

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
OCTOBER 20, 2010**

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

Members Absent: Peter Barber

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

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**NEW CASES:**

**MATTER OF SHARYLL KELLER – 2 WITTE 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. 4239**

Request of **Sharvll Keller** for a Variance of the Regulations under the Zoning Law to permit: **the construction of a 27.6' x 32.25' single-story garage addition to an existing single-family home situated on an irregular shaped lot. Variances are requested for the following: 1) To allow a front setback of 31.63'; 35' is required, a 3.37' variance is requested, and 2) to allow a side yard setback of 11.5', 15' is required, a 3.5' variance is requested.**

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

For property owned by: **Sharvll Keller**

Situated as follows: **2 Witte Road Albany, NY 12203**

Tax Map # **51.12-4-45** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **October 12, 2010**"

The file consists of the mailing list to 30 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a site plan, some plans depicting how the property will look after the proposed garage is built and building elevations.

The Town Planner had the following comments: "The applicant has requested area variances to construct a garage addition that will encroach into the front and side yards. This is an irregularly shaped lot and the variances are minimal. No planning objections."

Sharyll Keller, applicant, presented the case.

Acting Chairman Maikels stated that this property is tucked in around a corner and their immediate neighbor behind them does not have any objections to the proposal.

Acting Chairman Maikels asked if there were any questions or comments from the residents. There were none. Acting Chairman Maikels made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 6 – 0. (Barber absent)

Acting Chairman Maikels made a motion for approval of:

**Variance Request No. 4239**

Request of **Sharyll Keller** for a Variance of the Regulations under the Zoning Law to permit: **the construction of a 27.6' x 32.25' single-story garage addition to an existing single-family home situated on an irregular shaped lot. Variances are requested for the following: 1) To allow a front setback of 31.63'; 35' is required, a 3.37' variance is requested, and 2) to allow a side yard setback of 11.5', 15' is required, a 3.5' variance is requested.**

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

For property owned by: **Sharyll Keller**

Situated as follows: **2 Witte Road Albany, NY 12203**

Tax Map # **51.12-4-45** 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 spoke regarding the application.

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

The Town Planner had no objection to the granting of this request.

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 Sundays.

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

Motion seconded by Sue Macri. Vote 6 – 0.

**MATTER OF LEONARD WAGER – 26 BROOKVIEW 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, IV & V** of the Zoning Law on the following proposition:

**Variance Request No. 4240**

Request of **Leonard Wager** for a Variance of the Regulations under the Zoning Law to permit: **the placement of a 12' x 16' storage shed in a front yard location and beyond a 12° angle of repose line intersection. In addition, shed will be located within 100' of a stream. Variances are requested for the following: 1) to allow proposed structure within 100' of a stream; 2) to allow proposed structure in a front yard and 3) to allow proposed structure to be placed beyond the intersection of a 12° angle of repose from a steep slope and water course.**

Per Articles **III, IV & V** Sections **280-14, 280-29 & 34 and 280-51** respectively

For property owned by: **Leonard Wager**

Situated as follows: **26 Brookview Drive Schenectady, NY 12303**

Tax Map # **28.05-1-8.3** Zoned: **R40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of October, 2010** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **October 12, 2010"**

The file consists of the mailing list to 22 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, and plans depicting the location of the proposed storage shed on the property.

The Town Planner had the following comments: "The applicant is seeking variances to construct a shed in the front yard and within the angle of repose and 100' setback of a stream. Because of the lot's location, I have no objection with the shed being placed in the required front yard. However, there appears to be no reason that it couldn't be placed closer to the house, outside both the stream and angle of repose setbacks.

Leonard Wager, applicant, presented the case. Mr. Wager stated that he wanted to place the shed there because the shed is setting on a pedestal and he has a company coming in to fill it in and has placed crushed stone where he was hoping to place the shed.

Acting Chairman Maikels stated that there is a rather deep driveway into the property and stated that with this type of variance which involves an angle of repose, they will require the applicants to get a soils study done.

Mr. Wager asked if that would have been done when the house was built.

Acting Chairman Maikels asked if the house was within the angle of repose.

Don Cropsey stated that the property was subdivided and the house is within the buildable envelope, which is outside the angle of repose. Don stated that since the shed is beyond the line, a soils study needs to be done to show that it is a safe place to build the shed.

Acting Chairman Maikels stated that for the Zoning board of Appeals even to consider granting the variance application, a soils study must be obtained by a qualified engineering firm and upon receipt of that, the Board would than ask a TDE to review it and only then would the Board consider granting the request.

Mrs. Wager asked who the Board would recommend.

Don Cropsey stated that it is up to them; they should hire an engineer to provide the soils study.

Don Cropsey stated that they could provide the applicant with a list of engineers and they could determine which one they would like to use. Don stated from that point the applicant would submit the study to the Zoning Board of Appeals and they would appoint their own engineer to review what has been submitted.

Mrs. Wager asked what the time frame would be.

Don Cropsey stated that the time frame would be up to them, the time frame would hinge around how quickly the engineer can do the soils study. Don stated that they are realistically looking at four to six weeks.

There was brief discussion regarding the stream.

Don Cropsey stated that it was not a question of the stream overflowing, it was a question of the stability of the soils below where the shed would be placed. Don stated that when you add weight to unstable soils, there is a possibility of those soils failing and the shed sliding into the creek. Don stated that there are a number of areas in town that have that problem.

Jim Sumner asked if there was somewhere else that this shed could be placed on the property that would not require a variance.

Don Cropsey replied that he had spoken with Mr. Wager about alternatives on site that would not need a variance and he is still desiring to place the shed in this particular location.

Mr. Wager stated that the proposed location would be much easier for him.

Mrs. Wager stated that if they put the shed in the back yard, they would have to remove a number of trees and it would be very expensive.

Acting Chairman Maikels made a motion to appoint Delaware Engineering as the TDE on the project. Motion seconded by Sharon Cupoli. Vote 6 – 0. (Barber absent)

Acting Chairman Maikels asked if there were any questions or comments from the residents. There were none.

Acting Chairman Maikels made a motion to continue the public hearing. Seconded by Sue Macri. Vote 6 – 0. (Barber absent)

**SIGNS:**

The Board approved a face change for Safelite Autoglass at 1981 Western Avenue. Vote 6 – 0.

The Board approved a 47.33 sf face change for Excape Smoke Shop at 1204 Western Avenue. Vote 6 – 0.

The Board approved a temporary banner for two days at Drue Sanders. Vote 6 – 0.

**OTHER:**

The Board discussed new pole lighting in addition to the building mounted lights that were already approved in the site plan for Westmere Fire District.

Acting Chairman Maikels made a motion to approve the lighting plan subject to any concerns from any neighbors. Seconded by Sharon Cupoli. Vote 4 – 0. (Barber absent, Cahill and Remmert recused)

The meeting adjourned at 8:10pm.

