

**TOWN OF GUILDERLAND
ZONING BOARD OF APPEALS
JULY 6, 2016**

Members Present: Thomas Remmert, Chairman
Jacob Crawford
Sharon Cupoli
Gustavos Santos
Sindi Saita
Laura Barry, Alternate

Absent: Janet Thayer, Counsel

Chairman Remmert noted the fire exits in the event they were needed.

Chairman Remmert stated that the case of Havzi Ipek of 21 Van Wie Terrace has been postponed at the request of the applicant to a later date.

NEW CASES:

MATTER OF ROBERT BURGIO – 400 GABRIELLA LANE

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. 4588

Request of **Robert Burgio** 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 **Robert Burgio**

Situated as follows: **400 Gabriella Lane Altamont, NY 12009**

Tax Map # **49.00-2-13.8** Zoned: **RA3**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of July, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 27, 2016**

The file consists of the mailing list to 30 neighboring property owners, the Town's required forms for an area variance including a project narrative, drawings and the Town Planner's comments.

The Town Planner had the following comments: "The applicant has requested an area variance to place a shed in the required front yard. This is a large keyhole lot and the shed will have as great a setback as required for a principle structure. No planning objections."

Joe Russ (?) presented the case. Mr. Russ gave a brief overview of the project.

Chairman Remmert stated that the shed will be facing the existing garage and there are a lot of woods around there so it will be shielded from neighboring properties.

Chairman Remmert stated that it sounds pretty straightforward.

Chairman Remmert asked if there were any questions or comments from the residents. There were none. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Remmert made a motion for approval of:

Variance Request No. 4588

Request of **Robert Burgio** 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 **Robert Burgio**

Situated as follows: **400 Gabriella Lane Altamont, NY 12009**

Tax Map # **49.00-2-13.8** 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 SEQRA Action whereby a SEQRA approval is not required.

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

The proposed shed will be shielded from neighboring properties by woods, which the owner has no plans to remove.

There will be no change in the character of the neighborhood.

Based on these findings, I move that the Board grant the variance with the following conditions:

Adherence to the plans and application as submitted and all representations made here tonight to the Board.

The Building/Zoning Inspector is authorized to take necessary actions to implement this decision.

Motion seconded by Gus Santos. Vote 5 – 0.

MATTER OF DENNIS MCCLINTOCK – 6155 VEEDER ROAD

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. **4590**

Request of **Dennis McClintock** 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 **Dennis McClintock**
Situated as follows: **6155 Veeder Road Slingerlands, NY 12159**
Tax Map # **51.04-2-13** Zoned: **R15**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of July, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 28, 2016**”

The file consists of the mailing list to 42 neighboring property owners, the Town’s required forms for an area variance, a narrative description of the project, a plot plan, a rendering of the proposed garage, pictures of the property, a satellite image of the property and the Town Planner’s comments.

The Town Planner had the following comments: “The applicant has applied for an area variance to construct a garage in a required side yard. The placement is well set back from the road and the structure will be adjacent to the rear yards of houses on Johnston Road. No planning objections.”

Dennis McClintock, applicant, presented the case. Mr. McClintock stated that he cannot go any further back on the property with the garage because the back of the property is

wetlands. The garage will face the garage that is attached now. It will be 100' off of Veeder Road and about 70' from the property line.

Chairman Remmert stated that it appears that the applicant is picking the best place to put the garage.

Mr. McClintock stated that it would have red siding with a brown roof and would fit into the surroundings.

Sharon Cupoli asked if it would match the existing house.

Mr. McClintock stated that he is trying to match the colors of the house.

Jake Crawford asked if there would be windows or a garage door facing the road.

Mr. McClintock replied that the garage door would face the house and there would probably be a window on one side.

Chairman Remmert asked if there were any questions or comments from the residents. There was one resident in favor of the application. Chairman Remmert made a motion to close the public hearing. Motion seconded by Sharon Cupoli. Vote 5 – 0.

Chairman Remmert made a motion for approval of:
Variance Request No. **4590**

Request of **Dennis McClintock** 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 **Dennis McClintock**
Situated as follows: **6155 Veeder Road Slingerlands, NY 12159**
Tax Map # **51.04-2-13** Zoned: **R15**

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

A public hearing was duly noticed and held this evening. One resident provided a comment in favor of the project.

This is a Type II SEQRA action whereby a SEQRA approval is not required.

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

The lot is rather large for this area. The garage will be set back a significant distance from the property lines and existing structures on the property.

The back of the property does have some wetlands which precludes moving the garage further back on the property.

Albany County Planning Board's approval is not required.

The Town Planning Board's approval was not required.

There will be no change in the character of the neighborhood.

Based on these findings, I move that the Board **grant** the variance with the following conditions:

Adherence to the plans and application as submitted and all representations made here tonight to the Board.

The Building/Zoning Inspector is hereby authorized to take the necessary actions to implement this decision.

Motion seconded by Sharon Cupoli. Vote 5 – 0.

MATTER OF NINO ALIBERTI – 3356 CARMAN ROAD

Laura Barry 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/Use Variance Request No. **4587**

Request of **Nino Aliberti** for a Use Variance of the regulations/ Special Use Permit under the Zoning Law to permit: **the conversion of office space to a dwelling unit at an existing mixed use building in a LB zone. A Use Variance is requested to permit the last remaining office space to be converted to a dwelling unit in an LB zone.**

Per Articles **III & V** Sections **280-15, 280-51 & 280-52** respectively

For property owned by **Aliran Realty LLC**

Situated as follows: **3356 Carman Road Schenectady, NY 12303**

Tax Map # **15.14-3-26** Zoned: **LB**

Plans open for public inspection at the Building Department during normal business hours. Said hearing will take place on the **6th of July, 2016** at the Guilderland Town Hall beginning at 7:30pm.

Dated: **June 13, 2016**”

The file consists of the mailing list to 62 neighboring property owners, the Town's required forms for a variance and special use permit, a project narrative, drawings, a

Short Environmental Assessment Form, a copy of SUP/Variance #09-99 and the Town Planners comments.

The Town Planner had the following comments: “The applicant is requesting to amend a special use permit to convert the last of the office space into an apartment unit. The building, previously used by Dr. Allard, is divided between Local Business and R-15 zoning districts. A use variance was previously granted to allow the conversion of the second story into 2 apartments. A dwelling unit will generate less traffic and parking needs and no site changes are anticipated. No planning objections.”

Chairman Remmert stated that this is a request for a use variance, which is subject to much stricter standards than an area variance. The use variance currently in effect is from 1999 and is specific to the conversion of specific office space on the second floor to apartments.

Nino Aliberti, applicant, presented the case. Mr. Aliberti stated they would like to convert the last office space into an apartment; it would be on the first floor on the right.

Chairman Remmert stated that the rest of the building is apartments. Chairman Remmert stated that it seems like a simple request, unfortunately it involves a use variance which is very difficult to obtain.

Chairman Remmert stated that the Zoning Board did grant a use variance back in 1999 and at that time they did submit quite a bit of financial information.

Chairman Remmert said according to State Law “Before the Board may exercise its discretion and grant a variance upon the ground of unnecessary hardship, the record must show that (1) the land in question cannot yield a reasonable return if used only for a purpose allowed in that zone; (2) that the plight of the owner is due to unique circumstances and not to the general conditions in the neighborhood which may reflect the unreasonableness of the zoning ordinance itself; and (3) that the use to be authorized by the variance will not alter the essential character of the locality.”

Chairman Remmert stated that he thinks that the applicant has already met condition 3.

Chairman Remmert stated that the Board has to meet the requirements of State Law.

Chairman Remmert stated another requirement of State Law is: “No such use variance shall be granted by a board of appeals without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship the applicant shall demonstrate to the board of appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located, (1) the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence”.

Chairman Remmert stated that what people do in these cases is hire an accountant who does projections on how much your return would be if it was rented out as an apartment vs. any of the other allowable uses in that zone.

Mr. Aliberti stated that anything else in that building would be out of place because it is an apartment building.

Chairman Remmert stated that they would need something in writing as required by law.

Chairman Remmert suggested meeting with Jackie Coons and reviewing the old file from 1999 and review the financial information that was provided then.

Chairman Remmert also stated that the applicant could contact Counsel Janet Thayer for guidance as to what should be submitted.

Chairman Remmert stated that the applicant could also apply to the Town Board for a rezone on the property to a zone that would allow multiple residences.

Chairman Remmert stated that this property is zoned both LB and R15 which makes it more complex.

Chairman Remmert made a motion to continue the case to an unspecified date. Motion seconded by Jake Crawford. Vote 5 – 0.

MINUTES:

The Board approved the minutes of 6-15-16. Vote 5 – 0.

SIGNS:

The Board discussed signage for **Auto Zone at 1771 Western Avenue**. They are requesting a 24.18sf building mounted and a two-sided 24sf freestanding sign for a total of 48.18sf. The freestanding sign would be mounted on a 17' pole. Chairman Remmert stated that he would like to see the street number mounted on the pole.

There was lengthy discussion regarding the signage and the height of the pole.

Chairman Remmert made a motion to approve the two signs for Auto Zone with the request that they (1) consider lowering the height of the freestanding sign, (2) they consider putting the street number on the pole, (3) they consider changing the color of the pole to blend in with the surroundings and (4) that landscaping be placed around the base of the pole. Motion seconded by Gus Santos. Vote 5 – 0 with the considerations as presented.

The Board approved a 25sf building mounted sign for **Dr. Barr Chiropractic at 5 New Karner Road**. Vote 5 – 0.

The Board discussed a property at 3434 Carman Road which is adjacent to a property that had a garage destroyed by a fire. Their SUP #21-87 has a condition that they will maintain a complete visual buffer from the project to the north side with the residential use. Without the garage, the buffer is inadequate. The applicant has submitted a plan to install staggered evergreens along the property line for the buffer. The Board thought that the plan was fine.

The meeting adjourned at 8:20 pm.