

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
AUGUST 21, 2013**

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

Members Absent: James Sumner

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

CONTINUED CASES:

MATTER OF GUILDERLAND PARTNERS – 2327 WESTERN AVENUE

Chairman Barber stated that this was a continued case for a new sign for Tractor Supply. The Board asked the applicant to look at other comparable properties and work with the Zoning Attorney and the Zoning Department to come up with an alternative and more compatible with other signs.

Chairman Barber stated that they had looked at the Hannaford signage and the applicant's proposed signage.

Russ Hazen of Ray Sign stated that they had reduced the building mounted sign to 48sf for a combined total of 96sf.

Chairman Barber asked if there were any questions or comments from the residents. 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. **4398**

Request of **Entera Branding** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 48sf building mounted sign and a 48sf monument sign.**
A variance is requested to permit a total of 96sf of signage, 50sf is permitted.

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

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

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

A public hearing was duly noticed and held. There were no oral or written comments received regarding the application.

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

This application involves the signs for Tractor Supply Company; one sign is a monument sign measuring 48sf and the other sign is a building mounted sign, which was originally proposed to be 147sf. At the prior public hearing, the Board asked the applicant to reduce the size of the signage and to work with the Town to review situations at comparable properties with extended frontages along Rt. 20. Based upon that review and comparing the frontages and signs at other locations, the Town determined that the building mounted sign, which had been reduced to 48sf and therefore reducing the variance to almost 99sf would be appropriate. To ensure that the new sign is compatible with nearby properties we looked at the comparable nearby Hannaford, another store with an extended frontage on Rt. 20 and determined that the combined signage of 48sf for a monument sign and 48sf for a building mounted sign as revised would be appropriate.

Also, the Board further notes that the monument sign is going to be surrounded by extensive landscaping which was part of the approved site plan. For these reasons the Board finds that the granting of this variance will not impact neighboring properties, will not cause an undesirable change in the character of this area and that the variance should be granted.

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

Adherence to the revised plans that were submitted with the reduced signage; 48sf monument sign and 48sf building mounted sign.

Adherence to the representations made during this public hearing.

The Zoning Administrator 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 ALBANY MANAGEMENT – 6512 VOSBURGH 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:

Special Use Permit Request No. **4400**

Request of **Albany Management** for a Special Use Permit under the Zoning Law to permit: **the construction of a 14x16 salt shed at an existing apartment complex in a MR zone.**

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

For property owned by **Carpenter Village LLC**

Situated as follows: **6512 Vosburgh Road Altamont, NY 12009**

Tax Map # **39.11-3-29** Zoned: **MR**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 2, 2013**"

The file consists of the mailing list to 21 neighboring property owners, the Town's required forms for an amended special use permit, a Short Environmental Assessment Form, a narrative and drawing of the proposed shed, the Town Planners comments, the Town Planning Board's site plan review and Albany County Planning Board's notification.

The Town Planner had the following comments: "The applicant needs to amend their special use permit to construct a salt shed in the apartment complex. The shed will be 14' x 16' and be located adjacent to a parking lot. No planning objections."

The Town Planning Board recommended without any suggestions or conditions.

Albany County Planning Board's notification was to defer to local consideration with an advisory note that the Town should notify the applicant of the need to protect stormwater outfalls by protecting the catch basin in the parking lot from runoff from the salt shed. The applicant should refer to the NYS Stormwater Management Design Manual.

Brett Watts of Carpenter Village presented the case. Mr. Watt stated that they propose to build a 14' x 16' salt shed to cover their salt that they use in the winter. The shed would be blacktop on the interior so that there would be no filtering into the groundwater. It would not require any electrical service and there would be landscaping around it.

Chairman Barber stated that it was well off of Posson Road and seems to be well over 75' from the closest dwelling.

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 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 construction of a salt shed at an apartment complex at Carpenter Village would have a significant impact upon the environment. This review consisted of the Board's review of the application, the comments provided by the Albany County Planning Board, the Town Planning Board, the Town Planner and the conducting of the public hearing this evening. I move that a negative declaration under SEQRA be issued." Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:
Special Use Permit Request No. 4400

Request of Albany Management for a Special Use Permit under the Zoning Law to permit: the construction of a 14x16 salt shed at an existing apartment complex in a MR zone.

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

For property owned by Carpenter Village LLC
Situated as follows: 6512 Vosburgh Road Altamont, NY 12009
Tax Map # 39.11-3-29 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 proposed salt shed is an accessory structure allowed in this district. The shed shall be located 60' off the right-of-way on Posson Road and more than 75' from the closest dwelling which is a brick building in the apartment complex.

There are no nearby watercourses and there is a catch basin immediately in front of the proposed shed.

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

Adherence to the plans as submitted.

Compliance with any current or future legal requirements for the storage of salt at this location.

Compliance with the directions of the Albany County Planning Board regarding the need to protect the stormwater outfall by protecting the catch basin in the front parking lot from runoff from the salt shed and should refer to the NYS Stormwater Management Design Manual.

The Zoning Administrator 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)

NEW CASES:

MATTER OF DONALD GOVEL – 331 CHURCH ROAD

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. **4409**

Request of **Donald Govel** for a Variance of the regulations under the Zoning Law to permit: **the placement of an 20' x 24' carport canopy in a front yard.**

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

For property owned by **Donald & Nina Govel**

Situated as follows: **331 Church Road Albany, NY 12203**

Tax Map # **52.18-1-57** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013**"

The file consists of the mailing list to 19 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a brief narrative and a sketch of where the carport will be in relation to the garage and house.

The Town Planner had the following comments: "The applicant is requesting an area variance to construct a carport in a required front yard on a corner lot. The house has a circular drive and the structure would be over 61' from the public road. No planning objections.

Donald Govel, applicant, presented the case.

Chairman Barber stated that it appears that there is a basketball court that they are not using and want to put the carport on it.

Mr. Govel replied that was correct Mr. Govel stated that they have been parking their cars there for about the last 5 years and they thought that they would put up a carport to protect their cars from the elements.

Chairman Barber stated that carports generally are allowed in side yards and this one is in the front yard.

Mr. Govel stated that it is more on the side of his yard and the problem is that he is on a corner lot of Church Road and Newman Road.

Chairman Barber stated that his property on Church Road – the house is on the right and the garage is maybe 10' behind it and the basketball court is in front of both of them. Chairman Barber stated that basically if you draw a line in front of the house, the basketball court is in the front yard.

