

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

**Minutes of the Meeting for
July 22, 2003**

Members Present:

Donna Roe, Chairwoman
Priscilla Gersbeck
Dawn Santoro
Michael Wilson

Also Present:

Brian Morgan, Esq.
Neal Halloran, Bldg. Inspector



I. Call to Order

Chairwoman Roe called to order the July meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m. It was noted that the August Zoning Board of Appeals work session will be at 7:30 p.m. on August 20, 2003; regular meeting on August 26, 2003 at 7:30 p.m.; and the filing deadline for applications would be Wednesday, August 13, 2003.

II. Public Hearing

A. Kennedy, John - Area variance from Section 97-65 (B)(6)(a) pertaining to rear yard setback of 25 feet to 10 ft., located on Quaker Mill Run in an SR-2.5 Zone: Tax Lot No. 28-1-10.

John Kennedy was in attendance and presented the Board with the proof of certified, return receipt mailings. Mr. Kennedy explained to the Board that parcel is wide and narrow and there are woods in the front and rear of the house. The adjacent woods run 70 ft. - 80 ft. deep. There is 62 ft. of back yard space and if a swimming pool is built within the 25 ft. variance a fence would have be connected to the house. The primary entrance and exit from the dwelling is from the driveway to the back of the house. Mr. Kennedy stated that he has four young children and his house is usually the meeting place of neighborhood children. If a pool was built and a fence connected to the house, in order to meet the 25 ft. requirement, the children coming into the house would be coming through the fence. In Mr. Kennedy's opinion this would result in an unsafe condition. Alternate sites were evaluated. On the northeast side of the property is where the leach fields for the sewage disposal system are located. The only other location is the back house and having a fence against the house or to put it where there was above ground pool that was approved and inspected in 1999.

Chairwoman Roe asked if the adjacent property in the rear yard is a vacant building lot. Mr.

Kennedy stated that it all woods and is land-locked. Ms. Santoro asked if there was a road on the other side of the wooded area and Mr. Kennedy showed the area on the map where the road is located. Mr. Halloran presented the tax maps and it was noted that the parcel directly behind the Kennedy parcel is an existing flag lot (6.7 acres) with 50 ft. frontage on Fox Road.

Mr. Wilson stated that the sketch presented to the Board shows an Alternate A and B. Alternate B is the desirable placement of the pool, and Alternate A would allow for the 25 ft. setback. Based on the information presented, Alternate B would still be in excess of 20 ft. from the back of the house to the proposed fence line. Mr. Kennedy agreed, but typically, a sitting area is around the pool and the fence would run directly through this area and only be 10 ft. away from the house. After a brief discussion, it was noted that the dimensions shown on the sketch were incorrect. Mr. Wilson suggested an alternate layout which would not require a variance. The sitting area may have to be shifted and this can be done without hardship. The Board's goal is do this with a minimum variance and at the very best, without a variance.

Ms. Santoro asked how far is the proposed pool from the well (on sketch Alternate A) and what are the dimensions of the pool. Mr. Kennedy stated that the well is within approximately 25 ft. of the proposed pool and its dimensions are 18 ft. x 36 ft. with no diving area.

Chairwoman Roe asked if the applicant would consider something less than what is now being requested. Mr. Kennedy stated that he would, but since he had an above ground pool there and it was approved he feels that this should be allowed. Chairwoman Roe noted that an above ground pool is temporary and what is proposed is major construction.

There was also question proposed to Mr. Morgan regarding the note stating "Offsets shown here are correct, however, should not be used as a basis for the erection of fences or other structures." Mr. Morgan stated that there are no offsets cited on the map.

The applicant was informed that accurate dimensions are needed, along with the pool contractor's depiction of exactly what is proposed.

Chairwoman Roe asked if there were any further questions from the Board or the audience. There were none. Chairwoman Roe asked if there was a motion to continue the Public Hearing. Mrs. Gersbeck made a motion to continue the Public Hearing. Mr. Wilson seconded the motion. All in favor. Aye. Motion carried.

B. Schreibeis Enterprises, Inc.- A variance from Section 97-47 so as to allow for the outdoor storage without the use an opaque fence, using a substantial tree buffer as a substitute, located on Route 17A and Quarry Road in an Industrial Zone:

Tax Lot No. 18-2-8.

