

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

MINUTES OF THE MEETING FOR  
February 22, 2005

**Members Present:**

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

**Also Present:**

Brian Morgan, Esq.  
Neal Halloran, Bldg. Inspector



**I. Call to Order**

Chairwoman Santoro called to order the February 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 March 23, 2005 and the next Zoning Board of Appeals meeting will be held on April 12, 2005 at 7:30 p.m.

**II. Public Hearing**

**\*Saslinsky Caption\***

Bob Marshall, engineer, was in attendance with the applicant. Verification of certified mailings with return receipts were presented to the Board. Mr. Marshall advised that the Saslinsky family would like to cut off a two acre parcel to sell to their son and daughter-in-law. The parcel is adjacent to the end of Chestnut Lane with no road frontage. The applicant is requesting a variance to access the lot through a right of way adjacent to the end of Chestnut Lane in order to have more land into the farm. The applicant is not seeking any further subdivisions in that area. Mr. Marshall advised that the parcels previously given to Mr. Saslinsky's other children were all one acre. Mr. Saslinsky stated that the proposed house would be a 2500 sq. ft. modular home in a colonial style with a peaked roof. Chairwoman Santoro asked if there were any comments from the audience. There were no comments from the audience.

Mr. Marshall advised that the back of the property is very steep. Mr. Halloran confirmed with Mr. Marshall that there would be a 50 ft. right of way. Chairwoman Santoro confirmed that the 50 ft. right of way would conform with any future development. Mr. Marshall advised that the width of the tee is 100 ft. so the farm has 100 ft., but the applicant is taking 25 ft. and a 50 ft. right of way in which the other 25 ft. will go to the farm.

Chairwoman Santoro asked if there was a motion to close the public hearing. Mr. Wilson made a motion to close the public hearing. Mr. Canton seconded the motion.

Mr. Halloran advised that this matter did not go to the County Department and did not need to. Mr. Marshall stated that the original parcel was 104 acres and assumes that the address of the proposed house would be on Chestnut Lane. Chairwoman Santoro asked if there were any further comments from the Board. No further comments from the Board.

Chairwoman Santoro made a motion to approve the request for the variance for the lack of road frontage and rear yard with the condition of no future development and in addition to a 50 ft. right of way. Mr. Wilson seconded the motion. All in favor. Aye. Motion carried.

### **III. 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**

Dawn Benedict of Lanc & Tully Engineering and Peter Botti, Esq. were in attendance with the applicant. Verification of certified mailings with return receipts were presented to the Board. Ms. Benedict advised that the applicant is interested in a two lot subdivision of a parent parcel that consists of 3.98 acres. The applicant is seeking an area variance for both parcels in which the minimum lot size in the RU zone is two acres with an AQ-6 overlay. One lot is proposed to be 1.83 acres and the other lot will be 1.87 acres. Ms. Benedict advised that the applicant has an agreement with Goshen and will not be using any onsite water or onsite septic. The applicant has provided a 50 ft. right of way on Fletcher Street and 25 ft. from the center line, which makes the parcel smaller and will be dedicated to the Town of Goshen.

Mr. Wilson confirmed that if the applicant was not providing 25 ft. from the center line, the applicant would be requesting two 100s of an acre on one lot only. Ms. Benedict also advised that the applicant's plan is to build two single family houses in a colonial style.

Florence Crawn of 79 Fletcher Street questioned the square footage of the proposed houses. The applicant answered roughly 2500 sq. ft. Nancy Hawthorne of 74 Fletcher Street asked if there will be any basements in the proposed houses. The applicant advised that the houses will have basements. Ms. Hawthorne then asked if there would be any fill because the land is wet and there is a positive slope into her property. The applicant and Ms. Benedict explained that there would be little fill in order to avoid any issues of wetness on the property. Ms. Hawthorne also asked for the setback and where the applicant has built previously. Ms. Benedict stated that zoning calls for a 50 ft. setback and the applicant has 75 ft. The applicant advised that he has built four lots in the Village of Monroe, two lots on Sarah Wells Trail and has also built in Minisink, Newburgh and Warwick. Elky Crane of 81 Fletcher Street expressed her concern regarding the water and

traffic problems in the area. Ms. Crane also questioned the applicant's water and sewer agreement. Mr. Botti stated that the fee is \$10,000 for water and \$10,000 for sewer and anyone who desires to obtain these services can apply to the Town of Goshen.

Mr. Wilson advised that water issues are outside of this Board, but the Zoning Board of Appeal will make note of the concern.

