

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
FEBRUARY 19, 2014**

Members Present: Peter Barber, Chairman  
Sharon Cupoli  
Mike Marcantonio  
Tom Remmert  
Sindi Saita  
Janet Thayer, Counsel

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

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**CONTINUED CASES:**

**STARBUCKS – 2080 WESTERN AVENUE**

Chairman Barber stated that since the last public hearing the Board has received revised plans reducing the number of signs and reduced square footage. The site plan also shows the proposed location for the freestanding sign.

David Shipe of Starbucks presented the case. Mr. Shipe stated that they have addressed all of the concerns of the Board and presented a new package. Mr. Shipe stated that there would be 49.34sf of signage on the building. Mr. Shipe stated that they are seeking a pylon sign located at the corner of the property set back 5' from the property. The total square footage of the pylon sign is 42sf.

There was discussion regarding the height of the pylon sign. Chairman Barber stated that the height of the M&T sign was approximately 13.5', the Starbucks in McKownville is 14' and they would like to see the new Starbucks pylon sign be about 14' high instead of 17'.

Mr. Shipe stated that one of the concerns that they have with the signs built low is that sometimes people want to jump up and touch them.

Chairman Barber stated that he would like to see this sign compatible with other nearby signs.

Ron Levesque asked if there was a height limitation from the grade to the bottom of the sign.

Jackie Siudy replied "no"; the height limitation is to the top of the sign.

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.

Chairman Barber made a motion for approval of:

**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**  
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. No residents provided comments at the regarding the application.

The initial application involved 11 signs totaling over 120sf. At the last public hearing, this Board had some discussion with the applicant and determined that certain signs such as the directional signs were not actually signs but also requested the applicant to reduce the amount of signs and make it more compatible with the code requirements. As a result, the amount of signage has been substantially reduced and now consists of three building mounted signs totaling approximately 49sf and a pole sign of approximately 28sf.

In considering this request, the Board has to consider the location of the property and whether the proposed signage will have a negative impact on neighboring properties. This is a very highly commercial neighborhood. The Board had granted a previous variance for signage for the new M & T Bank, which share very similar characteristics in terms of having a frontage on Rt. 20 and also be on the edge of a very large parking field. The justification for the M & T Bank sign would apply to this application; based primarily upon the unique location of the property. The new building will face Rt. 20 but also the main parking lot of the shopping center. Three signs on the sides adjacent to the parking lot or the entrance road total approximately 49sf and will have little or no impact upon neighboring properties.

The revised application proposes a pylon sign with a circular medallion sign measuring approximately 28sf at a height of 17'4". As noted during our discussion, the M & T Bank sign is at approximately 13.5'. The Board further notes that the pole sign for the Starbucks in McKownville is at 14' in height. In addition, the nearby street scale light poles are 12' in height. As a result, to be compatible with the surroundings and nearby signs, the Board finds that the pole signs should not exceed 14' in height as measured from the top of the sign.

For these reasons, the Board finds that the granting of this variance will not have an impact upon neighboring property owners, will not cause an undesirable change in the character of the neighborhood and should be granted.

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

Adherence to the plans as submitted and the representations made by the applicant; however the pylon sign shall not exceed 14' in height as measured from top to bottom of the sign.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0.

#### **MATTER OF SCOTT WALLANT – 131 SPYGLASS COURT (LIA)**

Chairman Barber stated that the Board has received some new items since the last hearing. WSP Sells has submitted an impervious area map and an e-mail, which provides their conclusion. Also submitted were a couple of letters from the property owner at 128 Spyglass Court and 127 Spyglass Court stating that they have no objections to the granting of this request.

James Easton of WSP Sells stated that they did provide the impervious area map. Mr. Easton stated that the Board had asked him to review the existing stormwater management report done for Spyglass Court. Mr. Easton stated that there is nothing at the Town with stormwater management report, there is a report that mentions a stormwater management report but there is no physical document.

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.

Chairman Barber made a motion for approval of:  
Variance Request No. **4420**

Request of **Scott Wallant** for a Variance of the regulations under the Zoning Law to permit: **the construction of a detached garage within the 100ft setback from a watercourse.**

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

For property owned by Miranda L Lia

Situated as follows: 131 Spy Glass Court Albany, NY 12203

Tax Map #51.16-1-49 Zoned: R040

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

A public hearing was duly noticed and held on several evenings. Two residents provided comments and questions regarding impacts on the adjacent stream and two neighbors also provided letters stating they have no objection to the granting of the request.

