

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
OCTOBER 6, 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 JOSEPH KERNOZEK – 31 STONE 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 & V** of the Zoning Law on the following proposition:

Variance Request No. 4236

Request of **Joseph Kernozek** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 24' x 32' single-story garage and a 12' x 14' storage shed within a front and side yard respectively. A variance is requested to permit noted accessory structures in yards other than a rear yard.**

Per Articles **III & V** Sections **280-34 and 280-51** respectively

For property owned by: **Joseph Kernozek**

Situated as follows: **31 Stone Road Voorheesville, NY 12186**

Tax Map # **61.00-2-3** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: September 27, 2010"

The file consists of the mailing list to 7 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a plot plan, some depictions of the proposed garage and shed, some pictures of the property and the fire on the property.

The Town Planner had the following comments: "The applicant has applied for a variance to construct a garage and a shed within a required front and side yard setback. Though it appears that these buildings could be placed within the required building envelope, the adjoining neighbor has significant barns built almost to the street line and these buildings will not be out of character with the rural neighborhood. No planning objections."

Hilda Kernozek, owner, presented the case.

Chairman Barber stated that there was a fire that destroyed the barn back in July and now they are looking to replace the barn with a garage.

Ms. Kernozek stated that now they just want to get the shed and the garage done and they will have to wait for the barn.

Chairman Barber stated that the neighbor has barns that are practically on the road.

Ms. Kernozek stated that was correct and stated that she had pictures of the neighbors property.

Chairman Barber asked if any of the neighbors had any concerns with the proposal.

Ms. Kernozek stated that nobody had concerns about it.

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

Ted Kernozek, who lives across the street stated that they had no objection to the variance.

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. 4236

Request of **Joseph Kernozek** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 24' x 32' single-story garage and a 12' x 14' storage shed within a front and side yard respectively. A variance is requested to permit noted accessory structures in yards other than a rear yard.**

Per Articles **III & V** Sections **280-34 and 280-51** respectively

For property owned by: **Joseph Kernozek**
Sited as follows: **31 Stone Road Voorheesville, NY 12186**
Tax Map # **61.00-2-3** Zoned: **RA3**

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

A public hearing was duly noticed and held this evening. One resident spoke in favor of 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 a barn which was previously located on the property was destroyed by fire this past July. This barn was located closer to the road than the garage that is proposed by this application. The proposed location, as indicated in the application, will reduce the amount of paved surface.

The proposed location of the garage and shed is similar to other properties and consistent with the rural character of the neighborhood; the adjacent neighbor's barns are practically on the street.

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

Adherence to the plans as submitted.

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 Jim Sumner. Vote 7 – 0.

MATTER OF TODD REMKUS – 7 TURNSTILE DRIVE

Tom Remmert 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. 4234

Request of **Scott and Todd Remkus** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 24' x 24' two-story addition to an existing single-family home. Said addition will contain two garage stalls with two bedrooms above.**

A side yard variance is requested; 15' is required, 11' is proposed, a 4' variance is requested.

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

For property owned by: **Scott and Todd Remkus**

Situated as follows: **7 Turnstile Drive Albany, NY 12203**

Tax Map # **51.08-4-8** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 22, 2010**"

The file consists of the mailing list to 37 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a sketch of the proposed location of the garage on the property and how it relates to the property line and some elevations of the proposed garage.

The Town Planner had the following comments: "The applicant has requested an area variance to build an addition that will encroach into the side yard by four feet. No planning objections."

Todd Remkus, applicant, presented the case.

Chairman Barber asked if there was an existing garage.

Mr. Remkus replied that there was not an existing garage.

Chairman Barber stated it would be a two-car garage with two bedrooms above the garage.

Chairman Barber asked if there was a survey of the property and how they determined the 11'.

Mr. Remkus stated that they did have an architect come and do the sketches and elevations.

Chairman Barber asked if any of the neighbors had raised any questions.

Mr. Remkus stated that they were all in favor.

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 Sharon Cupoli. Vote 7 – 0

Chairman Barber made a motion for approval of:

Request of **Scott and Todd Remkus** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 24' x 24' two-story addition to an existing single-family home. Said addition will contain two garage stalls with two bedrooms above. A side yard variance is requested; 15' is required, 11' is proposed, a 4' variance is requested.**

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

For property owned by: **Scott and Todd Remkus**

Situated as follows: **7 Turnstile Drive Albany, NY 12203**

Tax Map # **51.08-4-8** Zoned: **R15**

In rendering this decision, 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 variance.

The Board further finds that the proposal involves the addition of a two-stall garage with two bedrooms above.

The four-foot variance is not substantial, in reviewing other applications with Don Cropsey there were other variances that were granted over the past 20 years and a two-car garage is becoming the more standard garage in that neighborhood.

The Board finds that the granting of this request will not have a negative impact upon neighboring properties.

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

Adherence to the plans as submitted.

Don Cropsey will review the site to determine whether any additional landscaping may be required to buffer the impact upon adjoining properties.

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 Sharon Cupoli. Vote 7 – 0.

MATTER OF TODD HARTMAN – 1204 WESTERN 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:

Special Use Permit Request No. 4235

Request of **Todd Hartman** for a Special Use Permit under the Zoning Law to permit: **the use of approximately 600+/-sf of space, formerly occupied by a tax preparation office, as a retail pipe and tobacco store.**

Per Articles **III & V** Sections **280-21 and 280-52** respectively

For property owned by: **Paul Santa Maria**

Situated as follows: **1204 Western Ave. Albany, NY 12203**

Tax Map # **63.08-4-1** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 27, 2010**"

The file consists of the mailing list to 33 neighboring property owners, the Town's required forms for a special use permit along with a Short Environmental Assessment Form for this Unlisted Action, the Town Planners comments, the proposed lease, a brief narrative, the Town Planning Board's site plan review, Albany County Planning Board's notification of 8-19-10 and a survey which shows the existing building on the property.

The Town Planner had the following comments: "This is a site plan review to allow a tobacco store to use 600sf of space on the ground floor of this building which contains two apartments. All site conditions on this parcel are preexisting. The site is almost entirely paved, has adequate parking and a guardrail that separates the parking at the adjacent Sutters Restaurant. No planning objections."

The Town Planning Board's site plan review was to recommend approval without any suggestions or conditions.

Albany County Planning Board's notification of 8-19-10 was to notify the City of Albany.

Todd Hartman, applicant, presented the case. Mr. Hartman stated that deliveries come about once or twice a week depending on how much merchandise is sold. Mr. Hartman stated that there would not be any smoking in the building and also stated that there would be two full time employees and one part time employee. Mr. Hartman stated that

this would be store #4. Mr. Hartman stated that he does not plan on doing any exterior work, just some minor interior upgrades.

Chairman Barber asked where the other three stores were located.

Mr. Hartman replied that they were in Syracuse and Ithaca.

Chairman Barber asked how long the other stores had been in business.

Mr. Hartman replied that he has been in retail 3 ½ years.

Chairman Barber asked how the stores had been received; because some people do raise concerns regarding paraphernalia being used for illegal uses.

Mr. Hartman stated that there has not been any opposition from anyone.

Chairman Barber stated that he is registered with the State Tax Authority but the jurisdiction over how he runs his store is done by the Department of Health.

Mr. Hartman stated that the stores are visited often unannounced by authorities. Mr. Hartman stated that employees have to go through training before they can work there.

Chairman Barber asked if there was any reason why his stores were located near universities.

Mr. Hartman replied that college students are a customer base for them but some of his other stores are not located near universities; it is not a direct motive.

Chairman Barber asked what the percentage of sales was between tobacco and non-tobacco products.

Mr. Hartman replied that accessories are approximately 40% of his business.

Counsel Parker asked about deliveries.

Mr. Hartman replied deliveries come by UPS and tobacco items are delivered in a small box truck.

Chairman Barber stated that over the years the property has been granted a number of variances, all of which run with the land which is a benefit to the applicant.

Jim Sumner asked why his hours of operation were not the same everyday.

Mr. Hartman replied that people like cigars later on in the evening on Friday and Saturday, they set those hours when they opened their first store and in order to keep consistency with the stores, hours are the same.

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

Don Reeb of 5 Norwood Street stated that the business is not one that they would hope to attract to McKownville. Mr. Reeb had concerns regarding sales to minors and illegal activity.

