

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JANUARY 16, 2013**

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

Absent: Janet Thayer, Counsel

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

CONTINUED CASES:

MASULLO BROTHERS – 307 MILLINGSTONE DRIVE

Chairman Barber stated that this was an application for a variance from the 100' setback from a watercourse. Chairman Barber stated that since the last hearing the Board has received a revised plot plan that appears to shift the orientation of the home; the driveway is now on the right side. One of the variances has been eliminated because the garage is now more than 100' from the watercourse. A new plot plan was submitted showing the delineation of the angle of repose and the setback.

Steve Masullo of Masullo Bldrs. presented the case. Mr. Masullo stated they have changed some of the layout of the primary structure; the primary structure still resides within the building envelope but by rotating the structure they were able to move the structure closer to the street. They are still requesting one variance on the left hand side of the property.

Chairman Barber stated that they would need Highway Department approval on the second curbcut.

Mr. Masullo stated that was not a problem.

Chairman Barber asked whether the applicant would be willing to not clear-cut the trees to be damaging to the slope.

Mr. Masullo replied that the side to the left of the two-car garage has a natural slope that is pretty heavily treed and they would agree not to take down any vegetation unless it was dead and in danger of falling.

Chairman Barber stated that they would like to try and avoid that area being used as a dumping area.

Chairman Barber stated that it seems pretty 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 5 – 0.

Chairman Barber made a motion for approval of:

Variance Request No. 4364

Request of **Masullo Brothers Builders** for a Variance of the regulations under the Zoning Law to permit: **the construction of a 40' x 30' detached garage structure within 100' of a watercourse. A 100' setback is required; 70' is proposed, a 30' variance is requested.**

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

For property owned by **Masullo Brothers Builders**

Situated as follows: **307 Millingstone Drive Altamont, NY 12009**

Tax Map # **39.00-2-122** Zoned: **RO40**

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

A public hearing was duly noticed and held and no residents spoke regarding the application but the Board notices that there are only a few houses that are occupied in that area so therefore there were very few legal notices sent to residents.

It appears that many of the concerns that were raised by both the Town Planner and this Board at the prior hearing have been addressed by the relocating of the house. The applicant has submitted a revised site plan which reorients the proposed home and repositions the attached garage so that one variance has been eliminated to the rear and the other variance remains unchanged.

Review of both the Planning Board's SEQRA determination and the subdivision approval did not mention watercourse setback other than in the context of zoning code requirements. The Planning Board did not list the watercourse setback as a condition of approval in either document. As such, the Planning Board's review of its prior SEQRA determination and subdivision approval is not required.

Considering the five factors for an area variance under NYS Town Law Section 267-b the Board first finds that request for a variance of 30' from the watercourse on the side

adjacent to the town pumping station as depicted on the revised site plan shall be granted for the following reasons:

The Board finds that the revised variance will not have a negative impact upon the character of the neighborhood; this is a relatively undeveloped neighborhood. The granting of this variance will not set a precedent in this subdivision.

The Board further finds that the revised variance will not have an adverse impact on the physical or environmental conditions in the neighborhood.

The lots in this development are large with generous building envelopes. The proposed house is located within the building envelope and the front yard setback and attached garage will be located at the flat part of the lot and will not require the clearing of trees and will not infringe upon the slope leading to the watercourse.

Also, the revised variance does not involve the variance from the angle of repose and will not affect the stability of the slope. Inasmuch as the attached garage and activity associated will be located closer to the slope the Board will impose conditions regarding non-disturbance zone within that 70' setback.

The Board further finds that the attached garage will be located to the rear of the property and will be screened with a berm. The Town owns the adjacent property on which the sewer pump station is located and the closest residential lot appears to be approximately 170' distant.

The Board also finds that the revised variance was substantially reduced from the initial application thereby eliminating one of the requested variances.

While the revised variance results from a self-created hardship, it is not a factor for denial of this request.

For these reasons the Board approves a variance of 30' from the 100' setback on the side adjacent to the sewer pump station as depicted on the revised site plan.

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

Adherence to the revised site plan.

To minimize any impacts resulting from the placing of the garage 30' closer to the stream requires that the remaining 70' setback shall be a non-disturbance area and there shall be no dumping or activity that might fault or impact the stream.

Highway department approval of the second curbcut required for this attached garage.

