

Board split on permit for Across the Street Pub

By Nicole Fay Barr

GUILDERLAND — After hearing a businessman's story of struggling against chain restaurants and a neighborhood's battles with parking and rowdy bar patrons, the town's seven-member zoning board was split — for the first time in years.

Last Wednesday, to the dismay of a handful of Arcadia Avenue residents, the board made no final decision on whether Michael Arduini could add a deck with 20 seats to the Across the Street Pub.

Since Arduini asked for a parking variance of over 50 percent, Chairman Bryan Clenahan, along with board members James Sumner and Charles Klaer voted to disapprove the proposal. The variance was too substantial and parking is already a big problem at 1238 Western Ave., they said.

Clenahan's motion, however, was defeated by board members Susan Macri, Sharon Cupoli, Michael Marcantonio, and Patricia Aikens. They seemed swayed by Arduini's plight as an independent businessman in a growing suburb.

Since the four who defeated the motion didn't feel comfortable making a new one last Wednesday — usually only Clenahan makes motions — the decision was tabled until the next zoning meeting.

Usually votes by the zoning board are either unanimous or are opposed by one member — Klaer or Sumner. The board members are divided politically; some are Democrats, some are Republicans, and some independent.

Since Clenahan was appointed chairman, in March of 2004, he has made scores of motions. This

outside after that time. Smokers, however, could still stand on the deck until the bar closes, he said.

Arduini also decided to erect what he called a wall on the south side of the property, to block the neighbors' view of the site.

In the spring, he said, the outside of the building will be painted, new windows will be installed, and the appearance of the restaurant will be greatly improved.

"Each neighbor is entitled to his opinion, but I never got a phone call or a letter about complaints," Arduini said.

He handed the board a petition, signed by his customers; 80 percent of them live in Guilderland, he said. This caused groans from the handful of audience members who whispered that those who signed it drank at the bar but didn't live nearby.

Arduini said he is an independent businessman trying to compete with chain restaurants that have bars. It's increasingly difficult for him to make a living, he said.

Arduini then addressed the board's biggest concern — parking. When the restaurant was built in 1973, the town allowed it to have only 24 parking spaces. The facility was a college bar then, he said, and drinks were served until 3 a.m.

In 1999, after Arduini had bought of the pub, he demolished a garage next to it, which he called an "eyesore." It was his choice then, he said, to add 16 parking spaces and landscaping.

Now, he said, although neighbors have complaints, the site looks better and the business is



The Enterprise — Nicole Fay Barr

No decision on deck: Guilderland's zoning board chairman had his motion denied last Wednesday; the motion was to disapprove of Across the Street Pub's request for an outside deck. To the dismay of residents who say the bar has parking problems, a new motion will be made in January.

he said, because it's public parking.

Some neighbors in the audience became visibly upset at this because, they said, they have no driveways. Later, Alison Nicholas said that customers of the restaurant already fill her street, making some elderly resi-

landscaping appearance....It's terrible looking and there's no reason in the world the people of Guilderland should have to put up with it."

After the public comments, Arduini said he respects Reeb and what he's done for McKownville, as well as his other neighbors.

disapprove the proposal.

He was followed by Cupoli, who said she changed her mind from her earlier comments. She now agrees with Macri, she said.

Board member Charles Klaer voted with Clenahan and Sumner. If no additional seats were being added to the restaurant, he'd be comfortable with the request, Klaer said, but that's not the case.

The final vote was by board member Patricia Aikens. She cast

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epublicans, and independent.

Since Clenahan was appointed chairman, in March of 2004, he has made scores of motions. This is the first to be defeated.

The McKownville neighbors who spoke against Arduini's proposal, at this meeting and at one earlier this fall, were not happy about the motion's defeat. They argued that four of the board members were voting based on their emotions rather than the zoning law.

What was also unusual about the case was Arduini's attitude. While many businessowners are pushy and some take offense at the zoning board's governing their property, Arduini told the board that he understood if his proposal weren't approved. He knows that parking is a problem, he said.

The proposal

Arduini came to the zoning board last Wednesday with some changes to his proposal. To control noise, the proposed deck would be closed at 10 p.m., he said, and signs would indicate that no food or drink is allowed

parking spaces and landscaping. Now, he said, although neighbors have complaints, the site looks better and the business is less of a bar and more of a family restaurant.