Mr. Govel stated that there is access off of the driveway and there really is no other place that they could have put it.

Chairman Barber stated that they could put the carport behind the basketball court closer to the garage and use the basketball court as an extended driveway to the carport.

Mr. Govel stated that there was a big tree there that he would not be able to take down on the side of the garage.

Chairman Barber stated that the reason they have to be careful about allowing accessory structures in front yards because they would be setting a precedent. If this is allowed they would need to find compelling or unique circumstances. Chairman Barber stated that they would like to look at it one more time to make sure that it is the best location for it. Chairman Barber stated that he is not disagreeing of repurposing the basketball court but he wants to make certain that the Board is not creating an issue.

Mr. Govel stated that if he does not get this done soon he will not be able to get it done until next year because they are coming from Florida to put it up.

Chairman Barber asked Jackie Siudy if she had a chance to look at the site.

Jackie replied that she did have a chance to look at it but she did not have a chance to talk to the applicant regarding the placement.

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. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber asked Jackie Siudy if she was aware of any other carports that were allowed in front yards.

Jackie replied that she is sure that there are some out there, but she did not think that the Board had approved them.

Chairman Barber asked Jackie Siudy if she would be comfortable working with the applicant to minimize the variance.

Jackie Siudy stated that she would be comfortable working with him if the Board was okay with that.

Chairman Barber made a motion regarding:
Variance Request No. **4409**

Request of **Donald Govel** for a Variance of the regulations under the Zoning Law to permit: **the placement of an 20' x 24' carport canopy in a front yard.**

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

For property owned by **Donald & Nina Govel**
Situated as follows: **331 Church Road Albany, NY 12203**
Tax Map # **52.18-1-57** 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.

The Board raised concerns about setting a precedent with this request.

The Town Planner had no objections to the request noting that the structure is more than 61' off of Church Road and more than 61' off of Newman Road.

The Board further finds that the location in terms of being placed on an existing concrete basketball court would be desirable. However, the Board is also mindful that there may be a better location on the property. The Board asks the applicant to work with the Building Department on determining whether the location is the best location and addresses the potential concerns of neighbors but also one that takes into consideration the mature trees on the property.

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

The variance shall be reduced to the greatest extent possible and authorizing Jackie Siudy to use her discretion in the placement of the carport. If the Zoning Administrator determines that landscaping or other measures are needed, she has the authority to order them.

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

MATTER OF STEVEN SBARDELLA – 5958 OLD STATE 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 III & V** of the Zoning Law on the following proposition:

Variance Request No. **4406**

Request of **Steven J. Sbardella** for a Variance of the regulations under the Zoning Law to permit: **reduced lot areas for two proposed parcels of land. A lot area of 40,000sf is required, a lot area of 25,010sf is proposed for parcel I and a lot area of 30,589sf is proposed for parcel II.**

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

For property owned by **Top Dog Enterprises LLC**

Situated as follows: **5958 E Old State Road Schenectady, NY 12303**

Tax Map # **28.19-2-5** Zoned: **R40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013**"

The file consists of the mailing list to 24 neighboring property owners, the Town's required forms for an area variance, the Town Planner's comments, a narrative, a subdivision map that appears to be amended on July 13 and July 22 to indicate a 100' separation between water and septic. It also is showing contours that show the

maintaining of a berm on Old State Road which is the result of comments received at the Town Planning Board meeting.

The Town Planner had the following comments: "This is a request for an area variance as part of a subdivision approval. The applicant has applied for concept approval to subdivide a 1.28acre parcel into lots. Parcel #1 contains an existing house and both lots will use the Old State Road spur for access. It appears that both lots will be able to meet the standard 100' separation requirements for wells and septic. The majority of lots in this area are in the ½ acre range. No planning objections."

Steve and Christine Sbardella presented the case. Mr. Sbardella stated that they are looking to subdivide the parcel.

Chairman Barber stated that the Planning Board has ultimate authority over subdivisions. Chairman Barber stated that the issue here is on the lot size. Chairman Barber asked if the lot was comparable in size to other lots in the area.

Ms. Sbardella stated that there were approximately 11 nonconforming lots within ¼ of a mile.

Chairman Barber stated that the Town Planner said that most of the lots in that area are ½ acre and the two lots immediately to the west are approximately 23,000sf and 28,000sf and there are some lots that are bigger in that area.

Mr. Sbardella stated that this lot more than conforms to all the setbacks. Mr. Sbardella stated that they would keep the buffer zone on East Old State Road and make it private.

Chairman Barber stated that ultimately the approval of this project is the Planning Board. Chairman Barber stated that the Zoning Board is only looking at the size of the lots, not the septic or water, just whether the lot size is compatible with other properties.

Chairman Barber stated that he does not think that they have concept approval from the Planning Board.

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

Mike Gammans of 6044 Old State Road had concerns regarding water quality and septic systems.

Chairman Barber stated that the Planning Board look to make certain that the granting of a building permit or subdivision approval would not impact neighboring properties.

Chairman Barber stated that it is his understanding that this has not gotten concept approval yet.

James Fuller of 6045 East Old State Road had concerns regarding septic systems and would like to see bigger lots.

George Mitchell of 6048 Old State Road asked what the status was of that area getting public water and sewer.

Susan Rothchild of 6052 Old State Road stated that the determination made 15 years ago was that the lots in that area needed to be at least one acre.

John Binseel of 5959 Old State Road stated that the Town zoning had been increased in his area and it was his understanding at the time it was because of the concerns of the future water quality and septic systems. Mr. Binseel had concerns about setting a precedent. Mr. Binseel asked if there was a new survey on this property. Mr. Binseel stated that both of those lots would be nonconforming.

Chairman Barber asked the applicant where they stand with the Planning Board. Chairman Barber stated that typically the Zoning Board does not hear these cases until there has been concept approval by the Planning Board.

Ms. Sbardella replied that they are just dealing with the area variances with regard to zoning and they have to go back to get the plans done.

Chairman Barber stated that typically the applicant goes to the Planning Board and gets concept approval that is basically the Planning Board giving an indication that the project is acceptable at least in terms of progressing to the next step. At that point a variance request if necessary comes to the Zoning Board.

