

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
MARCH 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.

NEW CASES:

GARY & DIANE VILLENEUVE – 184 GRAY 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. 4446

Request of **Gary & Diane Villeneuve** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a side/front yard.**

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

For property owned by **Gary & Diane Villeneuve**

Situated as follows: **184 Gray Road Altamont, NY 12009**

Tax Map # **24.00-1-33.22** Zoned: **RA5**

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

Dated: **March 6, 2014"**

The file consists of the mailing list to 12 neighboring property owners, the Town's required forms for an area variance, a narrative completed by the applicant, a photograph of the property, the Town Planners comments and the proposed location of the garage.

The Town Planner had the following comments: "The applicant has requested an area variance to construct a garage in the side/front yard. No planning objections."

Gary Villeneuve, applicant, presented the case.

Chairman Barber stated that they are located in a rural area. Chairman Barber stated that they have an L shaped house. and the

Mr. Villeneuve stated that they do not want to go beyond the front of the house and their current garage sits back.

Chairman Barber stated that the proposed garage sits back about 55' or so from the road. Chairman Barber stated that it seems very straightforward.

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

Chairman Barber made a motion for approval of:

Variance Request No. 4446

Request of **Gary & Diane Villeneuve** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a side/front yard.**

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

For property owned by **Gary & Diane Villeneuve**

Situated as follows: **184 Gray Road Altamont, NY 12009**

Tax Map # **24.00-1-33.22** Zoned: **RA5**

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 objection to the request.

The Board further finds that the proposed variance will not cause an undesirable change in the character of this rural neighborhood.

The proposed location will place the front of the garage in line with the existing house and still remain at least 55' off of the road.

The proposed location of the garage is similar to that of other garage placements in this rural agricultural area.

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

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.

CONTINUED CASES:

SIGN STUDIO – 1758 WESTERN AVENUE

Chairman Barber stated that this is a continued case and since the last meeting the applicant has submitted three alternative signs and Option #3 is code compliant.

Ron Levesque stated that his client is in a unique situation because the building is close to the road and his facility is in the back.

Mr. Levesque stated that nowhere in the code does it state that the square footage is based upon the property.

Chairman Barber stated that if Mr. Levesque would like the Board to do an interpretation they could do that.

Chairman Barber asked Mr. Levesque if he was agreeing or disagreeing with Jackie Siudy's determination that he is subject to a 50sf maximum at this building.

Mr. Levesque stated that he was not disagreeing.

Chairman Barber stated so 50sf is the maximum he is allowed for the building.

Chairman Barber stated that the application is looking for a variance from the 50sf maximum size allowed for a sign and the applicant has given the Board three proposals, the third proposal not needing a variance for square footage. The only variance needed would be the setback from Rt. 20.

Chairman Barber stated that there is a letter from DOT stating that they had no problem with the placement of the sign.

Chairman Barber stated that many of the buildings on Rt. 20 have more than two tenants in them and they are code compliant at 50sf.

Mr. Levesque asked about the sign at Sleepys.

Chairman Barber replied that Sleepys is at the intersection of Rt. 20 and Rt. 155; it is on two major roads and the Board made a determination that it is a unique circumstance that allows signage on both roads. Chairman Barber stated that it helps people locate the entrances to the store.

Mr. Levesque stated that they will look for the setback variance. They would like to go back to a 19' setback so that the sign will not be behind the dormer and will not be hidden.

Chairman Barber replied that DOT has already given approval for placement of the sign as proposed on the site plan and they will be even happier with a sign that is code compliant.

Mr. Levesque stated that his client would also like to apply for a building mounted sign.

Chairman Barber stated that they would have to continue because it would bring the square footage over 50sf total. Chairman Barber stated that he was a little surprised that Mr. Levesque brought up the second sign tonight after he had given him a proposal that showed three options and one of them is code compliant. Chairman Barber stated with the 48sf sign they have eliminate the variance for square footage.

Mr. Levesque discussed the options with his client, Mr. Pai. Mr. Pai decided to go with option #3 at 48sf.

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. 4438

Request of **Sign Studio Inc (Ron Levesque)** for a Variance of the regulations under the Zoning Law to permit: **to permit a freestanding sign within 20ft of the street right-of-way.**

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

For property owned by **Doo Young Pai**

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

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

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of March, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 11, 2014**

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

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

At the prior public hearing the Board questioned why the requested variance for the size of the proposed sign could not be reduced or eliminated. The applicant has provided the Board with three options of which option #3 shows a sign which measures 48sf which is within the allowed 50sf maximum for the building. As such the variance for the size of the sign is not necessary.

With regard to the variance for the setback, the site plan shows that it is located within the required setback from Rt. 20. NYSDOT has provided an email stating there they have no objection to the proposed location and it will not impact or interfere with the plans for future sidewalk placement.

Also note the proposed location which is approximately 19' off the pavement will not create any sight line distance for the side street or for vehicles exiting the property.

The application also has a picture on it which indicates that the landscaping with a note* final landscape design may differ from representation because the landscape is an inducement to the Board's granting of this variance. Approval of this variance should be dependent upon appropriate landscaping.

For these reasons, the Board finds that the granting of this variance for setback will not impact neighboring properties and 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 with the application, in particular the sign noted in Option #3 which measures 96' x 36' or 48sf.

Landscaping at the base of the signpost that is substantially similar to the landscaping depicted in the picture of the proposed sign. Landscaping shall be reviewed and approved by the Acting Zoning Administrator.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF CROSSGATES MALL – 1 CROSSGATES MALL ROAD

Chairman Barber stated that this case was last heard on December 18, 2013 and since that time there has been an exchange of correspondence from the TDE and CT Male. We have also received revised plans and additional plans this evening.

