



ZONING BOARD OF APPEALS
MINUTES
December 3, 2019 7:00PM

Present: Chairman Dudick, Jerry Cifor, John Klimes, Chris Lemire, Lisa McCoy, David Donohue, alternate

Absent: Mario Fantini

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

The meeting was called to order at 7:05 pm.

PLEDGE OF ALLEGIANCE

Mr Dudick stated that there were 6 members in attendance at the meeting, so that four out of 6 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. Mr. Donohue was designated in place of Mr. Fantini.

OLD BUSINESS: - None

NEW BUSINESS:

- 1) An application from **Stewart's Shops Corp.** to subdivide current parcel into 2 lots and construct a new Stewart's on front parcel. Variances required: 1) Canopy front setback required= 80', 59.5' available, 20.5' variance required. 2) Rear parking setback required= 30', 6' available, 24' variance required. 3) 15' landscaping buffer required, 6' available at rear, 9' variance required. Property is located at 1740 Route 9, Clifton Park, NY, 12065 (Permit 81220).

Mr. Dudick recused himself from this application at the request of the Town Board. Mr. Lemire was designated as Chairman for this application.

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

Applicant's Representative: Marcus Andrews with Stewart's summarized the project as a subdivision on Route 9 with a parcel in front of the hotel. Mr. Andrews described the location of the store and the gas canopy on the newly created parcel with two curb cuts on the drive leading to the hotel and a single curb cut on Route 9 which would be a right only exit.

Mr. Klimes questioned whether the number of pumps could be reduced and would therefore reduce the variance requested for the canopy.

Mr. Myers noted that this was a Type II action and no further review was required pursuant to SEQRA. Mr. Myers also stated that he felt this was a fairly minor request and similar to the store 4 miles north on the other side of Route 9. Mr. Myers then said that the Saratoga County Planning Board sent a review letter stating that no county wide impact was anticipated.

Discussion ensued regarding shared parking arrangements and pedestrian access to adjoining lots, and the effect the rear parking has on setback variances being requested. Mr. Andrews stated that it would be a difficult site to for a Stewart's Shop without those 10 parking spots in the rear.

There being no further comment, Mr. Lemire made a motion, seconded by Mr. Klimes to close the public hearing at 7: 23 pm. All in favor, none opposed.

Mr. Lemire asked how this lot compared to the Exit 8 Stewart's Lot. Mr. Andrews stated that the Exit 8 lot was narrower, and this lot has a significant drainage area that they would not like to disturb.

Mr. Weiner asked the applicant if they would agree to a restriction to maintain a 6-foot grassy buffer between the two lots. Mr. Andrews responded that the applicant would be willing to maintain the buffer as green space.

Mr. Klimes moved, seconded by Mr. Cifor to approve the variance as requested with the condition that the green space would not be paved or further reduced.

Mr. Klimes stated that the variance would not create an undesirable change, and that it would not be obtrusive to nearby properties. Then he stated that there were other reasonable methods of achieving the result, but he felt that this applicant has a proven track record 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, Chris Lemire, Lisa McCoy, David Donohue

Noes: None

Application approved unanimously.

Chairman Dudick returned

- 2) An application from Winfield Company, LLC to combine parcel #271-4-11 (940 Route 146) and Parcel #271-4-10 (942 Route 146) into one parcel and construct seven new 4,800 sf buildings on the property. It is proposed to connect buildings #500, #600 and #700 by corridors. It is also proposed to connect buildings #800 and #900 with a corridor. Connecting the buildings requires them to be considered as one building. The combination of the three buildings results in a building of 14,400 sf. The two-building combination results in a building of 9,600 sf. Variances required: 1) For the #500, #600 and #700 building combination, per Section 208-33B a 9,600sf variance is required. 2) for the #800 and #900 combination per Section 208-33B, a 4,800sf variance is required. 3) Building #300 requires a front setback variance. Section 208-35D(1) requires 70' to the front property line, 40' available, 30' variance required. Property is located at 940 & 942 Route 146, Clifton Park, NY 12065. (Permit #81234)

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

Applicant's Representative:

Joe Dannible with Environmental Design Partnership, consultant and representative for Winfield Company, LLC, stated that the project had been submitted a few months ago and was reviewed in concept by the Planning Board as two large buildings and the Planning Board did not respond favorably to the large building footprints at this location. Mr. Dannible stated that the buildings would be compliant without the existence of the adjoining corridors. The consultant added that the Planning Board appeared to prefer the multiple buildings proposed in the present application. Mr. Dannible explained that current occupants would like to be able to expand their businesses in their present location. Then he added that they would need to relocate to an area where zoning allows the larger structures which would be Route 9, an undesirable distance for their current patrons. Mr. Dannible also noted that security was a high priority for the occupants and the corridors were necessary to allow expansion and security for the young students. Mr. Dannible then stated that the access drive was designed to allow a safer traffic pattern for school buses serving the site, as well as emergency access. The consultant explained that the proposal would maximize flexibility for future tenants in singular or multiple units.

Mr. Cifor stated that he felt this was a substantial variance request. He felt that if the corridors were not temperature controlled, then he would not consider it as part of the building. Mr. Myers responded that whether it was controlled would not be a distinction for a building permit.

Mr. Dannible explained that the Sara Marie School was considering adding a gym and a cafeteria, and facilities to expand its enrollment to include 4 more grades. He added that the appearance of smaller buildings was something that was requested.

Mr. Myers noted that this was a Type II action and no further review was required pursuant to SEQRA. Mr. Myers also stated that he thought that this was a unique way of maintaining the appearance of complying with the zoning, however even though it is substantial, they are one-story buildings and if the corridors removed, they would be independent buildings in compliance

with the 4800 sf building. Every application is supposed to be considered uniquely and precedence should not be part of the decision. Mr. Myers also noted that he would check with the State regulations to determine if heating a space or not made a difference in area calculations.

Discussion ensued about setting a precedence with such a substantial request. Mr. Dudick stated that the space in the corridors was not something he considered as occupied usable space. Mr. Dannible stated that the layout gave the appearance of keeping in the character of the community and acting as a transition between the residential uses and larger commercial buildings. Mr. Myers confirmed that the Planning Director had expressed the Planning Boards view that this proposal appeared to achieve that purpose.

Mr. Lemire stated that he liked the layout but that he felt that it would set a precedent and would be used by future applicants to pressure the zoning board to grant similar substantial variances in other locations with the same zoning.

Joanna Pendergast 6 Fox Glen Court, founder of the Sara Marie School noted that they have 75 students 3 years old to 1st Graders and that safety and security of those children between two building was paramount. Safety is number one goal. And that the corridors need to be enclosed in order to ensure that safety within this proposed property.

Other Board Members expressed concern about the precedence setting issues.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Cifor to close the public hearing at 8:16 pm. All in favor, none opposed.

Mr. Dannible added that the existing facility is safe, but the newer one would improve on the safety and ease of movement between spaces for all. Mr. Dudick remarked that this is a successful business in this location and that he understands the desire to expand operations in this location, and that what the Zoning Board must consider is that the zoning code does not allow for the large buildings here. Mr. Dannible explained that the surrounding neighborhood is filled with large institutional buildings on different zoning and that the proposal would not alter the character of the surrounding environment.

Mr. Dannible asked whether the chairman would allow him to poll individual board members to gauge their favorability for the project. Mr. Dudick stated that if the applicant felt that he might be denied, he could postpone the decision until a future meeting allowing Mr. Dannible the opportunity to consider submitting a revised plan.

Mr. Cifor recommended that the ZBA would like to see a recommendation from the Planning Board in writing.

Board members appeared to agree that unheated connections might be preferable to them although Mr. Myers again stated that he would check to see how the State code would interpret square footage based on heated or unheated space.

Mr. Dannible asked that the application be tabled until the next meeting. Mr. Dudick explained that the applicant needed to present or ask for an extension within 62 days or the application would be denied.

Minutes of 11/19/2019 – Ayes: Chairman Dudick, Fantini, Klimes, Lemire, McCoy, Donohue
Abstain: Cifor

Chairman Dudick moved to adjourn at 8:37 pm, seconded by Mr. Lemire.

Respectfully Submitted,