

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
MAY 5, 2010**

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

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

NEW CASES:

MATTER OF ABBAS RASTEGAR – 3018 PATRICK 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4207

Request of **Abbas Rastegar** for a Variance of the regulations under the Zoning Law to permit: **the installation of 40lf of eight-foot high privacy fence at the rear property line of a single-family parcel. A maximum height of 6' is permitted; a 2' variance is requested.**

Per Articles **IV & V** Sections **280-17 and 280-51** respectively

For property owned by: **Abbas Rastegar**

Situated as follows: **3018 Patrick Road Schenectady, NY 12303**

Tax Map # **27.07-4-5** Zoned: **RO30**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of May, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: April 28, 2010"

The file consists of the mailing list to 34 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a narrative provided by the applicant, a plot plan of the property and photos of the fence line area.

The Town Planner had the following comments: "The applicant is requesting an area variance to install a portion of an eight foot fence in an area where a change in elevation necessitates the height requested. No planning objections."

Abbas Rastegar, applicant, presented the case.

Chairman Barber stated that he could not discern any "dip" in his property. Chairman Barber asked if he could not fill that in and provide the height needed.

Mr. Rastegar replied that he could raise the property, but the adjoining property would then have a problem with drainage.

Chairman Barber stated that the Board usually only grants fence height variances for a residential property that borders a commercial property.

Don Cropsey stated that the applicant's property is pretty well screened from the properties to the back so he was not quite sure what the purpose of the 8' high fence was.

Mr. Rastegar replied that if he installed a 6' high fence it would be lower in certain sections.

Chairman Barber stated that he could raise the elevation of his property.

Don Cropsey stated that he would need to be stabilize it and without a retaining wall, he would not achieve an 8' high fence.

Chairman Barber asked Mr. Rastegar if he had considered enhancing his landscaping and putting arborvitae up.

Mr. Rastegar stated that they had tried landscaping but did not have any luck due to water problems.

Chairman Barber stated that the reason there is a 6' high limitation is because once you get over 6' there is potential for detrimental impact upon neighboring properties.

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 Al Maikels. Vote 7 – 0.

Chairman Barber stated that the request was for privacy and for some concerns about interaction with the neighbor to the rear.

Don Cropsey stated that he thinks that there are alternatives to providing a screen other than an 8' structure, the same thing can be accomplished by plantings and a 6' fence.

Chairman Barber made a motion regarding:

Variance Request No. 4207

Request of **Abbas Rastegar** for a Variance of the regulations under the Zoning Law to permit: **the installation of 40lf of eight-foot high privacy fence at the rear property line of a single-family parcel. A maximum height of 6' is permitted, a 2' variance is requested.**

Per Articles **IV & V** Sections **280-17 and 280-51** respectively

For property owned by: **Abbas Rastegar**

Situated as follows: **3018 Patrick Road Schenectady, NY 12303**

Tax Map # **27.07-4-5** Zoned: **RO30**

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

A public hearing was duly noticed and held this evening and no residents provided comments at the public hearing.

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

The Town Planner noted that she had no planning objections.

The Board further finds that in reviewing the requirements for an area variance, among them is the consideration whether the variance is substantial and this variance is a 33% increase and is substantial. Don Cropsey has indicated that it does make it appear to be a fortress or certainly an opposing wall which is inconsistent with residential neighborhoods. Chairman Barber stated that he believes that there are reasonable alternatives that the Code requires the Board to look at that are better than granting a variance such as arborvitae, a berm with a six foot fence on it or other types of landscaping.

An 8' fence in a residential area would set a precedent that would not be conducive to the residential character. Variance for fence height have been limited to areas in which residential properties border either a highway or commercial properties and one has never been granted between two residences. The granting of the variance would negatively impact not only the property directly to the rear but also properties to both sides to the rear and both sides on Patrick Road. It would have a potential for causing an undesirable change in the neighborhood and for those reasons I would move that the application should be denied.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

MATTER OF RONALD OTTMAN – 5 PINE KNOB DRIVE

Allen Maikels 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. 4206

Request of **Ronald Ottman** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 6' high privacy fence in a required front yard on a corner lot. A 35' setback is required for privacy fences. A 17.5' setback is proposed, a 17.5' variance is requested.**

Per Articles **IV & V** Sections **280-17 and 280-51** respectively

For property owned by: **Ronald Ottman**

Situated as follows: **5 Pine Knob Drive Albany, NY 12203**

Tax Map # **51.08-1-4** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of May, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **April 28, 2010**"

The file consists of the mailing list to 39 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a narrative, an estimate from a fencing company, photos and a survey of the property.

The Town Planner had the following comments: "The applicant has requested an area variance to construct a fence on a corner lot that will encroach 17.5' into the front yard setback. No planning objections."

Ronald Ottman, applicant, presented the case.

Chairman Barber stated that this is a corner lot so there are two front yards and two front yard setbacks. Chairman Barber stated that they will look to see if there is any impact upon the neighbors and if there is any impact at the intersection.

Chairman Barber stated that based on what he could tell, there is no impact whatsoever at the intersection.

Chairman Barber stated that the applicant's house is pushed back.

Mr. Ottman replied that it is pushed back and also pushed to the right hand side so it gives them really no yard.

Chairman Barber asked if any of his neighbors had any objection.

Sharon Cupoli asked if there would be any landscaping around the fence.

Mr. Ottman replied that there would be.

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

Katie Mosher, next door neighbor, suggested that the fence be moved further back behind the pine trees to allow better site distance from their house.

Don Cropsey stated that the suggestion was not an unreasonable one, both locations will provide the applicants with the needed space they need for their dog.

Chairman Barber made a motion to continue the case for two weeks to give Don Cropsey an opportunity to go meet with the applicant and look into the suggestion. Vote 7 – 0.

SIGNS:

The Board approved a temporary banner for Piccolo Spa at 20 Mall for 30 days. Vote 7 – 0.

The Board approved a temporary banner for Jiffy Lube for two weeks. Vote 6 - 1.

The Board approved a temporary banner for Techniconsults for three weeks. Vote 7 – 0.

The Board approved a temporary banner for Pizza Gram Plus for 30 days. Vote 7 – 0.

The Board continued a request for a banner for Berkshire Bank. Vote 7 – 0.

The meeting adjourned at 8:15pm.