

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
OCTOBER 7, 2015**

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

Members Absent: Thomas Remmert

CONTINUED CASES:

MATTER OF SIGNWORKS – 2080 WESTERN AVENUE

Fred Early of Signworks stated that they had taken the floral sign off of the application.

Chairman Barber stated that this application deals with the two Market 32 signs, two recycling center signs, a welcome sign and a pharmacy sign. Chairman Barber stated that the only change since last time is that the floral sign has been removed.

Chairman Barber asked if there had been any discussion regarding reducing the size of the Market 32 signs.

Michael Kopchick of Price Chopper/Golub stated that there is an option to reduce by a percentage the size of the Market 32 sign on the building and also the rectangular box sign that is on the side of the building.

Chairman Barber asked what the square footage would be of the signs.

Mr. Kopchick stated that the size of the larger originally was 175sf, the reduced size is 140sf and the smaller one is reduced from 66sf to 54sf. The rest of the signs would remain the same sizes.

Jake Crawford asked if the pharmacy sign was required.

Mr. Kopchick replied that it is required; you have to indicate that you have a pharmacy.

Chairman Barber stated that the recycling signs are appropriate, the pharmacy sign is appropriate. Chairman Barber stated that the welcome sign is not really an issue, it is not advertising, it is directing people to the entrance.

Chairman Barber stated that there is already a variance for this store of 90sf.

Jackie Coons stated that the existing Price Chopper sign has a 90sf variance and the variance runs with the land; they already have 90’.

Chairman Barber stated that to a large extent, this is advertising within the parking lot itself, it is not really going to be intended for motorists on Rt. 20.

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. 4534

Request of **Signworks Sign Corp** for a Variance of the regulations under the Zoning Law to permit: **the installation of up to six signs for Market 32 by Price Chopper. Variances are requested for the following: 1) to permit an excess of two signs per business and 2) to permit an excess of 50sf of sign area per business.**

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

For property owned by **Twenty (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; no residents provided either written or oral comments regarding the application.

This property has an existing variance of 90sf for signage meaning that 140sf is allowed by law.

The Board has reviewed this matter at two public hearings and reviewed multiple versions of the sign and the latest version of the sign shows that the main Market 32 sign facing north is now 140sf and the one facing to the west is 54sf.

The Board further finds that the facade itself is well off Rt. 20.

The additional signs including the pharmacy and two recycling center and welcome signs are more directional and informational and not advertising.

Therefore, the variance should be granted with the following conditions:

Adherence to the revised plans which show the reduced size of the Market 32 signs.
Adherence to the plans submitted by the applicant and statements made during the public hearing.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

NEW CASES:

MATTER OF MICHAEL BOSSONE – 6214 JOHNSTON ROAD

Sharon Cupoli read the legal notice:

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

Variance Request No. 4546

Request of **Michael Bossone** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to be located in a side yard.**

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

For property owned by **Michael & Carol Bossone**

Situated as follows: **6214 Johnston Road Albany, NY 12203**

Tax Map # **52.03-2-3.21** Zoned: **RO40**

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

Dated: **September 3, 2015**”

The file consists of the mailing list to 25 neighboring property owners, the Town’s required forms for an area variance, a project narrative, some elevations showing the proposed storage, a site plan showing the proposed location of the storage facility in relation to the existing house and the Town Planners comments.

The Town Planner had the following comments: “The applicant is requesting an area variance to construct an accessory building in the side yard. No planning objections.”

Michael Bossone, applicant, presented the case.

Chairman Barber stated that the applicant wants to place a shed in the side yard, if he constructs it in his back yard, he will lose a lot of trees.

Mr. Bossone stated that they would lose a lot of trees and would encroach on the setback.

Chairman Barber stated that the applicant has a keyhole lot behind them and placement of the shed in the rear yard would negatively impact that neighbor. The shed would be placed in the back part of the side yard.

Jake Crawford asked if it would be used for a garage.

Mr. Bossone replied it would be used for storage of lawn equipment, etc.

