

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
FEBRUARY 17, 2016**

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

Absent: Gustavos Santos

CONTINUES CASES:

MATTER OF AUTO ZONE – 1771 WESTERN AVENUE

Sharon Cupoli read the legal notice:

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

Special Use Permit/Variance Request No. 4504

Request of **AutoZone Parts, Inc.** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **the demolition of an existing restaurant and the construction of a 7400sf auto parts store in a LB zone. Variances are requested to permit the following: (1) a 3ft side yard setback where 15ft is required (2) a 14ft rear yard buffer where 40ft is required and (3) 30 parking spaces where 54 are required.**

Per Articles **III, IV & V** Sections **280-20, 280-25, 280-51 & 280-52** respectively

For property owned by **Joan Audi**

Situated as follows: **1771 Western Avenue Albany, NY 12203**

Tax Map # **52.09-4-11 & 52.09-4-12.1** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of February, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 8, 2016**”

Chairman Remmert stated that since the last hearing the Board has received additional information which includes a memorandum from Langan Engineering regarding some of the issues brought up at the last meeting, a new site plan and an alternative site plan.

Nathan Kirschner of Langan Engineering gave a brief rundown of the project. Mr. Kirschner stated that the proposed plan is to construct a 7400sf Auto Zone auto parts store with approximately 30 parking spaces. Mr. Kirschner stated that there has not been too much change with respect to the design; the minor changes are landscaping and additional landscaping and snow storage location.

Chairman Remmert asked about the fence in the rear of the property.

Mr. Kirschner replied that is their fence and their plan is to eliminate the fence and replace with evergreens.

Mr. Kirschner stated that the building has been pushed up closer to the street and as far to the left as feasible. There is a significant larger greenspace buffer against the residential zone.

Jake Crawford asked how much closer the new location of the building was to the driveway on the left than the current building.

Mr. Kirschner replied that it will be in approximately the same place.

Jake Crawford asked about the retaining wall.

Mr. Kirschner stated that a retaining wall will be required to transition from the foundation to the adjacent grade.

There was discussion regarding the fire lane. Chairman Remmert stated that he did not think that there were any big issues with the fire department at this time; most of them have been resolved.

Ken Johnson of Delaware Engineering reviewed the plan changes made at his request.

Jake Crawford asked about the snow removal.

Mr. Johnson replied that he anticipates that off site snow removal will be a pretty regular occurrence during a normal winter.

Jake Crawford asked about roof drainage.

Mr. Johnson replied that it would go into the underground detention system.

Chairman Remmert stated he had observed numerous white trucks parked at the Auto Zone in Colonie.

Mr. Kirschner replied the Colonie store is 3 times larger and the trucks are used for deliveries; the trucks will not be parked at this store.

Chairman Remmert asked if there were any policies regarding people working on their cars in the parking lot.

Mr. Kirschner replied that Auto Zone has a policy that you may not work on your car in the parking lot.

Chairman Remmert discussed the side setback variance.

Ken Johnson stated that an agreement for shared access with the car wash was unobtainable.

Chairman Remmert asked if there were any questions or comments from the residents.

Michael Buonagoura of 1773 Western Avenue asked where the building was going to be located.

Mr. Kirschner stated that the front of the building is where the existing Pizza Hut is and does extend further back.

Mr. Buonagoura asked where their new sign would be located. (next case)

Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Santos absent, Barry alternate)

Chairman Remmert stated that he would like to continue this case for decision only.

Mr. Kirschner stated that the applicant is really pushing for a March start date and would really like a decision tonight if possible.

Jackie Coons stated that the Board would also have to continue the next case as well if there is no decision made on this application tonight.

Chairman Remmert made a motion to continue this case for decision only on March 2, 2016. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Santos absent, Barry alternate)

The case of **Tracey Diehl of 1771 Western Avenue** has been continued to March 2, 2016.

MATTER OF ARNOLD AND CAROLINE ADAMS – 7 LENANN DRIVE

Jake Crawford 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:

Special Use Permit/Variance Request No. 4564

Request of Carolyn Adams for a Special Use Permit/Variance under the Zoning Law to permit: **the construction of an addition, including an in-law apartment, with a 13ft side yard setback.**

Per Articles III & V Sections 280-14, 280-51 & 280-52 respectively

For property owned by Arnold J & Carolyn Adams
Situated as follows: 7 Lenann Drive Altamont, NY 12009
Tax Map # 49.00-3-29 Zoned: R15

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 17th of February, 2016 at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 2, 2016**”

The file consists of the mailing list to 20 neighboring property owners, the Town’s required forms for a special use permit, a Short Environmental Assessment Form under SEQRA, the Town Planners comments, the Town Planning Board’s site plan review, a project narrative and a schematic diagram.

The Town Planning Board recommended approval with no conditions or suggestions.

The Town Planner had the following comments: “The applicant has applied for a special use permit to construct an in-law apartment. The addition will also require a 2’ variance from the side yard setback. There is a single width driveway that could accommodate additional parking and the side yard variance is adjacent to a paper street that is unlikely to be developed. No planning objections, however, the applicant might want to consider widening the driveway to allow for multiple cars to have direct access to the street.”

Carolyn Adams, applicant, presented the case. Ms. Adams stated that they are looking to put a two car garage with an in law apartment above it. They would also be raising the roof and adding two bedrooms on the existing home.

Chairman Remmert asked about the paper street.

Ms. Adams stated that it had been there since they have owned the house (over 40 years).

Jackie Coons stated that it is actually not even a paper street anymore; and will never be a street.

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. (Santos absent, Barry alternate)

Sharon Cupoli asked the applicant if they had given and consideration to widening the driveway.

Ms. Adams stated yes; they hope to make it a two-car wide driveway.

Sharon Cupoli asked about the trees on the side.

Ms. Adams stated that they would be coming down.

Chairman Remmert stated that there would be a small variance for the size of the in-law apartment.

Ms. Adams stated that her daughter and her family reside in the home and Ms. Adams and her husband will be occupying the in-law apartment.

Chairman Remmert made a motion of non-significance in this Unlisted Action:
“This Board has conducted a careful review of the application to determine whether the granting of this special use permit/area variance for an in-law apartment will have a significant negative impact upon the environment. In conducting this review, the Board has considered comments provided to us by the applicant, the Town Planner and the Zoning Board’s review of this application. Based upon this collective record, I move that a negative declaration be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0. (Santos absent, Barry alternate)

Chairman Remmert made a motion for approval of:

Special Use Permit/Variance Request No. 4564

Request of **Carolyn Adams** for a Special Use Permit/Variance under the Zoning Law to permit: **the construction of an addition, including an in-law apartment, with a 13ft side yard setback.**

Per Articles **III & V** Sections **280-14, 280-51 & 280-52** respectively

For property owned by **Arnold J & Carolyn Adams**

Situated as follows: **7 Lenann Drive Altamont, NY 12009**

Tax Map # **49.00-3-29** 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.

The Board adopted a negative declaration under SEQRA for this Unlisted Action.

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

The proposed in-law apartment meets all zoning conditions except its size exceeds the maximum allowed square footage. 780sf is proposed, 750sf is allowed, therefore requiring a 30sf variance. The apartment meets the other requirements because it will be occupied by relatives of the owner, it is attached to the main dwelling, had adequate off-street parking and has an entrance in common with the main dwelling. The extra space is minimal and is needed to facilitate fitting in with the existing construction.

The Zoning Code requires a 15' side yard setback; a 13' setback is proposed therefore requiring a 2' variance.

The lot borders a paper street on the side where the setback variance is needed. It is not likely that this street will ever be constructed. The lot is on a relatively short dead end street.

The granting of the area variance will not negatively impact neighboring properties and will not cause an undesirable change in the character of the neighborhood or be detrimental to nearby properties.

For these reasons, the Board finds that the area variance and special use should be granted.

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

Adherence to the plans as submitted and representations contained in the application.

Compliance with the requirements for in-apartments including filing the required deed with the County Clerk and submitting proof of filing with the Building Department. Also required is an annual inspection confirming compliance and if requirements with the in-law apartment are not met, removal of kitchen related improvements in the apartment.

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

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

MATTER OF SCOTT LEININGER – 7155 RT. 158

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 Article V of the Zoning Law on the following proposition:

Interpretation Request No. 4568

Request of **Scott Leininger** for an Interpretation under the Zoning Law to: **determine if the proposed use of an agricultural property meets the criteria for a Home Occupation II and if relief from certain provisions requires an area variance or a use variance.**

Per Article V Section **280-56**

For property owned by **Scott A Leininger**

Situated as follows: **7155 Route 158 Schenectady, NY 12306**

Tax Map # **14.00-1-22.2** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of February, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 9, 2016**”

The file consists of the mailing list to 13 neighboring property owners, the Town’s required forms for an interpretation of the Zoning Code, a brief narrative and a tax map showing the location of the property.

Scott Leininger presented the case for the interpretation. Mr. Leininger stated that he would like to relocate his business from 4503 Western Turnpike to his home at 7155 Rt. 158. Mr. Leininger stated he would like to put up a slightly larger shop than he has presently. There are two full time employees that would meet at the shop and then head out for the day’s work. There would be no clients meeting at the shop, it is a non-retail business, there is no storage of any bulk products and there are no deliveries of any products.

Jake Crawford asked if he would be constructing a new building.

Mr. Leininger replied that he would be constructing a new building, approximately 40’ x 80’, and will not be as commercial as his current building.

Jake Crawford asked if he would be storing everything inside the building.

Mr. Leininger replied that yes, everything would be inside the building.

Chairman Remmert stated that this would be considered a Home Occupation II which does allow for a little more of an intense use of a home occupation.

Chairman Remmert asked where the new garage would be built.

Mr. Leininger replied that his house sits about 600' off the road and he would plan on building the garage on the left side of the driveway about 100' back off the road. There are pine trees along the left side of the property so it will give it some screening.

Chairman Remmert asked if he would keep the other property on Rt. 20.

Mr. Leininger replied that he is planning on selling it.

Chairman Remmert asked if he would be storing any equipment outside.

Mr. Leininger stated that he has a few trailers outside now but would plan on keeping them in back of the building and also screening them.

Counsel Thayer asked what percentage of his home would be used for an office.

Mr. Leininger replied he would use one bedroom, approximately 100sf.

Counsel Thayer stated that the current Town Code for Home Occupation II allows for the utilization of no more than 25% of floor area for the office and also for the building to be no more than 2000sf with the side yard setback of 20' and a minimum rear yard setback of 20'.

Mr. Leininger understands that there would be quite a few variances; he thinks that he will meet all setbacks.

Chairman Remmert asked if there is an issue with an accessory structure in a front yard.

Jackie Coons replied that the accessory structure in the front yard is more of a dimensional criteria issue and could obtain an area variance for the structure; it is all the other components of the Home Occupation II requirements that make it a question of does the Board need to consider a Use Variance or Area Variances.

There was discussion regarding the area variance vs. a use variance.

Chairman Remmert asked if there were any questions or comments from the residents.

Ed Cupoli stated that he found the case extremely interesting.

Sharon Cupoli made a motion to close the public hearing. Motion seconded by Chairman Remmert. Vote 5 – 0. (Santos absent, Barry alternate)

Sharon Cupoli made a motion to continue this for decision only to March 3, 2016 to determine whether the applicant's use of his agricultural property will meet the Home Occupation II. Motion seconded by Laura Barry. Vote 5 – 0. (Santos absent, Barry alternate)

MATTER OF RAY SIGN – 1424 WESTERN AVENUE

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. 4566

Request of **Ray Sign** for a Variance of the regulations under the Zoning Law to permit: **a freestanding sign within 20ft of the street right-of-way.**

Per Articles IV & V Sections **280-26 & 280-51** respectively

For property owned by **Odontoblast LLC**

Situated as follows: **1424 Western Avenue Albany, NY 12203**

Tax Map # **52.20-4-40** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of February, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 8, 2016**”

The file consists of the mailing list to 48 neighboring property owners, the Town's required forms for an area variance, Albany County Planning Board's notification, a narrative, a rendering of the proposed sign, and a plot plan.

Francisco Banchs, the owner of Root Canal Experts, presented the case. Mr. Banchs thanked Jackie Coons for all her help and Ray Sign for helping them through this process.

Mr. Banchs stated that they would like to be more visible and close to the road.

Sharon Cupoli asked if the sign would be internally lit.

Russ Hazen of Ray Sign replied that it was not; it would have some type of external lighting.

Sharon Cupoli asked what the colors of the sign would be.

Mr. Hazen replied that the original burgundy color selection for the sign has been revised to green.

Mr. Banchs stated that they want to stay away from internal lighting of the sign; it is not classy.

Jake Crawford asked how far from the sidewalk the sign would be placed.

Mr. Hazen replied that from the curb to the edge of the sign is about 15'.

Jackie Coons stated that there is quite a wide right-of-way between the edge of the pavement and their property line.

Laura Barry asked if the sign was on Westlyn Court.

Chairman Remmert replied that it is on the corner of Westlyn Court and Western Avenue.

There was discussion as to the exact location of the sign.

Chairman Remmert asked if there were any questions or comments from the residents.

Don Reeb of 5 Norwood Street asked what the size of the sign would be and if it would be illuminated after business hours.

Mr. Hazen replied it is approximately 48sf.

Mr. Banchs stated that the sign will be subtly lit at night but not will be cause an undesirable impact on the neighborhood.

Mr. Hazen stated it would look like a wood carved sign but will be high density foam.

Don Reeb stated that he did like the sign; he thought it was done very well.

Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Santos absent, Barry alternate)

Chairman Remmert made a motion for approval of:

Variance Request No. 4566

Request of **Ray Sign** for a Variance of the regulations under the Zoning Law to permit: **a freestanding sign within 20ft of the street right-of-way.**

Per Articles **IV & V** Sections **280-26 & 280-51** respectively

For property owned by **Odontoblast LLC**

Situated as follows: **1424 Western Avenue Albany, NY 12203**

Tax Map # **52.20-4-40** Zoned: **LB**

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 and one resident did provide oral comments at the meeting this evening.

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

The characteristics of the property limit where a sign can be placed.

The variance is from the setback to the side street.

There are several signs in the area that are placed similarly.

The proposed placement does not present any sight problems for motorists.

Under these circumstances, the variance will not cause any undesirable change in the character of the neighborhood.

Based on these findings, I move that the Board *approve* 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 Jake Crawford. Vote 5 – 0. (Santos absent, Barry alternate)

MATTER OF YANYUN XIE – 2020 WESTERN AVENUE

Jake Crawford 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:

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**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 17th of February, 2016 at the Guilderland Town Hall beginning at 7:30pm.

Dated: February 2, 2016”

The file consists of the mailing list to 55 neighboring property owners, the Town’s required forms for a special use permit, a Short Environmental Assessment Form under SEQRA, the Town Planner’s comments, the Town Planning Board’s site plan review, a lease for the property, Albany County Planning Board’s notification, a project narrative, site plan, the previous special use permit approval, a copy of the lease between Connie Ware (Mezza Notte) and Victor Gagliardi, a schematic diagram of the project, a letter from a concerned resident and some photos.

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.

Victor Gagliardi, owner of 2020 Western Avenue presented the case. Mr. Gagliardi stated that there are 40 parking spaces available, not 35. The only lighting at the site is building mounted to light the parking lot for people coming and going. Mr. Gagliardi stated that Mezza Notte’s 25 parking spaces go from Cornell into his parking lot but leaves an additional 15 parking spaces at night. Mr. Gagliardi stated that his other tenants in the building are usually gone by 5:00. Mr. Gagliardi stated that there has never been a problem between Mezza Notte and his other clients.

Mr. Gagliardi replied that there is no longer an apartment in the building.

Jake Crawford asked about the number of parking spaces.

Mr. Gagliardi replied that there is a lease with Mezza Notte for 25 parking spaces.

Sharon Cupoli asked about the other businesses in the building.

Mr. Gagliardi replied that there are three other businesses; a financial planner, an insurance company and an architect. The architect has no visiting clients. The insurance office closes at 5. Mr. Gagliardi stated that there are 17 parking spaces that never get used even during the day.

Jake Crawford asked how many clients the new tenant would have per day.

Mr. Gagliardi replied that he thought that they would maybe see 6 cars an hour at most, which includes the employees.

There was discussion regarding the length of the appointments and the number of clients anticipated.

Sharon Cupoli asked about the hours of operation; 10am to 10pm.

Mr. Gagliardi replied that the hours of operation are a most extreme estimate.

Sharon Cupoli stated that were concerns from residents on Sumpter Avenue regarding headlights at night and also lighting in the parking lot.

Mr. Gagliardi stated that steps can be taken to mitigate the effect.

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. (Santos absent, Barry alternate)

Chairman Remmert made a motion to continue the case for decision only. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Santos absent, Barry alternate)

The Board approved the minutes of 1/20/16.

The meeting adjourned at 9:30pm.

