

**ZONING BOARD OF APPEALS
TOWN OF GOSHEN, ORANGE COUNTY, NEW YORK**

**MINUTES OF THE MEETING FOR
FEBRUARY 25, 2003**

Members Present:

Donna Roe, Chairwoman
Robert Farfalla
Priscilla Gersbeck

Also Present:

Brian Morgan, Esq.
Neal Halloran, Bldg. Inspector



I. Call to Order

Chairwoman Roe called to order the February meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m.

Chairwoman Roe stated that the March Zoning Board of Appeals work session will be at 7:30 p.m. on March 19, 2003; regular meeting on March 25, 2003 at 7:30 p.m.; and the filing deadline for applications would be Wednesday, March 12, 2003.

II. Public Hearing - continued

A. Matchpoint - Use variance from Sections 97-39 and 97-40 pertaining to indoor/outdoor recreation facility, which is not a permitted, located on Route 17M (approximate 300 feet west of Arcadia Road) in an OR Zoning District: Tax Lot No. 11-1-25.22.

Over the last several months the Board was presented with a large amount of information. Chairwoman Roe read a brief summary of the proposed Resolution which indicated that there is a hardship established based on the fact that the property can not be sold at the asking price and that sufficient evidence has been provided that the property can not be used for a permitted use either as single parcel or subdivided. The proposed Resolution also states that the proposed use would likely fit well with the surrounding uses.

Chairwoman Roe asked the Board if there was a motion to accept the Resolution. Mrs. Gersbeck seconded the motion. Chairwoman Roe asked for a roll call to vote on the variance.

Priscilla Gersbeck: Yes
Robert Farfalla: Yes
Chairwoman Roe: No

The matter is denied. Chairwomen Roe stated the formal Resolution would be ready to be picked-up in five days from the Building Department.

B. Everything Grows Child Care Center- For an interpretation and/or area variance from Section 97-65 M(4)(e)(2)(a) pertaining to the size of an outdoor recreation area from 200 sq. ft./child to 75 sq. ft./child and from Section 97-65 M (4)(e)(s)(d) pertaining to the excluding of fencing of the entire 200 sq. ft. area (if required), located in an IP Zoning District with a Planned Business Development Overlay Zone: Tax Lot No. 20-1-148 & 149.

Chairwoman Roe stated that there was a special meeting held, but unfortunately the Board was not able to take any action due to lack of a quorum. However, at that meeting representatives from the Goshen Day Care Center was present and voiced concerns that were not issues for this Board, such as licensing, etc. Chairwoman Roe asked if there was anyone in the audience that wanted to address this matter. There were none.

Michael Canterino was present and representing the application. He stated that his facility needs a playground area and the State recommends 75 sq. ft./child. The Town of Goshen zoning requires 200 sq. ft./child. Mr. Canterino feels that 200 sq. ft./child is too much area to supervise a child adequately. Therefore, only two separate play areas would be needed totaling 5,000 sq. ft.; 3,400 sq. ft. for the older children and 1,600 sq. ft. for the 18 months to 3 yrs. old.

Chairwoman Roe asked how many children would be on the playground at one time. Mr. Canterino stated that there not be any more than 25 children out there at one time. The total amount of children at the Day Care would not be more than 58 and play times will be staggered.

Chairwoman Roe asked if there was a motion to close the Public Hearing.

Mrs. Gersbeck made a motion to close the Public Hearing. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

Mr. Morgan stated that there is no referral to the County for review and read the Resolution into record.

Chairwoman Roe asked for a roll call to vote on the application.

Priscilla Gersbeck: Yes
Robert Farfalla: Yes
Chairwoman Roe: Yes

The matter is approved. Chairwomen Roe stated the formal Resolution would be ready to be picked-up in five days from the Building Department.

C. Gary Job - Area variance from Section 97-64 pertaining to front yard setback from 100 feet to 79 feet and the required number of parking spaces from 35 to 26, located on Industrial Drive in an I Zoning District: Tax Lot No. 20-2-16.

Gary Job and James DeWinter, Jr., P.E. of Eustace and Horowitz were present and representing the

application. Mr. DeWinter presented additional certified mailing receipts that were received.

Mr. DeWinter stated that there is a problem with wetlands on the parcel. The applicant was present before the Planning Board in 2001 for a 19,000 sq. ft. warehouse facility and at that time the Planning Board asked to have the wetlands re-delineated from the original subdivision plan. When this was performed, because of the drainage from the subdivision and the expanded wetland area, it basically made the majority of the lot unbuildable without permission from the New York State Department of Environmental Conservation (NYSDEC). It was the recommendation of the NYSDEC that the building be smaller in size and it be moved closer the front to preserve as much buffer as possible. The plan dated January 24, 2003 is the one the NYSDEC feels most comfortable with, however, a variance is now needed. The revised map shows 26 parking spaces. The total number of employees is approximately twelve.

Chairwoman Roe asked where the sewage disposal system would be located. Mr. DeWinter stated that a holding tank for this type of facility is adequate and acceptable to the NYSDEC.

