

**TOWN OF GUILDERLAND  
PLANNING BOARD**

**November 10, 2010**

Minutes of meeting held Guilderland Town Hall, Route 20, Guilderland, NY 12084 at 7:30 P.M.

PRESENT: Stephen Feeney, Chairman  
Paul Caputo  
James Cohen  
Theresa Coburn  
Michael Cleary  
Thomas Robert

Linda Clark, Counsel

ABSENT: Kimberly Jones, Jan Weston

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Chairman Feeney called the meeting to order at 7:30 p.m. He noted the exits for the sake of the audience in the event they were needed.

Chairman Feeney asked for a motion to approve the minutes of \_\_\_\_\_, 2010 and the motion was made by \_\_\_\_\_ and seconded by \_\_\_\_\_ and carried by a \_\_\_\_\_ vote by the Board.

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**LUSTIG – 1467 Western Avenue**

Chairman Feeney announced that this was a site plan review to allow a yoga studio in the existing building. Tom Andres presenting.

Terry Coburn read the comments of the Planning Department as follows:

The applicant is requesting a special use permit to be able to use a portion of the building as a yoga studio. The site is on the northeast corner of Western and Fuller Road and has long been used for professional offices. The main concern is parking.

- The buildings at 1465 and 1467 are jointly owned and the parking is accessible from both sites. A shared access and maintenance has been submitted.
- The 13 spaces along Fuller Road are partially located in the Fuller Road right-of way and permission to use them has been obtained from the County.
- Further, because the reconstruction of Fuller Road and the addition of a sidewalk, the area will be restriped to allow for angled parking and six spaces will be lost.

My only comment is that a professional office has clients who are staggered over time. A yoga studio will have an entire class arrive at about the same time. I have no objection to the application if the Zoning Board determines that the available parking will meet the needs of the existing and proposed uses.

Tom Andreas, ABD Engineers & Surveyors presenting: This is a proposal for a yoga studio. It is approximately 700 square feet. This is not like a gym. This only works under schedule class time. Most of the class time will be schedule early evenings to late evenings. Class size will be maximum 10 people. I believe that you have in your packets copies of the Albany County reciprocal easements and also submitted a list of the different tenants. There is a total of 51 total spaces and a few spaces was lost because of the change of the 90 degree angle. The county took some of that area for a sidewalk.

Michael Cleary said that there is no angle parking now. I live around there and there are 13 spaces.

Tom Andrea said that the county came in the other day and stripped them. Up to that point there was all the spaces.

Tom Andrea stated: Along with the plan, we showed that the plan corresponds with what was approved by the County. It is part of the county's contract to do that stripping at that angle.

Chairman stated: They are not at a 90 degree but they are close to a 45 degree.

Chairman stated: My concern is not so much the number of spaces but the circulation pattern.

Mr. Andreas explained: The arrows will be placed plus the signage and will be clearly marked as a one-way.

Chairman asked about the entirety of the site. You have as little as little as eight or nine feet of access between a parked car and a curb. As a suggestion, you need to get a better control of traffic all the way through the two sites.

Mr. Andrea said there has not been that much of a problem.

There was further discussion about the parking spaces and the orderly circulation pattern for both sites.

Mr. Andrea said that we certainly don't have any objection to looking at it when we do the stripping and will look at doing some arrows and look at some signage and try to direct coming in off of Western.

Todd Adam??, Icon Realty Group, explained ways for traffic to come in and out.

Chairman asked for any comments from the audience and there were none.

Don Reid, 5 Norway Street, mentioned that the parking is a mess and it does function however. My concern is the overflow parking and concerned about the cars parking along that alley that runs from Elwood through to Fuller Road is sometimes used for parking and should not be used.

Michael Cleary wanted to know if that common alley has a No Parking sign on it.

Chairman was willing to make a motion for Lustig – 1467 Western Avenue, and recommended with the following condition:

- Consideration be given to clearly establishing an orderly traffic circulation pattern for both sites consistent with the restricted available space.

