



**ZONING BOARD OF APPEALS
MINUTES
November 19, 2019
7:00 PM**

Present: Chairman Dudick, Mario Fantini, John Klimes, Chris Lemire, Lisa McCoy,
David Donohue, alternate

Absent: Jerry Cifor

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 announced that Mr. Bloss had notified the Supervisor that he and his wife have sold their Clifton Park home and he has therefore submitted his resignation from the ZBA effective immediately. The Chairman indicated that Mr. Donohue would be a voting member tonight in the absence of Mr. Bloss. Chairman Dudick added that Mr. Bloss will be missed after his many years of serving our community as a member of the Zoning Board of Appeals. Then he 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.

OLD BUSINESS:

- 1) An application from **Ray Sign, Inc.** Applicant has modified variance to request approval for one sign to be used for all tenants in the complex since the complex consists of two separate parcels. A variance from Section 171-4H(3)(1) which states no off premises signs allowed is required. The request for a digital sign has been removed from the application. 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.

Consultant: Russell Hazen from Ray Sign, represented the applicant, Sal Galuzzo, who could not attend the meeting. Mr. Hazen stated that the application has been modified from the original request for a digital sign to a standard monument style which meets the size requirements. Mr. Hazen noted that there was only one entrance from Route 146 into the business complex and therefore the applicant now proposed one single monument sign listing all the tenants that were situated on the two parcels. Mr. Hazen then said that the proposed monument was one third higher than the original sign.

Mr. Myers noted that this was a Type II action and no further review was required pursuant to SEQRA. Mr. Myers also noted that there have been other locations in town where one sign has been erected for multiple parcels. He stated that it was within the height and size allowed and added that the board could impose conditions to the approval.

Mr. Myers noted that Mr. Galuzzo had agreed to remove a large banner on the premises that was installed without a necessary permit. A board member asked whether a variance should be granted at all if the owner was currently out of compliance, since a visit to the property showed that the banner was still displayed as of the date of the meeting. The Chief zoning officer recommended that its removal be made a condition of the variance. Mr. Dudick then suggested that the applicant could be told to remove it and then come before the ZBA for a final decision within 60 days. Discussion ensued about possible conditions.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Lemire to close the public hearing at 7:31 pm. All in favor, none opposed.

Mr. Dudick moved, seconded by Mr. Fantini to approve the request for a shared monument sign for both parcels at 950-956 Route 146 with three conditions that must be met in order to obtain a building permit: 1) all other non-conforming signs/banners on both parcels should be promptly removed from the property (within 5 business days) - 11/26/2019 and 2) future displays of temporary banners shall require permits and/or review and 3) no freestanding monument sign shall be allowed on the second parcel.

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

Roll Call

Ayes: Mario Fantini, John Klimes, Chris Lemire, Lisa McCoy, David Donohue, Chairman Dudick

Noes: None

Application approved unanimously.

- 2) An application from **EDP Office Park, LLC** requests a variance from 208-33B which states no single building shall be constructed having a maximum square footage exceeding 4,800 square feet. Three buildings are proposed at 4,800 square feet each with full basements at 4,800 square feet each or 9,600 square feet total square footage per building. Variance required = $4,800 \times 3 = 14,400$ square feet. Property is located at 900 Route 146, Clifton Park, NY 12065.

(Permit #81226)

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

Consultant: Gavin Vuillaume with Environemntal Design Partnership, is a partner of the firm that has applied for the variance. Mr. Vuillaume explained that EDP had been in this location for 30 years. They were proposing three additional buildings which had been proposed at an earlier site plan review. The speaker noted that EDP would like to build basements with a ground floor above and this would allow them to put mechanicals and storage in the basement and maximize the flexibility for future tenant fitups. Mr. Vuillaume noted that EDP might want to put a parking garage under one of the buildings and that the basement would not be considered leasable space.