Jim Sumner asked Mr. Reeb if he had any concerns regarding the hours of operation.

Mr. Reeb replied that the hours are similar to most of the neighboring businesses.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 7 – 0.

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 tobacco and pipe shop at 1204 Western Avenue would have an adverse significant impact upon the environment. This review consisted of the comments provided to us during the public hearing, review of the application, comments provided to the Board from the Town Planning Board, the Town Planner and the Albany County Planning Board. Based upon this collective record, I would move that a negative declaration be issued." Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4235

Request of **Todd Hartman** for a Special Use Permit under the Zoning Law to permit: **the use of approximately 600+/-sf of space, formerly occupied by a tax preparation office, as a retail pipe and tobacco store.**

Per Articles **III & V** Sections **280-21 and 280-52** respectively

For property owned by: **Paul Santa Maria**

Situated as follows: **1204 Western Ave. Albany, NY 12203**

Tax Map # **63.08-4-1** Zoned: **GB**

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 raising some concerns regarding the nature of the business.

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

The Albany County Planning Board's notification was to notify the City of Albany, which was done on 12-5-10 and no comments were provided by the City of Albany.

The Town Planning Board recommended approval without any suggestions or conditions.

The Town Planner had no planning objections.

The Board first notes that Don Cropsey did not determine that any variances were needed in fact the property has other variances that run with the land and are applicable to this application.

As noted by the Town Planner, the parking spaces are more than adequate for the intended use.

The Board notes that the General Business zone is the most intense business zone with the exception of Industrial and expressly includes retail uses in a broad sense which includes this retail tobacco and pipe shop. The listing of this use as a special use permit is deemed by the courts to be the functional equivalent of a finding that the use is compatible with the character of the neighborhood.

The proposed tobacco and pipe shop is also subject to a certificate of registration issued by the Department of Taxation and also is subject to enforcement of tobacco control laws both in terms of the tobacco itself but also any paraphernalia by the Department of Health which regulates businesses of this type for compliance with the law.

The applicant is certified by the Department of Health Bureau of Community Health for taking courses dealing with the sale of tobacco products to minors.

While the Board appreciates comments made regarding potential illegal uses of products sold in the store, the fact remains that the Board does not presume illegality and this is a valid legal use. Any illegal use by people of any product that is sold is within the jurisdiction of the authorities and not within the jurisdiction of this Board.

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

Adherence to the plans and the application as submitted.

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

The hours of operation shall be as set forth in the application: Monday – Thursday from 11am to 9pm, Friday and Saturday from 11am to 10pm and on Sunday from 12pm to 7pm.

There shall be no outdoor tables on site unless another application is filed to amend this special use permit.

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 filing, it is hereby declared to be null and void and revoked in its entirety.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

NYISO – 3890 CARMAN ROAD

All Members 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:

Amend Special Use Permit #06-10/Request No. 4237

Request of **Gary Wieland** for an Amendment to Special Use Permit #06-10 under the Zoning Law to permit: **the modification of a previously approved site plan to accommodate a new location for generator equipment.**

Per Articles **III & V** Sections **280-20 and 280-52** 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 **6th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 27, 2010**"

The file consists of the mailing list to 29 neighboring property owners, the Town's required forms for this amendment to a special use permit, the Town Planner's comments, a letter dated August 30, 2010 from the architects explaining the proposed modification of the site plan which involves locating two of the equipment pads to the location that had been proposed but was then changed due to concerns regarding undisturbed areas or archaeological significance, a Full Environmental Assessment Form for this Unlisted Action, a letter from Creighton Manning Engineering regarding a traffic assessment, Albany County Planning Board's notification, an archaeological survey, and a series of plan for the site.

The Town Planner had the following comments: "The applicant has requested a modification to the recently approved plans for an addition. The modification will allow for a larger area for their generators and equipment. No planning objections."

Albany County Planning Board's notification of 9-16-10 was to defer to local consideration.

Jonathan Draper of DCJS Architects presented the case. Mr. Draper gave a brief history of the project. Mr. Draper stated that they had received a special use permit and were now looking to modify the site plan and relocate the generators back to the original location as a result of the findings of the archaeological survey.

Chairman Barber asked Mr. Draper to show the approved location and to show the proposed new location.

