

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
DECEMBER 18, 2013**

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

Members Absent: Mike Marcantonio

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

NEW CASES:

MATTER OF JOSEPH LYONS – 2 PINWOOD 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, IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4430

Request of **Joseph Lyons** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition within required front yard setbacks. A 35ft setback is required for the principle structure, 32ft is proposed, and a 25ft setback is required for the deck, 24ft is proposed.**

Per Articles **III, IV & V** Sections **280-14, 280-32 & 280-51** respectively

For property owned by **Walter Marriner**

Situated as follows: **2 Pinewood Road Guilderland, NY 12084**

Tax Map # **40.13-1-33** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **December 10, 2013"**

The file consists of the mailing list to 34 neighboring property owners, the Town's required forms for an area variance for the proposed addition and deck, a brief narrative prepared by the builder, the Town Planner's comments, a schematic diagram along with a rendering of the proposed addition.

The Town Planner had the following comments: "The applicant has requested an area variance to construct an addition that will cause a small encroachment into the front and side yard setbacks. No planning objections"

Ed Lyons and Walter Marriner presented the case.

Chairman Barber stated that the applicant needed relatively minor variances on this corner lot.

Chairman Barber stated that it seems very straightforward and is very diminimous in nature.

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 4 – 0. (Marcantonio absent)

Chairman Barber made a motion for approval of:

Variance Request No. 4430

Request of **Joseph Lyons** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition within required front yard setbacks. A 35ft setback is required for the principle structure, 32ft is proposed, and a 25ft setback is required for the deck, 24ft is proposed.**

Per Articles **III, IV & V** Sections **280-14, 280-32 & 280-51** respectively

For property owned by **Walter Marriner**

Situated as follows: **2 Pinewood Road Guilderland, NY 12084**

Tax Map # **40.13-1-33** Zoned: **R15**

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

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

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

This residence is located on a corner lot at the intersection of Pinewood Road and Tower Street.

As noted by the Town Planner the addition and deck will cause a small encroachment into the setback.

The addition and deck are both attractively designed based upon the diagrams and schematic drawings in the file and will not negatively impact neighboring property owners.

The 1' and 3' variances are not substantial and will not alter the character of the neighborhood.

For these reasons, I move that the Board **grant** the area variances with the following conditions:

Adherence to the plans as submitted with the application.

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

Motion seconded by Sharon Cupoli. Vote 4 - 0. (Marcantonio absent)

MATTER OF STARBUCKS – 2080 WESTERN AVENUE

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. 4424

Request of **Vic Helms** for a Variance of the regulations under the Zoning Law to permit: **the installation of up to eleven signs for a new Starbucks Coffee shop. Variances are requested for the following: 1) to permit an excess of two signs per business and 2) to permit an excess of 50sf of sign area per business.**

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

For property owned by **Twenty (20) Mall at Guilderland LLC**
Sited 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 **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **November 22, 2013**"

The file consists of the mailing list to 43 neighboring property owners, the Town's required forms for an area variance for the number of signs and the square footage of the signs, Albany County Planning Board's notification, several photographs of the proposed signs and application for the sign permits.

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

Ronald Levesque of the Sign Studio presented the case.

Jackie Siudy stated what was submitted to her for the variance application was the entire scope of work and she went through and crossed off parts of the project that were not considered signs by the Zoning Code.

Chairman Barber stated that Jackie has determined that there were a number of submissions that were not considered signs, they are now left with A, B, C, D, G & H, so that leaves them with only 6 signs.

Mr. Levesque stated that there were three directional signs.

Jackie Siudy stated that the only part of the directional sign that requires a variance is the Starbucks logo, not the part that says drive thru.

Mr. Levesque stated that the directional signs would be minimal enough to get the consumer into the drive thru lane. (D,G&H) D - 2.2sf, G – 1.5sf and H – 0.5sf

Mr. Levesque stated that Signs A & B are a channel letter signs and are 22.02sf and there are three C signs (logos) – 75sf.

Chairman Barber asked Mr. Levesque why they needed so much signage.

Mr. Levesque replied that as far as the directional signs go, it identifies the Starbucks parking lot and drive-thru.

Chairman Barber asked why they needed 22.02sf for the A & B signs in conjunction with the circular sign that is 25sf.