Karen Emmerich, of Lehman and Getz Engineering was in attendance and representing the application. Proof of certified, return receipt mailings were presented to the Board. Ms. Emmerich summarized the application. This is existing storage facility on NYS Route 17A, near Quarry Road. What the applicant would like to do is put an outdoor storage area in the rear of the property and in order to do that screening is necessary. The applicant would like to a natural landscaped buffer screening instead of having an opaque fence around the property. The natural screening would be in addition to an existing chain link fence. This application is also in front of the Planning Board and there are a number of issues that have to be dealt with there. Photographs were presented to the Board and an explanation of the species of evergreens that would be planted was given. Parking on the northern boundary will be abandoned for the new parking in the rear.

Chairwoman Roe asked what is the height of the plantings and Ms. Emmerich replied that the white pines are 8 ft. to 10 ft.; and the white spruces are 5 ft. to 6 ft. If the trees were any taller than that, there was a be a greater risk of transplant shock and they do not grow properly. The trees would be planted inside the existing fence and this would make it virtually deer-proof.

Mrs. Gersbeck asked if there could be Maintenance Bond be placed on the plantings in case the trees die off. Ms. Emmerich said it was typically required by most Planning Boards and it was usually a one-year bond to ensure that anything that dies has to be replaced. Robert Fink, Esq., who represents the Schreibeis' stated that as a condition of the permit, that the plantings would have to be maintained. A Maintenance Bond is one thing and a continued obligation is another. Therefore, a bond would be unnecessary, because if the plantings were not kept up the applicant would be cited. Mr. Fink indicated it would be cheaper and easier to put up the opaque fencing. However, the Schreibeis feel that it would more desirable with the natural screening.

Ms. Santoro asked how many trees would be planted. Ms. Emmerich stated she did not have the exact number of plantings, but approximately nine white pines. It was also asked how high is the required opaque fencing has to be and Mr. Halloran stated that it had to be tall enough to shield the motor homes and boats on trailers which would be 10 ft. to 12 ft. Ms. Santoro stated that the initial plantings of approximately nine trees was only 8 ft., so it is going to take at least four years to grow to what is expected. Ms. Emmerich stated that an 11 ft. fence is not practical, as there is no soil in the area it is strictly rock. It was also the feeling of the Town engineer that a even a 6 ft. fence would not be properly supported. Four feet of soil will be brought in for the plantings. Mr. Wilson was concerned that in the event of a heavy rainfall, the soil would be washed away. Ms. Emmerich noted that the trees that were selected were ones which the roots tend to branch out and adhere to the soil, as opposed to deep tap roots.

Mr. Wilson stated that the natural screenings would look better than the fencing and asked when would the plantings take place. Ms. Emmerich stated that the fall is a great time to plant, but it would be contingent when approval was granted by the Planning Board. Mr. Morgan stated that there are time frames for variances, and practically speaking, if the plantings were not done this year the variance would expire.

Mr. Cappello, attorney for the Planning Board, issued a letter to the Zoning Board of Appeals stating that the condition any such variance would be based on Planning Board approval of the final screening plan. If the Planning Board is not satisfied, then the condition of the variance would not be satisfied and the variance rendered null and void. The applicant was agreeable to this.

Chairwoman Roe asked if there were any further questions from the Board or the audience. There were none. Chairwoman Roe asked if there was a motion to close the Public Hearing. Mr. Wilson made a motion to close the Public Hearing. Mrs. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

Mr. Morgan stated that the Planning Board undertook a SEQRA review and they became the Lead Agency, however they have not issued a Negative Declaration. Therefore, the Zoning Board of Appeals would have to issue a Negative Declaration of its own.

Chairwoman Roe asked if there was a motion to accept the Negative Declaration as read by Mr. Morgan. Mrs. Gersbeck made a motion to accept the Negative Declaration. Mr. Wilson seconded the motion. All in favor. Aye. Motion carried.

Chairwoman Roe asked if there was a motion for a Resolution with the following conditions:

- Approval of the screening plan by the Planning Board
- Landscape bonded
- Existing parking abandoned on front parcel
- Four foot berm in rear for plantings.

Mr. Wilson made a motion to approve the variance with the above noted conditions. Ms. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

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

III. Approval of Minutes

Chairwoman Roe asked if there was a motion to accept the May 27, 2003 minutes with the corrections noted.

Mrs. Gersbeck made a motion to accept the May 27, 2003 minutes as modified. Mr. Wilson seconded the motion. All in favor. Motion carried.

VI. Adjournment

Mrs. Gersbeck made a motion to adjourn the July 22, 2003 Zoning Board of Appeals meeting.

Ms. Santoro seconded the motion. All in favor. Aye. Motion carried.

Respectfully submitted,

Gloria J. Lloyd, Secretary

Date Approved: August 26, 2003