

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
FEBRUARY 3, 2010**

Members Present: Peter Barber, Chairman
Sharon Cupoli
Susan Macri
Mike Marcantonio
Tom Remmert
James Sumner
Charles Cahill, Alternate
Stephen Parker, Counsel

Members Absent: Allen Maikels

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

CONTINUED CASES:

MATTER OF FISCHBACH – NORTHEASTERN INDUSTRIAL PARK

Chairman Barber stated that since the public hearing there have been some additional submissions to the file. An application for a Special Use Permit was submitted because it was determined that was required for this manufacturing plant for caulking tubes, the Town's required forms for the special use permit, a letter dated December 30, 2009 from a resident at 200 Bloomingdale Lane raising questions regarding the application, a site plan review by the Town Planning Board in which they recommended without any suggestions or conditions, the Town Planners comments, Albany County Planning Board's notification of 1-21-10, a MSDS for polyethylene resin, a Full Environmental Assessment Form for this Unlisted Action, correspondence between the school district and the Chairman of the Zoning Board regarding the potential for the access that the Town Planner discussed, a statement of findings regarding the Generic Environmental Impact Statement that was adopted by the Town Board in March 2008 and a letter from Joe Bianchine.

The Town Planner had the following comments: "The applicant has requested a special use permit to use a portion of Building 11 as a facility that will be used in the manufacture of caulking tubes. The business will also require the construction of two 59' silos. I have the following comments:

- The silos will require a variance from the height requirements. Due to the location of the proposed structures, it appears they will barely be visible from the Industrial Park perimeter
- One recommendation of the Guilderland Center master plan is to have a route through the northern section of the NEIP to allow school buses to get from the bus garage out to Van Buren Blvd. An easement to allow this should be considered a condition of approval.

No planning objections."

Albany County Planning Board's notification of 1-21-10 was to modify to include local approval including notification to the local fire department due to the addition of the silos and their height.

Joe Bianchine of ABD Engineers and Surveyors presented the case. Mr. Bianchine stated that they originally started out with a height variance for two silos and that expanded into the need for a special use permit. Mr. Bianchine gave a brief overview of the project. Mr. Bianchine stated that initially they will be employing 25 people and hopefully up to 50 people within 3 years, and will be running the operation seven days a week, 24 hours per day. Mr. Bianchine stated that the silos would barely be visible anywhere around the site. The operation will involve bringing in one to two railroad cars per month and bringing in the pelletized HDPE. Mr. Bianchine stated that the HDPE is not a hazardous material; it used for milk cartons, detergent containers, etc. that you buy at the grocery store. It is virtually dustless. Mr. Bianchine stated it will be pumped into the silos; they need to be 59' high to contain the volume of material needed for the operation. There will be one to three trucks trucked out per day from the operation with the caulking tubes. The HDPE is heated and extruded to form the caulking tube; it just a heating process and then a cooling process with no contact with water and it is a closed loop so it is just continually used and recycled.

Chairman Barber asked if the material is odorless.

Mr. Bianchine replied that it is odorless and dustless. There is some noise associated with the pumps for the HDPE and that noise will be contained within an enclosure and will blend in with the background noise of the Industrial Park.

Chairman Barber asked what type of enclosure it would be.

Will Lyons of Fischbach USA stated that it is a manufactured unit by the manufacturer of the pump equipment that completely contains the noise generation unit which would be the vacuum generator and the motor. Mr. Lyons stated it would be steel or sheet metal with some sort of composite such as styrofoam which would fit over the top of the unit.

Mr. Bianchine stated that it was a fairly straightforward operation within an existing building in the Industrial Park.

Chairman Barber asked about the bus issue.

Mr. Bianchine stated that he wrote a letter to Neil Sanders showing him the possible connection to the school's bus garage and got a response stating that they would be interested in it but any off site improvements has to come from the school districts budget, they do not get any funding for off site improvements.

Chairman Barber asked if the 500 gallons of water used a day was inclusive of the recycled non-contact water.