Mr. Levesque replied that the channel letters and the logo go hand in hand and they went with the minimal amount they felt would be sufficient. Mr. Levesque replied that it is a relatively small sign for the size of the building.

Chairman Barber stated that he was more concerned with the signs that are visible facing the traffic and the residential properties.

Mr. Levesque stated that they tried to come in with signage very comparable to the M & T Bank. Mr. Levesque stated that there are two signs on the building and remove the one on the Western Avenue side and put a freestanding sign there.

Chairman Barber stated that what he would like to do is have the applicant come up with options that are suitable and the goal being as close to 50sf as possible.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to continue this matter to 1/15/14. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

MATTER OF ALTAMONT RESCUE SQUAD – 767 RT. 146

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:

Special Use Permit/Variance Request No. 4425

Request of **Dean Whalen, Project Architect** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **the expansion of an existing rescue squad building by constructing an addition of a third ambulance bay and expanding the administrative area of the building. Variances are requested for the following: 1) to permit structures/parking areas to occupy more than 70% of the total lot area, 82% is proposed; and 2) to permit a side yard setback less than 15 feet, 13ft 11” is proposed. All other site characteristics have been previously reviewed and approved.**

Per Articles **III & V** Sections **280-20, 280-51 & 280-52** respectively

For property owned by **Altamont Fire Dept Rescue Squad, Inc**

Situated as follows: **767 Route 146 Altamont, NY 12009**

Tax Map # **37.04-1-6.2** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **November 18, 2013"**

The file consists of the mailing list to 44 neighboring property owners, the Town's required forms for a Special Use Permit and Variances, a Short Environmental Assessment Form under SEQRA, the Town Planning Board's site plan review of 12-11-13, Albany County Planning Board's notification of 11-21-13, the Town Planner's comments, a project narrative and some plans of the proposed addition.

The Town Planning Board's site plan review of 12-11-13 was to recommend with the following: review of full SWPP.

Albany County Planning Board's notification of 11-21-13 was to modify local approval to include: 1) The adjacent Village of Altamont should be notified of the project and 2) The applicant's proposed retention area for stormwater runoff should be reviewed and approved by the Town. Any additional drainage to the right of way for SR 146 should be reviewed by NYSDOT.

The Town Planner had the following comments: "The Altamont Rescue Squad is seeking to expand their present building. The addition will comprise of an additional ambulance bay and administrative areas. The proposal will require variances for the location of

parking and buffering but it spears that these are all preexisting conditions although a variance to further decrease the required green space will be required.

As part of a former application, a sidewalk was installed and buffering provided for the northern property.

I have no planning objections to the application but with the increase in impervious surface and the decrease in green area, a stormwater management plan should be reviewed and approved."

Dean Whalen of CS Arch presented the case.

Chairman Barber stated that the Town of Guilderland has an agreement with the Village of Altamont that whenever there is an application within a certain distance from the village, they have the opportunity to be heard. The Village of Altamont has not had the opportunity to provide the Zoning Board with their comments as of yet.

Dean Whalen stated that one of the Guilderland EMT vehicles has to sit outside and run continuously to keep the meds safe and the EMTs comfortable during the shift. The addition of the third bay would allow the EMT unit to be brought in and also expand the offices and make the meeting room larger. They would also be adding a third bedroom upstairs.

Chairman Barber asked why they need to have housing on site.

Warren Quinn stated the reason is that they have a commitment to provide ambulance service 24/7 and some of the employees/volunteers have to stay in the building 24 hours a day.

Mr. Whalen stated that they are reducing the drainage toward the road because the building is larger.

Chairman Barber asked Jackie Siudy if the Town's TDE should review the stormwater.

Jackie replied that ACPB's recommendation was to appoint a TDE.

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 4 – 0. (Marcantonio absent)

Chairman Barber made a motion to appoint Delaware Engineering to review the stormwater. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

Chairman Barber made a motion to continue this case for decision only to await the referral from the Village of Altamont and the TDE's report. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

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

Special Use Permit Request No. 4427

Request of **Crossgates Mall General Company Newco LLC** for an amendment to the Special Use Permit under the Zoning Law to permit: **the expansion of Crossgates Mall by 2,103 SF gross leasable area accommodated by the construction of a two level addition with a 20,000+ SF footprint in accordance with the Site Plan dated November 22, 2013.**

Per Articles **III & V** Sections **280-21 & 280-52** respectively

For property owned by **Crossgates Mall General Company Newco LLC**

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 **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **December 4, 2013"**

The file consists of the mailing list to 57 neighboring property owners, the Town's required forms for a Special Use Permit, a Short Environmental Assessment Form for this Unlisted Action, a narrative, the Town Planners comments, the site plan review by the Town Planning Board, photographs of the interior of the mall space and the existing façade, and a site plan.

