

Zoning reversal 3-2.doc

To: Mr. Kenneth Runion, Supervisor, Town of Guilderland and Town Board Members

From: Don Reeb

Subject: Proposed Changes in the Zoning Laws,
Town of Guilderland Local Law No. _____ of 2010
("Amendments to Chapter 280 of the Town Code")

Date April 18, 2010

The proposed changes in zoning (Chapter 280 of the Town Code) put forth by the Zoning and Land Use Review Committee should not be approved by the Town Board.

Guilderland has the reputation, deservedly, of being a great place to live and do business. As we consider zoning changes, everyone need be cautious that we do not jeopardize that reputation.

The proposed changes in Chapter 280 of the Town Code, while making it easier to do business, does not provide adequate protection to residences because quality of life issues have not been addressed. Presently, McKownville has numerous zoning violations that impinge on the quality of life, and, it can be assumed, similar problems occur in other parts of Guilderland.

Until it can be shown that zoning enforcement is up to the task of effectively protecting resident's quality of life, the new proposal should not be approved. The increased ease of application for gaining approval to operate a business also makes it easier to violate the zoning law. In the not too distant past, Guilderland authorities found it far too easy to ignore zoning violations and this law does nothing to assure residents that it will not once again occur. Moreover, other portions of the proposal are too broad. The proposals need to be examined against existing circumstances—in many cases, the circumstances for comparison can be found in McKownville.

The proposed Zoning Law has three parts—Minor Home Occupation, Home Occupation I and Home Occupation II. For McKownville, it is the first two parts that are especially troubling.

The McKownville Improvement Association neighborhood is identical with the area covered by the McKownville Fire District. It is a modest sized hamlet, one square mile in area—640 acres—and contains approximately 1,000 homes. It has more people than Altamont or several other villages in the Capital District and is quite compact. Many of the homes are on lots that measure 50x175 feet—less than a quarter of an acre.

The missing element of the proposed law that strikes us the hardest is enforcement. We need to address the issue of who should initiate enforcement of zoning laws. What are the roles of neighbors and citizens in enforcing the zoning law? What are the mandates for town officials? The police do not rely on drivers to report a fellow driver for speeding but it seems to be the town's expectation that neighbors are the ones who must detect and report zoning violations. Neighbors should surely be one part of the detection and enforcement protocol, but not the most important part. Since the new proposals do not address this issue, how can we expect adequate Town enforcement when it has failed to protect the quality of life in the past?

A case to consider would be the past use of a property on Western Ave. When a dentist established an office in the residence on the corner of Glenwood, the patients parked in a small parking lot on the

property. As the business grew parking flowed onto Norwood and Glenwood streets. Eventually the dentist paved over a significant portion of the residential lot and this had the effect of making the property even less residential. This paving was a terrible solution to a problem that should never have existed in the first place because the dentist neither lived in the home nor did he limit the number of employees to that allowed by the law. The dentist was operating in violation of the Guilderland zoning law and the Town should have acted to stop this use before the property was commercialized. However, the Town had approved the dentist office in a residence and did nothing to stop him from violating the law.

While McKownville is a small area, it has very important and powerful nearby land uses. Pyramid Crossgates is one, of course, but also the State University at Albany and the City of Albany. NanoTech and the Harriman Office Building Campus of the State of New York are also nearby. There are the three large important highways, Western Avenue, the Northway and the Thruway, in addition to Fuller Road, Schoolhouse Road and McKown Road, all of which are well used by local and through traffic. While little can be done about traffic on major roads, we can work to maintain low levels of traffic on the side streets. Something we feel this zoning law—especially Home Occupation I—would not do. We do not believe these changes would help maintain McKownville as a residential community for its 3,000 or so residents.

The increase in traffic that would result from residential businesses is a concern. Many streets in McKownville are dead end. On the twenty dead end streets in McKownville there are nearly 500 homes—about one-half of the homes in McKownville. A truck making a delivery on such a street passes many homes twice—once going up and once coming down. Because there are no turn around areas at the end of these streets, traffic is a problem. At the present time some residents place traffic cones in their driveways to prevent vehicles (especially delivery trucks) from continually turning around in their driveways. The one through carriageway in the area has become a shortcut for all manner of vehicles. This means “street like” wear and speed on what is in reality the homeowner’s driveway; plowed, paved and maintained by the homeowners. Despite repeated calls to the companies involved this usage continues.

As expressed in the Town approved McKownville Corridor Study (2003), the nearby large and powerful land uses present an opportunity and several challenges. Improved walkability and better bike paths and walking paths and sidewalks are certainly opportunities to maintain a residential quality. However, as the proposed New York Thruway Exit 24 “flyover” across Western Avenue amply demonstrated, these powerful organizations with their land use priorities have the potential to overwhelm our neighborhood—with noise, vibration and increased air pollution. In the case of the proposed Exit 24 flyover, the quality of life was placed in danger.

The McKownville Corridor Study advocates that many more sidewalks be built—and several have been built—but there are still very few quality sidewalks in McKownville. While more sidewalks will be built, at present the business users, residents, and students must compete for the use of the few sound sidewalks that exist. Alternatively, they must walk in the narrow streets, about 25 ft wide, and due to the lack of driveways, lined with parked cars. We have to be careful not to increase demand beyond a manageable level. Home Occupation I, with its non-resident employment, could increase traffic on these side streets and sidewalks.

The issue of population density must also be considered. The narrowness of the lots in McKownville means homes are quite close. Therefore, activities conducted on one property have both visual and sensory implications to adjoining neighbors. When activities are of more than a routine domestic nature they become problematic. A neighbor fixing his own lawnmower, car, or appliance is one thing. However, when it occurs repeatedly then it is like a business. This situation is more than an annoyance—it destroys the residential character of the neighborhood. This may not be a fanciful example—a refurbishing business—for vintage motorcycles—might be operating in McKownville presently.

The fact that McKownville does not have large lots should not be considered an anomaly. It appears that other parts of Guilderland are going to look more like McKownville than a sprawling suburb. Glassworks Village, Guilderland Center and the Guilderland neighborhood surrounding the library are likely to have compact development. The “Neighborhood Master Plans” all seem to be directing Guilderland towards residential development that is more compact.

In developments like Woodscape, which is located in McKownville, any business use that produces any outside evidence becomes a horrible burden for neighbors. While it is true that Woodscape has much open land, the homes are grouped tightly. Woodscape has many row houses: about 90 of the 159 homes in Woodscape are row houses. Indeed the lot width in Woodscape might, on average, be less than it is on Norwood Street, for example. Then there are the 51 condominiums off Schoolhouse Road in McKownville—they are often referred to as the Coralberry Condos—they too have shared walls making business activities problematic. The proposal by the State University to build on a residential lot on Western Avenue, 1257 Western, is but one more example of threats to the residential character of McKownville. To this can be added the continuing discussion from the University for expansion of its dormitories and other buildings. The Town gains much by keeping McKownville as a wonderful residential neighborhood and should not allow it to become an overly dense student or business area.

The visual impact of more home business must also be addressed. Here the issue of signage comes to play with more home business: trucks or cars with attached business signs easily visible, parked on the street, or in the driveway, are more than an annoyance. They decrease property values for all. Again, this is not a fanciful example but exists presently in several places in McKownville. In addition, a business activity inside a home that causes piles of trash to be set at the curb weekly—with or without portions of the trash blowing onto the street and sidewalk and lawns—is another quality of life issue.

In short, both the Minor Home Occupation proposal and Home Occupation I for McKownville (and for Guilderland) seem to be wrong—they are too permissive. Business activities, that might be advantageous for some homeowners, can negatively affect the wider community. The proposed law will permit some annoying activities and possibly create an atmosphere where violations become even more common. In the past, enforcement has not risen to the occasion and there is nothing in the proposed law that strengthens enforcement even though the law gives neighbors less information about neighboring businesses.

A residence is a residence.

The proposed law weakens the protections that safeguard residences and thereby threatens the quality of life for the majority. The Town has expended great effort to enhance neighborhoods and residential life in many ways—this proposal moves Guilderland in the wrong direction and destroys many of the enhancements so carefully achieved.

As conditions change in our society and technology advances, the potential for a business working out of a home that truly has no negative impact on neighboring property owners becomes a more feasible idea. There would be benefit to a zoning law that allowed for this kind of business activity in residences—if we were not relying on the naïve notion that every applicant will honor the conditions and constraints of a permit. What is currently proposed does exactly that. Without enforcement there are no assurances that the monetary profits accrued to one resident do not come at the expense of the neighbors.

In the end these are residential neighborhoods. The vast majority of owners purchased their homes because they wanted a residential neighborhood. That is how most residents use their homes. We can not let the activities of the minority dictate the character of the neighborhood to the majority. We have only to look to the recent housing market crash to see just how easily the blight caused by one home can affect the home values of many.

It is well documented that having laws on the books that are not enforced breeds contempt for the rule of law in general. The examples we have called out here demonstrate that this attitude has been visible in McKownville. The Town's approach to enforcement was deficient for many years--this may have been due to its transition to a business and residential community from one that was decidedly rural. But passing more laws without assuring residents that the quality of residential life will be well protected is jeopardizing what too many have worked too hard to build—a community where residents and businesses are comfortable—and separated----from each other.