

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

**MINUTES OF THE MEETING FOR
OCTOBER 28, 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 October meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m. It was noted that the November Zoning Board of Appeals work session will be at 7:30 p.m. on November 19, 2003; the regular meeting on November 25, 2003 at 7:30 p.m.; and the filing deadline for applications would be Wednesday, November 12, 2003.

Chairwoman Roe announced that James and Joan Rugnetta have requested a 6-month extension of their variance that was granted in April 2003. This extension is being requested on the grounds that they have not been able to find a contractor to commence the work.

Chairwoman Roe asked if there was a motion to grant a six month extension; Ms. Santoro made a motion and it was seconded by Mr. Wilson. Extension granted.

II. Public Hearing - continued

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.

Laura Mosher of Lanc & Tully, P.C., and Alan Lipman, Esq., were in attendance and representing the applicant. Mr. Halloran stated that this matter has been in front of the Planning Board for the last two months and Planning Board has voted to endorse the plan, which is being presented tonight in front of the Zoning Board. Mr. Lipman stated this was the plan that was originally presented to the Board with the exception that shrubbery has been added, because on closer inspection, there was one area that you see through the foliage. The Planning Board is in agreement with this additional planting.

Chairwoman Roe noted that there is a septic system and curtain drain shown on the plan, however,

no well is shown. Ms. Mosher pointed to the general area where the well will be placed. She also stated that this plan has been before the Planning Board, there has been a Public Hearing that was opened and then closed with no comments from the public. There were some comments from the Planning Board engineer which were technical in nature, but would not impair the Planning Board from making a decision at their meeting next month. Other items added to the plan included an enlarged parking area, driveway off of Route 17A into the property, contours, grading, and a small septic system, which has been sized and designed to serve the maximum two employees. Mr. Lipman stated that the Planning Board also issued a Negative Declaration at its last meeting, which brings the SEQRA process to a close.

Chairwoman Roe asked if access to the State Highway has been granted, and Ms. Mosher stated that they would be making application to the State at the end of this week and that the Planning Board is aware of this.

Mr. Wilson asked what is the proposed size of the evergreens that will be planted to fill the gap in the existing tree line, as the trees that are there now are almost 18 ft. Ms. Mosher showed the Board an aerial photograph indicating the location of the nearest house and barn and stated that it was her belief that the white pines trees to be planted were 6 - 7 ft. in height. Mr. Wilson asked if the Board could request that 10 - 12 ft. trees be planted. Mr. Lipman did not know how much the larger trees would cost and noted that the variety chosen is very fast growing.

Mr. Wilson wanted clarification on the size of parking lot. Ms. Mosher stated that six spaces were originally proposed, eight are now being shown, including the required handicap space.

Chairwoman Roe went over the list of variances that are being requested and asked the Board if they had any questions or comments. Mr. Wilson stated that he was still skeptical about how the tree line will appear from Route 17A, however, he appreciates the effort that went into the screening. He also stated that the applicant was asking a lot from the Board in the number of variances. The variance for the marginal access road was questioned. Mr. Halloran stated that this was discussed at the Planning Board meeting and the issue of whether they were even obligated to have a marginal road, as the access is on the left hand side of property and the road on the right would serve no purpose because this is the last parcel in the PBD Overlay District.

Chairwoman Roe thanked the representatives for coming back with a more comprehensive plan.

Mr. Farfalla wanted verification that the structures are not permanent. Ms. Mosher stated that was correct and that the owner's have had experience selling nursery stock and have visited several sites where these type of greenhouses have been in operation. Mr. Farfalla stated that his only concern was the back lot and the houses located there. It was his belief that by moving the two proposed greenhouses in the rear; one to the front and eliminating one all together, that the applicant would not need that variance. Mr. Lipman stated that it should be understood that two Public Hearings were held and no one attended or voiced any concerns and that any precedents that are being set are such that are within the standards that the Board is allowed to act. The Board has been given a set of circumstances that justify the issuance of these area variances.

There is no problem from the neighbors and the Planning Board was comfortable with what the applicant proposed, the distance of the homes from the property line, the grade, existing landscaping and what landscaping is proposed. This is probably the most unobtrusive use that could be made of this property.