The file also contains a letter from CDTA dated 3-20-14 expressing their strong support for the proposal.

Chairman Barber stated that the reason why the Board had the applicant back is because it has been a while and hope that their goal tonight would be to see if anything else needs to be done before deciding on the matter.

Bob Sweeney of Whiteman, Osterman and Hanna, attorney for Crossgates presented the case. Mr. Sweeney gave a brief overview of the project. Mr. Sweeney stated that initially their plan for the lot in front of the Standard Restaurant had parallel to the building parking. The new plan has the parking rotated perpendicular and there is a sidewalk from the south end up to the building on the north end down the center of the parking lot. All of the changes are internal, they do not touch ring roads or external space.

Mr. Sweeney stated that they did consult with the fire department to make sure that they were comfortable with the changes.

Ed Garrigan of CT Male stated that the Westmere Fire Department asked if they could improve the sprinkler connection on the wall and they have agreed upon a remote sprinkler connection out near the edge of the driveway. The Westmere Fire Department also asked for a hydrant to be located at the corner of the small triangular green area and a hydrant to be placed across the road in one of the islands on the opposite side of the street. They also asked if they could include a strobe light at the top of the wall of the loading dock. The fire lane will also include "No Stopping". Mr. Garrigan stated that the Westmere Fire Department also asked for sufficient access between roof levels. They also asked for an alarm system.

Chairman Barber asked if there was any discussion about if the sidewalk needs to run the entire length and if not could they put a more landscaped island where it ends.

Mr. Sweeney stated that they responded with a plan that is consistent with a sketch that they received from the TDE but they do have their reservations about a number of the directives on the plan, the sidewalk being one of them.

Chairman Barber asked if they thought that there was a better way of getting pedestrians from the middle of the parking lot to either the new entrance or the Burlington Coat entrance.

Mr. Sweeney replied that almost universally in parking lots people walk down the drive aisles, this would be an exception to that.

Chairman Barber stated that it seems to him that the sidewalk does not need to be all the way to the end.

There was discussion regarding the landscaping.

Mr. Sweeney stated that trees are not favored in parking lots by property owners.

Chairman Barber stated that he does not feel that they need full size trees but possibly some low rise bushes.

Tom Remmert stated that he is not sure if the fire department is aware of the sidewalk.

Ken Johnson of Delaware Engineering stated that he has no problem with shortening up the sidewalk. Ken stated that he was okay with everything else so far.

Chairman Barber stated that he would like Ken Johnson to review the final site plan with the change in the sidewalk, the landscaping, etc.

Tom Remmert asked if they could possibly leave a 10' section that is not sidewalk and is not landscape so that fire apparatus could get through there.

Chairman Barber asked if they should eliminate the sidewalk.

There was discussion regarding the right turn only and the circulation in the lot.

Sharon Cupoli asked if the bus stop is being changed at all.

Mr. Sweeney replied that CDTA is talking about changes in the future but nothing is being changed now.

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 to continue this for decision only on April 2, 2014. Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF CARMAN PLAZA – 3770 CARMAN ROAD

Counsel Thayer read the legal notice:

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

Amend Special Use Permit #7-93, Request No. 4441

Request of **Carman Realty LLC** for an amendment to Special Use Permit #7-93 under the Zoning Law to: **delete finding #17 which states that “each individual use would require an application for amendment to the Special Use Permit”.**

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

For property owned by **Carman Realty**

Situated as follows: **3770 Carman Road Schenectady, NY 12303**
Tax Map # **27.19-3-42.1** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of March, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 26th, 2014**"

The file consists of the mailing list to 56 neighboring property owners, the Town's required forms for an amendment to a special use permit, a brief narrative provided by the applicant along with a Short Environmental Assessment Form, Albany County Planning Board's notification of 2-20-14, the previous Special Use Permit from 1993 and a site plan of the property.

Albany County Planning Board's notification of 2-20-14 was to defer to local consideration.

Dave Fusco, owner of Carman Plaza, presented the case.

Chairman Barber stated that the applicant was looking to eliminate the finding that requires him to come back every time a new tenant moves in. Chairman Barber stated that the applicant is looking to fit in to the definition of a local shopping center that is now allowed in a LB zone. Prior to the recent change of the law a couple of years ago, shopping centers were limited to GB zones.

Mr. Fusco stated that the Board has done this for other shopping centers in Town.

Chairman Barber stated that this is the first one. The Board has done it for what used to be called a Designed Local Shopping Center which is only allowed in certain zones but that definition has been thrown out. Now this is a local shopping center defined by the size which is under 45,000 sf.

Chairman Barber stated that everything seems to be working fine at the plaza but one issue that has been brought up is that there is supposed to be a handicapped ramp put in.

Chairman Barber stated that if the Board is going to allow Mr. Fusco to bring in tenants whenever he wants the Board has to look to see if there are other places where there should be a handicapped ramp or some sort of signage directing people to the right place.

Jackie Siudy stated that they have not received any complaints at the Building Department regarding the plaza. The one outstanding issue is the modification to accommodate wheelchairs, walkers, etc. with a handicapped ramp.

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 to continue the hearing for two weeks to give people a chance to come up with any other concerns that need to be addressed. Motion seconded by Sharon Cupoli. Vote 5 – 0.

MINUTES:

The minutes of 2-19-14 were approved. Vote 5 – 0.

The meeting adjourned at 8:45pm.