

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
SEPTEMBER 16, 2009**

Members Present: Peter Barber, Chairman
Sharon Cupoli
Susan Macri
Mike Marcantonio
Allen Maikels
Tom Remmert
James Sumner
Charles Cahill, Alternate
Robert Feller, Counsel

Chairman Barber opened the meeting and pointed out the emergency exits in the event they were needed.

Chairman Barber stated that the case of Geoffrey Brown has been adjourned for two weeks.

MATTER OF ANGELO SERAFINI – 1440 ROCCO DRIVE

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 **III & V** of the Zoning Law on the following proposition:

Variance Request No. 4159

Request of **Angelo Serafini of Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home on a corner lot (N.E. corner of Rocco Drive and Stoyka Place) with a 20'+/- front yard setback along Stoyka Place.**

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

For property owned by: **Serafini Builders, Inc.**

Situated as follows: **1440 Rocco Drive Schenectady, NY 12303**

Tax Map # **27.16-2-5** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2009**"

The file consists of the mailing list to 30 neighboring property owners, the Town's required forms for an area variance, a narrative, the Town Planners comments, a subdivision map showing the location of Lot #22 and a note from a neighboring property owner in favor of the variance.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a home that will encroach into the front yard setback on a corner lot. Although it would be preferable to construct a home that fits the approved building envelope, I have no planning objections.

Angelo Serafini, applicant, presented the case. Mr. Serafini stated that when Stoyka Place was planned the Planning Board used a 20' setback but was informed by the Building Department that he needed a 30' setback. Mr. Serafini stated that the home that they would like to build is consistent with the other single-family homes in the neighborhood footprint wise.

Chairman Barber stated that the proposed driveway would be off of Stoyka Place.

Mr. Serafini stated that was the plan, but it might be switched to Rocco Drive.

Chairman Barber asked if there was a ravine in the back on Stoyka Place.

Mr. Serafini stated that was a town drainage area that was created when Stoyka Place was put in; it is about 100 yards away.

Chairman Barber stated that the first buildable lot on Stoyka Place is quite a distance away.

Mr. Serafini replied that it is probably about 150 yards.

Chairman Barber stated that nobody on Stoyka Place would be affected by the variance.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:

Variance Request No. 4159

Request of **Angelo Serafini of Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home on a corner**

lot (N.E. corner of Rocco Drive and Stoyka Place) with a 20'+/- front yard setback along Stoyka Place.

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

For property owned by: **Serafini Builders, Inc.**

Situated as follows: **1440 Rocco Drive Schenectady, NY 12303**

Tax Map # **27.16-2-5** Zoned: **R15**

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening and one resident provided written comments in favor of the application.

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

The Town Planner had no planning objections.

The Board further finds that this lot is located at the corner of Rocco Drive and Stoyka Place. A corner lot under the code creates two front yard setbacks. The Zoning Board has provided relief from this restriction where the variance will not impact the neighborhood. It will not impact sight line at the intersection. The variance would allow an approximately 20.6' setback from the lot in question and will not have any negative impact on the neighborhood. It will have the same impact as other houses that are constructed on Rocco Drive. Along Stoyka Place the lot is bordered by at least 100 yards that will not be developed; the closest house is quite a distance away. Therefore, this will have no impacts upon properties on Stoyka Place.

The variance would not impact the sight line with the intersection; therefore the granting of this variance will not have a negative impact on the neighborhood.

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

Adherence to the plans as submitted by the applicant.

If this variance is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF ANGELO SERAFINI – 1448 ROCCO DRIVE

Sue Macri 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. 4160

Request of **Angelo Serafini of Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home on a corner lot (S.E. corner of Rocco Drive and Stoyka Place) with a 20'+/- front yard setback along Stoyka Place.**

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

For property owned by: **Serafini Builders, Inc.**
Situated as follows: **1448 Rocco Drive Schenectady, NY 12303**
Tax Map # **27.16-2-7** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2009"**

The file consists of the mailing list to 30 neighboring property owners, the Town's required forms for an area variance, a narrative, the Town Planners comments, and a subdivision map showing the location of Lot #20.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a home that will encroach in to the front yard setback on a corner lot. Although it would be preferable to construct a home that fits the approved building envelope, I have no planning objections.

Angelo Serafini, applicant, presented the case. Mr. Serafini stated that they are applying for a variance on a corner lot and the setbacks that they are asking for are consistent with other homes in the neighborhood.

Chairman Barber stated that the closest residence on Stoyka Place would be several hundred feet away. Chairman Barber stated that the property to the rear of this property is dedicated to the Town.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:

Variance Request No. 4160

Request of **Angelo Serafini of Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home on a corner lot (S.E. corner of Rocco Drive and Stoyka Place) with a 20'+/- front yard setback along Stoyka Place.**

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

For property owned by: **Serafini Builders, Inc.**
Situated as follows: **1448 Rocco Drive Schenectady, NY 12303**
Tax Map # **27.16-2-7** Zoned: **R15**

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. One resident did provide support for this application.

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

The Town Planner had no planning objections.

The Board finds that this is a corner lot at the intersection of Rocco Drive and Stoyka Place. There are two front yard setbacks and the Board has traditionally granted relief from one of those front yard setbacks so the property owner can enjoy the land to the same extent as lots that are not corner lots. The only requirements we have are that the variance will not have a negative impact upon the neighborhood. This house will be consistent with other properties and it will not create any sight line problems at the intersection.

The Board finds that the variance that would allow a 21' setback from Stoyka Place is consistent with the requirements of the Code and is consistent with the lot that was just approved previously. The lot will have the same setback as other houses that are constructed on Rocco Drive. On Stoyka Place, the lot is bordered in the back by a ravine area that will be dedicated to the Town and the closest residence is several hundred feet away. Therefore the granting of this request will not have any impacts upon properties along Stoyka Place.

The variance will not impact the sight line at the intersection.

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

Adherence to the plans as submitted by the applicant.

If this variance is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF MARY CUNNINGHAM – 2 GILMORE TERRACE

All Members 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 Request No. 4158

Request of **Mary Bernice Cunningham** for a Special Use Permit under the Zoning Law to permit: **the use of the basement level of this existing nonconforming two-family home as an in-law apartment.**

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

For property owned by: **Mary Bernice Cunningham**

Situated as follows: **2 Gilmore Terrace Schenectady, NY 12303**

Tax Map # **28.11-1-17** Zoned: **R40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2009**"

The file consists of the mailing list to 39 neighboring property owners, the Town's required forms for this Special Use Permit, the Town Planner's comments, the Town Planning Board's site plan review, the deed, a brief narrative and a floor plan showing the location of the proposed apartment.

The Town Planning Board's site plan review was to recommend without any conditions.

The Town Planner had the following comments: "The applicant has requested a special use permit to allow for an in-law apartment. The existing home is a nonconforming two family house, on a cul-de-sac with many two family homes. The driveway is a double width that would allow for possibly 6 cars. No objection contingent on the applicant meets all the requirements of the accessory apartment law."

Mary Bernice Cunningham, applicant, presented the case.

Chairman Barber stated that the apartment was approximately 660sf.

Ms. Cunningham stated that was correct.

Chairman Barber asked who would be living there.

Ms. Cunningham replied that her daughter would be living there.

Chairman Barber stated that there is plenty of parking in the driveway so it meets all the requirements for an in-law apartment.

Ms. Cunningham stated that there are actually two driveways.

Chairman Barber asked Don Cropsey about the house being nonconforming and if it restricted the special use permit.

Don Cropsey replied that as long as the regulations are followed for an in-law apartment, there is no problem.

Counsel Feller inquired why it was nonconforming.

Don Cropsey replied that it was because it was a two-family home in a single-family zone.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sue Macri. Vote 7 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action:
"This Board has conducted a review of this application to determine whether the granting of a special use permit to allow an in-law apartment for property located at 2 Gilmore Terrace will have a significant negative impact upon the environment. This review consisted of the comments provided to us by the Town Planning Board, the Town Planner and the conducting of the public hearing this evening. Based upon that collective review, I make a motion that a negative declaration under SEQRA should be issued." Motion seconded by Sue Macri.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4158

Request of **Mary Bernice Cunningham** for a Special Use Permit under the Zoning Law to permit: **the use of the basement level of this existing nonconforming two-family home as an in-law apartment.**

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

For property owned by: **Mary Bernice Cunningham**

Situated as follows: **2 Gilmore Terrace Schenectady, NY 12303**

Tax Map # **28.11-1-17** Zoned: **R40**

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 an Unlisted Action under SEQRA; this Board just adopted a negative declaration by a unanimous vote.

The Town Planning Board recommended approval.

The Town Planner had no objection to the request.

The Board further finds that an in-law apartment is a special use allowed in this residential zone.

The proposed in-law apartment is intended to be occupied by the applicant's daughter.

