

ZONING BOARD OF APPEALS
Town of Goshen, Orange County, New York

MINUTES OF THE MEETING FOR
January 25, 2005

Members Present:

Dawn Santoro, Chairwoman
Robert Farfalla
Mike Wilson
Trino Canton
Priscilla Gersbeck

Also Present:

Brian Morgan, Esq.
Neal Halloran, Bldg. Inspector



I. Call to Order

Chairwoman Santoro called to order the January meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m. It was noted that the January Zoning Board of Appeals work session will be held at 7:30 p.m. on February 8, 2005 and the next Zoning Board of Appeals meeting will be held on February 22, 2005 at 7:30 p.m.

II. Public Hearing

Matchpoint Sports – 11-1-25.22 located on 17M in a CO zone with an AQ-3 and scenic road overlay for a variance from 97-14D(1)(c). Building shall be placed in front of parking lot to screen parking from road.

Mr. Roberts, owner of the parcel, was in attendance to support his application. Verification of certified mailings with return receipts were presented to the Board. Mr. Roberts also provided a letter from the Planning Board indicating that they would like the parking lot to be placed in the front of the building. Mr. Roberts stated before the Board that it would be impossible to move the building due to DEC areas and runoffs. He added that the proposed location is the only and best place for the parking lot.

Chairwoman Santoro asked how many parking spots would in the proposed parking lot. Mr. Roberts answered about forty parking spaces. Mr. Halloran stated that the 239 came back with a local issue. Mr. Wilson corrected the applicant and referenced the zoning map which indicates 78 parking spaces.

Chairwoman Santoro asked if there were any comments from the audience. There were no comments from the audience. Mr. Wilson stated that based on the nature of the

businesses that already exist in that area, in which the parking spaces are either to the side or towards 17M, it would be impractical to have either an ingress or egress in any place other than 17M. Mr. Wilson also stated that the application is acceptable due to the nature of the neighborhood.

Chairwoman Santoro asked if there was a motion to close the Public Hearing. Mr. Farfalla made a motion to close the Public Hearing. Ms. Gersbeck seconded the motion.

Mr. Halloran advised that there are no residential developments in the area; every parcel is used for commercial purposes.

Chairwoman Santoro asked if there was a motion to approve the variance for a 97-14 for the parking area to be placed on the 17M side. Mr. Farfalla made a motion to grant the application as discussed. Mr. Wilson seconded the motion. All in favor. Aye. Motion carried.

III. Public Hearing

Maggiore – 14-26-7.3 – 2 lot subdivision on 5.5 acres, located on Reservoir Road, in a RU zone with an AQ-3 overlay, for a small scale subdivision per 97-19 and 97-12C

Al Pacione, Esq., of Fabricant & Lipman, was in attendance with the applicant. Mr. Pacione stated before the Board and audience that the proposed application was heard back on June 17th before the ordinance was changed. The application started in July of 2003. At that time, there was a moratorium effect. On June 17th, neither Mr. Pacione nor Mr. Cappella of the Planning Board could determine when the code had actually been filed in the Secretary of State's Office which would have rendered it effective. To not waste anyone's time, Mr. Pacione proceeded with the hearing based upon the old law with the understanding that if the new law had been filed before that date Mr. Pacione would go before the Zoning Board of Appeals, which has occurred.

The new code requires six acres for a small scale development. The parent parcel of the application consists of 5.465 acres, a 9% variance. Under the criteria for the State Statute requirements, Mr. Pacione stated that the criteria of this application is not substantial; there is no visible method other than an area variance since all of the other lots in this area are very tiny; Exhibit A of the addendum indicates the application will not have an adverse effect because it is the largest lot in the entire area and the applicant had no control over the zoning code so there is no self-creation of any hardships.

Mr. Halloran stated that there are four dwelling units on the existing property. Mr. Wilson asked Mr. Pacione to address the issue of density. Mr. Pacione advised that the applicant would like to put a single family home on the vacant piece. Mr. Halloran stated that the maximum density is one house for every three acres and, theoretically, six acres can have a total of four dwellings. The minimum lot size is 1.5 acres.

Mr. Halloran advised that this application was before the Planning Board prior to the code being changed. Mr. Halloran suggested that if this application was approached as an open space division, the applicant could have one more dwelling without needing a variance. Mr. Pacione stated that suggestion was beyond the scope of what the applicant wanted to do and feels that the proposed application is fair.

Chairwoman Santoro asked if there were any comments from the audience. There were no comments from the audience. Chairwoman Santoro asked if there were any further comments from the Board. Mr. Farfalla agreed with Mr. Wilson in regard to the application making the nonconforming area even less conforming and addressed the density issue. Mr. Morgan stated that when the application was before the Planning Board, nonconformity was referred to as the number of buildings on the lot. Mr. Morgan also addressed the concepts of variance as a flexible requirement. Mr. Halloran stated that this application was not sent for County review.

Chairwoman Santoro, with all fairness to the applicant and to the Board, asked if there was a motion to continue this application to the next Zoning Board of Appeals meeting to give the Board time to review the recommendations by counsel. Mr. Wilson made a motion to continue the application to the next meeting. Mr. Canton seconded the motion. All in favor. Aye. Motion carried.

Mr. Morgan will forward the resolutions to Mr. Pacione for review.

IV. Public Hearing

Goshen Associates LLC – 10-1-44.2 – located on Old Minisink Trail and Fletcher Street in the RU zone with an AQ-6 overlay for an area variance from 97-19C

Lorraine Potter of Lanc & Tully (replacing Dawn Benedict of Lanc & Tully) and Peter Bodie, Esq. were in attendance with the applicant. Mr. Bodie was unable to provide any proof of mailings to the Board.

Ms. Potter advised that the proposed lot sizes are consistent with the other lots in the area. Ms. Potter provided proof of agreement with the Village of Goshen regarding water and sewer. Mr. Bodie has been contact with the Village Mayor, who is in the process of forming a policy to allow use of Village water and sewer at the price of \$10,000 for water and \$10,000 for sewer.

Mr. Wilson noted that this application was originally for a two lot subdivision rather than a three lot subdivision. Mr. Bodie advised that the applicant wants to do what is best for the community and will go forth with an application for a two lot subdivision keeping with the area.

Chairwoman Santoro asked if these proposed houses would be built on speculation. Mr. Saffron assumes that these houses will not be built on speculation because there will be buyers right away. Mr. Saffron stated that the proposed houses will be Colonial style in the 2300-2600 square foot range. Chairwoman Santoro asked for the applicant to provide an owner's endorsement since the land is in contract and has not yet closed.

Mr. Halloran stated that he will have the County's comments regarding this application by next Tuesday. Mr. Bodie stated before the Board that he will return with a two lot proposal to be put on next month's agenda.

V. Adjournment

Mr. Farfalla made a motion to close the January meeting of the Zoning Board of Appeals at 8:15 p.m. Ms. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

Respectfully Submitted,

Lisa Alvarado, Secretary

Date Approved: February 22, 2005