

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
JUNE 2, 2010**

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

Sharon Cupoli - Absent

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

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**NEW CASES:**

**MATTER OF SEVENTEEN HUNDRED CO. – 1700 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 **IV & V** of the Zoning Law on the following proposition:

**Variance Request No. 4209**

Request of **Seventeen Hundred Co.** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 48sf freestanding monument type sign in a required front and side yard. A 35' front setback is required, 15' is proposed; a 20' variance is requested, and a 15' side yard setback is required, 12.5' is proposed; a 2.5' variance is requested.**

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

For property owned by: **Seventeen Hundred Company**  
Situated as follows: **1700 Western Avenue Albany, NY 12203**  
Tax Map # **52.14-2-11** Zoned: **MR**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 2<sup>nd</sup> of June, 2010 at the Guilderland Town Hall beginning at 7:30pm.

Dated: May 25, 2010"

The file consists of the mailing list to 53 neighboring property owners, the Town's required forms for an area variance, Albany County Planning Board's recommendation of 5-20-10, a project narrative, the location of the proposed sign on the property, the temporary sign on the property, and some depictions of the proposed sign.

Albany County Planning Board's recommendation of 5-20-10 was to modify local approval to include 1) the sign should be located outside of the ROW for SR 20 and should meet sight distance requirements for NYS DOT.

Steven VanAlstyne, builder of the sign, presented the case.

Chairman Barber asked if the location was outside of the right-of-way.

Mr. VanAlstyne replied that he was not sure of that.

Chairman Barber stated that it appears that the current sign is closer to Rt. 20 than the new sign.

Mr. VanAlstyne replied that was correct.

Chairman Barber stated that if they are moving the sign further back, it should improve on the sight line.

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 for approval of:

**Variance Request No. 4209**

Request of **Seventeen Hundred Co.** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 48sf freestanding monument type sign in a required front and side yard. A 35' front setback is required, 15' is proposed; a 20' variance is requested, and a 15' side yard setback is required, 12.5' is proposed; a 2.5' variance is requested.**

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

For property owned by: **Seventeen Hundred Company**  
Situated as follows: **1700 Western Avenue Albany, NY 12203**  
Tax Map # **52.14-2-11** Zoned: **MR**

The Board makes the following findings of fact:

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

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

The Albany County Planning Board's recommendation was to confirm the sign was location outside the right of way.

The Board further finds that the proposed sign is going to replace a temporary sign which is approximately 9' off the property line; the new sign will be placed 6' further back off the road which is further back than some of the adjacent signs of nearby properties.

The Board notes that the sign is very attractively designed and will make it easier to locate the entrance for both tenants and guests and that the sign is located near the entrance to the property.

Therefore the Board finds that in granting this variance there will not be any impact upon neighboring properties.

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

Adherence to the plans as submitted with the application.

Donald Cropsey will confirm that the placement is outside the right-of-way and review the sight line.

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

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.

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

**MATTER OF ROBERT BRUNO – 1724 WESTERN AVENUE**

Tom Rimmert 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. 4210**

Request of **Robert F. Bruno, Jr.** for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: **the use of an existing single-story 1246sf building as a retail wine and liquor store. 10 parking spaces are provided, 15 spaces are required; a variance of 5 spaces is requested. The location of existing parking spaces has been previously reviewed and approved by the Board.**

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

For property owned by: **Giovanone Real Estate**  
Situated as follows: **1724 Western Avenue Albany, NY 12203**  
Tax Map # **52.13-2-11** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **2<sup>nd</sup> of June, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 25, 2010**"

The file consists of the mailing list to 53 neighboring property owners, the Town's required forms for a special use permit along with a Short Environmental Assessment Form for an Unlisted Action, a copy of the commercial lease for the property, the Town Planning Board's site plan review, Albany County Planning Board recommendation, the Town Planners comments, a project narrative, depictions of the property, and a site plan for the renovations to Concord Pools back in 1997.

The Town Planning Board's site plan review of 5-26-10 was to recommend with the following conditions: provide a revised site plan that accurately depicts on-site parking, access, circulation and loading and identifies the access easement between parcels and any reciprocal parking arrangement.

Albany County Planning Board notified the ZBA that they would like to have this matter reviewed by the ACDPW regarding concerns of access onto Johnston Road.

The Town Planner had the following comments: "The applicant has requested a special use permit to use the building as a wine and liquor business. The building, on the southwest corner of Johnston and Western Avenue, most recently used by Concord Pools, is zoned Local Business.

My concern is parking and ingress and egress. The site plan says that there are 13 spaces, two of which seem to be inside the building (?), three are partially located on the adjoining property, and the balance are in the rear of the property next door. The two times I visited the site, a majority of the spaces in the rear and the three straddling the adjoining property were all used, even though Concord Pools is closed. Further, the site plan does not accurately reflect the existing parking layout in which the 6 spaces along Western Avenue are angled and force vehicles to exit out to Johnston Road.

The only entrance to this site is through a shared driveway to the west of the adjoining building. To exit, one must make a right turn only onto Johnston or go back through to 1726 Western Avenue where both right and left hand turns are permitted. When cars are stopped at the light at Western Avenue, ingress and egress is almost impossible. Previous occupants (except the Hess Station which had almost full length curb cuts) were all low traffic generators – pool supplies, a cell phone store, etc. I do have reservations about how well a higher traffic impact retail store will function at this location."

Robert Bruno, applicant, presented the case. Mr. Bruno submitted an updated site plan to the Board members. The updated plan shows the loading zone, the slanted parking spaces in the front of the building, removal of the spaces in back of the building and the access to Johnston Road.

Chairman Barber asked how many parking spaces he had.

Mr. Bruno replied that he had ten; a handicap spot on the side of the building, six in front, and three on the side.

Chairman Barber asked about the three spots on the side and who owned them.

Mr. Bruno replied that they were their spots.

Chairman Barber asked if they were partially on the neighbor's property.

Mr. Bruno replied that there was an easement.

Chairman Barber stated that he had seen activity on the site and asked if he was moving things in already.

Mr. Bruno replied that he was just cleaning up the building.

Chairman Barber stated that he would like Mr. Cropsey and Counsel Parker to take a look at the paperwork submitted to make sure that he has the right to the parking spaces in question.

There was discussion regarding the number of parking spaces required.

Chairman Barber asked Mr. Bruno if he felt that 10 parking spaces were adequate.

Mr. Bruno replied that he thought 10 parking spaces were enough. Mr. Bruno stated that they also have access to the parking spaces behind 1726 Western Avenue.

Chairman Barber asked if they had a reciprocal parking agreement.

Mr. Bruno stated that they did.

Chairman Barber stated that they would like to see a copy of the reciprocal parking agreement. Chairman Barber asked how people access the property.

Mr. Bruno replied that coming from the west they would turn into the driveway, which is a common driveway with 1726 Western Avenue and then either exit back out onto Rt. 20 or onto Johnston Road.

Mr. Bruno stated that customers coming from Albany would come in the same way as coming from the west.

Chairman Barber stated that there is not a dedicated left turn into the site and they actually might end up holding up traffic.

Mr. Bruno stated that the traffic would be less than Concord Pools.

Chairman Barber asked about deliveries.

Mr. Bruno replied that they come on a smaller truck like a moving van.

There was discussion regarding ACDPW taking a look at the egress onto Johnston Road.

Al Maikels asked about the previous pool place and the amount of business as compared to this store.

Mr. Bruno replied that the pool place sold mostly smaller items such as pool supplies, cleaning supplies, etc.

Tom Remmert asked Mr. Bruno if he operated another store elsewhere.

Mr. Bruno replied that he did run a store in Scotia but this store will be replacing that one.

Mr. Bruno stated that he sells more high end wines, and staple liquor items.

Chairman Barber asked if they made deliveries.

Mr. Bruno replied that they do not, the customer has to pick it up.

Chairman Barber asked if there was any issue with the liquor store being close to the elementary school.

Mr. Bruno replied that there is not, they have to be 200' away from any school.

There was discussion regarding volume during holidays.

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

Frank Pensabene, owner of an adjacent business at 6283 Johnston Road had concerns regarding safety and cars cutting through his property. Mr. Pensabene stated that he has a variance for parking and is worried that with a retail establishment adjacent to him the general public is coming in and out of his lot and using his parking.

There was discussion regarding the businesses adjacent to Mr. Bruno's and the intensity of the uses on those properties.

Chairman Barber stated that Albany County Planning Board wanted ACDPW to review this site for egress onto Johnston Road.

Chairman Barber asked for a copy of the ingress and egress that gives Mr. Bruno a right to use the common driveway and his right to use the three shared parking spaces.

Chairman Barber made a motion to adjourn this case for two weeks. Motion seconded by Al Maikels. Vote 7 – 0. (Cupoli absent, Cahill alternate)

**MATTER OF BRYAN CADY – 1439 WESTERN AVENUE**

Charlie Cahill 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. 4211**

Request of **Bryan J. Cady** for a Variance of the regulations under the Zoning Law to permit: **the installation of six-foot high privacy fence along each street side on a corner lot. A variance is requested to allow said fence in a required side yard.**

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

For property owned by: **Bryan Cady**

Situated as follows: **1439 Western Avenue Albany, NY 12203**

Tax Map # **52.20-2-22** Zoned: **R10**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **2<sup>nd</sup> of June, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 25, 2010**"

The file consists of the mailing list to 47 neighboring property owners, the Town's required forms for an area variance, a brief narrative provided by the applicant, the Town Planners comments, a depiction of the fence and a map showing where the fence will be located.

The Town Planner had the following comments: The applicant has requested an area variance for a fence in the required side yard on a corner lot. No planning objections."

Bryan Cady, applicant, presented the case. Mr. Cady stated that the property in back bordering the Norwood side is already bordered by two fences and he is interested in closing off the rest of his yard for safety reasons. Mr. Cady stated that the fence he is interested in is called a good neighbor fence; there is not a bad side, it is the same on both sides.

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

Mr. Cady replied that nobody had any concerns with the fence.

Chairman Barber stated that the fence on Western Avenue would be behind the pine trees.

Mr. Cady stated that was correct.

Chairman Barber asked if he had any plans for landscaping on the Norwood Street side.

Mr. Cady stated that there is one pine tree there already and there will be a hedgerow as well.

Jim Sumner asked if the fence would cause any sight distance problems.

Mr. Cady replied that it would be far back from where the crosswalk is.

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. (Cupoli absent, Cahill alternate)

Chairman Barber made a motion for approval of:

**Variance Request No. 4211**

Request of **Bryan J. Cady** for a Variance of the regulations under the Zoning Law to permit: **the installation of six-foot high privacy fence along each street side on a corner lot. A variance is requested to allow said fence in a required side yard.**

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

For property owned by: **Bryan Cady**

Situated as follows: **1439 Western Avenue Albany, NY 12203**

Tax Map # **52.20-2-22** Zoned: **R10**

The Board makes the following findings of fact:



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

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

The Town Planner had no planning objections to the request.

The Board further finds that this is a corner lot and there are two front yards and two front yard setbacks. This puts a burden on the property owner requiring these variances.

With regard to the fence along Western Avenue, the Board notes that Western Avenue is a state highway and in the past we have provided applicants with the ability to provide some sort of buffer for safety and noise from the traffic on that road. The Board further notes that the fence on Western Avenue is proposed to be located behind some pine trees which will lessen the impact of the fence. On the Norwood Street side the applicant has put the fence in a location that leaves room for landscaping in front of it and does not appear to create any sight line distances at the intersection with Norwood and Western.

While it is indicated to be a six-foot high fence it actually is an attractively designed fence with latticework on the top and is consistent with the character of the neighborhood.

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

Adherence to the plans as submitted including the fence be placed behind the pine trees on Western Avenue side and the installation of some appropriate landscaping on the Norwood Street side.

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

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.

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

**SIGNS:**

The Board approved a sign for Chipotle Mexican Grill at Stuyvesant Plaza. Vote 7 – 0.

The Board approved a replacement sign for 1<sup>st</sup> National Bank of Scotia contingent upon the lighting not having any impact upon neighboring properties. Vote 7 – 0.

The meeting adjourned at 8:39pm.

