

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
APRIL 1, 2015**

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

NEW CASES:

MATTER OF JOHN ALMSTEAD – 6602 WESTFALL 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. 4518

Request of **John Almstead** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a front yard.**

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

For property owned by **John & Linda Almstead**

Situated as follows: **6602 Westfall Road Altamont, NY 12009**

Tax Map # **37.00-1-7** Zoned: **RA5**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of April, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 23, 2015**”

The file consists of the mailing list to 10 neighboring property owners, the Town’s required forms for an area variance, the Town Planners comments, a narrative, plot plan and depictions of the proposed garage.

The Town Planner had the following comments: “The applicant has applied for an area variance to construct a detached garage in a required front yard. No planning objections.”

John Almstead, applicant, presented the case. Mr. Almstead stated that the house does not face the road and the garage would have to be there because that is where the driveway is; it just makes sense.

Chairman Barber stated that in rural lots houses can be turned completely in a different direction. Chairman Barber stated that it seems very straightforward.

Chairman Barber asked what the height of the garage would be.

Mr. Almstead stated that it would be slightly larger than a one-car garage.

Chairman Barber asked if there was going to be any work space or living space above it.

Mr. Almstead replied “no”.

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. 4518

Request of **John Almstead** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a front yard.**

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

For property owned by **John & Linda Almstead**

Situated as follows: **6602 Westfall Road Altamont, NY 12009**

Tax Map # **37.00-1-7** 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 objection to the granting of this request.

The Board finds that the granting of this request will not cause an undesirable change in the character of the neighborhood or be detrimental to nearby properties.

The variance arises because the proposed garage will be placed between the house and Westfall Road. The house, which does not face the road, is located approximately 114' from the road on a large 11.4 acre wooded lot. The garage would be barely visible by neighbors and passersby on the street.

For these reasons, the Board finds that the area variance should be ***granted*** with 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 5 – 0.

MATTER OF CYNTHIA FUTIA – 4 SCHUYLER ROAD

Jake Crawford 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. 4517

Request of **Cynthia Futia** for a Variance of the regulations under the Zoning Law to permit: **the placement of a previously installed storage shed in a side yard.**

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

For property owned by **Cynthia Futia**

Situated as follows: **4 Schuyler Road Albany, NY 12203**

Tax Map # **51.12-5-7** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of April, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 18, 2015**”

The file consists of the mailing list to 42 neighboring property owners, the Town’s required forms for an area variance along with some photographs of the existing shed on the property and the Town Planners comments.

The Town Planner had the following comments: “The applicant has requested an area variance to allow an existing shed in a required side yard. No planning objections.”

Cynthia Futia, applicant, presented the case. Ms. Futia stated that she moved into the house in 2003 and renovated the entire house. Ms. Futia stated that in 2007 she had a son

and decided to convert the existing one-car garage into a bedroom for her son. Ms. Futia stated that at that time they got a shed to put on the property to house everything that was in the garage and she had met with Don Cropsey so she thought that everything was fine until her neighbor stated that she needed to apply for a variance. Mr. Futia stated that the house sits in the middle of an acre and there is no other viable place for the shed.

Chairman Barber asked the applicant if when she applied for the building permit to convert the garage to a bedroom was that the same time she talked to Don Cropsey about installing the shed.

Ms. Futia stated that it was all the same time.

Chairman Barber asked the applicant if she had submitted an application for a building permit for the shed.

Mr. Futia replied that it was a prefab shed and they had talked to Don Cropsey and he said that he had to check into it. Mr. Futia stated that they did not know if it was included under the permit for the conversion of the garage.

Chairman Barber stated that there is no permit for the shed. Chairman Barber stated that placing sheds in side yards requires a variance and also at least 5' from the property line. Chairman Barber stated that it appears that this shed is closer than 5' to the property line. Chairman Barber asked if this shed was just placed on the property, and if there was a concrete floor.

Mr. Futia replied that it is just placed there and there is no concrete floor.

Ms. Futia stated that behind the shed is stamped concrete so there is no chance of being able to move it back.

Chairman Barber stated that if the Board allows the shed to be placed in that location then they cannot say no to any other person who presents the same situation.

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

Lois Gearhart of 6 Schuyler Road stated that she was not happy with the shed; it is too close to her property line and the shed is huge.

Chairman Barber asked Ms. Gearhart if she had concerns with the shed when it was first placed on the site.

Ms. Gearhart replied stated that she did not want to cause a problem because there was a lot going on at that time.

Jake Crawford asked what the distance was from the property line to the shed.

Jackie Siudy replied that the Building Department went out and measured it off of the foundation and it appears that the shed is approximately 3' off of the property line.

Linda Zampier of 8 Witte Road stated that she was dead set against the shed.

Chairman Barber asked Jackie Siudy if a variance had been granted for this shed could a future property owner come along and put a concrete floor in and use it as a garage. A setback for a detached garage and a setback for a shed are the same as opposed to a setback for an attached garage which is part of the building envelope.

Jackie replied that if there was a concrete floor in there it could be approved for the storage of a motor vehicle.

Chairman Barber stated that the only reason it cannot be used for a motor vehicle is because it does not meet the building code requirement because it has to have a non-combustible floor.

Jackie Siudy stated that the pre-made sheds usually have 2 x 4 or 2 x 6 floor joists and half inch floor material which does not meet the building code for storage of motor vehicles.

Chairman Barber stated that basically if you allow the shed to be there, it could be a garage down the road.

The property owners stated that the shed could not be moved, it would have to be remanufactured to fit onto a slab and then bolted down.

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

Chairman Barber stated that he would like to continue this hearing for two weeks and have Counsel Thayer look into the background information and also determine what the setback is.

There was discussion regarding the outcome and what would be expected of the applicant if the variance is not granted.

Chairman Barber made a motion to continue for two weeks for decision only. Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF ROBERT DUFF – 1853 WESTERN AVENUE

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

Amend Special Use Permit #27-03/Request No. 4513

Request of **Robert Duff** for an amendment to Special Use Permit #27-03 under the Zoning Law to permit: **the use of an existing beauty salon as a holistic halotherapy spa. Eight employees are anticipated.**

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

For property under purchase from **Michelle Marra**
Sited as follows: **1853 Western Avenue Albany, NY 12203**
Tax Map # **52.09-2-43** Zoned: **BNRP**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of April, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 27, 2015**”

The file consists of the mailing list to 129 neighboring property owners, the Town’s required forms for a special use permit along with a SEQRA form for an Unlisted Action, The Town Planning Board’s site plan review, the Town Planners comments, Albany County Planning Board’s notification and a narrative of the proposed use of the property.

The Town Planning Board’s site plan review was to recommend.

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

The Town Planning Board had the following comments: “The applicant is seeking a special use permit to operate a massage therapy spa in the building which was formerly used by a beauty salon. The building is located on the northeast corner of Western Avenue and York Road. Many site improvements were made at the time of that former application and no further changes are anticipated. No planning objections.”

Robert Duff, applicant, presented the case. Mr. Duff stated that halotherapy aids in respiratory and skin disorders by breathing in dry salt air which allows them to breathe easier.

Chairman Barber asked if the therapists were licensed by the State of New York.

Mr. Duff replied that the massage therapists are.

Chairman Barber asked if any other employees were licensed.

Mr. Duff replied “not now”.

Chairman Barber asked how many employees he would have.

Mr. Duff replied in actuality it will be only one to two employees at a time.

Chairman Barber asked if there would be any parties there.

Mr. Duff replied that there is the ability to have a children's party but it is not something that would happen he sees happening anytime soon.

Chairman Barber asked if this was by appointment only.

Mr. Duff replied that you could either make an appointment or just walk in.

Sharon Cupoli asked how long the sessions were.

Mr. Duff replied they were for 45 minutes and there are a maximum of eight people allowed in the session.

Jake Crawford asked about the two different caves.

Mr. Duff replied that the smaller cave is for children, and there would be a maximum of four children in the session.

Chairman Barber asked if the NYS Office of Professions had any jurisdiction over looking at the facility and making certain that the holistic halotherapy is being done in a proper manner.

Mr. Duff replied that it does not.

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 a special use permit for a holistic halotherapy and massage therapy spa at 1853 Western Avenue would have a significant impact upon the environment. Based upon the comments provided to the Board by the Town Planning Board, the Town Planner, Albany County Planning Board, the Board's review of this application, and the conducting of the public hearing this evening 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:

Amend Special Use Permit #27-03/Request No. 4513

Request of **Robert Duff** for an amendment to Special Use Permit #27-03 under the Zoning Law to permit: **the use of an existing beauty salon as a holistic halotherapy spa. Eight employees are anticipated.**

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

For property under purchase from **Michelle Marra**
Situating as follows: **1853 Western Avenue Albany, NY 12203**
Tax Map # **52.09-2-43** Zoned: **BNRP**

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 adopted a negative declaration under SEQRA by a unanimous vote.

The Town Planner noted that the property has undergone many site improvements and had no planning objections.