Discussion ensued about whether the space would be considered habitable space and accessibility issues below grade. Mr. Vuillaume explained that they would not install elevators and that if they were required to make the basements compliant with building code for leasable space, the applicant would remove storage from the planned use of the buildings. Mr. Myers noted that fire inspections would include reviewing whether the basements were strictly mechanical or not. Board members also expressed concerns about what was considered a substantial variance with the doubling of the allowable square footage. Mr. Dudick asked and it was confirmed that if this was a residence, a basement which is unfinished would not be considered in the square footage of the building, however as a commercial site, basements are factored into the total space.

Board members considered that the buildings would still be appear to be a one-story building and that would be acceptable as long as the above ground office space was still limited to 4,600 sf.

Mr. Myers stated that this was Type II action, and no further review pursuant to SEQRA was required.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Fantini to close the public hearing at 7:53 pm. All in favor, none opposed.

The Saratoga County Planning Board issued a statement that they considered the application to be doubling square footage allowed per code but they felt there was no significant impact.

Mr. Klimes moved, seconded by Mr. Fantini to approve the request for area variances with conditions that 1) Bilco or similar doors be installed to the lower levels of each building and 2) that the lower levels were not to be used for habitable space, nor for storage and only may be used for mechanicals and utilities.

Mr. Fantini stated he felt that aesthetically, this proposal was a good plan.

Mr. Klimes 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 but appeared to meet the intent of the code 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 disqualifying.

Roll Call

Ayes: Mario Fantini, John Klimes, Chris Lemire, Lisa McCoy, David Donohue, Chairman Dudick

Noes: None

Application approved unanimously

- 3) An application from **Delmonico's Italian Steakhouse** requests variances from the space and bulk standards in a B-4 zone. 1) Section 208-46C requires 20' parking side setback, 8', available, 12' variance required. 2) Section 208-46F requires 35% greenspace, 28% available, 7% variance required. 3) Section 208-48 requires a 15' landscaping buffer, 8' available, 7' variance required. Property is located at 3 Northside Drive, Clifton Park, NY 12065. (Permit #81227)

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

Consultant: Gavin Vuillaume of Environmental Design Partnership, with Bill Weir, from Delmonico's gave a brief history of the development at the property. Mr. Vuillaume stated that the existing parking is not meeting the current needs of the restaurant. The consultant noted that, at times, overflow parking has been staged at the Park n Ride with a golf cart to transport customers.

Mr. Vuillaume presented an agreement with USA Gas allowing for shared use of 3 parking spaces.

Discussion ensued about other possible shared parking in the vicinity. Mr. Vuillaume explained that they had been explored and owners of the surrounding business were not likely to agree. It was noted that the proposed landscaping around the added parking would be an improvement.

A letter from the Director of Planning was read into the record requesting that the applicant pursue shared parking agreements and limit the added parking to only one row of parking rather than two.

Mr. Myers noted that the proposal was a Type II action, and no further review was required pursuant to SEQRA. Mr. Myers said he felt it was a minor change and would help the business.

There being no further comment, Mr. Dudick made a motion, seconded by Mr. Fantini to close the public hearing at 8:17 pm. All in favor, none opposed.

Mr. Dudick moved, seconded by Mr. Fantini to approve the request for area variances.

Mr. Dudick stated that the area variance would not create undesirable change, and that it would actually be less obtrusive to nearby properties. Then he stated that there were no other reasonable methods of achieving the result, 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: Mario Fantini, John Klimes, Chris Lemire, Lisa McCoy, David Donohue, Chairman Dudick

Noes: None
Application approved unanimously

NEW BUSINESS: - None

Minutes of 10/15/2019 – Ayes: Chairman Dudick, Fantini, Klimes, McCoy, Donohue
Abstain: Lemire

Adjourn at 8:24pm seconded by Mr. Fantini

Next meeting: December 3, 2019-Submittal deadline November 12, 2019

Margaret J. Sprygh