

**Minutes  
Albany County Planning Board  
October 15, 2015**

**Present:**

Michael DeVall, Chair, Dominic Rigosu, Ben Syden, Roland Graves, Paul Cooney, Bill Anslow

**Albany County Planning:**

Leslie Lombardo

**Secretary:**

Janis Dunham Relyea

**A call to order:**

Michael DeVall called the meeting to order at 3:30 p.m.

Michael DeVall announced to the board that he will need to step down as Chair, and asked that a motion to appoint Dominic Rigosu as Acting Chair be made. Paul Cooney made a motion to appoint Dominic Rigosu as Acting Chair. The motion was seconded by Ben Syden and unanimously approved by the board.

Paul Cooney made a motion to accept the minutes from the September 18, 2015 meeting. The motion was seconded by Ben Syden and unanimously approved by the board.

Paul Cooney made a motion to include the addendum into the agenda. The motion was seconded by Ben Syden and unanimously approved by the board.

**GML CASES RECOMMENDED FOR DEFER TO LOCAL CONSIDERATION**

Michael DeVall made a motion to consider the **16** cases recommended for defer to local consideration and approve as is. The motion was seconded by Ben Syden and unanimously approved by the board.

**Case # 7-151002360**

Ted Cillis

250 Old Loudon Road, west side of Old Loudon Road, between Austin and Bell Avenues, Latham  
Use variance to allow construction of a six unit apartment building where only five units are allowed as part of a mixed use development on 1.25 acres. The apartment building would be 5,346 s.f. A one story office and design center with a two bay garage would also be constructed for the commercial use. Existing buildings on the site will be demolished. This property was previously reviewed in March 2015 and granted approval by the town. The applicant has since increased the size of the apartment building and changed the layout of the site. Access is to a town road. A stormwater management area is shown on the plan.

**Advisory Note:** Use variance approval by a municipality requires the applicant to meet criteria under town law.

**Case # 4-151002361**

Wiggand LLC

Vagele Lane, south side of Glenmont Road, east of NYS Thruway, Glenmont

Area variance from the town regulations for flag lots to allow a subdivision of land that would create two adjoining flag lots and a condition in which the flag pole for a lot is parallel to a public street. The lots would be created within an existing single family subdivision with access to subdivision streets.

**Case # 1-15100236**

Castle Island Bilingual Montessori

10 North Main Avenue, northeast corner of North Main and Madison Avenue, Albany

Special use permit to allow a private school to occupy space in an existing building that is an annex to a church. The school use will occupy 1,100 s.f. with future plans to expand to using 2,800 s.f. The entrance to the school use will be at the back of the church on Western Avenue.

**Advisory Note:** The city should ensure that there is a safe and adequate drop off/pick up area for the school that does not disrupt a busy traffic and pedestrian area in this neighborhood.

**Case # 1-151002366**

Church of the Blessed Sacrament

8 & 10 Rawson Street, southwest corner of Rawson Street and Hunter Avenue, Albany

A demolition plan for two vacant residential structures adjacent to a school playground for purposes of expanding the playground. The existing church and school purchased the properties with the intent of expanding the playground for the school with 225 students, grades nursery school thru 8<sup>th</sup> grade.

**Case # 1-151002367**

151 HJB, LLC

151 Henry Johnson Blvd, corner of Henry Johnson Blvd and 2<sup>nd</sup> Street, Albany

Site plan for a parking lot that will serve a mixed use building planned for renovation with commercial space on the first floor and eight apartments on the second and third floors. The parking lot will have 20 spaces, there is an existing curb cut to Second Street.

**Case # 6-151002368**

Delaware Ave Condominiums-variance

Delaware Avenue, east side of Delaware Avenue, north of Van Schaick Avenue, along Hudson River, Cohoes

Area variances from number of units allowed in a building, building height, green space and maximum lot coverage to allow a proposed multifamily building in the mixed use waterfront zone. City code allows 10 units in a multifamily building, 24 units are proposed; a building height of 35' is allowed, 66' is proposed; a minimum green space and lot coverage of 50% is allowed, 44% green space is proposed and 56% lot coverage. The applicant has provided an excess of parking spaces that could be reduced to meet the green space and lot coverage requirements.

