

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

**April 23, 2002**

**Present Members:**

Donna Roe, Chairwoman  
Malcolm Booth  
Robert Farfalla  
Priscilla Gersbeck  
Michael Wilson

**Also Present:**

Brian Morgan, Esq.

**I. Call to Order**

Chairwoman Roe called to order the Town of Goshen Zoning Board of Appeals at 7:33 p.m.

Chairwoman Roe announced that the next Zoning Board of Appeals work session will be at 7:30 p.m. on May 29, 2002, its regular meeting on June 4, 2002 at 7:30 p.m., and the filing deadline for applications would be Friday, May 24, 2002.

Chairwoman Roe announced that the first item on the agenda will be application for John McLoughlin for an area variance, which is continuation from last month, as there were some questions that the Board members needed clarified.

**II. Public Hearing - Continued**

**A. John McLoughlin - Area variance: "No pool shall be constructed and/or erected closer than 25 feet to the side lot line;" located on Reservoir Road in an SR-2.5 Zoning District: Tax Lot No. 18-1-43.12**

Chairwoman Roe asked if there was someone here representing the application. Mr. Jeff Albanese stated that he was representing the applicant and presented the Board with a letter from the swimming pool company. The letter stated the need for the variance and the location of the pool was essentially for two reasons. The first was due to the large slope in the backyard which necessitated a drainage basin and piping in order to divert water from the proposed pool side and prevent any flooding to the neighbors' yard. The second reason is because Mr. McLoughlin is confined to a wheelchair and additional decking and a wheelchair hoist is needed in order for him to use the pool for rehabilitation purposes.

Chairwoman Roe wanted it noted for the record that the Board was in possession of a letter from Chaffee Swimming Pools dated March 28, 2002 and that the correspondence indicated just what Mr. Albanese stated.

Chairwoman Roe asked the Board and the audience if there were any questions. There were none. Mrs. Gersbeck made a motion to close the Public Hearing; Mr. Booth seconded the motion.

All in favor. Aye.

Chairwoman Roe read the Resolution for an area variance into the record.

Chairwoman Roe took a vote to grant the area variance.

Mr. Farfalla:	Absent
Mrs. Gersbeck:	Aye
Mr. Booth:	Aye
Mr. Wilson:	Aye
Chairwoman Roe:	Aye

Please note, at the end of the vote Mr. Farfalla arrived for the meeting, and therefore did not participate in the vote. Upon his arrival at this time, Mr. Farfalla apologized for being delayed and noted that of anyone he should never be late.

Chairwoman Roe asked if there was anyone present to represent the Miller application, and there was no response. Therefore, the next item on agenda was announced as Weslowski.

**B. Weslowski - An interpretation of existing truck repair facility located on Arcadia Road and NYS Route 94 in an AR-1 Zoning District: Tax Lot No. 18-1-127.2**

Mr. Tom Pahucki presented the Board with the (latest) certified mailings and a folder representing photographs of the property. The folder, Mr. Pahucki stated, was an attempt to address any and all questions that had arisen. It showed pictures of signage, trucks parked on the property, registration numbers of all vehicles registered to the repair shop, etc. It also showed different views from the road, for example from Arcadia Road, which was well blocked from view.

Mr. Pahucki stated that it was now up in the air whether or not Mr. Weslowski would continue with the subdivision, as originally intended, due to the moratorium and the reluctance foreseen through the bureaucracy. However, Mr. Weslowski would like to move forward with the Planning Board's recommendation that an interpretation of the variance be considered.

Mr. Pahucki went on to further explain the folder presented to the Board, and how that the photographs in it were as recent as 2:00 p.m. this afternoon and this is the nature of the business. Chairwoman Roe asked how many trucks were there this afternoon and was told that there were eight. There were also pictures of the inside of the repair shop, which showed brake shoes, tires and tools. There are no lifts or pits inside. Mr. Morgan asked how many trucks were registered to the repair shop and Mr. Pahucki stated that there were twenty tractors. However, he has quite a few which are out-of-state, including Pennsylvania and New Jersey and they stay on the job sites.

Aileen Ferris, who resides on Clark Road, stated that she too had taken pictures. She also stated that besides what trucks are on-site there are also two or three storage trailers always there. She mainly objects to the hours of operation and the number of trucks there at any given time. When Mrs. Ferris moved there 13 years ago she knew that there were farm vehicles and tractors there, but over the course of the years the nature of the property has definitely changed. She was told when she bought the property that it was a dairy farm.