The Town Planner had the following comments: "The applicant has applied to amend their special use permit to construct a two-story addition that will add approximately 40,000sf to the mall, but only 2100sf of gross leasable apace. This difference is due to the conversion of previously leasable space to public areas, especially when Dick's replaced the prior Lord and Taylor building and now where Lord and Taylor is replacing the former Macy's building. The new building will form a bump out that will alter the existing drive aisle and eliminate some existing parking. I have the following comments:

- The site will still meet the required parking and no variances are necessary.
- There will be no increase in impervious surface and therefore no impact to the stormwater plan.
- The angled parking outside the food court (area 4) will be rotated to be perpendicular to the mall which is a benefit to pedestrians. However, it seems that by entering the first entrance, a vehicle is forced to drive a circuitous route to access parking. It would seem to make more sense to angle the first row of parking in the other direction. This is also true of the parking area 3 as well.

- Raised end aisles are being added to these same parking areas which are good for controlling flow but an explanation for where snow will be stockpiled should be provided.
- It appears that the area for buses may be shortened. The CDTA should be consulted to insure adequate standing room is being provided.
- Crosswalks should be shown to provide safe pedestrian access from the parking areas to the mall.

No objections to the site plan approval contingent on the above comments being adequately addressed."

The Town Planning Board's site plan review of 11-11-13 was to recommend with the following:

- Provide a more detailed site plan and parking schedule identifying proposed changes and modifications.
- Provide appropriate curbing within parking fields to better direct and calm traffic and increase landscaping. Crosswalks should be shown and associated signage to provide safe pedestrian access from parking areas to the mall.
- Provide a detailed landscaping plan including size and type of material to be planted. Curbed end islands should be provided as indicated on sketch plan. End islands should be designed to perform stormwater management function.
- Eliminate proposed new parking lot access point nearest ring road.
- The CDTA should be consulted to ensure adequate access is maintained.

Bob Sweeney of Whiteman, Osterman and Hanna presented the case. Mr. Sweeney stated that this expansion was for 41,666sf. Mr. Sweeney stated that this was a two-story expansion so each level is around 20,000sf. This expansion is intended for two restaurants on the ground floor with outdoor entrances and two entertainment venues on the second floor, which will be accessed internally. The net expansion is only 2103sf. There have been some internal changes to the shopping center.

Mr. Sweeney provided the Board with photographs of space within the mall. Because this is an enclosed shopping center, there is a lot of non-retail space and the parking is based on a gross leasable area calculation.

Chairman Barber asked if Crossgates Mall had any parking variance.

Mr. Sweeney stated that there are two variances that are related to parking and one variance related to the number of loading docks.

Chairman Barber asked if they were comfortable with the parking or close to requesting a variance.

Mr. Sweeney replied that they are at a comfortable level; close to a variance but very comfortable at this time.

Chairman Barber stated that his understanding was that there was a preference for people parking their car and not having to walk through a series of drive aisles as opposed to walking perpendicular to the building.

Mr. Sweeney stated that the Planning Board had a concern about the length of the drive aisles running north and south and the request was to split those and have a drive aisle down the middle and landscaped islands in order to make the circulation more convenient.

Tom Remmert stated that it looks like there is a significant increase in the number of islands.

Mr. Sweeney replied that they have a new landscaping plan and there are new landscaped parking lot islands.

Mr. Sweeney stated that for several special use permits the ZBA has calculated parking at 4.5 per thousand built and banked parking based on a plan that is in the ZBA files of the ability to add additional parking in some of the lots to reach the 5.0 standard but at 8000 spaces it has not been the ZBA's feeling that they need to pave all those spaces.

Chairman Barber stated that he was not suggesting that they need more parking spaces he was more curious about where they stood in terms of calculated need and actual number of spaces.

Mr. Sweeney stated that they have the ability to have 5.0, they are comfortably above 4.5 with the expansion.

Chairman Barber asked if there was a loading area associated with the bump out.

Mr. Sweeney stated that there was, it is on the west side of the building.

Chairman Barber was concerned about the trucks backing out into a driving lane in front of a busy intersection in the internal plan.

Mr. Sweeney stated that they would be on the west side of the building and would need to back out in to a drive lane and then pull forward. Mr. Sweeney stated that most of the loading backs in, they are not backing out into the traffic circulation.

The landscape plan was reviewed. Mr. Sweeney stated that there was no loss of square footage of greenspace due to the bump out.

Chairman Barber asked about the CDTA waiting area.

Mr. Sweeney replied stated that they have not lost space on the bus parking area only on the pedestrian walking area.

Chairman Barber asked if the CDTA bus stop would be relocated at some time.

Mr. Sweeney replied that CDTA has a new bus line which will come in the other side of the shopping center, but that will not take place for a few years.

Chairman Barber asked if there are any plans to add any additional crosswalks.

Mr. Sweeney stated that if there is another appropriate place for a crosswalk they would accommodate it.

Tom Remmert stated that the fire chief told him that the ladder truck would not be able to get in the parking lot with the new landscaped islands.

Tom Remmert also stated that he would also like to see where the sprinkler connections and fire hydrants are located.

Mr. Sweeney reviewed the rendering of the bump out.

Chairman Barber asked if any of the lighting would be changed.

Mr. Sweeney replied that except for relocating as a result of the bump out they would not be changing anything other lighting.

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

Don Reeb of Norwood Street asked as the kiosks go in and out of the mall are they added to the gross leasable space and are they part of the calculation of the needed parking.

Jackie Siudy stated that they are included in the gross leasable space. The mall has a set number of kiosks as their maximum and everything a kiosk gets changes tenants, the Building Department gets a building permit and are notified of the amount of space that the tenant will take up.

Don Reeb asked if the CDTA park and ride had been subtracted from the parking available.

Chuck Klaer of Meadowdale Road stated that both the restaurant and entertainment square footage would require more parking spaces than retail space.

Jackie Siudy replied that the parking for a regional shopping center is based on the gross leasable area, not based on what type of tenants are using that area.

Chairman Barber stated that he would like to have a TDE to look at the traffic/pedestrian circulation and CDTA issues.

Jackie Siudy stated that would be consistent with other applications.

Mr. Sweeney asked about the SEQRA determination.

Chairman Barber replied that normally they do not do any SEQRA determination until they hear from the Albany County Planning Board.

Chairman Barber made a motion to appoint Delaware Engineering as TDE. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

Chairman Barber made a motion to continue this case to review Albany County Planning Board's notification, to get the TDE on board and to get a response from the fire department. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

MATTER OF STEWARTS – 2446 – 2448 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, IV & V** of the Zoning Law on the following proposition:

Special Use Permit/Variance Request No. 4426

Request of **Stewart's Shops Corp.** for a Variance of the regulations/Special Use Permit under the Zoning Law to permit: **the replacement of an existing convenience store/filling station with the construction of a new store and gas canopy. Variances are requested for the following: 1) to permit the main structure to be constructed within the 75ft rear and side setbacks; 2) to permit 42 parking spaces for customers, 51 are required; and 3) to permit three price signs on the gas canopy and one building mounted sign, two signs total are permitted.**

Per Articles **III, IV & V** Sections **280-21, 280-25, 280-26, 280-51 & 280-52** respectively

For property owned by **Stewarts Shops Corp.**

Situated as follows: **2446-2448 Western Avenue Altamont, NY 12009**

Tax Map # **39.00-3-16** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **December 3, 2013"**

The file consists of the mailing list to 33 neighboring property owners, the Town's required forms for a special use permit and variance, a Short Environmental Assessment Form for an Unlisted Action under SEQRA, site plan review by the Town Planning Board, the Town Planners comments, Albany County Planning Board's notification of 10-17-13, a memo from the Water and Wastewater Management Department, a memo

from Steve Feeney indicating some suggestions on how to improve the site plan, some photographs and plans submitted by the applicant.

The Town Planning Board recommended with the following conditions: "Provide a detailed landscaping plan. Provide landscaped screening along Rt. 146 to screen the 5 parking spaces from roadway. Fire department review of truck access route. Continue sidewalk to Halfmoon Drive. Provide stormwater analysis and show snow storage areas.