Ms. Santoro asked if the adjacent parcel, with the existing homes, could be further subdivided; Mr. Halloran stated that they could not because there would be no access.

Chairwoman Roe asked if there was a motion to close the Public Hearing. Mrs. Gersbeck made a motion to close the Public Hearing; Mr. Wilson seconded the motion. All in favor. Aye.

Mr. Morgan read the Resolution into record.

Chairwoman Roe asked if there was a motion to accept the Resolution and grant the variances as proposed. Mr. Wilson made a motion to grant the variances as requested; Mr. Farfalla seconded the motion. Roll Call is as follows:

Donna Roe:	Aye
Robert Farfalla:	Aye
Priscilla Gersbeck:	Aye
Dawn Santoro:	Aye
Michael Wilson:	Aye

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

III. Public Hearing

Pskowski, Chris and Beth - An area variance from Section 94-64, lot width from 150 ft. to 71.9 ft. and 78.1 ft., located on Gate School Road, in an AR-1: Tax Lot No. 12-1-46.21.

Kirk Rother, P.E., and Chris Pskowski were present to represent the application. Verification of certified mailings with return receipts were presented to the Board. Mr. Rother stated that the application before the Board is for an area variance for reduction of minimum width to 78 and 71 ft. to allow a two lot subdivision of approximately 12 acres of land. The two lots would be approximately 7.5 acre and 4.8 acre, respectively, each having their own driveway. This application was before the Planning Board several times and four lots were originally proposed. If the four lots were developed, a private road would be constructed. However, it was also demonstrated that a public road could also be built. At this time, Mr. Pskowski wishes to reduce the original plan to two lots with each lot having frontage on Gate School Road.

Chairwoman stated this would create two non-conforming lots and asked what would be constructed on these lots. Mr. Pskowski stated that there would be two single-family residents to be served with individual wells and septic systems. Mr. Rother presented plans to the Board showing the original plan (4-lots) and the one proposed (2-lots). It was noted that the applicant owns the front portion of Kursack Lane, but not the rear portion, and that there is no right-of-way or maintenance agreement. Kursack Lane serves four other residents. Mr. Pskowski's original intention when he purchased the

property was to build one home, on one lot.

Mr. Wilson stated that his concern was that the applicant has three legitimate options that do not require the creation of flag lots. There has to be justification why the Board would grant a variance; there is no justification here. There has to be a good reason, other than financial gain, to grant a variance. Mr. Rother stated that the reason for pursuing the private road was because there would be less disturbance to the site and that the Planning Board was agreeable to plan. The change came when the lot count was reduced by two lots. Mr. Rother asked the Board which of the two variances would be more acceptable (the one presently needed or the one needed if the plan showed the private road with four lots). Mr. Wilson stated that was not the issue in front of the Board tonight. The Board was to determine whether a variance for two non-conforming lots could be granted.

Chairwoman Roe asked if the audience had any questions. Mr. Raymond Kursack presented a plan showing that an easement that extends into Kursack Road and that Mr. Pskowski was crossing someone's land to the south. Mr. Wilson stated that was not an issue for this Board to discuss and thanked Mr. Kursack for his comment. Mr. Peter Kusirack stated that the Board would be setting a bad precedent if they granted this variance. Another member of the audience stated that there is a drainage/runoff problem now and any further development would make the situation worse. Patricia DeFalcon who resides on Lower Lane, wanted to state that she prefers two houses to be built because of the water problem that now exists. Mr. Wilson stated that while it is consideration, it is not a consideration for this Board. Mr. Halloran stated that would be a issue for the Planning Board.

Mrs. Gersbeck stated that she performed a site visit and there could be a water issue because of the topography. The parcel is a difficult piece due to the fact that there is so much shale. Mrs. Gersbeck stated that it would be advantageous for the Board to make a site visit to see what the applicant is up against. Mrs. Gersbeck asked if under the new Master Plan this might be allowable (flag lots), Mr. Halloran stated that it very well may be; in the new zoning, there is allowance for flag lots.

Mr. Wilson made a motion to close the Public Hearing; Ms. Santoro seconded the motion. All in favor. Aye. Mr. Morgan stated that he would incorporate the Board's comments into the Resolution.

Mr. Wilson made a motion to deny the variance as proposed. Ms. Santoro seconded the motion.

Roll Call is as follows:

Donna Roe:	Denied	Priscilla Gersbeck:	Denied
Robert Farfalla:	Denied	Dawn Santoro:	Denied
Michael Wilson:	Denied		

Motion carried. The application is denied.

Behrent - An side yard variance from Section 97-64 from 50 ft. to 39 ft., located on 38 Meadow Road, in a Highway Commercial Zone: Tax Lot No. 20-1-15.3.

Harry Behrent was present. Verification of certified mailings with return receipts were presented to the Board. Mr. Behrent explained to the Board that he proposing to construct a 9,000 sq. ft. warehouse building. The pitch of the roof would remain consistent with the existing building. Behind the building is a drainage ditch and on the Florida side is the Police barracks. The existing building is approximately 12,000 sq. ft.

Ms. Santoro asked if parking was an issue. Mr. Behrent stated that there would be no additional employees as a result of this addition. At present there is about 18 employees with 40 parking spaces.

Chairwoman Roe asked if there was anyone in the audience who had comments or questions. There were none. Chairwoman Roe 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.

Mr. Wilson wanted to comment that he appreciated the local business people working to expand and stay within to the community, because benefits the Town. Mr. Behrent thanked the Board for its positive comment.

Chairwoman Roe asked if there was motion to grant the variance. Mr. Wilson made a motion to grant the variance; Mr. Farfalla seconded the motion. All in favor. Aye. Motion carried.

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

Robert Sardino- An rear yard setback variance from Section 97-64 from 150 ft. to 15 ft., located on 62 Old Chester Road, in an AR-1 Zone: Tax Lot No. 11-1-13.

George Pabon was present and representing the applicant. Chairwoman Roe stated that written authorization by the applicant must be presented to the Board when someone else will be representing the applicant. Verification of certified mailings with return receipts were presented to the Board. Mr. Wilson stated that a site plan was requested and must be presented to the Board. Mrs. Gersbeck performed a site visit with Mr. Sardino last week and he stated he would be out of State and would be sending a representative. Mr. Morgan stated that the Board could open the Public Hearing and hear the comments of the audience. Chairwoman Roe stated that she would open the Public Hearing. The Board informed Mr. Pabon that Mr. Sardino is aware that additional information is needed and that no action would be taken tonight.

Peter Giordano, who resides next to the property, explained that he was agreeable to the construction of the stable, but not as close as the requested 15 ft. Mr. Giordano explained that Mr. Sardino has quite a bit of land and does not understand why he is proposing to build it so close the property line. Also, another concern was where is the manure going to be disposed of. Mr. Giordano does not want it to runoff onto his property.

Mr. Halloran stated that Mr. Sardino was also very vague about how far he was going to be from the side lot line also. Chairwoman Roe thanked Mr. Giordano for attending the meeting and letting the Board know his comments.

Chairwoman Roe 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.

Raymond Myruski- A side yard setback variance from Section 97-64 from 50 ft. to 35 ft., located on 912 Pulaski Highway: Tax Lot No. 22-1-145.2.

Raymond Myruski was present to represent the application. Verification of certified mailings with return receipts were presented to the Board, along with site plans. Mr. Myruski wanted it noted that the amount of the variance has changed to 40 ft. (only a 10 ft. variance is needed). The proposed building will be a pole barn and it will be used to house equipment and for light maintenance. Mr. Myruski showed the Board on the plan the extent of this property and exactly where the building will be constructed. Chairwoman Roe stated that she did not have any questions on this application.

Mr. Farfalla made a motion to close the Public Hearing; Mrs. Gersbeck seconded the motion. All in favor. Aye.

There was no further discussion on this matter.

Chairwoman Roe asked if there was a motion to grant the variance as amended. Mr. Wilson made a motion to grant the variance as amended; Ms. Santoro seconded the motion. All in favor. Aye. Motion carried.

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

V. Adjournment

Chairwoman Roe wanted to thank Gloria Lloyd, the Board's secretary, for her work with the Board, as she has tendered her resignation and this will be her final meeting. The secretary stated that she would transcribe tonight's minutes and place them on disk so that corrections could be made, along with September's minutes, which were presented tonight.

Mrs. Gersbeck made a motion to adjourn the October 28, 2003 Zoning Board of Appeals meeting.

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