Mr. Draper replied that the pads as approved in March were located adjacent to the proposed drive lane; approximately 10' from the drive lane within the existing perimeter fence of the site. Mr. Draper stated that the proposed plan pushes the generator pads approximately 50' to the west and as a result they are modifying the tree and fence line on the western side of the property.

Chairman Barber asked if the location would be closer or farther away from residences.

Mr. Draper replied that it is further from the residences; the residential properties are located to the northwest with the Town of Guilderland Town Hall being to the southwest of the property.

Chairman Barber asked about the modification of the tree line.

Mr. Draper replied that the tree line was modified because of the new location and because of security reasons.

Chairman Barber asked how noise and lighting is handled.

Mr. Draper replied that when they initially reviewed the plan and as the facility is currently configured there are two existing generators housed within an enclosure on the north side of the site which is approximately 100' from the nearest property owner. Mr. Draper stated that the proposed generators are rated at a lower decibel level and they are in enclosures that will diminish the impact on the noise.

Chairman Barber stated that the relocation of the pads was not changing the nature of the equipment or the findings in the special use permit regarding how the noise was being handled.

Mr. Draper stated that was correct.

Chairman Barber stated that his understanding was that initially the pads were going as proposed tonight but they had to be relocated because there was an undisturbed area and that SHPO raised some concerns and wanted an evaluation whether or not there might be some archaeological significance about that undisturbed area.

Mr. Draper stated that was true.

Chairman Barber stated that the Phase 1A and Phase 1B study determined that there is no archaeological significance in the undisturbed area.

Mr. Draper stated that was correct, the Phase 1A and Phase 1B study showed there was reason to believe there was potential but the test shovel pits that were done revealed no artifacts of significant findings.

Chairman Barber stated that it was his understanding that SHPO's concern was based upon a finding where there was some archaeological significance but it was half a mile away.

Mr. Draper replied that was correct.

Chairman Barber stated other than that, the site plan remains as is.

Chairman Barber stated that for SEQRA purposes this was a Type I Action initially because it was joint funding with the project over in East Greenbush. The East Greenbush project has been approved so the SEQRA process is finished and they are starting with an amendment of a special use permit which is an Unlisted Action under SEQRA. It is no longer a Type I Action, because the Type I Action was complete.

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 Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action:

"This Board has reviewed this application and based upon our review of both the application and other documents the Board finds that the approval of this amended special use permit which allows for the relocation of the pads and the realigning of the tree line and landscaping will not have an adverse significant environmental impact. This finding is based upon the review of the application, the conducting of the public hearing this evening, the review of the prior SEQRA determination, the comments provided to us by both the Town Planner and the Albany County Planning Board, a review of the archaeological survey Phases 1A & 1B which show that the previously undisturbed land which has now been analyzed has been found to not have any archaeological significance and also that the noise from the generator has not changed and that the findings regarding that in terms of both our SEQRA determination and the prior special use permit is that the noise abatement procedures are adequate and will not cause any negative impact upon neighboring properties. For these reasons, I move that a negative declaration under SEQRA should be issued." Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber made a motion for approval of:
Amend Special Use Permit #06-10/Request No. 4237

Request of **Gary Wieland** for an Amendment to Special Use Permit #06-10 under the Zoning Law to permit: **the modification of a previously approved site plan to accommodate a new location for generator equipment.**

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

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.

Albany County Planning Board's notification of 9-16-10 was to defer to local consideration.

The Town Planner had no objections.

The Board further finds that in the prior special use permit the Board approved this building addition with the site improvements. This prior special use permits approval of the site plan included two generator pads which had been located from the originally intended location due to the presence of previously undisturbed area. This issue was a concern of the NYS Office of Historic Places. Since that time, the previously undisturbed area has been analyzed by both the Phase 1A and Phase 1B archaeological survey of that original proposed location and has found that there is no archaeological significance to that proposed site. The pad location is now approximately 50' to the west which is further away from residents which will further reduce any concerns that might arise. The Board finds that the granting of this request will not have any impact upon the character of the residential neighborhood.

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

Adherence to the plans as submitted with this application.

Except as modified by this decision, the prior special use permit shall remain in effect and adhered to.

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

If this amended 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 Sharon Cupoli. Vote 7 – 0.

