

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

**MINUTES OF THE MEETING FOR
AUGUST 26, 2003**

Members Present:

Donna Roe, Chairwoman
Robert Farfalla
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 August meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m. It was noted that the September Zoning Board of Appeals work session will be at 7:30 p.m. on September 17, 2003; the regular meeting on September 23, 2003 at 7:30 p.m.; and the filing deadline for applications would be Wednesday, September 10, 2003.

Chairwoman Roe noted that Robert Kosior had appeared at the work session for an application to place a shed 3 ft. from the property line. However, the application has since been withdrawn. In addition, there was another matter that was published, however, they did not appear at the work session or at tonight's meeting, that being the application for KRSLB Corp.,

II. Public Hearing - continued

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.

Mrs. Kennedy was in attendance and stated that she was before the Board to ask for a variance of 15 ft. to install an in ground pool. Chairwoman Roe stated that the original application was for 10 ft. and that has since been modified. Mrs. Kennedy explained that in conjunction with the pool company and the landscaper, they were able to work out the potential problems associated with drainage, well and septic locations.

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

Chairwoman Roe stated that the Board has been over this application and there are no other issues associated with the 15 ft. variance. There is already an existing home on the parcel behind the

applicant's property and there is a buffer of trees, which will not be disturbed.

Chairwoman Roe asked if there was a motion to grant the amended application. Mrs. Gersbeck made a motion to approve the 15 ft. variance. Mr. Wilson 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. Public Hearing

Buchheit-Ward, Marie Louise - An area variance from Section 97-63.3 B.(1), B.(2), B.(3)(a)(1) and (c) for a lot size variance from 4 acres to 2.7 acres, lot frontage from 300 ft. to 286 ft., rear yard from 100 ft. to 50 ft., one side yard from 100 ft. to 50 ft. and a waiving of the requirement for a marginal access road, located on Route 17A in an Industrial Zone with a PBD Overlay: Tax Lot No. 18-2-1.

Alan Lipman, Esq., and Laura Mosher of Lanc & Tully, P.C., were in attendance and representing the applicant. Proof of certified, return receipt mailings were given to the Board. Mr. Lipman went on to explain that this subdivision is part of Filed Map No. 88-41, dated May 5, 1988 and this particular lot is Lot No. 1, which at the time and still is in the I Zone. This subdivision created twelve lots that were 2+ acres in size and three lots that were substantially larger. At the time this before the Planning Board, there was debate over the minimum lot area within the I Zone where the PBD Overlay applied. The 2+ acre lots were approved by the Planning Board and now there is an abundance of these lots in this situation. Just recently, one came before the ZBA for an animal hospital, which had the same problems that this application has.

All of the lands which have been developed along this corridor have not been subject to the requirements of the marginal access road. This has been waived routinely. Furthermore, people who purchase these lots are under the impression that they have a conforming lot. Unfortunately, this is not true under the PBD Overlay requirements and in his opinion the Bulk Requirements should have been the same for both zones. With regard to this application, the lot area is short by 1.3 acres in area; and lot frontage, which is 300 ft., is missed by 14 ft. In contrast, these lots uniformly lack 100 ft. or more feet and in those terms this lot lacks the least amount of frontage. The south side is owned by the Buchheit's. The rear of the property has a gentle slope upward from west to east.

Ms. Mosher then explained that the sketch plan layout was prepared without detailed design to give the Board the idea of the proposed use. It is not comprehensive, as it would be submitted for site plan approval and review for the Planning Board, but it was kept instead to a schematic view so that the focus would be on the variances being sought. Therefore, the layout is shown were the five greenhouses which are approximately 33 ft. x 96 ft. long and that is to scale on the plan.

There is 750 sq. ft. of sales area that has been defined in one greenhouse. The public would not have access to the balance of the greenhouses. There are six parking spaces that are required for that square footage of area open to the public and is duly noted on the sketch plan.

Chairwoman Roe asked if there was consideration given for utilizing only one large greenhouse. Ms. Mosher stated that structurally these greenhouses are limited in size because of the way they are built; they are pipe-framed with plastic covering. Mr. Buchheit is looking for a certain amount of square footage in which to put a certain number of plants. Mr. Lipman stated that it is the intention of applicant to buy seedlings, pot and grow them and sell them mail order and/or wholesale. There will be some retail sales and he will have samples of various types of plants that are raised in the greenhouse, but the public will not be allowed in the other greenhouses.

Chairwoman Roe questioned the absence of the location of the well and septic on the plan. Mr. Lipman stated that the plan was purposely limited to show the areas which will require the variances. The applicant knows that site plan approval is needed from the Planning Board and based upon what occurred at the work session, it was Mr. Lipman decision to come before the ZBA first. Therefore, a schematic plan was developed to show the variance issues only.

Chairwoman Roe stated that a SEQRA review is necessary and that the Planning Board would be asked for their comments. Mr. Wilson stated that it was not proper to make a decision on a schematic before it is determined what the Planning Board will do. Mr. Lipman stated that either Board can make conditional decisions and he was not aware that the two Boards were so intertwined that the applicant would need to have site plan approval before the ZBA reviewed the plans.

Chairwoman Roe replied that if a decision is made by our Board, and the Planning Board decides to send the application back to the ZBA because of some other issue, it would be more time consuming and costly to do things twice for the applicant. Mr. Lipman agreed and that is why he decided to come to the ZBA first for a decision. Mr. Wilson felt it was improper to make a ruling based on incomplete information. For example, there may be drainage issues that may move the greenhouses around, further encroaching on the setbacks.

Mr. Farfalla asked if consideration was given to re-arranging the greenhouses. Ms. Mosher stated that these structures do not require a foundation, the interior will consist of packed dirt and the exterior of the greenhouses will be left as grass. Therefore, the greenhouses were laid out parallel with the contour of the property in order to limit the amount of land disturbance.

Mr. Farfalla stated that due east is the residential area which may be a concern. It was Mr. Lipman's understanding that residents will not see this, and therefore, will not be visually impacted. Also, if the residents, who received notification of this meeting by mail, had a problem they would certainly would have been in attendance.

Ms. Santoro asked if any other product (greenhouse manufacturer) been considered. Mr. Lipman explained that if you doubled the size, there would a larger difference in elevation between the sides and foundations would be needed for the buildings. Mr. Lipman reassured the Board that the applicant researched the various products to the best of his needs.

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

Chairwoman Roe asked if there was a motion to make the Planning Board Lead Agency with regard to SEQRA. Mrs. Gersbeck made a motion, Mr. Wilson seconded. All in favor. Aye. Motion

carried.

IV. Approval of Minutes

Chairwoman Roe asked if there was a motion to accept the April 22, 2003 minutes. Mrs. Gersbeck made a motion to accept the April 2003 minutes. Mr. Wilson seconded the motion. All in favor. Motion carried.

Chairwoman Roe asked if there was a motion to accept the June 24, 2003 minutes. Mrs. Gersbeck made a motion to accept the June 2003 minutes. Mr. Wilson seconded the motion. All in favor. Motion carried.

Chairwoman Roe asked if there was a motion to accept the July 22, 2003 minutes as noted with corrections. Mrs. Gersbeck made a motion to accept the July 2003 minutes as noted. Mr. Wilson seconded the motion. All in favor. Motion carried.

V. Adjournment

Mrs. Gersbeck made a motion to adjourn the August 26, 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: