

To: Guilderland Planning Board

From: Guilderland Conservation Advisory Council

Date: December 6, 2011

Re.: Hysenllari, 49 Fletcher Rd. Albany, NY 12203

APPLICATION

Applicant(s): Veli Hysenllari, 8 Joseph Ter., Albany, NY 12203

Proposed Subdivision: A proposed four lot subdivision of 5.6± acres.

Location: Fletcher Rd., located in the Westmere section of the Town, is across Western Avenue from Hewitt's Garden Center, running perpendicular to Western Avenue. Property is near the end of Fletcher Road approximately 0.3 mile southwest of the Western Avenue intersection.

Zoning: R-15.

Site Inspection Summary:

Site Inspection Date: November 26, 2011

Meeting Attendees: It should be noted that there were two GCAC meetings regarding this property; one on October 17th and a second one on November 21st. It was felt that the second one should be held since, due to a misunderstanding the presenter was absent at the first one at which the applicant and his daughter Alida attempted to act on their own behalf in making a presentation. The Chair of GCAC felt that all concerned would benefit if the presentation was put on the calendar for November.

(October 17, 2011) Applicant Veli Hysenllari and his daughter Alida Hysenlleri; GCAC Members Stephen Albert, David Heller, Herbert Hennings, Gordon McClelland, Stuart Reese, Steven Wickham and John Wemple (Chair). In addition, the seven concerned neighbors were in attendance.

(November 21, 2011)

Applicant Veli Hysenllari and his daughter Alida, and Presenter Chris Meyer; GCAC Members – same as above. In addition there were twelve concerned individuals plus some of the other applicants & presenters awaiting their turns on the evenings agenda.

Inspected by: Applicant Veli Hysenllari, his wife, and daughter Alida, and Presenter Chris Meyer; GCAC Members Albert, Heller, Hennings, McClelland, Reese, Wickham and Wemple.

Conclusions: Along with the neighbors' concerns as noted in the Inspection report, the County Legislator representing this neighborhood, who was present at the November 21st meeting, voiced his observation that there is a need for massive remediation. He noted that there has been

significant flooding in this neighborhood and that any development not make this worse. He recommended that there be remediation of any damage already done to the property. Among neighbors concerns is the development itself which will bring three additional residences on land which they have been used to seeing as a treed area which separated them from the neighborhood to the northwest. In response to the development of the property, the Presenter pointed out that the property to the east of 49 Fletcher road was subdivided in the early 1950's, the existing residence was built in the early 1960's and the property to the west (southwest) was a subdivision approved in 2000. His point being that a subdivision of the 49 Fletcher Road property is consistent with that of the general area. During the Nov. 21st meeting, GCAC Chair noted his disagreement with the location of the angle of repose and buffer as noted on the Concept Plan for Lots 3 and 4 which if corrected to what GCAC calculated them to be would only allow for a depth of about 20 feet to be built on. A subsequent review of the adjusted angle of repose line and buffer line would only allow for a building envelope of about 8 feet back from the building line at the center and only about 4 feet on the west side of Lot 4. A relatively larger but also small area on Lot 3 could possibly accommodate a rectangular residence about 45 ft. wide and 25 ft. deep which if two stories high would have approximately 2000 to 2100 sf. ft. floor space. At the Nov. 22nd meeting, the Presenter said the angle of repose and buffer lines would be more precise on the final plan. Due to the angle of repose issue, GCAC recommends that if the subdivision is approved that it be for three lots whereby lots 3 and 4 would be combined into one lot affording an opportunity to meet the 100 foot building requirement with the residence on that combined lot being placed closer to the roadway. This would further eliminate one of the curb cuts. As an alternative to this, the Applicant could possibly request a zoning variance regarding the 100 building line which could possibly afford an opportunity for the Applicant to locate the structures on Lots 3 and 4 at a safer distance from the angle of repose. In addition to whatever is required in the February 2012 Court case regarding remediation of the effects of the tree cutting and excavation on the property, GCAC recommends that appropriate landscaping and necessary reforestation take place to stabilize the rear portion of the property. A stormwater management plan needs to be provided by the Applicant. Special emphasis needs to be placed on solving the drainage and erosion problem with next door neighbor to the south west on Fletcher Road. Since most of Lot # 1 is to the rear of residences on Fletcher Road and Blockhouse Creek Court, a buffer of trees should be considered for privacy of both those neighbors as well as that of those residing on Lot # 1. Planning Board may wish to explore further the question of whether or not a portion of the property has a forever wild provision.

A couple other areas of concern if the property is developed are (1) the location of the overhead power lines which may need to be moved to accommodate the residences. (2) Also, while on the site, GCAC took a look at the Town's storm sewer drainage ravine on the east side of the Applicant's property and found it to be in a possibly dangerous condition. The east side of the ravine is very steep and shows signs of erosion with the tree(s) along the top in a precarious position. A view of the west side of that ravine is almost as bad. It may prove to be advisable for the Town to either put up warning signs or a fence to deter the public from walking near the edge of this area. As to the angle of repose provision in the Town Code, a question arises as to how long this has been in existence since the adjacent property across the creek is so close to the top edge of the ravine.

Submitted by: _____

John G. Wemple, Jr. - Chair

INSPECTION DETAILS

Applicant(s): Veli Hysenllari

Address: 49 Fletcher Rd., Albany 12203

Background: Within the past year, GCAC first became aware of this property in December 2010, when a concept presentation of a proposed three lot subdivision was scheduled for January 10, 2011. A week prior to the presentation, GCAC was notified that the owner of the property, James McGinnis, had just died and his widow requested that a hold be put on the application for subdivision. Current Application for Subdivision was signed September 28, 2011 by the current owner. GCAC meeting was scheduled for October 17th at which time Surveyor Christopher Meyer, was to make the presentation. On October 17th, GCAC met as scheduled. Since neither the Applicant nor the Presenter appeared, a small group of concerned neighbors requested that they be given an opportunity to meet with GCAC. Permission was granted. GCAC Chair phoned the Applicant and the Presenter. Applicant answered the phone, had thought the GCAC meeting had been canceled but said he was willing to come to the meeting. Message was left for the Presenter, who was reportedly out in the field, but he did not return the phone call. Shortly after speaking to the Applicant, his daughter, Alida, phoned the GCAC Chair and agreed that in the absence of the Presenter, she would come to the meeting and try to make the presentation herself. She arrived followed shortly thereafter by her father, the Applicant, who agreed that the daughter could make the presentation. The daughter attempted to make a presentation, but due to the fact that she was limited in her knowledge of some of the aspects of the property, it was subsequently decided that the presentation should be rescheduled for the November meeting at which time the Presenter, Christopher Meyer would be present.

At the October 17th meeting, the Applicant and his daughter noted that the property was bought by the applicant but they didn't seem certain of just when; similarly, they were not certain of just when the trees on the property were cut down. On the issue of trees being cut down, they claimed that they were told by the Town Building Inspector that they didn't need a permit to cut them down. This has not been verified. Subsequently the extent of tree removal and disturbance to the property necessitated the Applicant being ticketed for a Town violation for which he had a court date of Monday, Oct. 17th – the same day as the GCAC meeting. As to the purchase of the property, the initial answer to this question was almost a month; but since the mortgage was signed on July 21st, Applicant has owned it at least since that date. Besides his name being on mortgage, the other mortgagors are Mevlude, Monica and Alida. The Applicant presently lives on St. Joseph Terrace. Plan is reportedly to add three 2200 to 2400 sq.ft. single family homes of to the Fletcher Road property. According to Alida, Lot 1 would be for her brother, Lot 2 where the existing residence is located would be for her parents, and Lots 3 and 4 would be for the sisters. Answers to GCAC's questions related to the topography etc. were from the Applicant, his daughter or a combination of both. According to them, the slope up from the creek is gradual; the southwest portion of the property (Lot 1) is flat; on the right (Lots 3 & 4) go up and down. Applicant claims he stopped having the trees cut down around September 14th or 15th. They refer to the soil as sandy. Due to the violation related to drainage, they said they were preparing what the Town needed which was due November 14th. They were advised by GCAC to get in contact with the Town regarding water and sewer hook ups. Alida didn't see any negative visual impact resulting from the development of the property. She also indicated that there are no endangered species on the property that she knows of. They also do not know of the property having anything of historical significance. Plan includes tearing down an existing garage to make room for the driveway for Lot 1. Concerns of neighbors who were present at the Oct. 17th meeting are as follows: Applicant started cutting down trees immediately after buying the property; despite

the need to submit a plan due to disturbance of an acre or more resulting in a stop order, Applicant continued sneaking in at 6AM. This neighbor said Applicant got three violations, she has photos of the result of the tree cutting which covered two acres. Applicant reportedly has a short SEER form rather than a full environment assessment. She felt the review should be more stringent and that the Applicant is running roughshod over the process and has made it more difficult to do an environmental assessment. She further raised the issue that a portion of the property might be already designated as “forever wild”. She further noted that some of the soil has been removed and that a full environmental assessment be done. Next door neighbor to the southwest noted that there is an existing drainage problem that predates the current subdivision application. She noted that there was a drain that directed water onto her property and that the problem was partly rectified by the construction of a wall, but this solution has not been satisfactory since water now comes over the top of the wall. Other concerns of the neighbors include the fact that due to the amount of tree cutting the privacy afforded by the wooded area has been compromised since you can now see the apartment building on the other side of the ravine; and where did the trucks with the soil go that went down Sheppard Ave. around July or August. The curb cuts for Lot 3 and 4 may also be an issue due to speed of traffic and lack of sight distance.

At the November 21, 2011 presentation, at which a dozen concerned Town residents attended, concern was again raised regarding the driveways as well as the width of the lots at the roadways. In response to the width of the lots at the roadway, Presenter's answer was that under NYS regulations or guidelines the width only needs to be 20 feet. As to the contention that the property may have a “forever wild” restriction, the Presenter read the restrictions in the deed which did not include “forever wild”. A concern regarding flooding was again raised. Next door neighbor on the southwest side is concerned regarding an existing drainage problem whereby stormwater accumulates next to the garage and then floods over a retaining wall onto her property. Presenter made note of this problem and will attempt to premeditate it in the plan. At the time of the Nov. 26th site visit, Presenter was of the opinion that with the removal of the garage there is a possibility that a plan might be developed to direct the storm water to a possible catch basin to the north west of where the garage is now located.

Topography: Application for subdivision notes steep slopes and that there is a steep embankment that leads to a stream at the rear of the property. Presenter noted the property is relatively flat but at the rear there is a slope down to the Creek.

Since the rear of the property abuts Blockhouse Creek, the notable drop in elevation leading down to the creek necessitates the need to consider the **Angle of Repose** and the required thirty foot **Angle of Repose Reserve Setback**.

A review of the contour lines on the Concept Plan show the creek to be at an elevation of approximately 200 feet Above Mean Sea Level (AMSL) and the upper areas where the building envelopes are planned at approximately 238 to 244 feet AMSL. On **Lot # 1**, the line drawn on the Plan appears to be correct near its upper boundary line where the slope extends further into the lot. Otherwise, the slope is at approximately 14 or more degrees at the angle of repose line on the drawing. Near the southwest edge of this lot, the angle of repose line needs to be moved about 30 feet more away from the ravine. Likewise, about one third of the way in from the southwest boundary, this line needs to be moved about thirty feet further away from the ravine. At the middle of the line, it needs to be moved about twenty-four feet inward to the southeast. Even if the angle of repose line and buffer are moved forward toward the front of the lot, there appears to be more than sufficient space to accommodate a residence on Lot 1.

On **Lot # 2**, the placement of the existing residence is at a considerable distance from the buffer line and poses no problem. On **Lot # 3**, the angle of repose line on the east side needs to be moved about forty feet to the south east; but to a lesser amount toward the west side where there is a need to move the angle of repose line about twenty feet to the south east. Thus, if the front of the residence is at the 100 ft. building line, the depth building envelope would be limited to about 25 feet on the east side and about 47 feet on the west side. On **Lot # 4**, the angle of repose should be approximately fifty feet to the south of that which is drawn on the Concept Plan resulting in the thirty foot buffer being close to the 100 ft. building line. Result would limit the depth of a residence to zero depth on the east side and about 12 ½ feet on the west side. Therefore, due to the angle of repose and the required 100 ft. building line, it may be necessary to combine Lots 3 and 4 into one lot in order to provide sufficient space to accommodate a residence. The angle of repose for Lots 3 and 4 were discussed with Presenter at the Nov. 22nd meeting and again during the Nov. 26th site visit and he noted that the calculation thereof will be done more precisely. This in turn could result in a different set of lines than those determined by GCAC as well as the Presenter.

At time of Nov. 26th site visit, it was noted that except for the deep ravine leading down to the creek, much of the property is relatively level although on Lot 1 near the at the rear of the property of the neighbor(s) on Blockhouse Creek Court the elevation noticeably drops down about 3 to 4 feet toward Applicant's and there is hole which needs to be filled in. On Lots 3 and 4 the elevation rises up from the roadway to the approximate area of the building sites and than goes down a bit before it meets the top of the ravine.

Vegetation/Trees: The proposed three new lots had been covered with many trees. While the applicant or owner felt that 90 % of the trees were pine with the remainder being oak, one or more of the concerned neighbors contended that there were more oak. Presenter further noted that trees included mature pine and that a good 20 % are left. Applicant's daughter, Alida, noted that they “didn't cut trees just to cut trees”. As to the cutting, at the Oct. 17th meeting, Applicant claimed that tree cutting stopped around Sept. 14th or 15th which is about two weeks prior to his application for subdivision. As proof of the large volume of trees cut down, on Oct. 17th, one of the concerned neighbors did provide GCAC with copies of photos of some of the area where trees were removed and of the piles of logs near the the existing driveway. At time of November 26th site visit, GCAC saw first hand the piles of logs as well as piles of smaller branches or brush which were cut down. It was noted that there were approximately 32 tree stumps on the general area of Lots 2, 3 and 4, most of which were on the planned building area and the area leading up to Lots 3 and 4. On Lot 1, there were only a few trees cut down which would accommodate the driveway leading to the building site. It appeared to GCAC that the only trees cut down were oaks and only the pines were standing. While GCAC did not inspect every stump, certainly the logs piled up were mostly if not all oak and all the stumps noted were also oak. It was also noted that most of the logs piled on the property appeared to be cut at lengths for selling indicating a possible logging operation. Futhermore, trees were removed significantly beyond where the potential buildings are proposed and beyond the angle of repose which could significantly weaken the soil. As the Presenter acknowledged during the November 21st meeting, the soil is “mostly loamy sand, and prone to slippage”.

Soil: Presenter noted that much of the property has HuE soil with a 25 – 45 percent slope. Using the website websoilsurvey.nrcs.usda.gov, the following three soils were identified as being on this property: Colonie loamy fine sand, 0 to 3 percent slopes (CoA); Colonie loamy fine sand, rolling (CoC): and Hudson silt loam, 25 to 54 percent slopes (HuE). Using the information

on the websoilsurvey site, it was determined that soil on most of Lot 1 is HuE except for a small area of CoC at its south west corner and stripe about 40 to 50 feet wide along the front portion starting about 50 feet from the south west corner northward along the rear of the neighbors to the south east and on the area of the proposed driveway for that lot. Lots 2 and 3 have HuE soil on the area to the rear of a line drawn approximately 200 feet from the roadway. This same line extends across Lot 4 but on a slight angle to 250 feet on the east side of that lot. To the rear of this line the soil is HuE. Soil to the front of this line on Lots 2, 3 and 4 is CoA.

Using information found in *Soil Survey of Albany County, New York* by James H. Brown (1992), the following is a brief description and some of the limitations of these soils.

(CoA) Colonie loamy fine sand, 0 to 3 percent slopes. This nearly level soil is very deep and well drained to somewhat excessively drained. The seasonal High water table in this Colonie soil is at a depth of more than 6 feet, but it can fluctuate to a depth of 3 ½ feet for very brief periods in early spring. Depth to bedrock is more than 60 inches. Permeability is moderately rapid to rapid. The available water capacity is low, and surface runoff is slow. This soil is well suited to cultivated crops. It is among the best suited in the County for food and fiber production. This soil is also well suited to pasture. The author notes that this soil has no limitations on sites for dwellings and for roads and streets. He further notes that droughtiness is a problem for establishing and maintaining lawns and shrubs. The main limitation affecting the use of this soil as a site for septic tank absorption fields is a poor filtering capacity. Permeability in this is moderately rapid or rapid, so the soil is a poor filter of effluent from septic tank absorption fields. Consequently, ground-water contamination is a hazard. A specially designed septic tank absorption field or an alternative system will properly filter effluent. Other soils that have a moderate permeability rate are better suited to this use.

