

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JULY 17, 2013**

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

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

CONTINUED CASES:

MATTER OF BANK OF AMERICA – 1450 WESTERN AVENUE

Chairman Barber stated that this was a continued case for a modified ATM and lighting change. Chairman Barber stated that this was continued to appoint a TDE, Ken Johnson, and have him provide a report to the Board regarding the application. Chairman Barber stated that they had asked the applicant to look at reducing the height of the lighting and make sure that there is no negative impact on Rt. 20 or neighboring properties.

Tim Ponton of Stonefield Engineering presented the case. Mr. Ponton stated that they have corresponded with the TDE regarding the lighting. Mr. Ponton stated that they would have four area lights, all at a height of 12' with downward lighting.

Chairman Barber stated that there was also a lighting study that shows that there is no spread onto neighboring properties.

Mr. Ponton stated that was correct.

Ken Johnson of Delaware Engineering stated that their lighting does die out by the time it hits Western Avenue and the poles have all been reduced to 12'.

Chairman Barber asked if there is any building mounted lighting.

Mr. Johnson stated that there is some building mounted lighting.

Mr. Ponton replied that there are two building mounted lights, one located in the drive-thru and one located at the front of the building. There are also two wall-mounted lights underneath the canopy which are being replaced with lower intensity bulbs.

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 the application to determine whether the granting of an amended special use permit to allow the relocation of an ATM and to install additional parking lot and building mounted lighting would have a significant impact upon the environment. This review consisted of the comments provided to the Board by the Town Planner, the Albany County Planning Board, by the report provided by Delaware Engineering, and by the conducting of the hearing this evening. In light of the TDE's report and the reduction of the poles, I would move that a negative declaration should be issued under SEQRA." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Amend Special Use Permit #25-80/Request No. 4373

Request of **Bank of America** for an amendment to Special Use Permit #25-80 under the Zoning Law to permit: **the relocation of a drive up ATM machine and the installation of additional parking lot and building mounted lighting.**

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

For property owned by **Delta Properties LLC**

Situated as follows: **1450 Western Avenue Albany, NY 12203**

Tax Map # **52.20-4-1** Zoned: **LB**

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

A public hearing was duly noticed and held before the Zoning Board of Appeals.

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

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

The Albany County Planning Board deferred to local consideration.

The applicant originally proposed to install 20' high light poles. The Board appointed Delaware Engineering to review the application to make certain that the lighting impacts did not negatively impact the neighboring properties or Rt. 20. Delaware Engineering performed a light survey and found that the existing lighting densities at the property line

were negligible and the proposed lighting plan met the standards of the ATM Security Act and found that the proposed lighting will not cause any luminance at the property line and will have no impact upon neighboring properties or along Rt. 20.

Given the Board's goal of reducing the visibility of lighting the Board asked the applicant to reduce the height of the light fixtures. As a result, the light fixtures are now downcast full cutoff and reduced in height to 12' from the 20' requested.

For these reasons, the Board approves the application submitted.

The Board **granted** this request with the following conditions:

Adherence to the plans as submitted with the application.

The conditions of the prior special use permit #25-80 shall remain in effect.

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 JASON KNAGGS – 150 MILLER 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:

Variance Request No. 4395

Request of **Jason Knaggs** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition to a dwelling which currently exists within a required front yard setback. A 50ft setback is required, 41ft is proposed.**

Per Articles **III & V** Sections **280-24.1 & 280-51** respectively

For property owned by **Knaggs Oakland Realty Inc**

Situated as follows: **150 Miller Road Schenectady, NY 12306**

Tax Map # **26.00-3-15** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 24, 2013**"

The file consists of the mailing list to 15 neighboring property owners, the Town's required forms for an area variance, a project narrative, a depiction of the proposed addition and the Town Planner's comments.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a residential addition that will encroach into the front yard. The existing house is already non-conforming and the addition does not increase that nonconformity. No planning objections."

Jason Knaggs, applicant, presented the case. Mr. Knaggs stated that they are planning on redoing an existing old farmhouse and would like to put a porch on the front of the house which will encroach into the front yard setback.

Chairman Barber stated that the house has been there for some time.

