

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
MAY 20, 2015**

Members Present: Jacob Crawford, Acting Chairman
Sharon Cupoli, Acting Chairman
Mike Marcantonio, Alternate
Janet Thayer, Counsel

Members Absent: Peter Barber, Chairman
Thomas Remmert
Sindi Saita

Acting Chairman Sharon Cupoli opened the meeting and pointed out the emergency exits in the event they were needed.

Counsel Thayer stated that at tonight's ZBA meeting they were down to the bare minimum for a quorum. For there to be a quorum, there must be at least three voting members and in order for anything to pass this evening, it will require a 3 YES vote. If any applicant should decide to wait and have their matter adjourned until there is a full Board they will be glad to accommodate them. There will be no negative inference if an applicant decides they would like to wait.

Chairman Barber stated that the first case of Cynthia Futia of 4 Schuyler Road had been adjourned.

CONTINUED CASES:

MATTER OF ARMAND QUADRINI – OXFORD HEIGHTS

Counsel Thayer read the legal notice:

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

Special Use Permit Request No. 4489

Request of Armand Quadrini for a Special Use Permit under the Zoning Law to permit: **the construction of a 20 unit apartment building at an existing complex in a MR zone.**

Per Articles III & V Sections 280-15 & 280-52 respectively

For property owned by Oxford Heights LLC

Situated as follows: 6203 Johnston Road Albany, NY 12203

Tax Map # 52.03-1-13 Zoned: MR

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 20th of May, 2015 at the Guilderland Town Hall beginning at 7:30pm.

Dated: May 11, 2015”

Acting Chairman Crawford stated that since the last meeting the Board has received updated letters from Delaware Engineering and Hershberg and Hershberg.

William Mafrici of Hershberg and Hershberg stated that changes have been made in response to the TDE’s comments.

Mr. Mafrici showed the area that was being dedicated to the Town and they have created an access directly from their property to that area.

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

Virginia Satalino of 6196 Johnston Road asked where the exit would be; onto Johnston Road, Ildra Lane or Ashford Drive. Ms. Satalino also had concerns regarding debris from Ashford Drive to Ildra Lane.

Mr. Mafrici stated that the building sits pretty much in the center of the complex and all the exits will remain the same.

Carl Morris of 6195 Johnston Road had concerns regarding the parking and if the buffer zone between Oxford Heights and Ildra Lane would change. Mr. Morris also was concerned about the sewer lines.

Armand Quadrini stated that they have 650 parking spaces which equates to 2.4 spaces per apartment so there is plenty of parking spaces.

Mr. Quadrini stated that they would not be touching the buffer area, they are actually adding buffer with the conservation area.

Ken Johnson of Delaware Engineering stated that he had reviewed the plans; they are building a new twenty unit apartment building and 16 parking spaces will be included underneath the building. The applicant is providing the Town of Guilderland with 5.7 acres of dedicated land. Mr. Johnson stated that the plans have been reviewed by the Highway Department, the Water/Wastewater Department, the Parks Department and the Westmere Fire Department.

Mr. Johnson stated that they have satisfied his concerns.

There was discussion regarding cars parking on Ashford Drive.

Acting Chairman Crawford made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion of non-significance in this Unlisted Action: “This Board has conducted a careful review of this application to determine whether or not the granting of this special use permit for a 20-unit apartment building would have a significant impact upon the environment. In conducting this review, this Board considered comments provided by the TDE, Ken Johnson on the stormwater management and lighting plan. We have also considered comments from the Town Planning Board, the Town Planner, the Albany County Planning Board as well as the Zoning Board’s review of this application. Based upon this collective record, I move that a negative declaration under SEQRA should be issued.” Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion for approval of:

Special Use Permit Request No. 4489

Request of **Armand Quadrini** for a Special Use Permit under the Zoning Law to permit: **the construction of a 20 unit apartment building at an existing complex in a MR zone.**

Per Articles **III & V** Sections **280-15 & 280-52** respectively

For property owned by **Oxford Heights LLC**

Situated as follows: **6203 Johnston Road Albany, NY 12203**

Tax Map # **52.03-1-13** Zoned: **MR**

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

A public hearing was duly noticed and held. Several residents provided comments tonight at the public hearing.

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

Both the Town Planning Board and the Town Planner recommended approval with comments considered by this Board.

The Albany County Planning Board recommended disapproval based on the potential negative impacts on the County’s stormwater management system. Part of that disapproval was based upon the lack of engineering reviewing showing the lack of impact.

This Board appointed Ken Johnson of Delaware Engineering as the TDE to review the proposed water, sanitary and stormwater systems, also the proposed lighting and landscaping plans. In his report, Mr. Johnson states that he consulted the Highway

Department, Parks Department and Westmere Fire Department and found that the proposal met conditional approval.

The proposed use is an allowed use in this MR district.

The building is designed to be compatible with other buildings.

The additional 16 parking spaces are adequate.

The proposed lighting is acceptable.

No parking variance is required.

The application includes dedicating 5.7 acres of land to the Town; that parcel is adjacent to the existing Town lands and a 30' wide access is provided.

The Board will condition approval upon the Board's acceptance of the proposed dedication.

The Zoning Code places limitations on the density of MR projects.

The proposed project falls well below the allowed density limits.

For these reasons, the Board ***grants*** the amended Special Use Permit.

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

Adherence to plans as submitted and the representations contained in the application.

Westmere Fire Department's review of the final site and building plans.

Prior to drywall installation, provide a percolation and deep test holes to verify site conditions for the proposed stormwater system.

Delaware Engineering shall continue as the TDE to confirm the storm system handles stormwater on site and does not contribute runoff into the County's stormwater system.

Town Board approval of proposed land dedication.

Except as amended by this decision, all other provisions of prior special use permits shall remain in effect.

The Building Department 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 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF SANDELL MANUFACTURING – 310 WAYTO ROAD

Counsel Thayer read the legal notice:

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

Special Use Permit Request No. 4503

Request of **Sandell Manufacturing Co. Inc.** for a Special Use Permit under the Zoning Law to permit: **the construction of a 20,000sf addition to an existing warehouse/manufacturing facility.**

Per Articles III & V Sections 280-23 & 280-52 respectively

For property owned by **SJM Realty LLC**

Situated as follows: **310 Wayto Road Schenectady, NY 12303**

Tax Map # **15.00-2-3** Zoned: **Ind**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 11, 2015**”

Acting Chairman Crawford stated that since the last hearing the Board has received updated letters from Hershberg & Hershberg on March 17, April 21 and April 29 as well as letters from Ken Johnson, TDE on May 11th and updated plans for the proposed 20,000sf addition.

Bill Mafriaci of Hershberg & Hershberg stated that the changes that were made to this addition in the rear of the Sandell property was mostly fire service related. They extended the water main and added two other hydrants to provide access and fire protection around the building. A T-turn was also created and expanded the 20’ wide paved area around the east side of the building for fire access and circulation.

Mr. Mafriaci stated that the addition is not for cold storage, it will be heated.

Acting Chairman Crawford asked what the size of the addition would be.

Mr. Mafriaci replied that it would be 21,600sf.

Acting Chairman Crawford asked about the piles of debris on the property.

Saverio Minucci, owner, stated that the debris on the right side will be used for backfill.

Acting Chairman Crawford asked about the removal of the water tower.

Mr. Mafrici stated that was scheduled to be removed in Phase II after the second building is up and it is no longer needed.

Acting Chairman Crawford stated that the Board was under the understanding that it would be removed while building this addition to the facility.

Mr. Mafrici stated that it is noted on the plan that it will be removed before the Certificate of Occupancy is issued.

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

Acting Chairman Crawford made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion of non-significance in this Unlisted Action: “This Board has conducted a careful review of this application to determine whether or not the granting of this special use permit for a 21,600sf addition to an existing warehouse/manufacturing facility would have a significant impact upon the environment. In conducting this review, this Board considered comments provided by the TDE, Ken Johnson on the stormwater management, the Town Planner, the Town Planning Board, the Albany County Planning Board, the Fire Department’s review as well as the Zoning Board’s review of this application. Based upon this collective record, I move that a negative declaration under SEQRA should be issued.” Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion for approval of:

Special Use Permit Request No. 4503

Request of **Sandell Manufacturing Co. Inc.** for a Special Use Permit under the Zoning Law to permit: **the construction of a 21,600sf addition to an existing warehouse/manufacturing facility.**

Per Articles **III & V** Sections **280-23 & 280-52** respectively

For property owned by **SJM Realty LLC**

Situated as follows: **310 Wayto Road Schenectady, NY 12303**

Tax Map # **15.00-2-3** Zoned: **Ind**

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

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

Both the Town Planner and the Town Planning Board recommended approval which was considered by this Board.

The Albany County Planning Board recommended approval with modifications which were also considered by this Board.

Multiple public hearings were held on this application. Comments were received from neighbors concerning the property and traffic to the facility. The Board has received response back from the applicant on the comments.

This Board appointed Ken Johnson of Delaware Engineering as TDE to review the proposal for stormwater management and recharge basins, water pressure, and septic and sewer.

The proposed use is an allowed use in this Industrial zone.

Based on these findings, I move that the Board ***grant*** this Special Use Permit with the following conditions:

Albany County Department of Health's review of the tile field.

Fort Hunter Fire Department's review of the application.

Removal of the water tower within 60 days of the issuance of the building permit.

NYSDOH's review of the water system's extension and associated systems and any other conditions that were set forth in the TDE's reports and letters.

Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

NEW CASES:

MATTER OF RTS CONSTRUCTION – 2799 W. LYDIUS STREET

Counsel Thayer read the legal notice:

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

Variance Request No. 4528

Request of **RTS Construction** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a side yard.**

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

For property owned by **Mark Cutturini**

Situated as follows: **2799 W Lydius Street Schenectady, NY 12306**

Tax Map # **15.00-1-39** Zoned: **R20**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 12, 2015**”

The file consists of the mailing list to 19 neighboring property owners, the Town’s required forms for an area variance for the application, the Town Planners comments, the plot plans and a narrative.

The Town Planner had the following comments: “The applicant has requested an area variance to place a garage in the required side yard on a corner lot. No planning objections.”

Russ Stouffer of 133 Lincoln Avenue presented the case. Mr. Stouffer stated that the applicant would like to build a detached two car garage in the side yard of the property. Mr. Stouffer stated that it was one of the only locations to put it on the property. Mr. Stouffer stated that it would match the existing house and would be all within the setbacks of the property.

Counsel Thayer asked if this was a corner lot.

Mr. Stouffer stated that this was not a corner lot.

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

Acting Chairman Crawford made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion for approval of:

Variance Request No. 4528

Request of **RTS Construction** for a Variance of the regulations under the Zoning Law to permit: **the placement of a garage in a side yard.**

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

For property owned by **Mark Cutturini**

Situated as follows: **2799 W Lydius Street Schenectady, NY 12306**

Tax Map # **15.00-1-39** Zoned: **R20**

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 s Type II Action under SEQRA, not requiring SEQRA review.

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

The Board finds that the application for this garage will not cause any negative visual impacts.

The proposed garage meets the required setbacks.

Under these circumstances, the placement of the garage in the side yard will not cause any undesirable change in the character of the neighborhood and this variance should be granted.

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

Adherence to the plans as submitted with the application.

The Building and Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF NOREEN NOVAK – 150 SOLANA LANE

Counsel Thayer read the legal notice:

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

Variance Request No. 4529

Request of **Noreen Novak** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 20’ x 28’ storage shed in a side yard.**

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

For property owned by **Noreen Novak**

Situated as follows: **150 Solana Lane Altamont, NY 12009**

Tax Map # **37.00-3-19.2** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 20th of May, 2015 at the Guilderland Town Hall beginning at 7:30pm.

Dated: May 13, 2015”

The file consists of the mailing list to 12 neighboring property owners, the Town’s required forms for an area variance, a narrative provided by the applicant, the site plan and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant is requesting an area variance to install a shed in the required side yard because of slope considerations. No planning objections.”

Noreen Novak, applicant, presented the case. Ms. Novak stated that they need to install the shed in the side yard because of the topography and the raised leach field in the back yard.