However, building the deck will take away two parking spaces, giving Arduini fewer than 40 spaces. The current town law, considering the deck and added patrons, requires that he have about 80 parking spaces.

"This is a tough case," Clenahan said. "I agree Across the Street Pub is a good neighbor and I imagine it's hard to run a business....But, I have a hard time getting around the parking issue."

"We don't have enough parking; we both know it," Arduini said.

To meet the conditions to grant an area variance, the board has to be convinced that the request is not substantial, Clenahan said.

"The variance is for about 50 percent of the spaces," he said. "That's a tough one."

One side of Arcadia Avenue allows parking, Arduini said. Customers could park on the street,

'This is a business owner trying his best to overcome difficulties he doesn't have control over.'

dents park a far distance away, down a hill from their homes.

"Maybe it is public parking, but to say your neighbors come second is wrong," Nicholas said.

"The building should have never been allowed there with 24 spaces in the first place," Arduini said. "But, we have to live with that."

He continued that the lack of complaints about his business to the Guilderland Police Department proves that there isn't a problem.

Neighbors also took offense to this.

"If someone is urinating outside, by the time police get there, the zipper will be up," said another woman from Arcadia Avenue. "I can't see wasting police officers' time like that."

"Maybe we'll have to call the Guilderland Police," Nicholas said. "We didn't want to waste their time, but maybe we should to prove to you there's a problem."

Board member Susan Macri was the first to speak in support of Arduini. She worked at nearby Dunkin' Donuts in the 1970's when the business was a rowdy college bar, she said.

"I feel now it's more of family restaurant than a bar and, truthfully, I haven't seen a large parking problem," Macri said. "Losing two parking spots to a deck, I don't think is going to be a huge impact."

Don Reeb, president of the McKownville Improvement Association, said his group is against the proposal because it will add to the parking problem and cause more noise.

Also, he said, "It is and has been less than admirable in its

"Nobody is trying to put them second," he said. "No one says a car in front of their houses is from my establishment."

Motion defeated

Arduini wasn't aggressive about the board's granting him approval; he seemed to expect that it wouldn't.

"We know we don't have enough parking. In the spring, the place is going to look good either way," he said. "Either way, I understand you do what you have to do."

"I don't know if Mr. Arduini should be blamed for actions of his customers if they're breaking the law," Clenahan said. But, he said, "I can't get around the parking issue. It's hard to come to the conclusion that it's anything other than a substantial request."

"I like the proposal and I wish there was another way to get the deck on," said board member Sharon Cupoli. "...But, having lived on a street where a bar was at the end and nobody had a driveway, I have a great deal of sympathy for the neighbors."

Clenahan then made a motion to disapprove Arduini's request.

Macri was the first to vote against the motion, saying she was for the request.

Several people travel in one vehicle to restaurants, she said. She's driven past the Across the Street Pub for 30 years and hasn't seen a parking problem, she said.

Board member Michael Marcantonio agreed with Macri and voted to defeat the motion because, he said, the deck seating is only seasonal.

Next, board member James Sumner voted with Clenahan to

the case.

The final vote was by board member Patricia Aikens. She cast the fourth vote to defeat Clenahan's motion.

"This is a business owner trying his best to overcome difficulties he doesn't have control over," Aikens said.

Zoning board attorney Peter Barber then explained that, since the motion was defeated, someone needed to make a new motion to approve the proposal. That person, however, has to be sure to include conditions and proper legal language, he said.

Macri, Marcantonio, Cupoli, and Aikens all said they weren't comfortable doing that now. They agreed to postpone the decision until the next board meeting, so someone could be prepared to make a motion.

The chairman almost always makes motions and, in the past several years, none have been defeated.

The neighbors were angered by the vote and yelled out from the audience a few times; some board members said the public hearing was closed, so they could not talk.

Clenahan, however, then allowed the neighbors to speak.

"I feel the things said here have nothing to do with the issue," Nicholas said. "It was an emotional business decision and not a parking-lot issue."

"Somebody drives by and doesn't see a problem, but we live there," a woman shouted.

"We've been totally discounted," Nicholas said.

"The only thing we can conclude is that this will be approved," Reeb said.

"No," said Barber. No one knows what the new motion will be or how board members will vote, he said.

"The neighbors feel the concern about the business has replaced concerns about the neighborhood," Reeb said. "This is outrageous. The businessman is more important than the residents."

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