Mr. Bianchine stated that it includes the once every three years discharge; that would fit within that average; the 500 gallons of water a day is basically bathroom usage.

Chairman Barber stated that they did receive one letter from a neighbor with some questions; most of them had been addressed.

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

Olga Winsor of 200 Bloomingdale Lane stated that she still had concerns regarding the noise, odors, dust and the health of her family. Ms. Winsor had concerns regarding the 59' height of the silos and why the silos could not be put in a non-residential area. Ms. Winsor also had concerns regarding noisy fans at all hours of the day dealing with the fumes. Ms. Winsor stated that she could not understand why the Board had granted height variances over the years. Ms. Winsor was concerned with the similarities that this operation would have with Strategic Materials.

Don Cropsey replied that the variances are granted on the fact that modern day warehousing requires a certain height for rack storage and so on.

Chairman Barber made a motion to close the public hearing.

Chairman Barber stated that there was a Statement of Findings for the Generic Environmental Impact Statement for the Industrial Park that was adopted by the Town Board on March 18, 2008 and in that there was a Master Plan that envisioned certain activity and industrial uses in the Industrial Park and it appears that this use falls within the Master Plan. It also falls within the GEIS which basically indicates that if it falls within that, and the conditions that are set forth in this document are satisfactory then there does not need to be any SEQRA review. Chairman Barber stated that he would still like to do something in terms of SEQRA.

Chairman Barber 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 this special use permit and the associated variance would have a significant impact upon the environment. This review consisted of our review of the Statement of Findings by the Town Board, a review of the applicant's submission of a Full Environmental Assessment Form for this Special Use Permit and also the previously submitted form for the area variance. The review also consisted of the conducting of the

public hearing on two evenings, the review of the product data sheet for polyethylene indicating if properly used will be odor-free, it is not deemed to be a hazardous chemical as defined by OSHA and does not present any special concerns in terms of fire safety or accidental spills. Based upon that review, I would move that a negative declaration under SEQRA should be issued." Motion seconded by Jim Sumner. Vote 7 – 0. (Maikels absent, Cahill alternate)

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4185

Request of **Russ Elster of Fischbach, USA, Inc.** for a Special Use Permit under the Zoning Law to permit: **the use of 47,000sf of an existing industrial building (warehousing) as a manufacturing plant for caulking tubes. Said building is located within an existing industrial park.**

Per Articles **III & V** Sections **280-23 and 280** respectively and

Variance Request No. 4179

Request of **Russ Elster** for a Variance of the regulations under the Zoning Law to permit: **the installation of two 12' diameter, 59' high silos for the storage of pellitized high-density polyethylene (HDPE). A height variance of 39' is requested.**

Per Articles **III & V** Sections **280-23 and 280-51** respectively

For property **under lease agreement between Northeastern Industrial Park, Inc. and Fischbach, USA, Inc.**

Situated as follows: **Bldg. 11 Bay 3 Northeastern Industrial Park Guilderland Center, NY 12085** Zoned: **IND**

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

A public hearing was duly noticed and held. Comments were received both at the prior hearing and again this evening from two residents expressing concerns regarding the activity at the Industrial Park.

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

The Albany County Planning Board's recommendation was to required review by the local fire department.

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

The Town Planner also had no objections.

The Board further finds that with regard to the special use permit that the manufacturing is an allowed use in this Industrial zone. The listing of that use is tantamount to a finding

by the Town Board that the proposed use is consistent with the character of the surrounding properties.

According to the application, the vacuum pumps for this pelletized material will be located within an enclosed structure to minimize the noise impacts and also act as sound abatement.

The MSDS which was submitted with the application indicated that this polyethylene is odorless and is not listed as a hazardous substance by OSHA and no special firefighting equipment or measures are required.

The pellets will be arriving by rail delivery and that it appears at the start the employment will be roughly 25 individuals and that within a 3 year it may possibly go to as high as 50.

