

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

June 25, 2002

Members Present:

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 June meeting of the Town of Goshen Zoning Board of Appeals at 7:32 p.m.

Chairwoman Roe announced that the next Zoning Board of Appeals work session will be at 7:30 p.m. on July 17, 2002, its regular meeting on July 23, 2002 at 7:30 p.m., and the filing deadline for applications would be Friday, July 12, 2002.

Chairwoman Roe announced that there is one item on the agenda and it is the application of Douglas Tuthill.

II. Public Hearing - Continued

A. Douglas Tuthill - seeking relief from Section 97-63.3 (B)(1) pertaining to 4 acre minimum lot size in a PBD Overlay Zone, or Section 97-44 pertaining to permitted use in an I Zone, for a veterinarian hospital, located on NYS Route 17A in an I/PBD Zoning : Tax Lot No. 18-2-14

Bob Fink, Esq., was representing the applicant. Mr. Fink stated the applicant asked him to review the application, as he is familiar with this area and the variances that were granted before. It appears that the items omitted were technical requirements for rights-of-way. On that note, Mr. Fink had asked that Mr. Foti include all the requested variances on Page 1 of the previously submitted plan. Mr. Fink has also submitted a supplement to the application running the down the criteria for the area variance. Mr. Fink stated that the Board is aware of the development as it has progressed near the quarry.

Mr. Fink stated that the property is Lot No. 8, Tax Lot No. 14. The filed subdivision map has approved entrances onto Route 17A. The site plan conforms to this, together with the proposed rights-of-way. Mr. Fink requests that if the Board sees fit to grant the variances and cement them in, they would be the maximum variances that would be granted. Subject to approval by

the Planning Board and perhaps making them less during the site plan approval process. Therefore, the Planning Board would have the maximum before them, if they indeed wanted something else. This would allow the applicant to get by a lot of potential obstacles.

With regards to the requested variances, the first thing that we have to look at is the undesirable change in the neighborhood and the detriment to the neighboring properties. There is a quarry, dump station for containers, gas station, and office facility. This veterinarian hospital would certainly be an improvement. Lastly, this is a permitted use in the Overlay District. For this area, the Architectural Review Board would also have to approve the building.

It was Mr. Fink's understanding that at the last meeting there were questions as to the removal of medical wastes. All of the variances that are requested have no relevance to the way the business operates. All of those issues will be brought before the Planning Board and will be dealt with in that process. The reduction of lot size from four to two acres is not relevant to the operation of business. It should be noted that the amount of coverage on the two acres is only 0.25%. Mr. Fink stated that the proposed Master Plan, as it was set forth in October 2001, indicates that the committee believes that the four acre requirement should be reduced, as should the requirement of the right-of-way. As the site plan sits now, it is in conformance with the Master Plan committee saw was best for the area.

Secondly, this can not be achieved by any other feasible method. Mr. Fink presented a letter to the Board which states that the property owner (Tax Lot 11) would not be interested in providing any more property. Mr. Fink also inquired whether or not the adjoining property owner would be interested in selling and, if so, at what price. This answer was that he would sell and the price was \$120,000. This is not feasible to the applicant.

Mr. Fink stated the variances would be only be deemed substantial numerically speaking; going from four acres to two acres is the only substantial one. With regard to the modification of the right-of-way requirement, this too would be substantial on paper, but in reality is it not. This plan is in conformance with everything else out there. This is a self-created hardship.

Chairwoman Roe asked Mr. Fink to itemize the requested variances for the record.

- 96-63.B(1) - Reduction of acreage from four acres to two acres
- 97-63.B(2) - Reduction of lot frontage from 300 ft. to 24 ft.
- 97-63.B(3)(b)(1) - Reduction of 60 ft. right-of-way to 24 ft.
- 97-63.B(3)(b)(2) - Reduction of minimum setback from right-of-way from 100 ft. to 60 ft.

- 97-63.B(3)(b)(3) - reduction of distance required for accessory use of parking from right-of-way from 25 ft. to 0 ft.
- 97-63.3C(1) - Omission of the requirement that an access drive not to be permitted within 300 ft. of an existing business use drive or public right-of-way.
- 97-63.3C(2) - Omission of the requirement that the marginal access road be constructed as specified and dedicated to the Town.

Chairwoman Roe asked if anyone in the audience had any questions. Mr. Bill Ward, responded

that he was happy that Mr. Fink has concurred with the observations that were made at the last meeting. The main issue is that is this a self-created problem, that land could have been acquired. There are an infinite number of solutions. Chairwoman Roe replied that has already been stated. Mr. Ward stated that this is "spot" zoning and which in his mind makes it a mockery of the codes of the Town.

Chairwoman Roe stated that last month there was some question as to the disposal of dead animals and Dr. Tuthill replied it is all done in conformance with State regulations.