The Town Planner had the following comments: "The applicant has submitted a revised plan for the construction of a new 3400sf shop on the site. The new design pushes the building back on the parcel, adds two additional gas pumps, and locates them further from the Route 20/146 intersection which is a positive safety feature. The plan eliminates the existing nonconforming setbacks of the fuel pumps. The amount of green space is reduced from 45% to 29% but still meets the minimum requirements for this General Business district. Overall I think the new design lends to a more efficient and safe traffic flow, especially for the Valvoline service center. I have the following comments:

- The revised site plan improves both vehicular and pedestrian traffic flow.
- Some green space has been added along Rt. 146, along the east side of the building and behind the Valvoline.
- The Superintendent of Water and Sewer has noted that there are water and sewer lines within this site. The lines need to be shown on the plan and any need to relocate these lines will need approval from the Town.
- I question the need for 5 parking spaces along Rt. 146. My concern is mostly because of headlights shining directly into traffic, which is never desirable. If these spaces are deemed necessary, they should be located toward the rear of the building, and this space along the roadway converted to much needed street landscaping.
- The applicant did submit a truck route plan which seems tight. In fact, for all three truck types it appears that the vehicles will have to encroach into the oncoming traffic lane in order to make the turns. The fire department should have the opportunity to review the layout.
- A lighting and landscaping plan needs to be submitted.

Overall, this is a much improved plan. If the parking and truck routes could be tweaked a little more, all the better. No objection to planning approval."

Albany County Planning Board's notification of 10-17-13 was to modify local approval to include: 1) Review by the NYSDEC to determine potential jurisdiction under bulk petroleum storage regulations, 2) Although there are no changes to the access to the State highways, NYSDOT should have an opportunity to review the project in case any changes are needed and 3) The applicant will need to meet the requirements for redevelopment under the NYS Stormwater Management Design Manual.

Chuck Marshall, real estate representative for Stewarts presented the case. Mr. Marshall stated that the three variances that are requested is for rear setback, parking, and signage.

Mr. Marshall stated that the rear setback variance is needed because the building is pushed back and need a variance for 11'. Mr. Marshall stated that they are doing that to accommodate the request of the Town Planning Board for landscaping.

Mr. Marshall stated that there will be a phasing plan to delineate construction that pedestrians and customers are entering a hazardous zone. It is the process and procedure at Stewarts to maintain the existing store be opened while the construction is done of the new store.

Mr. Marshall discussed the variance for the parking spaces. Mr. Marshall stated that the five parking spaces at the front are very important because they find that more people will use the spaces along Rt. 146. A number of spaces will be banked.

Chairman Barber had concerns that customers parking there would have to walk across the entire driving apron while cars are pulling in and out of the gas pumps.

Mr. Marshall replied that the five spots are to show that there is parking in front of the store and he feels that cars should not be going fast enough that pedestrian safety is jeopardized. The site will be considerably better lit than it is now with LED lighting that is down lit.

Chairman Barber stated that it seems to be a safety issue. Chairman Barber asked about the banked parking.

Mr. Marshall replied that they eliminated some of the parking spaces along Rt. 146 and some in the back corner to show that they have adequate land if they need to provide all 51 spaces.

Mr. Marshall stated that if they eliminate the five parking spaces along Rt. 146 they will need additional relief from the ZBA to meet the 51 parking spaces needed and you eliminate all parking in front of the store but not adjacent to it. Mr. Marshall stated that they moved the handicapped space to the center which actually takes up more than two spaces.

Chairman Barber asked how much larger this proposed store is than the existing one.

Mr. Marshall stated approximately 1000sf. Mr. Marshall stated that the new store would have two customer access bathrooms, additional width between aisles to accommodate handicapped customers, and more offerings.

Chairman Barber asked about the changes in lighting.

Mr. Marshall stated that they would be going to all LED lighting which is flush mounted soffit lighting on the building, flush mounted canopy lighting underneath the gas.

Chairman Barber asked about pole lighting.

Mr. Marshall replied that there would be 11 pole lights.

Chairman Barber asked what the height of the pole lights would be.

Mr. Marshall replied that he believed that they would be between 10' and 12'.

Chairman Barber asked if the entrance from 146 would be changing at all.

Mr. Marshall stated that neither one of the entrances would be changing and they do not have to deal with DOT.

Chairman Barber asked about the sidewalk.

