

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
AUGUST 5, 2015**

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

NEW CASES:

MATTER OF RICKY PARKER – 27 FLIEGEL AVENUE

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. 4539

Request of **Ricky Parker** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 12’ x 16’ storage shed and a 12’ x 21’ carport in a side yard.**

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

For property owned by **Ricky Parker**

Situated as follows: **27 Fliegel Avenue Albany, NY 12203**

Tax Map # **63.11-1-42** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of August, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: June 29, 2015”

The file consists of the mailing list to 37 neighboring property owners, the Town’s required forms for an area variance, a brief narrative, the Town Planner’s comments, a diagram of the proposed location of the shed and carport on the property.

The Town Planner had the following comments: “The applicant has requested an area variance to construct a shed and carport that will each encroach into the required side yards. I have no issue with the location of the shed but do have a concern that the carport structure will be closely running alongside the adjacent house to the east. If this neighbor has concerns, some effort should be made to mitigate them.

Lisa Parker, homeowner, presented the case.

Chairman Barber stated that it appears that the applicant does not have any back yard.

Ms. Parker replied that was correct.

Chairman Barber stated that the only question the Town Planner and he has is about the carport on the right hand side. Chairman Barber asked if her neighbor had any questions or concerns about it as far as she knows.

Ms. Parker replied nothing had been mentioned to her.

Chairman Barber stated that the carport could be an issue, the shed not so much.

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

Brenda Heritage of 6 Henry Street, whose properties border both Henry Street and Fliegel Avenue, stated that she has two front yards and two side yards. Ms. Heritage had concerns about the carport and stated that their carport would have to be flush against the garage. Ms. Heritage stated that the carport’s size seems a bit excessive. Ms. Heritage would like to see what the carport would look like. Ms. Heritage stated that she has a problem with water on her property and if this would cause more water on her property, she does not need that. Ms. Heritage stated that it would affect her quality of life and she would also like to see a survey done of the property.

Chairman Barber asked the applicant if they had any idea what the carport would look like.

Ms. Parker provided a picture to the Board, she stated that it is a vertical style roof carport that would be closed in; there would be a door and would be very similar to a garage. It would have an entry door and would have a front pull down door. Ms. Parker stated that the reason they are looking at such a large carport is that they were talking about getting a small RV and they would house the RV in this.

Ms. Parker stated that they need the jeep stored on their property because she drives it when the weather is bad.

Ms. Parker stated that corner of their lot is enclosed, there is a stockade fence. Ms. Parker also stated that the carport would be right up against their garage.

Jake Crawford asked if the carport would be attached to the garage.

Ms. Parker stated that this is truly not a permanent structure. Ms. Parker stated that it is not practical to put the carport elsewhere on the property.

Chairman Barber asked for a copy of the specifications on the carport.

Chairman Barber stated that he would like to continue the matter.

Ms. Parker asked if they could at least get approval for the shed.

There was discussion about a decision on the shed. Jackie Siudy asked if she could submit another application for the carport.

Chairman Barber suggested she withdraw her request for the carport and resubmitting it with her specifications.

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

Chairman Barber made a motion for approval of

Variance Request No. 4539

Request of **Ricky Parker** for a Variance of the regulations under the Zoning Law to permit: **the placement of a 12' x 16' storage shed in a side yard.**

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

For property owned by **Ricky Parker**

Situated as follows: **27 Fliegel Avenue Albany, NY 12203**

Tax Map # **63.11-1-42** Zoned: **R15**

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

A public hearing was duly noticed and held this evening. A comment was received from one neighbor who had no objection to the shed but did have concerns regarding the withdrawn carport application.

The Town Planner had no objections to the placement of the shed.

The Board further finds that this property is somewhat unique in that it has virtually no back yard and therefore the placement of a shed in the side yard is the most appropriate location.

There is adequate setback of the shed from the property line.

For these reasons, I would move that the granting of this variance application for the shed will not have a negative impact on the neighborhood and will not be detrimental to nearby properties.

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

Adherence to the plans as submitted.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF CORY PEARCE – 5 SPRING FARM LANE

Sindi Saita read the legal notice:

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

Variance Request No. 4542

Request of **Cory Pearce** for a Variance of the regulations under the Zoning Law to permit: **the installation of an in ground pool within the 100ft setback from a watercourse.**

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

For property owned by **Cory & Melissa Pearce**

Situated as follows: **5 Spring Farm Lane Schenectady, NY 12303**

Tax Map #**27.00-1-43.6** Zoned: **R40**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of August, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **July 27, 2015**”

The file consists of the mailing list to 18 neighboring property owners, the Town’s required forms for an area variance to allow the placement of an in ground pool within the 100’ setback from a watercourse, a project narrative provided by the applicant, a foundation location showing the proposed location in relation to the watercourse and the federal wetlands delineation and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant is requesting an area variance to construct an in ground pool within 100’ of a watercourse. This watercourse is intermittent and associated with a federal wetland. While every effort should be made to

minimize the variance, it appears that the preferred 35' setback to the wetland is being maintained and protected by an existing fence. No planning objections.”