Acting Chairman Crawford stated that it seems very straightforward.

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

Acting Chairman Crawford made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion for approval of:

Variance Request No. 4529

Request of **Noreen Novak** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 20’ x 28’ storage shed in a side yard.**

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

For property owned by **Noreen Novak**

Situated as follows: **150 Solana Lane Altamont, NY 12009**

Tax Map # **37.00-3-19.2** Zoned: **RA3**

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 placement of the shed will not cause any visual impacts.

Under these circumstances, the placement of the shed in the side yard will not cause any undesirable change in the character of the neighborhood and should be granted.

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

Adherence to the plans as submitted by the applicant.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF BRUCE ROTH & SARAH VAN LEER – 6301 FOUNDRY ROAD

Counsel Thayer read the legal notice:

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

Variance Request No. 4525

Request of **Bruce Roth & Sarah VanLeer** for a Variance of the regulations under the Zoning Law to permit: **the relocation of an accessory structure to remain within a side yard and within 100ft of a watercourse.**

Per Articles **IV & V** Sections **280-29, 280-34 and 280-51** respectively

For property owned by **Bruce Roth & Sarah VanLeer**
Situated as follows: **6301 Foundry Road Guilderland, NY 12084**
Tax Map # **40.17-2-9** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **April 27, 2015**”

The file consists of the mailing list to 18 neighboring property owners, the Town’s required forms for an area variance, a narrative provided by the applicant, site plan relocation of the structure and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant has applied for an area variance to relocate a barn structure within the required side yard and within 100’ of a watercourse. The barn will be moved further from the watercourse than it is now; however, it will still be in the floodplain and will have t conform to all floodway

regulations. I am a little uncomfortable with how close this large structure will be to the road and would ask that all due consideration be given to minimizing the front variance while still being able to meet the applicants' objective."

Bruce Roth and Sarah Van Leer, applicants, presented the case. Ms. Van Leer stated that they have a barn that is sinking slowly into the ground and it is impairing the structural integrity of the barn. Ms. Van Leer stated that the barn is approximately 40' x 24' and they have made an application for solar installation and was told if they put the solar panels on the barn, it would collapse because it is sinking off of the foundation. Ms. Van Leer stated that they were advised to put in a "real" foundation on a higher part of the property and move the barn to that. Ms. Van Leer stated that they would like to align it with the front line of the house.

Acting Chairman Crawford asked if they moved it, do they think that it will not sink in the new location. Acting Chairman Crawford asked what the difference was in the ground compared to the present location.

Ms. Van Leer replied that there would be a concrete foundation and footings dug; right now it is on stone. Ms. Van Leer stated that the drainage on the whole lot would be corrected.

Mr. Roth replied that it would be on higher ground than it currently is.

Acting Chairman Crawford asked how much closer to the road it would be.

Ms. VanLeer replied that it would be about 40' closer to the road, which would align it with the front of the house.

Sharon Cupoli asked if there was any possibility they could only move it approximately 20' instead of 40' and if the engineer provided them with a stability report.

Mr. Roth stated that they did not provide them with any report on the stability of the land.

Acting Chairman Crawford asked if there was a reason that it could not be moved elsewhere on the property.

Mr. Roth stated that there is a ditch between the house and the barn.

Ms. VanLeer stated that it could go a little bit towards the house and they are also trying to maintain this so that they can put a solar array on the barn and if it is put behind the house they will not have enough exposure.

Acting Chairman Crawford stated he was concerned about moving it closer to the road and was hoping that maybe they could split the difference and not move it so close.

Jackie Siudy stated that she would like to see it moved as far away from the creek as possible. Jackie stated that the entire property is in the flood zone and would rather see more of a variance to be in a side or front yard as opposed to being within the 100' setback from the watercourse.

Ms. VanLeer stated that they were open to suggestions as to the location.

Sharon Cupoli stated that she would like to see the applicants speak to their engineer and see what their rationale is for placing it that close to the road.

Acting Chairman Crawford asked if there were any questions or comments from the residents. There were none. Acting Chairman Crawford made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Crawford made a motion to continue the hearing for two weeks (June 3rs) for decision only and to give the Board members another chance to visit the property. Motion seconded by Sharon Cupoli. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF DAVID & JODI BURCH – 5610 GRANT HILL ROAD

Counsel Thayer read the legal notice”

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

Variance Request No. 4530

Request of **David & Jodi Burch** for a Variance of the regulations under the Zoning Law to permit: **the placement of a shed in a side/front yard.**

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

For property owned by **David & Jodi Burch**

Situated as follows: **5610 Grant Hill Road Voorheesville, NY 12186**

Tax Map # **61.00-2-11.1** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 13, 2015**

The file consists of the mailing list to 15 neighboring property owners, the Town’s required forms for an area variance, the Town Planners comments, a narrative, a plot plan and construction details.

The Town Planner had the following comments: “The applicant has requested an area variance to place a shed in a side yard and only 10’ from the front property line. I am not seeing any reason this structure could not be placed to meet the front yard requirements, or at the very least, minimized.

David Burch, applicant, presented the case.

Acting Chairman Cupoli asked if there was any reason this shed could not be moved back so that it is not as close to the front of the house.

Mr. Burch replied that they are in the process of putting an in ground pool in that area.

Mr. Burch stated that once the pool is put in, he would set the shed as close to the pool as possible.

Acting Chairman Cupoli stated that the applicant would put it closer to the pool than as stated in the application.

Jake Crawford stated that the application stated they could not place the shed behind the house because of the leach field.

Mr. Burch stated that was correct; it is a wetter area behind the house toward the right and the leach field goes on the left side of the house up into the woods. Mr. Burch stated that it would be much more convenient to have it closer to the house.

Acting Chairman Cupoli asked about fencing and if the shed would be inside of the fencing.

Mr. Burch replied that it would be totally outside of the fencing.

Acting Chairman Cupoli asked if there were any questions or comments from the residents. There were none. Acting Chairman Cupoli made a motion to close the public hearing. Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion for approval of:

Variance Request No. 4530

Request of **David & Jodi Burch** for a Variance of the regulations under the Zoning Law to permit: **the placement of a shed in a side/front yard.**

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

For property owned by **David & Jodi Burch**

Situated as follows: **5610 Grant Hill Road Voorheesville, NY 12186**

Tax Map # **61.00-2-11.1** Zoned: **RA3**

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 Board requests that the applicant move the shed as close to the proposed pool as possible to minimize the variance. The applicant agrees to decrease the size of the shed if need be to achieve that result.

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

Adherence to the plans as submitted with the application with the modifications of the placement closer to the pool.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF BLACK & BLUE RESTAURANT – 1470 WESTERN AVENUE

Counsel Thayer read the legal notice:

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

Variance Request No. 4520

Request of the **Black & Blue Restaurant** for a Variance of the regulations under the Zoning Law to permit: **a total of 86sf of signage for where 50sf is permitted.**

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

For property owned by **Charles Fitzsimmons**

Situated as follows: **1470 Western Avenue Albany, NY 12203**

Tax Map # **52.19-3-5** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **May 2, 2015**”

The file consists of the mailing list to 29 neighboring property owners, the Town's required forms for an area variance, Albany County Planning Board's recommendation, a depiction of the proposed signage, a description of the sign and a site plan.

Albany County Planning Board's recommendation was to defer to local consideration with the following advisory: The Zoning Board should consider the precedent setting nature of allowing significant area variances to the sign code in the commercial zone.

Charles Fitzsimmons, applicant, presented the case.

Acting Chairman Cupoli stated that the applicant was looking for two signs; one over the door on the building and the front side of the building and asking for a variance of 36sf.

Mr. Fitzsimmons stated that was correct.

Acting Chairman Cupoli asked if he had given any thought to shrinking the signs a bit.

Mr. Fitzsimmons stated that the rationale for it was it is a rather large building, about 100 linear feet, and due to the size of the building and the way the current location of the main sign (Black and Blue) is located, there is a portion of the building that blocks the majority of the sign over the door. Mr. Fitzsimmons stated that it was also under somewhat of a glass awning and most people going east would not see the sign.

Mr. Fitzsimmons stated that the added "B & B" on the right side could be shrunk down, but the location fits well for second signage and would allow eastern traffic to better notice the restaurant.

Jake Crawford asked if the signs would be inside the pillars.

Mr. Fitzsimmons stated that would be in quite a bit from the edge of the stone.

Acting Chairman Cupoli asked if this was the same signage as their other restaurant in Rochester.

Mr. Fitzsimmons replied they are the two logos that the restaurant uses.

Acting Chairman Cupoli asked if they have any intention of having freestanding signage of any nature.

Mr. Fitzsimmons replied the signage would be solely on the restaurant and he would be willing to shrink the "B & B", but would like some presence out there so eastern traffic would notice that it is not an office building, but a restaurant.

Mike Marcantonio stated that he likes the look of the signage and the building and if the applicant is in agreement with shrinking the "B&B" a tad, he thinks it works.

Jackie Siudy stated that if the applicant agrees to shrink the “B&B” by 20%, it would reduce the sign area by about 9sf which would be a bit more acceptable.

Acting Chairman Cupoli stated if the applicant is in agreement to shrink the signage, the Board would be willing to grant the variance.

Jake Crawford asked about the LED lighting.

Mr. Fitzsimmons stated that it was interior illuminated channel letters.

Acting Chairman Cupoli asked if there were any questions or comments from the residents. There were none. Acting Chairman Cupoli made a motion to close the public hearing. Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion for approval of:

Variance Request No. 4520

Request of the **Black & Blue Restaurant** for a Variance of the regulations under the Zoning Law to permit: **a total of 77sf of signage for where 50sf is permitted.**

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

For property owned by **Charles Fitzsimmons**

Situated as follows: **1470 Western Avenue Albany, NY 12203**

Tax Map # **52.19-3-5** 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.

The applicant is agreeable to reducing the size of the “B&B” by 20%, or 9sf.

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

Adherence to the plans as submitted with the application with the change that the “B&B” be reduced by 20%, or 9sf for a total of 77sf of signage.

The Building/Zoning Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF CARL BRUNI – 5664 DEPOT ROAD

Counsel Thayer read the legal notice:

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

Amend Special Use Permit #37-94, Request No. 4516

Request of **Carl Bruni** for an amendment to Special Use Permit #37-94 under the Zoning Law to: **delete finding #6 which states that “storage of anything outside the buildings is expressly prohibited” and to permit the installation of four storage sheds.**

Per Articles **III & V** Sections **280-23 & 280-52** respectively

For property owned by **Three Bs Movers Inc**

Situated as follows: **5664 Depot Road Voorheesville, NY 12186**

Tax Map # **61.00-1-26.2** Zoned: **IN**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **April 16, 2015**”

The file consists of the mailing list to 19 neighboring property owners, the Town’s required forms for an amendment to a special use permit, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, the Town Planner’s comments, the Town Planning Board’s site plan review, Albany County Planning Board’s notification, a narrative, previous special use permit, a depiction of the property and plans.

The Town Planner had the following comments: “The applicant has requested an amendment to his special use permit to allow outdoor storage of vehicles and also four storage sheds. The property is zoned Industrial and I understand that no other storage facility has a “no outdoor storage” clause. I have the following comments:

-The adjacent wetlands may extend into the area where parking is proposed. It is unclear from the plans whether this area is to be paved or not. In either case, the wetlands should be delineated and avoided.

-The Board may want to consider some screening along Depot Road as the west side is zoned residential and has a row of homes.

No planning objections if the above concerns are adequately addressed.”

The Town Planning Board’s site plan review was to recommend with the following conditions: provide landscaping plan to adequately screen proposed sheds from adjoining residence.

Albany County Planning Board's notification was to modify local approval to include:

- Review by the ACDPW for design of highway access, assessment of road capacity, and drainage. Although the property has existing access to CR 208 a review for the present use of the property needs to be done for adequacy of the driveway entrance to CR 208.
- The Town should ensure that the amount of site disturbance does not require a SWPPP. The poor quality of the plan submitted does not provide clear indications of dimensions of the parking area and the plans for the shed area.
- The Town should ensure that the vehicle storage area is an impervious surface designed to catch spills from fuel oil and gasoline.

Carl Bruni, applicant, presented the case.

Acting Chairman Cupoli stated that it appears the applicant is trying to adapt the existing facility to make it a better work environment.

Carl Bruni stated that they are trying to clean up the site by having some preexisting sheds that are already built to put their equipment in so that it is inside, not outside. Mr. Bruni stated that the parking would be to the right.

Acting Chairman Cupoli asked if the parking area would be paved.

Mrs. Bruni replied that it is partially paved now and part stone. Mrs. Bruni stated that they are asking to put the sheds closest to the existing fence where the house next door has a shed.

Acting Chairman Cupoli asked about screening of the sheds.

Mrs. Bruni replied that they would be planting arborvitae.

Jackie Siudy stated that the applicant might have to consider a different species of tree because deer tend to eat the arborvitae.

Jake Crawford asked if the outside parking would be used for the moving business.

Mrs. Bruni replied that it is for the storage business because they allow people to use the trailers to transfer their belongings into their storage facility.

Jake Crawford asked if they would be storing additional equipment there.

Mrs. Bruni replied "no", they need the backhoe to clear snow, etc.

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

Robert Griffin of 5657 Depot Road had concerns with the outdoor storage and did not want to see businesses coming and going every day with trailers, workers, etc.

Mr. Bruni stated that the sheds will be placed to the left where the resident's sheds are; back to back along that area. Mr. Bruni stated that there would not be another entrance by Besco Metals.

Mrs. Bruni stated that they are only requesting to put pre-constructed storage sheds there to make the property look better.

Acting Chairman Cupoli asked if they are looking to expand the business.

Mr. & Mrs. Bruni both replied "no".

Catherine Scriber of 5667 Depot Road, directly across the driveway, had concerns with all of the vehicles on the property. Ms. Scriber also wanted to know the size and type of the vehicles that would be coming and leaving the property.

Acting Chairman Cupoli made a motion to close the public hearing. Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion of non-significance in this Unlisted Action: "After careful review of this application by this Board we have determined that the granting of this special use permit to delete finding #6 of SUP #37-94 which states that "storage of anything outside the buildings is expressly prohibited" and to permit the installation of four storage sheds would not have a significant impact on the environment. In conducting this review, the Board has considered the comments provided to us by the Albany County Planning Board, the Town Planning Board, the Town Planner, the applicant and the conducting of this hearing tonight. Based on this collective record, I move that a negative declaration under SEQRA should be issued." Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion for approval of:

Amend Special Use Permit #37-94, Request No. 4516

Request of **Carl Bruni** for an amendment to Special Use Permit #37-94 under the Zoning Law to: **delete finding #6 which states that "storage of anything outside the buildings is expressly prohibited" and to permit the installation of four storage sheds.**

Per Articles **III & V** Sections **280-23 & 280-52** respectively

For property owned by **Three Bs Movers Inc**

Situated as follows: **5664 Depot Road Voorheesville, NY 12186**

Tax Map # **61.00-1-26.2** Zoned: **IN**

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

A public hearing was duly noticed and held this evening. Two residents spoke at the hearing with concerns which were addressed at the hearing.

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

The applicant is agreeable to using landscaping screening, preferably arborvitae or something that is deer-proof.

Albany County Planning Board's notification was to modify local approval to include:

- Review by the ACDPW for design of highway access, assessment of road capacity, and drainage. Although the property has existing access to CR 208 a review for the present use of the property needs to be done for adequacy of the driveway entrance to CR 208.
- The Town should ensure that the amount of site disturbance does not require a SWPPP. The poor quality of the plan submitted does not provide clear indications of dimensions of the parking area and the plans for the shed area.
- The Town should ensure that the vehicle storage area is an impervious surface designed to catch spills from fuel oil and gasoline.

The Town Planning Board recommended with the condition that the applicant provide a landscaping plan to adequately screen the proposed sheds from the adjoining residence.

The Town Planner had the following comments: "The applicant has requested an amendment to his special use permit to allow outdoor storage of vehicles and also four storage sheds. The property is zoned Industrial and I understand that no other storage facility has a "no outdoor storage" clause. I have the following comments:

- The adjacent wetlands may extend into the area where parking is proposed. It is unclear from the plans whether this area is to be paved or not. In either case, the wetlands should be delineated and avoided.
- The Board may want to consider some screening along Depot Road as the west side is zoned residential and has a row of homes.

The Board ***grants*** this application with the following conditions:

Adherence to the plans as submitted with modifications for the landscaping plan.

There will be no storage of vehicles in the drive access to the storage facility.

The Zoning/Building Inspector is hereby authorized to issue the permits necessary to implement this decision.

Motion seconded by Mike Marcantonio. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

MATTER OF JANET ENDRES – 3403 CARMAN ROAD

Counsel Thayer read the legal notice:

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

Special Use Permit Request No. 4511

Request of **John & Janet Endres** for a Special Use Permit under the Zoning Law to permit: **an existing market building to be used as a gluten free bakery. All site characteristics are pre-existing. The adequacy of the existing parking and its location shall be determined by the Board.**

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

For property under contract from **Arthur & Bonnie Greulich**

Situated as follows: **3403 Carman Road Schenectady, NY 12303**

Tax Map # **15.18-3-39.1** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **April 27, 2015**”

The file consists of the mailing list to 36 neighboring property owners, the Town’s required forms for a Special Use Permit along with a Short Environmental Assessment for this Unlisted Action under SEQRA, the Town Planners comments, Albany County Planning Board’s notification, the Town Planning Board’s site plan review, a depiction of the site, contract purchase of sale, a rendering of the proposed building and a map of the site.

Albany County Planning Board’s notification of 3/19/15 was to modify local approval to include review by the ACDOH for food service and other required permits.

The Town Planning Board’s site plan review was to recommend with the following conditions: 1) provide landscaping plan, 2) revise plans to modify extent of pavement removal to create a more standard entrance, with approximate 30’ radii and 24’ throat width, and 3) proposed sidewalk will be shown across frontage inside property line.

The Town Planner had the following comments: “In response to the Planning Board’s comments, the applicant has revised the site plan for the former Greulich’s site – the easement to the rear property will be relocated onto the drive aisle, a proposed sidewalk is shown, the entire northern curbcut will be eliminated and the parking in front of the building removed and this area will now become green space.

The Zoning Board should determine when the sidewalk will be installed and also review a lighting and landscaping plan.

I believe these changes will be a vast improvement to the site and the reuse of the building an asset to the community. No planning objections.”

Fred Metzger, Land Surveyor, stated that they adhere to all of the requirements and comments made by the Town Planning Board. Mr. Metzger stated that they shrunk the radius from 30’ to 25’ after talking to DOT.

Acting Chairman Cupoli stated that the applicant is looking to put in a gluten free bakery with retail space.

Jake Crawford asked if there was going to continue to be a right-of-way through the parking lot to properties in the back.

Mr. Metzger replied that was correct.

Acting Chairman Cupoli asked if they were going to be removing all of the pavement in the front of the building.

Mr. Metzger stated that was correct with the exception of the 20’ wide access for the drive aisle.

Acting Chairman Cupoli asked about the parking.

Mr. Metzger stated that the parking would be along the side of the building and on the southerly portion of the lot.

There was discussion regarding the hours of operation.

Jake Crawford asked about the exterior lighting.

Mr. Metzger stated that they would be using the existing lighting.

Counsel Thayer asked about the cow.

The applicant replied that it would be given back to Art Greulich.

Jake Crawford asked about the sidewalk.

Mr. Metzger replied that it is on the plans, and if sidewalks go in along Carman Road, it will be installed in that location.

Acting Chairman Cupoli asked if there were any questions or comments regarding the application. There were none. Acting Chairman Cupoli made a motion to close the

public hearing. Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion of non-significance in this Unlisted Action: “This Board has conducted a careful review of the application to determine whether the granting of this special use permit to allow a gluten free bakery in an existing market building would have a negative impact upon the environment. This review consisted of the review of the case, the Town Planning Board’s comments, the Town Planners comments, the comments provided by Albany County Planning Board and the Board has determined that this would not have a significant impact upon the environment. I move that a negative declaration under SEQRA be issued.” Motion seconded by Mike Marcantonio. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate)

Acting Chairman Cupoli made a motion for approval of:

Special Use Permit Request No. 4511

Request of **John & Janet Endres** for a Special Use Permit under the Zoning Law to permit: **an existing market building to be used as a gluten free bakery. All site characteristics are pre-existing. The adequacy of the existing parking and its location shall be determined by the Board.**

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

For property under contract from **Arthur & Bonnie Greulich**
Situated as follows: **3403 Carman Road Schenectady, NY 12303**
Tax Map # **15.18-3-39.1** 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.

The Board adopted a negative declaration by a unanimous vote.

The Town Planning Board’s site plan review was to recommend with the following conditions: 1) provide landscaping plan, 2) revise plans to modify extent of pavement removal to create a more standard entrance, with approximate 30’ radii and 24’ throat width, and 3) proposed sidewalk will be shown across frontage inside property line; all of which the applicant has adhered to.

The Town Planner’s comments were as follows: In response to the Planning Board’s comments, the applicant has revised the site plan for the former Greulich’s site – the easement to the rear property will be relocated onto the drive aisle, a proposed sidewalk is shown, the entire northern curbcut will be eliminated and the parking in front of the building removed and this area will now become green space.

The Zoning Board should determine when the sidewalk will be installed and also review a lighting and landscaping plan.

I believe these changes will be a vast improvement to the site and the reuse of the building an asset to the community. No planning objections.”

Albany County Planning Board’s notification of 3/19/15 was to modify local approval to include review by the ACDOH for food service and other required permits.

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

Adherence to the revised plans as submitted with the application.

The hours of operation shall be as follows: Monday – Sunday from 6am to 8pm.

The Building/Zoning Inspector is hereby authorized to issue the permit 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 Mike Marcantonio. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate).

MATTER OF GOLUB CORP. – 2080 WESTERN AVENUE

Counsel Thayer read the legal notice:

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

Amend Special Use Permit #20-11, Request No. 4519

Request of **Golub Corporation** for an amendment to Special Use Permit #20-11 under the Zoning Law to permit: **the rehabilitation of an existing supermarket known as Price Chopper. This rehabilitation will include changes to the existing entrance, relocation of the bottle return service area and revisions to crosswalks/pavement striping/signage. A variance for a reduction in the number of parking spaces and width of drive aisles for the plaza was approved with Special Use Permit #20-11.**

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

For property owned by **(20) Mall at Guilderland, LLC**

Situated as follows: **2080 Western Avenue Guilderland, NY 12084**

Tax Map # **51.02-2-4** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **20th of May, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **April 30, 2015**”

The file consists of the mailing list to 27 neighboring property owners, the Town's required forms for a Special Use Permit, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, the Town Planning Board's site plan review, the Town Planners comments, Albany County Planning Board's notification of 4/21/15, a narrative prepared by Hershberg and Hershberg, a letter dated 1/27/15 from Hershberg and Hershberg and diagrams and schematics of the proposed changes.

The Town Planning Board's site plan review was to recommend with the following: 1) provide detail of proposed crosswalk style (preferably "ladder" style, 2) consider providing conduit and other infrastructure to accommodate electric vehicle charging stations and 3) identify location of any outdoor displays or sales area."

The Town Planner had the following comments: "The applicant has amended their site plan in response to the comments of the Planning Board. Among the improvements are the narrowing of the main drive aisle, the widening of the end islands, pavement marking to direct vehicles to the exit and relocated crosswalks.