Chairman Barber stated that he thinks that there is a misunderstanding and confusion whether or not they had received concept approval. Chairman Barber stated that the Zoning Board has to look at the impacts on the character of the neighborhood.

Chairman Barber stated that he would like to keep the public hearing open and have the applicant go back to the Planning Board for concept approval and then come back to the Zoning Board.

Chairman Barber stated that he had spoken to the Chairman of the Planning Board and he said that the project did not get concept approval yet and there is no concept approval in the plans.

Chairman Barber made a motion to continue the public hearing pending the Planning Board's determination on the concept approval. The Zoning Board will then reissue public notice of the rescheduling of the case. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Tom Remmert suggested asking the Town Clerk to locate the minutes of the Town Board meeting 15 years ago.

MATTER OF MICHELLE FEDER & SCOTT BIANCHI – 6 JEAN PLACE

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. **4412**

Request of **Michelle Feder** for a Variance of the regulations under the Zoning Law to permit: **the installation of 6ft high privacy fencing in a front yard.**

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

For property owned by **Michelle Feder & Scott Bianchi**

Situated as follows: **6 Jean Place Schenectady, NY 12303**

Tax Map #**15.14-2-35** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013**"

The file consists of the mailing list to 45 neighboring property owners, the Town's required forms for an area variance, a narrative, a tax map showing where the fence will be located and the Town Planners comments.

The Town Planner had the following comments: "The applicant has requested an area variance to construct a fence in the required front yard on a corner lot. The application states that the fence will be 30' from center of line, but 5' in from their property line. However, 30' from the center line would be exactly on the property line. Either way, the fence will not impede sight distance and I have no planning objections."

Michelle Feder and Scott Bianchi, applicants, presented the case.

Chairman Barber stated that they are on a corner lot with two front yards. Chairman Barber asked exactly where the fence was going to be placed.

Mr. Bianchi replied that it would be 12' off of the edge of the road.

Chairman Barber stated that typically when they look at corner lots they look to see how close to the house the fence can be placed. Chairman Barber asked how close to their house the fence was going to be.

Mr. Bianchi stated that it would be about 13' away from the house.

Chairman Barber asked how far off the road it would be.

Mr. Bianchi replied that it would be 12' off the road.

Chairman Barber stated that typically on corner yards they allow the homeowner to treat one of the yards as a side yard as long as 1) it does not cause any sight distance at the intersection and 2) whether it would impact neighboring properties.

Chairman Barber stated that the application does not show exactly where the fence is going to be placed so the applicant would work with Jackie Siudy as far as placement.

Chairman Barber asked what type of fence it would be.

Mr. Bianchi stated that it is a 6' wood stockade privacy fence.

Chairman Barber asked if they have spoken to their neighbors about the fence.

Mr. Bianchi replied that one of their neighbors across the street stated that they had no problem with the fence.

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:

Request of **Michelle Feder** for a Variance of the regulations under the Zoning Law to permit: **the installation of 6ft high privacy fencing in a front yard.**

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

For property owned by **Michelle Feder & Scott Bianchi**
Situated as follows: **6 Jean Place Schenectady, NY 12303**
Tax Map #**15.14-2-35** 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 written or oral comments were received 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.

Corner lots involve two front yards and two front yard setbacks and restrictions. The Board looks to see whether one of those yards would have a negative impact on sight distance on the intersection. Based upon our review of the application and the comments from the Town Planner it appears that it will not have an impact upon sight distance at

that intersection. The second inquiry is whether or not allowing the applicant to treat one of the front yards as a side yard would have a negative impact upon neighboring properties. The Board did not receive any comments but also do not want to set any precedent.

Opposite this property is a town park and there is added need to make certain that the placement of the fence will not negatively impact the park.

Based upon that collective evidence and based upon our assessment that the neighboring properties will not be affected I move that a variance should be granted.

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

The applicant shall work with the Zoning Administrator on minimizing the variance and looking at comparable variances in at subdivision with the idea of placing the fence as close to the house as possible.

The Zoning Administrator shall determine if landscaping should be installed to mitigate the visual impact of the 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)

MATTER OF DENNIS WARREN – 6140 STATE FARM ROAD

Tom Rimmert 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. **4408**

Request of **Dennis E. Warren Sr.** for a Variance of the regulations under the Zoning Law to permit: **the installation of +/- 110lf 6ft high privacy fencing in a front yard.**

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

For property owned by **Dennis E. Warren Sr.**

Situated as follows: **6140 State Farm Road Guilderland, NY 12084**

Tax Map #**51.02-3-16** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 21st of August, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 11, 2013"

The file consists of the mailing list to 24 neighboring property owners, the Town's required forms for an area variance, a job sketch, a brief narrative and the Town Planners comments.

The Town Planner had the following comments: "The applicant has requested an area variance to place a 6' high fence in the required front yard of a corner lot. The application does not specify how far in the fence will be placed or how great the variance will be. I have no planning objection contingent on the fence being entirely on the applicant's property and not encroaching on the Seward Street public right-of-way."

Dennis Warren, applicant, presented the case.

Chairman Barber asked where the fence would be going on his property.

Mr. Warren stated that he would be 10' away from all of the neighbors.

Chairman Barber stated that the variance is for the fencing that is on the Seward Street side.

Mr. Warren stated that he was going to be 15' from the pavement.

Chairman Barber stated that the Town actually owns part of the land. Chairman Barber stated that typically a survey is submitted which shows where the fence will be going and how far off of the road it is.

Mr. Warren stated that he did not have anything like that and he just purchased the property a few weeks ago.

Chairman Barber stated that he would need permission to put a fence in the front yard. Chairman Barber stated that he had two front yards.

Mr. Warren stated that the fence would be 16' from the corner of his garage out.

Jackie Siudy stated that based on Mariaville Fence's diagram he is 24' from the corner of the garage because there is 8' of fence, 8' of gate and an additional 8' of fence.

Mr. Warren stated that Mariaville had not realized that they needed to go 30' from the center of the road, not 24'.

Chairman Barber stated that the diagram from Mariaville Fence shows a fence coming from the garage going 24' out toward Seward.

Mr. Warren stated that they had measured it wrong.

Chairman Barber asked Jackie Siudy if she would work with the applicant to see where the fence fits in relation to the property line.

Chairman Barber stated that they need a drawing that they can rely on.

Chairman Barber stated that his driveway is on Seward Street.

Mr. Warren stated that he is more than 40' from State Farm Road.

Jackie Siudy stated that now the diagram that is with the application is not correct.

Chairman Barber stated that the diagram from Mariaville Fence shows the fence very close to Town property and they need to confirm where the fence is going to make sure that it is not on Town property.

Chairman Barber stated that the applicant should work with Jackie Siudy on getting a sketch that shows the actual site conditions.

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

Patricia Chase of 6138 State Farm Road stated that she would like an opportunity to see the rendering of the fence in relation to her property. Ms. Chase stated that she has a green chain line fence now in the back yard and a white picket fence in the front yard. Ms. Chase stated that she would like to see how the applicant's fence would be in relation to her fence and to the trees in the yard.

Richard Wyman of 6135 State Farm Road spoke in favor of the application and the new owner had done a good job of upgrading the property so far.

Chairman Barber stated that this case would be continued to the next meeting and in the interim the applicant can provide a map that shows the location of the fence. Jackie Siudy stated that she would help him with the map.

Chairman Barber made a motion to continue the case to September 18, 2013. Motion seconded by Sharon Cupoli. (Sumner absent, Ventresca-Cohen alternate)

MATTER OF JAMES & WILLIAM WILSON – 3815 CARMAN 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 III & V** of the Zoning Law on the following proposition:

Variance Request No. 4411

Request of James T. Wilson & William F. Wilson for a Variance of the regulations under the Zoning Law to permit: reduced widths at the building lines for two proposed parcels of land. A width of 125ft is required at the building line, a width of 100ft at the building line is proposed for both parcels.

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

For property owned by James & William Wilson
Situated as follows: 3815 Carman Road Schenectady, NY 12303
Tax Map # 27.19-3-39 Zoned: R20

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 21st of August, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 11, 2013"

The file consists of the mailing list to 32 neighboring property owners, the Town's required forms for an area variance, a letter from the property owners designating Bill Coons to be their agent for this review, a narrative provided by the land surveyor, a survey of the property showing the two lots being created, Albany County Planning Board's notification of 8-15-13 and the Town Planners comments.

Albany County Planning Board's notification was to defer to local consideration with this advisory: It would be advisable for the Town to condition the variance for reduced lot width by reducing the curb cut to Rt. 146 to one shared driveway access point with a shared access agreement. The lots could still have two separate driveways, but share the curb cut in order to reduce curb cuts to the state highway.

The Town Planner had the following comments: "The applicant has applied for subdivision approval to split a 40,000sf lot into two building lots. The parcel is zoned R20 and each lot would have the minimum required lot area but need variances for the required 125' width at building line. The lot sizes are very comparable in size and width to other lots in the area. No planning objection."

Bill Coons presented the case. Mr. Coons stated that the property is across from Carman Plaza and is approximately 200' x 200'. Mr. Coons stated that at one time there was a house on the parcel; currently there is a garage in the left corner of the lot and another structure on the right back corner. Mr. Coons stated that they plan on taking down the structure on the right back corner and renovating the garage in the left corner. Mr. Coons stated that most of the other properties in the area are between 80 and 100' width wise. Mr. Coons stated that there are two parcels on one deed. Mr. Coons stated that the structures will be smaller, approximately 1400 to 1600sf in size.

Chairman Barber stated that the two lots to the south are the same size.

Chairman Barber asked Mr. Coons what his view was on Albany County Planning Board's recommendation.

Mr. Coons replied that at first they were going to separate the driveways as they are now but after looking at it they were going to try and put the two driveways closer together so it would look like one driveway coming out. Mr. Coons stated that the problem with a combined driveway is there would have to be some type of maintenance agreement and it does make it more difficult on resale.

Chairman Barber stated that it really is a Planning Board matter.

Mr. Coons stated that at the original Planning Board meeting there was a concern from a neighbor on Nathaniel Drive and they have offered to plant trees on the back line for a buffer.

Sharon Cupoli asked what the size of the houses would be.

Mr. Coons stated that they would be between 1400 and 1600sf.

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

Chuck Klaer of Meadowdale Road spoke about the access to the garages from the driveways.

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. 4411

Request of James T. Wilson & William F. Wilson for a Variance of the regulations under the Zoning Law to permit: reduced widths at the building lines for two proposed parcels of land. A width of 125ft is required at the building line, a width of 100ft at the building line is proposed for both parcels.

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

For property owned by James & William Wilson
Situated as follows: 3815 Carman Road Schenectady, NY 12303
Tax Map # 27.19-3-39 Zoned: R20

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

A public hearing was duly noticed and held this evening. One resident provided a comment tonight at the public hearing.

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

Albany County Planning Board deferred to local consideration with an advisory note to try and reduce curb cuts on Carman Road.

Each of the two lots will measure 20,000sf which is the minimum size lot in this R20 zone. The proposed building line width of 100' is consistent with other lots along Carman Road and in the subdivision to the rear.

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

The Board **grants** the area variance with the following conditions:

Adherence to the plans as submitted.

The Planning Board's review and approval of the proposed subdivision is required and ask the Planning Board to consider whether a single curb cut similar to other properties on Carman Road might be appropriate; leaving that to the Planning Board's discretion to make that determination.

The Zoning Administrator 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 DOO YOUNG PAI – 1758 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:

Special Use Permit Request No. 4404

Request of **Doo Young Pai** for a Special Use Permit under the Zoning Law to permit: **1600sf of an existing building for use as a Tae Kwon Do studio and 1450sf for use as general office space.**

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

For property owned by **Willard Oliver**

Situated as follows: **1758 Western Avenue Albany, NY 12203**

Tax Map # **52.09-5-17** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 21st of August, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 5, 2013"

The file consists of the mailing list to 43 neighboring property owners, the Town's required forms for a special use permit for a Tae Kwon Studio and general office space, a Short Environmental Assessment Form for an Unlisted Action, the Town Planner's comments, Albany County Planning Board's notification, the Town Planning Board's site plan review, a narrative provided by the applicant along with a description of the projects offered, the contract for the purchase of the property and a site plan that shows the existing plat for change of usage.

The Town Planner had the following comments: "The applicant has applied for a special use permit to convert the existing building into a martial arts studio and leased office space. The site is on the southwest corner of Western and Homes Terrace and was formerly used by Albany Radiator. I have the following comments:

- The front of the lot is entirely paved up to the curb and there appears to be remnants of a sidewalk in place. This area is not needed for traffic circulation and should be upgraded with landscaping and the sidewalk restored.
- The curb cut at the corner of Western and Homes is not needed and is in a dangerous location and should be eliminated.
- There are four parking spaces shown along Homes Terrace which back out onto the street. These are not legal spaces and should be eliminated.

With these circulation and open space upgrades the site will be safer and more attractive and should be well suited for this use."

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

The Town Planning Board's site plan review was to recommend with the following conditions: 1) eliminate the curb cut on the corner of Western Avenue and Homes Terrace and replace the pavement in front of the building with a continuous sidewalk and greenspace, and 2) eliminate the four parking spaces that back out into Homes Terrace.

Michael Miner of 174 Pershing Avenue, Wyantskill, presented the case. Mr. Miner stated that after they had attended the Planning Board meeting last week they had revised the site plan. Mr. Miner stated that the studio would be in the old repair bay garages which is the rear portion of the building and maybe an office and bathroom would be extended into the basement. Mr. Miner stated that the one story facing Western Avenue would be used for a business use for rent. Mr. Miner stated that the changes to the building would be a major cleanup, the three overhead doors would be replaced and an entrance would be put in. There would be no major structural changes to the building. Mr. Miner stated that he felt that the use would be better for the community both

environmentally and also community minded. This would be the 8th Pae's Tae Kwon Do studio in the region and they are very active in the community.

Mr. Miner stated that the Planning Board expressed their concern regarding the entrance off of Homes Terrace and they have modified the site plan to include the sidewalk and the landscaped areas and would not be using the curb cut anymore. Mr. Miner stated that they also modified the entrance from the rear of the building to the side of the building so that they were able to eliminate the parking spaces that were backing out onto the street.

Mr. Miner stated that the classes are typically held in the evenings starting around 5:30 and possibly some classes on Saturday.

Chairman Barber asked if the sidewalk extended all the way to Homes Terrace.

Mr. Miner replied that he would extend it as far as the Board would like them to. There was discussion regarding sidewalks on adjacent properties.

Chairman Barber asked about the lighting.

Mr. Miner stated that it is residential behind the building so they could put additional lighting with shields for safety purposes.

Chairman Barber stated that the Board would like to have the applicant submit a lighting plan.

Chairman Barber asked about the landscaping.

Mr. Miner replied that there is already an area from the building forward about 6' or 7' of landscaped shrubs and maybe just a lawn to match the neighboring parcels.

Chairman Barber stated that the Board would also like to see a landscaping plan.

Chairman Barber asked if there was any specific tenant on the general office space.

Mr. Miner replied that there is not.

Chairman Barber stated that one problem the Board has had with granting open ended general office permits is that what the applicant thinks is general office and what the Board thinks is general office are two different things. Chairman Barber stated that they will deal with the Tae Kwon Do first and when they have a tenant for the office, they can come back and add that as a use so that the Board can review the parking and other situations.

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 of non-significance in this Unlisted Action:
"This Board has conducted a careful review of the application by Doo Young Pai to determine whether the granting of a special use permit for a tae kwon do studio at 1758 Western Avenue would have a significant impact upon the environment. In conducting this review the Board received comments from the Albany County Planning Board, the Town Planning Board and the Town Planner. All those agencies recommended approval with certain conditions regarding the site plan that were addressed by the applicant. Based upon those comments, the conducting of the public hearing this evening and the review of the application I would move that a negative declaration under SEQRA be issued." Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:
Special Use Permit Request No. 4404
Request of **Doo Young Pai** for a Special Use Permit under the Zoning Law to permit:
1600sf of an existing building for use as a Tae Kwon Do studio only.

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

For property owned by **Willard Oliver**
Situated as follows: **1758 Western Avenue Albany, NY 12203**
Tax Map # **52.09-5-17** Zoned: **LB**

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

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

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

The Town Planner raised some issues regarding the site plan in terms of the curb cut and parking in front but the applicant has addressed them all.

The Town Planning Board also recommended conditions removal of the curb cut and parking on Homes Terrace and also replacing the paved area and restoring the sidewalk in front of the building and the site plan has been amended to address those concerns.

The proposed use as a Tae Kwon Do Studio is an allowed use in a local business zone.

No parking variance is required and the 31 parking spaces on site appear adequate for the intended use.

The Planning Board reviewed all other site conditions and the applicant has revised the site plan to address those concerns.

For these reasons, the Board finds that the ***granting*** of this special use permit for a Tae Kwon Do studio is appropriate and imposes the following conditions:

Adherence to the revised plans that were submitted with the provision that the sidewalk will extend to the property line.

The applicant shall submit a landscaping plan to the Board for review which will include greenspace area along Western Avenue and along Homes Terrace.

The applicant shall submit a lighting plan to the Board for review that shall show adequate lighting on site but also does not negatively impact neighboring properties or Homes Terrace or Western Avenue.

The hours of operation shall be as set forth in the application.

The Zoning Administrative Officer 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. (Sumner absent, Ventresca-Cohen alternate)

MATTER OF AJ SIGN COMPANY – 2080 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. **4401**

Request of **AJ Sign** for a Variance of the regulations under the Zoning Law to permit: **the installation of an additional building mounted sign. A variance is requested to permit a total of 100sf of signage, 50sf is permitted.**

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

For property owned by **Twenty (20) Mall at Guilderland LLC**

Situated as follows: **2080 Western Avenue Guilderland, NY 12084**

Tax Map # **51.02-2-4** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 21st of August, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 5, 2013"

The file consists of the mailing list to 24 neighboring property owners, the Town's required forms for an area variance to allow additional signage, a brief narrative, the Albany County Planning Board's notification and a depiction of the proposed new signage on the northeast side of the tower.

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

Rick Marshall of AJ Sign Co. presented the request. Mr. Marshall stated that there is currently a 50sf sign that is facing Western Avenue but there is limited sight visibility because of mature trees. Mr. Marshall stated that there is virtually no visibility from Western Avenue and they would like to add an additional 50sf wall sign to match the existing sign so that more people would be able to see exactly where the Recovery Room is located.

Chairman Barber stated that it appears that the existing sign is only visible by people in the parking lot.

