

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
APRIL 6, 2016**

Members Present: Thomas Remmert, Chairman  
Sharon Cupoli  
Sindi Saita  
Gustavos Santos  
Janet Thayer  
Laura Barry, Alternate

Absent: Jacob Crawford

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Chairman Remmert stated that there will be a new deadline for submitting materials for meetings; exactly one week prior to the meeting.

**CONTINUED CASES:**

**MATTER OF YANYUN XIE – 2020 WESTERN AVENUE**

Vincent Gagliardi, owner of the property, presented the case. Mr. Gagliardi presented the applicant's DOS license to practice, and noted that the quantity of the parking spaces is no longer an issue.

Chairman Remmert read portions of a letter from a neighbor regarding her concerns with the hours of operation, the upkeep of the landscaping and lighting and signage.

Mr. Gagliardi stated that a piece of lattice has been installed in the location where new bushes will be planted to hide headlight beams from adjoining parcels. Mr. Gagliardi also stated that the 10pm closure time would be the worst case scenario.

Chairman Remmert asked if the applicants would have any objection if the closing time was moved back to 8:00pm.

Subin Gu, the applicant's consultant, had concerns that restricting the closing hour will restrict the applicant's ability to provide service to customers after standard work hours. He stated that MezzaNotte also utilizes the parking lot until 10:00pm and promised to try to not disturb the neighbors during late hours.

Chairman Remmert stated that historically this building has had operating hours until 5:00pm.

The Board discussed the operating hours and thought 9:00pm would be a fair closing time.

Chairman Remmert asked if there were any questions or comments from the residents. There were none. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

Chairman Remmert made a motion of non-significance in this Unlisted Action:  
“This Board has conducted a careful review of this application to determine whether the granting of an amendment to Special Use Permit #28-83 to permit the use of an existing doctor’s office as a beauty salon/spa would have a significant impact upon the environment. This review consisted of the review by this Board, the conducting of the public hearing, the comments provided to the Board by the Town Planning Board, the Town Planner and the Albany County Planning Board. Based upon this review, I would move that a negative declaration should be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

Chairman Remmert made a motion for approval of:  
**Amend Special Use Permit #28-83/Request No. 4563**

Request of **Yanyun Xie** for an amendment to Special Use Permit #28-83 under the Zoning Law to permit: **the use of an existing doctor’s office as a beauty salon/spa. All site characteristics are pre-existing.**

Per Articles **III & V** Sections **280-19 & 280-52** respectively

For property owned by **Victor Gagliardi**  
Situated as follows: **2020 Western Avenue Albany, NY 12203**  
Tax Map # **51.07-2-46** Zoned: **BNRP**

In rendering this decision, the Board makes the following findings of fact:

A public hearing was duly noticed and held on February 2, 2016 and continued to today. Notices were mailed to 55 neighboring property owners. Two people offered written comments regarding the 10pm hours of closing, lighting and maintenance of landscaping.

The Board adopted a negative declaration under SEQRA by a unanimous vote.

In a memorandum dated February 11, 2016, the Town Planner had the following comments: “The applicant is seeking a special use permit to use a portion of the existing building as a beauty salon and spa. The building, on the corner of Western and Cornell Avenues has formerly been used as medical offices and there is one apartment in the building.

The site plan shows 35 parking spaces. The applicant states that their salon hours will be from 10am to 10pm and that there will only be 2-3 employees. The employee counts seem low for this size building and the use, but the bigger issue is that the adjacent restaurant, Mezza Notte, has a 15 year lease to use this parking lot after 5pm. The Zoning Board needs to determine whether the parking will be adequate to meet this conflict in evening hours. In addition, if the parking lot is now required to have nighttime

lighting, a plan should be submitted to insure that adjacent neighbors will not be impacted.

No planning objection if the above issues are adequately addressed.”

The Town Planning Board’s site plan review was to recommend with the following conditions: 1) Modify site plan to more clearly identify: the portion of the building to be occupied by the salon; identify the other tenants in the building; and, the parking lot layout and number of existing spaces. 2) Employees shall be licensed as required by NYS. 3) No parking for the business permitted on Cornell and Sumpter Avenues.

Albany County Planning Board’s notification was to defer to local consideration with an advisory note: The Town should ensure that there is enough parking on site for the proposed use.

In response to these comments, the site plan has been revised as recommended by the Town Planning Board. Also, no additional lighting is proposed.

The business will have no more than three employees. As such, the provision of 35 parking spaces appears to be adequate for the proposed spa and the needs of the MezzaNotte Ristorante under an existing lease.

In ***granting*** this request, the Board imposes the following conditions:

Adherence to the revised site plan and the representations of the applicant.

There will be no more than three employees.

Hours of operation will be from 10am to 9pm Sunday through Saturday.

Employees will be licensed as may be required by NYS Law.

Neither employees nor customers will be allowed to park on Cornell and Sumpter Avenues.

Snow removal will be kept to the extent it maintains the parking spaces and removed off site if necessary.

The building owner will work with Jackie Coons on the landscaping.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

**NEW CASES:**

**MATTER OF FRANCINE SADOWSKI – 25 ABLEMAN AVENUE**

Sindi Saita read the legal notice:

“Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will hold a public hearing pursuant to **Articles III & V** of the Zoning Law on the following proposition:

**Variance Request No. 4570**

Request of **Francine Sadowski** for a Variance of the regulations under the Zoning Law to permit: **the construction of a family room addition within the required side yard setback. A 15ft setback is required, 11ft is proposed.**

Per Articles **III & V** Sections **280-14 & 280-51** respectively

For property owned by **Francine Sadowski**

Situated as follows: **25 Ableman Avenue Albany, NY 12203**

Tax Map # **51.16-1-7** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6<sup>th</sup> of April, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 24, 2016**”

The file consists of the mailing list to 35 neighboring property owners, the Town’s required forms for an area variance, project narrative, plot plan, and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant is requesting an area variance to construct a residential addition that will encroach 4’ into the required side yard setback. No planning objections.”

John Sadowski stated that he had lived at that address for 40 years.

Chairman Remmert stated that this house is at an angle and there is no better way to accommodate the addition.

Mr. Sadowski stated that was correct.

Chairman Remmert asked if there were any questions or comments from the residents. There were none. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

Chairman Remmert made a motion for approval of:

**Variance Request No. 4570**

Request of **Francine Sadowski** for a Variance of the regulations under the Zoning Law to permit: **the construction of a family room addition within the required side yard setback. A 15ft setback is required, 11ft is proposed.**

Per Articles **III & V** Sections **280-14 & 280-51** respectively

For property owned by **Francine Sadowski**

Situated as follows: **25 Ableman Avenue Albany, NY 12203**

Tax Map # **51.16-1-7** Zoned: **R15**

In rendering this decision, the Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. No residents provided either written or oral comments regarding the application.

This is a Type II Action under SEQRA, not requiring SEQRA review.

The Town Planner had no planning objections to the granting of this request.

The addition is to an existing home built on an angle on a corner lot.

Based on these findings, I move that the Board **grant** the variance with the following conditions:

Adherence to the plans and application as submitted and all representations made here tonight to the Board.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

**MATTER OF KT TREE SERVICE – 3674 CARMAN ROAD**

Counsel Thayer recused herself from this application.

Sharon Cupoli read the legal notice:

“Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will hold a public hearing pursuant to Articles **IV & V** of the Zoning Law on the following proposition:

**Variance Request No. 4569**

Request of **KT Tree Services, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the installation of 6ft high privacy fencing in a front yard.**

Per Articles **IV & V Sections 280-27 & 280-51** respectively

For property owned by **PMC 2013 LLC**

Situated as follows: **3674 Carman Road Schenectady, NY 12303**

Tax Map #**27.14-1-44** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6<sup>th</sup> of April, 2016** at the Guilderland Town Hall beginning at 7:30pm.

**Dated: March 24, 2016**

The file consists of the mailing list to 27 neighboring property owners, the Town's required forms for an area variance including a project narrative and drawings, and the Town Planner's comments.

The Town Planner had the following comments: "The applicant has applied for an area variance for a fence that will be located in a front yard of a corner lot. No planning objections."

Sal Fusco of 3382 Carman Road as the owner's contractor discussed how the front yard of the house is being redesigned to the Whispering Pines side of the lot, justifying the variance.

Chairman Remmert stated that this house is on a corner lot and has two front yards. Chairman Remmert stated that looking at this house it is obvious that the front of the house is on Whispering Pines Way. The fence would be along Carman Road.

Sharon Cupoli asked what type of fence they would be installing.

Mr. Fusco replied that it would be a 6' closed stockade fence.

Sharon Cupoli asked if there would be any landscaping installed.

Mr. Fusco replied that the existing landscaping has been improved since the project began.

Chairman Remmert asked if there were any questions or comments from the residents. There were none. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

Chairman Remmert made a motion for approval of:

**Variance Request No. 4569**

Request of **KT Tree Services, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the installation of 6ft high privacy fencing in a front yard.**

Per Articles IV & V Sections 280-27 & 280-51 respectively

For property owned by **PMC 2013 LLC**

Situated as follows: **3674 Carman Road Schenectady, NY 12303**

Tax Map #**27.14-1-44** Zoned: **R15**

In rendering this decision, the Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. No residents provided either written or oral comments regarding the application.

This is a Type II Action under SEQRA, not requiring SEQRA approval.

The Town Planner had no planning objections to the granting of this request.

The fence will be installed on a corner lot with one side of the lot facing Carman Road.

There are similar fences along Carman Road.

There will be no change in the character of the neighborhood.

Based on these findings, I move that the Board grant the variance with the following conditions:

Adherence to the plans and application as submitted and all representations made here this evening to the Board.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

**MATTER OF LEWIS MCCAULEY – 1 GERTRUDE STREET**

Laura Barry read the legal notice:

“Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will hold a public hearing pursuant to Articles IV & V of the Zoning Law on the following proposition:

**Variance Request No. 4571**

Request of **Lewis McCauley** for a Variance of the regulations under the Zoning Law to permit: **the construction of a new single family dwelling within the required front yard setback on an existing undersized lot. A 25ft setback is required, 12ft is proposed.**

Per Articles IV & V Sections 280-31 & 280-51 respectively

For property owned by **The Estate of Amelia Burnash**  
Situated as follows: **1 Gertrude Street Albany, NY 12203**  
Tax Map # **63.11-1-32** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6<sup>th</sup> of April, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 30, 2016**”

The file consists of the mailing list to 30 neighboring property owners, the Town’s required forms for an area variance, a project narrative, drawings and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant is requesting an area variance to construct a residence on an undersized lot. There is an existing residence on the property that will be demolished and the proposed location of the new house minimized the variances to the greatest extent possible. No planning objections.”

Rob Jasenski, partner of the applicant, presented the case. Mr. Jasenski stated that they are in the process of purchasing this home. There is an existing home on the lot which they would be demolishing.

Chairman Remmert stated that this would be a definite improvement on the site.

Sharon Cupoli asked what the size of the new home would be.

Mr. Jasenski replied it would be a one-story home, about 1300sf.

Gus Santos asked how old the house was that they would be demolishing.

Mr. Jasenski replied he was not sure.

Chairman Remmert stated that Jackie Coons had received one anonymous phone call who was very excited that the old house would be demolished and a new one built.

Mr. Jasenski stated that neighbors had stopped by to express their support for the project.

Laura Barry asked if the driveway would be in the same location.

Mr. Jasenski replied that the driveway would be on the right side of the house. Mr. Jasenski stated that they do have a prospective buyer and they will possibly be adding a garage at a later date.



Chairman Remmert asked if there were any questions or comments from the residents. There were none. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Crawford absent, Barry alternate)

Chairman Remmert made a motion for approval of:

**Variance Request No. 4571**

Request of **Lewis McCauley** for a Variance of the regulations under the Zoning Law to permit: **the construction of a new single family dwelling within the required front yard setback on an existing undersized lot. A 25ft setback is required, 12ft is proposed.**

Per Articles **IV & V** Sections **280-31 & 280-51** respectively

For property owned by **The Estate of Amelia Burnash**

Situated as follows: **1 Gertrude Street Albany, NY 12203**

Tax Map # **63.11-1-32** Zoned: **R15**

In rendering this decision, the Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. No residents provided written comments regarding the application. One phone call was received by the Zoning Office in favor of the project.

This is a Type II Action under SEQRA, not requiring SEQRA review.

The Town Planner had no planning objections to the granting of this request.

The new home will replace an existing structure that is to be torn down.

The plans are consistent with other residences in the area and as such there will be no change in the character of the neighborhood.

Based on these findings, I move that the Board **grant** the variance with the following conditions.

Adherence to the plans and application as submitted and all representations made here tonight to the Board.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Gus Santos. Vote 5 – 0. (Crawford absent, Barry alternate)

**SIGNS:**

The Board approved a sign for **HORIZON SOLUTIONS** at NEIP. Vote 5 – 0.

The Board approved a sign for **Guilderland Food Pantry** at 2291 Western Avenue.  
Vote 5 – 0.

**MINUTES:**

The Board approved the minutes of 2/17/16 and 3/2/16.

The meeting adjourned at 8:20pm.