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

The Board asked the applicant to address potential impacts on the adjacent stream by looking at a Short Environmental Assessment Form and also providing an analysis of stormwater management. In an engineer's report dated 10-14-13 the engineer found that the proposed work will increase the impervious surface by 810sf and that the stormwater runoff would be increased by 0.1%. As such, the report concludes that the prior stormwater management report and installation would have accounted for the runoff from this proposed construction.

Also consistent with DEC's comments the impervious surface is sloped away from the stream and towards the stormwater management facilities.

Only a very small portion of the garage infringes upon the 100' setback and the vast majority of the garage is outside the 100' setback from the stream.

The proposed garage complies completely with the setback from the angle of repose.

The garage is well off the road and is attractively designed.

Based upon these findings, the Board finds that the variance is not substantial and the proposed construction will not make an impact on neighboring properties and will not alter the essential character of the neighborhood.

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

Adherence to the plans as submitted.

Compliance with the applicant's engineer report.

The new parking area should be sloped away from the stream and also minimize any plowing of snow or debris into the 100' setback from the watercourse.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0.

**MATTER OF JOSHUA MERLIS – 131 ARCADIA AVENUE**

Chairman Barber stated that since the last meeting there have been additional photographs added to the file and an e-mail from Don Reeb stating that he would not be able to attend tonight's hearing and again stating that he is opposed to the request.

Joshua Merlis stated that he has lived in his house for 9 years and he has worked from home and he does not feel that the business is too intrusive as Don Reeb states. Mr. Merlis stated that his business has in no way affected the neighborhood. Mr. Merlis stated that his immediate next-door neighbor is in favor of the business.

Chairman Barber stated that he is seeking a permit for a Home Occupation I. This is a relatively new provision to the Town Code. This is in part to encourage low intensity use of this type and more importantly to encourage people to come document the use so that the Town is aware of it. It also makes the applicant aware of the conditions which it can be operated under and it gives the Town and residents the ability to monitor and make sure that it does not expand.

Chairman Barber stated that Home Occupations are happening all over town and they are trying to encourage people to come forward and the Board thinks it is better to have applicants come forward and to agree to abide by the terms so that the Zoning Department has the ability to enforce the permit. Case Law states that once the Town Board decided this use is allowed in the zone and the applicant from this day forward can meet the conditions, then the use should be granted. What they don't want Boards to do is to be in a position deciding credibility determinations; who is telling the truth and who has the right pictures, etc.

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

John Helm stated that in seven years, it has gone from one van to several vans, box truck, trailers and the new garage being a docking point. Mr. Helm stated that the business being run out of the house is fine. Mr. Helm asked that the vans, trailers and trucks be put in a commercial spot and outside of the residential area.

Chairman Barber stated that they do not penalize people for not following the Code prior to making the application, but the Board will make certain that if they grant this permit every condition for a Home Occupation I will be complied with.

Mr. Helm stated that Mr. Merlis had had been running his business for seven years and had never gotten a permit from the Town.

Chairman Barber discussed the three types of home occupations.

Ellen Manning of 3 Norwood Street and member of the McKownville Improvement Association stated that the Association does oppose any type of use that will be disruptive to the residents in the neighborhood.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 4 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action:  
"This Board has conducted a careful review of this application to determine whether the granting of this special use permit would have a significant impact upon the environment. This review consisted of conducting a public hearing, reviewing the application and also considering the conditions required for a Home Occupation I under the Town Code. Based upon our review, the Board finds that if the conditions for a Home Occupation I are adhered to, the granting of this special use permit will not have a significant impact upon the environment." Motion seconded by Sharon Cupoli. Vote 4 – 0.

Chairman Barber made a motion for approval of:

**Special Use Permit Request No. 4416**

Request of **Joshua Merlis** for a Special Use Permit under the Zoning Law to permit: **the operation of a business office for Albany Running Exchange as a Home Occupation I**

Per Articles **IVA & V** Sections **280-37.3 & 280-52** respectively

For property owned by **Joshua Merlis**

Situated as follows: **131 Arcadia Avenue Albany, NY 12203**

Tax Map # **63.08-3-15** Zoned: **R10**

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

A public hearing was duly noted and several residents provided concerns about the impact that this use will have and that the use is incompatible with the neighborhood and too intense. There is also a letter from a neighbor stating that he had no objection to the request. The applicant has disputed the allegations made by the neighbors.

