

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

September 1st, 2020

Present: Chairman Michael Dudick, Mario Fantini, John Klimes, Christopher Lemire,
YiFengWang (alternate)

Absent: Jerry Cifor, Lisa McCoy, Randy Gifford

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

The meeting was called to order at 7:06 p.m.

Mr. Dudick stated that in the absence of Mr. Cifor, Mr. Wang will be sitting in as a voting member.

All stood for the Pledge of Allegiance. Roll call was taken.

Old Business:

None

New Business:

An application from **Jason Peterson** requests variances from Section 208-43.3B- two family in the Hamlet mixed use zone for the subdivision of an existing lot. Variances required: 1. 208-43.B(1)(a)[3] 3000sf per acre (43,560sf) Allowed (6.89%). 1620 sf/18,670 or 8.68% requested. 2. Section 208-43.3B(6)- 30' rear setback required, 15' requested, 15' variance required. 3. Section 208-98, 130' rear setback required from centerline Route 146, 107' requested, 23' variance required. Property is located at 1267 Route 146, Clifton Park, NY 12065. (Permit #81260)

Applicant:

Mr. Peterson stated that he is the land surveyor for the project and is representing the Fleischmens for their variance application. He stated that the plan is to subdivide their lot into 2 and to build a two family home on the created lot. He stated the hope for the family is to sell the existing home with access to Vista Court and build a two family home on the other property with the driveway off of Route 146. Mr. Peterson stated that the setback from the center line from Route 146 is excessive and that it is possibly from a time when Route 146 was slated to be a highway. He also stated that a little closer to the roundabout there is a home about 90 feet away from the center line and another a little closer than the 130 feet, so this Variance is not out of character for the area. He stated that the applicants currently own the residence and that if they cannot sell it they are also looking into occupying it so the rear setback variance they are looking for; he feels would not be a problem. Mr. Peterson stated that here are duplexes on Vista Court already so building a new one in this location would not be out of character for the area. He stated that the driveway on Route 146 will be abandoned and a new driveway with access from Vista Court would be made, and another curb cut will be made on Route 146 to accommodate a new driveway for the proposed duplex. All grading have been done to move any water to drainage on Route 146. Mr. Peterson stated plans for the tie in for water and sewer have been discussed and approved with the town for Route 146 and for Vista Court.

Board:

Mr. Dudick read a letter to all in attendance from the Saratoga Planning Board. The decision the Saratoga Planning Board made was that there is no significant impact, but applicant should consider a single family home for both lots.

Mr. Fantini asked why can't be moved back 15 feet. Mr. Myers stated that if the new home would be moved forward to allow for the setback then the front variance would be greater because the home would be closer to the center line.

Mr. Lemire asked if Vista Court is now a through roadway. Mr. Myers stated that it is now and leads to Tanner Road. Mr. Lemire asked if the Devoe home is a single family, Mr. Myers stated it was. Mr. Lemire asked if the property was left out of the subdivision. Mr. Myers stated that the Vista homes were built around the Fleischman property and not included in the initial subdivision.

Mr. Dudick stated that there are two family homes on Vista Court but none of them face out to Route 146. Mr. Dudick asked Mr. Myers what space is being dedicated to the town. Mr. Myers showed it on the map and stated it is to be green space dedication. Mr. Dudick asked if there were any other uses for this property and Mr. Myers stated that it can be used commercially as it is a Hamlet Mixed Use.

Mr. Lemire asked Mr. Peterson if the owners currently living the home now. Mr. Peterson stated they are in an apartment as the home is currently being renovating but they are going to occupy it.

Mr. Myers reminded the Board that the application is for the variances only.

Mr. Dudick asked if there is a 3 acre requirement for developing on the property. Mr. Myers stated there is not as it is zoned Hamlet Mixed Use.

Mr. Weiner asked what the percentages meant in the application. Mr. Myers stated the percentages represent the density and what would normally be allowed in the R-1 zoning area. Mr. Lemire clarified that the density in question is on lot 2, Mr. Myers confirmed. Mr. Dudick asked what the density would be if the second lot were to be a single family home instead of a duplex, Mr. Myers stated that the density depends on the size of the building and how much of the parcel it covers. This is only applicable if a 2 family home is proposed. A single family home would not have this restriction per the code. Mr. Dudick asked what size home would not require a density variance; Mr. Myers stated a 1,300 sf 2 family home. Mr. Peterson stated that variances could change based on the size of the home and where the property line would be.