The motion was seconded by Michael Cleary and carried by a 6-0 vote by the Board.

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**NOVAK – 820 Greenthorne Blvd.**

Chairman Feeney announced that this was a request to amend the Haven Hills final plat by altering the approved safe building line. Zoned R20. Ruth Novak presenting.

Terry Coburn read the Planning Department comments as follows:

The applicant would like to build an addition to an existing house in the Haven Hills subdivision. The proposed addition will encroach over a safe building line that was established in 1987 and therefore, the applicant is requesting to amend the final plat by amending the previously approved safe building line. of this subdivision.

In 1986 the Planning Consultant wrote:

“When the Town’s Zoning ordinance was amended to include the section on preservation of slopes by the 12 degree angle of repose, the proviso was intended as an admonition rather than a prohibition. Thus, where a developer considers the definition of slippage-prone land by means of the angle of repose, to be too restrictive and punitive, he is entitled to prove otherwise by means of soil survey. The applicant has done this. A new line beyond which construction cannot take place has been established by the Slope Stability Evaluation Report prepared by Empire Soils Investigation and Thomson Associates”.

The approved subdivision plat shows both the angle of repose as defined by ordinance and the safe building line as defined by the submitted soils report. The present applicant has now submitted another soils report which indicates that the safe building line can be amended to accommodate their proposed addition.

The amended line is still outside the required 100 ft. buffer from the wetland areas and also from the stream that has been culverted. A visual inspection of the property shows

that the land is generally flat for some distance from the proposed building. I have no planning objections to the final plat amendment.

Ruth Novak presenting: We would like to add a first floor master bedroom on that side of the house.

Chairman Feeney stated: I am looking at a study done by Daniel Loucks, P.E., dated October 6, 2010, and he has established a new line, but does have conditions with that. Are you aware of those conditions as far as the final grading should be review and no fill be placed and so on?

Ms. Novak said that she is aware of that. We are only going out 20 feet from the edge of the existing house and still allows a good buffer to the beginning of the slope down to the culvert.

Chairman asked if you are going to the tree line and Ms. Novak said no they are not.

Chairman added: The way this Board reviews it, is that since it was a condition of the Planning Board back in 1987, that we would need to amend that, quote, unquote, originally established a safe building line based on the study by your consultant. I don't know how it is viewed at the building department as to whether you need a variance or not.

Chairman stated: We are going to take the position that if we decide to amend, our role is to amend a safe building line. If the Zoning Department decides that no variance is necessary, based on our action, then so be it.

Chairman mention also that you need to be aware of the conditions that need to be done. The final grading plan, the fill and so on and so far. Things need to be followed to make sure that it does remain safe.

Linda Clark, Counsel, stated: You have to understand that you are undertaking this study. This is something that you are doing on your own relying on their experts of your own consultants and this board is not in a position to review or second guess advice or opinions that you were given by your engineers.

Thomas Robert added: We have to take what the professional engineer has made the determination. We cannot make or agree to that determination. We can only say that the professional engineer has asserted that. If the house slips down, it will not be the town's fault but it will be your responsibility.

Chairman asked for any comments from the audience and there were none.

Chairman asked if the Board was comfortable with amending the final plat to the safe building line.

Chairman asked for a motion to recommend and amendment to the safe building line condition upon: Done in accordance with the recommendations with the opinions recommended of the applicants engineer, Daniel Loucks.

Michael Cleary made the motion based on the engineer's recommendations, seconded by Paul Caputo and carried by a 6-0 vote by the Board.

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#### **Mill Hill Phase 4**

Chairman Feeney announced that this was a presentation of a new proposal for Phase 4 of the Mill Hill PUD to include an Assisted Living facility and professional office building.

Terry Coburn read the comments of the Planning Department as follows:

The applicant has presented plans for a modified version Phase 4 which was originally approved as a 160 bed nursing home and 12,000 sq. ft. professional office. The proposed plan calls for 142 bed assisted living and 6,000 sq. ft. of office. The plan complies with the original PUD language and no modification to the law establishing the PUD is required.

At this point the applicant is looking for a general acceptance of the concept before going to the final design stage. My only comments are that all new stormwater management regulations must be met in the final design and that there should be a pedestrian connection to the entrance road sidewalk and Stewarts.

Stuart Markowitz presenting: This is the Phase 4 site of the Mill Hill Development. The Phase 4 parcel was originally approved for a 160 bed nursing home and a 12,000 square foot professional office building. Our proposal for the site has been amended to provide for a 142 bed Assisted Living facility and a 3,000 square foot professional office building. We reduced the size of the office building and the bed count on the facility.

This site is really not much different from the original plan. The residential facility on the northern end and the office building on the southern end at the corner of State Farm Road. I have met with Ms. Weston and made sure that the Planning Board had a chance to see the plans before we came in.

Chairman stated: There is no action from the Board tonight and it is just a presentation. It is consistent with the revised PUD law and my only question is: The PUD law does allow for a 12,000 sq. ft. office building but you don't want it. Is that correct?

Mr. ?????? Markowitz explained: It called for a 150 parking spaces on site. The way I read the local law for this project, it said that 12,000 sq. ft. office building had 80 parking spaces. As I read the ordinance, I saw that it was one for every 150 sq. ft. of space plus staff. I am not sure that the original approval counted for that, so we reduced the size of the building.

Chairman asked if you really need this much parking space to service the facility.

Mr. Markowitz explained that he did it based on the code.

There was further discussion on the parking.

Chairman stated: We may recommend that you consider banking some of them. We will also want to see some internal pedestrian accommodations and will need a larger site plan showing a pedestrian connection to the entrance road sidewalk and Stewarts and sidewalks along the existing living facility

Chairman added: The parking spaces on the west, is that right on the property line?

Mr. Markowitz said there may be some but we are also making sure that we stay clear of the wetlands as well.

Michael Cleary only concern was the assistant living facility is very different from the existing nursing home and different from what you had proposed in the past. I wonder why it does require an amendment to the PUD law itself.

Chairman stated: I believe this is consistent with the amended law.

Mr. Markowitz explained that it meets the existing zoning

Terry Coburn mentioned that I understood that with the PUD you are suppose to have mix use, now we are going to end up with two assistant living facility. Why did you change from the skilled nursing facility that was proposed for this site.

Mr. Markowitz explained that about 2/3 s of the project is now constituted would be what the state calls special needs or memory care.

Chairman added: that it was amended back in 2006, amending the law of 1993.

Linda Clark, Counsel, stated: None of those amendments really relate to this phase. Therefore we have to go back to the original PUD law and to make sure it is consistent.

Chairman also explained that there has been numerous amendments.

Chairman basic comment are: Do you really need that much parking for a 6,000 sq. ft, building and will need to see pedestrian accommodations and maybe you can accommodate a larger building.

Linda Clark, Counsel stated: The only comment that I have relating to the changing in use is the parking for the residential assisting living. It is quite remote.

Chairman asked for any more comments from the audience.

Donna Sickler, Executive Director of Atria Guilderland, wanted to comment her

objection to assistant living facility being built practically in our back yard. When Atria purchase the property the plan was to have a continual care. The idea was to have a retirement community. It does go against what the original intent was of the plan. Also, a 142 bed facility is an incredible large facility. This will be the largest in this area. I would also like to comment that Albany County is essentially over bedded. You will really need to look at the staffing ratios and the amount of parking available.

Linda Clark, Counsel, stated: I think that what you are describing there is some disappointment that the overall plan of what is going to be there has changed in a way that is maybe problematic for a competitive point of view. Are there any contractual covenants or agreements that you are relying on to sort of control or influence what type of facility goes into this.

Chairman asked if these facilities are all licensed by the Department of Health and do they look at some of the issues that you have raised?

Ms. Sickler explained: Hopefully that someone who is the operator like Atria, has a member of good standard.

There was further discussion about what the law says.

Chairman stated: We do need to look at the law and alternately it is a town board decision in some ways. I assume since it was here, the town staff has already taken a look at it. My question is do you go to the state with a schematic like this saying we basically are looking for a license for 142 bed facility and do we wait for that confirmation or do we not to insure that what we are looking at is something that has been approved.

Linda Clark, Counsel, explained: What they are looking for is sort of a general plan so that they can go to the next step and invest the money.

Mr. Markowitz added: We will be doing it on the current basics. It takes a lot of time. Assuming that we have the confirmation that the use is alright. We will start our civil engineering work and further design work and come back to you for the amended site plan. At the same time we will be preparing our professional drawings as well as the whole wrath of financial legal submittals to the Department of Health.

James Cohen wanted to know if you were going to be the developer.

Fred Straw said that we are the developers. This site we particularly like because of the 55 and older

Terry Coburn read parts of the original Law it states that the density limitation shall apply to the PUD and the Planning Board is directed to apply the limits in its site plan approval process. In RAH, a residential adult home is limited to 100 beds.

Chairman stated: That is why I was wondering which classification it is. These things will need to be worked through. The number of units will control what you design.

Chairman added: You will need to make sure that it is consistent with the law as the Town Board understands.

Linda Clark, Counsel, also mentioned that you should consider is to make a case for why you fit in to the existing law.

Chairman added: We try to address the parking needs, and we do have a provision for banking those, and you will need to comply with the stormwater requirements that will be reviewed by the TDE, and are looking for pedestrians accommodating site, and how it all relates to the adjoining site and lines up appropriately.

Donna Sickler stated: another issue is that main drive that comes up across Stewarts and the property is right across.. Right now we have been solely maintaining that and we recently learn during the development of the senior housing project that Stewarts is suppose to be contributing 8per cent to the maintenance of that. There will be a need for discussion of the road maintenance agreement.

There was no decision made and they will have to look into the original PUD law.  
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#### **SITE REVIEW – Doyle – 2563 Western Avenue**

Chairman Feeney announced that this was a site plan review to use a vacant space at the Park Place Plaza for “Mommy and Me” classes. Saydra Doyle presenting:

Chairman stated that this is a late addition to the agenda. It is a change in tenant at the Park Place Plaza. Jan Weston, Town Planner, had 3no planning objections. It is just a change in tenants.

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Chairman entertained a motion to recommend the new use of space at the Park Place Plaza, 2563 Western Avenue, so moved by Michael Cleary, and seconded by Thomas Robert and carried by a 6-0 vote by the Board.

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#### **SITE REVIEW – Harrington – 6132 State Farm Road**

Chairman Feeney announced that this was a site plan review for an in-law apartment. Zoned R-15. Jeffrey Harrington presenting.

Chairman added that Jan Weston, Town Planner, had no objections contingent on the applicant adhering to all the conditions of the in-law apartment law.

Jeffrey Harrington presenting: There is an existing garage with storage space above it and would like to convert it into an in-law apartment. The apartment shall be occupied by our son. Professional engineers and surveyors have designed, drawn, and submitted plat



plans. This special use permit shall be in compliance with any and all Town of  
Guilderland zoning and building department regulations, and any and all Albany County  
and New York State regulations.

Chairman entertained a motion to recommend the in-law apartment at 6132 State Farm  
Road, so moved Terry Coburn, and seconded by Michael Cleary and carried by a 6-0  
vote by the Board.

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**LUSTIG - 1467 Western Avenue**

**NOVAK – 820 Greenthorne Blvd.**

**MILL HILL – State Farm Road**

**DOYLE – 2563 Western Avenue**

**HARRINGTON – 6132 State Farm Road**