**Advisory Note:** The Zoning Board should consider the precedent setting nature of allowing significant area variances.

**Case # 13-151002369**

James Olsen

1900 New Scotland Road, SR 85, south side of SR 85, east of SR 85A, New Scotland

Subdivision to change the lot line between adjacent parcels under the same ownership. Ten acres will be transferred from a commercially used property (garden center) to an adjacent property with a single family residential use. The ten acres transferred are vacant lands. No changes to the existing access for each property is proposed. No new development is proposed. The final acreage for the single family use property will be 10.58 acres and the current commercially used property will be 13.09 acres.

**Case #1-151002370**

Paul Bonaquisti

185-189 Elm Street & 126-128 Jefferson Street, between South Swan and Dove Streets, Albany  
Site plan for construction of five two family infill row dwellings on two different city streets that have rear yards that back up to one another. The buildings are within the residential two family zone. This project was previously reviewed for area variances in March 2015 (case #1-15/3/2190).

**Case #10-151002372**

Athos Restaurant/Sophia Socaris

1814 Western Avenue/SR 20, southeast corner of SR 20 & Kraus Road, Guilderland  
Special use permit to allow a modification to a previously approved parking lot layout. Application proposes to add 15 spaces to an existing parking lot for a restaurant by reducing the width of the driving aisles and spaces. The total number of spaces will be increased from 53 to 68 spaces. No new pavement is being added. Applicant states that the building occupancy is for 120, but is currently 90 due to the parking availability.

**Case #7-151002373**

Gaffers Court Mixed Use

3 Gaffers Court, east side of Gaffers Court, north side of SR 2, Latham  
Site plan for construction of a 4,320 s.f. mixed use building with 2,160 s.f. commercial space on the first floor and two apartments on the second floor. There will be a parking lot for 14 cars. Access to the site is from a local street. Stormwater management practices will be provided as per town regulations since this property is less than one acre. This project was previously reviewed for area variances in March 2015 (case #7-15/3/2185).

**Case #17-151002375**

Schuyler Companies-subdivision

1804 2<sup>nd</sup> Avenue, southeast corner of 2<sup>nd</sup> Avenue and 19<sup>th</sup> Street, Watervliet  
Subdivision of 1.26 acres into two lots for commercial use. Lot A will be .45 acres and will be redeveloped with a new building for use as an auto parts store. Lot B will be the remaining lands, .81 acres, and will be redeveloped for use by a health care clinic. The two lots are part of a redevelopment and subdivision as part of redevelopment planning (case #17-15/5/2254). The existing vacant grocery store building will be partially demolished. The access to the shopping center from a city street will remain the same.

**Case #17-151002376**

Schuyler Companies-site plan health care center

1804 2<sup>nd</sup> Avenue, southeast corner of 2<sup>nd</sup> Avenue and 19<sup>th</sup> Street, Watervliet  
Site plan for partial demolition of a 24,477 s.f. vacant grocery store building within a shopping center and redevelopment of a 5,720 s.f. portion of the building as a health care center. Applicant proposes to share parking within the shopping center and share existing street access with a lease agreement. No

variances are needed. The redevelopment is less than one acre in size. Green space requirement will be increased from existing conditions.

**Case #17-151002377**

Auto Zone Parts, Inc. - site plan

1804 2<sup>nd</sup> Avenue, southeast corner of 2<sup>nd</sup> Avenue and 19<sup>th</sup> Street, Watervliet

Site plan to construct a 7,381 s.f building for use as an auto parts store with related parking on a .46 acre lot. The new building will be located in an area within an existing shopping center where part of a vacant grocery store building will be demolished. The access to the shopping center site remains the same. The new building will be oriented to the street and will add 16 parking spaces. The property for redevelopment is less than one acre. Area variances are required for this project; see case #17-15/10/2378 on this agenda.

**Case #17-151002378**

Auto Zone Parts, LLC - variances

1804 2<sup>nd</sup> Avenue, southeast corner of 2<sup>nd</sup> Avenue and 19<sup>th</sup> Street, Watervliet

Area variances from maximum front yard setback of 20' to allow a building to be built 58' from the front property line and maximum impervious area; which will be 91% where 85% is allowed by code. The proposed building is part of a redevelopment project within an existing shopping center. The access to the shopping center is not being changed. Applicant states that the layout with proposed setback accommodates the current access points in front of the proposed store. The impervious area was 99% and with redevelopment of the site will be 91%.

**Case #15-151002380**

Albany County Sheriff Department – communication tower

231 Edwards Hill Road, north side of Edwards Hill Road, just east of Fish Road, Rensselaerville

Special use permit to allow construction of a 180' lattice telecommunications tower with antennas and accessory equipment on a 3,200 s.f. leased area that will be fenced. The leased area is located on a larger 103 acre parcel in a rural area. The purpose of the tower is to provide public safety communications. Access to the property is from a town road, an existing farm road within the property will be used to access the tower site. Improvements will be made to the farm road and utility access added. The applicant states that less than one acre will be disturbed. The property is located in the agricultural district; an agricultural data statement has been provided. Applicant has provided information that states that the structure does not require registration with the FAA due to it's location.

**Case # 10-151002379**

Town of Guilderland – local law for rezoning of LB district

French's Mill Road to R-20

East side of French's Mill Road, 150' south of SR 20, Guilderland

Rezoning of six parcels in the Local Business (LB) zone to residential (R-20) to bring them into conformity with zoning since they were developed as residential properties. The six properties are a stand alone LB zoning district and were once a part of the adjacent former commercial property (Bavarian Chalet). They have since been developed for single family residential use and are surrounded by residentially zoned land. The properties all have existing access to a town road, French's Mill Road.

## GML CASES RECOMMENDED FOR MODIFICATION

### **Case #7-151002358**

Rosetti Mini Mart/Gas Station

2071 Central Avenue. Property is adjacent to the existing So Col Car Wash to the west and the former Earl Avenue to the east.

Site plan for construction of a 3,500 s.f. convenience store with a drive thru lane for a fast food service and 12 fuel pumps on six fuel islands to be located on a property with an existing car wash. The applicant owns adjacent lands that will be used to enlarge the proposed site by adjusting property lines. The existing car wash has two existing curb cuts to Central Ave/SR 5 as well as a curb cut to a town road, Lisha Kill Rd. There is also an existing curb cut to Central Ave that is Earl Ave, which is a private street/driveway that provides access to the adjacent property on the east side of the site and is under the same ownership as the proposed convenience store and car wash. NY State DOT has requested the closure of curb cuts for the car wash and proposed the use of Earl Ave as the access to the proposed site development including the car wash. The applicant has declined to provide the requested change in lay out for access to the state highway. The proposed site plan will required waivers from the town for setback requirements, does not meet the parking requirements for a convenience store use and shows a traffic circulation pattern that may cause conflicts between vehicles exiting the drive thru lane from the convenience store and queuing car wash vehicles. In addition there are possible conflicts between cars exiting from the gas pump side towards Central Ave and exiting car wash vehicles to Central Ave. A stormwater management basin is shown on the plan, but does not fit within the property lines even after being redrawn for the development. An easement is shown on the adjacent property in order to accommodate half of the stormwater management area. There is also a significant amount of regrading being shown on the adjacent parcel in order to accommodate the drive thru lane, for the convenience store.

Staff opinion is to disapprove without prejudice.

This application appears to be an overutilization of the property. A proposed development for a site plan application should be accommodated within the property lines; including areas needed for required stormwater management areas, regrading necessary for the site development, related drainage control from regrading and town requirements for setbacks and parking.