Mr. Knaggs stated that was correct.

Chairman Barber stated that it seems very straightforward. Chairman Barber asked if the house was vacant.

Mr. Knaggs stated that it was.

Chairman Barber stated that this is a preexisting and nonconforming house and they will be improving it.

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. 4395

Request of **Jason Knaggs** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition to a dwelling which currently exists within a required front yard setback. A 50ft setback is required, 41ft is proposed.**

Per Articles **III & V** Sections **280-24.1 & 280-51** respectively

For property owned by **Knaggs Oakland Realty Inc**

Situated as follows: **150 Miller Road Schenectady, NY 12306**

Tax Map # **26.00-3-15** Zoned: **RA3**

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 Town Planner had no objections to the request.

The existing dwelling is already located in the 50' setback from Miller Road and has been part of the Knaggs Farm for well over 80 years.

The house is currently vacant.

The proposed addition will be behind the existing house and the proposed 6' front porch will enhance the appearance of the property. The building cannot be moved farther from the road.

The proposed addition will not negatively impact neighboring properties.

The proposed variance is not substantial and will not alter the character of the neighborhood and is not detrimental to neighbors.

For these reasons, I move that the Board approve this request.

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

MATTER OF KRISTIN JOHNSON – 5940 STATE FARM 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. 4403

Request of **Kristen & Marc Johnson** for a Variance of the regulations under the Zoning Law to permit: **the placement of an above ground pool within 100' of a watercourse.**

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

For property owned by **Kristen & Marc Johnson**

Situated as follows: **5940 State Farm Road Guilderland, NY 12084**

Tax Map # **51.00-3-4.2** Zoned: **RO40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 17th of July, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: July 9, 2013"

The file consists of the mailing list to 18 neighboring property owners, the Town's required forms for an area variance for the placement of an above ground pool and the Town Planner's comments.

The Town Planner had the following comments: "The applicant is seeking an area variance to place an above ground pool within 100' of a watercourse. The existing house is also within the setback and the pool will not cause any further encroachment. No planning objections."

Marc Johnson, applicant, presented the case.

Chairman Barber stated that this was similar to the previous application, there is a stream that they cannot move and a house that is already there.

Chairman Barber stated that this was an above ground pool, there might be more concern if it was an inground pool.

Chairman Barber stated that this was a preexisting condition, there are a number of these in town.

Chairman Barber asked if there were any questions or comments from the resident. 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. 4403

Request of **Kristen & Marc Johnson** for a Variance of the regulations under the Zoning Law to permit: **the placement of an above ground pool within 100' of a watercourse.**

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

For property owned by **Kristen & Marc Johnson**

Situated as follows: **5940 State Farm Road Guilderland, NY 12084**

Tax Map # **51.00-3-4.2** Zoned: **RO40**

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

A public hearing was duly noticed this evening and no residents provided either written or oral comments regarding the application.

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

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

As noted by the Town Planner and also indicated on the plans, the house itself is located within the setback from the watercourse and the proposed above ground pool will not cause any additional encroachment.

The proposed placement of the pool will not make an impact on neighboring properties. The Board has granted similar requests where the application involves the placement of an accessory structure consistent with the placement of the preexisting dwelling.

Therefore, for these reasons I move that the Board should grant this variance request.

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

MATTER OF MILL HOLLOW – 5060 WESTERN AVENUE

Counsel Thayer 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 #11-07/ Request No. 4402

Request of **David Osher of Mill Hollow Two LLC** for an amendment to Special Use Permit #11-07 under the Zoning Law to: **relocate one four-unit building and related site plan changes.**

Per Articles **III & V** Sections **280-15 & 280-52** respectively

For property owned by **Mill Hollow Two LLC**

Situated as follows: **5060 Western Turnpike Altamont, NY 12009**

Tax Map # **39.00-2-3.2** Zoned: **MR**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

July 9, 2013"

The file consists of the mailing list to 25 neighboring property owners, the Town's required forms for an amendment to the special use permit, a Short Environmental Assessment Form under SEQRA, the Town Planning Board's site plan review, the Town Planner's comments, a narrative, a copy of the previous special use permit and some grading plans showing the sidewalk that the Planning Board requested.