Mr. Marshall stated they are required to install the remaining 52' of sidewalk.

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

Mr. Marshall stated that as far as the sign variance, they are seeking to not do a freestanding sign on the corner of Rt. 146 and Rt. 20 but rather having canopy mounted signs and a building mounted sign for a total of 38.5sf.

Chairman Barber made to a motion to continue this application and appoint Delaware Engineering as the TDE to review stormwater, lighting and traffic/pedestrian circulation. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent)

MATTER OF GUILDERLAND FIRE DISTRICT – 2303 WESTERN AVENUE

Tom Remmert read the legal notice:

"Notice is hereby given that the Zoning Board of Appeals of the Town of Guilderland, New York, will hold a public hearing pursuant to Articles **III, IV & V** of the Zoning Law on the following proposition:

Special Use Permit/Variance Request No. 4431

Request of the **Guilderland Fire District** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **a 10,000sf addition to an existing fire station for two new vehicle bays, increased area for firematic support and a community room. The project also includes renovations to the existing building and exterior site modifications. Variances are requested to permit the following: (1) 72 parking spaces, the number of spaces required is 38 for active members of the department plus 100 spaces for the community services portion of the building. (2) to permit the sidewalk installation as a “bid alternate” that will be constructed if financially feasible.**

Per Articles **III, IV & V** Sections **280-20, 280-25, 280-51 & 280-52** respectively

For property owned by **Guilderland Fire District**

Situated as follows: **2303 Western Avenue Guilderland, NY 12084**
Tax Map # **40.17-1-16** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **18th of December, 2013** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **December 11, 2013**"

The file consists of the mailing list to 52 neighboring property owners, the Town Planning Board's site plan review, the Town Planners comments, the Town's required forms for a Special Use Permit and Variance, a Short Environmental Assessment Form for an Unlisted Action, a narrative, plans and information regarding the proposed lighting, and plans prepared by the Chazen Companies and Pacheco Ross Architects.

The Town Planning Board's site plan review of December 11, 2013 was to recommend without any suggestions or conditions.

The Town Planner had the following comments: "The applicant has applied for a special use permit for an 11,000sf expansion to the existing fire station. The expansion will include new apparatus bays, sleeping quarters, multi-purpose room and office and storage space. We met with the applicant previously and it appears that they have addressed all our concerns including showing a sidewalk along both Rt. 20 and Willow Street, adding additional buffering for the neighbor to the north, buffering the parking from Willow Street and providing a turnaround for the dead-end parking area. My only other comment is that the stormwater management plan should be reviewed. No objection to site plan approval."

Dennis Ross of Pacheco Ross Architects presented the case. Mr. Ross stated that this is an all-volunteer department and they provide a great community service. Mr. Ross stated that there are a tremendous amount of rules and regulations and codes that the volunteers have to adhere to. Mr. Ross stated that equipment is getting quite a bit larger and more sophisticated and the firemen have far more training requirements. This addition will try and keep up with the times.

Mr. Ross stated that the proposal calls for four apparatus bays that are considerably larger than the current bays to house the new larger pieces of equipment. Mr. Ross stated that they would be 60' back from the property line instead of 45' as it is currently. There will be a community room (multi-use space) for large trainings and also will be used as a community shelter. Mr. Ross stated that there would be much needed administrative space for the district itself; the district is a public entity, they do have public meetings. Mr. Ross also stated that they are rearranging and making some larger firematic support spaces. Being able to maintain those and following the rules and regulations and improving the spaces allows them to apply for FEMA grants.

Chairman Barber asked about the sleeping quarters.

Mr. Ross stated that there are no sleeping quarters yet but they are planning them for the future.

Mr. Ross stated that the Planning Board had a few comments which they have resolved.

Mr. Ross stated that the district has come up with a plan to put the installation of the sidewalk out as a bid alternate and if the bids allow and if they can afford it and is within the bond referendum they will take the bid alternate.

Chairman Barber stated that area variances run with the land and the variance must relate to a hardship associated with the land itself, not with the property owner and not with the owner's financial situation. Chairman Barber stated that the ZBA's jurisdiction over variances cannot address the particular needs of the property owner; it has to be something that deals with the land itself. Chairman Barber stated, to his knowledge, the Zoning Board has never granted a variance from the sidewalk requirement on Rt. 20. Chairman Barber stated that only the Town Board could change the law and exempt fire departments from local zoning. Also, it is not within the ZBA's power to grant relief from State law imposed prevailing wage requirements.