Therefore, the Board finds that the conditions at the Industrial Park are adequate to handle the proposed use and will not have a negative impact upon the surrounding properties.

As for the variance, it appears that the variance is self-created and that the applicant did purchase the 59' high silos before obtaining the Board's approval. It appears, however that the variance will not create an adverse impact upon surrounding properties. The silo is bordered on three sides by warehouses and by other industrial uses. As indicated by the Town Planner, it will be barely visible from neighboring properties.

The proposed use is consistent with other industrial uses that are already in operation at the Industrial Park.

Therefore, I move that the variance should be granted.

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

Adherence to the plans as submitted.

There shall be no odors from the use of this facility that will be discernable beyond the property line of the Industrial Park.

Compliance with the Town's Noise Ordinance.

Fire department review and approval of the proposed use at the Industrial Park.

Hours shall be as stated in the application.

Approval of the Water and Wastewater Department; final approval as to the proposed water use and sanitary use.

The Industrial Park shall cooperate once the Town Board adopts the Guilderland Center Hamlet Plan in terms of working with the Town and school district if necessary potentially dealing with some of the traffic issues arising out of the bus usage of the intersection.

Because our decision is based in part upon the baseline in the GEIS, prior to the issuance of the Certificate of Occupancy the Board asks that the applicant provide information to Don Cropsey's to establish a baseline so we can determine whether the thresholds are being met in the GEIS.

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

If this Special Use Permit/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.

Motion seconded by Sue Macri. Vote 7 – 0. (Maikels absent, Cahill alternate)

NEW CASES:

MATTER OF WESTMERE FIRE DEPARTMENT – 1741 WESTERN AVENUE

Tom Remmert and Charles Cahill recused themselves from the 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 **III, IV & V** of the Zoning Law on the following proposition:

Special Use Permit/Variance Request No. 4186

Request of **Westmere Fire District** for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: **the redevelopment of an existing fire station property in two phases. Phase one of this project will entail the demolition of two accessory structures, relocation of a portion of a town sanitary sewer line, construction of a 3350sf garage and development of a stormwater management facility. Phase two will include the demolition of the existing fire station, the construction of a new 20270sf fire station and other site enhancements. Variances are requested for the following: 1) lot coverage – 30% maximum lot coverage permitted, 54% proposed, a 24% variance is requested; 2) height – 15' is permitted for accessory structures, 22' is proposed, a 7' variance is requested and 3) a 15' side yard is required, 10' is proposed, a 5' variance is requested.**

Per Articles **III, IV & V** Sections **280-14, 280-32 and 280-51 & 52** respectively

For property owned by: **Westmere Fire District**

Situated as follows: **1741 Western Avenue Albany, NY 12203**

Tax Map # **52.09-4-32** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **3rd of February, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 26, 2010**"

The file consists of the mailing list to 62 neighboring property owners, the Town's required forms for a special use permit and for the various variances, a Short Environmental Assessment Form for this Unlisted Action, the Town Planning Board's site plan review, the Town Planners comments, the Water Departments comments, a narrative, depictions of both the existing and the proposed new station, a site plan which delineates the proposed phases, and a brochure which shows the proposed new firehouse.

The Town Planning Board's site plan review of 1-27-10 was to recommend with the following suggestions: pedestrian crosswalk markings be installed across Centre Drive, consider direct pedestrian connection from monument area in the front of the building to Rt. 20 sidewalk and consider extending sidewalk to the east onto lands of Lambert to provide a logical terminus and traversable transition.

The Town Planner's made the following comments: "The applicant is requesting a special use permit for a two-phase construction plan that would demolish the existing fire station and accessory structures and replace them with updated structures with slightly larger footprints. No significant site plan changes are proposed. No planning objections."

The Water Department had the following comments: "Applicant will need to provide further detail with building plans. No objection with approval at this time. Applicant will need Town Board approval to abandon existing sewer easement."