The proposed in-law apartment meets all the requirements for Section 280-14 and there is adequate on-site parking in the driveway.

The size of the apartment at 660sf is within the allowed size for an in-law apartment.

The relationship between the owner and the occupant of the apartment satisfies the code requirement.

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

Adherence to the plans as submitted.

Continued adherence with the requirements for an in-law apartment which include: filing the deed with the County Clerk's Office containing the required covenants set forth in the Code, proof of filing with the Building Department, the payment of an annual fee set forth by the Town Board in the Code and the removal of any kitchen related improvements if this special use permit for the in-law apartment should end.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

If this Special Use Permit is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF SAMUEL SONENBERG – 38 ANNE DRIVE

Tom Remmert 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 Request No. 4156

Request of **Samuel Sonenberg** for a Special Use Permit under the Zoning Law to permit: **a corporate bookkeeping and tax business from an existing single-family home, a customary home occupation.**

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

For property owned by: **Samuel Sonenberg**
Situated as follows: **38 Anne Drive Schenectady, NY 12303**
Tax Map # **15.18-1-11** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2009"**

The file consists of the mailing list to 63 neighboring property owners, the Town's required forms for a Special Use Permit for a customary home occupation, a Short Environmental Assessment Form, a letter from property at 34 Anne Drive indicating that they do not want the rezoning of the property, the Town Planners comments, the Town Planning Board's site plan review of September 9, 2009 and a narrative along with sketches of the proposed location of the office in the house.

The Town Planner had the following comments: "The applicant has applied for a special use permit for a customary home occupation where he will conduct his accounting business. This is a single family home on a cul-de-sac with ample parking. There are no other employees and no clients come to the house. No planning objections."

The Town Planning Board's site plan review of 9-9-09 was to recommend without any suggestions or conditions.

Samuel Sonenberg, applicant, presented the case.

Chairman Barber stated that Mr. Sonenberg has no employees and no clients coming to the house.

Chairman Barber asked the size of the office space.

Mr. Sonenberg stated it was approximately 200sf.

Chairman Barber stated that the customary home occupation was clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Mr. Sonenberg stated that it was a small business.

Chairman Barber stated that this was an allowed use in a residential zone and would not be a rezone as stated in one resident's letter.

Mr. Sonenberg stated that he would not have any signage, there would be no indication that there was even a business there.

Sharon Cupoli asked Mr. Sonenberg if he had spoken to any of his other neighbors regarding the request.

Mr. Sonenberg stated that one other neighbor had spoke to him in favor of the special use permit request.

Chairman Barber asked if there were any questions or concerns from the residents.

Fran Evans of 31 Anne Drive asked if the business changed, what would happen.

Chairman Barber stated that if his business changed and he needed more space and had more employees, most people would try and find an office in a business area. If there were concerns from the neighbors, they could contact Rodger Stone and he would investigate the complaint.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action:
"This Board has conducted a review of this application to determine whether the granting of a special use permit to allow a customary home occupation for property located at 38 Anne Drive will have a significant negative impact upon the environment. This review consisted of the comments provided to us by the Town Planning Board, the Town Planner, a review of the application, a review of comments provided by residents and the conducting of the public hearing this evening. Based upon that collective review, I make a motion that a negative declaration under SEQRA should be issued." Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:
Special Use Permit Request No. 4156

Request of **Samuel Sonenberg** for a Special Use Permit under the Zoning Law to permit:
a corporate bookkeeping and tax business from an existing single-family home, a customary home occupation.

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

For property owned by: Samuel Sonenberg
Situating as follows: 38 Anne Drive Schenectady, NY 12303
Tax Map # 15.18-1-11 Zoned: R15

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. One resident submitted written comments in opposition and one resident appeared with questions that were addressed this evening.

This is an Unlisted Action under SEQRA; a negative declaration was issued tonight by a unanimous vote.

The Town Planning Board, in its site plan review of 9/9/09 was to recommend without any suggestions or conditions.

The Town Planner had no planning objections.

The Board further finds that the request does not constitute a change in zone. A customary home occupation is a special use which is allowed in a residential zone as long as the requirements for that use are met. In this case, all of the requirements are met. There are no employees, there are no clients that come to the house, all activity is by mail, e-mail or phone. All activities occur within the dwelling and at 200sf it is well less than the 25% maximum square footage allowed. Therefore, this customary home occupation will not generate any noise or traffic and will not cause a problem in the neighborhood.

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

Adherence to the plans as submitted.

