

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JUNE 20, 2012**

Members Present: Peter Barber, Chairman
Sharon Cupoli
Mike Marcantonio
Tom Remmert
James Sumner
Nicole Ventresca-Cohen, Alternate
Janet Thayer, Counsel

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

CONTINUED CASES

VINCENZO POLSINELLI – 3023 E. OLD STATE ROAD

Chairman Barber stated that this is a continued case to expand a nonconforming use in a residential zone. Chairman Barber stated that since the last meeting the Board has received additional signed petitions in support of the application.

Chairman Barber stated that it was his understanding that if the applicant just wanted to raise the bay in terms of height and not increase the floor area it would not need approval by the Zoning Board of Appeals in terms of an expansion of a nonconforming use.

Don Cropsey stated that was correct.

Chairman Barber asked if the property had an apartment it would bring it into greater conformity with the zone.

Don Cropsey replied that was correct, the property is zoned single-family residential and if it had a residential use in it, it would be a use in compliance with the requirements of an R15 zone.

Chairman Barber stated that the reason the applicant is here is because 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. 4314

Request of **Diane Muccigrosso** for a Special Use Permit under the Zoning Law to permit: **the use of a portion of a single-family home as a home occupation accounting services business.**

Per Articles **III & V** Sections **280-14 & 280-52** respectively

For property owned by **Diane Muccigrosso**

Situated as follows: **6256 Empire Avenue Schenectady, NY 12306**

Tax Map # **15.17-1-88** Zoned: **R40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of February, 2012** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 19, 2012**"

The file consists of the mailing list to 35 neighboring property owners, the Town's required forms for a special use permit for a home occupation, a Short Environmental Assessment Form for an Unlisted Action under SEQRA, the Town Planners comments, a petition signed by a number of nearby residents in support of the application, a narrative with the details of the use and a depiction of the space in the home that would be devoted to the business.

The Town Planner had the following comments: "The applicant is requesting a special use permit to use a portion of her home for an accounting business. The applicant states that the majority of the work is done by computer with infrequent client meetings at the house. There is a long, wide driveway that would accommodate employee and client parking. No planning objections."

Diane Muccigrosso, applicant, presented the case.

Chairman Barber stated that this was an accounting business with one employee.

Ms. Muccigrosso stated that was correct.

Chairman Barber asked how many square feet was being used for the business.

Ms. Muccigrosso replied approximately 400sf.

Chairman Barber stated that the Town Board recently amended the home occupation law to make it more easily applied. Chairman Barber stated that it appears that this application meets all the requirements.

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 5 – 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 permit for a home occupation for an accounting business at 6256 Empire Avenue would have a significant impact upon the environment. The Board finds that by meeting the conditions under the code for a home occupation that there will not be a negative impact upon the environment and that a negative declaration under SEQRA should be issued." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4314

Request of **Diane Muccigrosso** for a Special Use Permit under the Zoning Law to permit: **the use of a portion of a single-family home as a home occupation accounting services business.**

Per Articles **III & V** Sections **280-14 & 280-52** respectively

For property owned by **Diane Muccigrosso**

Situated as follows: **6256 Empire Avenue Schenectady, NY 12306**

Tax Map # **15.17-1-88** Zoned: **R40**

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 an Unlisted Action under SEQRA and the Board adopted a negative declaration by a unanimous vote.

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

Nearby residents have submitted a petition in favor of the application.

The application is governed by a recently adopted change in law regarding home occupation. The Board finds that the application meets these requirements and that there is no visible evidence of the business. Clients generally send distance off the road and

alternative locations in the rear of the house are not useable because of the presence of a leach field and garage.

For the above noted reasons, I move that the variance should be granted.

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

Adherence to the plans that were submitted with the application.

Review and approval by the Village of Altamont Referral Board.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

MATTER OF WILLIAM WINE – 117 PHEASANT WALK

Nicole Ventresca-Cohen 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. 4316

Request of **William R. Wine** for a Variance of the regulations under the Zoning Law to permit: **the installation of 300+/-lf of 7'6" mesh fence to surround a portion of a single-family home rear yard.**

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

For property owned by **William Wine and Laurie Stedman**

Situated as follows: **117 Pheasant Walk Schenectady, NY 12303**

Tax Map # **27.14-3-9** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **7th of March, 2012** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 28, 2012"**

The file consists of the mailing list to 17 neighboring property owners, the Town's required forms for an area variance, a brief narrative and a plot plan that shows the outline of where the fence will be placed.

William Wine, applicant, presented the case. Mr. Wine stated that he has lived there for 12 years and has had at least 5 cats during that time and has never had a problem until

recently. Mr. Wine stated that one of his neighbors had complained about the cats going on their property so he is looking to put a mesh fence up to keep his cats on his property.

Chairman Barber stated that he had checked out the website and questioned if he could use the 6' high fence instead of the 7.5' fence.

Mr. Wine replied that he does not want to install a 6' fence because he felt that someone could walk right into the fence and possibly get hurt.

Chairman Barber asked Mr. Wine if any of his neighbors had asked him about this.

Mr. Wine replied that one of his neighbors had asked about it and he did explain to them about the cats.

Chairman Barber stated that it seems justified. 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 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:

Variance Request No. 4316

Request of **William R. Wine** for a Variance of the regulations under the Zoning Law to permit: **the installation of 300+/-lf of 7'6" mesh fence to surround a portion of a single-family home rear yard.**

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

For property owned by **William Wine and Laurie Stedman**

Situated as follows: **117 Pheasant Walk Schenectady, NY 12303**

Tax Map # **27.14-3-9** 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 Board further finds that the purpose for the fence is to address the concerns of the applicant's cats defecating on neighboring properties. This solution is a 7.5' high mesh fence which is largely invisible and blends well into the surroundings. In back of the property are state wetlands and the proposed fence is well off of the property line.

The proposed height of the fence may be more advantageous as it lot slopes in and it is less likely that people would inadvertently bump into the fence.

This variance is unique and provides relief to the properties involved and for the reasons stated, I believe that this variance should be granted.

In **granting** this request, the following conditions should be met and adhered to:

Adherence to the plan as submitted in terms of location of fence.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

SIGNS:

The Board approved a sign face replacement for Pizza Hut at 1771 Western Avenue. Vote 5 – 0.

The Board approved a sign face replacement for Nosh Delicatessen at 1645 Western Avenue. Vote 5 – 0.

The meeting adjourned at 7:54pm.