Skip Francis, of CT Male, civil engineer for the project, presented the case. Rich Campanola, of CT Male, principal architect, was also present. Mr. Francis stated that the purpose of this project is that the current building has had five additions over the years and at this point, it has reached its intended service life. It has been determined that a renovation at this point would be more costly than building a new structure. Mr. Francis stated that in the two phases of the construction, the first phase would be the demolition of the two existing structures in back; a pavilion and a garage and relocation of the town sewer that transects the property, and the construction of the accessory structure in back which will give the applicant a place to store apparatus during the time which Phase 2 would occur. Phase 2 would include the raising of the existing building and the construction of the new facility.

Chairman Barber asked how much time each phase would entail.

Mr. Campanola responded that the project is subject to a bond referendum vote which is tentatively scheduled for March 23rd. Subject to the bond vote passing, it is anticipated

final design of the plans for the 1st phase, hopefully getting the first phase under construction this year and hopefully breaking ground and starting demolition of the existing structure toward the spring of next year at the latest.

Mr. Francis stated that they have had a meeting with Bill West regarding the relocation of the sewer and had a preliminary meeting with Rodger Stone to discuss their approach for the stormwater design.

Chairman Barber asked about the right-of-way on Centre Drive.

Mr. Francis stated that there is a 60-foot right of way. Mr. Campanola stated that the fire district has a right of way to give them access from that side.

Chairman Barber asked if Centre Drive would remain in the same place after Phase 2.

Mr. Francis stated it would not be relocated.

Chairman Barber stated that it seems like a very small part of the "bump out" on the new station is within the 15' setback on the Centre Drive side.

Mr. Campanola stated that where there is parking along the pavement right up to the station there will be buffer space added to the edge of the pavement even though the building will be encroaching further.

Chairman Barber stated that it appears that they will be adding substantial greenspace in the front.

Mr. Francis stated that was correct.

Chairman Barber asked Don Cropsey why there was not a variance needed for the height of the hose tower.

Don Cropsey replied that he felt that it fell under the exceptions under the height limitations in 280-32 of the Zoning Code.

Chairman Barber asked about the variance in terms of lot area.

Don Cropsey replied that it is pretty much preexisting, they may be adding a little more space because they had the accessory structure in the back.

Mr. Francis stated that the existing lot coverage is about 52 or 53% as it stands now, the proposed is about 54%.

Chairman Barber stated that the Board is waiting for the notification from the Albany County Planning Board, which is mandatory.

Chairman Barber asked if they had a chance to look at what the Town Planning Board had considered in terms of extending the sidewalks and access to the main part.

Mr. Francis replied that they had. He stated that they will consider that with the applicant; the paved sidewalk connection from the sidewalk up to the monument area would not be objectionable. The extension of the sidewalk to the east towards the barbershop may be acceptable, at least up to the property line and make some sort of transition to the barbershop property. If desired, there could be pavement markings across Centre Drive to match the sidewalk that is existing on the west side of Centre Drive. They have proposed a sidewalk across the parcel as well as pavement marking striped across the apparatus apron.

Chairman Barber asked about the crosswalk in front of the bay area and if there was some way of putting some imprinted pavement there.

Don Cropsey replied that maybe they could stamp the asphalt like was done at Stuyvesant Plaza, it delineates the sidewalk.

Chairman Barber asked if the sewer easement would required Town Board approval.

Mr. Francis replied it would require Town Board approval, there would be about 140' of sewer that would be abandon and another 210' adopted in the relocation.

Chairman Barber asked if there were any questions or comments from the residents. Chairman Barber made a motion to close the public hearing. Motion seconded by Sue Macri. Vote 5 – 0. (Maikels absent, Remmert and Cahill recused)

Chairman Barber stated that the case would be continued for decision only to February 17, 2010.

Chairman Barber stated that he would like to see an updated site plan to reflect the Town Planning Board's comments.