Continued adherence to the code requirements for a customary home occupation.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

If this Special Use Permit is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF TROY MILLER – 2390 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 **III & V** of the Zoning Law on the following proposition:

Special Use Permit Request No. 4161

Request of **Troy Miller** for a Special Use Permit under the Zoning Law to permit: **the use of the upper story (6200sf) of a two-story office building as a wholesale/retail showroom and design center. Use will entail consultation with company representatives and design professionals. All site characteristics have been previously reviewed and approved by the Board.**

Per Articles **III & V** Sections **280-20 & 280-52** respectively

For property owned by: **C.M. Fox Living Solutions, LLC**

Situated as follows: **2390 Western Avenue Guilderland, NY 12084**

Tax Map # **39.00-3-57.2** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2009**"

The file consists of the mailing list to 11 neighboring property owners, the Town's required forms for a Special Use Permit, a Short Environmental Assessment Form for this Unlisted Action, Albany County Planning Board's notification, the Town Planning Board's site plan review of 9-9-09 was to recommend without any suggestions or conditions, the Town Planners comments, a narrative and a survey of the property.

Albany County Planning Board's was to defer to local consideration.

The Town Planner had the following comments: "The applicant has requested to amend his special use permit to allow for a retail showroom on the second floor. Originally approved as an office building, the amendment would allow for some design showroom sales. The site is zoned local business and has ample parking space to accommodate this use. No planning objections."

Troy Miller, applicant, presented the case. Mr. Miller stated that currently he owns and runs a real estate office out of the first floor and would like to have a design center on the second floor. Mr. Miller stated that there would be numerous local vendors who would be participating such as Best Tile, Security Plumbing, the Lighting Place, Towne TV, Precision Glass, etc. Mr. Miller stated that it would be a place for customers to go to without driving around to numerous vendors. Mr. Miller stated that you would be able to place orders at that location.

Chairman Barber asked if there was ample parking.

Mr. Miller replied that there is ample parking and have banked parking if needed.

There was discussion regarding extending the hours.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action:

"This Board has conducted a review of this application for an amendment to an existing special use permit to allow the use of the upper floor of property at 2390 Western Avenue for a wholesale/retail showroom and design center to determine whether the granting of this amendment will have a significant negative impact upon the environment. This review consisted of the comments provided to us by the Town Planning Board, the Town Planner, a review of the application and the conducting of the public hearing this evening. Based upon that collective review, I make a motion that a negative declaration under SEQRA should be issued." Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4161

Request of **Troy Miller** for a Special Use Permit under the Zoning Law to permit: **the use of the upper story (6200sf) of a two-story office building as a wholesale/retail showroom and design center. Use will entail consultation with company representatives and design professionals. All site characteristics have been previously reviewed and approved by the Board.**

Per Articles **III & V** Sections **280-20 & 280-52** respectively

For property owned by: **C.M. Fox Living Solutions, LLC**

Situated as follows: **2390 Western Avenue Guilderland, NY 12084**

Tax Map # **39.00-3-57.2** Zoned: **LB**

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 an Unlisted Action under SEQRA. The Board just adopted a negative declaration by a unanimous vote.

Albany County Planning Board's notification of 8-20-09 was to defer to local consideration.

The Town Planning Board recommended approval in its site plan review.

The Town Planner had no planning objections.

The Board further finds that all site conditions were previously approved by the Board and incorporated into the Special Use Permit. Those conditions have been fulfilled by the applicant.

The proposed use of the space as a showroom and design center is a special use which is allowed in a local business zone.

There is ample parking on site.

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

Adherence to the plans as submitted.

There will be no on-site retail sales; no cash or carry.

The hours of operation shall be Monday – Friday from 9am to 8pm, Saturday from 9am to 5pm and closed on Sunday.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

If this amended Special Use Permit is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF TRUSTCO BANK – 2050 WESTERN AVENUE

Sue Macri 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 Request No. 4157

Request of **James Tobin** for a Special Use Permit under the Zoning Law to permit: **the installation of a 24hr automated teller machine in the existing drive thru teller lane at this existing branch bank.**

Per Articles **III & V** Sections **280-15 & 280-52** respectively

For property owned by: **Star Plaza, Inc.**

Situated as follows: **2050Western Avenue Guilderland, NY 12084**

Tax Map # **51.02-2-5.1** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of September, 2009** at the Guilderland Town Hall beginning at 7:30pm.

