

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
OCTOBER 5, 2011**

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

Members Absent: Peter Barber

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

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**CONTINUED CASES:**

**MATTER OF INFAMOUS GRAPHICS – 457 RT. 146**

Chris Seymour presented the case. Mr. Seymour stated that they had revised the measurements on the sign and have decreased the sign to 112sf.

Donald Cropsey stated that they had reduced the size of the tenant identification sign below the main sign. There are essentially two signs and they are combined into one sign. One sign identifies the apartment complex and the bottom portion identifies the tenants within the plaza. Don stated that they have reduced the sign substantially and it is slightly larger than the previous sign that was there.

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 5 – 0. (Barber, Remmert absent)

Acting Chairman Maikels made a motion for approval of:

**Variance Request No. 4300**

Request of **Infamous Graphics** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 165sf two-sided property identification sign. This internally lit freestanding sign will replace a previously approved 97sf sign. A variance is requested to permit sign area to exceed 50sf and to allow its placement within 20' of a front property line.**

Per Articles IV & V Sections 280-26 and 280-51 respectively

For property owned by Morgan Guilderland  
Situating as follows: 457 Rt. 146 Guilderland Center, NY 12085  
Tax Map # 38.00-5-22 Zoned: LB

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 and does not require SEQRA review.

In a determination dated 9-15-11 the Albany County Planning Board deferred to local consideration with an advisory notice to avoid setting a precedent.

At the Board's September 21, 2011 public hearing, the Board asked the applicant to consider reducing the size of the sign because of its prominence in the center of the Guilderland Center hamlet.

The applicant has worked with the Zoning Administrator and reduced the sign size to 112sf.

The sign is for the Park Guilderland Apartments which are located well off Rt. 146 and not easily visible to passing motorists. The new sign will include the address for the apartments and also tenant identification signs for the shopping plaza.

The revised sign, which will replace a destroyed sign measuring 97sf, is attractively designed, will provide necessary information to motorists, and compliments the appearance of the property.

The revised sign will be located in substantially the same location as the prior sign.

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

Adherence to the revised plans showing a reduction to 112sf.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Barber absent)

**MATTER OF TRALONGO BUILDERS – 5 CARRIAGE HILL LANE**

Frank Tralongo presented the case. Mr. Tralongo stated that this is a variance request to allow a portion of a garage in the front yard setback on a keyhole lot with a private driveway.

Acting Chairman Maikels stated at the last hearing there was an issue raised with the initial subdivision plan and the grading on the property.

Donald Cropsey stated that he did visit the property and the grade there is essentially in compliance with what was approved by the Planning Board but it has not been completed yet. Don stated that based upon what he saw, it looks like Mr. Tralongo during the development of the property, when the driveway and sewer line were put in, he basically cut the hill down that was parallel to Lydius Street and pushed the soil to the back and there are a number of drop offs as indicated at the meeting two weeks ago. Mr. Tralongo has not yet completed the grading so when he applies for a building permit, the grading will be completed pursuant to the plan. Don stated that there was another question regarding drainage on the parcel and the approved map did show a temporary area to store stormwater in the back; that was installed but the whole lot is overgrown and there did not appear to be any drainage issues presently.

Frank Tralongo stated that the purpose for the drop off on lots 3 and 4 is that they are anticipating homes that will have a walk out basement so they would maintain the buffer of trees along the property lines. Mr. Tralongo stated that if a home that is built there does not have a walk out basement, they would have to remove more of the trees from the back area and taper the grade to the property line.

Don Cropsey stated that the existing topography along the backs of the lots that front onto Foxwood Drive is 334 and the approved grading plan shows the elevation of the finish grade around 340. Don stated between the back of the property and the back of the house there is a 6' elevation difference shown on the plan which is about the elevation difference of the drop off that was referenced last week.

Mr. Tralongo stated that once the homes are constructed, they will grade the lot to meet the existing grade but the intent is to not disturb too many of the trees currently there so there will be a buffer between the two subdivisions.

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

John Petty of 5117 Foxwood Drive stated that his only concern is the drainage and asked what recourse he had if this is approved and there is a drainage problem.

Donald Cropsey replied that on the approved plan the drainage area that was created was toward the center of lot #5 and during the approval process there was not any anticipated drainage problem. Don stated that if one arises, it is something that the town would have to address with the homeowner and possibly with the original developer.

Howard Richburg of 5049 Hanna Court had concerns regarding the depth of the back yard and the drainage.

Don Cropsey stated that as a condition of approval they could have the builder provide the Board with a stormwater study for this particular lot.

Mr. Richburg stated that the water table is pretty high on the area of that property line.

Bruce Ringler of 5105 Foxwood Drive asked how far back the yards would go behind the homes that were being built.

Don Cropsey replied that on the keyhole lot the minimum setback to the structure is 75' from the back of the structure to the property line and part of the request tonight is to allow for a variance from that by allowing a corner of the rear of the house to extend into that 75'. Don stated that along Mr. Ringler's daughters property, the setback outlined on the map shows a side yard setback of 30'.

Mr. Ringler asked what the buffer distance would be from the back yard to the fence line on Foxwood.

Don replied that there is no required buffer. Don stated that the approval by the Planning Board placed no restriction on the clearing of the lots.

Mr. Ringler asked if the builder was going to clear-cut all the land.

Don Cropsey replied that he did not know, he would have to address Mr. Tralongo.

Acting Chairman Maikels stated that Mr. Tralongo said it was his intention to save as many trees as possible. Acting Chairman Maikels stated that if Mr. Tralongo was not seeking the minimal variance that he is, the house could have been put up with no problems.

