

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
SEPTEMBER 15, 2010**

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

James Sumner, absent

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

NEW CASES:

MATTER OF TROY MILLER – 21 ABLEMAN 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:

Variance Request No. 4232

Request of **Troy Miller** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 28' x 36' two-story addition to an existing single-family home. Addition will contain a two-car garage with living space above. Front and side yard variances are requested. A 35' front yard setback is required; 30' is proposed, a 5' variance is requested and a 15' side yard setback is required; 10' is proposed, a 5' variance is requested.**

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

For property owned by: **Philip and Barbara Fraterrigo**
Situating as follows: **21 Ableman Ave. Albany, NY 12203**
Tax Map # **51.16-3-23** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of September, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2010**"

The file consists of the mailing list to 38 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a letter from the homeowner granting permission to Troy Miller to present her variance request to the Board, a project narrative, some maps of the property showing the proposed addition and how it is situated on the lot, and a letter from the property owner at 28 Bentwood Court East indicating they have an objection to the request regarding the front yard variance because of how the property is being maintained.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct an addition that will encroach 5' into the front and side yards. No planning objections."

Troy Miller presented the case. Mr. Miller stated that the main reason for the addition is that currently there is a single-car garage and they would like a two-car garage and there will be a bonus room above the garage. Mr. Miller stated that they will be redoing the whole exterior with new windows, everything exterior will be maintenance free. Mr. Miller stated that currently there are some maintenance problems but he feels that they can address all of the issues on the exterior. Mr. Miller stated that he feels that the new design will improve the look of the home.

Chairman Barber asked if the façade of the house would be changed dramatically, he stated that he drove by and saw the appearance of the current house.

Mr. Miller replied that it would be. Mr. Miller stated that the owners realize that they need to clean up the property and it will be done with this addition.

Chairman Barber asked if there are any landscaping plans.

Mr. Miller replied that the homeowners would do some landscaping after the addition is done.

Chairman Barber asked Don Cropsey if there are other issues that he could address during inspections and basically satisfy the neighbors that their concerns would be taken care of.

Don Cropsey stated that there are issues with the exterior of the property, the yard, etc. which can be addressed during inspections.

Mr. Miller stated that there would be a small overhead door in the garage to the rear for lawnmowers, garbage cans, etc.

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

A neighbor submitted a letter from a number of residents on Ableman Avenue with concerns for the front yard variance. The neighbors stated that the house was an eyesore in its current condition.

Another neighbor stated that she still had concerns that after the addition was built, it would return to being an eyesore. She felt that with the addition, the house would be more visible.

Chairman Barber stated that the Zoning Department has not received any complaints from neighbors regarding property maintenance. Chairman Barber stated that the Board and Mr. Cropsey are now aware of issues and they can make certain that the problems are taken care of.

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. 4232

Request of **Troy Miller** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 28' x 36' two-story addition to an existing single-family home. Addition will contain a two-car garage with living space above. Front and side yard variances are requested. A 35' front yard setback is required; 30' is proposed, a 5' variance is requested and a 15' side yard setback is required; 10' is proposed, a 5' variance is requested.**

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

For property owned by: **Philip and Barbara Fraterrigo**
Situated as follows: **21 Ableman Ave. Albany, NY 12203**
Tax Map # **51.16-3-23** Zoned: **R15**

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

A public hearing was duly noticed and held this evening. Two letters were received expressing their concerns regarding the condition of the property.

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 notes that prior to this public hearing the Zoning Department was not aware of any complaints regarding the appearance or maintenance of the property. Since that time, the Zoning Department has become aware of issues and would note that some of them

deal with the façade and the maintenance of the building in terms of its paint. The Board notes that the proposal by the applicant is to install new windows, new roof, new siding and that should address those issues. Don Cropsey will address the other issues in terms of maintenance of the property during his inspections on the addition.

With regards to the variances, the 5' side yard variance is requested because of the need for the two-car garage. The Board has granted other variances of this nature to allow two car garages on both this street and adjacent streets. The 5' front yard variance is actually to accommodate a 30" setoff of the garage from the rest of the house and would improve the aesthetics of the house.

The garage will still be situated more than 40' from the edge of the roadway.

The proposed addition is attractively designed and would promote the appearance of the property and therefore should not be detrimental to neighboring properties.

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

Adherence to the plans as submitted.

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

Compliance with any property maintenance or building code issues that have been identified by the Zoning Administrator.

The Zoning Administrator is authorized to review whether or not additional landscaping will be needed on the side of the garage to buffer the view of the garage.

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

Motion seconded by Sharon Cupoli. Vote 7 – 0. (Sumner absent, Cahill alternate)

MATTER OF DIANA DAYTON – 241 & 243 BRANDLE 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. 4233

Request of **Diana Dayton** for a Variance of the regulations under the Zoning Law to permit: **two existing undersized parcels of land to remain separate legal residential lots containing minimum dimensional criteria for an undersized lot.**

Per Articles **IV & V** Sections **280-29 and 280-51** respectively

For property owned by: **Diana Dayton and the Estate of Mildred Ether**
Sited as follows: **241 and 243 Brandle Road Altamont, NY 12009**
Tax Map # **37.00-3-3 & 37.00-3-2** Zoned: **R20**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of September, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 8, 2010**"

The file consists of the mailing list to 41 neighboring property owners, the Town's required forms for an area variance with a number of attachments, a detailed narrative, deeds, surveys, the Town Planners comments, a notification from the Village of Altamont's Planning and Zoning Action Referral Form which states that they have no problem with it but make sure that sewer and water fees are taken care of if they choose to hook up.