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

This application involves a proposed Home Occupation involving the maintaining of a website for online registration for running races and coordinating timing services for running races.

The business has an off site storage locker for certain equipment and receives three to five deliveries per week which may include bibs and twist ties for use in races.

The business involves a resident of the house and one non-resident employee.

The Zoning Code Section 280-37.3C which is a relatively recent enactment, provides for three different types of Home Occupations ranging from a Minor Home Occupation, an occupation which does not require any Board review because it is so minor in nature, to a Home Occupation II which is only allowed in the more remote or rural zones. This application involves a Home Occupation I, which is in the middle of the three types of Home Occupations and is allowed in residential districts if conditions are met.

The Town Planner indicated that she has no objections to the proposed use as long as the conditions are satisfied going forward.

In addition, the case law states that the Town Board's listing of a Home Occupation I as an allowed use in a residential district is tantamount to a finding that the use is compatible with the neighborhood as long as the conditions for the use are met.

With regards for conditions for a proposed Home Occupation use the Board finds:

- That the proposed home occupation is secondary to the residential use and utilizes no more than 25% of the floor area which is the maximum allowed under the Code.
- The home occupation involves a family member and as limited by the code, one nonresident employee.
- The applicant represents that the home occupation will not have any exterior storage of materials, equipment or vehicles and will not use an accessory structure going forward.
- The application states that the home occupation has an off-site storage facility. There is no indication of any hazardous material or of a toxic nature associated with the home occupation.

Based upon these findings, the Board finds that the application satisfies the conditions for a Home Occupation I and therefore grants the application contingent upon the following conditions being met:

Adherence to the statements in the application and representations made at the public hearing.

Full compliance with the requirements for a Home Occupation I including but not limited to: 1) no exterior display or exterior storage of materials, equipment, vehicles or supplies; 2) no visible evidence of the conducting of the Home Occupation I and 3) not use as a meeting place or gathering place for employees for work elsewhere.

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

Motion seconded by Tom Remmert. Vote 4 – 0.

**MATTER OF ALTAMONT RESCUE SQUAD – 767 RT. 146**

Chairman Barber stated that case was continued to allow the TDE to review the stormwater management. Ken Johnson of Delaware Engineering found that the proposed plan presented by the Altamont Rescue Squad is satisfactory and that the drainage improvement made to the site would compensate for any increase in impervious area associated with the project.

Dean Whalen presented the revised stormwater management plan to the Board.

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.

Chairman Barber made a motion of non-significance in this Unlisted Action:  
"This Board has conducted a review of this application to determine whether the granting of a special use permit and area variances for the expansion of a rescue squad building by adding a third ambulance bay and expanding the administrative area would have a significant impact upon the environment. This review consisted of the conducting of the public hearings; the comments provided the Albany County Planning Board, the Town Planning Board, the Town Planner and the TDE. Based upon this collective review, and the fact that the rescue squad expansion and allowing the indoor storage of the equipment will provide a public benefit, I move that a negative declaration be issued." Motion seconded by Sharon Cupoli. Vote 4 – 0.

Chairman Barber made a motion for approval of:  
**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**

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

A public hearing was duly noticed and held. 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 under SEQRA by a unanimous vote.

The Town Planner had no planning objections except noting that the Stormwater Management Plan should be reviewed and approved.

The Town Planning Board's site plan review was to recommend approval with the condition that the full Stormwater Pollution Prevention Plan be reviewed.

The Zoning Board appointed Delaware Engineering as the TDE for his review of the Stormwater Pollution Prevention Plan and he determined that it was adequate and meets all applicable standards.

The site conditions are preexisting including the installation of a sidewalk on Rt. 146 and buffering for properties to the north. The Board in granting the initial Special Use Permit already addressed these matters.

The proposed addition will allow the rescue squad to house the Town's EMS unit in a heated space and eliminate the need to keep the unit running to maintain adequate temperature for storage of medicines and equipment.

With regard to lot coverage, a recent survey shows that the existing facility covers approximately 72% of the lot. Part of the additional coverage results from converting the two-way driveway to a one-way loop driveway. Acquiring adjacent property for relocating the rescue squad to a new location if not financially feasible.

With regards to the side yard setback, one corner of the existing facility is already located within the side yard setback and a 1'1" variance is not substantial and will not impact neighboring properties.

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

For these reasons, the Board finds that the variances and the special use permit should be granted.

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

Adherence to the plans as submitted by the applicant particularly the ones that were revised in light of the Stormwater Management Report.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0.

**MATTER OF STEWARTS – 2446-2448 WESTERN AVENUE**

Chairman Barber stated that the Board would not be making a decision on this case this evening. Chairman Barber stated that the Board was still waiting for the final report from the TDE.

Marcus Andrews of Stewarts Shops presented the case. Mr. Andrews stated that they had received some preliminary comments from the TDE. Mr. Andrews stated that they did address the TDE's concerns regarding traffic. Mr. Andrews stated that they did move the 5 parking spots that were located on Rt. 146 and they have moved them to the left hand side so that they are parking against the building now which makes for better traffic flow

Mr. Andrews stated that there are some minor changes that need to be made to the Stormwater Report.

Chairman Barber stated that he was glad to see that the parking spaces were moved.

Mr. Andrews stated that this would be a bigger store with much better flow and expanded number of pumps, also offering diesel.

Chairman Barber stated that hopefully they will be back in two weeks for their decision.

Sharon Cupoli asked if they were going to keep the existing store open during the construction of the new store.

Mr. Andrews replied that the store will remain open; they will fence off the back part of the store. Mr. Andrews stated that when the new one is done, they will demo the old one and then the front half of the property will be closed off while they work on the canopies.

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.

Chairman Barber made a motion to continue the hearing for decision only until March 19<sup>th</sup> pending final sign off from the TDE. Motion seconded by Sharon Cupoli. Vote 4 – 0.

**NEW CASES**

**MATTER OF ELISSA SANBORN – 323 FULLER ROAD**

Sharon Cupoli read the legal notice:

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

**Variance Request No. 4428**

Request of **Elissa J. Sanborn** for a Variance of the regulations under the Zoning Law to permit: **the construction of a new garage and the relocation of an existing shed within required 5ft rear and side yard setbacks.**

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

For property owned by **Elissa J Sanborn**  
Situated as follows: **323 Fuller Road Albany, NY 12203**  
Tax Map # **52.16-2-17** Zoned: **R10**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **19<sup>th</sup> of February, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **December 10, 2013"**

The file consists of the mailing list to 49 neighboring property owners, the Town's required forms for an area variance, Albany County Planning Board's notification, the Town Planners comments, a narrative and a site plan for the property.

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

The Town Planner had the following comments: "The applicant has applied for an area variance to construct a three car garage within 1' of the property line and to relocate a shed within 2' of the property lines. I have the following comments:

- having only one foot around a structure does not leave enough room for construction or maintenance without encroaching onto a neighboring property,
- a typical three-car garage does not have to be this large (23' x 32'). And I am not sure how you could even get two cars into this structure given the location of the house,
- the shed could be located within the correct 5' setbacks.

I have no overriding planning objections to this application but do feel that these substantial variances could be reduced.

Elissa Sanborn, applicant, and John VanOrch, architect, presented the case. Mr. Van Orch stated that the foundation would be 2' of the property line, not 1'; the roof overhang would be 1' off of the property line.

Chairman Barber asked how they would access the third garage.

Mr. Van Orch replied that since this proposal they have set the third one back; it is for a motorcycle.

Chairman Barber stated what the Board would like to see an updated plan. Chairman Barber asked about the shed and why it could not be 5' off of the property line.

Mr. Van Orch stated that there is no reason why it can't be set 5' off of the property line.

Chairman Barber stated that he would like to see a plan showing the dimensions of the structure particularly because it is only 2' off the property.

Mr. Van Orch stated that he could have that available within two weeks.

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

Tom Remmert stated that there is some firefighting concerns here. If the back garage catches fire, it is going to spread through the neighbor's garage and then to the house, and there is very little access for the fire department to get in.

Mr. Van Orch stated that they have now set the third garage back so there is a 5' separation.

Chairman Barber made a motion to continue this application for two weeks. Seconded by Sharon Cupoli. Vote 5 – 0.

#### **MATTER OF THERESE MYERS - 114 GARNETT LANE**

Tom Remmert read the legal notice:

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

#### **Variance Request No. 4436**

Request of **Blackbirds Manufactured Housing Sales, LLC** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition within a required rear yard setback. A 25ft setback is required, 7ft is proposed.**

Per Articles **III & V** Sections **280-16 & 280-51** respectively

For property owned by **Therese J Myers**

Situated as follows: **114 Garnett Lane Slingerlands, NY 12159**

Tax Map # **62.08-1-16.2** Zoned: **TH**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **19<sup>th</sup> of February, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 11, 2014**"

The file consists of the mailing list to 69 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a narrative in support of the application, an approval from the Homeowner's Association and a notice from the Town of Guilderland Highway Department.

The Town Planner had the following comments: "The applicant has requested an area variance to build an addition that will encroach within the rear yard setback. The main issue is that the proposed addition encroaches into a 20' drainage easement held by the Town. I have not been able to locate the easement language but would assume that this area is deed restricted to no permanent structures."

Howard Ensler of Blackbirds Manufacturing presented the case. Mr. Ensler stated that the Highway Department stated that they had no problem with the structure encroaching the easement. The Highway Department stated that they would be responsible for putting up a silt fence. Mr. Ensler stated that there is a large retaining wall which runs across the back of the property at the present time which is 6' x 6' ties and they are not really into where the drainage area runs through there. Mr. Ensler stated that there is presently a deck in place which was permitted at one time and it is larger than the addition that they are proposing to build. Mr. Ensler stated that the homeowner does not want to replace the deck because it is rotting and her health does not permit the outside use anymore so she is expanding her dining room area. Mr. Ensler stated that the Homeowners Association has also signed off on the request.

Chairman Barber stated that he would like something in writing that says that the Highway Department has no problem with this structure being placed on the drainage easement.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

**Variance Request No. 4436**

Request of **Blackbirds Manufactured Housing Sales, LLC** for a Variance of the regulations under the Zoning Law to permit: **the construction of an addition within a required rear yard setback. A 25ft setback is required, 7ft is proposed.**

Per Articles **III & V** Sections **280-16 & 280-51** respectively

For property owned by **Therese J Myers**

Situated as follows: **114 Garnett Lane Slingerlands, NY 12159**

Tax Map # **62.08-1-16.2** Zoned: **TH**

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 hearing.

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

The Covington Woods Homeowners Association submitted a letter stating they reviewed and approved the proposed addition.

The proposed addition will replace an existing deck. Other nearby properties have additions that also encroach upon the rear yard setback.

The Town Highway Department has no objection to the proposed addition encroaching upon its 20' drainage easement.

For these reasons the Board finds that the proposed variance will not negatively impact nearby property owners and approves the requested variance.

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

Adherence to the plans as submitted with the application.

The Highway Department shall provide approval of the placement of the addition within the 20' drainage easement.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

**MATTER OF JOSEPH LYONS – 11 INDIAN LADDER DRIVE**

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. 4432**

Request of **Joseph Lyons** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to exceed a height limitation of 15'**.

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

For property owned by **Jeffrey & Kim Bryant**

Situated as follows: **11 Indian Ladder Drive Altamont, NY 12009**

Tax Map # **60.00-1-29.7** Zoned: **RA5**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 19<sup>th</sup> of February, 2014 at the Guilderland Town Hall beginning at 7:30pm.

Dated: January 7, 2014"

The file consists of the mailing list to 11 neighboring property owners, the Town's required forms for an area variance, the Town Planner's comments, a narrative provided by Joseph Lyons, a plot plan of the proposed location of the garage and elevations.

The Town Planner had the following comments: "The applicant has applied for an area variance to construct an accessory garage that will exceed the maximum height of 15'. The structure will be located far away from any neighboring homes and the additional height should not create any nuisance."

Joseph Lyons presented the case. Mr. Lyons stated that the plans were all drawn up and then they realized that there was a 15' height restriction.

Chairman Barber asked what the height was going to be.

Mr. Lyons replied that he thought about 19', and the house was a two-story house.

Chairman Barber stated that it compliments the house. Chairman Barber stated that it is also on a private road.

Mr. Lyons stated that the property was 5.25 acres and you can hardly see the neighbors.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

**Variance Request No. 4432**

Request of **Joseph Lyons** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to exceed a height limitation of 15'**.

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

For property owned by **Jeffrey & Kim Bryant**

Situated as follows: **11 Indian Ladder Drive Altamont, NY 12009**

Tax Map # **60.00-1-29.7** Zoned: **RA5**

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

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

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

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

The accessory structure consists of a detached garage with a minimum pitch of 8 on 12. Because of the slope the property elevation on one side is substantially greater than the other side.

The overall design of the garage will exceed the 15' maximum height requirement.