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. 4546

Request of **Michael Bossone** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to be located in a side yard.**

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

For property owned by **Michael & Carol Bossone**
Situated as follows: **6214 Johnston Road Albany, NY 12203**
Tax Map # **52.03-2-3.21** Zoned: **RO40**

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

A public hearing was duly noticed and held this evening. No residents provided either written or oral comments regarding the 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 placement in the side yard will avoid the loss of several trees in the rear of the property and also if placed in the rear yard it would infringe upon the 35' rear setback.

The applicant's lot is bordered on the back by a keyhole lot and removal of trees in the back yard could negatively impact the visual buffer that benefits the keyhole lot owner.

The shed will be approximately 90' from the side property line and will be in the rear part of the side yard.

The structure as proposed will match the existing house in color and design.

The placement of the shed will not require any addition to the driveway.

Under these circumstances, the Board finds the proposed granting of this variance will not cause an undesirable change in the character of the neighborhood or be detrimental to nearby properties and that the area variance should be granted.

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. (Remmert absent, Marcantonio alternate)

MATTER OF BLANCA WRIGHT – 509 LOOKOUT COURT

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

Special Use Permit/Variance Request No. 4548

Request of **Blanca Wright** for a Special Use Permit/Variance under the Zoning Law to permit: **the construction of a 1500sf in-law apartment addition.**

Per Articles **III & V** Sections **280-14 & 280-52** respectively

For property owned by **Blanca Ramos**

Situated as follows: **509 Lookout Court Slingerlands, NY 12159**

Tax Map # **51.18-1-57** Zoned: **RO40**

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

Dated: **September 25, 2015**”

The file consists of the mailing list to 32 neighboring property owners, the Town’s required forms for a special use permit and variance for this in-law apartment, a Short Environmental Assessment Form for an Unlisted Action under SEQRA, a sales contract, the Town Planner’s comments, the Town Planning Board’s site plan review, a narrative and some depictions of the proposed family apartment on the lot.

The Town Planner had the following comments: “The applicants would like to construct an addition to the existing house for use as an in-law apartment. They are also seeking a variance to allow the apartment to be up to twice the size of the maximum 750sf presently permitted in order to meet the residents’ needs and to be ADA compliant.” The property has a long, double wide driveway and parking appears ample. No planning objections contingent on the addition not encroaching into the adjacent angle of repose.”

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

Gary Wright presented the case. Mr. Wright stated that his wife and his daughter are looking to buy the property jointly and the in-law apartment will be built for his wife and himself.

Chairman Barber asked about the apartment being ADA compliant.

Angelica Wright stated that the hallways are wider to meet handicapped accessible demands and that is the reason the square footage of the in-law apartment is larger.

Chairman Barber stated that if the Board were to grant the in-law apartment it only can be an in-law or family apartment as long as the requirements are met; if they were to sell the house you could not sell it as an in-law apartment unless they found someone who also wanted the in-law apartment.

Chairman Barber stated that the town does not want single family homes turning into two family homes with apartments being rented out.

Chairman Barber asked how large the lot was.

Ms. Wright replied it was 1.44 acres.

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. (Remmert absent, Marcantonio alternate)

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 family apartment at 509 Lookout Court would have a significant negative impact upon the environment. Based upon the conducting of the public hearing, the review of the comments provided by the Town Planner and the Town Planning Board and also the review of the application this evening, I move that a negative declaration under SEQRA be issued.” Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

Chairman Barber made a motion for approval of:
Special Use Permit/Variance Request No. 4548

Request of **Blanca Wright** for a Special Use Permit/Variance under the Zoning Law to permit: **the construction of a 1500sf in-law apartment addition.**

Per Articles **III & V** Sections **280-14 & 280-52** respectively

For property owned by **Blanca Ramos**
Situated as follows: **509 Lookout Court Slingerlands, NY 12159**
Tax Map # **51.18-1-57** Zoned: **RO40**

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

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

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

Both the Town Planner and the Town Planning Board had no objection to the granting of this special use permit.

The proposed family apartment meets all zoning code requirements except its size which exceeds the maximum allowed square footage. The apartment meets all of the other requirements because it will be occupied by relatives of the owner, it is attached to the main dwelling, has adequate off street parking and has an entrance in common with the main dwelling.

