

Town of Clifton Park Zoning Board of Appeals

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Zoning Board of Appeals

October 6th, 2020

Present: Chairman Michael Dudick, Jerry Cifor, Mario Fantini, John Klimes, Christopher Lemire, Lisa McCoy, Randy Gifford, YiFengWang (alternate)

Absent:

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

The meeting was called to order at 7:00 p.m.

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

Mr. Dudick told the applicant that per Town Code that the applicant would need 4 out of 7 of the Board members to vote in favor of the application to pass. He let the applicant know that there are only 5 voting members of the Board here tonight, so that 4 out of 5 members need to vote in favor tonight to grant the variances. He asked the applicant if they would like to come back at a later date or if they would like to proceed knowing the Board tonight needs to vote in favor of the application with 4 out of 5 votes.

The applicants stated they would like to continue tonight knowing all 4 votes need to be in favor of the application tonight.

Old Business:

None

New Business:

An application from **Schuyler, LLC** requests a variance from Section 208-11 front setback from property line in a CR zone, 30' required, 10' proposed, 20' variance required. Applicant also requests a variance from Section 208-98 which requires 100' setback from center line of Grooms Road, 48' proposed, 52' variance required. Property is currently vacant land. Property is located at 862 Grooms Road, Clifton Park, NY 12065. (Permit #81264)

Applicant:

Michael Bouchard – Project Assistant for Schuyler LLC – Mr. Bouchard stated that also here tonight is Mr. Anthony Vacarelli whom is the owner. The application is for the variances are currently in a residential area, is an approved residential lot on an existing subdivision and is 1.34 acres. He stated that there were 2 maps provided by Mr. Kevin Weed from Van Guilder Assoc. Mr. Bouchard stated that one map indicates what the property would look like with the variances, and the other without, pointing out that the home would interfere with the perennial spring and be within the buffer zone if variances are not granted. Mr. Bouchard stated that unfortunately Mr. Weed could not attend tonight but he read from a letter written from Mr. Weed that was distributed to the Board. Mr. Bouchard summarized that Mr. Weed stated there would not be any undesirable changes or impact on other properties. Mr. Weed also pointed out in his letter that there is a neighbor that is closer to the roadway than zoning requires and this home proposal would fall in line with the existing home, and there is no other way to obtain building on the land except for obtaining the variances. Mr. Weed stated that this is not a self-inflicted hardship and that this was an approved lot when the subdivision was created in the 1980's. Mr. Bouchard stated that 1999 wetland mapping put more restrictions on the property and is now unbuildable unless the variances are granted.

Board:

Mr. Dudick read from a letter from the Saratoga County Planning Department. It stated that there is no county wide or community impact but that the Board questions the placement of the home and the livability of the location with regards to the yard area and the protection zone of designated areas.

Mr. Dudick asked the applicant how long he has owned the property. Mr. Bouchard stated that it has been approximately one year. Mr. Dudick stated that the owner purchased the property with the knowledge of the wetlands and knowing that variances would be needed. Mr. Bouchard stated he possibly did but does not know for certain, but would agree with Mr. Dudick's comment. Mr. Dudick stated that the DEC mapping was done before the purchase of the property.

Ms. McCoy asked the applicant if the owner of the property purchased it with the intent to build on the land. Mr. Bouchard stated he did.

Mr. Myers stated that this is a Type II action and no further SEQR is required. Mr. Myers stated that the home next door to this property was built in 1947 before the codes were created and that all the other homes in this subdivision follow all of the Zoning codes in the LC zone. Mr. Myers stated the applicant would still need approval of DEC permits if the Zoning Board approves the variances and feels that lot does not fall into a buildable piece of land. Mr. Myers stated that the DEC will allow for a yard in the LC zone, and that since the stream is not continuous that there is no 50 foot setback.

Mr. Lemire stated that the mapping given to the Board that there are either DEC or Army Corp approvals or Zoning Board approvals required. Mr. Myers stated that was correct. Mr. Lemire asked if the front yard setback is proposed as 10 ft. from the property line. Mr. Myers stated that it would be and then another 15 ft. to roadway. Mr. Lemire then stated if the home were to be moved to the left and rear of the property or west to not interfere with the wetlands and give more of a setback. Mr. Bouchard stated that this map is where the applicant thought the home would fit best and is unsure of the land in that area of the property.

Mr. Klimes asked if there would be septic on the property. Mr. Myers stated that there is water and sewer on the other side of the street and that they could possibly tie into the public utilities.

Mr. Dudick asked the applicant why he feels the variances should be granted. Mr. Bouchard stated that it is a single family home and if the home would be moved back from the roadway that it would be in the buffer zone for the wetlands.

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. The motion was unanimously carried. The public hearing was closed.

Mr. Dudick stated that he feels that this is a created hardship and that the applicant purchased the property knowing that variances would be needed. Mr. Dudick also stated that he cannot take into consideration the home next door as it was built before the Zoning Codes.

