

Town of Clifton Park
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ZONING BOARD OF APPEALS
Minutes
December 4, 2018
7:00 PM

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

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: 7:16 pm.

PLEDGE OF ALLEGIANCE
ROLL CALL

Chairman Dudick noted that 6 out of 7 voting members were present. Then the chairman noted that all applications require at least 4 affirmative votes to pass. Any applicant would be allowed to postpone until a time when 7 members would be present if they so chose.

OLD BUSINESS:

NONE

NEW BUSINESS

- 1) An application from **Partners II LTD** for an area variance from Section 208-38C, to build additions onto existing building in a B-3 zone. The only addition requiring a variance is at the front of the building. 14'

roof addition proposed. 80' front setback required, 66' available, 14' variance required. Property is located at 135 Lapp Rd, Clifton Park, NY 12065 (Permit #81187)

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

Brian Abbale, the owner and applicant, stated that he was requesting a variance to allow a pre-existing commercial site to make some improvements, and bring it into conformance with zoning regulations. Mr. Abbale noted that the store has been in its location for over 30 years, and that the current owners purchased it in 2008. The speaker stated that they had done some interior remodeling at that time, but they felt that it was time to reinvest in the business and make some updates to improve the flow and merchandising in the store. Mr. Abbale added that they intended to install some secure fencing for outdoor displays.

Board members appeared to favor the application.

There being no further comment, Chairman Dudick made a motion, seconded by Mr. Fantini, to close the public hearing at 7:24 pm. All in favor, none opposed.

Mr. Myers noted that the application was a Type II action pursuant to SEQR and no further action was required. The chief zoning officer stated that this application was a simple request and only required variances at the parking setback and front setback.

Mr. Cifor moved, seconded by Mr. Fantini to approve the area variance as requested.

Mr. Cifor stated that the variance would not create undesirable change, and he felt it probably be an improvement. Then he stated that there were no other reasonable methods of achieving the result, that he felt the request was not material; 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.

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

Noes: none

Motion Approved 6:0

- 1) An application from **Lawrence Gates** for an area variance from Section 208-12A which requires a 10' setback from property line for an accessory structure in a CR zone. 8' available, 2' variance required. Property is located at 19 Rivercrest Drive, Clifton Park, NY 12065 (Permit #81193).

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

Lawrence Gates, applicant and owner asked for a 2-foot variance setback for a shed on the property. Mr. Gates stated that a neighbor's recent survey indicated that the property line was not where Mr. Gates had believed it to be, and therefore he would need a variance so he did not need to move the shed which was built in 2015.

Discussion

Mr. Cifor asked when the neighbor disputed the location of the shed. Mr. Gates responded that it was not at the time it was built but he had done so at some time in 2018.

Public Comment:

Don Gavin, original owner of property owned by Cheryl Johnson stated that he felt the boundary line should be firmly established before any variances would be granted.

Zoning Board Attorney, Mr. Wiener, stated that if Mr. Gates agreed with Ms. Johnson's boundary line, then there would be no dispute regarding the need for the variance. Mr. Myers stated that the official record shows that a 2-foot variance for the shed was the issue under review. Mr. Gates indicated that he was not disputing the survey.

There being no further comment, Chairman Dudick made a motion, seconded by Mr. Bloss, to close the public hearing at 7:38 pm. All in favor, none opposed.

Mr. Myers explained that there was an ongoing neighbor dispute and that the ZBA would not be involved in any of the personal property issues, nor would he be involved in those disputes as Chief Zoning Officer.

Mr. Weiner stated that the ZBA would not be involved in the property line dispute and that any variances granted by the ZBA would not harm a neighbor's standing.

Mr. Dudick noted that he had an email or letter from Ms. Cheryl Johnson in response to a letter from Mr. Gates, but it was decided that these communications were not material to the issue before the Board.

Mr. Myers noted that the application was a Type II action pursuant to SEQR and no further action was required.

Mr. Cifor stated that he did not feel that the shed was a major project. Mr. Myers noted that it did not require a building permit due to its size, only necessitated a variance because of its location.

Mr. Fantini moved, seconded by Mr. Klimes to approve the area variance as requested.

Mr. Fantini stated that the variance would not create undesirable change, then he stated that there were not other reasonable methods of achieving the result because it was already built. Then he stated that he felt the request was 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 the application was not preclusive.

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

Noes: none

Motion Approved 6:0

Minutes

Mr. Dudick moved to approve the minutes of October 16, 2018. Mr. Bloss abstained. All others in favor. None opposed. Minutes approved.

Mr. Dudick moved to approve the minutes of November 20, 2018. Mr. Fantini abstained. All others in favor. None opposed. Minutes approved.

Mr. Dudick moved, seconded by Mr. Cifor to adjourn the meeting at 7:44 pm.
All in Favor. None opposed.

Respectfully Submitted,


Meg Springli