

## Town of Clifton Park Zoning Board of Appeals

One Town Hall Plaza  
Clifton Park, New York 12065  
(518) 371-6054  
FAX (518) 371-1136



## Zoning Board of Appeals

March 15<sup>th</sup>, 2022

**Present:** Chairman Michael Dudick, Christopher Lemire, Randy Gifford, John Klimes,  
Lisa McCoy, Scott Styles (alternate)

**Absent:** Jerry Cifor, Mario Fantini

**Also Present:** Steve Myers, Director, Building and Zoning  
Paula Cooper, Secretary  
Neil Weiner Esq., Attorney

The meeting was called to order at 7:00 p.m.

All stood for the Pledge of Allegiance. Roll call was taken.

Mr. Dudick stated that in the absence of Mr. Cifor, Mr. Styles would be a voting member tonight.

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 of the Board members to vote in favor of the application to pass. He let the applicant know that there are 6 voting members of the Board here tonight, so that 4 members need to vote in favor tonight to grant the variances. He asked the applicant if they would like to come back at a later date or if

they would like to proceed knowing the Board tonight needs to vote in favor of the application with at least 4 votes.

The applicants stated they would like to continue tonight knowing 4 votes need to be in favor of the application tonight.

**Old Business:**

None

**New Business:**

*An application from Philip Fagnoli requests a front setback variance for installation of an in ground pool. Property is a keyhole lot and front property line is line parallel to the road property is connected to (Wood Dale Drive). 80' required, 50' available, 39' variance required. (per sections 208-12A). Property is located at 137A Wood Dale Road, Ballston Lake, NY 12019 (Permit #81319).*

*Mr. Dudick stated that there was an error in the publication of the variance request. He stated that the request is for 30', not 39'. He stated since this is less of a variance than what was published, counsel has advised that this can be heard tonight.*

**Applicant:**

Stephanie Fagnoli – property owner – Ms. Fagnoli stated that she is here tonight for a variance to install a pool in her yard. She stated that she has a unique property that is angled and behind other properties. She stated what is her front yard is actually classified as her side and due to this she is asking for a variance. Ms. Fagnoli stated that there is more than 350' from the true road frontage at Wood Dale Drive. Ms. Fagnoli stated that she has sent letters to neighbors to let them know about this application.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:12 p.m.

**Board:**

Mr. Lemire asked what neighbors were sent notifications. Ms. Fagnoli stated that she sent them to house numbers 135A, 137, 139 and 141.

Mr. Myers stated that this is a Type II action and that no further SEQR is required. Mr. Myers stated that this is a unique lot and does not see a problem with the application.

Mr. Dudick asked if the front and side of the properties were different would there need to be a variance. Mr. Myers stated that there would still need to be a variance for 5'. Mr. Dudick stated

that this would not be able to be seen from the road and there does not seem to be any neighbor concern for this application.

Mr. Dudick moved, second by Ms. McCoy, to approve the variance as requested. The property is located at 137A Wood Dale Drive, Ballston Lake, NY 12019.

Mr. Dudick read the Area Variance Criteria, Mr. Dudick answered in favor to all 5 criteria.

The Secretary called the Vote:

**Ayes: 6**

**Noes: 0**

**New Business:**

*An application from Prediletto Realty LLC proposes to divide an existing lot into 3 parcels. The subdivision requires setback variance for the existing house (lot #2). Per Section 208-11, 50' front setback required in an R-1 zone, 10.9' available, 39.0' variance. Property is located at 989 Hatlee Road, Ballston Lake, NY 12019 (Permit #81318).*

**Applicant:**

Dwayne Rabideau – GVG – Mr. Rabideau stated that he is here tonight representing the applicant for a possible 3 lot subdivision with a front yard setback variance needed for an existing home on Lot 2. Mr. Rabideau stated that this home is preexisting and was built around 1850. He stated that the applicant needs this variance to proceed with the subdivision with the Planning Board.

**Public:**

No public comment.

Mr. Dudick moved, second by Mr. Gifford to close the public hearing at 7:22 p.m.

**Board:**

Mr. Lemire asked if the home was going to remain. Mr. Rabideau stated it would be. Mr. Lemire asked what the frontage requirement on the road. Mr. Rabideau stated that it is 100' at the building line.

Ms. McCoy asked if the home was currently occupied. Mr. Rabideau stated that the applicant is living in the home.

Mr. Dudick asked why the possible subdivision had such a long corridor. Mr. Rabideau stated that the layout is not related to the variance but they do meet the zoning requirements for the Planning Board. Mr. Myers stated that subdivision or not, the home is currently not compliant

with code. Mr. Dudick asked how long the applicant has owned the property. Mr. Rabideau answered since 2017.

Mr. Myers stated that this is a Type II action and that no further SEQR is required. Mr. Myers stated that the home is over the 100' building line and is 40' at the road. He stated that the other lots meet requirements and this variance is only for this home.

Mr. Dudick asked if the lot 1 was a keyhole. Mr. Myers stated that it is not because the home is not behind another home and the lot meets requirements. Mr. Dudick asked if the current home were to be gone, if the applicant could place another home in the same place. Mr. Weiner stated yes, because the variance runs with the land and not the home.

Mr. Dudick expressed concern that with the granting of the variance, the home could be expanded beyond its current footprint, and to avoid that possibility, he asked if the applicant would agree that as a condition to the granting of the variance, that should the home be partially or totally destroyed, that the home not be re-built beyond the current footprint. Mr. Trainor stated that such a condition was not needed as the owner had no intention of expansion but just wanted to continue living in the home as is and expressed a concern that a such a condition would somehow prevent the owner from using the existing the foundation to save expense.

Mr. Lemire asked for clarification that the as variance request is because the home is standing where it is now; asked if the variance was granted, would the owner not have the right to expand the existing home as long as the expansion was no closer to Hatlee Road, i.e. build out toward the rear.

Mr. Myers stated that without a variance, as the building was built before the Code was enacted, if the building was destroyed the owner would have the right to re-build within the current footprint without a variance; that even with the variance, as the home is nonconforming, that changes beyond the existing footprint would require a further review by the Building Department; that the home may be subject to historical designation limitations which could limit any future expansion; and/or that the building code may also limit any future expansion." Mr. Trainor re-stated that the owners had no intention to expand the existing home and the owner confirmed that was so.

Mr. Dudick moved, second by Mr. Klimes, to approve the variance as requested. The property is located at 989 Hatlee Road, Ballston Lake, NY 12019.

Mr. Dudick read the Area Variance Criteria, Mr. Dudick answered in favor to all 5 criteria.

The Secretary called the Vote:

**Ayes: 5**

**Noes: 1**      Mr. Lemire

The chairman made a motion to approve the minutes from the March 1<sup>st</sup>, 2022 meeting. All who were present at the March 1<sup>st</sup>, 2022 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Klimes second, all voted in favor and approval was unanimous. The meeting was adjourned at 7:40 p.m.

The next scheduled ZBA meeting will be held on April 5<sup>th</sup>, 2022.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals