

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
AUGUST 20, 2014**

Members Present: Peter Barber, Chairman
Sharon Cupoli
Mike Marcantonio
Thomas Remmert

Members Absent: 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 the case of 9 Malpass Road had been postponed and rescheduled to a later date. Chairman Barber stated that when it is rescheduled, there will be notices sent out and notify people of the public hearing.

CONTINUED CASES:

BETHEL FULL GOSPEL CHURCH – 7315 RT. 158

Steven Foti, Pastor of Bethel Full Gospel Church and Nalene Vanderpool presented the case.

Chairman Barber stated that the only thing that the Board had asked was to explain how they would get the buses in and out safely and get the children into the program and make sure that there are not any conflicts between the cars, buses and children. Chairman Barber stated they also have provided the Board with a copy of the Office of Children Family Services regulations that they will be complying with.

Chairman Barber stated that the Town of Rotterdam had no objection and wanted to make certain that the property on the north side would be screened with some arborvitaes, which they do have on their plan.

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

Vince Viscusi's niece spoke on his behalf. She stated that her uncle would like to see a fence put up to keep the children on the property.

Pastor Foti stated that he spoke with the Office of Family and Children Services and they said that no fencing is required. Pastor Foti stated that if there is a problem with traffic, they will address it when it comes up.

Chairman Barber stated that the Board will condition it that if some point there is going to be a house on the property they will require that a fence be installed.

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

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 this application will have a significant impact upon the environment. This review consisted of the comments provided to the Board by the Albany County Planning Board, the Town Planner and the Town Planning Board. Based on that collective review, I move that a negative declaration should issue.” Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

Chairman Barber made a motion for approval of:
Special Use Permit Request No. 4458
Request of **Bethel Full Gospel** for a Special Use Permit under the Zoning Law to permit:
the operation of an after school/child care program at an existing church facility.
No changes are proposed for or required to the building.

Per Articles **III & V** Sections **280-24.1 & 280-52** respectively

For property owned by **Bethel Full Gospel Assembly of God**
Situated as follows: **7315 Route 158 Schenectady, NY 12306**
Tax Map # **14.00-1-15.22** Zoned: **RA-3**

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

A public hearing was duly noticed and held this evening. The property owner to the south did raise some concerns regarding the potential impact of the use of the property on future plans for a residence.

This is an Unlisted Action under SEQRA and the Board adopted a negative declaration by a unanimous vote.

The Town Planning Board's site plan review of 6-11-14 was to recommend with the following conditions: site plan review be coordinated with the Town of Rotterdam and landscaping be provided between the access drive and northern property line to adequately screen driveway from residential property to the north.

Albany County Planning Board's notification of 6-19-14 was to modify local approval to include:

- 1) Review by the Albany County Department of Health for adequacy of the existing septic area.
- 2) Notification of the application to the adjacent Town of Rotterdam.

- 3) Notification to the local fire department.
- 4) Review by and any necessary permits from the NYS Office of Children and Family Services.
- 5) The Town should consult NYSDOT for the adequacy of the existing driveway turning radius and width for regular use by school buses.
- 6) The Town should ensure that there is adequate parking, a safe drop off area, and a designated circulation pattern on site for buses and cars due to the large number of children proposed for the program.
- 7) If any food service is provided then a review by the ACDOH for food service and other required permits.

Advisory note: The Town may want to require fencing for the outdoor play area that was indicated by the applicant.

The Town Planner had the following comments: "The applicant has requested a special use permit to use the building for day care and after school care for up to 100 children. Parking already exists and no site plan changes are anticipated. My only comment would be that there is a residence along the northern border and there is no buffer to shield them from the parking lots or driveways of the church. Running more traffic and school buses along their property line seems to warrant some screening in the area."

The Town of Rotterdam has responded basically stating that they agree with the Town Planning Board's recommendations.

While the Board is mindful of the concerns of the adjacent property owner to the south in terms of their future plans at this point I can't preclude the applicant's proposed use; however the Board can impose conditions that would lessen the impact on that property in the future.

The proposed accessory use of the property as an after school childcare program is an allowed accessory use for a church in this Rural Agricultural district.

The applicant has proposed site plan improvements including installing arborvitae along the access drive to the north which shields the property and also addresses the concerns of the Town of Rotterdam.

The applicant also provided written protocol that addresses the arrivals and departures of children and the movement and unloading of buses in the parking lot.

This accessory use will not cause an undesirable change in the character of this rural neighborhood.

For these reasons, the Board finds that the special use permit to allow for the operation of an afterschool childcare program by the church is appropriate.

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

Adherence to the plans as submitted.

Compliance with any regulations imposed by the NYS Office of Children and Family Services for childcare programs.

Albany County Department of Health review for the adequacy of the septic system and also food service if food is going to be served.

The local fire department shall review and approve the plan.

DOT review of the adequacy of the driveway turning radius and width for regular use by school buses.

A fence on the south side of the property shall be installed in the event that the property to the south is developed as a residence.

In granting this request the Board has also relied upon the representations of the applicant and the statements made during the public hearing.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

MATTER OF JAMES BREITENSTEIN – 71 & 75 SCHOOLHOUSE ROAD

Chairman Barber stated that the Board had received a final report from Ken Johnson of Delaware Engineering.

Chairman Barber stated that the project overall has changed; it is now going to be eight buildings with two units each. There is a sidewalk across the entire length of the property leading also the driveway to the doctor's office. The Thruway Authority declined any request to build a berm on the property.

Ken Johnson of Delaware Engineering stated that they satisfied the Fire Department's concerns of turning radius. There will be no parking on Shady Lane. Ken Johnson stated that was still outstanding is approval from ACDPW regarding part of the sidewalk.

Chairman Barber asked Ken Johnson if he believes that there is any room on the property to add any berms.

Ken Johnson replied that there is a berm behind with trees and landscaping and they have tried to take care of the noise.

Carl Breitenstein stated that the sidewalk would be installed south to the doctor's office regardless. Mr. Breitenstein asked about the sidewalk going to the north toward Rt. 20.

Chairman Barber replied that is what Albany County Planning Board and the Town Planning Board wanted is to continue the sidewalk to the end of the property.

Mr. Breitenstein stated that the letter that they got from the ACDPW questioned whether the Town had a larger plan to extend the sidewalk to the north of the driveway and if not omitting this piece might be better than having an orphan sidewalk for the foreseeable future.

Chairman Barber replied that the Town has a plan to install the sidewalk further up.

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

Don Reeb of 5 Norwood Street stated that eight buildings seem more than reasonable for the site.

Chairman Barber replied that the density ratio has been changed in the new code.

Mr. Reeb stated that the berms along Schoolhouse Road are not very high and felt that there should be some kind of sound barrier put up.

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

Chairman Barber made a motion of non-significance in this Unlisted Action:
“This Board has conducted a careful review of this application for the construction of eight two-family dwellings on property located at 71-75 Schoolhouse Road, zoned MR, to determine whether the granting of that application would have a negative impact upon the environment. This review consisted of the comments received from the Town Planning Board, the Town Planner, Albany County Planning Board, the Thruway Authority and the conducting of the public hearings regarding the application. Based upon that collective review, I would move that a negative declaration under SEQRA should issue.” Motion seconded by Sharon Cupoli. Vote 4 – 0.

Chairman Barber made a motion for approval of:
Special Use Permit/Variance Request No. 4445

Request of **James Breitenstein** for a Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **the demolition of an existing single family dwelling and the construction of (8) two unit residences in a MR zone. A variance is requested to reduce the buffer along the boundary of the adjacent LB site to less than 40ft.**

Per Articles **III, IV& V** Sections **280-15, 280-27, 280-51 & 280-52** respectively

For property owned by **Gerard Ziehm**

Situated as follows: **71 & 75 Schoolhouse Road Albany, NY 12203**
Tax Map #s **52.19-4-36 & 52.19-4-40.1** Zoned: **MR**

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

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

At prior public hearings and again this evening the Board has heard comments from residents on Shady Lane which is across the street from this property and also from residents from nearby streets who have expressed concerns about the density of the proposal, the appropriateness of the project in the neighborhood and concerns about increase in traffic.

The Town Planner expressed concerns about pedestrian accessibility, buffering from the Thruway and the sidewalk along Schoolhouse Road.

The Town Planning Board's site plan review was to recommend approval with the following conditions:

- Continue the proposed sidewalk across property frontage and connect to commercial driveway to the east. Continue the sidewalk further along access drive and provide ADA compliant ramp.
- Provide crosswalk details with ADA compliant ramps and show appropriate signage.
- Identify the amount of soil to be removed from the site. Explore grading easement with NYS Thruway Authority to increase berms in the rear of the property.

Albany County Planning Board's notification of 3-20-14 was to modify local approval to include:

- 1) Review by the ACDPW for design of highway access, assessment of road capacity and drainage. A copy of the SWPPP and the site grading plan will need to be reviewed and approved by the ACDPW Engineering. The applicant and the Town should be aware that the ACDPW will require a sidewalk along the property including an ADA crosswalk to the existing sidewalk along Schoolhouse Road. The location should be discussed with DPW Engineering as final plans progress.
- 2) A Notice of Intent filed with the NYSDEC affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the NYSDEC SPDES General Permit for Stormwater Discharges (GP-0-10-001, January 29, 2010) for construction activities that disturb more than one acre of land.
- 3) Review by NYS Thruway Authority for assessment of impact to Thruway lands, due to the fact that drainage on applicant's site is shown to be directed to newly built drainage systems for the recent Thruway improvements.

This Board appointed Ken Johnson of Delaware Engineering as TDE who has provided the Board with several reports regarding the site plan, drainage and sidewalk issues and other site plan related issues. The applicant has amended the application to address these comments.

The Board further finds that the proposed use of the property for a multiple residence development is an allowed use in this MR zone. In fact, the multiple residence is the primary purpose for the multiple residence district. The listing of this use as allowed on this property is tantamount to a finding that the multiple residence buildings are compatible with other neighboring properties. The Zoning Map shows that the multiple residence district is often located to more intense activities like this property's location adjacent to the Thruway.

The current Zoning Code places certain limitations on the density of multiple residence projects to minimize the impacts on nearby properties and impact on roads. The proposed project falls well below the allowed density limits under the existing code.

As originally planned, the proposal involved four buildings with four residences each. In response to concerns about the size of the buildings, the site plan has been amended to show eight buildings with two residences each. This reduction in size reduced the visual impact of the building and reduces their size to a more appropriate scale.

At present, the site is vacant with mature trees having been removed. While those trees may have provided a visual impact, they would have played little or no role to reduce the sound impacts from the Thruway. The Thruway stated that they not allow use of its property for a berm. The placement of the buildings will provide a substantial reduction in the noise impacts. The site plan also shows the planting of new trees as required by the Zoning Code for multiple residence projects.

The site plan also shows the sidewalk across the length of the property and extending to the driveway at the doctor's office and a crosswalk at Shady Lane. This sidewalk and crosswalk placement are consistent with the comments received from the Albany County Planning Board and the Town Planning Board.

The Board further finds notes that 12 parking spaces are required, 21 spaces are provided and no parking variance is needed.

With regard to the variance for the buffer, this buffer is intended to provide protection for the multiple residence district from the more intense local business district. Inasmuch as this property is located within the multiple residence district, the purpose behind the buffer is not as important. In any event the adjacent LB use is a low intensity doctor's office and only a small portion of three buildings are within the buffer. As a result, the variance is not substantial and will not negatively impact adjacent properties.

For these reasons, the Board ***grants*** the special use permit and variance.

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

Adherence to the plans submitted.

ACDPW review of the design of the highway access, road capacity and drainage and proposed sidewalk and crosswalk within the County's right-of-way.

Compliance with any DEC's requirements for stormwater management.

The Thruway needs to sign off on any potential impacts on its drainage.

During the construction of the project there will be no parking or staging of any construction vehicles or vehicles relating to construction activity on either Shady Lane or Country Road.

The TDE will continue review compliance with the site plan and also with this Board's conditions.

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

If this 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 Sharon Cupoli. Vote 3 – 1. (Remmert negative, Saita absent)

NEW CASES:

MATTER OF CRAIG BUONORA – 6002 BANE BERRY DRIVE

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

Variance Request No. 4481

Request of **Craig Buonora** for a Variance of the regulations under the Zoning Law to permit: **the installation of +/- 200lf of 6ft high privacy fencing in a front yard.**

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

For property owned by **Lori A Wilmot-Buonora**

Situated as follows: **6002 Baneberry Drive Schenectady, NY 12303**

Tax Map #**27.07-4-57** Zoned: **R030**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of August, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: August 11, 2014”

The file consists of the mailing list to 58 neighboring property owners, the Town’s required forms for an area variance, the Town Planner’s comments, details provided by Back Yard Fence, photographs of the proposed fence, a foundation location which shows the proposed placement of the fence and photographs of the street and area.

The Town Planner had the following comments: “The applicant is seeking an area variance to construct a fence in the front yard of a corner lot. No planning objections.”

Craig Buonora, applicant, presented the case.

Chairman Barber stated that the applicant is proposing to replace a falling down 5’ fence with a new 6’ fence.

Mr. Buonora replied that is correct.

Chairman Barber asked what type of fencing he would be installing.

Mr. Buonora stated that they would like to install solid 6’ fencing.

Chairman Barber stated that the most affected neighbor is wild area.

Chairman Barber stated that this fence would be replacing a fence that was not in compliance and this fence would bring the property into compliance.

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. (Saita absent)

Chairman Barber made a motion for approval of:

Variance Request No. 4481

Request of **Craig Buonora** for a Variance of the regulations under the Zoning Law to permit: **the installation of +/- 200lf of 6ft high privacy fencing in a front yard.**

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

For property owned by **Lori A Wilmot-Buonora**

Situated as follows: **6002 Baneberry Drive Schenectady, NY 12303**

Tax Map #**27.07-4-57** Zoned: **R030**

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 request.

This is a corner lot, with two front yards and two front yard setbacks. In similar corner lot applications, the Board has allowed the property owner to treat one of the front yards as a side yard if it is shown that the fence will not create sight distances at the intersection and the fence will not negatively impact neighboring property owners. Both of those conditions were satisfied here. First, the proposed fence will replace an existing fence which has not caused any reported problems with the sight distance at the intersection of Gregory Lane and Baneberry Drive. The proposed fence will replace an existing 5' high privacy fence that is in poor condition and be placed where the current fence exists. The new fence is attractively designed and the appearance of the property will be improved by the upgrading of the fence.

The Board also finds that the fence is opposite a water reservoir and not a residence and will not negatively impact any neighboring properties.

The Board also finds that the replacement fence as proposed will not negatively impact neighboring properties and is consistent with the character of the neighborhood.

For these reasons, the Board **grants** the variance as requested.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

MATTER OF HODOROWSKI HOMES – 216 LANDBRIDGE DRIVE

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:

Variance Request No. 4472

Request of **Hodorowski Homes, LLC** for a Variance of the regulations under the Zoning Law to permit: **the completion of a porch within a required front yard setback. A 30ft setback is required, 26ft is proposed, and a 4ft variance is requested.**

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

For property owned by **Paul Hodorowski**

Situated as follows: **216 Landbridge Drive Altamont, NY 12009**

Tax Map # **39.00-2-145** Zoned: **RO40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 20th of August, 2014 at the Guilderland Town Hall beginning at 7:30pm.

Dated: July 17, 2014”

The file consists of the mailing list to 23 neighboring property owners, the Town’s required forms for an area variance, the Town Planner’s comments, justification for the request, and plans that show the proposed home and the portion of the porch that will encroach into the front yard.

The Town Planner had the following comments: “The applicant has applied for an area variance for a covered porch to encroach 4’ into the required front yard setback. No planning objections.”

Neil Savoca presented the case.

Chairman Barber stated that it appears that the house is built as close to the road as the building envelope allows and apparently someone forgot to include the covered porch.

Mr. Savoca stated that was correct.

Mr. Savoca stated that the main house was behind the setback but a portion of the porch encroached into the setback.

Chairman Barber stated that this was a corner lot.

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. (Saita absent)

Chairman Barber made a motion for approval of:

Variance Request No. 4472

Request of **Hodorowski Homes, LLC** for a Variance of the regulations under the Zoning Law to permit: **the completion of a porch within a required front yard setback. A 30ft setback is required, 26ft is proposed, and a 4ft variance is requested.**

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

For property owned by **Paul Hodorowski**

Situated as follows: **216 Landbridge Drive Altamont, NY 12009**

Tax Map # **39.00-2-145** Zoned: **RO40**

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 case.

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

This variance involves a covered porch for the front door of this house which is currently under construction.

The house has been placed on the edge of the building envelope but its placement did not consider the consequences of placing a roof on the porch over the front door.

The variance is not substantial at 4', it only involves a 12' x 5' porch and the remainder of the house is within the building envelope and beyond the 30' setback.

The porch will not negatively impact any neighboring properties and will not alter the character of the neighborhood.

For these reasons, the Board **grants** the variance request.

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

Adherence to the plans 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 4 – 0. (Saita absent)

MATTER OF PAUL DAVIS – 101 CHRISTOPHER LANE

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. 4470

Request of **Paul Davis** for a Variance of the regulations under the Zoning Law to permit: **the placement of a previously installed 12' x 16' storage shed in a front yard.**

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

For property owned by **Paul E Davis**

Situated as follows: **101 Christopher Lane Altamont, NY 12009**

Tax Map # **39.00-3-68** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 20th of August, 2014 at the Guilderland Town Hall beginning at 7:30pm.

Dated: July 17, 2014”

The file consists of the mailing list to 15 neighboring property owners, the Town’s required forms for an area variance, the Town Planner’s comments, a brief narrative, a picture of the attractive shed, a diagram showing the location of the shed on the property and a copy of an application for a building permit in 2001.

The Town Planner had the following comments: “The applicant has requested an area variance for a shed located in a front yard setback to avoid the angle of repose. No planning objections.”

Paul Davis, applicant, presented the case.

Chairman Barber stated that it appears the shed has been there for quite a while.

Mr. Davis stated that was correct.

Chairman Barber stated that it was a very attractive shed with mature trees around it.

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. (Saita absent)

Chairman Barber stated that there is also an angle of repose on the property. This placement of the shed keeps the shed outside the angle of repose.

Chairman Barber made a motion for approval of:

Variance Request No. 4470

Request of **Paul Davis** for a Variance of the regulations under the Zoning Law to permit: **the continued placement of a previously installed 12’ x 16’ storage shed in a front yard.**

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

For property owned by **Paul E Davis**

Situated as follows: **101 Christopher Lane Altamont, NY 12009**

Tax Map # **39.00-3-68** 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.

The shed was apparently the subject of a building permit application in 2001. At some point the shed was apparently placed on the property.

The Town Planner had no objections to the request stating that the placement of the shed avoids the angle of repose.

The review of the plot plan shows the shed could not be placed in the rear yard because of the 30' setback from the angle of repose.

The shed is attractively designed and landscaped and bordered by mature trees.

Given these unique circumstances, the Board finds that the granting of this variance will not negatively impact the character of the neighborhood or be detrimental to nearby properties.

For these reasons, the Board **grants** the variance with the following conditions:

Adherence to the plans as submitted.

Continued maintenance of appropriate landscaping around the shed.

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

Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

MATTER OF RIVER OF LIFE CHURCH – 2333 WESTERN AVENUE

Chairman Barber 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. 4469

Request of **Sean Pierce of River of Life Church** for a Variance of the regulations under the Zoning Law to permit: **the installation of a sign within the required 20ft setback from the right of way.**

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

For property owned by **River of Life Church**
Situated as follows: **2333 Western Avenue Guilderland, NY 12084**

Tax Map # 39.00-4-9.2 Zoned: LB

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 20th of August, 2014 at the Guilderland Town Hall beginning at 7:30pm.

Dated: July 17, 2014”

The file consists of the mailing to 9 neighboring property owners, the Town’s required forms for an area variance, a narrative, the sign design, and information regarding other signs in nearby areas.

Sean Pierce of River of Life Church presented the case.

Chairman Barber stated that they a strange right of way on their property.

Chairman Barber stated that there is a concern about sight distance for cars leaving the site can look both left and right and not be impacted by the placement of the sign. Chairman Barber stated that it appears that the sign is well off of the road and is consistent with other signs nearby. Chairman Barber stated that it is also quite a distance from the Tractor Supply store.

Chairman Barber asked Jackie Siudy if DOT would take a look at this after approval.

Jackie Siudy replied that they have not done that in the past.

Tom Remmert asked the applicant if he could put the street number on 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. (Saita absent)

Chairman Barber made a motion for approval of:

Variance Request No. 4469

Request of Sean Pierce of River of Life Church for a Variance of the regulations under the Zoning Law to permit: **the installation of a sign within the required 20ft setback from the right of way.**

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

For property owned by River of Life Church
Situated as follows: 2333 Western Avenue Guilderland, NY 12084

Tax Map # 39.00-4-9.2 Zoned: LB

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.

A review of the map of this area shows DOT's right-of-way at this location is irregular and extends well beyond the usual location.

The placement of the sign beyond the 20' setback would severely reduce its effectiveness in directive drivers to the church's driveway.

The sign will be located more than 30' from the property line to the west.

The proposed sign location does not appear to negatively impact sight distance from either this property's driveway or the adjacent property to the west.

The proposed location is also consistent with other nearby signs distance from the edge of the roadway.

Given the unique conditions caused by the DOT's irregular right-of-way, the Board finds that the proposed sign placement will not negatively impact neighboring property owners, will not cause an undesirable change in the character of this area and that the variance should be **granted**.

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

Adherence to the plans as submitted.

Appropriate landscaping at the base of the sign to be reviewed and approved by the Zoning Administrator.

The street number shall be located on 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. (Saita absent)

MATTER OF QUILTBUG – 3637 CARMAN 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. 4471

Request of **Quiltbug** for a Special Use Permit under the Zoning Law to permit: **the use of 950sf of space, formerly occupied as a home improvement showroom, as a fabric store.**

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

For property owned by **Con-Rel Realty LLC**

Situated as follows: **3637 Carman Road Schenectady, NY 12303**

Tax Map # **27.11-1-24.2** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of August, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 10, 2014**”

The file consists of the mailing list to 27 neighboring property owners, the Town’s required forms for a special use permit for this fabric store, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, the Town Planning Board’s recommendation, Albany County Planning Board’s notification, the Town Planner’s comments, a copy of the proposed lease, a brief narrative and a diagram showing the highlighted location of the rental space.

The Town Planning Board’s recommendation was to approve with the following conditions: site plan is consistent with the original special use permit.

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

The Town Planner had the following comments: “The applicant is seeking a special use permit to use 950sf of vacant space in the existing building, formerly a liquor store, as a fabric store. No site plan changes are proposed and there is adequate parking. No planning objections.”

Kevin Relyea of Con-Rel Realty presented the case. Mr. Relyea stated that they are proposing a retail fabric store. Mr. Relyea stated that they would be moving their store from the present location in Esperance.

Chairman Barber stated that the hours of operation would be from Monday – Friday from 10am to 6pm, Saturday from 10am to 3pm and closed on Sunday.

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

Sharon Mastrianni of 3633 Carman Road, an abutting property owner, stated that she has no objection to the new tenant but their concern is that there are some conditions of the existing special use permit that are not being complied with.

Chairman Barber replied that if she has any particular concerns about conditions not being met she should contact the Building Department.

Ms. Mastrianni stated that she had brought it to their attention.

Chairman Barber replied that the Building Department enforces both the conditions of a special use permit and the provisions of the Code itself.

Ms. Mastrianni had concerns regarding the dumpster and the parking situation and the new tenant will be involved with both. Ms. Mastrianni stated that the dumpster was to be enclosed back in 1986 and that has not been complied with nor was it enforced and also there was to be a buffer installed when the business first moved in which is still not there.

Chairman Barber stated that if they were to approve this application tonight they would not vary from any of the conditions that were applicable to this property based upon prior approvals.

Ms. Mastrianni asked about the classes that the new business would be operating on Saturdays would impact the parking and activity.

Chairman Barber stated that Jackie Siudy did not determine there was need for a parking variance.

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

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 a special use permit for Quiltbug as a retail fabric store located at 3637 Carman Road would have a significant negative impact upon the environment. Based upon the comments received from the Town Planning Board, the Town Planner and the conducting of the public hearing and the review of the application, I would move that a negative declaration should issue.” Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

Chairman Barber made a motion for approval of:
Special Use Permit Request No. 4471
Request of **Quiltbug** for a Special Use Permit under the Zoning Law to permit: **the use of 950sf of space, formerly occupied as a home improvement showroom, as a fabric store.**

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

For property owned by Con-Rel Realty LLC
Situated as follows: 3637 Carman Road Schenectady, NY 12303
Tax Map # 27.11-1-24.2 Zoned: GB

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

A public hearing was duly noticed and held this evening. One resident spoke with concerns regarding the previous special use permit.

The Board adopted a negative declaration by a unanimous vote.

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

The Town Planning Board's site plan review recommended approval with a condition that the site plan is consistent with the original special use permit.

The proposed use is an allowed use in this GB district and will be located in a shopping center which was previously used as a home improvement showroom and before that a wine and liquor store.

Site conditions were previously reviewed and considered by the Board and appear to be adequate for the proposed use. On site parking seems to be adequate and no parking variance is required.

For these reasons, the Board approves the requested special use permit with the following conditions:

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

The hours of operation shall be as stated in the application; Monday – Friday from 10am to 6pm, Saturday from 10am to 3pm and closed on Sunday.

Except as amended by this decision, continued compliance with the conditions set forth in all prior special use permits shall be adhered to.

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

If this amended 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 Sharon Cupoli. Vote 4 – 0. (Saita absent)

MATTER OF KEVIN CLANCY – 1 FLETCHER ROAD

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:

Special Use Permit Request No. 4468

Request of **Kevin Clancy** for a Special Use Permit under the Zoning Law to permit: **the conversion of a doctor’s office to a real estate office and the continued use of an existing apartment within the structure.**

Per Articles **III & V** Sections **280-19 & 280-52** respectively

For property owned by **Suzanne and Jane DeRook**
Sited as follows: **1 Fletcher Road Albany, NY 12203**
Tax Map # **51.12-1-1** Zoned: **BNRP**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of August, 2014** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 8, 2014**”

The file consists of the mailing list to 55 neighboring property owners, the Town’s required forms for a special use permit for the use of the property as a real estate office and the continued use of an apartment, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, the Town Planning Board’s site plan review, the Town Planner’s comments and the Albany County Planning Board’s notification of 7/17/2014.

The Town Planning Board’s site plan review was to recommend with the following conditions: determine whether the parking is in the Town right-of-way and if so determine whether a formal arrangement should be entered into for parking access.

The Town Planner had the following comments: “The applicant has requested a special use permit to use the existing building for a real estate office, plus one apartment. The site is at the corner of Fletcher and Western Avenue and has historically been used as a doctor’s office. The applicant states that there are 10 parking spaces available, two in the driveway and eight in an area that would not be considered legal spaces, as they are in the Town right-of-way and vehicles have to back up into the street. This is less than ideal as the spaces are very close to Rt. 20 and can create dangerous conflicts with vehicles turning into Fletcher Road. The applicant should explore removing this parking area and perhaps adding additional parking along the south side of the driveway. That said, this situation has existed since the doctor’s office was in use and I imagine a real estate office will generate less traffic. No planning objections.”

Albany County Planning Board's recommendation of 7/17/2014 was to modify local approval to include 1) The Town should ensure that there is adequate parking available for the new use and that the parking spaces closest to Rt. 20 intersection do not pose a hazard to vehicles entering and exiting Fletcher Road for Rt. 20.

Kevin Clancy, applicant, presented the case.

Chairman Barber asked Mr. Clancy if he had contacted anyone for a survey as to what the parking issue might be.

Mr. Clancy stated that he had not. Mr. Clancy stated that the parking spaces were 23' deep and he does not know exactly where the right of way was.

Chairman Barber stated that it has been used for parking for decades but they need to make certain if there is going to be any parking in the Town right of way it is okay with both the Highway Department but also with the Assistant Town Attorney. Chairman Barber stated that any use of Town property should have a written agreement in place that allows for it and has appropriate conditions for that use such as maintenance, etc.

Chairman Barber asked Mr. Clancy if he had spoken to the Highway Department yet.

Mr. Clancy replied that he had not. Mr. Clancy stated that a full survey is in the works.

Chairman Barber stated that the other issue is cars coming in off of Fletcher; it is hard for a driver to anticipate a car that he cannot even see yet. Chairman Barber stated that the Town Planner did indicate that this is a less intense use than a doctor's office but at the same time there is a lot more activity on Fletcher Road.

Mr. Clancy stated that generally he would have a maximum of four cars a day at his office. Mr. Clancy stated that they could use the driveway to park four cars; his two assistants could park closest to the building and the other two could be for his clients.

Chairman Barber stated that there might be a way to back up without backing into the road.

Chairman Barber stated that this is Zoned BNRP so this use is allowed.

There was discussion regarding the apartment.

Mr. Clancy stated that the owners are still in the apartment and the office is vacant space.

Mr. Clancy stated that his intent is to put a tenant in and use it as existing residential space and he would occupy the office.

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

Chairman Barber made a motion to continue the case until September 17, 2014 with the understanding if the applicant needs more time the Board will grant them more time.

Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

MINUTES:

The Board approved the minutes of 5/21/14, 6/18/14, 7/02/14, and 7/16/14 as submitted.

SIGNS:

The Board approved the sign for silver25 at Stuyvesant Plaza. Vote 4 – 0. (Saita absent)

OTHER:

The Board appointed Delaware Engineering as the TDE for the upcoming Senior Living Center on New Karner Road to review the angle of repose, rezone and special use permit applications. Motion seconded by Sharon Cupoli. Vote 4 – 0. (Saita absent)

The meeting adjourned at 8:50pm.