Chairwoman Roe asked about the number of parking spaces. Mr. Foti stated that 15 parking spaces are required and there are 20 proposed. Chairwoman Roe asked how many vehicles would be coming to and from the property. Dr. Tuthill replied that appointments are scheduled every 15 to 20 minutes from 9:00 a.m. to 3 p.m.

Mr. Farfalla stated that there are a lot of variances here. Mr. Fink replied that these are the same variances that were given to every lot that has been developed in this subdivision. There is really only one essential variance and that is the four to two acres variance and this has been universally given to everyone out there. The right-of-way variances are needed to conform to the filed map.

Chairwoman Roe asked when Dr. Tuthill acquired the land. Mr. Fink replied September/October 2001 and he made his intention known that he wanted to build a veterinarian hospital. Dr. Tuthill had asked the Building Inspector at the time if this was an allowable use for that particular parcel in that zoning. The Building Inspector stated that it was. There is no written evidence of this, this was strictly a verbal correspondence.

Chairwoman Roe stated that with the new issues brought before the Board, they would need additional time to look at the application.

Mr. Fink stated that if the Board so desired, he approach the Town Board to see if they do want the road dedicated to the Town of Goshen. Mr. Foti added that Karpy's, the warehouse, and service station have all been developed without this right-of-way. There is no Town road development across any one of these lots. Mr. Foti had spoken to Mr. Garling, the Town Planner and he expressed no desire to develop a Town road there.

Chairwoman Roe stated that she wanted additional time to research just what has been granted to the surrounding parcels as far as variances are concerned. Mr. Wilson concurred.

Mr. Ward asked if the status of the applicant is still one of a contract-vendee. Mr. Fink replied no that the property was purchased in October.

Mr. Farfalla asked that there are still six parcels, which are undeveloped in this area, they are all three acre lots, will they too have the same problem with development? Mr. Fink responded that any use in the Overlay District requires four acres. All of the uses that are out there, did get the variances for size. It is an Industrial Zone, there could be development of those lots as two acres, but not for the multiple uses allowed in the Overlay Zone. These are the problems that have

developed after the fact.

Mr. Booth stated that it was his understanding that the original concept for that area was to develop a mini-mall.

Mr. Bill Johnson, a dairy farmer, stated that everyone is concerned about the dairy farmer but no one really cares when we lose our services. Dr. Tuthill has never had any problems. He does a lot of work with the Humane Society. The Town of Goshen should be proud to have a facility like this. It is something that we need, it is tax ratable.

Mr. Doug Bloomfield stated that Dr. Tuthill is one of the few vets around that work with cows and wonders if something could be worked out to keep him here. Chairwoman Roe wanted it noted for the record that Dr. Tuthill does not see livestock at the hospital that he drives to care for them.

Mr. Ward would like to see Dr. Tuthill succeed, but on four acres.

Mr. Farfalla apologized for not being at last month's meeting and had a question for Mr. Ward. Mr. Farfalla wanted to know which parcel was his. Mr. Ward stated that he has the eleven acres across the street. Mr. Farfalla asked if he had any of those acres to sell to Mr. Tuthill. Mr. Ward stated that he did not. Mr. Farfalla stated that he likes positive growth in Goshen, and a veterinarian hospital in Goshen would be a positive for the Town.

Chairwoman Roe asked what is the acreage that Dr. Tuthill is now on. Dr. Tuthill did not know, as he rents the land.

Mr. Farfalla wanted to know when Dr. Tuthill bought the property he was not aware of the four acre requirement, but was told that it was a permitted use. Dr. Tuthill stated that was corrected. He went to the Town Hall and spoke with the Building Inspector and was told that it was permitted use for that parcel. He went on to state that they looked at a map together and agreed everything was okay.

Chairwoman Roe asked if anyone else had any questions.

Mr. Johnson, who used to be on the Planning Board, knows that they had a lot of problems with that Building Inspector. This is not the first mix-up there has been. Mr. Johnson stated that he could sympathize with Dr. Tuthill.

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

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

Mrs. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

Mr. Fink asked if they should attend the work session, Chairwoman Roe stated that it would be beneficial if they had further information. Mr. Fink thanked the Board.

IV. Approval of Minutes

Chair Roe asked if anyone has reviewed the April 23, 2002 minutes. Some Board members had not. Chairwoman Roe stated that they would be reviewed and voted on at the next meeting.

Chairwoman Roe stated a sheet would be passed around and requested that each member enter a home and emergency number, in case something should happen at a meeting.

V. Adjournment

Mrs. Gersbeck made a motion to adjourn the June 25, 2002 Zoning Board of Appeals meeting.

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

Respectfully submitted,

Gloria J. Lloyd
Secretary

Date Approved: _____