The Town Planner had the following comments: "The applicant is requesting a variance from a requirement to merge two separate undersized tax parcels under the same ownership. No planning objections."

Joanne Darcy Crum, Land Surveyor, and Dawn Vann, Real Estate Agent presented the case. Ms. Crum stated that these two lots have separate since the 1960s but under the same ownership for about 40 years. In 2002 the house lot was conveyed to the daughters and the other lot remains in the estate of Mildred Ether. Ms. Crum stated that throughout the years, the lots have been taxed and assessed as separate lots and they do have separate tax map numbers. The lots were purchased in the early 1960s and would like to continue to keep them as two separate lots. There is a contract for the purchase of the house; unfortunately when the garage was built, it encroached over onto the second lot. A survey was done and they are requesting a lot line adjustment so that the garage will be totally on the 241 Brandle lot. Neither of the frontages have been changed.

Chairman Barber asked Don Cropsey about the lot line adjustment.

Don Cropsey replied that Jan Weston, Stephen Feeney, Chairman of the Planning Board and he take care of the lot line adjustment and it is done in-house.

Chairman Barber asked Don Cropsey about the variance.

Don Cropsey replied that prior to the adoption of the law it was under the same ownership and the way the law reads it anticipates the lots being joined to make a complying lot.

Chairman Barber stated that both lots meet the size requirements.

Don Cropsey replied that they still meet the size requirements but the width at the building line is problematic.

Chairman Barber stated that the Board is going to go through the process of considering the variance but he is not really sure it is needed. Chairman Barber stated that both lots qualify; the 100' and 125' is a preexisting condition, it existed at the time the lots were created and existed in 1987.

Ms. Crum stated that is what she would have thought.

Chairman Barber stated that 241 Brandle Road is owned by the three daughters with the house on. The vacant lot is owned by the estate. Both lots are about one acre.

Don Cropsey stated that most of the lots in that area have 100' frontage.

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

Nancy O'Brien of 244 Brandle Road who lives directly across from the parcels main concern was regarding drainage and construction issues.

Chairman Barber made a motion to close the public hearing. Motion seconded by Al Maikels. Vote 7 – 0. (Sumner absent, Cahill alternate)

Chairman Barber asked Don Cropsey about construction on the parcel.

Don Cropsey stated that if decide to sell the lot and someone wishes to build a home, they will need to take a number of steps to start construction. Number one would be to apply for a building permit and secondly they would also have to apply for approval from the town highway department with respect to where the driveway is going to be place. Don stated that when they review a driveway placement they also take into account culvert pipes and drainage and drainage is also looked at from the building permit point of view. Don stated that when it gets approved, it gets approved with the idea in mind that the improvement will not impact adjoining property owners, whether it is next door or across the street.

Chairman Barber made a motion for approval of:

Variance Request No. 4233

Request of **Diana Dayton** for a Variance of the regulations under the Zoning Law to permit: **two existing undersized parcels of land to remain separate legal residential lots containing minimum dimensional criteria for an undersized lot.**

Per Articles **IV & V** Sections **280-29 and 280-51** respectively

For property owned by: **Diana Dayton and the Estate of Mildred Ether**

Situated as follows: **241 and 243 Brandle Road Altamont, NY 12009**

Tax Map # **37.00-3-3 & 37.00-3-2** Zoned: **R20**

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. One resident spoke at the public hearing expressing concerns regarding the impacts upon her property and on the loss of wildlife habitats on that property if construction were to take place.

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

The Town Planner and the Altamont Referral Committee had no objections to the request.

The Board further finds that the application involves two lots; each are bisected by the municipal boundary between the Village of Altamont and the Town of Guilderland. 241 Brandle Road is approximately 1.1 acres and has a residence and 243 Brandle Road is 1.03 acres and is a vacant lot. The three daughters of Mildred Ether own 241 Brandle Road and 243 Brandle Road is still owned by the estate. Both lots are nonconforming because each have a 100' road frontage where a 125' frontage is required. 280-311 governs the undersized lots and states that both lots will meet the other bulk requirements and the minimum lot size and minimum width of 50' as it exists today. The only issue apparently was whether the question of whether the fact that two lots were owned at one point by a prior owner; whether there is some requirement that they be combined. Chairman Barber stated that he believes that the issue really is at the time the minimum lot area was sufficient and they were and therefore no variance is required. To avoid any confusion we recommend to the Board that they grant the variance from the 125' road frontage down to the 100' frontage and that therefore both lots deem to be compliant in all respects with the Zoning Code. The 100' frontage is shared by many of the lots in this neighborhood.

The Board agrees that the request for a lot line adjustment described in the survey to accommodate the garage should be granted but that rests with the three-person committee consisting of Stephen Feeney, Jan Weston and Donald Cropsy.

Based upon these findings, I move that there is no impact upon the neighborhood as long as these conditions are met and any pre construction conditions are met.

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

Adherence to the plans as submitted and subject to any lot line adjustment requirements under the code.

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

Motion seconded by Sharon Cupoli. Vote 7 – 0. (Sumner absent, Cahill alternate)

SIGNS:

The Board approved a face change for Getty Gas Station to Lukoil in Guilderland Center.
Vote 7 – 0. (Sumner absent, Cahill alternate)

MINUTES

The Board approved the minutes of 1/6/10.

The meeting adjourned at 8:15pm.