MATTER OF STEVE OBERMAYER – 458 LITTLE FALLS PLACE

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. 4238

Request of **Steve Obermayer** for a Variance of the Regulations under the Zoning Law to permit: **the construction of a single-family home beyond the intersection of a 12° angle of repose from the toe of a steep slope with watercourse.**

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

For property owned by: **Johnston Road, L.L.C.**

Situated as follows: **458 Little Falls Place Albany, NY 12203**

Tax Map # **51.15-2-21.1** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 27, 2010"**

The file consists of the mailing list to 44 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a report dated September 20, 2010 from Dente Engineering entitled "Slope Stability Analysis", a letter dated 8-14-2009 from Dente Engineering entitled "Little Falls Place Culvert", and a site plan and cross section prepared by ABD Engineers and Surveyors.

The Town Planner had the following comments: "The applicant has requested a variance to construct a house within the angle of repose setback. There is a soil analysis on file that states this building placement will be safe in regard to slope stability. Although I generally advocate for the preservation of the angle of repose setbacks for other environmental reasons, the house will be more than 100' from the stream. It should be noted that the Blockhouse Creek is a protected DEC stream and any crossing and/or other disturbance to it requires DEC permits. The applicant should also be required to complete a SWPPP to insure a proper grading and stormwater plan is in place."

Joe Bianchine of ABD Engineering presented the case. Mr. Bianchine gave a history of the lot. Mr. Bianchine stated it was part of a subdivision created back in the 70s and this was a leftover piece. Mr. Bianchine stated that there is a driveway into the site and also

stated that the Blockhouse Creek bisects the property. The site is heavily wooded and there really is only one location to place a house on the property. Mr. Bianchine stated that there is virtually no place on the property that you could put a house without obtaining a variance. Mr. Bianchine stated that Dente Engineering did a soil boring at the site and they determined that there is a safe setback for a house (on map).

There was discussion regarding grading on the site.

Chairman Barber asked whether or not they analyzed if the crossing could handle fire apparatus.

Mr. Bianchine stated that it could handle fire apparatus.

Chairman Barber stated that the plans also depict a barn and a pool.

Mr. Bianchine replied that is a possibility.

Chairman Barber stated that Dente Engineering is indicating that if there were soil erosion or alterations somewhere else along the Blockhouse Creek it could cause issues on this site also.

Mr. Bianchine stated that in this case they own everything nearby.

Chairman Barber asked about the 1.3 safety factor and asked what the range is for safety factors.

Mr. Bianchine replied that usually something slightly over 1 is safe, less than 1 would be unsafe.

Chairman Barber asked Mr. Bianchine if he had any concerns regarding the Town Planners comments regarding soil stability and environmental.

Mr. Bianchine replied that in this location the ravine has already been crossed and you want to keep as much of the vegetation as possible so they do not have to disturb any of the vegetation on the slope, it has been done and has been stabilized because it has been there for 20 or 30 years now. The only vegetation that needs to be removed is in the area right around the house.

Chairman Barber asked if this site is currently accessible.

Mr. Bianchine replied that it is, you can drive down and walk into the site.

Tom Remmert asked about the change in grade on the plans.

Mr. Bianchine replied that there will be a little change in grade to get the driveway up and flattened out before the garage. Mr. Bianchine replied that the grade would be a maximum 1 to 2 foot change.

Tom Remmert asked how far back the existing driveway went.

Mr. Bianchine replied that you cross the stream and go up a little grade and it ends.

Chairman Barber asked if the front of the house is about 40' behind the Dente slope setback.

Mr. Bianchine replied it is about 30'.

Sharon Cupoli asked what type of square footage they were looking at on the house.

Mr. Bianchine replied about 4000sf. Mr. Bianchine stated that Dente would take a look at the house and how they intend to grade around the site.

Sharon Cupoli asked if DEC needed to do anything.

Mr. Bianchine replied that the driveway is already in; they would have to put utilities in.

Chairman Barber asked who owned the land to the south.

Mr. Bianchine replied that he did not know.

Chairman Barber asked if there was any consideration given to pushing the house back to the south even though you might need a variance from the 35' rear yard setback.

Mr. Bianchine stated that they thought of it but situated it so there would be some back yard.