Cory Pearce, applicant, presented the case.

Chairman Barber asked about the fence in the back.

Mr. Pearce replied that there is a fence that was there prior to them building their home.

Chairman Barber asked the applicant if he was okay with the idea that the fence needs to be there to protect the wetlands.

Mr. Pearce replied “absolutely”.

Chairman Barber stated that he does not even know why it is called a stream, it does not seem like there is any water there.

Mr. Pearce replied that he has never seen any running or standing water there.

Chairman Barber stated that is most likely why the Town Planner is not concerned with the 100' setback, she wants to make sure that the 35' setback to the wetlands is maintained. Chairman Barber stated that the pool is well outside the 35' setback.

Chairman Barber asked Jackie Siudy how the stream courses get determined.

Jackie Siudy replied that it was done at the subdivision level and sometimes conditions that exist during one subdivision approval may no longer exist down the road after other subdivisions are implemented because the water table and some of the water courses are modified or conditions sometimes are even removed.

Chairman Barber stated that they may be protecting against something that does not even exist anymore.

Jackie Siudy replied that they may, and that was her question right from the very beginning.

Chairman Barber stated that one thing that they have to respect is the delineation of the wetlands.

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. 4542

Request of **Cory Pearce** for a Variance of the regulations under the Zoning Law to permit: **the installation of an in ground pool within the 100ft setback from a watercourse.**

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

For property owned by **Cory & Melissa Pearce**

Situated as follows: **5 Spring Farm Lane Schenectady, NY 12303**

Tax Map #**27.00-1-43.6** Zoned: **R40**

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

A public hearing was duly noticed and held this evening. No comments were received at the public hearing but one comment was received at the site in favor of 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 proposed variance will not cause an undesirable change in the character of the neighborhood, will not be detrimental to nearby properties and also is not substantial.

The Town Planner stated that the stream is intermittent and in fact may not even be a stream.

The pool will not infringe upon the setback for the federally protected wetlands which is also further protected by a fence on the site.

For these reasons, I move that the variance be ***granted*** with the following conditions:

Adherence to the plans as submitted by the applicant.

Maintenance of the fence to protect the federal wetlands.

Strict compliance with any applicable stormwater requirements during the installation and any future repair of the pool.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF MARCUS ROGERS – 457 RT. 146

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. 4541

Request of **Marcus Rogers** for a Special Use Permit under the Zoning Law to permit: **a dance studio in 1200sf of space at an existing shopping center. All site characteristics including parking have been previously reviewed and approved.**

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

For property owned by **Morgan Guilderland**

Situated as follows: **457 Route 146 Guilderland Center, NY 12085**

Tax Map # **38.00-5-22** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of August, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: July 9, 2015

The file consists of the mailing list to 26 neighboring property owners, the Town’s required forms for a special use permit for a dance studio, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, a site plan review by the Town Planning Board, the Town Planners comments, Albany County Planning Board’s notification, a copy of the proposed lease agreement, a project narrative and a depiction of the existing parking lot and the dance studio.

The Town Planning Board’s site plan review was to **recommend** with no suggestions or comments.

The Town Planner had the following comments: “The applicant has requested a special use permit to convert the vacant space in the Guilderland Center plaza to a dance studio. The space, on the end cap facing Rt. 146, was formerly used as a restaurant. All parking and landscaping has been formerly approved as part of the plaza. No planning objection.”

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

Marcus Rogers, applicant, presented the case.

Chairman Barber stated that the application seemed very straightforward. Chairman Barber stated that he assumed that he had plenty of parking there.

Mr. Rogers replied he did have plenty of parking.

Chairman Barber asked if he was comfortable with the hours of operation as set forth in the application.

Mr. Rogers replied “absolutely”.

Chairman Barber stated that because it is an existing shopping center, there is no need for any improvements; it has been there for quite some time.

Tom Remmert asked what type of dancing he would be teaching and what the noise level would be.

Mr. Rogers replied stated that they would not be blasting their music; they have next door neighbors. Mr. Rogers stated that a dance studio just closed in that plaza and they never received any complaints regarding the noise.

Sharon Cupoli asked about the hours and what type of population they were looking at for this dance studio.

Mr. Rogers replied it would be ages 3 to 20, so mostly after school.

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 dance studio at an existing shopping center in Guilderland Center would have a significant impact upon the environment. This review consisted of the comments provided by the Town Planner, the Town Planning Board, Albany County Planning Board and also the conducting of the public hearing this evening and the review of the application. Based upon that collective review, I move that a negative declaration under SEQRA be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4541

Request of **Marcus Rogers** for a Special Use Permit under the Zoning Law to permit: **a dance studio in 1200sf of space at an existing shopping center. All site characteristics including parking have been previously reviewed and approved.**

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

For property owned by **Morgan Guilderland**

Situated as follows: **457 Route 146 Guilderland Center, NY 12085**

Tax Map # 38.00-5-22 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 under SEQRA by a unanimous vote.

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

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

The Town Planning Board recommended with no suggestions or comments.

The proposed use is an allowed use in the LB zone.

The dance studio will be occupying a space formerly used by a restaurant at the end of the plaza facing Rt. 146.

The site conditions are preexisting and no parking variance is required.

For these reasons, I recommend that the Board approve the requested special use permit request with the following conditions:

Adherence to the plans as submitted with the application.

The hours of operation shall be as stated in the application.

Any decibel levels should be maintained so that they will not negatively impact adjacent tenants or nearby properties.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF NORTHEAST FINE JEWELRY – 1575 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:

Amendment to Special Use Permit #1-98/Variance Request No. 4540

Request of **C2 Design Architecture** for an amendment to Special Use Permit #1-98/request for a variance under the Zoning Law to permit: **the renovation of an existing jewelry store. The project will also include an 800sf addition to the rear of the building. A variance is requested to permit a portion of the new facade to be constructed within the 15ft side setback. All other building and parking area conditions have been previously review and approved by The Board.**

Per Articles **III & V** Sections **280-20, 280-51 & 280-52** respectively

For property owned by **Fifteen Seventy Five Western Avenue LLC**

Situated as follows: **1575 Western Avenue Albany, NY 12203**

Tax Map # **52.14-3-21** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **5th of August, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: June 29, 2015

The file consists of the mailing list 42 neighboring property owners, the Town's required forms for an amendment to their existing special use permit to allow a façade to extend into a side yard and a small addition to the retail jewelry store, a Short Environmental Assessment Form for this Unlisted Action under SEQRA, Albany County Planning Board's notification, the Town Planners comments, the Town Planning Board's site plan review, a narrative provided by C2 Design Architecture of the proposed project along with a copy of the existing Northeast Fine Jewelry special use permit and some depictions of the proposed site plan and the façade changes.

The Town Planners comments were as follows: "The applicant has applied to amend their special use permit to redo the front façade and to construct an 800sf addition in the rear. Because the front entrance will be relocated the existing concrete will be removed and replaced with landscaping. There will be no net change in green space or parking. No planning objections."

The Town Planning Board's site plan review was to recommend with no suggestions or conditions.

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

Shaun Andriano and Michael Roman of C2Design Architectures presented the case.

Mr. Andriano stated that about 10 years ago the façade was adjusted but now it is falling off and needs to be replaced. This will update his look and hopefully give it more character and make the business stand out a bit. There will not be much added square footage, mostly cosmetic work.

Mr. Andriano stated that the addition in the rear is just for storage and could end up being smaller; it will replace a small shed that is there.

Mr. Andriano stated that the exterior landscaping will be altered a little bit.

Chairman Barber stated that it looks very nicely done.

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 review of this application to determine whether the granting of an amended special use permit to allow the renovation of an existing jewelry store including an 800sf addition and a new facade would have a significant impact upon the environment. This is for property located at 1575 Western Avenue. The Board finds based upon the comments provided by various agencies including the Town Planner, the Town Planning Board, Albany County Planning Board and also the substantial improvement to the building and the additional landscaping that the granting will not have an impact upon the environment and that a negative declaration under SEQRA be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Amendment to Special Use Permit #1-98/Variance Request No. 4540

Request of **C2 Design Architecture** for an amendment to Special Use Permit #1-98/request for a variance under the Zoning Law to permit: **the renovation of an existing jewelry store. The project will also include an 800sf addition to the rear of the building. A variance is requested to permit a portion of the new facade to be constructed within the 15ft side setback. All other building and parking area conditions have been previously review and approved by The Board.**

Per Articles **III & V** Sections **280-20, 280-51 & 280-52** respectively

For property owned by **Fifteen Seventy Five Western Avenue LLC**

Situated as follows: **1575 Western Avenue Albany, NY 12203**

Tax Map # **52.14-3-21** 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 under SEQRA by a unanimous vote.

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

Albany County Planning Board deferred to local consideration.

The Town Planning Board recommended approval without any suggestions or conditions.

The Board further finds that the amended special use permit involves updating the façade and relocating the store's entrance from the front to the side of the building which will provide better access to the store with customer parking in the rear.

The proposed façade is very attractively designed and will promote the appearance of the property and the neighborhood.

The 800sf addition will allow for an added office and storage space and the potential replacement of a shed at the rear. It will not increase retail space and will have no impact upon required parking and as noted by the Town Planner, there is no net change in green space.

The new façade's intrusion into the side yard is minor and will not negatively impact the character of the neighborhood or adjacent properties.

For these reasons, I move that the Board **approve** the application for an amended special use permit and a requested variance with the following conditions:

Adherence to the plans as submitted with the application.

The existing special use permit, #1-98, except as amended by this approval shall be enforced.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF JJE ENTERPRISES – 3503 CARMAN ROAD

Tom Remmert read the legal notice:

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

Special Use Permit Request No. 4538

Request of **John & Janet Endres** for a Special Use Permit under the Zoning Law to permit: **a portion of an existing building previously occupied by a local grocery to be used as a personal training facility. All site characteristics have been approved and/or conditioned in conjunction with a previous Special Use Permit application. The adequacy of the parking shall be determined by the Board.**

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

For property owned by **JJE Development, LLC**
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 **5th of August, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: June 26, 2015

The file consists of the mailing list to 35 neighboring property owners, the Town's required forms for a special use permit along with a Short Environmental Assessment Form under SEQRA, Albany County Planning Board's notification, the Town Planners comments, the Town Planning Board's site plan review, some descriptions from Frederick Metzger, land surveyor, a proposed site plan and a brief narrative in support of the application.

Albany County Planning Board's notification of 7/16/15 was to modify local approval to include: 1) any work within the right-of-way on SR 146 will require a highway work permit from NYSDOT and 2) Review by NYSDOT for design of highway access, drainage and assessment of road capacity.

The Town Planners comments were as follows: "The applicant has requested to amend their special use permit to include a personal training business, which will have a separate entrance, in the rear portion of the former Greulich's site. The Boards have just recently approved the site plan for this site. No planning objections."

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

Fred Metzger, land surveyor, presented the case. Mr. Metzger stated that the front was already approved for a bakery. There would be a separate entrance for this personal training facility. Mr. Metzger stated that he believed that the 32 parking spaces and 4 handicapped parking spaces will be more than adequate for parking for everyone.

Chairman Barber stated that there are no variances required. Chairman Barber stated it appears that the uses may not even be at the same time; possibly some overlap.

Chairman Barber stated that Albany County Planning Board wanted DOT review.

Mr. Metzger replied that they are in the final stages, the permit should be issued shortly.

Chairman Barber stated that this property has been thoroughly and exhaustively reviewed by both the Planning Board and the Zoning Board for the prior application.

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 review of this application to determine whether the granting of a special use permit to allow a personal training facility at 3403 Carman Road would have a significant impact upon the environment. The Board conducted a review of this application and this site has been extensively reviewed by both the Planning Board and the Zoning Board on a prior approval of a bakery at this location. Based upon this collective review and also the updated comments provided by the Town Planner, the Town Planning Board, Albany County Planning Board, I move that a negative declaration under SEQRA be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4538

Request of **John & Janet Endres** for a Special Use Permit under the Zoning Law to permit: **a portion of an existing building previously occupied by a local grocery to be used as a personal training facility. All site characteristics have been approved and/or conditioned in conjunction with a previous Special Use Permit application. The adequacy of the parking shall be determined by the Board.**

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

For property owned by **JJE Development, LLC**

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 for this Unlisted Action by a unanimous vote.

The Albany County Planning Board’s notification included DOT review of the curbcut and road capacity.

The Town Planning Board and the Town Planner recommended approval.

The Board also finds that the proposed training facility is an allowed use in this LB zone.

The proposed use is a second use for the rear of the building that was formerly occupied by Greulich’s Market.

At a recent special use permit hearing for a specialty bakery the Board thoroughly reviewed, modified and approved a site plan with improvements to the property and those improvements still hold true for this application.

The personal training evening hours will compliment the primarily daytime use of the property for the bakery.

There is adequate parking on site for both uses and no variances are required.

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

Adherence to the plans as submitted.

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

The conditions set forth in Albany County Planning Board's notification shall be adhered to.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

The minutes of May 20, 2015 and June 3, 2015 were approved.

The Board approved a building mounted sign for Dollar Tree at 2080 Western Avenue. Vote 5 – 0.

The meeting adjourned at 8:30pm.