Mr. Dudick asked why the applicant would want to go from a single family to a 3 family accommodation with 2 lots. Mr. Myers stated that it is up to the Planning Board to decide whether a single or two family home is put on the property. The planning board oversight would be for the use only, 2 family vs. single family. An SUP for the 2 family is not required in this zone. Mr. Dudick stated that the application is for variances for a 2 family home so it would change the decisions of this Board.

Mr. Lemire asked if the applicant decides to go to a single family home what the potential density would be and asked if the 3000 sf would only be for a two family dwelling. Mr. Myers stated the density requirement would go down and the building size could go up, and the potential density would be 25%, but also depends on zoning, but the house can be bigger if it is a single family home. Mr. Lemire stated that even if they wanted a single family home on the subdivided lot they would still need a variance, Mr. Myers agreed with this statement.

Mr. Wang asked if the issue for this Board was for density or access. Mr. Dudick clarified that the concern is area and density.

Mr. Dudick stated that there are no homes that are two family homes on Vista Court facing Route 146, and it seems to him that it was intentional, so putting a duplex on the roadway facing Rt. 146 would change the character.

Mr. Myers stated that a duplex is permitted per code; this is not SUP so it does not need approval from the planning board. He also stated that the existing driveway will be abandoned, and a new

driveway will be cut onto Route 146 for the duplex, and a second driveway will be on Vista Court for the single family home

Mr. Myers stated this is a Type II action and no further SEQR review is required. M. Myers provided a map to show typical lot sizes on Vista Court so that it can be compared to this application. He stated that typical lot size is about 17,000 sf. He stated he does not see a concern with these variances other than that all other duplexes are not facing Route 146.

Mr. Lemire asked why the lot line for the rear yard cannot be pushed closer to Vista Court. Mr. Peterson stated that they do want a rear yard and there were utilities there. Mr. Peterson stated that if this is a recommendation that he can see if the applicant would be willing to adjust the lot line. If this was changed the application would still need variances.

Mr. Lemire asked for clarification on the map provided about lot lines and what the colors of the lines indicated. Mr. Peterson clarified the lines and if the lot lines would be moved then they would have a less of a variance on lot 2. Mr. Peterson stated that he can always bring back to the applicant the suggestion of a single family home and bring back to the Board the revised decision. Mr. Lemire asked how long the applicant has owned the property, Mr. Peterson stated about 5 years. Mr. Myers stated that phase 1 of Vista Court was completed by the time the applicant purchased the property.

Mr. Wang asked Mr. Myers if he saw the density requirement as troublesome. Mr. Myers stated he personally did not see an issue with the density, but the setbacks are more of a concern.

Mr. Lemire asked what size single family home could be built on lot 2. Mr. Myers stated that it can be no more than 25% of total potential property but there is no potential density listed for single family homes in the code. If the setbacks were met perhaps a narrow home could be built. Mr. Weiner asked if driveways are counted for density, Mr. Myers stated no. Mr. Lemire stated that if the applicant decides to go with a single family home there is no density variance required only the setback variances.

Mr. Dudick asked if there was anyone from the public that would like to speak. There being no public comments Mr. Dudick called to close the public hearing Mr. Fantini second. The motion was unanimously carried. The public hearing was closed.

Mr. Dudick stated that he feels that if Mr. Peterson feels the applicant is willing to consider other options such as a single family home, then Mr. Peterson can table the application and come back again before the Zoning Board for variances. Mr. Myers stated that if the applicant wants to change to plan to two single family homes on the two lots and changing the lot sizes he would not have to republish the hearing and the applicant can come back on September 15, 2020 since the variances would be less. Mr. Weiner agreed. (Note: this application will be re-noticed with all the other variances for the next meeting)

Mr. Peterson stated he would like to table the application for tonight and discuss possible changes with the applicant and come back at the next meeting. Mr. Dudick stated that this can be done and that per town law a decision for this application would have to be made within 62 days.

The chairman made a motion to approve the minutes from the August 18th meeting. All who were present at the August 18th meeting voted in favor and the meeting minutes were approved.

Mr. Fantini, made a motion to adjourn the meeting, Mr. Wang second, all voted in favor and approval was unanimous. The meeting was adjourned at 7:50 p.m.

The next scheduled ZBA meeting will be held on September 15th, 2020.

Respectfully submitted,

Paula Cooper

Paula Cooper

Secretary, Zoning Board of Appeals