MATTER OF NYISO – 3890 CARMAN ROAD

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, IV & V** of the Zoning Law on the following proposition:

Amend Special Use Permit #23-99/Variance Request No. 4187

Request of **New York Independent Systems Operator, Inc.** for a Variance of the regulations/Amendment to Special Use Permit #23-99 under the Zoning Law to permit: **the construction of a single story 13,000sf permanent addition to an existing 49,000sf office building. Proposed addition will replace a previously approved temporary office space. A variance is requested from providing a total required number of**

parking spaces of 243. It is also requested to allow the continuation of the temporary office space through calendar year 2010.

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

For property owned by: **New York Independent Systems Operator, Inc.**

Situated as follows: **3890 Carman Road Schenectady, NY 12303**

Tax Map # **39.07-1-26.1** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **3rd of February, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 26, 2010**"

The file consists of the mailing list to 29 neighboring property owners, the Town's required forms for a Special Use Permit, the Town Planner's comments, the Town Planning Board's site plan review, the Full Environmental Assessment Form for this Type I Action, a site plan, the prior special use permit issued by the ZBA in 1999, a traffic assessment provided by Creighton Manning Engineering, a SEQRA file and the Town of East Greenbush's intent to act as Lead Agency for their part of the project.

The Town Planner had the following comments:

"Disclosure: I reside directly across the street from this property.

The applicant has applied for a special use permit to remove the temporary office building in the rear and construct a 13,000sf permanent addition to the existing office building. I have the following comments:

- Because of the restructuring of this use, many people will be relocated to another facility. The addition will be mostly used for equipment and will not create the need for additional parking.
- New emergency generators will be located in the rear of the building. The applicant states that they will meet the levels of our noise ordinance, which should be part of the conditions of approval.
- The construction of a sidewalk from this parcel to Morningside Drive was a condition of their last special use permit but never constructed. This condition should be reiterated and executed before any Certificates of Occupancy are issued.

No changes will be made to the existing parking or curbcuts. No planning objections."

The Town Planning Board's site plan review of 1-27-10 was to recommend with the following conditions: sidewalk extension to Morningside Drive be shown on final site plan, consideration should be given to providing an additional direct pedestrian connection to Carman Road to provide convenient access to the south. (Possible continuation of the existing pedestrian loop from southernmost parking lot across access drive and through landscaped berm).

Jonathan Draper of WCGS Architects presented the case.

Mr. Richard Dewey, the VP of Information Technology for NYISO gave an overview of NYISO history. Mr. Dewey stated that through the course of changes that they see in some of the responsibilities associated with managing the power grid, they have determined that their control center is inadequate to suit their needs. One is in the area of data centers, the computer models that they use and the systems that they require to run the grid have grown significantly in terms of power consumption, cooling requirements and space. They also need to expand the physical footprint of the control room.

Chairman Barber asked how things stand in East Greenbush; and if they were on the same time frame as Guilderland.

Mr. Dewey replied that they were, they are seeking approval from the State Public Service Commission; they need to approve the funding and the financing. They cannot enter into long-term loan agreements under Public Service Commission Law without their approval and they need the completion of the SEQRA and the municipal approval processes before they can get that approval for the funding.

Chairman Barber asked if there was a deadline.

Mr. Dewey stated that they are seeking to complete that by the end of June.

Chairman Barber asked when they would need approvals from the Zoning Board.

Mr. Dewey replied that they would like to get to the Public Service Commission at their April meeting so they would like municipal agreements by the end of March.

Chairman Barber asked if they had any concerns with the Town Planning Board's comments and incorporating them into their site plan.

Mr. Draper discussed the sidewalk extension to Morningside Drive. Mr. Draper stated that Creighton Manning has begun preliminary investigations to see what is feasible and has reached out to DOT to begin those discussions but have not scheduled any meetings as of yet.

Chairman Barber asked if they are doing the surveying work out there.

Mr. Draper replied that they were.

Chairman Barber asked if there were drainage issues that were raised by DOT?

Mr. Draper stated that the concern is that if the sidewalk was extended on the eastern side of the right of way, it would create a drainage problem but the concept is to construct a sidewalk on the western side of the right of way and drain towards Carman Road.

Chairman Barber stated that the other issue that the Planning Board raised was the direct access to the building.

Mr. Draper stated that they were working with the NYISO Security Department to review because they are under scrutiny from various regulatory committees to meet certain standards.

Chairman Barber asked about the easement agreement regarding the rear access.

Mr. Draper stated that it was their understanding that there is an easement that was granted to NYISO when they obtained the property to use the 49.5' from their property to Western Avenue.

Chairman Barber stated that in terms of traffic, it appears that there will be fewer people at this facility.

Mr. Draper stated that was correct.

Chairman Barber asked if they would need all the parking that they have now.

Mr. Draper stated that the intent is that with the renovation even though they will be eliminating staff, the space on level 1 that is currently the data center will have potential to be renovated in the future and become staff space once again. The short term staffing levels will decrease but may increase in the future.

Chairman Barber asked Mr. Draper to explain the geography at the rear of the building.

Mr. Draper stated that the existing 49,000sf building is three stories with the primary access off of Carman Road and the parking lot to the south is predominantly visitor and employee parking. You enter the existing facility on Level 1 and you enter the facility in the back at the lower level. There is an existing metal trailer building that will be removed as part of the project. Mr. Draper stated that when they expand the building with the 13,000sf addition on the west and the east they will be reconfiguring the access drive and in doing so will be pushing further to the west and will be doing minor regrading of the area in question. The SWPP actually shows that the drainage and the discharge rates will be nominal in terms of the change from what they have today vs. the future state. The area on the west will be configured to house two new emergency generators that will support the operation of the expanded building. The existing generators that are housed on the north of the site will be decommissioned and not in use and the two new generators will serve the entire facility in the event of an emergency. The access drive that is on the west will extend to the security gate that leads to Western Avenue.

Chairman Barber asked about the security gate at the rear.

Mr. Draper stated that is just for delivery vehicles.

Chairman Barber asked about the berm.

Mr. Draper replied that on the north of the site the grades are fairly steep and they are not planning significant changes, all they are proposing is to modify the grading on the west and providing a flatter area for the installation of the new emergency generators.

Chairman Barber asked what kind of noise abatement there would be for the generators.

Mr. Draper stated that they the generators are rated at 60 decibels at 50 feet; the generators closest location to adjacent property is approximately 120 feet. The existing generators that are housed in the existing generator enclosure building are rated at 80 decibels at 50 feet and are approximately 90 feet from the current residents. Mr. Draper stated that 60 decibels is comparable to vehicle noise.

Chairman Barber asked how often the generators ran.

Mr. Draper replied once a month for a short test at approximately 7:30 am.

Chairman Barber asked if there would be any changes regarding the lighting.

Mr. Draper stated that the current plan depicts three new poles along the west side of the site; they have recently developed photometric calculations for this area that will demonstrate the proposed condition. They have been approved through the NYISO Security Department.

Chairman Barber asked the height of the light poles.

Mr. Draper replied they would be 20' high.

Chairman Barber asked if there were any questions or comments from the residents. There were none.

There was discussion regarding hearing the case in 2 weeks.

Dave Everett, legal counsel for NYISO stated that he has had conversations with staff attorneys at the PSC and they have indicated to him that they have no objection to the Guilderland Zoning Board of Appeals acting as Lead Agency under SEQRA for their piece of it and they have also indicated that they would be sending a letter. Mr. Everett stated that there is also a resolution that is going to be offered to the Town Board for the Town of East Greenbush indicating that they have no objection to the Guilderland ZBA being the Lead Agency for their piece of it. The expectation is that resolution will be adopted on February 10, 2010.

Sharon Cupoli asked if the sidewalk was not completed due to security reasons.

Don Cropsey replied that a number of things came together that prevented it from being built such as residential opposition, issues with DOT and some staff changes at NYISO at the time.

Chairman Barber made a motion to continue the hearing until February 17, 2010.

The Board approved the minutes of October 7, 2009. Vote 7 – 0.