Chairwoman Santoro asked if there were any further comments from the audience. No further comments from the audience. Chairwoman Santoro asked if there was a motion to close the public hearing. Mr. Wilson made a motion to close the public hearing. Ms. Gersbeck seconded the motion.

Mr. Morgan advised that the Town Engineer should make a suggestion to address the issue of drainage. Chairwoman Santoro asked if there were any further comments from the Board. No further comments from the Board.

Chairwoman Santoro made a motion to approve the two lots for 1.83 and 1.87 acres noting that the Planning Board address the drainage issue and other engineering studies. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

#### **IV. 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 for the continuation of this public hearing. Mr. Pacione submitted a letter which he received today from an adjoining neighbor to the south of property lot #1 regarding the condition of water. Chairwoman Santoro stated the two existing buildings are nonconforming and each building consists of two units. There is a six acre requirement and the applicant's parcel consists of 5.465 acres. Mr. Pacione stated that the proposed lot is 1.68 acres and small scale development requires 1.5 acres.

Mr. Wilson asked Mr. Halloran to address the basic requirements for a small scale development. Mr. Halloran stated that in an AQ-3 overlay there is a requirement of a three acre density and one lot for every three acres, however, in that it is allowed to have an accessory dwelling. Mr. Pacione stated that AQ-3 standards are not applicable to small scale development. Mr. Morgan stated that the amount of acreage is secondary in this application and insubstantial in the sense that there are no environmental impacts. Mr. Morgan also stated that the Planning Board would have to address the water investigation. Mr. Pacione asked the Board to refer to §97-27 of the zoning code regarding small scale development.

Mr. Wilson still felt there was an issue of density and there is a self created hardship because there are other alternatives, i.e. the transferring of development rights. Mr. Pacione stated that this alternative is not possible since the applicant's expenditure is already \$11,000. Mr. Pacione added that the applicant cannot afford the \$12,000 taxes on this property and is not capable of the maintenance due to his disability. The applicant intends on building a house on the vacant piece and selling the other two houses.

Chairwoman Santoro asked if there was a motion to close the public hearing. Mr. Wilson made a motion to close the public hearing. Mr. Farfalla seconded the motion.

Chairwoman Santoro advised that the applicant already has four dwelling units and financially there is always the option to rent. Mr. Pacione emphasized the there is no self created hardships and this application was approved under the old code by definition. Mr. Pacione asked the Board to consider the statutory factors.

Mr. Morgan suggested the Chairwoman Santoro look into the character of the neighborhood and physical impacts. Chairwoman Santoro did not think there would be any physical impacts. Mr. Halloran stated that when the original neighborhood was subdivided, it was under a different zoning. Mr. Pacione stated that the Board would be hard-pressed to find any findings to support their denial unless they were able to find a ruling on substantiality. Mr. Morgan advised that there should be a conclusion regarding substantiality as to whether it is significant or insignificant.

Mr. Halloran stated that the zoning code reflects what the Town of Goshen thinks the land is capable of and the Planning Board did not look or even had a requirement in regards to water. Mr. Morgan advised that a water test would enable the Board to make a conclusion on substantiality. Mr. Wilson advised that he still thinks this application is a 39% variance and the lot is nonconforming. Chairwoman Santoro stated that this nonconformity is an asset to the applicant.

Ms. Gersbeck asked if the applicant sold the property what would prevent a future buyer from bringing forth this same application. Mr. Pacione stated that a future buyer would be encumbered by a self created hardship. Mr. Halloran added that a future buyer could also do a water test and buy development rights.

Mr. Farfalla confirmed that there are three rentals on the property now. Mr. Wilson stated that the Board is looking at a substantial variance in an AQ-3 overlay and, in addition to being a substantial variance, there is still a self created hardship.

Chairwoman Santoro made a motion to deny the applicant's request for the variance. Mr. Wilson seconded the motion. All in favor. Aye. Motion carried.

## **V. Approval of Minutes**

The Board was given an opportunity to review the December and January minutes of the

Zoning Board of Appeals meetings. Chairwoman Santoro asked if there was a motion to accept the December 21, 2004 minutes with corrections. Ms. Gersbeck made a motion to accept the December 2004 minutes with corrections. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

Chairwoman Santoro made a motion to accept the January 25, 2005 minutes as noted. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

## **VI. Adjournment**

Mr. Wilson made a motion to close the February meeting of the Zoning Board of Appeals at 9:20 p.m. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

Respectfully Submitted,

Lisa Alvarado, Secretary

Date Approved: