

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

**July 23, 2002**

**Members Present:**

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

**Also Present:**

Brian Morgan, Esq.

**I. Call to Order**

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

Chair Roe announced that the next Zoning Board of Appeals work session will be at 7:30 p.m. on August 21, 2002, its regular meeting on August 27, 2002 at 7:30 p.m., and the filing deadline for applications would be Friday, August 16, 2002.

**II. Public Hearing - Continued**

**A. Douglas Tuthill - amended application for variances from the requirements of the PBD Overlay District for the construction of a veterinarian hospital, located on NYS Route 17A in an I/PBD Zoning District: Tax Lot No. 18-2-14.**

- **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 200 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; and**
- **97-63.3C(2) - Omission of the requirement that the marginal access road be constructed as specified and dedicated to the Town.**

Chair Roe stated for the record that the Board had received correspondence from William Ward expressing his continued objections to Dr. Tuthill's amended application.

Bob Fink, Esq., presented the Board with an affidavit of mailings for the amended variance

request. Mr. Fink stated that he faxed to Julie a request to publish, and unfortunately, she did not publish the notice in the Indy (Independent Republic). However, she did publish it on Saturday in the Record. However, it was not for the required five days. Mr. Fink felt that substantially it conforms and he is not sure whether a second publication is required. Chair Roe asked Mr. Morgan if this was acceptable and Mr. Morgan agreed it was.

Chair Roe stated that there were a couple of issues that needed to be resolved from the last meeting. Mr. Fink stated that he was asked to mail a letter to the Town Board and Planning Board. The correspondence to the Town Board related to the marginal access road and whether or not the Town was interested in it being dedicated to the Town. The second letter to the Planning Board, outlined the variances the applicant was asking for. Copies of the letters were presented to the Board. For the record there was no response to either.

Chair Roe asked if Mr. Fink was aware of any deed restrictions with respect to the access road. Mr. Fink noted that there were no deed restrictions, but there were subdivision restrictions and anyone that was going to develop this property would have to conform to the limited number of entrances.

Chair Roe asked if the new Building Inspector, Neal Halloran, had any input on the application. Mr. Halloran stated that he had spoken to the interim Building Inspector about the access road. It was decided that there is a desire to keep the number of accesses onto Route 17A to a limit. The next lot over is more difficult to get in and out of because of the topography. On January 21, 1988 the NYS Department of Transportation requested each of these access points serve two or three of these lots. There was also supposed to be a mutual maintenance agreement filed in the County Clerk's office regarding the access roads.

Mr. Halloran stated that there was another issue regarding the variance for allowing parking right up to the property line, to the right-of-way. The concern here is that during the need for snow removal the cars would be in the way. In other words, 25 ft. seems like too much, but 0 ft. is way too little. Mr. Fink stated that issue of zero clearance would be dealt with by the Planning Board. He did not want to tie the hands of the Planning Board.

Chair Roe asked Mr. Foti if the building could be moved. Mr. Foti stated that there is 40 ft. access easement along the front. This is the access for these three lots.

Mr. Wilson asked Mr. Halloran if part of the concern of the right-of-way is that it is right next to the parking spots and there might be a problem with snow removal? Mr. Halloran stated that was correct. Mr. Foti stated that it would only be a problem if the road became a Town road. Mr. Halloran disagreed. Mr. Foti stated that could move the whole configuration back 10 ft. to 15 ft. This is just a typical parking lot layout for the preliminary site plan.

Chair Roe asked if anyone in the audience had any questions. Mr. Burt Dyshorn, a local dairy farmer, stated that he had not seen the plans but he understands that Dr. Tuthill wants to move to

Route 17A and he thinks that is a good idea. It would make his practice more accessible. Chair Roe asked if Mr. Dyshorn was going to bring large animals to Dr. Tuthill's. Mr. Dyshorn stated that he would not bring his herd there, but he does pick up monthly supplies from Dr. Tuthill.

Mr. Booth stated that this Board should relate to the Planning Board, maybe in memorandum form, that there should be some requirement regarding the clearance for the snow removal. Mr. Foti reiterated that he could move the configuration. Chair Roe stated that she would be happier with something greater than zero. Mr. Fink stated that you would tie the hands of the Planning Board, i.e.: if this Board requires 10 ft. and the Planning Board wants 9 ft. they can not do it.

Mr. Wilson stated that if you have the room why not just eliminate this variance all together? Mr. Fink stated that the building would not "line up" with the other buildings. The Planning Board might require more than 25 ft., it is whatever the Planning Board wants and that is where it is going to be. Chair Roe stated, again, that she would be happier with something greater than zero, say 12.5 ft. Mr. Fink stated that if they had to change this it should read "not less than 12.5 ft." Chair Roe asked how the Board feel about this. The Board agreed.

Mr. Morgan stated the Resolution could read not less than 12.5 ft. and leave it up to the Planning Board's discretion.

Chair Roe asked if there were any other comments. Mr. Booth stated that when he read last month's minutes, Mr. Fink stated that the site plan would be reviewed by the Town's Architectural Review Board. Mr. Booth is not aware of any such Board. Mr. Fink stated that he was taking it out of the Town statue. Mr. Booth stated that apparently the Town put something into the statue that was anticipated.

Chair Roe 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. All in favor. Aye. Motion carried.

Mr. Morgan suggested that the Resolution be adopted with the modification to the area variance to read not less than 12.5 ft. or greater than the discretion of the Planning Board. Essentially, there are two Resolutions, one being the Negative Declaration. Mr. Morgan stated that there is no need to read these Resolutions into record.

Chair Roe asked if there is a motion to adopt the Resolution and Notice and Determination of Non-Significance.

Mrs. Gersbeck made a motion to accept the aforementioned Resolution in its present form.

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

Chair Roe asked if there was a motion to accept the Resolution for the area variance with the modification noted.

Mr. Wilson made a motion to accept the Resolution with the noted modification.

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

Mr. Fink thanked the Board.

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

Chair Roe asked the Board if they were ready to approve the April 23, 2002 minutes. The Board agreed. Mrs. Gersbeck made a motion to approve the April 23, 2002 minutes.

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

Chair Roe asked the Board if they were ready to approve the June 4, 2002 minutes with the noted corrections. Mr. Farfalla made a motion to approve the June 4, 2002 minutes.

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

Chair Roe asked the Board if they were ready to approve the June 25, 2002 minutes with the noted corrections. Mrs. Gersbeck made a motion to approve the June 25, 2002 minutes.

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

#### **V. Adjournment**

Mrs. Gersbeck made a motion to adjourn the July 23, 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: \_\_\_\_\_