Dated: September 8, 2009"

The file consists of the mailing list to 59 neighboring property owners, the Town's required forms for a special use permit, a Short Environmental Assessment Form, notification from the Albany County Planning Board, the Town Planners comments, the Town Planning Board's site plan review of 9-9-09, lighting specs, a depiction showing the ATM at the drive thru and a survey of the Star Plaza.

Albany County Planning Board's notification of 8-20-09 was to defer to local consideration.

The Town Planner had the following comments: "The applicant is requesting a special use permit to place an ATM machine at the existing drive thru window. I have the following concerns:

- There is no lighting plan submitted. Information about how the area will be lit should be reviewed to insure that the lighting is not a nuisance to surrounding drivers or neighbors.
- I question whether this machine will be used by pedestrians and whether there are any accommodations to protect them from vehicular traffic.

No planning objections if these questions can be adequately addressed."

The Town Planning Board's site plan review of 9-9-09 was to recommend without any conditions or suggestions.

Jim Tobin, Architect for Trustco Bank, presented the case. Mr. Tobin stated that the lighting plan and light fixtures had been submitted since the Planning Board meeting. Mr. Tobin stated that they will be shining the lighting on the building rather than away from the building. Mr. Tobin stated that there is lighting on the u-turn into the building and there are some lighting fixtures on the building currently.

Chairman Barber asked about the pedestrian access.

Mr. Tobin replied that there will be no pedestrian access because it is a drive-up. Mr. Tobin stated that there is an existing ATM in the lobby of the building which will be maintained for pedestrians.

Chairman Barber asked if the lighting would be 24 hour.

Mr. Tobin stated that the lighting would never go off except for daylight hours. Mr. Tobin stated that the State Banking Department has certain foot-candle regulations which they meet under the lighting plan. Recently the State Banking Department has reduced the foot-candle requirements.

Chairman Barber asked if the foot-candle requirements were measured at a variety of distances from the ATM.

Mr. Tobin stated that was correct.

Chairman Barber asked if there were existing lights.

Mr. Tobin stated that there were, but there were no existing lights that shine on the driveway. There are lights on the front of the building for the current ATM.

Don Cropsey stated that his only concern on the lighting plan is the issue of glare from the bulbs and the Board should consider requiring some shields on the lights.

Chairman Barber asked Don Cropsey if there have been any complaints regarding the current lighting at that location.

Don Cropsey stated that he had not received any complaints but the Board now has an opportunity to reduce the glare on the highway on both the new lighting and the old lighting.

There was discussion regarding signage on the awning.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

There was discussion as to whether this was a new special use permit of an amendment to an existing special use permit.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4157

Request of **James Tobin** for a Special Use Permit under the Zoning Law to permit: **the installation of a 24hr automated teller machine in the existing drive thru teller lane at this existing branch bank.**

Per Articles **III & V** Sections **280-15 & 280-52** respectively

For property owned by: **Star Plaza, Inc.**

Situated as follows: **2050 Western Avenue Guilderland, NY 12084**

Tax Map # **51.02-2-5.1** Zoned: **GB**

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 by a unanimous vote.

The Albany County Planning Board's notification was to defer to local consideration.

The Town Planning Board recommended without any suggestions or conditions.

The Town Planner had no planning objections.

The Board further finds that the request meets the requirements for a special use permit and a 24-hour automated teller machine is an allowed use in this zone.

The Board further notes that the applicant has submitted an isometric plan that shows candle powers that are consistent with the banking regulations and does not appear to have any spill over onto neighboring properties or onto adjacent highways.

Lighting is proposed to be downcast and should not have a negative impact on neighboring properties.

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

Adherence to the plans as submitted including the full cutoff lighting.

There shall be no signage or lettering on the canopy without further application to the Zoning Board.

The Chief Building Inspector will review the lighting and to require additional shielding if either the proposed lighting or existing lighting cause any negative impacts to neighboring property owners or to traffic along the highway. Any requirements need to be consistent with the banking regulations regarding ATMs.

The Zoning Administrative Office is hereby authorized to issue the permits necessary to implement this decision.

If this Special Use Permit is not exercised within one year of date of issuance, it is hereby declared to be null and void and revoked in its entirety.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

SIGNS:

The Board approved a 24sf freestanding sign for Meyers & Meyers at 1734 Western Avenue. Vote 7 – 0.

The Board approved a 50sf freestanding sign for JiffyLube at 2067 Western Avenue. Vote 7 – 0.

The Board approved two temporary signs for two weeks for Juicy Burger at 5 New Karner Road. Vote 7 – 0.

The meeting adjourned at 8:33pm.