Mr. Pahucki asked Mrs. Ferris who she bought the property from, Mr. Weslowski? She replied that she bought it from a builder and there was no trucking business there at the time. This is why she wants the Board to consider placing restrictions on hours of operation and the number of trucks allowed.

Mrs. Ferris asked about the excessive idling at 3 o'clock in the morning. Mr. Pahucki stated that there would be none.

Mr. Pahucki stated that it is Mr. Weslowski's intention is to "tighten" up the property; what is considered a normal operation and a normal appearance are different people's perception. This is why Mr. Weslowski wants to eliminate the ambiguity and to come up with "a no more than...", "upon any given..." But to that end, an exception might have to be made when all the trucks are called back for a New York State Department of Transportation inspection. This would be in violation to what is normal.

Mr. Pahucki stated Mr. Weslowski could not be here tonight because he is in the hospital having a leg operation.

Chairwoman Roe asked if the Board had any questions. Mr. Booth asked what is the measurement of a typical truck unit including the trailer; how many square feet does that come to? Mr. Pahucki replied that the tractor is approximately 16 ft., the dump trailer is approximately 32 ft. and the width is 8-1/2 ft., and that is a lot of vehicle there is no denying that but they do not operate a truck stop, there is no fueling.

Mrs. Ferris stated that she has no objection to Mr. Weslowski operating a business, but what she did object to was the noise, dust, and how unsightly the property had become. She never minded the dairy aspect of it, the cows and all. Mr. Pahucki stated that just today all the cows were sold off, as Mr. Weslowski had become too disabled to walk around and care for them. Mrs. Ferris stated that she was sorry to hear that, the cows were the best part.

Mr. Booth asked if the property was primarily on NYS Route 94 or Clark Road. Mr. Pahucki stated the address is Clark Road, which he did not understand as it is primarily on NYS Route 94.

Mr. Farfalla asked for clarification on whether or not he is withdrawing these five lots for subdivision. Mr. Pahucki stated that it was his belief that Mr. Weslowski was going to do so, but he did not want to say "yes". However, every time Mr. Weslowski turns around during the subdivision process someone is sending him a bill. No one knows how stressful this is on him.

Chairwoman Roe asked if it is still up in the air what he is doing, in other words we are just clearing up the variance issue now. Mr. Pahucki stated that was correct because he was so far into the process, he does not want to drop it now.

Mr. Phil Johnson, a member of the audience and a neighbor, who is a fourth generation dairy farmer asked the Board to make a clear and solid decision on this matter. If they are going to allow Mr. Weslowski to have a repair shop then you are going to have to stop building houses because trucks do make noise and there is white smoke that comes out of the stacks of the trucks, this is part of the business. Mr. Johnson also stated that the next part of his comment is that there is more money in the truck business and he hates to see his trucks stand idle when they could be earning him money. They could be hauling paper products, recycling products, etc. This trucking issue has to be resolved, if not tonight, in the near future. This man invested money in his business, trucks and shop and you can not take a business away from a person. Mr. Johnson stated that he has a variance for an airstrip that was granted way back (1944?).

Mr. Pahucki wanted to note that a truck repair shop could be compatible with residential housing, if there is full disclosure. Some people do not want to live next to a farm with cows, some people do not want to smell that kind of odor. There are all kinds of compatibility.

Chairwoman Roe asked if he was stating that Mr. Weslowski is going ahead with the subdivision. Mr. Pahucki replied that what he is saying that at some point in time someone will. Let us not fool ourselves where there is an open piece of land in Wawayanda, Goshen, Minisink, sooner or later someone is going to buy it and develop it.

Chairwoman Roe stated that there is presently in existence and has been for some time a variance for this property for Mr. Weslowski to perform repair work on the equipment and initially you came before this Board with the intention for a subdivision. Chairwoman Roe also stated that she has been through this file over and over again and did not see one piece of correspondence from Mr. Weslowski stating that you or Mr. Nosek have authorization to appear and act on his behalf.

Mr. Pahucki reiterated that Mr. Weslowski is in the hospital and he is not doing this without his knowledge and full cooperation. Chairwoman Roe acknowledged that Mr. Pahucki has worked very hard on this. Mr. Pahucki has asked Mr. Weslowski's daughter, Julie, to come tonight to speak but she had another commitment. Charlie, his son, has been out on the road and had to get up early tomorrow and was too tired and needed his rest.