In addition the applicant has not addressed the comments made by the NY State DOT for changes to the access to the state highway. Since the applicant owns the adjacent property to the east that has an existing curb cut (Earl Ave.) to Central Ave, the access for all properties under the same ownership should be planned for and coordinated with NY State DOT.

The board discussed the site plan; Dominic Rigosu questioned why the applicant would not work with DOT comments for changes. A motion to accept staff opinion was made by Ben Syden. The motion was seconded by Roland Graves and unanimously approved by the board.

### **Case #6-151002359**

Delaware Avenue Condominiums – site plan

217 Delaware Avenue, east side of Delaware Avenue, north of VanSchaick Avenue, along Hudson River, Cohoes

Site plan for construction of a 24 unit multifamily apartment building with a first floor parking garage for 30 cars and exterior parking lot for 43 cars, 7 of which are banked. The total number of 73 spaces provided is in excess of code requirements for 48 spaces. A stormwater management area is shown.

Access to the site is from a city street. The site plan shows an outdoor pool, accessory pool house and an access ramp to the Hudson River. This project was previously reviewed in June 2013 (case #6-13/6/1694) and has been changed. NY State Office of Parks and Recreation and Historic Preservation issued a letter in 2014 noting historic significance of the archaeological findings on the property. The project also requires area variances, see case #6-15/10/2368.

Staff opinion is to modify local approval to include:

1. The city and the applicant should determine if any permits may be required by the US Army Corps of Engineers or other state agency for the boat launch access to the Hudson River.
2. Adherence to FEMA regulations for construction in the floodplain.
3. The applicant should address the comments made by NYS OPRHP in their letter dated October 16, 2014 regarding historic significance of the archaeological findings.
4. A Notice of Intent filed with the New York State Department of Environmental Conservation affirming that a Stormwater Pollution Prevention Plan has been prepared is being implemented or submission of a Stormwater Pollution Prevention Plan that is consistent with the requirements included in the New York State Department of Environmental Conservation SPDES General Permit for Stormwater Discharges (GP-0-15-002, January 29, 2015) for construction activities that disturb more than one acre of land.

Bill Anslow asked how the project can move forward with the archeological findings on the site. Leslie said that they have moved the building show previously from the northern side of the property and decreased the size; the City said the applicant will ask NYS OPRHP if the paved parking lot covering the site is permitted. Paul Cooney asked about the location of the floodplain. There was discussion about river access and the changes from the previous submittal.

A motion to accept staff opinion was made by Ben Syden. The motion was seconded by Michael DeVall and unanimously approved by the board.

**Case # 4-151002362**

RCS School District – sign

1146 Route 9W, east side of Route 9W, south of Creble Road/CR 55, Selkirk

Area variances from town sign code regulations to allow a digital, electronic message type sign that was installed without a permit within NY State highway right of way to remain in place. The sign is 26.6 s.f., 6'7" tall and has a school name on it as well as a digital, electronic, changeable message area component used to communicate information to the community. The sign will require eight different variances from the sign code regulations and is currently located 37' from the property line within the right of way for Route 9W. Town sign code specifically prohibits installation of digital, message center type signs with electronically changeable messages.

Staff opinion is to disapprove without prejudice.

This application represents a significant number and type of variances from town code regulations. In addition, the sign location of 37' outside of the property ownership and within NY State highway right of way is substantial. Significant variances from the sign code regulation should also be considered for their precedent setting nature. The school district should work with the town to resolve issues for the need for signage.

The board discussed the location of the sign, and facts presented.

A motion to accept staff opinion was made by Ben Syden. The motion was seconded by Paul Cooney and unanimously approved by the board.

**Case # 1-151002363**

1200 Western Avenue, LLC/City Line Bar and Grill

1200 Western Avenue/SR 20, south side of SR 20, across from entrance to SUNY campus, Albany

Appeal of a denial of a cabaret license from the city for an existing restaurant and bar. The building is located on the border between the city and the adjacent Town of Guilderland.

Staff opinion is to modify local approval to include:

1. Notification of the application should be sent to the adjacent Town of Guilderland.

A motion to accept staff opinion was made by Paul Cooney. The motion was seconded by Ben Syden and unanimously approved by the board.

**Case # 1-15002364**

Café Natasia/Tapasia

227 Lark Street, west side of Lark Street, between Chestnut and Lancaster Streets, Albany

Special use permit to allow a restaurant serving alcohol to occupy a 550 s.f. basement level floor space of an existing structure in the commercial zone.

Staff opinion is to modify local approval to include:

1. Review by the Albany County Department of Health for food service and other required permits.

A motion to accept staff opinion was made by Paul Cooney. The motion was seconded by Roland Graves and unanimously approved by the board.

**Case #10-151002371**

Pharma Cann Albany

10 Executive Park Drive, at the rear of Executive Park, behind Stuyvesant Plaza, Guilderland

Special use permit to allow a medical marijuana dispensary to operate in an existing building in an office park. No changes will be made to the exterior building or to the existing parking and access. The applicant states that they have made an application to NYS Department of Health pursuant to the State's Medical Marijuana Program and have the required dispensing and sale plan.

Staff opinion is to modify local approval to include:

1. Any necessary approval by the NYS Department of Health under NYS Medical Marijuana Program.

There was discussion by the board on the location; Roland Graves noted that he did not think it was an appropriate location for the use.

A motion to accept staff opinion was made by Paul Cooney. The motion was seconded by Ben Syden, Michael DeVall voted in favor of the motion. Roland Graves opposed the motion. The motion was approved.

**Case #3-151002374**

Dennis Ryan subdivision

3090 Delaware Tpk/SR 85, east side of SR 85, approximately 620' north of CR 11, East Berne Subdivision of 135.44 acres into 3 lots. Lot #1 will be 12 acres, lot #2 will be 50.44 acres and lot 3 will be the remaining lands, 73 acres. Lot #1 and #2 are proposed for single family residential use with driveways to SR 85, wells and septic systems. An agricultural data statement was included in the file. AC DOH has issued a review letter for well water.

Staff opinion is to modify local approval to include:

1. The land owner of the subdivision should notify purchasers of the lots that they must prepare a SWPPP for erosion and sediment control, if construction will disturb more than one acre of land. (Disturbance includes the driveway for a single family home and a septic field). This is part of the NYS SPDES GP-0-15-002. The DEC website has more information.
2. Review by the NYS DOT for design of highway access, drainage and assessment of road capacity.
3. Before a building permit is issued on each lot, the required permits from the Albany County Department of Health for water supply and waste water discharge will be needed.

A motion to accept staff opinion was made by Paul Cooney. The motion was seconded by Roland Graves and unanimously approved by the board.

**Case #15-151002381**

JoAnn Rupeka

949 CR 351, west side of CR 351, across from CR 361, north side of Wilsey Road, Rensselaerville Subdivision of 25.5 acres into two lots for residential development. Lot #1 will be 5 acres and has an existing residence and driveway to CR 351. Lot #2 will be 20.5 acres and shows a proposed residence, septic and well and driveway to Wilsey Road, a town road.

Staff opinion is to modify local approval to include:

1. Prior to building permit approval, any necessary permits from Albany County Department of Health for water and septic system for lot #2.
2. The land owner of the subdivision should notify purchasers of the lots that they must prepare a SWPPP for erosion and sediment control, if construction will disturb more than one acre of land. (Disturbance includes the driveway for a single family home and a septic field). This is part of the NY SPDES GP-0-15-002. The DEC website has more information.

A motion to accept staff opinion was made by Paul Cooney. The motion was seconded by Roland Graves and unanimously approved by the board.

Paul Cooney delivered his letter of resignation; his last meeting will be 11-19-2015. Dominic Rigosu, Acting Chair, accepted the letter.

Meeting adjourned at 4:02 p.m.

The Albany County Planning Board will meet again on Thursday, November 19, 2015 at The Albany County Department of Public Works 449 New Salem Road, Voorheesville, NY 12186 at 3:30 p.m.