

TOWN OF GUILDERLAND

Planning Department/Stormwater Management Office

5209 Western Turnpike

Guilderland, NY 12084-0339

Phone: (518) 356-1980 x 1061

Email: kovalchikk@townofguilderland.gov

Peter G. Barber
Supervisor

Kenneth Kovalchik, AICP
Town Planner/SMO



M E M O R A N D U M

TO: Stephen J. Feeney, Chairman
& Town Planning Board

FROM: Kenneth Kovalchik, AICP, Town Planner

DATE: September 3, 2026

SUBJ: 634 NYS Route 146 – Michael Floccuzio
Site Plan Review Associated with a Special Use Permit (Contractor Yard)

Background

The Zoning Board is the lead agency for this application. The Planning Board's role is to review the site plan and provided a site plan report to the Zoning Board.

In July 2021 the applicant obtained approval for a 5-lot subdivision, which included 4 single-family lots accessed from Weaver Road and one lot accessed from NYS Route 146 on 19.3 acres +/- of land located in the Rural Agricultural (RA3) District.

The applicant is now proposing to develop the 7.3-acre parcel that fronts on NYS Route 146 as a contractor yard, which requires Special Use Permit approval. The proposal includes construction of three one-story commercial buildings, which will be used as lease spaces for future tenants, totaling 36,000 square feet, with associated parking, stormwater and wastewater treatment. The parcel is located in the RA3 District.

Water service will be provided to the lot via an easement across the residential lots in the previously approved subdivision. The plans indicate a private septic system will be installed and will need to be reviewed and approved by the Albany County Department of Health. The Black Creek flows along the eastern portion of the property. Pursuant to §280-30.B of Town Code no structure shall be allowed within 100 feet of the top of the bank of a watercourse. The plans indicate a 100' stream setback to the Black Creek and all proposed structures are outside of the setback. Flood zones exist on the eastern portion of the property adjacent to the Black Creek. The applicant has depicted the flood zone boundary on the map and no structures are proposed within the flood zones.

Stormwater & SWPPP

Because the project involves 6 acres of ground disturbance, it triggers the mandatory requirement for a Full Stormwater Pollution Prevention Plan (SWPPP) under NYSDEC SPDES General Permit guidelines. The SWPPP will address:

- **Erosion and Sediment Control:** Temporary measures (e.g. silt fencing, stabilized construction entrances, check dams) must be detailed to contain soil runoff during the construction phases.
- **Post-Construction Stormwater Practices:** The applicant must incorporate permanent green infrastructure and water quality practices. This will likely involve a combination of engineered stormwater retention/detention basins, infiltration systems, or surface swales to ensure post-development peak runoff rates do not exceed pre-development levels.

Black Creek and Setbacks

The site plan indicates the eastern portion of the parcel borders the Black Creek, a major tributary to the Watervliet Reservoir. The Watervliet Reservoir is a primary drinking water source for the City of Watervliet and the Town of Guilderland.

- **100-foot Setback Regulation:** Per Chapter 280-30.B of the Guilderland code, no structures are permitted within 100 feet of the top of bank of the Black Creek to minimize impacts to the Black Creek, Watervliet Reservoir and riparian zone. The site plan indicates the buildings are not within the 100-foot setback.

Parking Area Outside Storage Impacts

The site plan depicts dedicated outdoor storage within or adjacent to the parking areas, which is common for contractor yard layouts. However, the presents an increased level and risks of illicit discharges and runoff contamination directly to the Black Creek.

- **Additional Information Required:** The applicant must submit a detailed project narrative specifying exactly what materials, equipment, or chemicals will be stored outside.
- **Runoff Concerns:** Storage of loose construction materials (e.g. gravel, topsoil), unsealed fuel/oil drums, or heavy machinery with active leaks can introduce heavy metals, sediment, and hydrocarbons into the stormwater practices and Black Creek.
- **Mitigation:** Depending on the material list, the Town may want to consider overhead structural coverings, secondary containment systems, or specialized oil-water separators within the local catch basins before any runoff is allowed to migrate toward the Black Creek.

A portion of the drive aisle on the western portion of the parcel, and near the entrance to the site will extend onto an abutting property at 4325 Weaver Road. The applicant is proposing a 50' wide ingress/egress easement. The abutting property is owned by the applicant.

Area Variance – Building 1

Building 1, on the western portion of the site, is located within the 100-foot rear setback. The Zoning Board will need to approve an area variance to allow the building to be sited as proposed. Approximately half of the building is located within the setback.

