

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JUNE 4, 2014**

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

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

Chairman Barber stated that three cases were postponed this evening; Alan Boetticher of 88 Railroad Avenue, David Hosler of 115 Rt. 146 and Steven Wacksman of 14 Kaine Drive.

CONTINUED CASES:

CARROLLS, INC. – 1480 WESTERN AVENUE

Chairman Barber stated that this is a continued case and since the last meeting Burger King has submitted a letter stating that they would only be placing two signs, one building mounted sign and one pole sign for a total of 57sf.

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

Don Reeb of 4 Norwood Street had concerns regarding the lighting and the cooking odors.

Chairman Barber made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

There was discussion regarding lighting and renovations at the Burger King at 1991 Western Avenue.

Chairman Barber made a motion for approval of:

Variance Request No. 4455

Request of **Carrolls LLC** for a Variance of the regulations under the Zoning Law to permit: **the installation of signs at the existing Burger King restaurant.**

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

For property owned by **Bettiol Fuel Svc. Inc**

Situated as follows: **1480 Western Avenue Albany, NY 12203**
Tax Map # **52.19-3-4** Zoned: **LB**

In **granting** this request, the Board makes the following findings of fact:

A public hearing was duly noticed and held and the Board received both written and oral comments regarding the scope and the size of the variance.

The application originally sought four signs with a total square footage of 106sf. At the prior public hearing the Board urged the applicant to work with the Zoning Administrator to reduce the variance as much as possible to the Zoning Code requirement of 2 signs with a total of 50sf. In working with the Zoning Administrator, the applicant has amended the application from four signs to two signs and substantially reduced their variance request from 106sf to 57sf but only because the Zoning Code measures circles like squares. If the circular signs were measured like circles and not as squares the total measurement would be 44.8 sf and not require a variance.

The first sign will replace an existing sign with a two sided four foot diameter sign which measures 32sf but only 25.2 when measured as a circle. The second sign is a building mounted 5' diameter circular sign which measures 25sf when measured as a square but only 19.6sf when measured as a circle. The proposed reduced signage is significantly less than what was proposed.

For these reasons, I move that the Board grant the request on the findings that the granting will not impact neighboring property owners and is consistent with other signs in the neighborhood.

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

Adherence to the plans as submitted in particular a letter dated June 2, 2014 detailing the revised application.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

NEW CASES:

MATTER OF TERESA GOODWIN – 1 JANET LANE

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

Variance Request No. 4460

Request of **Teresa Goodwin** for a Variance of the regulations under the Zoning Law to permit: **the installation of 100+lf of 8ft privacy fence along a rear property line.**

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

For property owned by Teresa, Carol Ann & William Goodwin

Situated as follows: 1 Janet Lane Albany, NY 12203

Tax Map #52.18-2-33 Zoned: R15

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 4th of June, 2014 at the Guilderland Town Hall beginning at 7:30pm.

Dated: May 27, 2014"

The file consists of the mailing list to 59 neighboring property owners, the Town's required forms for an area variance, a diagram of the proposed fence location, the Town Planner's comments, and a map of the property.

The Town Planner had the following comments: "The applicant has applied for an area variance to construct an 8' fence along the rear property line for added privacy. The neighboring house appears to be over 100' away and there is no significant topography changes between the two properties, therefore I do not see any unique circumstances that would warrant this variance."

Teresa Goodwin, applicant, presented the case. Ms. Goodwin presented the Board with some pictures showing the difference between their property line and the neighbor in the back.

Chairman Barber stated it was his understanding that they had a keyhole lot behind them.

Ms. Goodwin stated that was correct.

Chairman Barber stated that the keyhole lot had a driveway to the left of the applicant's house. Chairman Barber stated that keyhole lots have a requirement that they the house on them be placed even further back than the traditional home has to be. (1.5 times the required setback)

Chairman Barber stated that this home is 50% more distant than a typical home would be in that zone.

Ms. Goodwin stated that the neighbor's front yard is basically in their back yard so they were looking for privacy between the properties. The eight-foot section would be only in the section in the back between the two properties and the neighbor agreed that it would bring privacy to them as well.

Chairman Barber stated that the Board has never granted a variance for an 8' fence unless you are dealing with the thruway, etc. Chairman Barber stated that the benefit that they

are looking for is privacy. Chairman Barber stated that variances have to relate to the land, something about the topography of the land. Privacy itself does not relate to the land so Zoning Boards do not have the authority to grant variances of that nature. Chairman Barber stated that if they allow variances based upon privacy then they will get variance requests constantly.

Chairman Barber stated that people have built two-foot berms and placed a six-foot fence on top of the berm. Landscaping would be another alternative.

Ms. Goodwin stated that they already have a high water table in their back yard and do not want to bring in fill in the back because it could possibly mess up the neighbor's property.

Chairman Barber stated that the house on the keyhole lot is over 100' away from the applicant's house.

Ms. Goodwin stated that their well is in the back also so they are limited to what they can place in the back yard.

Jackie Siudy stated that the two most popular choices for people that need privacy is to install landscaping or to increase the height of the fence under the fence with a berm, retaining wall, etc.

Chairman Barber stated that if the applicant had a letter to submit to the Board from their neighbor they could put it in the file. Chairman Barber stated that he did not want to give them false hope that just because they have the letter the variance will be granted. Chairman Barber stated that he would like to have Counsel Thayer review the case and continue the case for two weeks.

Chairman Barber made a motion to adjourn the case to June 18, 2014. Motion seconded by Sharon Cupoli. Vote 5 – 0.

MINUTES:

The Board approved the minutes of 3-19-14. Vote 5 – 0.

The Board approved the minutes of 4-2-14. Vote 4 – 0.

SIGNS:

The Board approved 8 temporary signs for the Nervosity concert (as per site plan) as long as sight distance is not affected. Signs are allowed thru June 20, 2014. Vote 5 – 0.

The Board approved a replacement sign for Camp Nassau YMCA contingent that it is comparable to the existing sign. Vote 5 – 0.

The meeting adjourned at 7:58pm.

