

## Town of Clifton Park Zoning Board of Appeals

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## Zoning Board of Appeals

April 2, 2024

**Present:** Chairman Michael Dudick, Christopher Lemire, John Klimes, Scott Styles

**Absent:** Chad Gregory, Lisa McCoy, Juliano Febo

**Also Present:** Scott Reese, Zoning Administrator  
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 Mr. Brockbank 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 5 voting members of the Board here tonight, so that 4 of the 5 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 out of 5 votes need to be in favor of the application tonight.

**Old Business:**

*An application from Steven Smith requests an area variance from chapter 208-12. No accessory building shall be placed closer to a front property line than 80 feet. The proposed front property line setback is 50 feet for the proposed carport. The variance requested is 30 feet from the 80 feet front property line setback. The property is located at 994 Hatlee Road, Clifton Park NY.*

**Applicant:**

Steven Smith stated he was here tonight to talk about his last hearing before the Board. He stated that at the last meeting the Board had talked about the shed distance from the road and the placement of it due to the leech field. Mr. Smith stated that he found a map that was presented to the Board that showed he field encompassed the entire left side of the area where the shed was proposed. He stated due to this he is now looking to place the shed in a different area of the yard. He stated that he had walked the property to see where it could go and is now proposing that it go on the east side of the home where the well is located. Mr. Smith stated the well is 20' from the home and that the new placement of the shed is proposed to be 50' back from the well location. He stated that he is trying to keep his items secure.

**Public:**

Ron Okrum, neighboring property owner, stated that he has no problems with where the applicant puts the shed he is concerned that the applicant will cut down trees or other vegetation that is on his property. He stated that 5' from the property line is 5' from his property and he wants to ensure that it is 5' and not 4'. Mr. Reese stated that the Building Department does go out and inspect projects. He stated they do not survey. Mr. Okrum stated another neighbor did cut down his plantings before and that he wishes to keep his property friendly to wildlife. Mr. Smith state that he can ensure that the closest corner of his shed is at least 5' from Mr. Okrum's property.

**Board:**

Mr. Dudick asked the applicant what variance they are now asking for. Mr. Smith stated that he is looking for a 5' side yard setback and 10' is required.

Mr. Lemire asked why the applicant cannot put the shed closer to the home to decrease this new variance. Mr. Smith stated that he needs room to get around the well as well as the shed. Mr. Smith stated that he is willing to shift the shed back further if the Board requires. Mr. Reese stated that the home flares out and so does the property so it is narrow in the area the applicant is now proposing.

Mr. Weiner stated that this change may be a problem as it is not listed as a side yard variance. He stated that this was not re-noticed to the public.

Mr. Lemire stated that this was a request of the Board to relocate the shed to this area.

Mr. Dudick stated that he likes this better than the last proposal but feels that Mr. Weiner is correct and that this needs to be relisted.

Mr. Smith stated that the application can be relisted and asked to be able to come back at the May 7, 2024 meeting as he has work conflicts with other dates. Mr. Weiner stated it will be rescheduled for May 7, 2024.

**New Business:**

*An application from David Nash requests two area variances from chapter 208-12. The first variance: No accessory building shall be placed closer to a front property line than 80 feet. The proposed front property line setback is 55 feet for the proposed detached garage. The variance requested is 25 feet from the 80 feet front property line setback. The second variance: No accessory building shall be placed closer to a side or rear property line than five feet in a R-1 District. The proposed side yard setback is 1 foot for the proposed detached garage. The variance requested is 4 feet from the 5 feet side yard property line setback. The property is located at 12 Sweet Brier Drive, Clifton Park NY.*

**Applicant:**

David Nash, property owner, stated he is here tonight for a large shed. He showed a photo of the 100' marker and a marker 70' from the road stating that these are the distances he measured. Mr. Nash stated he wants to make the new detached garage parallel with the existing driveway and that he will be taking out the existing garden and car port to build the new garage. Mr. Nash showed a photo of a drain that is in the yard and stated he is leaving 15' from the proposed garage to the drain as it is Town owned. Mr. Nash stated that the proposal would be just behind the tree that was seen in the photo. He stated the tree has been removed since the photo was taken and that he needs a 24' bay to allow for his truck to fit in the entry so he can park it as it does not fit in the current car port. Mr. Nash stated it would be set back 55' from the property line and the storm drain goes out to the roadway. He stated that he is leaving room behind the garage to allow for property maintenance and to keep the garage away from the steep slope that is behind there as well.

**Public:**

No public comment.

**Board:**

Mr. Dudick if the garage would be closer to the road than the home. Mr. Nash stated it would be 15"-50" closer due to the 30' drop at the slope to the rear of his property.

Mr. Lemire asked if the other building was closer to the slope. Mr. Nash stated it was due to the land having a natural curve. Mr. Lemire asked if the applicant was planning to keep the other garage that is detached on the property. Mr. Nash stated he was as it houses his tools and that it is 20'x30'. Mr. Lemire asked why the applicant cannot tear down that garage and put in the new carport/garage. He stated that the applicant also has a 2 car garage that is attached to the home. Mr. Nash stated the attached garage can only house 1 car as half of it has a hot tub in it that he and his wife use. He stated that if he shortens the other shed he may be able to use it for storing his trailers. Mr. Lemire asked what the tractors and trailers are used for. Mr. Nash stated that

they are for personal use and to help out the neighbors. He stated that he used the trailer to haul mulch and other debris and they are in general for personal use only.

Mr. Reese stated that there is in fact a drainage easement on the 2<sup>nd</sup> parcel Mr. Nash owns and that through there is also park access. Mr. Reese stated the Town is allowed access through the property via this easement. Mr. Reese stated that the applicant could sell the second parcel but it would be difficult to develop it due to the easement. He stated that if work needs to be done to the drain it would be at the homeowner's expense to remove and replace anything within it.

Mr. Dudick asked if the applicant could rotate the proposed garage 90 degrees so then it would no longer be in front of the home building line. Mr. Nash stated he would then need to tear down both car ports at once which were not in his plans.

Mr. Lemire asked if the applicant could push the garage back to where the wood shed is. Mr. Nash stated that he needs about 4' to access to the rear to maintain his property.

Mr. Dudick stated that the applicant could do either of what was suggested and this would keep the garage behind the building line and further away from the road. Mr. Dudick asked how far the property line was from the drain. Mr. Reese stated it is about 47-48 feet so if the applicant turned the garage it would possibly be on the drain.

Mr. Lemire suggest the applicant move the garage 90 degrees and closer to the home. Mr. Nash confirmed that he was taking about 4' back and 4' over.

Mr. Brockbank asked if the catch basin or drain could be moved. Mr. Reese stated it could, at the owner's expense. Mr. Brockbank asked how often the drain would need repairs. Mr. Reese stated it would need maintenance to repair or replace about every 12 years.

Mr. Lemire stated that the Board has worked with applicants on their requests as long as they are behind the building line of the home. Mr. Nash stated the concrete slab would be 30'x50 and it would have 3 overhead doors and this would give him the storage and the parking that he needs.

Mr. Dudick stated that this is more about being further from the road than the home. Mr. Nash stated that the neighbor is closer to the road than the home but he is on a corner lot and also has restrictions approved in 2015. Mr. Dudick stated that it looks like the home and the shed are equal distance from the road.

Mr. Nash stated that he could look at swinging the garage around and it would not be parallel but he maybe be able to come back if he thinks this can be done. Mr. Nash stated he has put rip-wrap down and crusher before to help with erosion. Mr. Dudick stated that to him it seems like the applicant is trying to fit too much into one space.

Mr. Nash stated he may be able to shorten it to 45' so the garage would be behind the home. Mr. Dudick stated the applicant would still need a variance but that he would feel more comfortable with this.

Mr. Reese showed on the map another possible layout going over the 2 existing car ports and if the applicant could eliminate them both at once it would help with the variance. Mr. Reese stated it may still need a variance but would be about 5' behind the building line.

Mr. Weiner stated that he feels the applicant c should look at the alternatives the Board has suggested and come back in 2 weeks. Mr. Nash stated he would like to think about a smaller garage or keeping vs. removing 2 sheds.

Mr. Lemire asked if there are plantings on the roadside of the proposal. Mr. Nash stated that there are some now and he would replace what is taken out.

Mr. Nash stated he would like to come back before the ZBA in 2 weeks.

### **New Business:**

*An application from Aaron Cote requests an area variance from chapter 208-12. No accessory building shall be placed closer to a front property line than 80 feet. The proposed front property line setback is 40 feet for the proposed carport. The variance requested is 40 feet from the 80 feet front property line setback. The property is located at 20 Blue Barns Road, Clifton Park NY.*

### **Applicant:**

Aaron Cote, home owner, stated he is here tonight for a car port. He stated he has a 62' fence line and a pool in his rear yard. Mr. Cote stated there is also a large old tree in the area of where he would like to pit the car part that he wishes to save. He stated he would like to put the 20'x20' car port in front of the tree and showed a map on the screen in the meeting. Mr. Cote stated this would house his fire apparatus and have it out of the elements and available to help his community better. He stated he would be removing the basketball hoop to install the car port and no foliage would be removed.

### **Public:**

No public comment.

### **Board:**

Mr. Dudick asked why the car port could not go where the red bushes are in the picture. Mr. Cote stated the pool is in the area.

Mr. Lemire asked the applicant if the car port could go behind the fence and make it apart of the fence line. Mr. Cote stated it is open in the front and back and per code the pool needs to be enclosed for safety. Mr. Cote stated he is trying to preserve the area to the front and rear of the application and that he is the Fire Chief so the car needs to be available.

Mr. Brockbank asked what the practicality of removing the tree would be. Mr. Cote stated it would only give 2' and he would like the tree to remain. Mr. Brockbank asked if could be moved behind the tree then. Mr. Cote stated it would then remove the buffering.

Mr. Reese stated that this is a Type II action pursuant to SEQRA and the review from the Saratoga County Planning Board has been waived. Mr. Reese stated mailings were sent out on March 20, 2024 and no neighbors called.

Mr. Dudick stated that this similar to the last application and the applicant could either withdrawal, the application could be denied, or the applicant could amend the variance request. Mr. Dudick stated he feels that the Board would not grant the request. Mr. Reese stated he Board would be ok with extending the driveway and putting the car port behind the build line.

Mr. Lemire stated the car port could go where the vehicles are shown on the screen now in the aerial view. Mr. Cote stated he is trying to preserve the neighborhood and the foliage on the front of the home as it is in good condition. Mr. Lemire stated the applicant could remove the double gate for a car port to keep behind the building line. Mr. Lemire stated he thinks the car port should be behind the fence.

Mr. Cote stated the car port would not be visible from where it is proposed now and the neighbors have no problems with it due to the screening that exists.

Mr. Lemire used the first application as an example of what the Board is looking for.

Mr. Dudick stated that once the application is denied it cannot be modified. He stated that there is a 62 day rule for the Board to make a decision for the application. Mr. Cote stated he is ok with postponing the application so that he can look at alternatives.

The chairman made a motion, second by Mr. Klimes, to approve the minutes from the March 19, 2024, meeting. All who were present at the March 19, 2024 meeting voted in favor and the meeting minutes were approved.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Lemire second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:29 p.m.

The next scheduled ZBA meeting will be held on April 16, 2024.

Respectfully submitted,

*Paula Cooper*

Paula Cooper

Secretary, Zoning Board of Appeals