The Town Planning Board's site plan review was to recommend approval.

The proposed use which will occupy the entire building is an allowed use in this BNRP district.

The parking lot has 15 parking spaces; the applicant has indicated during the public hearing that there will be one to two employees on site at any given time. The sessions scheduled are between 45 minutes and one hour and as a result, there should be adequate parking on site for use by customers. The Code requires that the business provide off street parking and no parking variance was required based upon the measurements of the building and projected employees.

For these reasons, I move that the Board **grant** the special use permit with the following conditions:

Adherence to the plans submitted with the application.

The hours of operation shall be as set forth in the application.

Due to the proximity of the property at the intersection of Rt. 20 and York Road and the safety of pedestrians and residents, there shall be no parking of customers on York Road or other streets. If there are any complaints or regarding the parking, the Board reserves the right to review the parking issues on site.

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 HOLIDAY INN EXPRESS – 1442 WESTERN AVENUE

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. 4514

Request of **Holiday Inn Express** for an amendment to Special Use Permit/Variance #11-93 under the Zoning Law to permit: **the expansion of an existing hotel with the construction of a 10’x24’ addition to accommodate upgrades complying with current ADA standards.**

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

For property owned by **Turf Western Ave, Inc**
Sited as follows: **1442 Western Avenue Albany, NY 12203**
Tax Map # **52.20-4-3** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of April, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 2, 2015**”

The file consists of the mailing list to 104 neighboring property owners, the Town’s required forms for a special use permit and parking variance, a Short Environmental Assessment Form under SEQRA, a project narrative in support of the application, Albany County Planning Board’s notification, the Town Planning Board’s site plan review, the Town Planners comments, a copy of the 1993 special use permit granted by this Board and diagrams and sketches of the work proposed at the site.

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

The Town Planning Board’s site plan review was to recommend without any comments or conditions.

The Town Planner had the following comments: “The applicant is seeking an amendment to extend several rooms by 10’ to bring them into compliance with ADA guidelines. The bump-out will decrease the existing parking by 6 spaces. No other site changes are proposed. No planning objections if parking is deemed to be adequate.”

David Weiler presented the case.

Chairman Barber stated that the applicant would like to enlarge two rooms on each floor and on the bottom floor would also be enlarged.

Mr. Weiler stated that was correct.

Chairman Barber stated that it seems very straightforward; they would be losing 6 spaces but he believes there is already a variance for this and the variance is from a parking ordinance that is overly demanding.

Mr. Weiler stated that they do not have any parking issues.

Chairman Barber stated that this is because of the Department of Justice guidelines that change some of the requirements for public accommodations; wheelchair access and larger passageways.

Mr. Weiler stated that in addition to the guidelines for the bathrooms, the availability of the different types of rooms is also addressed in the new law.

Chairman Barber stated that it would not increase the number of rooms.

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 an expansion of the Holiday Inn Express by approximately 10’ x 24’ throughout all four floors at 1442 Western Avenue would have a significant impact upon the environment. Based upon the comments provided to the Board by the Town Planning Board, the Town Planner, Albany County Planning Board, the Board’s review of this application, the plans submitted in support of the application and the conducting of the public hearing this evening 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. 4514

Request of **Holiday Inn Express** for an amendment to Special Use Permit/Variance #11-93 under the Zoning Law to permit: **the expansion of an existing hotel with the construction of a 10’x24’ addition to accommodate upgrades complying with current ADA standards.**

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

For property owned by **Turf Western Ave, Inc**

Situated as follows: **1442 Western Avenue Albany, NY 12203**

Tax Map # **52.20-4-3** 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 adopted a negative declaration under SEQRA by a unanimous vote for this Unlisted Action.

The Town Planner had no planning objections.

The Town Planning Board's site plan review was to recommend approval.

The proposed addition will allow for increasing the size of two adjacent hotel rooms on the second, third and fourth floors to comply with the ADA and with guidelines issued by the Department of Justice in 2010. The same size addition will also be done on the ground floor which will allow for the enlargement of a breakfast area which is limited to hotel guests.

This addition will not increase the occupancy of the hotel; the same number of rooms will exist.

The addition is at the rear of the building and will not disturb any greenspace, mature trees or landscaping.

There will be a reduction in parking of 6 spaces.

The construction will not increase the impervious surface and will not increase stormwater drainage requirements.

At peak times, there already is adequate parking on site and this application will not increase in any measureable way the parking needs on site.

For these reasons, I move that the special use permit and variance be granted.

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

Adherence to the plans as submitted.