The design of the garage is complimentary to the style of the home and given the location of the garage on site and the fact that this is a large wooded 5.25 acre site on a dead end private road, the garage will have no impact on neighboring property owners.

For these reasons, I move that the Board should grant the variance because it will not cause any undesirable impact upon the character of the neighborhood or be detrimental to nearby properties.

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

Adherence to the plans as 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.

**MATTER OF QADIR AND VERONICA DIN – 3069 FURBECK ROAD**

Sindi Saita 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. 4437**

Request of **Qadir & Veronica Din** for a Special Use Permit under the Zoning Law to permit: **the completion of a second dwelling unit in an existing structure on a 5-acre parcel of land.**

Per Articles **III & V** Sections **280-24.2 & 280-52** respectively

For property owned by **Qadir & Veronica Din**  
Situated as follows: **3069 Furbeck Road Altamont, NY 12009**  
Tax Map # **24.00-1-12.3** Zoned: **RA5**



Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 19<sup>th</sup> of February, 2014 at the Guildlerland Town Hall beginning at 7:30pm.

Dated: February 11, 2014"

The file consists of the mailing list to 16 neighboring property owners, the Town's required forms for a special use permit, a Short Environmental Assessment Form for this Unlisted Action, a brief narrative, a map showing the location of the property, the Town Planning Board's site plan review, the Town Planner's comments, sketches of the building showing how the two family dwelling will be used on the property.

The Town Planning Board's site plan review was to recommend with the following: identify location of adequate parking to serve both units.

The Town Planner had the following comments: "The applicant has requested a special use permit in order to convert their single-family home into a two-family home. The applicant states that a new septic system will be installed to meet Health Department requirements. The only other concern is that enough parking be provided to serve both units. No planning objection contingent on the site plan showing an area to accommodate at least 4 vehicles."

Veronica Din presented the case. Ms. Din stated that they had bought the home as a foreclosure about 1.5 years ago and someone had started construction on the two family home so they would like to finish it.

Chairman Barber stated that they had more than enough acreage.

Ms. Din stated that they have already worked with the Albany County Department of Health because their septic system needed to be replaced so now it will accommodate all seven bedrooms.

Chairman Barber stated that it seems pretty straightforward.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion of non-significance in this Unlisted Action: "This Board has conducted a careful review of the application to determine whether the granting of a special use permit for a two-family dwelling would have a significant impact upon the environment. This review consisted of the conducting of the public hearing this evening, the review of the application and also considering the fact that the property is located in a rural area and is zoned RA5 and meets all of the requirements for a two-family dwelling. Therefore I move that a negative declaration under SEQRA be issued." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:  
**Special Use Permit Request No. 4437**

Request of **Qadir & Veronica Din** for a Special Use Permit under the Zoning Law to permit: **the completion of a second dwelling unit in an existing structure on a 5-acre parcel of land.**

Per Articles **III & V** Sections **280-24.2 & 280-52** respectively

For property owned by **Qadir & Veronica Din**  
Situated as follows: **3069 Furbeck Road Altamont, NY 12009**  
Tax Map # **24.00-1-12.3** Zoned: **RA5**

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 just adopted a negative declaration by a unanimous vote.

The Planning Board recommended approval with the condition that there be adequate parking for both units.

The Town Planner echoed the same concerns.

The proposed two-family dwelling meets all zoning code conditions. The two-family dwelling is located on a 5-acre parcel in a rural area.

The applicant has submitted a plan which shows adequate parking for both dwelling units.

For these reasons, the Board finds that the Special Use Permit should be granted.

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

Adherence to the plans as submitted.

The ACDOH review and approve the new septic system.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

**MATTER OF CINGULAR WIRELESS – 37 WILLEY STREET**

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:

**Special Use Permit Request No. 4434**

Request of **New Cingular Wireless PCS, LLC (“AT&T”)** for a Special Use Permit under the Zoning Law to permit: **the collocation of telecommunication antennas on an existing municipal water tower. Also included is the placement of a 12’ x 12’ equipment cabinet and a 50kw back-up generator at the base of the tower.**

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

For property owned by the **Town of Guilderland**

Situated as follows: **37 Willey Street Albany NY 12203**

Tax Map # **52.09-4-1** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **19th of February, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 4, 2014"**

The file consists of the mailing list to 63 neighboring property owners, a packet provided by the applicant's attorney that consists of the special use permit application, construction drawings, structural lease agreement with the Town, a letter from Delaware Engineering signing off of the structural analysis, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, the FCC license and specifications regarding the diesel generator.

Donald Ross presented the case. Mr. Ross stated that they are looking to locate on three legs of the tower for a total of nine antennas. Mr. Ross stated that their first preference is to find existing pole structures and locate on them rather than new site builds. Mr. Ross stated that there would be a backup generator in place for service in the event of a major weather event.

Chairman Barber asked how the diesel generator worked.

Mr. Ross replied that it is monitored remotely so when the power goes out, it kicks on automatically. It holds about 211 gallons of fuel and can run for about 50 hours before it needs to be refilled. The generator itself is contained in a level 2 structure for maximum soundproofing. There is also sophisticated computer or electronic monitoring if there is some sort of failure or problem.

Chairman Barber asked how often a technician has to service the site.

Mr. Ross stated that generally there would be someone out to the site about once a month.

Mr. Ross also stated that the generator is programmed to run 10 minutes a week for a test.

Chairman Barber asked if the other carrier had their own equipment shelter.

Mr. Ross stated that they do. Mr. Ross stated that there is a general compound area where the shelters would be located.

Chairman Barber asked how high the antennas would be.

Mr. Ross replied that there are going to be two sectors (6 antennas) at 115' and the third sector would be at 120'.

Tom Remmert stated that this is at the end of a dead end street.

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

A resident of 209 Longhouse Lane asked if there was consideration to go with natural gas or propane as opposed to diesel for the generator. He also asked if AT&T would control when the generator would come on or would it be done through an automatic transfer switch that is locally controlled. And if the automatic transfer switch dispatches the generator are there protections done for the line workers in case of a power failure.

Tom Remmert replied that his firehouse has gone through this recently. Mr. Remmert stated that the old generator was a natural gas generator and they had a lot of problems; a natural gas generator is considered a standby generator where a diesel generator is considered an emergency generator because it stands alone and the diesel is right in the tank. Mr. Remmert replied that in a seismic event there is a good possibility that you could lose power and natural gas. Mr. Remmert stated that the purpose of the transfer switch is to keep the power from back feeding down the utility lines.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli.

Chairman Barber made a motion of nonsignificance in this Unlisted Action:  
"This Board has conducted a review of this application by New Cingular Wireless PCS LLC for the collocation of telecommunication antennas on an existing water tower along with associated equipment shelter and a backup diesel generator at the base of the tower. The Board's review consisted of considering the application submitted by the applicant along with the comments provided to us by the TDE regarding the structural analysis and comments provided by the public this evening at the public hearing. Based upon that collective record, I would move that a negative declaration be issued." Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

**Special Use Permit Request No. 4434**

Request of **New Cingular Wireless PCS, LLC (“AT&T”)** for a Special Use Permit under the Zoning Law to permit: **the collocation of telecommunication antennas on an existing municipal water tower. Also included is the placement of a 12’ x 12’ equipment cabinet and a 50kw back-up generator at the base of the tower.**

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

For property owned by the **Town of Guilderland**

Situated as follows: **37 Willey Street Albany NY 12203**

Tax Map # **52.09-4-1** Zoned: **R15**

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 oral comments at the hearing this evening.

The Board adopted a negative declaration for an Unlisted Action under SEQRA.

The Town Board has authorized this proposed installation on Town property and the Town has entered into a lease agreement with the applicant that was contingent upon this Board's approval of the special use permit.

The Board's consideration of this request is governed by Federal Law and under NYS Law wireless telecommunication facilities are favored and treated as public utilities and are subject to a lower burden of proof.

The applicant has shown the need for the proposed facility as part of AT&T's plan for upgraded 4G and other service in the area. The applicant has also shown that the collocation on the water tower is the least intrusive means of satisfying this need. Under the Town Code, collocation on an existing structure is preferred over the construction of a new tower. Both Sprint and Verizon antennae are already located on the tower and the new antenna towers would appear to have a minimal increase in visibility when compared to an existing antenna and the tower itself.

The equipment cabinet and the backup generator are located at the end of a dead end street.

The applicant has also submitted a structural report which concludes that the water tower can support the additional antenna. The TDE has reviewed and agreed with this conclusion.

The application also proposes an equipment shelter and a backup diesel generator that will fully operate in the event of a power disruption and also allow for the continuing maintaining service during a power outage.

As indicated by the materials submitted, maximum soundproofing is provided for the generator.

For these reasons the Board grants the special use permit with the following conditions:

Adherence to the plans as submitted.

The weekly generator happenings should be done during daytime hours on weekdays.

Adherence to any terms or conditions that are set forth in the document entitled "Option and Structure Lease Agreement" between the applicant and the Town.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

**MATTER OF PCC NEWCO, LLC. – 1 CROSSGATES MALL 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. 4429**

Request of PCC Newco LLC for a Variance of the regulations under the Zoning Law to permit: **the installation of three building mounted signs for Lord & Taylor. Variances are requested (1) to permit a total of 620sf of signage, 50sf is permitted and (2) to permit three signs, two are permitted.**

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

For property owned by PCC NewCo LLC

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

Tax Map # **52.01-1-4.2** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **19<sup>th</sup> of February, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **January 7, 2014**"

The file consists of the mailing list to 34 neighboring property owners, the Town's required forms for an area variance for signage, a detailed narrative provided by Crossgates, Albany County Planning Board's notification, sign permit applications and the location of the three signs.

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

Joseph Castaldo of Crossgates Mall presented the case. Mr. Castaldo stated that this space has been vacant for 8 years and it has taken a lot of time and effort to find a tenant for this space. Mr. Castaldo stated that Lord & Taylor is a great name to bring back to Crossgates and the Town of Guilderland. Mr. Castaldo stated that there are three sides to the building and three entrances and they are asking for the sign variance.

Chairman Barber stated that Crossgates Mall did have a certain amount of signage approved in 1994 and a certain amount has been used with extra still unused.

Mr. Castaldo stated that was correct. Mr. Castaldo stated that approximately 5500sf was provided and the mall has opted to let their anchors and the major stores so they have kept their signage to about 2500sf less than is allowed. With this addition to signage, they are still considerably under what they have vested.

Chairman Barber asked which of the signs was going to be smaller.

Mr. Castaldo replied that on the west side of the building (one level) would be the smallest sign. On the other two sides of the building it is a two level building so the signage is a bit bigger.

Chairman Barber asked if there were any other signs in Crossgates Mall that were comparable to the larger signs.

Mr. Castaldo replied that JC Penney, Macys and Dave & Busters are all similar in size.

Chairman Barber stated that these three signs would not be facing any residential properties.

Chairman Barber asked if there were any questions or comments from the residents. There were none. Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

**Variance Request No. 4429**

Request of **PCC Newco LLC** for a Variance of the regulations under the Zoning Law to permit: **the installation of three building mounted signs for Lord & Taylor. Variances are requested (1) to permit a total of 620sf of signage, 50sf is permitted and (2) to permit three signs, two are permitted.**

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

For property owned by **PCC NewCo LLC**

Situated as follows: **1 Crossgates Mall Road Albany, NY 12203**  
Tax Map # **52.01-1-4.2** 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.

The Board also notes that in terms of the number of signs and the number of entrances (3) the Board has typically allowed for a sign for each main entrance. The signs would identify the tenant and also provide direction to consumers that are accessing the mall.

In terms of the square footage, the Board notes that many years ago, the Zoning Board set a maximum signage for Crossgates Mall and it appears that there is more than enough signage given that threshold for these proposed signs.

There will be no impact upon the neighbors. The signage is facing the reservoir parking field and would be visible from people in the parking field or driving along Washington Avenue Extension. Therefore, the granting of this variance in terms of the number of signs and the total square footage will not have an impact upon neighboring properties and will not be detrimental to the neighborhood.

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

Adherence to the plans as 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.

**OTHER:**

The Board granted a one-year extension to Phil Crisafulli at 2500 Western Avenue for his special use permit. Vote 5 – 0.

**SIGNS:**

The Board approved 1 temporary banner (Coming Soon) for Pae's Twon Do at 1758 Western Avenue until his permanent sign is installed. Vote 5 – 0.

The Board approved a sign for Chinese Massage at 1871 Western Avenue. Vote 5 – 0.

The Board approved a sign for G. Willikers at Stuyvesant Plaza. Vote 5 – 0.

The Board approved 2 signs for JB Hunt at Northeastern Industrial Park. Vote 5 – 0.

The Board approved a sign for Polkadots at 10 New Karner Road. Vote 5 – 0.



The Board approved a sign for Jimmy Johns at Hamilton Square. Vote 5 – 0.

The Board approved a sign for Bright Horizons at 10 New Karner Road. Vote 5 – 0.

The meeting adjourned at 9:45pm.