

# Town of Clifton Park

Clifton Park, New York



## ZONING BOARD OF APPEALS

May 7, 2019

7:00 PM

**Present:** Chairman Dudick, John Klimes, Michael Bloss, Mario Fantini, Lisa McCoy, Jerry Cifor, Chris Lemire

**Absent:** David Donohue, alternate

**Also Present:** Neil Weiner, Esq., ZBA Counsel  
Steve Myers, Director, Building and Zoning  
Meg Springli, Secretary

The meeting was called to order at: 7:00 pm.

### PLEDGE OF ALLEGIANCE

Mr. Dudick noted that all members were present.

**OLD BUSINESS:** - None

### **NEW BUSINESS:**

- 1) An application from **Russ Hazen/Ray Signs** requests a use variance from Section 171-4H(3)(n) which does not allow digital signs in a B-1 zone. Since a new sign is being proposed for all four buildings on a property that is now subdivided into two parcels, a variance from Section 171-4H(3)(1)-No off premises signs allowed. Property is located at 950-956 Route 146, Clifton Park, NY 12065. (Permit #81206)

The secretary read the notice as it was published in The Daily Gazette.

Russell Hazen, of Ray Signs is the representative of the applicant, Sal Galuzzo who is requesting additional way-finding signs for his place of business at 950-956 Route 146. Mr. Hazen said that the electronic sign would have the technology to set maximum brightness levels and control timing of the display. Mr. Galuzzo added that he would be willing to allow public service announcements to be displayed. Letters of support from building tenants were presented to the ZBA at the meeting and will be kept in the file.

Mr. Fanitini asked if the owner had any financial data to prove that this is a hardship that is unable to be resolved through an alternative method.

Mr. Galluzzo, of Satin Beak LLC, stated that there were new tenants in the business park and that they have received complaints from patients/clients stating that they would unknowingly drive by the property and that they felt the location needed better signage.

Questions regarding the brightness level and regulating it were discussed and Mr. Myers stated that the Building Inspectors would ultimately be responsible for regulating that, and that there might be some equipment that could be used for the purpose, but that the department does not currently have the equipment.

Mr. Dudick asked why traditional signage wouldn't suffice. Mr. Hazen suggested that the number of tenants that would have to be listed would render the text hard to read. Mr. Myers stated that based on the size of the buildings, a monument of up to 60sq ft would be allowed.

Mr. Fantini then questioned the applicant on how the applicant could meet criteria #1 – which requires proof that a reasonable return cannot be expected via an alternative method. Then he questioned how it was not a self-created hardship, a threshold which must be met in criteria #4. It was explained that a use variance required a much more stringent set of criteria and that the Zoning Board must determine that they are satisfied that ALL of them would be met. Discussion ensued regarding the difference between a use variance and an area variance.

The applicant then requested that he continue the application for a future meeting. Mr. Weiner then stated that the applicant MUST reappear within 62 days or the ZBA will need to render a decision and in the event the application does not pass at that time, the applicant would have to reapply with a substantially different application. The applicant agreed.

- 2) An application from **Paulsen Development of Albany LLC** requests an area variance from Section 208-38C-Parking in a B-3 zone. Front parking setback required = 30', 20' proposed, 10' variance required. Property is located at 1785 Route 9, Clifton Park, NY 12065. (Permit 81207)

The secretary read the notice as it was published in The Daily Gazette.

Gavin Vuillaume, from EDP represented the applicant, Paulsen Development. Mr. Vuillaume stated that the property was subdivided and developed by Columbia Development 3-4 years ago. The consultant noted that this particular site was a shovel-ready site and that the applicant was requesting a small setback variance for parking in the front of the keyhole lot, adding that the parking area will be landscaped and hidden from Route 9 by the existing building in front.

Mr. Myers stated that this is a Type II action, no further action was required. Saratoga County Planning Board has determined that there was no county wide impact, and the Planning Board has indicated that they have no issues with the requested variance.

There being no further comment, Mr. Dudick made a motion, seconded by Fantini to close the public hearing at 7:27 pm. All in favor, none opposed.

Mr. Lemire asked if the maximum number of parking spaces in the plan was required and Mr. Vuillaume responded that it was.

Mr. Bloss moved, seconded by Mr. Cifor to approve the application for a setback variance as submitted.

Mr. Bloss stated that the area variance would not create undesirable change, and that it would not be obtrusive to nearby properties. Then he stated that there were no other reasonable methods of achieving the result, and he felt they were not substantial; nor would it create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created but that it was not preclusive.

#### Roll Call

Ayes: John Klimes, Michael Bloss, Mario Fantini, Lisa McCoy, Jerry Cifor, Chris Lemire, Chairman Dudick

Noes: None

Motion was unanimously approved.

- 3) An application from **Bordeau Builders Inc** requests an area variance from Section 208-12A, setbacks for accessory structures. Property fronts on three roads, Route 146, Blueberry Lane and Sunflower Terrace. Proposed pool is required to be setback 80' from all three streets. Sunflower Terrace setback = 90', no variance. Blueberry Lane setback = 60', 20' variance required. Route 146 setback = 76', 4' variance required. Property is located at 2 Sunflower Terrace, Clifton Park, NY 12065. (Permit #81208)

The secretary read the notice as it was published in The Daily Gazette.

Andy Brick, representing Bordeau Builders and the applicants, Christopher and Serenna Mayo, new property owners of 2 Sunflower Terrace. Mr. Brick noted that this was a cluster subdivision and the Planning Board had specified setbacks for the homes, per Sections 208-10 and 208-11 but they did not specify 208-12 for accessory structures in the Cluster Subdivision plan, therefore, it was subject to existing setbacks in a R-1 zone. Mr. Brick then discussed the area variance requirements.

Mr. Lemire asked applicant if he would prefer more than 10 feet to the sideline with the neighbor's yard. Discussion about the optimal locations for a backyard pool were discussed. The applicant then asked for an extra 5' and to amend the second variance to 25' from Blueberry Lane.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Fantini to close the public hearing at 7: 43 pm. All in favor, none opposed.

Mr. Myers stated that the application was a Type II action and no further SEQR action was required. Mr. Myers noted that the Planning Board does not typically change accessory setbacks in cluster subdivisions but that he has asked the Planning Director to consider doing so in the future.

Mr. Cifor moved, seconded by Mr. Fantini to approve the application for two setback variances as discussed, 55' setback from Blueberry Lane(25' variance) and 76' from Route 146 (4' variance).

Mr. Cifor stated that the variance would not create undesirable change, and that it would not be detrimental to nearby properties. Then he stated that there were no other reasonable methods of

achieving the result, and he felt they were not substantial; nor would it create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created but that it was not a disqualifying event.

Roll Call

Ayes: John Klimes, Michael Bloss, Mario Fantini, Lisa McCoy, Jerry Cifor, Chris Lemire, Chairman Dudick

Noes: None

Motion was unanimously approved.

Mr. Dudick moved to approve the minutes of the April 16, 2019 Zoning Board Meeting. The motion was unanimously approved by those present at the 4/16/2019 meeting: Chairman Dudick, John Klimes, Michael Bloss Lisa McCoy, Jerry Cifor, Chris Lemire,

Mr. Myers discussed a response from an earlier applicant, Mr. Osmaneovic, who would like to postpone his responses to his application until late June as he will be traveling. The Board members agreed that an adjournment could be granted and that he had waived the 62-day period. Mr. Myers said that he will advise Mr. Osmaneovic that he should plan to appear at the 2<sup>nd</sup> meeting date in June or the ZBA permit application would be closed.

Mr. Dudick moved, seconded by Mr. Fantini to adjourn at: 7:49 pm

Respectfully submitted

  
Meg Springli