

**TOWN OF GUILDERLAND  
ZONING BOARD OF APPEALS  
JULY 16, 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.

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**CONTINUED CASES:**

**DAVID HOSLER – 115 RT. 146**

Chairman Barber stated that the Board had received a letter from the fire department and they are all set with the application. Chairman Barber stated that they had also received updated diagrams and photographs of the berm/buffer and also the retaining wall. Chairman Barber stated that the applicant had done everything that the Board had asked him to do.

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 this application to determine whether the granting of the application by David Hosler for a special use permit for a mixed use building significant impact upon the environment. This review consisted of the comments received at the prior public hearing in addition to the comments received by the Town Planning Board, the Town Planner and Albany County Planning Board and also our review of the application. Based upon that collective review, I make a motion 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/Variance Request No. 4442**

Request of **David Hosler** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **The construction of a 22x36 mixed use structure for two offices and one dwelling unit. Variances are requested for the following: (1) to reduce the size of the apartment to 480sf, 600sf is required, (2) to permit a side yard**

**of 15ft where 25ft is required and (3) to reduce the number of parking spaces provided from 11 to 10.**

Per Articles **III, IV & IVA** Sections **280-20, 280-25, 280-37.2, 280-51 & 280-52** respectively

For property owned by **David L Hosler**  
Situated as follows: **115 Rt 146 Altamont, NY 12009**  
Tax Map # **39.00-3-19** Zoned: **LB**

The Board makes the following findings of fact:

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

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

Albany County Planning Board's notification was to modify local approval to include 1) review by the NYSDOT for design of highway access, drainage and assessment of road capacity and 2) the local fire department should review the plan for the adequacy of access; due to the long, narrow driveway and possible need for a turn-around area.

The Town Planning Board's site plan review recommended with conditions, which the Board has considered in prior public hearings including the adequacy of the berm and screening and the detailed landscaping plan.

The Town Planner also had no planning objections.

In an undated letter, the Guilderland Fire Department approved the proposed site plan with regard to the adequacy of the turn around and location of the fire hydrants.

With regard to the special use permit a mixed-use building is an allowed use in this local business zone. As noted by the Town Planner, the proposed use is very low impact and the site plan shows a berm and fencing to buffer the impact on adjacent residential properties.

The parking variance of only one parking space is not substantial.

The size of the apartment suggests that a single person or a couple will occupy the dwelling. The Zoning Code also would limit the size of the family residing there.

The applicant also states that one of the two proposed business is the applicant's construction company with one employee. As such, the parking appears to be adequate.

The applicant has also submitted more detailed plans that show that the berm/retaining wall and proposed fence which had been reviewed and approved by the Zoning Department.

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

Adherence to the plans as submitted.

DOT review of highway access for design of highway access, drainage and assessment of road capacity.

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 JAMES BREITENSTEIN – 71 & 75 SCHOOLHOUSE ROAD**

Chairman Barber stated that since the last hearing the Board has received some revised plans basically changing it from four buildings with four units each to eight buildings with two units each. There would be the same number of units but the building would be smaller.

Carl Breitenstein presented the case. Mr. Breitenstein stated that since the last meeting they have shrunk both the unit size and the building size. Mr. Breitenstein stated that they felt that this would fit in better with the neighborhood.

Chairman Barber asked about the size of the units.

Mr. Breitenstein replied that each individual unit is about 32sf smaller.

Chairman Barber asked if they had been in touch with the fire department.

Mr. Breitenstein replied that he had been in touch with Tony Carrow and he was all set with the project and he would be in touch with Jackie Siudy.

Chairman Barber asked if they had been in contact with the Thruway Authority.

Mr. Breitenstein replied that they had and they do not want the berm to go onto their property.

Chairman Barber asked about the height of the lighting poles.

Ken Johnson of Delaware Engineering stated that they need to be 12'.

Tom Remmert stated that a concern of the fire department was that the building be sprinklered and asked the applicant if the buildings would be sprinklered.

Mr. Breitenstein replied no.

Ken Johnson, TDE, went over some of his concerns. Some of the concerns were the height of the lighting poles, more readable plans, provide plans to ACDPW for approval, confirmation from NYS Office of Parks and Recreation, sanitary sewers, stormwater issues, fire department approval and the detail of berm and trees and landscaping.

Chairman Barber asked Ken Johnson if he had a view on whether or not the two unit buildings would be a better means of addressing the noise control.

Ken Johnson replied that he felt that it would help with the noise control. He also stated that he felt that the two unit buildings look much better than the four longer units.

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

Kate Wasson of 7 Shady Lane had concerns about construction trucks on Shady Lane. Ms. Wasson read a letter into the record from the property owner at 6 Oak Drive who was opposed to the project.

Paul Finegan of 6 Shady Lane asked if this is the appropriate project in the appropriate location given all the issues and the nature of the neighborhood and community. Mr. Finegan had concerns regarding the impact on the community.

Chairman Barber stated that there are a number of issues that still need to be resolved from the TDE's perspective.

James Breitenstein stated that he would like to have a decision made on the sidewalks and the crosswalk. Mr. Breitenstein stated that they have decided to put the sidewalk in over to the medical facility but need a decision on the sidewalk from their entranceway to the north.

Chairman Barber stated that they would wait and see what the TDE decides and also what ACDPW has to say about it. Chairman Barber stated that the sidewalk would be decided on the same night that the decision is made for the whole project.

Chairman Barber made a motion to continue this hearing to August 20, 2014 to render a decision but also leave the public hearing open. Motion seconded by Sharon Cupoli. Vote 5 – 0.

**OTHER:**

The Board approved the minutes of 5-7-14. Vote 5 – 0.

**SIGNS:**

The Board approved the upper part of the freestanding sign for the Sharon Fellowship Church at 1781 Western Avenue with the understanding that the lower part of the sign which is 24" x 16" is not allowed. Vote 5 – 0.

The Board approved revised signage for Dave and Busters at Crossgates Mall. Vote 5 – 0.

The Board approved a sign for Cahill's Automotive at 1436 Western Ave. Vote 5 – 0.

The Board suggested modifications to a sign for Garima Dhakal at 1726 Western Ave to be reviewed and approved by Jackie Siudy, Chairman Barber and Counsel Thayer at a later date.

The meeting adjourned at 8:15pm.