If there is any change in the food preparation area, the Albany County Department of Health would need to approve that in terms of improvements to the breakfast area.

Except as modified, any prior special use permits and variances that are applicable to the property will remain in effect.

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 DJQ REALTY – 1232 WESTERN AVENUE

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. 4515

Request of **DJQ Realty LLC** for an amendment to Special Use Permit #13-68 under the Zoning Law to permit: **the conversion of office space to two extended stay motel units in an existing multi-use building.**

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

For property owned by **DJQ Realty, LLC**

Situated as follows: **1232 Western Avenue Albany, NY 12203**

Tax Map # **63.08-4-7.1** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **1st of April, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **March 20, 2015**”

The file consists of the mailing list to 73 neighboring property owners, the Town’s required forms for a special use permit for the conversion of two offices to extended stay hotel rooms, the Short Environmental Assessment Form under SEQRA, the Town Planners comments, the Town Planning Board’s site plan review, the Albany County Planning Board’s recommendation, a brief narrative in support of the application, a copy of the previous special use permit, floor plans and site plans showing the proposed location.

The Town Planner had the following comments: “The applicant is seeking a special use permit to convert existing office space, currently over the Dunkin Donuts, into two extended stay motel units as part of the Days Inn. No site changes are proposed however, it is anticipated that two motel rooms will generate far less traffic than office space and required fewer parking spaces. No planning objections.”

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

The Town Planning Board’s site plan review was to recommend without any suggestions or conditions.

David Quadrini presented the application.

Chairman Barber stated that the applicant is looking to convert some office space to extended stay motel units.

Mr. Quadrini stated that presently the space over Dunkin Donuts is unused so they would like to turn it into two extended stay rooms.

Chairman Barber asked if there any plans to install any planters or some sort of decorative greenery.

Mr. Quadrini replied that at the Dunkin Donuts corner, the tenant is responsible for that and without taking away parking spaces it would be very difficult for more greenery.

Chairman Barber asked that since it was going to be an extended stay residence had he given any thought to making it look a bit more attractive.

Mr. Quadrini replied that they could put some type of planting going up to the entrances.

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 a special use permit to allow the conversion of office space to extended stay motel units would have a significant impact upon the environment. Based upon the comments provided to the Board by the Town Planning Board, the Town Planner, Albany County Planning Board, the Board’s review of this application, and the conducting of the public hearing this evening 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. 4515

Request of **DJQ Realty LLC** for an amendment to Special Use Permit #13-68 under **the Zoning Law** to permit: **the conversion of office space to two extended stay motel units in an existing multi-use building.**

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

For property owned by **DJQ Realty, LLC**

Situated as follows: **1232 Western Avenue Albany, NY 12203**

Tax Map # **63.08-4-7./1** 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 adopted a negative declaration for an Unlisted Action under SEQRA.

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

The Town Planner had no planning objections and noted that the extended stay use would generate far less traffic and fewer parking spaces than the allowed office use.

The Town Planning Board recommended approval.

The Board further finds that the proposed extended stay units will be operated by Days Inn and as noted by the Town Planner, this use requires less parking and would generate less traffic than the allowed office use.

No parking variance is required.

The proposed use is an extension of an allowed use and therefore appropriate for this General Business district.

There is little landscaping in front of the building primarily because there is little space for landscaping. Although the conversion does not entail any exterior work, the transition of the use from an office to an extended stay use might provide an opportunity for slight improvements of the property.

For these reasons, the Board ***grants*** the request for the amended special use permit with the following conditions:

Adherence to the plans as submitted with the application.

The applicant shall work with the Zoning Administrator on any minor improvements that might be appropriate for the appearance of the property such as potted or wall mounted plants to suggest the property is transitioning slightly to more of a residential dwelling space.

Except as amended by this decision, any prior special use permits or variances for the property shall remain in effect.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MINUTES:

The Board approved the minutes of 1/21/15 and 3/4/15.

SIGNS:

The Board approved a name change sign at 3770 Carman Road. Vote 5 – 0.

The Board approved a sign for McDonalds at 1602 Western Avenue contingent that the pole itself is not any taller than it is now. Vote 5 – 0.

The Board approved a sign for Madame Piries corset shop at 2 Alton Road. Vote 5 – 0.

The Board approved a sign for Michaels at Pinehaven at 1151 Siver Road. Vote 5 – 0.

The Board approved two signs for Boutique and Pet Spa at 2563 Western Avenue. Vote 5 – 0.

The Board discussed the meeting on April 15, 2015 with CDTA and the traffic at Crossgates.

The meeting adjourned at 8:45pm.