Wetlands

A special use permit application for a contractor yard was previously submitted (2025) by the applicant, but did not proceed and obtain approval. Federal wetlands were delineated and shown on the previous site plan and showed wetlands impacts of 4,165 square feet. The current site plans do not show the delineation of the federal wetlands. Based on the current site plan design it appears there could be wetland impacts greater than 0.1 acres. Exceeding this threshold alters the US Army Corps of Engineers (USACOE) federal permit track, escalating the review from being administrative to a more rigorous process.

For commercial projects, the USACOE typically utilizes the Nationwide Permit 39. However, NWP 39 mandates a hard ceiling for impacts. Under federal rules, if the permanent loss of non-tidal federal wetlands exceeds 0.1 acres, the applicant cannot proceed under standard, streamlined Nationwide Permit authorization.

Exceeding the 0.1 acre disturbance threshold automatically triggers federal requirements for compensatory mitigation. The applicant will be legally required to offset the ecological loss by purchasing wetland mitigation credits. Any federal USACOE permit that exceeds standard nationwide thresholds requires a corresponding Section 401 Water Quality Certification from the NYSDEC. Given the sites proximity to the Black Creek, the NYSDEC may look more closely at impacts greater than 0.1 acres as the loss of these wetlands may directly compromise the creek's riparian area.

The 2025 site plans depict federal wetlands on the abutting parcel at 4325 Weaver Road. The portion of the drive aisle that extends onto this property appears as if it may impact and disturb these wetlands.

SEQR EAF and Historical Background

The Short Environmental Assessment Form, Part 1, relied on the NYSDEC EAF Mapper Tool when completing the form. The automated report marked “No” for Question 12b, indicting the site is not explicitly designated within an archaeologically sensitive area on the State Historic Preservation Office (SHPO) inventory. The automated EAF Mapper contains a disclaimer stating that its digital mapping information is a screening tool and not all questions asked in the EAF as answered completely. It frequently misses uncatalogued historic burial grounds, localized family plots, and historic farmsteads.

However, a formal objection letter submitted by Albany County Legislator Jeff Perlee (31st District), dated August 19, 2026, presents documented historical evidence indicating the site holds profound Revolutionary War significance and may contain a patriot burial site. As an interested agency under SEQRA, the Planning Board must look beyond the automated SEQR EAF

screening data when substantive evidence is entered into the public record that could impact the site layout.

According to the documentation from County Legislator Perlee and former Guilderland Town Historian William Brinkman, the subject parcel contains several highly sensitive historical elements:

- Patriot Burial Site: The property is identified as the final resting place and farm of Phillip Featherly, a Revolutionary War patriot.
- The Featherly farm represents a historic site where family members split into opposing factions (patriots vs loyalist spies), culminating in physical conflict at the Battle of the Normanskill in August 1777.
- From a historic settlement context, the site borders the first settled neighborhood in Guilderland and connects parcels with historic churches and the historic Mohican trail/Palatine Road.

Considering there may be a historic burial site on the property and the applicant is proposing 6 acres of disturbance, SHPO should review the application.

Recommendations

The Planning Board should table the application for further site plan review, defer to making a recommendation to the Zoning Board of Appeals until the applicant addresses the following site plan items:

1. The applicant must revise the site plan to include the federal wetland boundaries directly onto a Grading Plan that shows the limits of disturbance and square feet of wetlands disturbance.
2. The applicant must submit the plans to the USACOE to confirm the regulatory status and boundaries of the wetlands.
3. The applicant must submit a detailed project narrative specifying exactly what materials, vehicles, and equipment will be stored outside in the parking lot areas.
4. To safeguard the Black Creek and adjacent federal wetlands from illicit discharge from outside storage areas, the Planning Board should consider if additional mitigation measure should be incorporated into the site plans such as overhead structural coverings, secondary containment, oil-water separators, etc.
5. Because Building 1 is located within the 100-foot rear setback, it pushes the drive aisle onto the adjacent property and may impact federal wetlands on that property. The Planning Board should consider alternative layouts to decrease impacts to the wetlands.
6. The Planning Board should request the application materials are submitted to the NYS Office of Parks, Recreation and Historic Preservation CRIS system for SHPO consultation. SHPO will determine if a Phase 1A (literature review) and Phase 1B (archaeological field testing/shovel assessment) are necessary before any ground disturbance occurs.
7. The SEQR EAF Question 12b should be updated to incorporate the historical background summarized in County Legislator Perlee's letter.