

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
MARCH 4, 2015**

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

CONTINUED CASES:

MATTER OF AMIN DAWOODANI – 3605 CARMAN ROAD

Chairman Barber stated that since the last public hearing the Board has received an e-mail from Mrs. Mastrianni regarding her concerns and she indicates that the light pole and the other pipes were scheduled for removal and stating that she is in support of the application, an e-mail from a resident on Lone Pine Road in support of the application, a letter from the applicant's representative Bill Hennessy addresses the issues of the last public hearing and sets forth the drainage calculations and an updated plan with a lighting plan.

Bill Hennessy presented the case. Mr. Hennessy stated that they are required to have 15 parking spaces and there is a slight modification to the parking; rotation of the parking spaces and save some of the green space and provide more buffer. One space had to be added in the back and they also put a bike rack in.

Mr. Hennessy stated that they had submitted a lighting plan which calls for one fixture on the back of the lot and one on the entrance. The canopy will provide lighting on the Lone Pine side of the property.

Chairman Barber asked about banking the parking space.

Mr. Hennessy stated that there is a huge oak tree and rotating the spaces to provide more buffer brought the parking closer to the 20' setback but closer to the oak tree. Mr. Hennessy suggested banking a space to save pavement near the roots of the oak tree.

Chairman Barber replied they would be more inclined to have it banked because more green space would be provided and even though the stormwater management can be handled on site, the parking space is closest to Carman Road where there might be some issues.

Mr. Hennessy stated that the proposed lighting fixtures are 12' fixtures.

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

Ellyne Olson of 3470 Carman Road had concerns regarding what would be sold in the convenience store and the increase in traffic.

Sharon Mastrianni of 3633 Carman Road stated that the vent pipes are on their property but they will be removed.

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

Chairman Barber made a motion of non-significance in this Unlisted Action:
“This Board has conducted a careful review of this application to determine whether the granting of a special use permit to allow a gasoline and convenience store in this GB zone at 3605 Carman Road would have a significant impact upon the environment. In the course of this review, the Board reviewed the comments provided by the Albany County Planning Board, the site plan review by the Town Planning Board, the comments by the Town Planner and the stormwater management report provided by the applicant. Based upon the collective review and the conducting of this public hearing over the past two meetings, I would move that a negative declaration under SEQRA be issued.” Motion seconded by Sindi Saita. Vote 5 – 0.

Chairman Barber made a motion for approval of:

Special Use Permit Request No. 4500

Request of **Amin Dawoodani** for a Special Use Permit under the Zoning Law to permit: **the conversion of a gasoline/service station to a gasoline/convenience store,**

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

For property owned by **Dave Mueller**

Situated as follows: **3605 Carman Road Schenectady, NY 12303**

Tax Map # **27.11-1-15** Zoned: **GB**

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

A public hearing was duly noticed and a number of neighbors have expressed support and others have expressed concerns regarding drainage, lighting and related impacts on the nearby residential properties.

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

Albany County Planning Board’s notification of 12-18-14 is as follows: Modify local approval to include 1) Review by the Albany County Department of Health for the addition of the grease trap, 2) If there are any changes to the existing fuel islands then a

review by the NYSDEC to determine potential jurisdiction under bulk petroleum storage regulations, and 3) It should be determined by the town if the applicant's site drainage is being adequately addressed.

The Town Planning Board's site plan review of 1-14-15 was to recommend with the following: 1) Reconfigure parking layout to provide more convenient access and clearly identify handicapped space, 2) provide no parking striping across the full width of the front of the building, 3) provide lighting plan, and 4) give some consideration to installing a bike rack.

The site plan has been amended to reconfigure parking away from the fuel islands and the front of the building. The bike rack and the striping for no parking in the front of the building or near the bike rack has been added.

The parking area near the Mastrianni property on the south was moved to provide more buffer for that property.

The property has also benefitted by a sidewalk on Carman Road.

The appearance of the building will be greatly improved by replacing overhead doors with new stucco walls and windows.

The proposal also provides the elimination of on-site vehicle maintenance.

The lighting plan shows that the lighting is downward shielding and canopy lighting with no impact upon neighboring properties.

The applicant shall work with Jackie Siudy regarding the height of the light poles in light of the traffic and the parking area.

The applicant has submitted an engineer's report which shows that the increase in runoff will be handled on site by altering the topography and also the stormwater will be handled by the proposed drainage swales and recharge detention swales on the south and west of the property.

The site plan also shows 15 parking spaces and that no parking variance is required. The Board agrees that the southernmost parking space on the Mastrianni property side near Carman Road should be banked with a goal of preserving the existing oak tree, increasing the greenspace and also reducing any stormwater impacts on Carman Road.

For these reasons, I move that the Board ***grant*** the Special Use Permit with the following conditions:

Adherence to the plans as submitted with the exception that the parking space furthest to the south and closest to Carman Road should be banked.

No maintenance or servicing of vehicles on site.

Fire department approval of truck access onto the site.

If any modifications are to be made to the bulk petroleum storage or the fuel islands, DEC would need to approve them.

DOT approval of any changes to the curbcut on Rt. 146.

Town Highway Department approval of any changes to the curbcut on Lone Pine Road.

ACDOH approval of any additional grease trap. No food or cooking odors shall be discernible beyond the property line.

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

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF DAVID PETERSON – 5515 HENNESSEY ROAD

Jake Crawford read the legal notice:

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

Variance Request No. 4512

Request of **David Peterson** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to be located in a side yard and exceed a height limitation of 15’.**

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

For property owned by **David Peterson & Pamela Molle**

Situated as follows: **5515 Hennessey Road Voorheesville, NY 12186**

Tax Map # **60.00-2-15.1** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **4th of March, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 23, 2015**”

The file consist of the mailing list to 7 neighboring property owners, the Town's required forms for an area variance, the Town Planners comments, a narrative, descriptions and schematic diagrams of the barn.

The Town Planner had the following comments: "The applicant has requested an area variance to construct a barn that minimally exceeds the 15' maximum height requirement. No planning objections.

David Peterson, applicant, presented the case.

Chairman Barber stated that he lives in a rural agricultural area and the only issue is that the barn is a bit taller than what the code allows. Chairman Barber stated that the Board recognizes that the accessory structure height applies to a shed in a suburban back yard and this is a barn and we recognize that barns are generally taller. Chairman Barber stated that he had driven through the area and there are other barns that are also rather large structures.

Chairman Barber also stated that the applicant also has a 14 acre lot and about 900' to 1000' frontage on the road.

Chairman Barber asked if he had received any comments from any of his neighbors.

Mr. Peterson stated that he had not received any comments from the neighbors.

Chairman Barber stated that it is also very attractively designed.

Mr. Peterson stated it was his intention to fit in with the neighborhood and also make the property more attractive.

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. 4512

Request of **David Peterson** for a Variance of the regulations under the Zoning Law to permit: **an accessory structure to be located in a side yard and exceed a height limitation of 15'**.

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

For property owned by **David Peterson & Pamela Molle**

Situated as follows: **5515 Hennessey Road Voorheesville, NY 12186**

Tax Map # **60.00-2-15.1** 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 Town Planner had no objection to the granting of this request.

The accessory structure is a barn located on a 14.5acre lot with approximately 985' width road frontage.

The barn's design, placement and proposed height are consistent with neighboring properties in this RA3 district. The barn will be placed the same distance as the house from Hennessey Road.

The Board finds that under these circumstances the variances will not cause an undesirable change to the character of the neighborhood and are not detrimental to nearby properties.

For these reasons, the Board finds that the area variances should be ***granted*** with the following conditions:

Adherence to the plans as submitted.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF CROSSGATES MALL – 1 CROSSGATES MALL 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. 4506

Request of **Crossgates Mall** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 72sf building mounted sign where 50sf is permitted.**

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

For property owned by **Crossgates Mall**

Situated as follows: **1 Crossgates Mall Road Albany, NY 12203**

Tax Map # **52.01-1-4.1** Zoned: **GB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 4th of March, 2015 at the Guilderland Town Hall beginning at 7:30pm.

Dated: February 15, 2015”

The file consists of the mailing list to 22 neighboring property owners, the Town’s required forms for an area variance for signage at Crossgates Mall, a narrative in support of the application, a referral to ACPB, a depiction of the proposed sign and its location on the façade of the mall.

Tom Darby, representing Crossgates Mall, presented the case. Mr. Darby stated that this is a 72sf Burlington Coat Factory sign, the sign will replace an existing sign that is there at the exterior entrance. Mr. Darby stated that the existing sign is less than 50sf but at one point Cohoes did have a 225sf sign in its place.

Chairman Barber stated that the building mounted signs on the façade are generally for stores or tenants who have a direct access into their space.

Mr. Darby stated that was generally true.

Chairman Barber stated that there are a couple of exceptions such at the theatre.

Mr. Darby stated Old Navy as well.

Chairman Barber asked if this was typical size for most of the signs in that area of the mall.

Mr. Darby stated that the Macys exterior signs, they have two or three and run about 150sf.

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. 4506

Request of **Crossgates Mall** for a Variance of the regulations under the Zoning Law to permit: **the installation of a 72sf building mounted sign where 50sf is permitted.**

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

For property owned by **Crossgates Mall**

Situated as follows: **1 Crossgates Mall Road Albany, NY 12203**

Tax Map # **52.01-1-4.1** Zoned: **GB**

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

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

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

The Board also has reviewed similar requests in the past and generally has considered the Crossgates Mall, particularly when it comes to building mounted signs that are for the most part only visible from the ring road to be a neighborhood unto itself. The Crossgates Mall sign is compatible with other signs in the mall.

For the most part, these signs are for stores that have direct access to the parking lot and that sound planning purposes have shown that directing customers to the parking lots that are closest to the store is located generally does a better job of spreading out the parking field.

The prior tenant, Cohoes Manufacturing, had a sign that was three times the size of the proposed sign for the Burlington Coat Factory.

Based upon this collective review, I would move that the variance be **granted** with the following conditions:

Adherence to the plans as submitted, in particular the depiction and the size of the sign set forth in the application.

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF COREY HEENAN – 2563 WESTERN AVENUE

Tom Rimmert read the legal notice:

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

Special Use Permit Request No. 4507

Request of **Corey Heenan** for a Special Use Permit under the Zoning Law to permit: **a pet grooming salon in 700sf 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 **Frank J Sgambellone**

Situated as follows: **2563 Western Avenue Altamont, NY 12009**

Tax Map # **39.11-2-21** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the 4th of March, 2015 at the Guilderland Town Hall beginning at 7:30pm.

Dated: February 19, 2015

The file consists of the mailing list to 42 neighboring property owners, the Town's required forms for a special use permit for a dog grooming salon, a Short Environmental Assessment Form under SEQRA, the Town Planners comments, the Town Planning Board's site plan review, a referral to ACPB which is more than 30 days old and no comments received, a lease, a narrative in support of the application and a depiction of the proposed location in Park Place.

The Town Planners comments are as follows: "The applicant is requesting a special use permit to use a vacated space in Park Place for a dog grooming business. This is an established shopping plaza and no site plan changes are proposed. No planning objections."

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

Corey Heenan, applicant, presented the case. Ms. Heenan stated that this would be a small scale dog grooming business in the plaza. Ms. Heenan stated she had already talked to the neighboring tenants in the plaza.

Chairman Barber asked if any of the dogs would be staying overnight.

Ms. Heenan replied no, it is by appointment only and then leave.

Ms. Heenan stated that she has been a dog groomer for 18 years.

Chairman Barber asked what would happen if someone forgot to pick up their dog.

Ms. Heenan replied that they would call the owner and the owners would also be told what time to pick up the dog when they dropped them off. Ms. Heenan stated that the dogs usually only stay a maximum of four to five hours.

Chairman Barber asked where the dogs stayed while waiting for their owners to come pick them up.

Ms. Heenan replied that they would be in a holding area.

Chairman Barber asked if the dog would be outside at all.

Ms. Heenan replied that they would not be outside.

Chairman Barber asked about the dog feces.

Ms. Heenan stated that they would clean it up and dispose of it in plastic bags.

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 dog grooming business at the Park Place Plaza would have a significant negative impact upon the environment. This Board finds that the site conditions are preexisting and that there are no site plan changes. The review consisted of the comments provided to the Board by the Town Planner, the Town Planning Board and the representations made by the applicant tonight at the hearing. For these reasons, 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. 4507

Request of **Corey Heenan** for a Special Use Permit under the Zoning Law to permit: **a pet grooming salon in 700sf 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 **Frank J Sgambellone**

Situated as follows: **2563 Western Avenue Altamont, NY 12009**

Tax Map # **39.11-2-21** 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 objections to the request.

The Town Planner recommended approval without any conditions or suggestions.

All site conditions have been previously reviewed and approved by the Board.

There is an abundance of parking at the plaza.

The application states that this business will be low volume and by appointment only.

The hours of operation shall be from 8am to 8pm.

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

Adherence to the plans as submitted.

The business is a dog grooming business, not a kennel. No outside storage or conducting of the business elsewhere on the property shall be allowed.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF SUNDANCE LEV – 1434 WESTERN AVENUE

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. 4508

Request of **Sundance Lev** for a Special Use Permit under the Zoning Law to permit: **the use of 800sf of space in an existing building as a dog grooming business. Site characteristics have been previously reviewed and approved by the Board.**

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

For property owned by **Kent Hansen**

Situated as follows: **1434 Western Avenue Albany, NY 12203**

Tax Map # **52.20-4-8** Zoned: **BNRP**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **4th of March, 2015** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **February 4, 2015**”

The file consists of the mailing list to 105 neighboring property owners, the Town’s required forms for a special use permit, a Short Environmental Assessment Form under SEQRA, a brief narrative provided by the applicant, a depiction of the location of the proposed business inside of the building, the Town Planners comments, the Town Planning Board’s site plan review, an e-mail from DOT regarding the upcoming DOT sidewalk project along Western Avenue, and a referral to ACPB which is over 30 days old.

The Town Planner had the following comments: “The applicant has applied for a special use permit to use approximately 900sf in the Hansen building for a dog grooming business. This is a change in vacancy from a former embroidery business and the applicant states that dogs are dropped off, by appointment only. No planning objections.”

The Town Planning Board’s site plan review was to recommend with the following suggestions: provide a site plan that shows the impacts of the new sidewalk construction on the 7 parking spaces in the front.”

The file also contains an e-mail from Shannon Hesnor of DOT stating that the sidewalks to be installed in front of the property is to be at driveway level in front of the building and driveway and parking will not be affected.

Kent Hansen, owner of the property, presented the case. Mr. Hansen stated that this is only the third tenant application that he has had and he is being very selective with his tenants. Mr. Hansen stated that Ms. Lev runs a good operation and thinks that she would be a great tenant.

Chairman Barber asked Sundance Lev if there would be any boarding of the dogs.

Ms. Lev replied that they would not be boarding the dogs and no dogs would be staying overnight. Ms. Lev stated that the dogs come in, get groomed and stay for a minimal amount of time before being picked up. Ms. Lev stated that she was a “green groomer”.

Chairman Barber asked Jackie Siudy if any parking variance would be needed.

Jackie Siudy replied that the parking was addressed in an application eight years ago when Mr. Hansen renovated the building and is based on the size of the building, not the uses in the building.

Chairman Barber asked Jackie Siudy about the BNRP zone.

Jackie replied that her interpretation of the zoning code is that it is not different than a hair salon that a person would go to, it is by appointment only.

Ms. Lev stated that there would not be much parking of cars on the lot, they would just drop the dogs off and come back later and pick them up.

Jake Crawford asked how many dogs would she anticipate grooming.

Ms. Lev replied that she would like another full time groomer and maybe a part time groomer.

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

Don Reeb, President of the McKownville Improvement Association had concerns regarding the number of cars pulling in and out during the day, the boat parked there, the dumpster on the wrong side of the lot, snow piled against the fence and the alleyway should be posted as a fire lane.

Ms. Lev stated that the average dog would take about two hours and on a typical day she would groom 6 or 7 dogs.

Jake Crawford asked what a pet waste eliminator station was.

Ms. Lev replied that once the dog was inside, they do not go back out. If the dog has to relieve itself, it is taken care of inside. Ms. Lev stated it would be a freestanding “poop bag” dispenser.

Christine Bult of 402 Pinkster Lane stated that she was a current client and has never had a problem with parking.

Danner McGuinness, owner of Hansen’s Wood Flooring, stated that the boat would be removed off the property and then the dumpster could be moved to the western perimeter. Mr. McGuinness stated that he would be happy to install fire lane signs on the eastern side of the property. Mr. McGuinness stated that the snow up against the fence is not an issue.

Chairman Barber thanked Mr. McGuinness for his attempts to bring the property into compliance with the special use permit.

Arthur Caccamo, adjoining property owner, had concerns regarding the dogs on his property and also the sanitary and safety issue of the dogs. Mr. Caccamo had concerns regarding any overflow from the business onto his property, whether it be pedestrian or dogs.

Don Reeb asked about access to the building from the back.

Chairman Barber stated this is not a high volume business and does not feel the need to require modification to the building.

There was discussion regarding the snow removal and the new sidewalk.

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 under SEQRA: “This Board has conducted a careful review of this application for a dog grooming business at 1434 Western Avenue to determine whether the granting of this application would have a significant impact upon the environment. Based upon the comments provided to use by the Town Planner and the Town Planning Board, the

conducting of this public hearing this evening and the review of this application, I would 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. 4508

Request of **Sundance Lev** for a Special Use Permit under the Zoning Law to permit: **the use of 800sf of space in an existing building as a dog grooming business. Site characteristics have been previously reviewed and approved by the Board.**

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

For property owned by **Kent Hansen**
Situated as follows: **1434 Western Avenue Albany, NY 12203**
Tax Map # **52.20-4-8** Zoned: **BNRP**

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

A public hearing was duly noticed and held this evening. Several comments were received tonight at the hearing regarding the application in terms of traffic impacts, parking impacts and also other speakers in support of the application.

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

The Town Planner had no objection to this request.

The Town Planning had no objections other than making certain that the site plan considers a sidewalk installation by DOT.

The site conditions were previously reviewed and approved by the Board and no parking variance is required.

This proposed use as a dog grooming business has been interpreted as being an allowed use in a BNRP zone.

The applicant states that business will be by appointment only with appointments lasting generally between 1 and 2 hours or longer.

There will be no “walk-in” business.

The hours of operation are as set forth in the application; Monday – Friday from 8:30am to 5:00pm and Saturday from 9:00am to 3:00pm and no Sunday hours.

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

Adherence to the plans as submitted with the application.

Adherence to the conditions set forth in any other prior special use permits for this parcel.

This is a dog grooming business, not a kennel.

There shall be no outside storage or conducting of business on the property.

The boat stored on the property shall be removed within 30 days of the granting of this decision.

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

Motion seconded by Sharon Cupoli. Vote 5 – 0.

The Board approved the minutes of 2/18/15. Vote 5 – 0.

SIGNS:

The Board approved the sign for Grrreendog at 1434 Western Avenue. Vote 5 – 0.

The meeting adjourned at 8:55pm.