(CoC) Colonie loamy fine sand, rolling (CoC) is a rolling soil which is very deep and well drained to somewhat excessively drained. Slopes range from 8 to 15 percent. The seasonal high water table in this Colonie soil is at a depth of more than six feet, but it may fluctuate to within 3 ½ feet of the surface for very brief periods in early spring. Depth to bedrock is more than 60 inches. Permeability is moderately rapid or rapid. The available water capacity is low, and surface runoff is medium. The main limitation of this soil on sites for dwellings with basements is the excessive slope on rolling topography. Designing dwellings to conform to the natural slope or landscaping helps overcome this limitation. The main limitation of this soil for local roads and streets is the slope. Grading and excavation costs are higher than in lesser areas of Colonie soils. Constructing roads on the contour wherever possible or landscaping and grading help overcome the slope limitation. The main limitation affecting the use of this soil as a site for septic tank absorption fields is a poor filtering capacity. The soil has moderately rapid or rapid permeability and so is a poor filter of effluent. Consequently, ground-water contamination is a hazard. A specially designed septic tank absorption field or an alternative system will properly filter the effluent. Other soils that have a moderate permeability rate are better suited to this use.

(HuE) - Hudson silt loam, 25 to 45 percent slopes. This steep soil is very deep and moderately well drained. The seasonal high water table is perched above the clayey subsoil at a depth of 1 ½ to 2 feet between November and April. Depth to bedrock is more than 60 inches. Permeability is moderate or moderately slow in the surface and subsurface layers and slow to very slow below. The available water capacity is high. In many areas along large streams, the soil is susceptible to landslides and slumps. The main limitations on sites for dwellings with basements are the seasonal high water table and the slope. The author again notes: In many places the soil is also susceptible to landslides and slumps. The author notes the included soils in this unit and nearby soils that are less sloping are better suited to this use. Main limitations for local roads and streets are the frost-action potential, low strength, and the slope. Roads should be planned, where

possible, to avoid this soil. The main limitations affecting the use of this soil as a site for septic tank absorption fields are the seasonal high water table, the slow percolation, and the slope. Also, effluent moving into the soil from distribution lines can make the hillside more unstable and cause landslipping. Other less sloping soils are better suited to this use.

Drainage/Wetlands: According to Presenter, the property is fairly well drained and he noted that drainage should not be a problem if properly done. As noted above, the Presenter will attempt to correct the problem of water draining onto the property to the south west on Fletcher Road. There is significant erosion already near the rear north corner of this neighbors residence which appears to be partly from the gutter downspouts and possibly from drainage off the Applicant's property. It was observed by GCAC that the natural drainage between these two properties between these two properties towards the ravine may have been previously disrupted. At the rear of the property the natural drainage is toward the Blockhouse Creek which flows south west to the Kaikout and Hunger Kills which in turn flow into the Normans Kill. GCAC noted the need for the plan to include a plan for Stormwater Management.

Septic/Wells: Plan noted on the Application is for the subdivision to hook up to Town water and sewer.

Visual Impact: Presenter feels that the development of the property will fill in the area similar to the others in the overall subdivision. At the Nov. 21st Meeting He did review maps of the area in his presentation showing how the neighborhood was subdivided years ago. While the present condition of the property, notably on the areas of proposed Lots 3 and 4 and to the rear of Lot 2, may give a negative impression due to the premature cutting and clearing with piles of logs awaiting removal, the overall plan, if done properly, should not pose much of a negative visual impact. The addition of appropriate trees and landscaping as a buffer should negate the open view as it now appears. At time of the Nov. 26th site visit, particular attention was give to the view toward the other side of the creek. Admittedly a small portion of the apartment building on the other side of the creek can be seen but not to a large extent.

Endangered Species: According to the Presenter, there are none. None were observed at time of Nov. 26th site visit.

Historical Considerations: According to the Presenter, he doesn't believe there are anything of historical significance. None were observed at time of Nov. 26th site visit.

Submitted by: _____

John G. Wemple, Jr. - Chair