Mr. Weiner stated that if the applicant feels that if for any reason the variance would be denied tonight the applicant has the right to withdraw the application or table it to try to bring back to the Board with other options. He stated that if the application is denied that the applicant cannot come back with the same proposal again. If the applicant chooses to table the application, a decision by the Zoning Board of Appeals needs to be made within 62 days.

Mr. Bouchard stated that he would like the application withdrawn.

New Business:

An application from Thomas Laiacona requests a variance from Section 208-12A, accessory structure setback. 80' required, 25' proposed, 55' variance required. Property is located at 22 Mallard Drive, Rexford, NY 12148. (Permit #81265)

Applicant:

Thomas Laiacona- homeowner – Mr. Laiacona stated that he is asking for a 25' variance in the front of his home so that he can build an accessory structure to the left of his home. He stated that he would like to put in another detached garage at a 90 degree angle to the existing driveway and attached garage. Mr. Laiacona stated that he currently has 32' front his property line and 65' total from the center line of the road. He stated that he has lived in Clifton Park for 20 years and would like this variance so that the accessory structure can help him remain in his home for longer.

Board:

Mr. Dudick stated that he believes that if the accessory structure is big enough to hold a car and resembles a garage, and has a door that can accommodate a car it can be classified as a garage.

Ms. McCoy asked if the garage would be matching the existing home. Mr. Laiacona stated that the garage would have the same style windows, siding and roof.

Mr. Dudick asked the applicant if he has considered adding an extension to the garage. Mr. Laiacona stated he had but it would mean that the driveway would need to be extended and widened to keep it associated with the current garage. He also stated that if it were to be put behind the home and to the left to leave room for the setback more driveway would have to be added also and then would leave little room from the building to the side property line.

Mr. Lemire asked the applicant if it could be attached to the current garage, and therefore eliminating the need for the setback variance. Mr. Laiacona stated that this is not what he wanted for ease of access and that of all of the layouts this one is the one that fit best for what he felt he needed. Mr. Lemire asked the applicant if there are any deed restrictions to the proposal. Mr. Laiacona stated he does not believe so.

Mr. Laiacona stated that he has neighbors with gazebos and sheds in their front yards to which Mr. Myers stated that they do but the gazebo was in code violation and the Town had them rectify the violation.

Mr. Klimes stated that it would not take much to add on to the left side of the home to the existing garage. Mr. Klimes asked if the applicant has checked with his neighbors and if any of them had objections to this proposal. Mr. Laiacona stated that none of his neighbors voiced any concerns when he told them about the proposal. He also stated that putting the garage at a 90

degree angle would help screen the back yard as well as allow for accessibility to it from the side yard.

Mr. Lemire asked Mr. Laiacona if the space would be used for storage or for car space. Mr. Laiacona stated that it would be used for both purposes.

Mr. Dudick asked if the garage could be freestanding beside the home and keep it lined up with the home. Mr. Dudick stated it would still need a variance but not as large of one. Mr. Laiacona stated that they have thought of it, and would be willing to consider it, but it would offset the driveway and would cut down on the side lawn.

Mr. Lemire asked if the applicant would front the garage to roadway and then it would cut down on the side setback area and take less room. Mr. Laiacona stated if it were that way it would run into the tree line and increase the asphalt. He stated that he would like the movement from one garage to the other would be more fluid.

Mr. Klimes stated that he feels that this variance would change the neighborhood and allow neighbors to do the same.

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 Ms. McCoy second. The motion was unanimously carried. The public hearing was closed.

Mr. Myers stated that this is a Type II action and that no further SEQR is required. Mr. Myers stated that he does not believe that the Zoning Board has ever allowed a structure in the front of the home before. Mr. Myers stated that if the building would be put alongside of the home that it would decrease the variance needed or if the applicant would attach it to the home or even create a breezeway from it to the home it would be considered attached. Mr. Myers stated that the applicant and/or the Board would need to make a decision in 62 days.

Mr. Weiner stated that if the applicant feels that if for any reason the variance would be denied tonight the applicant has the right to withdraw the application or table it to try to bring back to the Board with other options. He stated that if the application is denied that the applicant cannot come back with the same proposal again. If the applicant chooses to table the application, a decision by the Zoning Board of Appeals needs to be made within 62 days.

Mr. Laiacona stated he would like to table the application tonight.

There not being enough Board members in attendance to vote on the approval of the meeting minutes from 9/1/20 and 9/15/20, voting to adopt these minutes have been postponed until the next meeting on October 20th, 2020.

Mr. Dudick, Chairman, made a motion to adjourn the meeting, Mr. Klimes second, all voted in favor and approval was unanimous. The meeting was adjourned at 8:01 p.m.

The next scheduled ZBA meeting will be held on October 20th, 2020.

Respectfully submitted,

Paula Cooper

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Secretary, Zoning Board of Appeals