The Town Planning Board's site plan review was to recommend with the following conditions: identify pedestrian connection to the adjoining Twenty West subdivision on the southwest corner of the site.

The Town Planner had the following comments: "The applicant is requesting to amend the existing special use permit by relocating a 4-unit condo building that was adjacent to the proposed senior center to a location behind two existing single-family homes on Rt. 20. The change will facilitate traffic flow, provide more accessible parking and improve the pedestrian ease of using the senior facility. It will also reduce the number of detached garages, thereby increasing the green space.

My only concern is the impact on the two existing homes on Rt. 20. A parking lot had been planned behind them, which is now proposed as a condo unit. This will also require a variance from the 100' setback to a residential zone. Buffering may need to be increased, especially vertically should the neighbors feel it necessary. I have no planning objection to the change contingent on appropriate buffering."

Dave Osher of Mill Hollow presented the request. Mr. Osher stated that they would be installing a sidewalk from their entrance on French's Mill Road all the way around the corner down the road to where Twenty West is ending. Mr. Osher stated that they would be moving a four-unit building near the pond to the other side of the property and they would be moving the parking closer to the senior citizen facility. Mr. Osher stated that the traffic flow and access for the seniors would be much better with the relocation of the condo building.

Chairman Barber asked if there would be any buffering for the neighbors.

Mr. Osher replied that they have added plantings in the corner and are not clearing as far as they were before. There is also additional berming so when the corner is graded, it will be graded higher and the trees will be planted higher.

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 the application to determine whether the granting of an amended special use permit for Mill Hollow Two LLC's project which consists of moving a four-unit dwelling and other site plan issues would have a significant impact upon the environment. This review consisted of the comments provided to the Board by the Town Planner, the Town Planning Board, the review of the

application, the review of the previous special use permit and the prior issuance of a negative declaration under SEQRA. I move that a negative declaration for this amendment should be issued under SEQRA." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Amend Special Use Permit #11-07/ Request No. 4402

Request of **David Osher of Mill Hollow Two LLC** for an amendment to Special Use Permit #11-07 under the Zoning Law to: **relocate one four-unit building and related site plan changes.**

Per Articles **III & V** Sections **280-15 & 280-52** respectively

For property owned by **Mill Hollow Two LLC**

Situated as follows: **5060 Western Turnpike Altamont, NY 12009**

Tax Map # **39.00-2-3.2** Zoned: **MR**

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 stated that she had no objection to the change conditioned upon appropriate buffering for the two homes on Rt. 20.

The Town Planning Board recommended approval subject to the condition that a connection be made to the subdivision currently under construction next door.

As noted by the Town Planner, the reduced dwelling unit will reduce the number of detached garages and increase the green space. The change will also promote traffic flow and provide more accessible parking for residents and make pedestrian access to the senior citizen facility much easier.

Both the Building Department and Director of Senior Services each gave their consent and approval of this revised site plan.

As noted by the Town Planner, the only remaining issue were potential impacts to two homes on Rt..20. Although we did not receive any comments from those neighbors, the applicant did address these concerns by replacing the planned parking with a four-unit dwelling and the result of that was that there is a reduced amount of clearing behind the houses.

The revised site plan shows the additional plantings and a raised berm which will help to buffer any impacts the dwelling unit will have on the two homes on Rt. 20.

For these reasons, I move that the amended special use permit be **granted**.

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

Adherence to the plans as submitted.

Except as modified by this amendment, the prior special use permit 11-07 shall remain in effect.

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 TOM COY – 6970 SUZANNE COURT

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:

Variance Request No. 4396

Request of **Tom Coy** for a Variance of the regulations under the Zoning Law to permit: **the replacement of +/- 230lf of existing fencing with 6ft high privacy fencing in a front yard.**

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

For property owned by **Thomas & Holly Coy**

Situated as follows: **6970 Suzanne Court Schenectady, NY 12303**

Tax Map #**28.17-3-11** Zoned: **R20**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 25, 2013"**

The file consists of the mailing list to 38 neighboring property owners, the Town's required forms for an area variance for the replacement of an existing fence, the Town Planner's comments, a narrative, a proposal from the fence company and some photographs of the property.