Chairwoman Roe stated that if they were to close the Public Hearing tonight, the Board has a specific time frame in which to make a decision and she would feel more comfortable if there was something in writing from the Weslowski family prior to closing the Public Hearing. Chairwoman Roe stated that she was inclined to continue the Public Hearing. Mr. Pahucki stated that he is not here because he is bored.

Mr. Booth asked if the matter should be addressed by the Orange County Planning Department because it is on a State Highway. Mr. Morgan agreed that it should be submitted to that department and that they have 30 days to give an opinion either way.

Chairwoman Roe stated that the Board will make that submission and in the interim would like the written authorization from the Weslowski family

Mr. Morgan asked that a statement be submitted for the business on what the financial impact on this application would be. In other words if he is unable to continue this use what would be the financial ramifications.

Chairwoman Roe asked if Mr. Pahucki came up with a number of vehicles that would be on property at any one time. Mr. Pahucki stated he did not know if he could give a usual and customary final number, in the event that a State inspector called for an inspection. You do not want to be in trouble by having to do something that someone else requests.

Mr. Booth stated that it is his belief that the applicant would still have to go back to the Planning Board for site plan approval. One of the things that they would ask for is a layout of the parking area, where exactly the parking is going to be and from that you would be able to count off the number of parking spaces and that is a limitation in and of itself. So one way or other you will be forced to come up with a number.

Chairwoman Roe asked who specifically owns the property; Mr. Pahucki stated Theodore Weslowski. Chairwoman Roe asked who specifically runs the operation; Mr. Pahucki stated Charles Weslowski.

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

Mr. Farfalla made a made the motion to continue the Public Hearing.

Mr. Booth seconded the motion.

All in favor. Aye. Motion carried.

Chairwoman Roe announced that the next item on the agenda was the application for Panstar Propane.

### **III. Public Hearing**

#### **A. Panstar Propane Corp. - seeking variances from Section 97-47 “building enclosure required”, and Section 97-64B lot area and lot width in order to construct and maintain propane bulk storage tanks in an I Zoning District: Tax Lot No. 17-1-12**

Alan Lipman Esq., introduced himself and Mr. John Yankco (sp?) who is president of Panstar Propane Corp. Mr. Lipman presented the certified mailings to the Board. Mr. Lipman stated that is an application for an area variance dealing with the property on Quarry Road which is designated as Section 17, Block 1, Lot 12. It is a vacant parcel containing approximately 1.7 acres, in an Industrial Zone and is appropriate for propane storage and usage. Mr. Lipman presented a sketch plan to Board showing the boundaries, North Arrow, the area that would be used for ingress and egress and the designated tank area for Tank One with future tanks joining it, each being 60 feet long and 9 feet wide. Behind that area is a 30 ft. x 40 ft. concrete platform, 3 feet high used to store tanks cylinders and where we run into conflict is with the provisions of the ordinance which require that all users of Section 97-47 have building enclosures.

This type of business is required to conform to the Standards for Storage and Handling of Liquidified Petroleum Gas. Propane is a liquidified petroleum gas and these standards are promulgated by National Fire Protection Association and they prohibit the location of the liquid petroleum gas containers inside of building as prescribed in Section 3.2.2.-2.2.1 of NFPA, Edition 1992. There are exceptions to this rule and having read them they do not apply to this type of tank. This type of tank can not be located in an enclosure. There is no place in the Town of Goshen where these type of tanks could be placed inside a building. These tanks are being placed 120 ft. back from Quarry Road, which is way beyond the standards required.

The other variance, which the applicant is asking for, deals with dimensions because the lot is less than two acres. The lot is required to be 200 feet in width and the parcel is 187.17 feet in width, therefore, this lot is a non-conforming lot for any use. The variance is not substantial, the difference in area and width is definitely not substantial. There will no change in the condition of the neighborhood or hazard to the community. There is risk associated with it but it is all controlled by rules and regulation and the company has an outstanding record.

Chairwoman Roe asked if there were questions from the Board. Mr. Farfalla stated that they are looking at 13 feet. Mr. Lipman stated that is was 13 feet out of 200 feet, which is than 10%, closer to 5%.

Mr. Booth stated that this situation is not entirely new to the Board, because Code required the car dealership on Route 17M to place the tanks underground and they wanted to place them aboveground. The Standards and Regulations for this type of tank was checked and it was found that they changed since the time the Town Code was written, making the Town Code not as current as it should be.

