

Guilderland developer loses court round

GUILDERLAND — A state Supreme Court justice has dismissed developer Vincent Wolanin's lawsuit against the town Zoning Board of Appeals, saying the panel upheld town policies by dismissing a project.

However, the ruling by state Supreme Court Justice Daniel H. Prior Jr., dated Jan. 17, gives Wolanin 20 days to direct his action against the Town Board, which in May rezoned Wolanin's McKown Road property from business to residential. Wolanin claimed that was "discriminatory and illegal."

The Town Board action prevented Wolanin from continuing his application for a special-use permit to build a two-story, 16,000-square-foot profes-

sional office building on McKown Road next to his 21st Point Racquet Club.

Wolanin filed a lawsuit against the zoning board in July, charging it had delayed making a decision on his application to give the Town Board time to rezone the property.

The McKown Road site was zoned for business use when the project was presented in April, but the Town Board voted to rezone it to residential use four days before Wolanin's third hearing on the project in May.

The zoning board then told Wolanin an office building was no longer a permitted use on the site and the matter was out of their hands.

Before the zone change, officials and town residents had said they were

concerned about traffic, poor drainage and parking at the site.

Wolanin's attorney, Louis Dempf, told the zoning board, "You dragged this thing along so you could change the zone." He said his client had spent \$10,000 in engineering fees at the board's request.

The court ruled the zoning board had no choice but to dismiss the project and said such items as traffic and drainage were "factual issues" that had to be resolved before a decision could be made.

"The court concludes the zoning board appropriately dismissed petitioner's request for relief based upon the change in zoning and the presumption of regularity in their adoption,"

Prior's decision states.

He said Wolanin's alleged "proven entitlement" based on the \$1 million he claims to have invested in the property, "is quite without support in the record and in fact the contrary is demonstrated."

Prior did not rule on the merits of the rezoning request, which he said was between the Town Board and Wolanin.

Town Attorney Kenneth Runion said Wolanin had 20 days to decide whether to pursue the case against the town.

If he decides to do that, a trial will be held in state Supreme Court, Runion said.

Wolanin said Tuesday he had just received the decision and had not had

time to read it. However, said he said he was encouraged by the judge's interest in the rezoning issue.

He said because Prior had not ruled on the merits of the rezoning and cleared the way for a trial, "it means he considers it to be significant," said Wolanin.

"Until I read the documentation, I can't give you a decision," he added.

This was the second suit Wolanin brought against the town.

In November, the state Court of Appeals, the state's highest court, upheld a town Zoning Board decision rejecting Wolanin's proposal to build a 71,000-square-foot shopping center at Johnston Road and Western Avenue.