Chairwoman Roe asked if there were comments from the audience. There were none.

Chairwoman Roe asked if there was a motion to close the Public Hearing.

Mr. Farfalla made a motion to continue the Public Hearing. Mrs. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

Chairwoman Roe asked for a roll call to vote on the application with modifications to include elimination of the front row parking, thus reducing the number of parking to thirteen.

Priscilla Gersbeck:	Yes
Robert Farfalla:	Yes
Chairwoman Roe:	Yes

The matter is approved. Chairwomen Roe stated the formal Resolution would be ready to be picked-up in five days from the Building Department.

III. Public Hearing

A. Joseph Battiato - Area variance from Section 97-64 pertaining to yard width from 200 feet to 50 feet, located on Arcadia Road in an SR-.5 Zone: Tax Lot No. 18-1-13.

Joseph Battiato and Michael Sandor, P.E., were present and representing the application. Mr. Sandor presented the Board with the proof of certified mailings. Mr. Sandor stated that applicant is

proposing a two-lot subdivision on a nine acre parcel, which is bordered by Arcadia Road, and Town line. The creation of the two lots will require an area variance for lot width for the driveways coming into the property. The property was analyzed and it was concluded that approximately four lots could be built on the property, but this would require the construction of a subdivision street. Mr. Battiato purchased the property in 1995.

There were questions regarding a Filed Map for this property. Research was done and it appears that this was joined to the Town of Chester, which was subdivided into two lots in 1987, but there are no notes concerning the portion located in the Town of Goshen. It was hoped to learn if there were any further subdivision restrictions on the remaining lands. However, the Filed Map only pertained to the portion located in the Town of Chester.

Recently, soil testing was performed on the parcel in support of the two lot subdivision and the soils were found to be acceptable. Mr. Battiato stated that his original intention was to live there, but after looking at what his taxes would be, he felt that he could not afford it. Therefore, decided to subdivide and sell the two lots.

Chairwoman Roe stated that she would like to more thoroughly investigate how this came to be a flag lot initially.

Chairwoman Roe asked if there were comments from the audience. Mr. Van Tassel stated that he resides on Arcadia Road and wanted to know what was going to be built on the property. Mr. Van Tassel stated that he did not want to see anything industrial built there because it was a residential neighborhood. Mr. Sandor reassured him that only homes were going to be built.

Mr. Brian Deis stated that two years ago he purchased a house on the adjoining property (Chester) based on the area, because he is an astronomer and needs dark skies for observing. Last year he built a \$30,000 observatory based on Mr. Battiato's conversation that he was going to build a house on the far north side of this property, which is on the uphill side away from his property. The location that Mr. Deis picked for his observatory is in a location with the least amount of light problems from a house, because when you do observing you need the least amount of sky glow. Mr. Deis went on to explain that he has spent a great deal of time and money and this would greatly effect his viewing.

Ms. Emma Coles stated she has no concerns with homes being constructed, however, during the summer time there is a farmer that puts "slop" on the field and the smell is terrible. Mr. Battiato stated that the farmer was there way before he bought the property and he hays it. Chairwoman Roe stated that agricultural uses are permitted in this zone and that Ms. Coles' comments are noted.

Chairwoman Roe asked if there was a motion to continue the Public Hearing.

Mrs. Gersbeck made a motion to continue the Public Hearing. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

B. John Pelligrino & Jacquelyn Sculey - Area variance from Section 97-64 pertaining to yard width from 123.6 ft. to 87.67 and 35.93, and /or a variance from the definition of lot width as being at the required set back distance from the road

Section 97-2, located on Knoell Road in an AR-1 Zone: Tax Lot No. 8-1-8.1.

Kurt Eppenbach of Pietrzak and Pfau was present and representing the application and presented the Board with the proof of certified mailings.

The total acreage of the parcel is 56.01 acres; and after Lot 1 is subdivided the remaining lands will be 53.99 acres. The frontage is proposed to be broken down to 87.67 ft. and 35.93 ft., respectively. Mr. Eppenbach stated that it has be done like this because of the steepness of the grade and it presents a problem to re-locate the driveway. There will only be one house built on Lot 1 and Lot 2 will remain a horse farm. Soil testing has been performed on the parcel and they were good. There is also a stream that runs through the parcel.

Mr. Farfalla stated that this will create another flag lot.

Mrs. Gersbeck stated that a notation could be added that no further development could be made off of Knoell Road.

Chairwoman Roe stated that she would like more time to look at this, perform a site visit and would request that a larger Location Map be provided to the Board.

Chairwoman Roe asked if there was a motion to continue the Public Hearing.

Mrs. Gersbeck made a motion to continue the Public Hearing. Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

IV. Adjournment

Mrs. Gersbeck made a motion to adjourn the February 25, 2003 Zoning Board of Appeals meeting.

Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

Respectfully submitted,

Gloria J. Lloyd, Secretary

Date Approved: