

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JUNE 16, 2010**

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

 Sharon Cupoli, absent
 Allen Maikels, absent

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

CONTINUED CASES:

MATTER OF THE SPIRIT SHOP - 1724 WESTERN AVENUE

Chairman Barber stated that since the last hearing two weeks ago, the Board has received a letter from the Decisions Hair Studio at Johnston Road stating that they are not opposed to the business, they just want to remind people to not park at their business and use it as a shortcut. Chairman Barber stated that there is also a letter from the property owner indicating that the three parking spaces adjacent to 1726 Western Avenue will be used exclusively for the property at 1724 Western Avenue and also indicating that they have rights to the areas behind the salon. A letter was also received stating that they have right to 3 parking spaces behind the hair salon located at 1726 Western Avenue.

Don Cropsey stated that he had talked to NYSDOT because the main access to the property is along Rt. 20 and they indicated that they had no objection based upon the size of the facility and the level of activity that would be generated from this type of a shop. Don Cropsey stated that he also talked to the engineer with Albany County DPW and they had no objection to the egress onto Johnston Road because it is a controlled access to the county road; a right hand turn only and does not allow any inbound traffic from Johnston Road.

Chairman Barber discussed the hours of operation with the salon next door; they close at 6pm on Fridays and 5pm on Saturdays which would most likely be the busiest hours for the Spirit Shop.

Don Cropsey stated that the salon is also closed on Sunday and Monday.

Robert Bruno stated that their busiest times are between 7pm and 9pm and on Sundays.

Chairman Barber stated that he has heard this business being classified as a boutique.

Mr. Bruno replied that they sell higher end type of wines and liquors; they do not do big volumes.

Chairman Barber asked how much of the shop is devoted to wine and how much is devoted to liquors.

Mr. Bruno replied about 2/3 of the store would be wine and 1/3 of it would be liquor.

Chairman Barber asked about the employees.

Mr. Bruno replied that they have two part-time employees in addition to him.

Chairman Barber asked Mr. Bruno if he would be comfortable with the idea to maximize the parking spaces out and have his employee's park in the front.

Mr. Bruno stated he would not want his employees to park in the front.

Chairman Barber asked about the hours of operation.

Mr. Bruno replied that the hours would be from 9am to 9pm from Monday – Saturday and noon to 6 on Sunday.

Chairman Barber asked about deliveries.

Mr. Bruno stated that their deliveries are twice a week in a truck similar to a Uhaul truck and they are there about 15 to 20 minutes.

There was discussion regarding the parking.

Don Cropsey stated that he needs 13 spaces; he has 10 on site and the owner of the adjoining property has given him permission to utilize the 3 additional spaces so he complies with the parking requirements.

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 6 – 0. (Cupoli, Maikels absent, Cahill alternate)

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 a Special Use Permit for a wine and liquor shop at 1724 Western Avenue 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, comments from the Albany County Planning staff office, NYSDOT and ACDPW. Therefore I move that a negative declaration under SEQRA be issued." Motion seconded by Sue Macri. Vote 6 – 0. (Cupoli, Maikels absent, Cahill alternate)

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4210

Request of **Robert F. Bruno, Jr.** for a 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.**

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

The Board makes the following findings of fact:

A public hearing was duly noticed and supplemented by mailing to nearby property owners. One business owner did raise some concerns regarding patrons using his parking lot and therefore causing issues in his lot.

This is an Unlisted Action under SEQRA, the Board adopted a negative declaration by a unanimous vote.

The Albany County Planning Board did not have a quorum for their meeting so they took no action on the application.

The Town Planning Board's site plan review was to approve the application with the condition of providing a site plan showing the current parking arrangements.

The Town Planner recommended that the Board review the ingress and egress of the property and also the intensity of the use of the property.

With regard to the parking variance, as originally proposed the application required a 5 parking space variance. Since that time, Don Cropsey has looked into the actual size of the building and has determined that the actual need is 13 parking spaces. The property has 10 parking spaces including the 7 that are on the property itself entirely and also 3 that are shared in common with 1726 Western Avenue. The landlord has provided us with a letter saying that those three parking spaces will be exclusively for the use of this property at 1724 Western Avenue. The landlord has also provided another letter stating that the 3 parking spaces behind the property at 1726 Western Avenue also will be used by the applicant. These three parking spaces behind the salon also apparently will be available during peak times to the wine shop because the salon for the most part does not

have hours that will be in conflict with the wine shop. Pursuant to Zoning Code Section 280-25E the three parking spaces count because they are within 300' of the property. Since the applicant has use of 13 parking spaces, no parking variance is required and none needs to be granted for this application.

With regard to the Special Use Permit, the Town Board's listing of this retail store as a special use in a local business zone is tantamount to a finding that is compatible with the adjacent neighborhood.

There are no variances for parking, setbacks or greenspace which might suggest that this too intense a use therefore it does not appear that this use is too intense for the lot.

The applicant has described the use basically as a boutique wine shop. It is very small in size and based upon that use, it does not appear that there should be any issue regarding parking.

The applicant has operated a wine shop in another location and he knows the nature of his business well and is confident that he had adequate parking on site.

The bulk of the sales take place in the evenings on Fridays and Saturdays and that is at a time when the adjacent salon is closed. The salon is also closed on Sunday and Monday when the wine store is open therefore it seems like they are very compatible uses in terms of the use of the parking lot.

The Board asked DOT to take a look at the access onto Rt. 20 and the ACDPW to take a look at the access onto Johnston Road. Both entities have reported back saying that the proposed use is compatible with the existing ingress and egress onto the site and they have no objection to the granting of this application.

Based upon that, the Board finds that the proposed use will not cause any undesirable impacts on the character of the neighborhood and that the special use permit should be granted.

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

Adherence to the plans as modified.

Snow removal shall be handled on site or trucked off to maintain all the required parking spaces.

Submission of a parking agreement between the applicant and the landlord which provides the applicant with the exclusive use of the three spots along the property at 1726 Western Avenue and also the use of 3 parking spaces behind the salon.

To the extent possible, the applicant shall require the employees of the store to park in the spaces behind the salon at 1726 Western Avenue.

The applicant shall maintain all signs that prohibit left turns onto Johnston Road and entries off of Johnston Road.

At the appropriate time when the sign is being considered for this store, we need to have a sign that indicates that the traffic coming off of Rt. 20 should enter to the common entranceway which is to the west of the property at 1726 Western Avenue.

The hours of operation shall be Monday – Saturday from 9am to 9pm and Sunday from noon to 6pm.

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 Sue Macri. Vote 5 - 1. (Cupoli, Maikels absent, Cahill alternate, Sumner in the negative)

MATTER OF JOSEPH MACEROLA – 1 CARRIAGE HILL

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. 4212

Request of **Joseph Macerola** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 34' x 30' two-car garage/pool house within a required front yard. An 18' front setback is proposed; a 35' front setback is required. A 17' variance is requested.**

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

For property owned by: **Joseph Macerola**

Situated as follows: **1 Carriage Hill Schenectady, NY 12303**

Tax Map # **15.15-4-8.1** Zoned: **RO30**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of June, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 7, 2010"**

The file consists of the mailing list to 36 neighboring property owners, the Town's required forms for an area variance, a narrative, a map of the property which indicates the proposed location of the structure, the Town Planners comments and some schematic diagrams by Tralango Builders.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a garage/pool house within the required front yard on a corner lot. No planning objections."

Joseph Macerola, applicant, presented the case. Mr. Macerola stated that he is hoping to build a two-stall garage/pool house on the left side for privacy. Mr. Macerola stated that the way his property is situated, his whole back yard is in view of the traffic along Lydius Street.

Chairman Barber asked if he had talked to anyone at the highway department.

Mr. Macerola stated that he did and he got the approval for the driveway.

Chairman Barber asked if he had talked to any of his neighbors.

Mr. Macerola responded that his one neighbor that is actually next to him had no problems with it, and there is a buffer between his property and his neighbors.

Chairman Barber stated that it appears that the distance from the property line to the edge of the pavement seems rather substantial.

Don Cropsey replied that it is, Lydius Street has got a wider right-of-way. Don stated that the garage/pool house would be about 40' from the edge of the pavement.

Mr. Macerola stated that the addition will match the house, it will be stucco and brick and he will also be doing landscaping around it to match the existing landscaping.

Chairman Barber asked Don Cropsey if Carriage Hill was a public road.

Don Cropsey stated that it is a private road and serves three parcels. Don stated that the front yard setback is the same as a public road, it is 35'.

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 6 – 0. (Cupoli, Maikels absent, Cahill alternate)

Chairman Barber made a motion for approval of:

Variance Request No. 4212

Request of **Joseph Macerola** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 34' x 30' two-car garage/pool house within a required front yard. An 18' front setback is proposed; a 35' front setback is required. A 17' variance is requested.**

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

For property owned by: Joseph Macerola

Situated as follows: 1 Carriage Hill Schenectady, NY 12303

Tax Map # 15.15-4-8.1 Zoned: RO30

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 Town Planner had no objections to the granting of this request.

The Board further finds that the proposed garage/pool house is located approximately 18' from the property line but nearly 40' from the edge of the pavement, which by appearance reduces the impact of the variance.

The property is heavily wooded and there is quite a distance between houses in that neighborhood so therefore any impacts that may be caused by this seem to be greatly mitigated.

The structure is intended to be a pool house and a covered porch for an inground pool and also will provide some degree of buffer from Lydius Street.

This is a corner lot and there does not appear to be any impact upon sight line for cars existing off of Carriage Hill onto Lydius Street.

The structure is attractively designed and will not have any impact upon surrounding properties. Therefore, the variance should be granted.

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

Adherence to the plans as submitted.

The construction hours shall be limited as follows: Monday – Friday from 8am to 5pm, Saturday from 9am to 5pm with no construction allowed on Sunday.

Highway Department shall sign off on the proposed access onto Lydius Street.

Additional landscaping shall be installed as determined by Donald Cropsey to lessen any visual impacts.

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 6 – 0. (Cupoli, Maikels absent, Cahill alternate)

SIGNS:

The Board approved a sign for Sunoco at 2585 Western Avenue. Vote 6 – 0.

The Board approved a 32sf sign for 3418 Carman Road. Vote 6 – 0.

The Board approved a 47sf sign for Appel Inn. Vote 6 – 0.

The Board approved a temporary banner for Stuyvesant Plaza for their annual sidewalk sale for a two-week period. Vote 6 – 0.

The Board tabled a request for a 24sf temporary banner for Berkshire Bank at 1704 Western Avenue.

The meeting adjourned at 8:15pm.