Mr. Booth stated that the adjacent property contains the Orange County water and sewer lines which supplies the jail and they were notified, however, it was the infirmary that was notified which is not the

same thing. Mr. Booth asked Mr. Morgan if a separate notification should be made. Mr. Morgan stated that the Planning Board would take care of this.

Martin Dykshoorn, a member of the audience, wanted to state that one of these days that stone wall is going to come down. Mr. Dykshoorn did not have any against propane tanks and asked if there was going to be a fence around it. Mr. Lipman stated that there would be. Mr. Dykshoorn wanted to know if there is room to turn around a truck around. Mr. Yankco stated that there was and that the property was flat for nearly 300 feet. Mr. Dykshoorn stated that the land was cleared and the debris dumped on someone else property. Mr. Yankco stated that he could not speak to that, as he had no knowledge of this.

Mr. Lipman stated that Panstar Propane was purchasing the property from Mr. Andrew Urbanski.

Mr. Farfalla asked if there were any restrictions against housing in the area of propane tanks. Because there is a large concentration of senior housing across the street. Chairwoman Roe asked what the distance was between the parcel and Hearthstone. Mr. Booth stated it is more than 800 feet.

Mr. Farfalla asked if the fence was going to have barbed wire on top of it. Mr. Yankco stated that it was not going to have razor wire, it was not going to look like a jail, but would conform to the rules and regulations.

Chairwoman Roe asked if Knight's (Shooting) Range was still in operation and Mr. Lipman replied that it was out of business.

Chairwoman Roe stated this matter will be kept opened until the Board has correspondence from the Planning Department. Mr. Lipman asked if the Board hears from the County, would they please extend the courtesy of letting him know, if it were prior to the next meeting. Chairwoman said she would.

Chairwoman Roe asked if there were any further questions.

Mr. Booth made a made the motion to continue the Public Hearing.

Mr. Farfalla seconded the motion.

All in favor. Aye. Motion carried.

## **II. Public Hearing - Continued**

### **C. Lands of George Miller and Sons, Inc. - Area variance - lot width to be 200 feet at setback (Section 97-64) located on Murabito Place in an AR-.5 Zoning District: Tax Lot No. 14-27-12.2**

Chairwoman Roe asked a member of the audience if she was present for the Mr. Miller application. Ms. Renee Mattalucci stated she was present to see the outcome of the application. Chairwoman Roe asked if the Board was ready to vote on this application. It was noted that there was no one present to represent the application.

Mr. Booth stated that there are two problems. The first is a flag lot and the Town is not supposed to have them and it comes onto a strip of road which they are proposing to build to Town specification and that piece of road does not go anywhere.

Mr. Morgan stated that the Resolution would address Mr. Booth's comments.

Chairwoman stated that the Board looked at the property, and it seems by allowing the flag lot the Board could be adding to already congested situation.

Mr. Farfalla made a motion to close the Public Hearing.

Mrs. Gersbeck seconded the motion.

All in favor. Aye. Motion carried.

Mr. Morgan summarized the Resolution. Chairwoman Roe asked if the Board agreed with the Findings.

Chairwoman Roe asked if there was a motion to deny the area variance.

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

Chairwoman Roe took a roll call to deny the area variance.

Mr. Farfalla:	Aye
Mrs. Gersbeck:	Aye
Mr. Booth:	Aye
Mr. Wilson:	Aye
Chairwoman Roe:	Aye

#### **IV. Approval of Minutes**

Chairwoman Roe handed out the Minutes from March 26, 2002 and asked to the Board to review them for the next meeting.

Chairwoman Roe asked if there was a motion to approve the July 2000 minutes. Mr. Farfalla made a made the motion to approve the July 2000 minutes. Mr. Booth seconded the motion. All in favor. Aye

Chairwoman Roe asked if there was a motion to approve the January 2002 minutes. Mr. Booth made a made the motion to approve the January 2002 minutes. Mr. Farfalla seconded the motion. All in favor. Aye.

#### **V. Adjournment**

Mrs. Gersbeck made a motion to adjourn the April 23, 2002 Zoning Board of Appeals meeting.

Mr. Wilson seconded the motion.

All in favor. Aye. Motion carried.

Respectfully submitted,

Gloria J. Lloyd  
Secretary

Date Approved: \_\_\_\_\_