

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
AUGUST 15, 2012**

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

Members Absent: Sharon Cupoli

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

CONTINUED CASES:

TRACTOR SUPPLY COMPANY – 2327 WESTERN AVENUE

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:

Special Use Permit Request No. 4341

Request of **Eric Larner of Guilderland Partners, LP** for an amendment to Special Use Permit #08-12 under the Zoning Law to: **eliminate special conditions B,C,D and H on a special use permit permitting a farm implement/hardware and garden supply store which pertain to hours of operation, exterior lighting, restrictions on hours of deliveries and provisions related to a shared access drive respectively.**

Per Articles **III & V** Sections **280-20 & 280-52**

For property owned by **Edward and June Bohl**

Situated as follows: **2327 Western Avenue Guilderland, NY 12084**

Tax Map # **39.00-4-9.1** Zoned: **LB and AGR**

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

Dated: **July 18, 2012**"

Chairman Barber stated that there was a public hearing held on August 1st and at that time there was some discussion regarding four of the conditions, the only condition that needed more discussion was the condition regarding the temporary access.

Peter Lynch, attorney for the applicant, presented the case. Mr. Lynch stated that after the last meeting they went back to the drawing board to address some of the concerns relative to the access issue. Mr. Lynch stated that basically it came down to that if in the future the access road is built by their neighbor on the adjoining 60' right of way they would agree to tie into that access road. They also would agree to pay for the two access points onto the access road and agree to pay for the closure of the temporary access and reestablish the landscaping along the entire perimeter. Mr. Lynch stated that they suggested language to meet all the issues in their August 7th memo.

Chairman Barber stated that he had talked to Kevin Novak, who is the regional DOT representative and he concurs with the proposed condition. Chairman Barber stated that the site plan has substantially changed although there were some more slight modifications to deal with moving the entrance a few feet to allow for a five-foot separation and to add a hammerhead for the delivery trucks to turn around and a recalculation of the impervious surface.

Mr. Lynch replied that was correct.

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 Tom Remmert. Vote 5 – 0. (Cupoli absent, Ventresca-Cohen alternate)

Chairman Barber asked the applicant if they believed for purposes of the amended special use permit it requires an additional SEQRA review.

Mr. Lynch stated that he did not think so, they just filled it out as part of the application but they don't think that the change would necessitate any difference from the previous declaration.

Chairman Barber made a motion: "The Board has reviewed this application to amend the four conditions set forth in the application and based upon that review and the conducting of the public hearing and the comments received from Albany County Planning Board and from DOT that there is no change in the determination made by the Board on June 6th, 2012 and therefore the negative declaration should stand and not be amended or changed in any way". Motion seconded by Tom Remmert. Vote 5 – 0. (Cupoli absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4341

Request of **Eric Larner of Guilderland Partners, LP** for an amendment to Special Use Permit #08-12 under the Zoning Law to: **eliminate special conditions B,C,D and H on a special use permit permitting a farm implement/hardware and garden supply**

store which pertain to hours of operation, exterior lighting, restrictions on hours of deliveries and provisions related to a shared access drive respectively.

Per Articles **III & V** Sections **280-20 & 280-52**

For property owned by **Edward and June Bohl**

Situated as follows: **2327 Western Avenue Guilderland, NY 12084**

Tax Map # **39.00-4-9.1** Zoned: **LB and AGR**

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

A public hearing was duly noticed and held. The Guilderland Hamlet Association was in favor of this application.

The Board reaffirmed the SEQRA determination.

Albany County Planning Board's notification was to defer to local consideration.

As noted at a prior public hearing, the proposed replacement conditions as to the lighting, hours of operation and deliveries are appropriate and would have been approved in the prior special use permit if they were requested in that initial application.