The Town Planner had the following comments: "The applicant has applied for an area variance to replace an existing fence in a required front yard. The lot is a corner lot and the location of the fence will be even with the adjacent neighbor's and will not impede any sight distance. No planning objections."

Tom Coy, applicant, presented the case.

Chairman Barber stated that the applicant is looking to replace a 5' wooden dilapidated fence with a 6' vinyl fence in the same place as it is.

Chairman Barber stated that back in 1999 Mr. Coy received a building permit for the 5' wooden fence but he should have gone to the Zoning Board for a variance.

Mr. Coy stated that he was surprised that they would not approved this fence without a variance.

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. 4396

Request of **Tom Coy** for a Variance of the regulations under the Zoning Law to permit: **the replacement of +/- 230lf of existing fencing with 6ft high privacy fencing in a front yard.**

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

For property owned by **Thomas & Holly Coy**

Situated as follows: **6970 Suzanne Court Schenectady, NY 12303**

Tax Map #**28.17-3-11** Zoned: **R20**

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 approval.

The property is a corner lot at the intersection of Luigi Court and Suzanne Court. Corner lots have two front yards with setbacks and other restrictions including the placement, the type and height of fences. In variance applications of this nature, the Board allows the property owners to treat one of the front yards as a side yard if two conditions are met: 1) the fence will not create any sight distance at the intersection and 2) the fence will not negatively impact any neighboring properties.

This fence has existed at this location since 1999 and has not caused any sight distance issues at the intersection.

The fence will be placed at the same location and will not cause any sight distance issues at Suzanne Court or Luigi Court.

The proposed fence will replace an existing 5' wooden fence which the applicant received a building permit for in 1999. At that time, no variance was required.

As noted by the Town Planner, the fence is in line with the neighbor's fence and the proposed 6' vinyl fence is also attractively designed and will replace the dilapidated wooden fence.

For these reasons the Board finds that the granting of this variance will not negatively impact neighboring property owners and should be granted.

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

Adherence to the plan as submitted with the application.

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 CROSSGATES MALL – 1 CROSSGATES MALL 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4397

Request of **Crossgates Mall** for a Variance of the regulations under the Zoning Law to permit: **the installation of two building mounted signs. A variance is requested to permit a total of 366sf of signage, 50sf is permitted.**

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

For property owned by **Crossgates Mall**

Situated as follows: **1 Crossgates Mall Road Albany, NY 12203**

Tax Map # **52.01-1-4.4** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 26, 2013**"

The file consists of the mailing list to 40 neighboring property owners, the Town's required forms for a sign variance for Dave and Busters, a narrative provided by the applicant, Albany County Planning Board's notification, some depictions of the proposed sign along with a sign application.

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

Tom Darby, Operations Manager of Crossgates Mall presented the case. Mr. Darby stated that Dave and Busters is a new tenant coming to the mall. Dave and Busters will have their own entrance with differing hours from the mall. Mr. Darby stated that he felt the sign was important for showing where Dave and Busters is located especially with the differing hours. Mr. Darby stated that with the tenant being new to the area, he feels that the sign is important as they build themselves in the market place in Guilderland.

Chairman Barber stated that this application relates back to a Zoning Board decision in 1994 that granted a variance of almost 6000sf for signage to Crossgates Mall and there is at least 2500sf left. Chairman Barber stated that while the Board is treating it as a variance, the variance has already been granted. As part of the original approval, each sign that comes in the Board is now looking at it as more of a sign approval and to see if the sign is comparable to other signs in the mall.

Chairman Barber stated that for the most part the building mounted signs are well within the ring road and for the most part not visible from neighboring properties. Chairman Barber stated that the Board also looks at whether the signage is for a store that has an outside entrance, which Dave and Busters does have. Chairman Barber stated that he had reviewed other approvals and this is a comparable size.

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. 4397

Request of **Crossgates Mall** for a Variance of the regulations under the Zoning Law to permit: **the installation of two building mounted signs. A variance is requested to permit a total of 366sf of signage, 50sf is permitted.**

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

For property owned by **Crossgates Mall**

Situated as follows: **1 Crossgates Mall Road Albany, NY 12203**

Tax Map # **52.01-1-4.4** Zoned: **GB**

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.

Back in 1994 the Zoning Board of Appeals granted a variance for signage at Crossgates Mall. This variance today will be almost 2000sf below the approved variance therefore the Board views this more as a sign application and not a variance request.

This sign application involves a request for Dave and Busters, a new establishment at the mall. There are two building mounted signs that are proposed. One is a channel letter sign in blue with the name Dave and Busters and a blue, orange and white oval sign with the letters D & B and the name Dave and Busters. In prior decisions the Board has noted that building mounted signs are well off the ring road for the mall and for the most part are not visible from any residences.

To encourage a more even use of the existing parking and to direct travelers and customers to the secondary entrances this Board has allowed establishments with exterior entrances to have a building mounted sign, particularly for those uses that operate at times that may not be completely in sync with the malls general hours.

The requested variance (sign application) is comparable to other sign applications at the mall and they are all compatible in their own environment. Given these unique circumstances including the finding that the building mounted signs are not visible from nearby residences the Board finds that the granting of this application will not impact neighboring property owners and that the sign application is consistent with other signs at the mall and should be granted.

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.

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF GUILDERLAND PARTNERS – 2327 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4398

Request of **Entera Branding** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 147sf building mounted sign and a 48sf monument sign.**
A variance is requested to permit a total of 195sf of signage, 50sf is permitted.

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

For property owned by **Guilderland Partners of Albany, LP**
Situated as follows: **2327 Western Avenue Guilderland, NY 12084**
Tax Map # **39.00-4-9.1** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 2, 2013**"

The file consists of the mailing list to 18 neighboring property owners, the Town's required forms for an area variance for the sign, a depiction of both the building mounted sign and the monument sign for Tractor Supply Company, a letter from Guilderland Partners LP authorizing the sign company to submit the application and Albany County Planning Board's notification.

Albany County Planning Board's notification was to defer to local consideration with the following note: "The Town Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

Russ Hazen of Ray Sign presented the case. Mr. Hazen stated that the Tractor Supply building is 125' in length and about 120' set back off the road.

Chairman Barber stated that if they approve this variance any other property being developed nearby is going to ask for the same size sign. Chairman Barber discussed other variance requests by Tractor Supply stores in other towns and cities.

Chairman Barber stated that he would like to minimize the variance as much as possible.

Mr. Hazen asked if there was a square footage that the Board was comfortable with.

Chairman Barber stated that he thought that the mounted sign was more significant for Tractor Supply.

Chairman Barber asked if there were any questions or comments from the residents. There were none.

There was concern regarding the building mounted sign and sight distance.

Tom Quaglieri of 4 Pheasant Walk asked about size and time frame for a temporary banner for Tractor Supply.

Chairman Barber made a motion to continue this case to August 22, 2013. Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF JONATHAN DEFOREST – 458 LITTLE FALLS PLACE

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. 4399

Request of **Jonathan deForest** for a Variance of the regulations under the Zoning Law to permit: **the construction a single-family home, an accessory structure and an in ground pool beyond the intersection of a 12° angle of repose.**

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

For property owned by **Jonathan deForest**

Situated as follows: **458 Little Falls Place Albany, NY 12203**

Tax Map #**51.15-2-21.1** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **17th of July, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 2, 2013**"

The file consists of the mailing list to 43 neighboring property owners, the Town's required forms for an area variance for the construction of a home within the angle of repose, a Short Environmental Assessment Form for an Unlisted Action under SEQRA, a narrative provided by the applicant, an aerial photograph of the proposed location of the house, two reports from Dante Engineering providing their conclusions and recommendations regarding a safe building line, a depiction of the proposed house, copies of the ZBA hearing on October 6, 2010 along with the prior application, a letter dated July 11, 2013 from a resident objecting to the request, a site plan for the proposed property and the Town Planners comments.

The Town Planner had the following comments: "The applicant has requested an area variance to build a single-family home within the angle of repose setback from the Blockhouse Creek. A soil analysis has been completed which, within certain guidelines,

says that the soils in the proposed house location will support said structure. I have the following comments:

- This lot was never approved by the Planning Board. It is shown as "leftover" land on the subdivision map for Bentwood 2 but states that the land is to be retained by Armand Quadrini, the original owner. It has been assessed as protected open space since the subdivision was approved in 1977. Because it was never reviewed as a building lot, nor taxed as a building lot, I'm not sure of its legal standing.
- A previous owner culverted the stream although I do not see and DEC stream disturbance permits in the file. The applicant's engineer has determined that the culvert and driveway could withstand the weight of emergency apparatus.
- If this lot is legally deemed to be a buildable lot, the proposed house location is about the only place it could be built and is more than 100' from the stream.
- The applicant should be required to provide full grading and stormwater plans per the soil engineer's instruction.

This parcel is a unique and environmentally sensitive piece of property. From a planning point of view it would be preferable to leave it as open space. However, if the owner can legally build on it, the proposed location is most likely the best, and safest place for the house."

Jonathan Deforest, applicant, presented the case.

Chairman Barber stated that one of the issues is whether or not this is a buildable lot.

Mr. DeForest stated that they did look into this before he purchased the property. Mr. DeForest stated that he understood that originally when the subdivision was first proposed it was a clustered subdivision. It eventually was converted back to a conventional subdivision, zoned R15 and the individual lots needed to contain their own greenspace within their properties. At that time, it left a 5.8 acre parcel and there was discussion of whether Armand Quadrini would donate it to the Town and the Town did not want it or to maintain it. The lands were retained outside of the subdivision by Armand Quadrini. Subsequent to that, over the course of the last 20 or 30 years that parcel has been reduced in size because of adjustments to neighboring property owners for the construction of their houses.

Chairman Barber stated that they would need the ZBA Counsel to take a look at it and discuss it with the applicant's attorney.

Mr. DeForest stated that the site is a 4.3-acre site and the Blockhouse Creek cuts through the center of the site. Mr. DeForest stated that they are looking for a variance from the angle of repose. Mr. DeForest stated that Dente Engineering did a slope stability analysis and found that it was within the safety factors and it was a buildable lot. Mr. Deforest stated that he bought the lot from Don LaDuke's estate and he bought the engineering work that had went into it up to that date. Mr. Deforest stated that he was familiar with the property before he bought it.

Mr. Deforest stated that he had met with several of his neighbors to try and hear their concerns.

Chairman Barber asked about the stream crossing and whether there was DEC authorization to do so.

Mr. Deforest stated that in 2002 Mr. Quadrini had applied for a permit from DEC.

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

Brian Casey of 560 Jefferson Court, President of the Presidential Estates Homeowners Association, had concerns the wild lands and does not feel that this parcel should be considered a buildable lot. Mr. Casey also had concerns about the stability of the ravine. Mr. Casey also spoke about the footbridge that had been washed away.

Seth Newman of 585 Jefferson Court had concerns regarding the environmental impacts, the runoff, the stability, utilities, emergency access and the aesthetic issue.

Jeff Siggia of 609 Washington Court had concerns regarding the slope stability.

Brian Collins of 617 Washington Court had concerns with the runoff and the effect on the stream. Mr. Collins also had concerns regarding fires in the area.

Kevin Broderick of 600 Washington Court asked if the Town still had Mr. Quadrini's original application. Mr. Broderick wanted to know what the original intent was for this land.

Steve Cumoletti of 612 Washington Court asked that the Board take real careful consideration be put into reviewing Mr. Deforest's responses on his application. Mr. Cumaletti also asked if there was any other way for the house to be built on the lot.

William Betjemann of 625 Washington Court had the same concerns as many of his neighbors.

Linda Walsh-O'Deen of 301 Presidential Way also had concerns regarding the application.

Chairman Barber stated that they would be continuing the application.

Chairman Barber made a motion to appoint Delaware Engineering to review the soil stability report. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion to continue the public hearing to August 21, 2013. Motion seconded by Sharon Cupoli. Vote 5 – 0.

SIGNS:

Chairman Barber made a motion to approve the sign application at 1525 Western Avenue as submitted subject to Counsel Thayer confirming that no variance is required. Motion seconded by Sharon Cupoli. Vote 5 – 0.

The meeting adjourned at 9:30pm.