Tom Remmert asked how long the driveway would end up being from the cul-de-sac.

Mr. Bianchine replied it would probably be a little over 300'.

Tom Remmert stated that there might be a problem with some fire apparatus getting on site.

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

Anne Tucker Rose of 592 Jefferson Court, stated that the Presidential Estates Homeowners Association owns 13 acres of forever wild and the lands to the south of this proposed home are part of that forever wild area. Ms. Rose stated that her personal concern was the water and endangering the Normanskill. Ms. Rose asked if Guilderland Water & Wastewater might comment on what this house might do to the area. Ms. Rose was also concerned about fire apparatus and their ability to get to the site and over the bridge that Mr. Quadrini put in many years ago.

Chairman Barber asked Ms. Rose how far the closest house was to where the proposed house would be placed.

Ms. Rose replied that she was not positive.

Chairman Barber asked if the area was forever wild by some approval of the Planning Board or by choice.

Ms. Rose replied that it was deeded to the Presidential Estates Homeowners Association.

Chairman Barber asked Ms. Rose what her visibility would be of the proposed house.

Ms. Rose replied that probably only lights at night, her lot is heavily wooded. Ms. Rose stated that the people on Washington Court would be neighbors.

Chairman Barber stated that as far as concerns regarding water impacts on the Blockhouse Creek, the Town Planner already provided for a SWPPP and as part of the design of the contour of the land, there is always a requirement that do not have runoff going into the streams.

Dan Powers of 571 Jefferson Court, directly behind the proposed building site, asked when the bridge was built. Mr. Powers had concerns regarding them disturbing the forever wild, the wastewater from the house and the effect on the wildlife. Mr. Powers stated that the houses on Washington Court are probably about 250' from the proposed house.

Alice O'Neil of 621 Washington Court had concerns regarding the bridge; both construction wise and the lack of permits and the impact of the forever wild of Presidential Estates.

Jeff Siggia of 609 Washington Court had concerns regarding the "barn", water and sewer and the bridge.

Joe Bianchine stated that the barn is just a generic term and is not intended for any animals. Mr. Bianchine stated that there would be no disturbance to the stream, there would have to be some work done on the driveway to clean it up like paving it.

Chairman Barber asked if that work would require any DEC permits.

Mr. Bianchine replied that he did not believe so because you are not disturbing the bank of the stream. Mr. Bianchine stated that the utilities would go underneath the stream and would not require a stream disturbance permit.

Chairman Barber asked if he knew if there was a DEC permit.

Mr. Bianchine replied that he would look into that.

Chairman Barber stated that he talked to Don Cropsey and he had called DEC and there was a permit issued.

Mr. Bianchine stated that he would check into that.

Chairman Barber asked how a building lot ever got created where you could not get a building envelope without having variances required.

Dave Martin of Johnston Road LLC stated that going back to the original subdivision there was not a slope stability issue.

Jeff Siggia of 609 Washington Court stated that he believes that this parcel is classified as 970 on the tax roll, which is wild lands and never intended to have a house on it. If it were intended to have a house on it, it would be classified as a 311 and taxed accordingly.

Chris Harvison of 608 Washington Court asked what the range was for the safety factor.

Mr. Bianchine replied that usually it is from 0 to 2.

Chairman Barber made a motion to appoint Delaware Engineering as the TDE to provide review and report to the Board regarding the slope stability analysis provided by Dente Engineering and also look at the bridge stability report and fire apparatus access across the bridge. Chairman Barber stated that they Board is dealing with a variance on the angle of repose, they have no jurisdiction over stream crossings. The Board does not do anything in terms of SWPPP other than requiring them and have them reviewed by the appropriate SWPP officer. Motion seconded by Sharon Cupoli. Vote 7 – 0.

Chairman Barber stated that they would await Delaware Engineering's report and will schedule the hearing then.

SIGNS:

The Board approved a sign for Fancy Schmancy at 1800 Western Avenue on the monument sign. Vote 7 – 0.

The Board approved temporary banners for Stuyvesant Plaza for their open house and carriage rides for one week only. Vote 7 – 0.

The Board approved the minutes of 1-20-10 and 2-3-10.

The meeting adjourned at 9:38 pm.