Mr. Tralongo stated that it was not their intention to clear cut the land; they are trying to keep the most buffer that they can along the property line. Mr. Tralongo stated that there is no water issue on Lot #5 and stated that it was illegal for them to dump water on someone else's property. Mr. Tralongo stated that once they go for the foundation plan ABD Engineers will do a grading plan and the Town will approve it before he gets a final Certificate of Occupancy. Mr. Tralongo guaranteed that there would be no water issues when he is done with this house.

James Sumner asked if a water retention plan has been designed for this subdivision.

Don Cropsey stated that there is not one done, and there was not one required.

Acting Chairman Maikels made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Barber absent)

Acting Chairman Maikels made a motion for approval of:

**Variance Request No. 4298**

Request of **Tralongo Builders, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 3500+/-sf single-story ranch style home on an irregular shaped lot in an existing 5-lot subdivision with a private road. Variances are requested to allow a portion of this home to encroach into a required front yard and rear yard.**

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

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

Situated as follows: **5 Carriage Hill Lane Schenectady, NY 12303**

Tax Map # **15.00-3-8.5** Zoned: **RO30**

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

A public hearing was duly noticed and supplemented by mailing to nearby property owners. Five residents spoke regarding at the September hearing and three residents spoke tonight regarding the impacts upon drainage, buffer and alleged improper grading. The builder will grade this property to what was required by the Planning Board while he is constructing this house.

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

At the Board's September 21, 2011 public hearing, the Board asked the Zoning Administrator to review the matter and report back to the Board. Don Cropsey did report back to the Board regarding the Planning Board approval and the grading that was done on the parcel.

This lot is Lot #5 on the Planning Board's approved subdivision map for the Carriage Hill Development. The Planning Board's approval included a grading plan for this subdivision, which must be adhered to by the developer. The Planning Board has exclusive jurisdiction over subdivisions.

If the applicant had submitted building plans for a house that would be constructed within the building envelope, the builder could have simply obtained a building permit and would not have required this variance by the Zoning Board. Lot #5 is a keyhole lot and according the Zoning Code, a keyhole lot has setbacks that are 150% of the setbacks for other residential lots. These setbacks reduce the size of the building envelope for the keyhole lot and have caused the applicant to seek these variances. The variances for lot #5 are not the source of concerns raised by the residents. Some concerns involve a buffer of trees that existed on lots 2 and 4 of the approved subdivision. The Planning Board's approved subdivision map did not require the keeping of these trees on these lots. Other concerns regarding drainage and improper grading would exist regardless of whether a variance was requested. More importantly, these concerns would be addressed whether or not a variance was requested and will be addressed here by imposing conditions that

reiterate existing requirements. In sum, only a reduced portion of the house encroaches onto a rear yard. The variance, which encroaches into the front yard, does not impact the concerns raised by neighboring residents.

Based on these facts and the conditions to be imposed, the Board concludes that the variances are not substantial and will not have a negative impact upon the character of the neighborhood.

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

Adherence to the plans as submitted.

Adherence to the grading plan approved by the Planning Board.

Adherence to all requirements and conditions imposed by the Zoning Administrator to address any drainage or runoff into adjacent lots.

Consider a study of the drainage on the lot as the building gets constructed.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert abstained, Barber absent)

**NEW CASES:**

**MATTER OF MICHAEL MIRANDA – 7005 KEVIN LANE**

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. 4304**

Request of **Michael Miranda** for Variance of the regulations under the Zoning Law to permit: **the installation of a 6' high vinyl privacy fence within a required front yard.**

Per Articles **IV & V** Sections **280-27 and 280-51** respectively

For property owned by **Michael Miranda**

Situated as follows: **7005 Kevin Lane Schenectady, NY 12303**

Tax Map # **27.07-4-22** Zoned: **RO30**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5<sup>th</sup> of October, 2011** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **September 27, 2011**"

The file consists of the mailing list to 34 neighboring property owners, the Town's required forms for an area variance, a narrative, photos of the property and information from the fence company.

Michael Miranda stated that he was looking to extend a white vinyl privacy fence that would go approximately 24' beyond the building setback line to the edge of a wooded area on his property, which is elevated from the street. Mr. Miranda stated that the end of that fence would be about 52' from the center point of Kevin Lane. There is no obstruction to traffic coming around the corner. Mr. Miranda stated that he spoke to his neighbor and they had no problem with it. Mr. Miranda stated that the reason for the fence is he plans to install a hot tub on his deck next spring and planning to get a dog.

Acting Chairman Maikels asked what is behind his house.

Mr. Miranda replied it is Gregory Lane, he is on a triangular lot. Mr. Miranda stated that he would be extending the fence that was installed by his neighbor with the same type of fence.

Don Cropsey stated that the fence would end 7' from the front property line but it will not block any sight distance.

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.

Acting Chairman Maikels made a motion for approval of:

**Variance Request No. 4304**

Request of **Michael Miranda** for Variance of the regulations under the Zoning Law to permit: **the installation of a 6' high vinyl privacy fence within a required front yard.**

Per Articles **IV & V** Sections **280-27 and 280-51** respectively

For property owned by **Michael Miranda**

Situated as follows: **7005 Kevin Lane Schenectady, NY 12303**

Tax Map # **27.07-4-22** Zoned: **RO30**

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.

There is already an existing fence on the property and this fence will be an extension of that fence and will not change the character of the neighborhood.

The fence will not have an impact on the sight line and no impact on the neighbors.

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 6 – 0. (Barber absent)

**OTHER:**

The Board approved a façade renovation for New Karner Plaza. Vote 6 – 0.

Don Cropsey gave an update on the status of the Governors Motor Inn.

The meeting adjourned at 8:20pm.