

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
JUNE 1, 2011**

Members Present: Peter Barber, Chairman  
Sharon Cupoli  
Susan Macri  
Allen Maikels  
Mike Marcantonio  
Tom Remmert  
James Sumner  
Janet Thayer, Counsel

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

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**CONTINUED CASES:**

**PHYLLIS SMITH – 6323 GUN CLUB ROAD**

Chairman Barber stated that is a request for a carport in a front yard from June 1<sup>st</sup>, 2011 and since that time Ms. Smith has met with Don Cropsey to discuss the variance.

Don Cropsey stated that accessory structures are allowed in the rear yard only and Mrs. Smith is asking to place it in the front yard because there are some constraints on the lot. Don stated that on the right side of the house the topography drops off to the rear and it would be a substantial financial difficulty to bring it up to grade and then prepare a site for the carport. Don said to get to the rear yard you would have to modify the side yard. Ms. Smith said that if the carport was in the rear yard she would have enter the house from the rear which is in the basement and it would mean she would have to climb a set of stairs. Don stated that on the left side of the house she has an established perennial garden and arbor set up. Don stated that they found a new location further back on the site where the back of the carport would line up with the front of the house and that effectively shifts the location approximately 20' further back.

Chairman Barber stated that he appreciated the applicant's effort to meet with Don Cropsey and address some of the concerns that were expressed at the last meeting. Chairman Barber asked Don Cropsey if they had discussed any arborvitae on the side of the carport.

Chairman Barber stated that he would have Don work with the applicant to decide if it is necessary.

Don Cropsey stated that one of the neighbors did indicate that it was visually unattractive out in the front yard and it could be mitigated by some landscaping.

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. 4276**

Request of **Phyllis M. Smith** for a Variance of the regulations under the Zoning Law to permit: **the installation of an accessory carport structure in a front yard.**

Per Articles **IV & V** Sections **280-34 & 280-51**

For property owned by: **Phyllis M. Smith**

Situated as follows: **6323 Gun Club Road Altamont, NY 12009**

Tax Map # **37.04-1-7** Zoned: **R20**

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

At the last public hearing, the Board received oral comments in support of the application and also written comments expressing concerns regarding the application.

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

The Town Planner had some comments suggesting that the carport could be placed further back on the property.

The Board further finds that this proposed carport will replace an existing carport which has existed on the property for almost 13 years.

The property is located in a somewhat rural area but there were some concerns regarding where the structure was going to be placed on the front yard. The new location which is going to place the rear of the carport in line with the front of the house is approximately 20' further back than originally proposed and at that location with appropriate landscaping should not have any negative impact upon neighboring property owners.

On the south of the property is a garden area, to the north there is topography that will be very difficult to level off without great expense and the rear of the property would also require access to the home by means of stairs which does not meet the applicant's needs.

Therefore, I would move that a variance as modified, should be granted.

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

Adherence to the revised plans.

The applicant shall work with the Chief Building Inspector to install any appropriate landscaping which will mitigate any negative impacts from the view of neighboring property owners.

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

Motion seconded by Sharon Cupoli. Vote 6 – 0. (Remmert abstained)

**MATTER OF MATTHEW NORMILE – 5709 HENNESSEY 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. 4280**

Request of **Matthew Normile** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 24' x 36' single-story three-car garage in a side yard. Accessory structures are required to be placed in the rear yard or side portion of a rear yard.**

Per Articles **IV & V** Sections **280-34 & 280-51** respectively

For property owned by: **Matthew Normile**

Situated as follows: **5709 Hennessey Road Altamont, NY 12009**

Tax Map # **60.00-2-19.2** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of June, 2011** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 8, 2011"**

The file consists of the mailing list to 13 neighboring property owners, the Town's required forms for an area variance, a narrative describing the request, a survey showing the location of the proposed house and garage on the property, the Town Planners comments and a google map.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a detached garage in the side yard next to his house. The garage will be setback hundreds of feet from the road. No planning objections."

Matthew Normile, applicant, presented the case.

Chairman Barber stated that it is his understanding that the only reason he is there is because this is a detached garage, not an attached garage.

Mr. Normile stated that was correct.

Chairman Barber stated that the Zoning Code has a "quirk" regarding detached garages. Chairman Barber stated that the applicant is doing the same thing that his neighbor had done.

Mr. Normile replied "exactly".

Chairman Barber stated that it seemed pretty straightforward.

Don Cropsey stated that he thought that the ordinance was a good one in that it keeps accessory structures out of the side yard; some accessory structures may not be a garage, it could be a swimming pool, etc.

Chairman Barber was wondering if there was some way to state if it was the only garage on the property it could be located in the side yard.

Don Cropsey replied that question should be directed to the Town Board or Zoning Committee.