The extra space is required in part because it will be ADA compliant including accessible by wheelchair with widened hallways and improvements necessary to make the space totally accessible.

The lot itself is large at 1.4 acres and the addition of the family apartment is on the back and is located well off the road.

The granting of this variance will not negatively impact neighboring property owners and it will not cause an undesirable change in the character of the neighborhood.

For these reasons, I move that the Board grant both the area variance and the special use permit.

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

Adherence to the plans as submitted with the application.

Compliance with the requirements of a family apartment including the filing of the required deed with the Albany County Clerk's Office and submittal of proof of filing with the Building Department. There is also an annual inspection confirming continuing compliance with the family apartment requirements.

If the requirements for the family apartment are not met, removal of any kitchen related improvements.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

MATTER OF ROGER GINDER – 6246 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 **IV & V** of the Zoning Law on the following proposition:

Variance Request No. 4551

Request of **Roger Ginder** for a Variance of the regulations under the Zoning Law to permit: **an agricultural accessory structure to be located in a front yard.**

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

For property owned by **Rebecca & Roger Ginder**
Sited as follows: **6246 Depot Road Altamont, NY 12009**
Tax Map # **38.00-5-26** Zoned: **RA3**

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

Dated: **September 29, 2015**”

The file consists of the mailing list to 21 neighboring property owners, the Town's forms for an area variance for an agricultural accessory structure in the front yard, the Town Planners comments, and a narrative in support of the application, a diagram of the property and a depiction of the run in shelter.

The Town Planner had the following comments: “The applicant has requested an area variance to construct an accessory structure in the front yard. No planning objections.”

Roger Ginder, applicant, presented the case. Mr. Ginder stated that a run in shelter is a three sided structure with a roof and in case the weather is bad, the horses can go into the shelter.

Chairman Barber asked if this was a less expensive or easier way than a barn.

Mr. Ginder replied that the problem with a barn is that typically horses do not like to be in stalls, they like to be outside or run in and out without being in one area.

Chairman Barber stated that the back part of the property borders the Black Creek.

Mr. Ginder replied that their building area is 100' from the Black Creek and 50' in each direction from the property lines so it provided for a unique situation as to where to put this run in shelter.

Chairman Barber stated that the house is well off of the road and is in a rural agricultural zone.

Mr. Ginder stated that the structure is really off to the side of the house.

There was discussion regarding the setback from the Black Creek.

Mr. Ginder stated that the shelter would be painted and stained the same as the house with a metal roof.

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. (Remmert absent, Marcantonio alternate)

Chairman Barber made a motion for approval of:

Variance Request No. 4551

Request of **Roger Ginder** for a Variance of the regulations under the Zoning Law to permit: **an agricultural accessory structure to be located in a front yard.**

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

For property owned by **Rebecca & Roger Ginder**

Situated as follows: **6246 Depot Road Altamont, NY 12009**

Tax Map # **38.00-5-26** 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 this application.

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

This property is located in the RA3 district.

The proposed structure is a three sided building with a roof that shelters horses in inclement weather.

The structure will be placed well off the road.

The shelter is attractively designed and will fit well within the rural agricultural nature of this neighborhood.

While the lot is large at 2.5 acres, it is irregularly shaped because of the Black Creek and the lot in terms of the building envelope is further impacted by the 100' variance from the Black Creek.

There are no next door neighbors or neighbors across the street and the neighbors to the rear are separated by the Black Creek. As such, this structure will not negatively impact any neighboring properties.

For these reasons, I move that the Board ***grant*** the area variance as requested and impose the following conditions:

Adherence to the plans as submitted with the application.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

MATTER OF SCHAFER ENGINEERING – 2228 WESTERN AVENUE

Sindi Saita read the legal notice:

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

Variance Request No. 4547

Request of **Schafer Engineering Associates** for a Variance of the regulations under the Zoning Law to permit: **the installation of an electronic sign within the required 20ft setback from the right of way.**

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

For property owned by **Guilderland Public Library**
Situated as follows: **2228 Western Avenue Guilderland, NY 12084**

Tax Map # 51.00-1-4.2 Zoned: R15

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

Dated: September 10, 2015”

The file consists of the mailing list to 20 neighboring property owners, the Town’s required forms for an area variance, a memo dated September 4th, 2015 submitted by Michael Schafer of Schafer Engineering Associates in support, depictions of the proposed sign in black and white, a letter from the Town Historian dated October 7, 2015 opposing the request, a letter from Rose Hill Bed & Breakfast opposing the request, Albany County Planning Board’s notification of 9-17-15, a plot plan that shows the location of the proposed sign on the property.