The Board further notes that the approved site plan is substantially the same, the only slight changes was to add a slightly relocated entrance to address DOTs concerns, add a hammerhead in the back to allow for truck deliveries and to recalculate the impervious acreage. More importantly, the proposed building, which was attractively designed as determined last time with substantial landscaping and greenspace, are unchanged by this amendment.

Since the last public hearing, the Board also has been in contact with the DOT which has provided approval for the proposed replacement condition regarding the access onto Rt. 20 and that the new condition is consistent with the neighborhood plan whose future goal is to have a shared access that is currently on the adjacent parcel.

For these reasons, the amended special use permit is granted.

In rendering this decision, the Board replaces conditions that were labeled B, C, D & H in the prior special use permit with the following new conditions:

New condition B will now read: The hours of operation will be Monday – Saturday from 7am to 9pm and Sunday from 7am to 6pm except that the hours may be extended during special events offered by the retail store.

Condition C is amended to read: The exterior lighting except for security lights within the side fenced in area shall be turned off no later than one hour after the store closes.

Condition D is replaced with the following: The operator of the retail store shall use its best efforts to avoid deliveries and departures from the site by heavy vehicles or tandem trucks between the hours of 4:30pm and 6pm Monday – Friday.

Condition H is replaced with the following: In the event that the adjoining property owner constructs a road within its 60' right-of-way along the westerly boundary of the applicants site, which provides both physical and legal vehicular access sufficient for a WB-65 to the applicant's site, as approved by NYSDOT, and such shared access preserves the integrity of the traffic flow in, out and within applicant's site, applicant has acknowledged that it will consent to the closure of its full access drive onto Western Avenue along the westerly most part of its site frontage, and shall thereafter use the new shared access road for full vehicular site access. Upon establishing the shared access and closure of the temporary access the applicant has consented to bear the cost of constructing the access points of the shared access and the cost of closing the temporary access. Upon closure of the temporary access the applicant has consented to replace the temporary access with a berm, landscaping boulders and/or fencing and other items consistent with the improvements to be installed along the Rt. 20 frontage under the approved site plan.

All conditions set forth in the prior special use permit #08-12 shall be adhered to.

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

If this amended special use permit 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 Tom Remmert. Vote 3 – 1. (Sumner in the negative, Ventresca-Cohen abstained).

MATTER OF RICKY RAMSEY – 4773 WESTERN TURNPIKE

Chairman Barber stated that this is a continuation of a public hearing which involves self-storage units. Chairman Barber stated that they had appointed Delaware Engineering to review the Stormwater Pollution Prevention Plan and they had submitted a report to the Board.

Tom Andress of ABD Engineering presented the case. Mr. Andress stated that since the last hearing, they have addressed a number of issues. Mr. Andress stated that they have added a significant number of maple trees along the front, created a berm along the western edge of the boundary where the pine trees will sit to create a better buffer and cut the lighting about in half. Mr. Andress stated that in addition to that, they have taken the fencing and changed it to split rail instead of chain link in certain areas and have prepared a full SWPPP and submitted it to Delaware Engineering.

Ken Johnson of Delaware Engineering spoke about the SWPPP.

Chairman Barber asked Mr. Johnson if he was comfortable with approval conditioned upon final review by Delaware Engineering.

Mr. Johnson replied that he was.

Don Cropsey stated that he thought it was important that the TDE follow through with the completion of the stormwater implementation.

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 Tom Remmert. Vote 5 – 0. (Cupoli absent, Ventresca-Cohen alternate)

Don Cropsey stated that he was under the impression that there was going to be plant material along the front, more conifer type trees, than just single maple trees to provide screening for these industrial type buildings.

Mr. Andress replied stated that the applicant was concerned that they were adding so many trees and wanted to have some visibility on the site. Mr. Andress stated that they could add a few evergreen trees to buffer the area.

Don Cropsey stated that the area where they want to place the trees is significantly lower than the area where they want to place the buildings so they will be quite a bit higher than the road.

Don Cropsey stated that he would be comfortable with the applicant submitting a final landscaping plan for Board approval but felt it would be a mistake to put a limit on the number of screening type trees.

There was discussion regarding the colors of the buildings.

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 special use permit for a self-storage facility at 4773 Western Turnpike would have a significant negative impact upon the environment. This review consisted of the comments from the Albany County Planning Board, the Town Planning Board, the Town Planner and the conducting of the public hearings two weeks ago and this evening and the review provided by the TDE. Based upon the collective evidence, I would move that a negative declaration should be issued." Motion seconded by Tom Remmert. Vote 5 – 0. (Cupoli absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:
Special Use Permit/Variance Request No. 4345

Request of **Ricky Ramsey** for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: **the development of 3.62 acres of a 9.93 parcel with 7 single-story self storage buildings. Buildings will range in size from 4350sf to 10075sf for a**

total building area of 41595sf. Existing dwelling unit to be used as an office and a caretaker's residence. A variance is requested from the provision requiring municipal sewer.

Per Articles **III & V** Sections **280-23 & 280-51 & 52** respectively

For property owned by **Linda Sornberger**

Situated as follows: **4773 Western Turnpike Altamont, NY 12009**

Tax Map # **26.00-3-36.1** Zoned: **IND**

The Board makes the following findings of fact:

A public hearing was duly noticed and one resident expressed some concerns regarding the proximity to the reservoir.

The Board adopted a negative declaration for an Unlisted Action by a unanimous vote.

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

Albany County Planning Board deferred to local consideration.

The Town Planning Board recommended site plan approval with certain conditions including DOT approval, a detailed lighting and landscaping plan, a 100' setback from the adjoining residential district and a SWPPP to be reviewed by a TDE.

The Board appointed Delaware Engineering as the TDE and they have submitted a preliminary report regarding the proposed SWPPP and also notes that there are still some issues that need to be resolved but does not anticipate any difficulties with the final approval.

The Board also finds that the proposed use is an allowed use in this Industrial District and the fact that it is low intensity it appears appropriate for the site.

After the last public hearing, the applicant met with the Zoning Administrator and reduced the amount of lighting by approximately half, made some improvements in the landscaping by adding additional maple trees, a berm on the side for the pines trees, a split rail fence above the side and the front and also has addressed the Planning Board's concerns regarding maintaining a 100' setback from the adjoining residence.

The Board also notes that they previously approved a variance from the requirement for municipal sewer connection for a similar type of facility on Rt. 146 and the proposed use will have similar needs which shall be able to be handled by the existing septic system.

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

Adherence to the plans as submitted with the application.

Hours of operation shall be as set forth in the application which is 7am to 10pm daily.

DOT approval of access onto Rt. 20.

Delaware Engineering's review and approval of the final SWPPP and also the review of the implementation of the SWPPP.

The Board reserves the right to review the lighting to address any impacts on Rt. 20 or neighboring properties.

No storage of explosives or fuel or other items that are regulated by law.

The project is subject to a final landscaping plan to be submitted by the applicant.

ACDOH review and approval of the on-site septic system to the extent that it is now been expanded beyond a residential use and may include a commercial use.

Coordinate the emergency access with the Chief of the Guilderland Fire District.

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

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

MATTER OF ANTHONY DIMURA – 6265 FOUNDRY ROAD

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. 4346

Request of **Anthony DiMura, Jr.** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 12' x 20' detached accessory storage building in a side yard.**

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

For property owned by **Anthony DiMura, Jr.**

Situated as follows: **6265 Foundry Road Guilderland, NY 12084**

Tax Map # **50.00-3-4** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of August, 2012** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 7, 2012"**

The file consisted of the mailing list to 15 neighboring property owners, the Town's required forms for an area variance, a depiction showing the design of the proposed shed, a brief narrative provided by the applicant and a note from a neighbor who has no objection to the storage shed.

Anthony DiMura, applicant, presented the case.

Chairman Barber stated that the applicant has a back yard that is not all that deep with a substantial hill and a lot of land to the left.

Mr. DiMura stated that was correct.

Chairman Barber asked if they would be keeping the existing shed.

Mr. DiMura replied that he would be keeping it for now but take it down in the future.

Donald Cropsey stated that a number of accessory structures on the street in close proximity to Mr. DiMuras house have been authorized by the Board.

Chairman Barber stated that it 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 Tom Remmert. Vote 5 – 0. (Ventresca-Cohen alternate, Cupoli absent)

Chairman Barber made a motion for approval of:

Variance Request No. 4346

Request of **Anthony DiMura, Jr.** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 12' x 20' detached accessory storage building in a side yard.**

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

For property owned by **Anthony DiMura, Jr.**

Situated as follows: **6265 Foundry Road Guilderland, NY 12084**

Tax Map # **50.00-3-4** Zoned: **R15**

The Board makes the following findings of fact:

A public hearing was duly noticed and held this evening. One resident called expressing support for the application.

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

The Board further finds that the proposed variance will not cause an undesirable change in the character of the neighborhood or be detrimental to nearby property owners.

The property has a small back yard with a steep hill which restricts placement of the shed in the rear yard.

The property also has a generous side yard for the placement of the shed which will be located 5' off the property line.

The Board also notes that there are other properties nearby that have been granted variances for sheds in their side yards for similar reasons.

For these reasons, the Board finds that the area variance should be granted.

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

Adherence to the plans as submitted with the application.

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

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

MATTER OF GAUTAM AITCH – 6 ILDRA LANE

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 Article **V** of the Zoning Law on the following proposition:

Interpretation Request No. 4347

Request of **Gautam Aitch** for an Interpretation under the Zoning Law to: **determine if the keeping of up to 10 laying hens is consistent with the purpose of a single-family zone.**

Per Article **V** Section **280-56**

For property owned by **Gautam Aitch**
Situating as follows: **6 Ildra Lane Albany, NY 12203**
Tax Map # **51.04-1-26.2** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **15th of August, 2012** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 7, 2012**"

The file consists of the mailing list to 54 neighboring property owners, the Town's forms for an interpretation request, a detailed narrative provided by the applicant, depictions of the proposed location of the chickens on the site and a picture of the existing coop and run.

Gautam Aitch, applicant, presented the case. Mr. Aitch stated that he had 10 chickens and no roosters and they are laying 6 eggs a day. Mr. Aitch stated that he did have a fenced in backyard where the chickens are kept and are out during the day. At dusk they are put back into their coop.

Chairman Barber discussed the previous application for chickens on Lillian Road. Chairman Barber stated that the Board must review each situation to make sure that there are no negative impacts upon neighboring properties, such as the way the chickens are being maintained and they are also subject to regular inspections by the Town.

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

The neighbors at 6195 Johnston Road, 6187 Johnston Road, 9 Ashford Drive and 2 Ildra Lane had no objections to the keeping of the chickens.

Bob Murphy of 36 Palma Blvd. was concerned with roosters and he stated that there is a deed restriction on his property concerning the keeping of chickens.

Chairman Barber stated that he would like to take a look at the specifics of the application compared with the previous application that was approved and look at the parameters.

Chairman Barber made a motion to close the public hearing. Motion seconded by Tom Remmert. Vote 5 – 0. (Cupoli absent, Ventresca-Cohen alternate)

Chairman Barber made a motion to continue this case for three weeks for decision only.

OTHER:

The Board approved the minutes of 7-18-12.

SIGNS:

The Board approved a 24sf sign for Café Calabria at 1736 Western Avenue.

The Board approved a temporary banner for Tendercare Child Center at 6268 Johnston Road for 30 days only.

The Board continued a sign request for Evoke at Stuyvesant Plaza.

The meeting adjourned at 8:40pm.