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. 4280**

Request of **Matthew Normile** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 24' x 36' single-story three-car garage in a side yard. Accessory structures are required to be placed in the rear yard or side portion of a rear yard.**

Per Articles **IV & V** Sections **280-34 & 280-51** respectively

For property owned by: **Matthew Normile**

Situated as follows: **5709 Hennessey Road Altamont, NY 12009**

Tax Map # **60.00-2-19.2** Zoned: **RA3**

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.

This variance is required only because the garage is going to be detached from the house. The garage is going to be located in line with the house. The adjacent home has exactly the same characteristics.

The Board finds that the granting of this request will not have a negative impact upon neighboring property owners or the character of the neighborhood.

Therefore, I move that the Board should grant the variance as requested.

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.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

**MATTER OF SERAFINI BUILDERS – 123 FOX RUN DRIVE**

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, IV & V** of the Zoning Law on the following proposition:

**Variance Request No. 4281**

Request of **Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home beyond a 12° angle of repose. Said home is proposed to be placed pursuant to a soils engineer recommendation.**

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

For property owned by: **Serafini Builders, Inc.**

Situated as follows: **123 Fox Run Drive Schenectady, NY 12303**

Tax Map # **27.16-3-19** Zoned: **RO30**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of June, 2011** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 8, 2011**"

The file consists of the mailing list to 6 neighboring property owners, the Town's required forms for an area variance, a geotechnical report prepared by Vernon Hoffman dated June 2, 2011, a letter dated June 14, 2011 from a neighboring property owner indicating that they had no objection and supported the variance request, the Town Planners comments, a letter dated June 10, 2011 from Gifford Engineering who is working with Delaware Engineering (TDE) which states that the recommendation of the Hoffman report is deemed reasonable and within sound engineering practices and a site plan that shows the proposed location of the house on the lot.

The Town Planner had the following comments: "The applicant is requesting a variance to construct a house within the angle of repose setback. The proposal will locate the house closer to the road in alignment with other houses on the street. The applicant has submitted a soils report indicating a safe setback line. The proposed house location appears to be outside the approved clearing and grading plan and a revised SWPP should be provided."

Angelo Serafini presented the case. Mr. Serafini stated that he has submitted a proposed plot plan and this location will bring the house more parallel to the road and in line with the other houses. Mr. Serafini stated that if the variance is approved, they will be submitting along with the building permit a new SWPP plan. Mr. Serafini stated that they hired Vernon Hoffman, Soils Engineer, and he reviewed the site and submitted his recommendation.

Chairman Barber asked about one comment in the report, which states: "It is my opinion that the safe setback line shown on the existing Patriot Woods plans limiting construction to the east on Lot 5 should not be altered without additional subsurface investigation and analysis."

Mr. Serafini replied that the soils engineer had reviewed that with him and he took a very conservative approach and it was fine. Mr. Serafini stated that they reviewed it with their client and they were fine with it.

Chairman Barber stated that it seems very straightforward; Brian McCabe's previous application kind of paved the way for this application.

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

Brian McCabe of 121 Fox Run Drive stated that he is in favor of the variance, if it was not moved to this location, it would most likely be right in his back yard.

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. 4281**

Request of **Serafini Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a single-family home beyond a 12° angle of repose. Said home is proposed to be placed pursuant to a soils engineer recommendation.**

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

For property owned by: **Serafini Builders, Inc.**

Situated as follows: **123 Fox Run Drive Schenectady, NY 12303**

Tax Map # **27.16-3-19** Zoned: **RO30**

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. One resident provided comments in favor of the application.

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

The applicant has submitted a Geotechnical Report by Vernon Hoffman which established a safe building line.

The Board appointed Delaware Engineering which then retained Gifford Engineering to prepare a report. Gifford Engineering has reviewed the Hoffman report and finds that it meets acceptable engineering practices and establishes a safe building line.

The Board further finds that this application is substantially similar to the application brought by the property owner at 114 Fox Run Drive and it follows the same approach and it establishes a safe building line. This building envelope will put the house in line with other houses on the cul-de-sac.

Based upon these findings, the Board moves that the variance should be granted.

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

Adherence to the plans as submitted.

Adherence to the recommendations contained in the Hoffman report and the Gifford Engineering report.

Compliance with the Town's regulations regarding SWPP in light of what appears to be a change in the limit of works line set forth in the original subdivision plan.

The 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.

Motion seconded by Sharon Cupoli. Vote 7 – 0.

**OTHER:**

The Board approved a sign for the Redeemer Church on Schoolhouse Road which will be added to their current sign which reads "Clothing Drop Off" for two weeks and additional time at the discretion of the Zoning Administrator. Vote 7 – 0.

The meeting adjourned at 8:00pm.