Mr. Ross stated that the fire district is exempt from the Town requirements of planning and zoning so in terms of asking for the variance they are exempt anyway. Mr. Ross stated that the fire district was paying a courtesy visit to the Zoning Board.

Chairman Barber stated that he is aware of the Monroe case regarding exemption but since that case, there have been a number of cases which state that, unless expressly exempted by the Town Board, and given the absence of any other oversight, such as the State Education Department for public schools, fire district's plans are reviewable by the ZBA. Other fire districts within the Town have subjected themselves to local zoning and there has been a long history of that happening recently with applications for variances by the Westmere Fire Department, Fort Hunter Fire Department and Altamont Rescue Squad. Chairman Barber stated that more importantly no other governmental entity provides the same function as a Planning or Zoning Board. No other governmental entity would perform a public hearing and provide for public comment on a proposed fire district expansion. Chairman Barber also stated that fire districts do not have that parent entity that oversees them and provides comments. Chairman Barber stated that it also comes down to is what is the function being put in play here and while it is certainly fire predominant it does provide community service.

Chairman Barber stated that it does not mean that there is not some other relief that they can possibly get from the Town Board.

Mr. Ross stated that when they went through the SEQRA process they reached out to the Town for comment and received no comment whatsoever.

Chairman Barber stated that he had seen the resolution that was done back in June and the fire district properly took lead agency and they did a coordinated review but then never saw a SEQRA determination.

Mr. Ross stated that he believed their attorney handled the SEQRA determination.

Chairman Barber stated that he would like to see the SEQRA determination and put it in the file.

Chairman Barber asked about the parking variance.

Mr. Ross stated that the Planning Board asked for less parking but they have increased it somewhat and think that it is a happy medium. Mr. Ross stated it is based more on experience than per square foot.

Chairman Barber stated that he thought that the variance was appropriate and the time of greatest need might be during a disaster and that the fire department was qualified to handle that situation.

Mr. Ross submitted letters from the adjacent properties in favor of the project.

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

Dana Sela of 8 Willow Street had concerns regarding the landscaping on site and would like to see evergreens hedges planted on the Willow Street side of the property. Ms. Sela also would like to see the sidewalks installed on site.

Mr. Ross stated that they would take a look at the landscaping package and hope to accommodate the neighbors.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent, Ventresca-Cohen alternate)

Chairman Barber made a motion of non-significance in this Unlisted Action:

"This Board has conducted a careful review of this application to determine whether the granting of the application by the Guilderland Fire District for a Special Use Permit and for variances would have a significant negative impact upon the environment. This review consisted of the comments provided by the Town Planner and the Town Planning Board and also the conducting of the public hearing this evening. The Board further notes that in a resolution dated June 19, 2013, the Guilderland Fire District determined to treat this proposed action as an Unlisted Action and declared its intent to act as Lead Agency under SEQRA and sent out notices to the involved and interested agencies. It has indicated this evening that there does not appear to be any objection to that status. Although we have not seen that the determination by the Guilderland Fire District it is likely to have been a negative declaration and I move that we too adopt a negative declaration and support the prior negative declaration and find that the granting of this

application will not have a significant impact upon the environment." Motion seconded by Sharon Cupoli. Vote 4 – 0. (Marcantonio absent, Ventresca-Cohen alternate)

Chairman Barber made a motion for approval of:

Special Use Permit/Variance Request No. 4431

Request of the **Guilderland Fire District** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **a 10,000sf addition to an existing fire station for two new vehicle bays, increased area for firematic support and a community room. The project also includes renovations to the existing building and exterior site modifications. Variances are requested to permit the following: (1) 72 parking spaces, the number of spaces required is 38 for active members of the department plus 100 spaces for the community services portion of the building. (2) to permit the sidewalk installation as a “bid alternate” that will be constructed if financially feasible.**

Per Articles **III, IV & V** Sections **280-20, 280-25, 280-51 & 280-52** respectively

For property owned by **Guilderland Fire District**

Situated as follows: **2303 Western Avenue Guilderland, NY 12084**

Tax Map # **40.17-1-16** 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 spoke with concerns regarding the application.

