

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
DECEMBER 15, 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.

CONTINUED CASES:

MATTER OF BRIAN MCCABE – 114 FOX RUN DRIVE

Chairman Barber stated that this was a continued case to give the applicant a chance to reconsider the placement of the home to reduce the variance and to retain Delaware Engineering to provide the Board with an engineering report. Chairman Barber stated that they had a letter dated December 9, 2010 from Delaware Engineering providing us with a copy of the Gifford Engineering report which finds that the recommendations of the Hawthorne report are deemed reasonable and within sound engineering practices. The letter sets forth a few comments regarding some recommendations if the Board were to grant the request. There is also a letter from Angelo Serafini approving of the study by Vernon Hoffman.

Brian McCabe, applicant, presented the case. Mr. McCabe stated that he went back to his client and was able to convince them that they could swing the house back and they would still be happy with the location. They would be pulling back from the previous location by about 25'.

Chairman Barber stated that he was assuming that if you were trying to put the entire home within the angle of repose then you would be bumping up against variances on the side yard.

Mr. McCabe stated that was correct. Mr. McCabe stated that it was virtually a corner lot so you have 35' setback as well as the cul-de-sac and then the side yard setback. The rear yard setback is not a problem other than the angle of repose or the safe building line.

Chairman Barber asked Don Cropsey if he was comfortable with the change.

Don Cropsey stated that he was; the safe building setback as established by Hoffman is pretty conservative and the location of the house is in front of a rise in the land. There is a hill behind the house before it drops off and probably another 75 to 100 feet before it goes down steeply.

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

Angelo Serafini of 2022 Philomena Drive spoke in favor of the application.

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. 4247

Request of **Brian McCabe** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home beyond the 12° angle of repose intersection from a steep slope and watercourse.**

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

For property owned by: **McCabe Construction Corp.**

Situated as follows: **114 Fox Run Drive Schenectady, NY 12303**

Tax Map # **27.16-3-20** Zoned: **RO30**

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

A public hearing was duly noticed and held this evening. Residents at 112 and 119 Fox Run Drive and the property owner of the adjacent lot have submitted letters and one individual has appeared consenting to the application.

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

The Town Planner asked the Zoning Board to review the Planning Board's approval of this project and to look at any environmental issues that may have arisen during that prior review.

The applicant has submitted a geotechnical report by Vernon Hoffman which established a proposed safe setback line on the map. At the Board's prior meeting on November 17th, 2010 this Board appointed Delaware Engineering to review the report and provide the Board with an opinion. Since that time, the Board has received a letter from Delaware Engineering which included a report from Gifford Engineering which states that the Hoffman report's findings are deemed reasonable and within sound engineering practices. The soil stability concerns have been adequately addressed by the applicant.

The Board notes that the Town Planner had stated that during its subdivision review the Planning Board also had some additional concerns regarding environmental sensitivity on this lot including the presence of a DEC stream and the need for a non-disturbance area. With regards to the non-disturbance area, the Board finds that area is well distant from this proposed location and will not be infringed in any way by this proposal.

The Board is also required when it looks at variances to minimize the variance to the greatest extent possible. At the prior meeting the applicant had submitted a plan that showed the house, which was almost entirely beyond the 30' setback and even substantially beyond the angle of repose. At the public hearing the Board asked the applicant to review the placement and since that time we have received a revised map which shows that mostly all of the home is behind the angle of repose.

The Board further notes that based upon the topography of the land, the fact that the land actually slopes upward for a substantial part and then goes toward the stream, that there will not be any issues regarding the sensitivity or impacts upon the stream.

Based upon the efforts of the applicant and also the comments provided to us by the Town Planner, I would move that the variance as consistent with the yellow box on the revised plan should be granted.

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

Adherence to the revised plans as submitted.

Adherence to the recommendations contained in both the Hoffman report and the Gifford Engineering report and because there was a indication of a limit of works line that line may need to be revised and there may be need to prepare a revised erosion sediment control plan.

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.

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 JASON ADKISON – 14 NORWOOD STREET

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. 4252

Request of **Jason Adkison** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 12'6" x 18'0" two-story addition containing a garage with bedrooms above in a required side yard. Variances are requested for the following: 1) to allow proposed addition to be located within 4' of a proposed lot line (lot line adjustment pending with Planning Board) and 2) to allow a reduction in land area of the contiguous lot to the north from 10019sf to 9419sf, a result of relocation of lot line.**

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

For property owned by: **Jason Adkison and Louise Colburn**
Situated as follows: **14 and 16 Norwood Street Albany, NY 12203**
Tax Map #s **52.20-3-2 & 52.20-3-1** respectively Zoned: **R10**

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

Dated: **December 8, 2010"**

The file consists of the mailing list to 60 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a site plan of 14 and 16 Norwood Street, proposed elevations which show the addition to the home and some paperwork regarding a lot line adjustment that will be necessary if the Board is to grant this request to readjust the property line between 14 and 16 Norwood Street.