Most of my questions and comments have been addressed with these changes but the following comments still remain:

- In 2002 Price Chopper received a special use permit for the addition currently used for bottle returns and cart storage. This area is now proposed to be used for sales which may impact their parking requirements. Also, a condition of that SUP was that no outdoor display or sales were permitted. Although this condition was never complied with, it should be reiterated.
- The relocation of the bottle return area to the far end of the under building parking area raises concerns about security and pedestrian safety. Some changes have been made to improve the situation and I understand that this is a business decision, but from a planning perspective, this is less than ideal.
- Four parking spaces will be eliminated for the bottle return area. The ZBA will have to determine whether the expansion of retail space along with another reduction in parking is still adequate.
- The Zoning Board will have to review the proposed additional signage. In my opinion allowing graphic depictions of products for sale and not including them in the allowable square footage is a dangerous precedent to set. For all intents it would allow every business to display large graphics of their products all over their building facades.

Overall I have no issue with the proposed changes. However, the above concerns should be reviewed."

Albany County Planning Board's notification of 4/21/15 was to modify local approval to include 1) review by the ACDOH for the addition of the grease trap, and 2) the Town should ensure that regarding of the parking lot will not negatively impact drainage to SR20.

Ed Pepin, architect for Golub and Dan Hershberg of Hershberg and Hershberg presented the case.

Dan Hershberg stated that they narrowed the driveway down to shorten the length of the crosswalks and to be more consistent with the driveway in other parts of the center. Mr. Hershberg stated that the islands were widened which gives them the capability of planting trees and shrubs in each of these islands. The crosswalks were changed to the ladder style as the Planning Board's condition. There will be signs in the middle of the crosswalks stating "Yield for pedestrians in crosswalks", which will replace some of the stop signs. Mr. Hershberg stated that another change was a directional exit sign.

Mr. Hershberg discussed the number of parking spaces; they eliminated four spaces for a double handicapped spot and replaced them with three new spots. Mr. Hershberg stated that he did not think that the parking would be a problem; there is adequate parking.

Mr. Hershberg stated that moving the recycling center to the underground parking area may encourage more people to park in that area; the lighting would also be improved and there would also be cameras in the area.

Mr. Hershberg stated that in order to accommodate the new entrance the grade has to be raised. Market 32 would also have a small outdoor storage area on the wide area of the sidewalk, approximately 8' x 12'.

Ed Pepin stated that Golub Corp. has agreed to provide vehicle charging stations.

Mr. Pepin stated that this project is primarily an interior remodel but on the outside what is planned is to demolish a portion of the existing canopy and rework the entire entrance structure as it currently exists. There will be one major entranceway, a sizeable cart storage area with an overhead door and the old bottle return area will be a new floral department. In the rest of the store will be a number of interior changes and rebranding of the store as Market 32. There will also be a new pharmacy department which they currently do not have.

Mr. Pepin stated that the existing canopy gets demolished and in its place is the structure which is part of their new branding prototype and profile which includes their signs, graphic panels and it is all within a screen structure of wood veneer panels. Mr. Pepin stated that the graphic panels are not meant to be advertising, it is meant to work with their branding in terms of depicting freshness and elements that they want to portray as part of their new brand. Mr. Pepin stated that the graphics are permanent, they will not change or altered.

Jake Crawford asked if the Board would be considering signage tonight.

Jackie Siudy replied that she did not include any signage consideration in the legal variance; if the Board feels that these panels should be reviewed as signage that is something that will have to be dealt with as an interpretation factor. Jackie stated that they are not considering any of the traditional signage tonight; they are aware that they may need to apply for a variance should the signage be more than Price Chopper was granted.

Mr. Pepin spoke briefly about the proposed vending/return area. Mr. Pepin stated that additional lighting would be added to this parking garage area that will increase safety.

Acting Chairman Cupoli asked if there would be an employee permanently stationed in the vending area.

Mr. Pepin stated no, it would be serviced by an employee from inside the store.

Jake Crawford asked if the vending area would still be operated by Price Chopper or a third party.

Mr. Pepin stated it would still be operated by Price Chopper.

Acting Chairman Cupoli asked about the lighting in the proposed vending area.

Mr. Pepin stated that it would be recessed lighting within the existing ceiling grade.

Mr. Pepin gave an overview of the elevations of the renovation.

Acting Chairman Cupoli asked Jackie Siudy if they should be recalculating the parking calculations based on the inside increase of retail space.

Jackie Siudy replied that since the parking variance was previously approved at the last special use permit modification, her intention of this legal notice was for the Board to determine whether or not they could still benefit from that parking variance or if they need to prove otherwise.

Mr. Hershberg stated that while the parking variance was based upon square footage of use and this does slightly increase the square footage of use for inside the store, it would not significantly impact any of those figures. It was based more on the usage and what they were visually seeing.

Jake Crawford and Acting Chairman Cupoli asked about the outdoor display area.

Mr. Pepin replied that at the request of the Planning Board, they designated a specific area. Mr. Pepin stated that they tried to pick a spot where there is extremely wide sidewalk and it will still be closer to the store frontage.

Jake Crawford asked how many entrances there would be.

Mr. Pepin replied that there would only be one entrance/exit.

Acting Chairman Cupoli asked about the lighting on the front of the building.

Mr. Pepin stated that there is no lighting on the building itself, there are some illuminated signs. There will be lighting in the parking lot and in the ceiling tiles in the underground parking garage area.

Jackie Siudy stated that the modifications that they have made to the drive aisles were at the request of the Planning Board; her only concern was to make sure that pedestrians could safely access all points of the operation, including the recycling center.

Acting Chairman Cupoli asked if there would be safe access from the underground recycling center into the store.

Mr. Hershberg replied that the bollards would protect the crosswalk to walk into the store.

Acting Chairman Cupoli asked about the regrading of the parking lot and drainage.

Mr. Hershberg replied that they intercepted the drainage. The four islands were reconstructed and there will be a stone basin to hold stormwater.

Mr. Pepin stated that the whole regrading effort is going to greatly improve the entranceway situation.

Acting Chairman Cupoli asked Jackie Siudy if they would be deciding on the graphic panels this evening.

Jackie Siudy replied that they were not submitted as part of this application. Jackie anticipated that there may be a variance request related to at the least some of the new Market 32 signs. Jackie stated at that time the applicant was going to provide more detail depictions of the panels and most likely what would happen is that it would be advertised as a variance for the definite signage and a suggestion to the Board to make an interpretation as to whether or not these panels constitute signage. In the very same plaza, Starbucks has graphic panels. Jackie stated what is the line that the Board has to draw regarding graphic panels.

Acting Chairman Cupoli stated that based on Jackie's comments, the Board will not consider the panels at this time.

Jackie Siudy replied that the only way she would advise the Board they could consider these panels is if they continue the application and to have Counsel Thayer check for other precedents set to determine at what point something become signage and if these can be considered part of the façade approval for the special use permit.

Jake Crawford asked if the panel art would be changed seasonally or would they be permanent.

Mike Hutching of the design department at Golub Corp. stated that the graphic panels are a stable consistent part of the brand image for the company. Mike stated that they do not consider them signs, there is no verbage on them, and it is part of the company's image of a fresh, new approach. He stated that the panels would not change seasonally; the panels are internally lit. He stated that if they fade or wear, they would be replaced exactly as what is there now. He stated that they are looking to invent substantial funds into this store; this is the 4th of 137 stores.

Jake Crawford asked Jackie Siudy if she knew what Price Chopper was approved for currently for the overall store.

Jackie replied that it is in the area of 80sf, excluding the panels in the monument sign.

Mr. Hutching stated that they are going to exceed that limit without the graphic panels so they would need to apply for a variance.

Jake Crawford stated that he would be okay with the art aspect of it as long as they were under the impression that they were not looking at the other current signage at the same time.

Mr. Hutching stated that was fine; they would come back with a variance for the actual signage.

Fred Early of Signworks stated that the panels are representative of the healthier approach that Market 32 image is bringing.

Acting Chairman Cupoli asked if there were any questions or comments from the residents. There were none. Acting Chairman Cupoli made a motion to close the public hearing. Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate).

Acting Chairman Cupoli 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 this special use permit would have a significant negative impact upon the environment. This review consisted of the comments by the Town Planning Board, the Town Planner and the conducting of the public hearing this evening. Based upon this collective review, I move that a negative declaration be issued." Motion seconded by Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate).

Acting Chairman Cupoli made a motion for approval of:

Amend Special Use Permit #20-11, Request No. 4519

Request of **Golub Corporation** for an amendment to Special Use Permit #20-11 under the Zoning Law to permit: **the rehabilitation of an existing supermarket known as Price Chopper. This rehabilitation will include changes to the existing entrance, relocation of the bottle return service area and revisions to crosswalks/pavement**

striping/signage. A variance for a reduction in the number of parking spaces and width of drive aisles for the plaza was approved with Special Use Permit #20-11.

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

For property owned by **(20) Mall at Guilderland, LLC**

Situated as follows: **2080 Western Avenue Guilderland, NY 12084**

Tax Map # **51.02-2-4 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.

The Town Planner had the following comments:

“The applicant has amended their site plan in response to the comments of the Planning Board. Among the improvements are the narrowing of the main drive aisle, the widening of the end islands, pavement marking to direct vehicles to the exit and relocated crosswalks.

Most of my questions and comments have been addressed with these changes but the following comments still remain:

- In 2002 Price Chopper received a special use permit for the addition currently used for bottle returns and cart storage. This area is now proposed to be used for sales which may impact their parking requirements. Also, a condition of that SUP was that no outdoor display or sales were permitted. Although this condition was never complied with, it should be reiterated.
- The relocation of the bottle return area to the far end of the under building parking area raises concerns about security and pedestrian safety. Some changes have been made to improve the situation and I understand that this is a business decision, but from a planning perspective, this is less than ideal.
- Four parking spaces will be eliminated for the bottle return area. The ZBA will have to determine whether the expansion of retail space along with another reduction in parking is still adequate.
- The Zoning Board will have to review the proposed additional signage. In my opinion allowing graphic depictions of products for sale and not including them in the allowable square footage is a dangerous precedent to set. For all intents it would allow every business to display large graphics of their products all over their building facades.

Overall I have no issue with the proposed changes. However, the above concerns should be reviewed.”

The Town Planning Board’s site plan review recommend with the following: 1) provide detail of proposed crosswalk style (preferably “ladder” style, 2) consider providing

conduit and other infrastructure to accommodate electric vehicle charging stations and 3) identify location of any outdoor displays or sales area.”

Albany County Planning Board’s notification of 4/21/15 was to modify local approval to include 1) review by the ACDOH for the addition of the grease trap, and 2) the Town should ensure that regarding of the parking lot will not negatively impact drainage to SR20.

Mr. Hershberg has provided information that the parking will not negatively impact the drainage to Rt. 20.

The applicant is providing a 96sf area for outside display that will not impact the public.

The applicant will provide “ladder” style crosswalks as recommended by the Town Planning Board.

Golub Corporation will accommodate the request for infrastructure for vehicle charging stations as recommended by the Town Planning Board.

The lighting for the bottle return has been enhanced.

The Board considers the graphic panels art and not part of the signage.

The Board has further considered the modifications to the front access which consist of changing the two entrances and combining them into one entrance/exit to be more pedestrian friendly.

Additional pedestrian safety features have been added to the plan.

Although the recycling center will be more removed from the existing spot, there is necessary consideration given to the security of the customers.

The drive aisles and islands have been modified.

The parking lot will be regraded and Mr. Hershberg has stated that the four islands were reconstructed and there will be a stone basin to hold stormwater runoff.

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

Adherence to the plans as submitted and modified in the application.

The Building/Zoning Inspector 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 Jake Crawford. Vote 3 – 0. (Barber, Remmert, Saita absent, Marcantonio alternate).

The case of F. Joseph Girzone of 1071 Joshua Lane was postponed until the next meeting.

SIGNS:

The Board approved a temp. banner for Albany County Club for two weeks. Vote 3 – 0.

The Board approved a sign for NEFCO at 46 Railroad Avenue. Vote 3 – 0.

The Board approved two temporary banners for Stuyvesant Plaza sidewalk sale. Vote 3 – 0.

The Board approved a sign for Different Blend Bakery at 3403 Carman Road. Vote 3 – 0.

The Board approved a sign for Veronica's at 105 Arcadia Avenue. Vote 3 – 0.

The Board approved signage for Valero at 3300 Carman Road. Vote 3 – 0.

The meeting adjourned at 10:40pm.