Albany County Planning Board’s notification of 9/17/15 was to defer to local consideration.

Tim Wiles, Director of the Guilderland Public Library presented the case.

Chairman Barber stated that typically with governmental entities; some come before the Zoning Board, and some do not. The school district never comes to the Zoning Board because school construction is governed by the State Education Department. The fire departments generally, but not always, come before the Board because they do not have any regulatory or Board above them that can approve what they want to do. The fire departments do not always bring their sign permits before the Zoning Board.

Chairman Barber stated that the legal question is whether the library is more like the school or more like the fire departments.

Mr. Wiles replied that it is his understanding it is more like the school district; anything they do on the property requires the approval of the State Education Department and does not require the approval of the Town of Guilderland. Mr. Wiles stated that they approached the State Education Department first and they considered this request to be a conversion of the existing pylon sign and they basically stated to go ahead. Mr. Wiles stated that they applied to the Town out of respect for the Town’s concern over visual landscaping along Western Avenue. Mr. Wiles stated that they want to build the sign consistently as possible with the Code.

Chairman Barber stated that the Zoning Board can only look at applications that the law says legally belongs before the Zoning Board. Chairman Barber stated that if the Zoning Board does not have the jurisdiction they have to be very careful about proceeding.

Chairman Barber asked Mr. Wiles if they need a variance from the setback requirement.

Mr. Wiles stated that they were told that they can probably build it wherever it best fits and it is most compliant to the law.

Chairman Barber stated that if they do not need the variance and that is the only thing that is they need any governmental approval for, they may not need to be here.

Chairman Barber stated that the Board had denied a multi-colored flashing sign for Stuyvesant Plaza; the Westmere and Guilderland Fire Department's signs probably would not be barred because they are consistent in color and intensity. Chairman Barber stated that he could not tell from the application if this sign would be more like the Stuyvesant Plaza sign or the fire department signs.

Mr. Wiles stated that they do not want flashing, blinking, scrolling or more than one color; they are interested in the amber color. Mr. Wiles stated that they are thinking one solid message a day but possible up to three messages a day.

Chairman Barber stated that the color and intensity has to be consistent and the text should not be changed every few minutes.

Chairman Barber stated that he would like to look into some of these issues and make sure that the Zoning Board has the jurisdiction to render a decision and whether the request for the variance is moot if the sign is not even within the setback. Chairman Barber stated that if they did not need the Zoning Board approval and did not need a variance, he would hope that they would still try to be more like the fire department and not like the Stuyvesant Plaza sign.

Chairman Barber also asked whether the placement of the sign impacted the ability to look right while exiting.

There was discussion regarding the placement of the sign. Mr. Wiles stated that if the sign needed by be set back further from the road, they can find a way to install it in such a location.

Chairman Barber stated that Jackie Coons could not find any permits for the existing library sign so it might suggest that neither the library or their sign company came before the Board because it was done by the State Education Department.

Mr. Miles stated that Spence Neil designed and installed the sign.

Mr. Miles stated that they would also like to keep the existing sign.

There was discussion regarding the hours that the sign would be on.

Chairman Barber made a motion to continue this hearing for two weeks. Motion seconded by Sharon Cupoli. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

The Board approved the minutes of 9-2-15. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

SIGNS:

The Board approved a sign for Blaze Pizza at Stuyvesant Plaza. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

The Board approved a face change at 1859 Western Avenue for Swan Lake Salon and Spa. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

The Board approved a X man logo for Berkshire Bank. Vote 5 – 0. (Remmert absent, Marcantonio alternate)

The meeting adjourned at 8:45pm.