The Town Planner had the following comments: "The applicant is requesting area variances to construct a residential addition within a required side yard. In order to reduce the variances, he is buying some additional land from his adjoining neighbor. In doing so, his neighbor's lot will drop slightly under the required 10,000sf requirement. After construction there will be adequate separation between the two homes. No planning objections."

Jason Adkison, applicant, presented the case.

Chairman Barber stated that Mr. Adkison would be purchasing some property from his next door neighbor. Chairman Barber asked if that had occurred yet or would be occurring after the variance is granted.

Mr. Adkison replied it would take place after a determination is made by the Zoning Board.

Chairman Barber stated that the addition appears to be very nicely done and noted that it is a two-story addition, not a single-story addition.

Chairman Barber asked Mr. Adkison if he was comfortable with a 4' separation between the property line and his addition.

Mr. Adkison replied that he was, and his neighbor stated that she was also comfortable with it.

Chairman Barber stated that it seems very straightforward.

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:

Variance Request No. 4252

Request of **Jason Adkison and Louise Colburn** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 12'6" x 18'0" two-story addition containing a garage with bedrooms above in a required side yard. Variances are requested for the following: 1) to allow proposed addition to be located within 4' of a proposed lot line (lot line adjustment pending with Planning Board) and 2) to allow a reduction in land area of the contiguous lot to the north from 10019sf to 9419sf, a result of relocation of lot line.**

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

For property owned by: **Jason Adkison and Louise Colburn**

Situated as follows: **14 and 16 Norwood Street Albany, NY 12203**

Tax Map #s **52.20-3-2 & 52.20-3-1** respectively Zoned: **R10**

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 any SEQRA review.

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

The Board further finds that both variances will allow for a residential addition in the required side yard and provide for a 4' distance between the new property line and the addition. The property owners have agreed to a property transfer which will affectuate this possibility. The Board applauds the efforts of the neighbors to work this out and allow for this addition which seems to be attractively designed and a benefit to the neighborhood.

The other property will now be slightly below the minimum required and therefore the granting of that variance request is minimum and will enable the neighbor at 14 Norwood Street to construct the addition.

Neither variance will have any negative impact upon the neighborhood and in fact should allow a reasonable expansion of the home.

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

Adherence to the plans as submitted.

Completion of the transfer of property and lot line adjustment by the two property owners.

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

If these variances are not exercised within one year of date of issuance, they are hereby declared to be null and void and revoked in their entirety.

Motion seconded by Sue Macri. Vote 7 – 0.

MATTER OF CHRISTOPHER WARNER – 1 SCHUSTER 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. 4253

Request of **Christopher Warner** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 20' x 36' single-story addition to the west side of an existing single-family home. A front yard variance is requested. A 35' setback is required; 15' is proposed (continuing existing front yard setback), a 20' variance is requested.**

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

For property owned by: **Christopher Warner**

Situated as follows: **1 Schuster Road Schenectady, NY 12303**

Tax Map # **15.10-1-22** respectively Zoned: **R15**

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

Dated: **December 8, 2010**"

The file consists of the mailing list to 23 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a brief narrative and a plot plan.

The Town Planner had the following comments: "The applicant has requested an area variance to build a residential addition that will be 20' into the front yard setback following the existing house line. No planning objections."

Chairman Barber stated that the addition will be a two-story addition, not a single-story addition as stated in the legal notice.

Christopher Warner, applicant, presented the case.

Chairman Barber stated that the addition will be on the side towards Carman Road.

Mr. Warner stated that was correct.

Chairman Barber stated that the addition would be in line with the existing home which itself is within the setback.

Mr. Warner stated that was correct, he was continuing the preexisting condition of the home.

Chairman Barber asked if his neighbors had any concerns.

Mr. Warner replied that they did not.

Chairman Barber stated that the application seemed very straightforward. 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:

Variance Request No. 4253

Request of **Christopher Warner** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 20' x 36' two-story addition to the west side of an existing single-family home. A front yard variance is requested. A 35' setback is required; 15' is proposed (continuing existing front yard setback), a 20' variance is requested.**

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

For property owned by: **Christopher Warner**

Situated as follows: **1 Schuster Road Schenectady, NY 12303**

Tax Map # 15.10-1-22 respectively Zoned: R15

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 request.

The Board further finds that the proposed addition is on the side facing Carman Road and will not impact any neighbors.

The 20' variance will allow for the placement of the addition in line with the existing home, therefore it is a preexisting condition.

The variance will not negatively impact any neighbors or the quality or character of the neighborhood.

In **granting** this request, 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 Sharon Cupoli. Vote 7 – 0.

SIGNS:

The Board approved a sign replacement for Concentra Urgent Care at 1971 Western Avenue. Vote 7 – 0.

OTHER:

The Board approved the façade redevelopment at 20 Mall. Vote 7 – 0.

The meeting adjourned at 8:15pm.