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

MATTER OF PHILIP CRISAFULLI – 2500 WESTERN AVENUE

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. 4366

Request of **Philip M. Crisafulli** for a Special Use Permit under the Zoning Law to permit: **the construction of a 9000sf medical/professional building on three parcels of land containing 1.42 acres of land. All parcels will be merged to a single parcel upon approvals. 4500sf of space will be dedicated to medical offices and 4500sf of space will be dedicated to general offices. 64 parking spaces will be provided. All existing buildings will be demolished.**

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

For property owned by **Philip M. Crisafulli**
Situated as follows: **3 Hague Drive, 2502 Western Ave. and 2500 Western Ave. Altamont, NY 12009**
Tax Map # **39.00-3-3, 4 & 5** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of January, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 8, 2013"**

The file consists of the mailing list to neighboring property owners, the Town's required forms for a special use permit, a narrative and plans for the building.

Chairman Barber noted that this application was approved by the Board back in 2008 and got approval for a one-year renewal but special use permits age out after a year if there is no activity.

Mr. Crisafulli stated that there are no changes from the original proposal, he would like to get approvals again, clean up the property and see if there is any interest out there.

Chairman Barber stated that he does not think that there is any reason to change anything that was approved the last time.

Chairman Barber did ask if any of the parking spaces would be banked.

Mr. Crisafulli replied that it depends on the tenants coming in.

Chairman Barber stated that is seems very straightforward.

Chairman Barber asked if there were any questions regarding the revised application by Mr. Crisafulli. 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 special use permit for the construction of a 9000sf medical/professional office building would have a significant impact upon the environment. Based upon this Board's review of not only this application but also the application five years ago the Board finds that the granting of this application would not have a negative impact and therefore a negative declaration should issue under SEQRA." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4366

Request of **Philip M. Crisafulli** for a Special Use Permit under the Zoning Law to permit: **the construction of a 9000sf medical/professional building on three parcels of land containing 1.42 acres of land. All parcels will be merged to a single parcel upon approvals. 4500sf of space will be dedicated to medical offices and 4500sf of space will be dedicated to general offices. 64 parking spaces will be provided. All existing buildings will be demolished.**

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

For property owned by **Philip M. Crisafulli**
Situated as follows: **3 Hague Drive, 2502 Western Ave. and 2500 Western Ave. Altamont, NY 12009**
Tax Map # **39.00-3-3, 4 & 5** Zoned: **LB**

The Board makes the following findings of fact:

This matter was review five years ago by both the Planning Board and the Zoning Board and finds that the reasons set forth in that permit still apply here.

The conditions set forth in that permit also remain applicable.

Therefore, I would move that the prior special use permit that was granted for the property be reinstated and restored.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF CINGULAR WIRELESS – 5215 WESTERN TURNPIKE

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

Special Use Permit/Variance Request No. 4371

Request of **New Cingular Wireless P.C.S., LLC** for a Special Use Permit/Variance under the Zoning Law to permit: **the modification of telecommunications antennas and associated appurtenances on an existing self-support tower, A variance is requested from providing a boundary survey and plot plan for this project.**

Per Articles **IV & V** Sections **280-37 & 280-51 & 52** respectively

For property owned by **NiMo d/b/a National Grid**

Situated as follows: **5215 Western Turnpike Altamont, NY 12009**

Tax Map # **39.07-1-26.21** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **16th of January, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 8, 2013**"

The file consists of the mailing list to 37 neighboring property owners, the Town's required forms for a special use permit, Albany County Planning Board's notification, a series of documents provided by the applicant including a narrative, a document titled "Request for Waiver of SEQRA", a waiver of a survey, a waiver of a plot plan, a structural analysis report and depictions of both the proposed new antenna and the base area and a site collocation.

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

David Weisman of Vertical Development presented the case. Mr. Weisman stated that they are looking to replace the nine antennas with newer antennas and make additions to the existing shelter; just swap out equipment. This will help with data speeds and voice quality.

Chairman Barber asked if the new antennas would be more visible?

Mr. Weisman replied that they are a little bit bigger but it is an existing tower and they are going in at the same height.

Chairman Barber asked about the structural report.

Mr. Weisman stated that the tower can bear the load, it not close to capacity.

Chairman Barber asked about the base equipment and if there would be more visits to the site.

Mr. Weisman replied that there would be new base equipment but it would be housed within the shelter and it would not require any more visits to the site.

Chairman Barber stated that it seems pretty straightforward, it is a collocation which the Board likes to see.

Chairman Barber asked if there were any questions or comments regarding the application. 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 this application by A T & T Wireless to allow the replacement of antennas and equipment on a preexisting telecommunications tower would have a significant impact upon the environment. Based on our review of this application including review of the structural analysis and also the representation of the equipment being installed, I would move that a negative declaration under SEQRA should issue." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit/Variance Request No. 4371

Request of **New Cingular Wireless P.C.S., LLC** for a Special Use Permit/Variance under the Zoning Law to permit: **the modification of telecommunications antennas and associated appurtenances on an existing self-support tower, A variance is requested from providing a boundary survey and plot plan for this project.**

Per Articles **IV & V** Sections **280-37 & 280-51 & 52** respectively

For property owned by **NiMo d/b/a National Grid**

Situated as follows: **5215 Western Turnpike Altamont, NY 12009**

Tax Map # **39.07-1-26.21** 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.

The Board adopted a negative declaration under SEQRA by a unanimous vote.

Albany County Planning Board deferred to local consideration.

Since the tower is preexisting, the Board's review of the application would not benefit from the submission of a survey or plot plan therefore the waiver of these submissions is granted.

The Board's consideration of the special use permit is governed both by the Federal Telecommunications Act and by our Zoning Code. Both those documents in various ways promote collocation of antenna on existing facilities in lieu of replacement of a new tower. The applicant is actually looking to modify their existing antennas on the tower to upgrade their system and to provide 4G LTE technology.

The applicant has submitted a report by a structural engineering firm which verifies that the existing tower can handle and support the changes and that the tower with the new antenna is well below structural capacity.

The new antennas will be slightly more visible compared to the existing antennas but given the height of the antennas that difference appears to be minimal.

The proposed changes will only require a monthly visit by a technician.

The base equipment will be installed within the confines of the shelter.

For these reasons, I move that the Board approve the application.

In **granting** this application, 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 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 Sharon Cupoli. Vote 5 – 0.

MATTER OF TRUSTCO BANK – 3900 CARMAN ROAD

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:

Amend Special Use Permit #8-89/Request No. 4368

Request of **Trustco Bank** for an amendment to Special Use Permit #8-89 under the Zoning Law to permit: **the relocation of an ATM from an interior lobby to the banking drive-thru. An 117sf addition is proposed to accommodate interior renovations.**

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

For property owned by Schenectady Trust Co.

Situated as follows: 3900 Carman Road Schenectady, NY 12303

Tax Map # 39.11-1-6 Zoned: LB

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 16th of January, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: January 8, 2013"

The file consists of the mailing list to 21 neighboring property owners, the Town's required forms for an amendment to their special use permit, a Short Environmental Assessment Form for this Unlisted Action, a brief narrative, the Town Planners comments, the site plan review by the Town Planning Board, Albany County Planning Board's notification of 12-20-12 and a copy of the prior special use permit.

The Town Planner had the following comments: "The applicant has requested to amend their special use permit to relocate their ATM from the lobby to the drive thru lane. The main issue with ATM machines is the required lighting. No planning objection contingent on the lighting meeting Federal requirements without adversely impacting adjoining properties."

The Town Planning Board site plan review states the following: recommend with the following conditions - provide a lighting plan showing existing and proposed lighting levels attempting to reduce levels to minimum required standards and provide a landscaping plan consistent with previously approved special use permit.

Albany County Planning Board's notification of 12-20-12 was to defer to local consideration.

Tom Andress of ABD Engineers and Surveyors presented the case. Mr. Andress stated that the bank building will be renovated, the ATM in the lobby will be moved to the outside to have access from the drive-thru. The internal layout of the building is being changed and the little corner of 117sf is being bumped out so they can have the correct size for the handicapped bathrooms.

Chairman Barber asked about the landscaping and lighting.

Mr. Andress stated that the lights on the front of the bank seem to create the biggest problem, the light goes straight out, and there are also two pole lights along with building mounted lighting. Mr. Andress stated that they can place shields on some of the lights. Mr. Andress stated that there is a large light above where the ATM is being proposed,

they would take that off and the ATM would get a small direct down light. Mr. Address stated that they do meet and exceed all the lighting requirements for the state code.

Chairman Barber asked if they had a lighting plan.

Mr. Address stated that they did not have one yet. Mr. Address stated that it was very hard to put together what it would look like until the other lights were taken out.

Mr. Address stated that he could give them a lighting plan of what it is now.

Chairman Barber replied that he is more concerned what it will look like after the improvements.

Mr. Address stated that they have reviewed the 1989 landscaping plan but that was before there was a drive-thru.

Chairman Barber asked Mr. Address what their intention was regarding additional landscaping.

Mr. Address stated that their proposal would be to add trees into the green areas at the south and the north end and making additional plantings in front of the building.

Chairman Barber asked Mr. Address if he could have a landscaping and lighting plan to the Board before the next meeting.

Mr. Address replied they certainly could.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to continue the public hearing to the meeting on 2-6-13 and hopefully by then the Board will have a landscaping and lighting plan. Motion seconded by Sharon Cupoli. Vote 5 – 0.

SIGNS:

The Board approved a 50sf building mounted sign for Recovery Room at Hamilton Square. Vote 5 – 0.

The meeting adjourned at 8:15pm.