The Board adopted a negative declaration under SEQRA and the Board recognized that the Guilderland Fire District adopted a resolution on June 19, 2013 which declared it to be Lead Agency for an Unlisted Action.

The Town Planner had no objections to site plan approval with the recommendation that the Stormwater Management Plan be reviewed.

The Town Planning Board recommended approval in its site plan review.

Pacheco Ross Architects has provided detailed plans showing the proposed renovations including a site plan, a lighting plan and lighting details.

As noted by the Town Planner, the site plan was improved to show the installation of a sidewalk on Rt. 20 and Willow Street, additional buffering for the neighbor to the north, buffering the properties on Willow Street and providing a turnaround for dead end parking area.

The bonding associated with this project was approved at a public vote. The applicant has determined that the proposed improvements are necessary for providing these essential services.

The firehouse and its operations are preexisting and the proposed expansion is compatible with its surrounding neighborhood and also with the access it provides to Rt. 20.

The site plan was amended and is offering a sidewalk and as indicated previously there is a photometric plan to show that there be no light impacts on adjacent properties.

The Board also finds that the parking variance should be granted. There are 72 parking spaces on site and the applicant has determined that these spaces are sufficient for its needs. The required parking needs are based upon a proposed maximum of 100 spaces for community services and 38 for active members and the likelihood of those two occurring at the same time are slight. In the event of an emergency or a heightened need for parking the fire district is in the best position to coordinate the maximum use of its on-site parking and avail itself of additional resources.

With regard to the variance on the sidewalk requirement in terms of installation of the bid alternate, the Board can grant this request. A variance must concern a hardship that relates to the land itself such as a substantial difficulty like topography, drainage issues, or something peculiar about the property that causes a hardship. The variance cannot be based upon the financial hardship of the applicant.

Also, the installation of the sidewalk is consistent with the Town Board's efforts to promote pedestrian safety by requiring sidewalks and other pedestrian facilities in this area. The firehouse is a short distance away from Guilderland Elementary School and adding a sidewalk on the property would promote the long-term goal of providing pedestrian access between the residences in the Willow Street area to the school and the public library across Rt. 20. The Board has also required sidewalks on nearby properties on Rt. 20 including the new Tractor Supply store. Several years ago, the Town Board required the installation of a sidewalk on the other side of Rt. 20 for the Glassworks Village project. Other fire departments within the town have installed required sidewalks on both Rt. 20 and Rt. 146.

For these reasons, this Board finds that they cannot grant a variance based upon the applicant's claimed financial hardship. Therefore there is no other basis for granting a variance. I would note however, that the Town Board decide otherwise and provide relief if it deems it appropriate.

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

Adherence to the plans as submitted which include the sidewalk on Rt. 20 and Willow Street, including the installation of appropriate landscaping to screen the residences on Willow Street.

The Stormwater Management Plan shall be reviewed and approved.

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

If the 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 Nicole Ventresca-Cohen. Vote 4 – 0. (Marcantonio absent, Ventresca-Cohen alternate)

Acting Zoning Administrator Siudy stated that the building department will still issue the building permit and if they need to go to the Town Board for relief of the requirement of a sidewalk that will only be an issue at the time for the issuance of a Certificate of Occupancy.

SIGNS:

The Board approved a 31sf building mounted sign for **Bountiful Bread** at Stuyvesant Plaza. Vote 4 – 0.

The Board approved a 22sf building mounted sign for **Albany WalkIn Medical Treatment** at 1971 Western Avenue. Vote 4 – 0.

The Board approved a building mounted sign at 1228 Western Avenue for **Tango Restaurant Bar & Grill.** Vote 4 – 0.

The Board approved an 18.38sf building mounted sign for **Hippos** at Stuyvesant Plaza. Vote 4 – 0.

The Board approved an 11.6sf building mounted sign for **The Polsinello Group Realtors** at 3770 Carman Road. Vote 4 – 0.

The Board approved a 39.72sf building mounted sign for **Blowfish A Sushi Restaurant** at 1704 Western Avenue. Vote 4 – 0.

The Board approved a 32.63sf building mounted sign for **ChowFun Express** at 1704 Western Avenue. Vote 4 – 0.

The Board approved a 10.6sf identification sign on an existing monument sign for **Tesoro Italian Restaurant** at 2080 Western Avenue. Vote 4 – 0.

The meeting adjourned at 10:40pm.

