

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

May 7, 2024

Present: Chairman Michael Dudick, John Klimes, Lisa McCoy, Juliano Febo, Mark Brockbank (alternate)

Absent: Chad Gregory, Christopher Lemire, Scott Styles

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 in the absence of Mr. Styles.

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 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 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 side property line than 10 feet. The proposed side property line setback is 5 feet for the proposed carport. The variance requested is 5 feet from the 10 feet side property line setback. The property is located at 994 Hatlee Road, Clifton Park NY.

Mr. Reese stated the applicant was last here for a front yard setback but he since then found that the septic was located where the applicant wanted to build an accessory building. He stated that the car port is now being proposed on the side of his property next to his home. He stated the application has been advertised and he is requesting a 5' side yard setback.

Applicant:

Mr. Smith stated his is requesting a 5' side yard variance for a car port that would be 45'x15' to store his boat and other equipment. He stated that he previously had not made the front yard setback but is found not to be viable so he moved it to the side of his home. He stated that he plans to clean up the brush and has decreased the variance requested from 75' to 5'.

Public:

Ron Oakrum, 986 Hatlee Road, asked what is considered a 5' setback. Mr. Reese stated that it is measured from the roof overhang. Mr. Oakrum stated he wanted to make sure the building would not be on his property. Mr. Reese asked if the pins or flags indicating the property line were accurate. Mr. Oakrum stated that Mr. Kevin Weed had put them there and he feels they are accurate. Mr. Reese stated that applicant can keep 5' from the flags. Mr. Smith stated that engineers were given the report of the property lines so they are aware when constructing.

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

Board:

Mr. Dudick stated for sight the applicant may want to run a string from marker to marker to be more accurate. Mr. Smith stated that he is not planning to clear to the property line so he is confident in the ability to stay away from the flags, but the construction company will use lasers. Mr. Dudick suggested putting blocks around the areas of his home to avoid so that the applicant does not accidentally hit key features of the home. Mr. Smith stated that he will be enclosing the home equipment that Chairman has spoken about after he gets new siding for his home so he feels it would be protected.

Mr. Dudick thanked the applicant for the changes made to the application.

Mr. Klimes moved, second by Mr. Febo, to approve the variance as amended. The property is located at 994 Hatlee Road, Clifton Park NY.

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

The Secretary called the Vote:

Ayes: 5

Noes: 0

New Business:

An application from Cory Fazioli requests an area variance from chapter 208-11 Minimum side yard building setback is 10 feet in a Residential R-1 Zone. The proposed side yard setback for the residential building addition is 8 feet. The variance requested is 2 feet from the 10 feet side yard building setback. The property is located at 32 Wishing Well Lane, Clifton Park NY

Applicant:

Mr. Fazioli stated he is the homeowner and he is hoping to build an in-law apartment for his aging parents. He stated that the side yard and the pool have been a challenge to work with and 35'x30' is the size of the addition. He stated that he needs to stay 10' from the pool and side yard and showed a photo of the proposal stating the mud room would be a common area for access to the main home. Mr. Fazioli stated that the in-law apartment would be behind the asphalt for the driveway and the fence would be removed.

Public:

No public comment.

Mr. Dudick moved, second by Mr. Klimes to close the public hearing at 7:25 p.m.

Board:

Mr. Febo asked if there are issues with lot coverage here. Mr. Reese stated that there is no maximum or minimum for a residential in-law apartment, this is different than a 2 family home.

Mr. Brockbank asked the applicant why they did not make the building 2' less and shorten the front or oblong the rear to avoid a variance. Mr. Fazioli stated that doing this creates significant cost increases. Mr. Brockbank asked if the applicant could move the addition to the other side of the home. Mr. Fazioli stated there is only 12' from the property line and the walkway would have to be modified.

Mr. Dudick asked how large the front room is being proposed. Mr. Fazioli stated that it is a 12'x13' and would be the primary bedroom and the second bedroom shown would be an office for them.

Mr. Klimes asked if the side entrance would still have a mudroom if they moved the addition 3' closer to the home. Mr. Fazioli stated that there is a fire place on that wall as well as windows that needed to be considered on the main home.

Mr. Reese stated that the applicant still needs to go before the Planning Board for a Special Use Permit but that they are looking for any comments to bring to them. He stated that this is a Type II action and no further SEQR is required, and the Saratoga County Planning Board waived the

hearing for the application. Mr. Reese stated the neighbors were notified on 4/25/24 and the application was listed on 4/26/24.

Mr. Dudick stated that he sees no concerns with this application and they are keeping az family together.

Mr. Dudick moved, second by Ms. McCoy to approve the variance as requested. The property is located at 32 Wishing Well Lane, Clifton Park NY.

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

The Secretary called the Vote:

Ayes: 5

Noes: 0

Discussion:

Mr. Weiner stated that a variance granted to Mr. Christopher Dansler was verified with the deed today and confirmed to be on the deed.

Mr. Weiner stated that he has spoken to Mr. Dave Brennan and the Town's acting attorney to see about liability of the Town and or Board for a cell tower being close to an apartment building. He stated that the Town Attorney stated that a there would be no liability to the Town and that he will ask Mr. Brennan for a hold harmless agreement with the Town be attached to the approvals. He stated that he feels that the applicant will not have a problem with this but it needs work. Mr. Dudick stated that the Town would not be protecting the renter but the owner could put themselves at risk. Mr. Weiner stated there is no specific individual protecting right now so it is tricky. He stated that the applicant is not coming back until summer but they are asking for more information on the break point when he returns.

The chairman made a motion to approve the minutes from the April 16, 2024 meeting. All who were present at the April 16, 2024 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 7:38 p.m.

The next scheduled ZBA meeting will be held on May 21, 2024.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals