business for the last 11 years. He suggested the reason they need a larger trailer is because the business has grown. Stating that, although he likes to see a prosperous business in Clifton Park, he sees the issue is not the trailer, but the scale of the business which has grown to such a point that it doesn't fit in the residential/agricultural zoning it was designed for. He recommended, based on his business experience that a prospering business which has outgrown its location should move to a new location. He defined the problem: the equipment that supports the mulching business and the traffic that comes through the residential area to the business is similar to the traffic that goes to the transfer station. He said the decision the board made to remove the equipment that was operating on Grooms Road is similar to kicking the can down the road. It is now operating on Waite Road and the same issues exist, they have just been moved two miles away. He pointed out the business has grown bigger and the issues have grown bigger because the business has become more prosperous. He suggested the scale of the operation should be considered and the need for a bigger office is just a symptom of the basic problem. He predicted this growth is going to cause bigger problems down the road.

Mr. Dudick asked how long he thinks it has become an issue and questioned whether he had complained. Mr. McCain answered the problem has been going on for five or six years. He has complained only about the trucks, explaining he called the sheriff's office two years ago about speeding trucks, but at the time he didn't know where they were going. Mr. Dudick questioned whether he had specifically complained about the operation of the business. Mr. McCain said he had not because his complaints have to do with the symptoms of the business, which is the huge amount of truck traffic speeding and causing problems and noise.

Mr. Fantini asked Mr. McCain how long he thinks they have been mulching. He answered he guesses it has been about ten years, and commented he was given to understand they are a trucking company.

Mrs. Margaret Cologgi, 566 Waite Road, is resident of over 20 years. She related that when they moved in, the applicants had a very small landscape business with a 6 x 10 trailer and a very small truck. She asserted that since then it has steadily grown and she made complaints a few years ago when an association of theirs tried to expand. She stated she had called them several times saying it is getting out of hand. Saying it is one thing to have a small landscaping business but now it has grown by leaps and bounds to a full grown commercial business. The trucking company was not there when she moved in. She said the neighbors have been complaining about the noise and pollution for years.

Mrs. Cologgi asked to go on record saying this has been growing over the years and it is nonsense that they are grandfathered in. When they moved there 20 years ago it was a very small landscaping business.

Mr. Cifor inquired whether they were grinding wood at the landscaping business. Mrs. Cologgi answered not to her knowledge and certainly not with big chippers.

Mrs. Vucetic asked if there was noise then. Mrs. Cologgi answered "absolutely not".

Mr. Dudick asked who she called when she made a complaint. She responded she had called the Town and asked them to look at this business which is expanding and whether they could do anything about it. Mr. Dudick asked when she had called. She answered about ten years ago

and on and off since then. She does not re-call who she spoke with but thinks it was the planning board. She said it really came into play 3-4 years ago when they tried to get a variance for an associate of theirs to put in a building on the site. At that time she made it public it had gotten out of hand and had to stop.

Mrs. Jill Gibson, 546 Waite Road, stated she purchased her property ten years ago and knew there was a trucking business there. At that time they had three trucks and she remembered they went out early in the morning and come back in the afternoon. In 2009 the enormous grinder came on to the scene. She referred to the packet of information she distributed, pointing out the documentation of a reading of 94db inside her home on a constant basis when the machine is operating. She stated that since they filed for the variance, the grinder has not been running much and it has been quieter, however before that it was running all the time. She asserted the db. reading was taken at 7:15am. She said they run it at 6:45 am, on holidays and on weekends; it doesn't matter as they run it whenever they want. She claims this has become a neighborhood where they don't live peacefully any more. She asked for a curtailment of the business, back to a trucking business from an extreme commercial business. She stated it is a collective opinion of the neighborhood and referred to the petition submitted with close to 40 signatures of complaints. She repeated there is a genuine consensus that the business needs to be curtailed back.

Mr. Fantini asked if the decibel reading was taken with the windows open or closed. He was told the windows were closed. She informed she had purchased a decibel meter from e-bay and took the reading.

Mr. Fantini asked if 94 decibels is similar to a jackhammer and she answered it is close to it. Mr. Dudick asked if she had called to report violation of sound ordinance. She said she had called but there is no noise ordinance in Clifton Park.

Mr. Myers confirmed it is 10pm to 7am only.

Mr. Dudick asked if the audience or Board would like a five minute recess. No one wished to recess. Mr. Dudick asked for further comments. There were none. He announced he would leave the public hearing open.

Mr. Address requested a copy of the documentation presented to the Board in order to review and make a determination on when to come back. Mr. McCarthy provided one to Mr. Address.

Mr. Dudick informed he would like to table the application in order to have time to read the documentation, stating he will not call for a vote tonight. He announced again, he will leave the public hearing open.

He stated he would like to have the financials for proof of hardship, adding as to how much or what each Board member considers enough will be up to them. Mr. Address responded they will have them for the next meeting.

Mr. Fantini asked Mr. Address to provide information as to how the addition of the trailer will not impact the essential character of the neighborhood in terms of increasing or decreasing the

business. Mr. Address assured that they will look at expanding the initial application to have a more comprehensive written narrative and information responding to some of the comments.

Mr. Cifor asked for history of deliveries to Finch Prynne for the last ten years. Mr. Address agreed.

Mr. Dudick inquired about a previous comment, asking if they had said they a contract with Finch Pryne since 1989 and a chipper since 1998. He asked what was the relationship with them prior to the chipper from 1989 – 1998. Mr. Schreifels and Mr. Address responded, explaining the product had been sold elsewhere then.

Mr. Address said the chipper is off site until the volume is sufficient to bring it back in. He explained it is also used off site. He said they will look at the Finch Pryne deliveries because the deliveries are also made from the job site for ground materials. He explained he knows the Board is interested in the deliveries from this site. He claimed the business is being run at the job site and the grinding is done there and delivered to Finch Pryne, but in addition it is being brought into the town by residents and businesses and they also grind that and haul that out also.

Mr. Dudick asked if there was a different chipper being used. Mr. Streifels said they have a chipper since the early 1980's, explaining the chipper is not always on site, that it is mobile and is currently at a job site and might be two weeks before it is back.

Mr. Dudick asked if they have more than one chipper. Mr. Schreifels said they have a chipper and a large horizontal grinder. He said he would supply a schedule of where it has been and when it was on site.

Mr. Dudick asked if they still have property in Altamont. Mr. Schreifels answered they do not, the Waite Road property is their only one they own. Mr. Dudick asked if they have any other property to locate the office beside this site and was told they do not.

Mr. Bloss referred to comments from the neighbors about burning materials. Mr. Schreifels declared the smoke was from their fire pit, explaining they don't burn any materials on site; they bring it to the paper mill which uses it for fuel.

Mr. Cifor commented on the dump trucks on the property. Mr. Schreifels said they bought those to take the bodies off to use the trailers for on-site storage of their equipment. He explained they have had small tool theft on their job sites so they are removing the bodies and they will go to the scrap yard. He promised that would be completed by next week.

Mr. Dudick asked Mr. Address if he would waive the 60 day rule. Mr. Address agreed. He asked to be tentatively placed on the meeting of September 16, and will notify Mr. Myers if this changes.

Mr. Myers, when asked for comment, responded he has none at this time. Mr. Dudick explained to the audience the agenda for September 16 will be on the website, and Mr. Myers promised if the applicant cancels, he will make sure that it will be listed on the website.

There is no meeting on September 2, 2014. The next meeting is September 16, 2014.

The minutes were approved for the July 16, 2014 meeting.

Mr. Dudick made the motion to adjourn. The motion was seconded by Mr. Cifor. The meeting was adjourned at 9:07 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