



ZONING BOARD OF APPEALS

Minutes
October 1, 2019
7:00 PM

Present: Chairman Dudick, Jerry Cifor, Mario Fantini, John Klimes, Chris Lemire

Absent: Michael Bloss, Lisa McCoy, 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 7:04 pm.

PLEDGE OF ALLEGIANCE

Mr. Dudick noted that 5 members were in attendance at the meeting, so that four out of five members would need to vote "aye" in order to pass any variance. The chairman offered that any applicant that would prefer to wait until there were more members present, they could be placed on the next agenda.

OLD BUSINESS: - None

NEW BUSINESS:

- 1) An application from **Christopher Mayo** requests an area variance from Section 208-12A for accessory structure. Setbacks (previously granted variance #81208 for pool include 4' from Route 146 and 25' from Blueberry Lane. Variances required: 1) Blueberry Lane = 80' for 0' setback. 2) Route 146 variance required = 40'. Property is located at 2 Sunflower Terrace, Clifton Park, NY 12065. (Permit #81222)

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

Mr. Myers stated that the County no longer wants to review variances relative to one or two-family homes on County roads and so there is no review letter from the Saratoga County Planning Board.

Christopher Mayo, 2 Sunflower Terrace, would like to place a shed on his property which is a narrow lot with 3 road frontages, and that he felt that there is not a lot of storage and they needed more.

Mr. Cifor asked if the ZBA had seen the applicant before and Mr. Mayo reminded them that he had received a variance for a pool earlier this year. Mr. Mayo also stated that the shed would not impact the neighbors.

Mr. Myers noted that the pool fence was placed in a town right-of-way and the Highway Superintendent has put Mr. Mayo on notice that the applicant would be responsible for any re-installation of the fence in the event the highway department needs access. Mr. Myers stated that the shed would be within the perimeter of the fence and the owner would be required to keep the shed entirely on his own property.

Mr. Myers then stated that it was a Type II action, no further review was required pursuant to SEQRA.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Cifor to close the public hearing at 7:14 pm. All in favor, none opposed.

Mr. Cifor moved, seconded by Mr. Fantini to approve the request for setback variances.

Mr. Dudick reminded the homeowner that it was his responsibility to ensure that his contractors are actually measuring and building accurately.

Mr. Cifor 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, although he felt that the proposal was substantial; he did not feel that it would create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created, but not preclusive.

Roll Call:

Ayes: Jerry Cifor, Mario Fantini, John Klimes, Chris Lemire, Chairman Dudick

Noes:

Application approved

- 2) An application from **Theresa & Michael Ringrose** requests an area variance from Section 208-12A which requires 80' front setback for accessory structures. Estimated 53' available, 27' variance required. Property is located at 33 Barcelona Drive, Clifton Park, NY 12065. (Permit 81225)

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

Theresa Ringrose, 33 Barcelona Drive, the homeowner and applicant stated that she and her husband would like to add a gazebo in their yard. Ms. Ringrose said the for best

accessibility by family members, many with health related mobility and balance issues , they would prefer to place it in their front yard. Ms. Ringrose said that she had lived in the house for 20 years. Mr. Lemire asked about placement of the gazebo in the front yard. Discussion ensued.

Mr. Myers explained that in this case, the footprint of the house is unique in its placement on the lot and that the house is already farther back from the road than most of its neighbors. Mr. Myers then noted that most accessory structures are placed behind the house, although in this case, the front yard is much flatter than the rear yard. Mr. Myers added that he felt that a gazebo might be one accessory structure that would be acceptable to have in the front yard. The Chief Zoning Officer stated that the application was a Type II Action, and no further review was required pursuant to SEQRA.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Fantini to close the public hearing at 7:36 pm. All in favor, none opposed.

Mr. Lemire asked if placing the structure in the front yard would require a separate variance and Mr. Myers stated that his interpretation was that the variance was strictly for the setback from the road and noted that the gazebo would not be any closer than the closest point of the house as it is angled on the property.

Mr. Cifor noted that a gazebo was a decorative feature and Mrs. Ringrose stated that she would like to landscape around it.

Mr. Klimes asked if the variance could be contingent upon some restrictions such as approval of a gazebo only and not for any other type of accessory structure. Mr. Myers stated that he felt that would be acceptable and he added that the variance would not include a hot tub as that would require a separate building permit. Mr. Klimes asked if the gazebo would still require a variance if it was connected to the house and within the existing setback. Mr. Myers said that was correct.

Mr. Fantini noted that he was not in favor of having a gazebo in the front yard.

Discussion ensued about alternatives and possible conditions to be placed on the variance granted.

Mr. Dudick asked if applicant would agree to limit the variance for only one 12' diameter octagonal gazebo and any replacement structure would be the same, and no additional accessory structure could be built. Mrs. Ringrose noted that she would agree to have those terms and limitations placed on the variance if granted.

Mr. Dudick moved, seconded by Mr. Cifor to approve the request for setback variances conditioned on one accessory structure only, a gazebo no greater than 12' in diameter, and no closer to the road than the closest point of the existing house as of the date of approval.

Mr. Dudick 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 given the circumstances, and he felt that the proposal was not substantial; he did not feel that it would create an adverse effect on the environment. The board member also noted that he felt the hardship was self-created, but not preclusive.

Roll Call:

Ayes: Jerry Cifor, John Klimes, Chairman Dudick

Noes: Mario Fantini, Chris Lemire,

Application denied

- 3) An application from **Exit 9 Self Storage, Inc.** requests an area variance from Section 208-46 for a proposed self-storage building in a B-4 zone. Variances required: 1) 208-46B-80' front yard required, 26' available, 54' variance required. 2) 208-46B-30' front parking required, 19' available, 11' variance required. 3) 30' side yard required (208-46C) 22' available, 8' variance required. Property is located at 2 Crossing Boulevard, Clifton Park, NY 12065. (Permit 81219)

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

Paul Goldman, Albany, NY represented the applicant, Exit 9 Self Storage on Sitterly Road, whose proposed expansion was designed under TC-5 zoning, but the property has not yet been placed under that zoning, which is pending approval of the Town Board. For that reason, some variances are necessary in order to commence with the project based on its current B-4 zoning. The use variance to allow for storage has already been granted.

Mr. Myers noted that the expansion of the Town Center zoning has been under review and is pending approval of the Town Board and it is expected to expand into this area on Sitterly Road. Mr. Myers noted that this application was a Type II action, no further review required pursuant to SEQRA. Then, he stated that the Saratoga County Planning Board issued a letter stating that there was no county wide impact by this project.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Cifor to close the public hearing at 8:15 pm. All in favor, none opposed.

Mr. Lemire moved, seconded by Mr. Fantini to approve the request for setback variances as requested.

Mr. Lemire 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 might be other methods of achieving the result but that it was not an unreasonable request, and he felt that the proposal was not substantial; he did not feel that it would create an adverse effect on the environment. The board member also noted that he felt the hardship was not necessarily self-created, and it is not preclusive.

Roll Call:

Ayes: Jerry Cifor, Mario Fantini, John Klimes, Chris Lemire, Chairman Dudick

Noes: None

Application approved

Minutes of September 3, 2019 – Dudick, Klimes, Cifor, Lemire

Next meeting: October 15, 2019-Submittal deadline September 24, 2019

Discussion:

Mr. Weiner explained that the board members had received an email from Matthew and Kristen Weber asking for a reinterpretation of a decision granted earlier this year. Mr. Weiner expressed concern that the interpretation could be precedent setting and that he felt that the residents had the option to file an article 78 proceeding. Mr. Dudick felt that the board had made a deliberative decision, and voted on it, and that he would stand by that decision. After reviewing the email from the Webers, it would require a member of the board to make a motion to place this on a future agenda and that there would need to be a unanimous decision of the board to do so. Discussion ensued. Board members were polled and none of the board members indicated that they wanted to move to reopen the hearing.

Mr. Dudick moved, seconded by Mr. Fantini to adjourn the meeting at 8:34pm.