Mr. Marshall stated 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 Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:

Variance Request No. 4401

Request of AJ Sign for a Variance of the regulations under the Zoning Law to permit: **the installation of an additional building mounted sign. A variance is requested to permit a total of 100sf of signage, 50sf is permitted.**

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

For property owned by Twenty (20) Mall at Guilderland LLC

Situated as follows: 2080 Western Avenue Guilderland, NY 12084

Tax Map # 51.02-2-4 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.

This application involves an additional building mounted sign for the Recovery Room at Hamilton Square. At present, there is one building mounted sign measuring 50sf on the northeast corner of the entrance tower. This application requests a similarly sized and designed sign on the northwest corner of the entrance tower. This Board granted a similar request for the adjacent Vent Fitness and the justification for this sign is apparently applicable here.

The new face will primarily face the parking lot and have some visibility from Rt. 20. The sign is well off of the road as is the restaurant and the most affected property would be the plaza itself.

Also allowing the sign would encourage customers to park in the main parking lot and better distribute the parking throughout the plaza.

The sign is attractively designed and will not negatively impact the neighboring properties.

For these reasons, the Board finds that this application should be granted.

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

Adherence to the plans submitted with the application.

The Zoning Administrator 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 TIMELY SIGNS – 2080 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. **4414**

Request of **Timely Signs of Kingston, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the installation of five building mounted signs and a freestanding sign. Variances are requested for the following: 1) to permit a total of six signs, two are permitted 2) to permit a total of 85sf of signage, 50sf is permitted and 3) to permit a freestanding sign within 20ft of the street right-of-way.**

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

For property owned by Twenty (20) Mall at Guilderland LLC
Situating as follows: 2080 Western Avenue Guilderland, NY 12084
Tax Map # 51.02-2-4./1 Zoned: GB

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 21st of August, 2013 at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 11, 2013"

The file consists of the mailing list to 24 neighboring property owners, the Town's required forms for an area variance for the number of signs and the square footage of the signs, a project narrative, a depiction showing both the location of the signs and what the signs look like, Albany County Planning Board's notification and the application for the sign permit.

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

Ozzie Beichert of Timely Signs presented the case.

Chairman Barber stated that they are applying for six signs for a total of 85sf.

Mr. Beichert stated that the freestanding sign accounted for 42sf of the total square footage and it is necessary because of the way that the building is situated. Mr. Beichert stated that the entry wall cabinet is 24sf which is over the front entrance and the other ones are simply vinyl letters that are 12" high and on the walls denoting that it is a M & T Bank. Mr. Beichert stated that most of those are on three sides of the building and face inside the mall.

Nicole Ventresca-Cohen asked how many signs the current location had identifying the bank.

Mr. Beichert stated that he believed that there were four there.

Chairman Barber stated that it is hard counting all of the signs at a bank, ATM signs, etc.

Chairman Barber stated that the freestanding sign is on Rt. 20 and there is also another sign facing Rt. 20 and asked if the one sign (C1) could be eliminated.

Mr. Beichert stated that this building comes with architectural design and that is part of the façade design.

Chairman Barber stated that other freestanding banks in town do not have the amount of signage or the number of signs that are being proposed for this M & T bank.

The Board asked why all the signage was needed.

Chairman Barber stated that they would like to minimize the variance and make it comparable to other banks in the immediate area.

Mr. Beichert stated that they are willing to compromise on some of the building signage but Sign A is essential to the bank.

Chairman Barber stated that he does not have any difficulty with a freestanding sign on Rt. 20 but they would like to see this more comparable to other banks in the area.

The Board felt that reducing the number of signs to three would be a good compromise. Chairman Barber asked why Sign A had to be within 20' of the street right-of-way and not slightly back further.

Dan Hershberg replied that is because the circulation driveway had to be on that side of the building and the sidewalk is up to the right-of-way so it restricts the area for the sign strictly between the sidewalk and the edge of the pavement. Mr. Hershberg stated that they are governed by the geometrics of the site and the elevations.

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

Chuck Klaer of Meadowdale Road had concerns regarding all of the signage.

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. 4414

Request of **Timely Signs of Kingston, Inc.** for a Variance of the regulations under the Zoning Law to permit: **the installation of signage at the new bank building at Hamilton Square.**

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

For property owned by **Twenty (20) Mall at Guilderland LLC**
Situated as follows: **2080 Western Avenue Guilderland, NY 12084**
Tax Map # **51.02-2-4./1** Zoned: **GB**

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

As originally proposed the variance requested a total of six signs totaling 85sf of signage and permission to allow the placement of Sign A within the 20' right-of-way.

A public hearing was duly noticed and held this evening. One resident spoke in opposition to the number of signs.

The Board also has reviewed the application and upon examining the proposed signage and comparing it with other banks endeavor to reduce the amount of signage deemed appropriate. To that end looking at the size that was proposed the signs marked as the two C1s have been eliminated. The sign marked D is a 1.5sf ATM sign. This basically leaves three signs.

The bank building is located in the parking lot of a rather large mall and to encourage the traffic flow and to encourage parking near the entrances the Board finds that the proposed signage is appropriate.

With regards to the freestanding monument sign, the Board finds that the location is necessary as a result of the pass thru that is necessary to go around the bank and the restrictions of the sidewalk that have been installed on the site.

Based upon that collective evidence, the Board finds that the granting of the variance which would allow for the placement of signs A, B, and C2 along with D which is not really a sign would be appropriate.

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

Adherence to the plans as submitted by the applicant.

Submission of a revised sign map that shows the signs that were approved by this 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 BURGER KING – 1991 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4407

Request of **Carrols LLC** for a Variance of the regulations under the Zoning Law to permit: **the installation of three building mounted signs. Variances are requested for**

the following: 1) to permit a total of four signs, two are permitted and 2) to permit a total of 137.4sf of signage, 50sf is permitted.

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

For property owned by **Net Lease Funding 2005 LP**

Situated as follows: **1991 Western Avenue Albany, NY 12203**

Tax Map # **51.08-1-38** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013**"

The file consists of the mailing list to 30 neighboring property owners, the Town's required forms for an area variance for signage, Albany County Planning Board's notification, a narrative along with a site plan showing the proposed signage and maps showing the redesign of Burger King.

Albany County Planning Board's notification was to defer to local consideration with the advisory note that the Zoning Board should consider the precedent setting nature to allow significant area variances to the sign code in commercial districts.

Tom Brogan of Carrolls LLC presented the case. Mr. Brogan stated that this application is part of a proposed remodel of the Burger King which would include the removal of the greenhouse structure on the front of the building, a complete exterior remodel, interior dining room, bathrooms and some ADA upgrades. Mr. Brogan stated that currently there are no building mounted signs on Burger King and they are proposing to make some architectural improvements with the signage.

Chairman Barber asked what signage they currently have.

Mr. Brogan replied that there is a 5' x 5' monument sign out front, there is not a single sign on the structure itself. Mr. Brogan stated that they have significant frontage on that property along Western Avenue and it is a corner lot.

Chairman Barber stated that he has not seen "Home of the Whopper" on other Burger King locations so his suggestion would be to delete that sign. Chairman Barber asked what the other signs were.

Jackie Siudy stated that the four signs were two oval signs, one "Home of the Whopper" and one pylon sign.

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

Chuck Klaer of Meadowdale Road was wondering if the issue of odors at Burger King should be addressed at this time.

Chairman Barber stated that this variance is substantial.

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

There was discussion regarding continuing this case until the next meeting and the possible elimination of the "Home of the Whopper" sign.

Chairman Barber made a motion for approval of:

Variance Request No. 4407

Request of **Carrols LLC** for a Variance of the regulations under the Zoning Law to permit: **the installation of new signage at the renovated Burger King. Variances are requested for the following: 1) to permit a total of three signs, two are permitted and 2) to permit a total of 137.4sf of signage, 50sf is permitted.**

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

For property owned by **Net Lease Funding 2005 LP**

Situated as follows: **1991 Western Avenue Albany, NY 12203**

Tax Map # **51.08-1-38** Zoned: **LB**

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

A public hearing was duly noticed and held this evening. One resident provided comments regarding the application.

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

The application initially requested four signs where two are permitted and also requested 137sf of signage, where 50sf is permitted. After some discussion with the Board and also reviewing other applications and looking at the frontage along Rt. 20 which is approximately 300', and comparing with other signs in the neighborhood the Board has determined that the appropriate signage for this location is approximately 89sf. That 89sf would consist of the preexisting 50sf pylon pole and the two oval Burger King discs on the south and west elevations. Those measurements are based upon the circumference of a circle, and not the circumference of a square for a circular object. The total of signage will be 89sf.

The Board also finds that this location is a short distance from Rt. 155 and Rt. 20 which is one of the major commercial intersections in the Town and that area is heavily commercial in nature.

For these reasons, the Board finds that the granting of this variance will not have a negative impact upon the neighborhood.

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

Adherence to the revised plans which consist of the pylon and the two oval elevation signs.

The applicant shall submit a revised depiction showing the amended signage.

The Zoning Administrator 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 NORTHEASTERN INDUSTRIAL PARK – 2 VAN BUREN BLVD.

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. 4413

Request of **Northeastern IP Holdings, Inc.** for a Special Use Permit under the Zoning Law to permit: **the construction of a 97,500sf warehouse/distribution facility in an existing industrial park.**

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

For property owned by **Northeastern IP Holdings, Inc.**

Situated as follows: **2 Van Buren Boulevard Guilderland Center, NY 12085**

Tax Map # **50.00-1-14.11** Zoned: **Ind**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013**"

The file consists of the mailing list to 24 neighboring property owners, the Town's required forms for a special use permit along with a Short Environmental Assessment Form for an Unlisted Action, a brief narrative, Albany County Planning Board's notification, the Town Planning Board's site plan review, the Town Planner's comments, a preliminary site plan of the warehouse Building #13 and some engineer drawings.

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

The Town Planning Board's site plan review was to recommend with the following conditions: "Preparation of a full SWPP and provide an estimated truck trip generation numbers and an analysis of the thresholds established in the GEIS for NEIP."

The Town Planner had the following comments: "The applicant has applied for a special use permit to allow the construction of a 97,000sf warehouse to be located in the northern section of the industrial park. This type of industrial development is desirable and appropriate for an industrial park. I have the following comments:

-The proposed site is approximately 4 acres and the proposed building is about 1000' from the Black Creek. A stormwater/pollution prevention plan should be reviewed and approved.

-During the Guilderland Center neighborhood meeting held in conjunction with the Comprehensive Plan, traffic was the major issue for this area. The applicant states that the majority of materials will be received through rail shipments but outgoing traffic generation should be addressed and determined whether the cumulative effect of all the uses in the park is within the thresholds stated in the GEIS.

No planning objections contingent on the above being adequately addressed."

Daniel Hershberg presented the case. Mr. Hershberg stated that this is a logistics corporation and they will be receiving items by rail and distributing by truck. Mr. Hershberg stated that since 2005 when the GEIS was started there were an average of 700 trucks a day and today there are an average of 560 per day. Mr. Hershberg stated that the GEIS also had this area designated with a 160,000sf warehouse so the building itself is only 60% of the original building size. Mr. Hershberg stated that NEIP had lost some major trucking clients so that is the reason for the decrease in the truck traffic.

Mr. Hershberg stated that they have ordered a series of infiltration tests on site and more than likely it will be a direct infiltration system with nothing going to the Black Creek at all.

David Ahl stated that with Distribution Unlimited the majority of what they are bringing in right now is inbound rail freight, a lot of construction materials, food items, etc. They went from about 500 rail cars a year back in 2005 to over 5000 rail cars a year now which is why the truck traffic is reduced so significantly.

Chairman Barber asked about the other non-hazardous commodities as stated in the narrative.

Mr. Ahl replied that it could be any number of things; food items, construction materials, lumber, shingles, insulation, etc.

Chairman Barber asked if there would be any materials that would be regulated in any way such as fertilizers, chemicals or things like that.

Mr. Hershberg stated that nothing that requires DEC regulations.

Chairman Barber asked about the building itself.

Mr. Hershberg replied that there would probably only be a single bathroom for convenience, there is no need to have facilities for any number of employees.

Chairman Barber asked if the building would be refrigerated.

Mr. Ahl replied no, but it would be heated and insulated.

There was discussion regarding the fire suppression system.

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

Olga Winsor of Ostrander Road was worried about more train traffic, the trains idling and the pollution from the trains. Ms. Winsor also had concerns regarding the truck traffic on Rt. 146.

Tom Remmert stated that the Zoning Board could not do anything with the railroads.

Chuck Klaer of Meadowdale Road discussed an exit from the Guilderland School bus garage to Van Buren Blvd. to alleviate traffic thru Guilderland Center. Mr. Klaer also discussed the color of the building and possible solar panels in the future.

Chairman Barber made a motion to appoint Delaware Engineering to review the SWPP and whether the thresholds of the GEIS have been met or not regarding traffic. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion to continue the public hearing to September 18, 2013. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

**MATTER OF GUILDERLAND PROJECT ASSOCIATES LLC – 2298-2314
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. 4405

Request of **Guilderland Project Associates, LLC** for a Variance of the regulations under the Zoning Law to permit: **the construction of a portion of a senior living community facility beyond the intersection of a 12° angle of repose.**

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

For property owned by **Charles Bohl Inc**
Situating as follows: **2298-2314 Western Avenue Guilderland, NY 12084**
Tax Map #s **40.17-2-11, 40.17-2-12, 40.17-2-13, 40.17-2-14 & 51.00-1-1**
Zoned: **LB & R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **21st of August, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **August 11, 2013"**

The file consists of the mailing list to 26 neighboring property owners, the Town's required forms for an area variance from the angle of repose setback requirement, Albany County Planning Board's notification, an e-mail from a resident on Foundry Road with comments regarding the project, a narrative, a revised slope stability report prepared by Daniel Loucks, the Town Planners comments, and a series of drawings that show the current conditions along with the proposed structure on the site.

Albany County Planning Board's notification was to defer to local consideration with the advisory note: If the Town considers an approval for the variance it should consider a second geotechnical engineering report for the proposal by a firm chosen by the Town. The applicant should be encouraged to redesign the placement of buildings to stay within the setback from the steep slopes. Given the intensity of the proposed use of the site and the physical characteristics, the Town should uphold Town Code requirements.

The Town Planner had the following comments: "The applicant is requesting a variance from the angle of repose for a portion of a proposed senior living facility. This project will eventually require a change of zone from the Town Board, a special use permit from the Zoning Board and a site plan review by the Town Planning Board. However, the applicant did not want to move forward with that amount of engineering and planning until a decision was made on the angle of repose.

The variance consideration will be heavily dependent on the soils engineering report. From a planning perspective, the variance is significant with a large portion of the project lying within the areas of repose and required setback. It would be my preference to have the applicant consider adding height to the project rather than sprawling out into the protected slope areas. This would also require a variance from the height restrictions but, in my opinion, would be the more preferable variance to grant."

Mike Tucker of Creighton Manning presented the case. Mr. Tucker stated that there are five properties included in this for a total of about 13 acres. Mr. Tucker stated that they had met with Jan Weston and talked about the potential of shrinking the footprint and going up in height but given the uses of the building and a lot of the residents that will be there, the floor plan is very critical. Mr. Tucker stated that they will be closing all the existing curb cuts along Western Avenue; one point will access Rt. 20 and one will access Foundry Road.

Chairman Barber asked Daniel Loucks about the *revised* slope stability report.

Mr. Loucks stated that he revised the report based on additional information, the original site plan changed slightly and some of the locations of parking lots and elevations were not defined as much as they are now.

Chairman Barber asked what conditions would have to be followed going forward in order to maintain the integrity of the safe building line.

Mr. Loucks replied that basically what the report describes with the safe setback line is that is basically where in his opinion you could get with buildings and pavement areas and still have an adequate factor of safety in terms of stability of the slope. Mr. Loucks stated that it does not mean that during construction equipment could not go over that line but as one of the prerequisites of establishing that line what is very important is grading along that area. Mr. Loucks stated that one of his recommendations in the report is that you cannot place fill above certain existing elevations; the one plan shows a retaining wall in a parking lot area. That retaining wall would need to be designed and the slope stability incorporated into that design to maintain the stability of the slope. Mr. Loucks stated that was why the report was revised one time, it is more specific in terms of grading and building and parking lot placement.

Chairman Barber asked if there is anything in the report that deals with any modifications needed for the streambed itself, are they looking to alter that in any way?

Mr. Loucks stated that the only recommendations he made in his report regarding the proximity of the stream bed is that the retaining wall structure would be more stable near the base of the slope and grade up from that as opposed to placing the retaining wall near the top of the slope.

Chairman Barber asked if the angle of repose line actually extends into Rt. 20.

Mr. Loucks stated that the angle of repose line is based on the steepness of the slopes that are out there and the depth of the bottom of the stream.

Chairman Barber stated that the Zoning Board would like to appoint a TDE to review Mr. Louck's report and Albany County Planning Board suggested the Board get their own geotechnical expert so they will have to decide if that is necessary.

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

Grant Miller and Laurel Bohl of 2266 Western Avenue had concerns regarding the steep slope and the weight of the building on the slope. Ms. Bohl also had concerns regarding the loss of green space and too much concrete. Ms. Bohl also spoke about stream contamination and further erosion. Ms. Bohl agreed with the Planning Board about

constructing a two-story facility. Some of her other concerns were lighting, dumpsters, HVAC units and generator units.

Mr. Bush, a property owner on Foundry Road, stated that this proposed facility would be much better than what is there now. Mr. Bush asked if they would be paying taxes. Mr. Bush had concerns about the traffic on Foundry Road.

Hiram Eberlein, of 4 Veeder Lane, head of the Neighborhood Association and a member of Hamilton Union Church, spoke about the work that DOT had done on drainage pipe on Western Avenue recently. Mr. Eberlein had concerns regarding the drainage with the slope and encouraged the Board to get their own TDE to review the project. Mr. Eberlein also spoke about the increased traffic on Foundry Road.

Chuck Klaer of Meadowdale Road had concerns regarding such a substantial variance from the setback of the angle of repose.

A representative of Concordia Senior Housing gave an overview of the project and stated that they are not tax exempt.

Mr. Loucks spoke about the angle of repose.

Chairman Barber made a motion to appoint Delaware Engineering as a TDE and will work with them to determine who would be the appropriate person to do a 2nd geotechnical report. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

Chairman Barber made a motion to continue this without date. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

OTHER:

The Board approved the revised signs for the Center for Access and Mobility Services at Star Plaza. Vote 5 – 0. (Sumner absent, Ventresca-Cohen alternate)

The Board continued the request of Price Chopper at Hamilton Square and have Counsel Thayer take a look at the legalities.

The meeting adjourned at 11:55pm.

