

# Guilderland doctor seeks zone shift in town's to-have-or-have-not dilemma

By MARTIN MOYNIHAN

GUILDERLAND—A possible resolution of a three-year-old zoning problem has been proposed by a McKownville pediatrician to the town board.

Dr. Anthony Mastrianni, whose medical practice and residence at 1461 Western Avenue has been found in violation of the town's zoning ordinance, says he would like to build a new building and relocate his practice on nearby Schoolhouse Road.

The proposal, however, would require a zoning change from R-15 (residential with a 15,000 square foot minimum lot size) to B-1 (business) at the 2.55 acre site adjacent to the Thruway.

Several town officials have conceded there would be no winners if they succeed in enforcing the town zoning ordinance. If the town wins its case, currently in state Supreme Court, the community would lose the services of Dr. Mastrianni and other physicians who practice with him, an official said.

The town board on Tuesday scheduled a public hearing for Nov. 11 on the request for rezoning the property. The physician would also need a special use permit from the town for construction of a professional office building.

A letter to the board from Philip Roberts, real estate broker, said because of noise from the superhighway, the odd shape of the lot and the existence of com-

mercial property across the Thruway, "my efforts to develop a feasible use within the limits of the present zoning have proved futile."

Dr. Mastrianni told the board in a letter that he had a contract to purchase the property from Ann Roberts contingent on approval of the zoning change and special use permit. He said permission to build the office building "would resolve the difficulties which have been troublesome both to me and the township."

The McKownville Improvement Association has been urging enforcement of the zoning code for more than three years, and has been particularly angered about the parking situation at the Western Avenue office. Last year a special referendum of McKownville residents indicated they wanted the ordinance enforced to the letter.

In other business, the board authorized contracting with the Guilderland Chamber of Commerce to have it continue operation of its information booth on Route 20 at the foot of the Northway.

The chamber operated the booth for more than a year, but asked the town government for help in meeting its annual budget. The town will appropriate \$3,000 to the chamber, which Supervisor Carl Walters indicated was less than half of the amount needed to operate the facility next year.

Walters said any impact on the town

budget from the contract would not affect the town tax rate, which he said would not increase next year.

Walters said the town board is "using every bit of money" to reduce the budget for the coming year, but added that "it might give us a little trouble next year."

Anthony Feeney, attorney for Rustam Kermani, who is suing the town for what he says are inequities in the benefit assessment system under which sewer fees are collected in the Guilderland Sewer Improvement Area, asked the board to find an alternative to the system.

Speaking at a public hearing on the benefit assessment rolls, Feeney urged the board to take the initiative in changing its present point system which has resulted in his client paying more for sewer charges in one year on 60 acres of undeveloped property than a large shopping center.

The Appellate Division in Albany has ruled in favor of Kermani, but the town has appealed the decision to the Court of Appeals.

Walters said the board had considered various means of making assessments before adopting the benefit assessment plan, which uses a formula based on number of families, lot sizes, water consumption in some buildings and other factors to determine the amount a landowner should pay.

"Very truthfully, we thought this was more equitable than anything we had seen heretofore," Walters said. He added, "No assessment is ever 100 per cent equitable."