

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

**MINUTES OF THE MEETING FOR
NOVEMBER 26, 2002**

Members Present:

Donna Roe, Chairwoman
Robert Farfalla
Priscilla Gersbeck

Also Present:

Brian Morgan, Esq.
Neal Halloran, Bldg. Inspector



I. Call to Order

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

Chairwoman Roe announced that the December Zoning Board of Appeals meetings would be held a little earlier in the month due to the holidays. Therefore, the work session will be at 7:30 p.m. on December 11, 2002; regular meeting on December 17, 2002 at 7:30 p.m.; and the filing deadline for applications would be Friday, December 6, 2002.

II. Public Hearing - continued

A. Panstar Propane - Area variance from Section 97-64 (B) pertaining to side yard setback from 200 ft. to 50 ft., and rear yard setbacks from 200 ft. to 140 ft., located on Quarry Road in an I Zoning District: Tax Lot No. 17-1-12.

Jay Myrow, Esq., was present and representing the applicant. Mr. Myrow briefly outlined the requested variances. He went on to summarize that at the last meeting County Attorney, Catherine Bartlett was present and had asked that the Public Hearing remain open so that the County could accurately determine the distance between the proposed site and the Health Care facility. Also, the County wanted to make a determination regarding any impacts to the population of that facility. Mr. Myrow stated that he and the Board had received a letter from the County. The letter stated that the Department of Public Works had measure the distance and it appears that no buildings are within 1,300 feet of the project and that the County had no further objections. In addition, the County will make no further appearances before the Board.

Mr. Myrow also contacted Mr. Frank Holmes, LS, the surveyor of record for the project to have him verify the distance from the lot to the cemetery. Mr. Myrow read into record correspondence from Mr. Holmes dated November 14, 2002, which stated that the distance from the southeast

corner of the parcel to apparent northeast corner of the cemetery is 260 feet.

Mr. Myrow asked if there were any other questions from the Board. Chairwoman Roe stated that there were no further issues that needed to be addressed. The Board was asked if there were any further comments. There were none.

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

Mrs. Gersbeck made a motion to close the Public Hearing.

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

Mr. Morgan read the Resolution into record.

Chairwoman Roe asked the Board to vote to accept the Resolution for the area variance.

Robert Farfalla: Aye

Priscilla Gersbeck: Aye

Chairwoman Roe: Aye

All were in favor. Motion carried.

B. Barbara Mielke - Area Variance from Section 97-64 (B) pertaining to front yard setback from 68 ft. to 61 ft. , located on Route 17M in an HC Zoning District: Tax Lot No. 12-1-8.12.

Mr. Joe Pfau, applicant's engineer; Daryl Anderson, owner; and Al Wiley, operator of the convenience store were present. Mr. Pfau stated that there were a number of concerns raised by the Board, as well as correspondence from the Planning Board engineer with regards to traffic circulation. Mr. Pfau presented a colored map to better outline the different areas. Mr. Pfau went on to explain that the Planning Board engineer did not have a problem with the traffic flow patterns, but was concerned with the existing sign located between the canopy and Route 17M. Mr. Pfau was willing to re-locate the sign.

Mr. Pfau then presented the Board with another re-design of the canopy layout. However, what this layout does require an increase in the variance, as the canopy is now turned. The front yard setback, with this design, will be 55 ft.

Chairwoman Roe asked if the diesel pumps were removed. Mr. Pfau stated that the outside portion of the last pump under the canopy would be utilized for diesel.

Chairwoman Roe asked the height of the canopy and Mr. Wiley replied approximately 14 ft. He explained this is the same type of canopy that is used by Mobil-on-the-Run near the Galleria. Although the same size, this gas station will be a Citco. The dimensions of the canopy are 34 ft. x 51 ft.

Mrs. Gersbeck asked if the small brick building will remain and Mr. Pfau stated that it would because the owner would like to eventually obtain a permit and sell Christmas trees.

Mr. Pfau explained that although the layout is in the existing footprint, a permit from the NYS Department of Conservation is needed to demolish and remove the old car wash, due to the fact that is within a 100 ft. buffer.

Mr. Farfalla stated that he was satisfied with the new layout because it does not allow for the large, tractor-trailers to fuel up.

Chairwoman Roe noted that in the Planning Board engineer's correspondence was a concern about deliveries to the site. This was not noted on the site plan. Mr. Anderson stated all delivery are to remain the same and are made behind the buildings. There will be no new access necessary.

Chairwoman Roe stated that in the memorandum from the Planning Board engineer that there was also a concern about parking spaces. Mr. Pfau stated that the parking spaces are existing and were part of the site plan approval. The spaces still exist, it is just that the striping has worn off. In other words they are in compliance with site plan approval. Mr. Morgan stated it was up to the Planning Board and the Building Inspector to decide whether it is in compliance and for this Board's purpose there is no violation. The Planning Board would address this, and if necessary, send it back to this Board.

Mrs. Gersbeck asked Mr. Morgan if the Board can stipulate that the map with the revised date of November 26, 2002 is the one the Planning Board should review. Mr. Morgan stated that it could be written in as part of the Resolution.

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

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

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

Mr. Morgan stated that there was no requirement for a Negative Declaration and read the Resolution into record.

Chairwoman Roe asked the Board to vote to accept the Resolution for the area variance with the stated conditions.

Robert Farfalla: Aye
Priscilla Gersbeck: Aye
Chairwoman Roe: Aye

All were in favor. Motion carried.

III. Public Hearing

C. Matchpoint - Use variance from Sections 97-39 and 97-40 pertaining to indoor/outdoor recreation facility, which is not a permitted, located on Route 17M (approximate 300 feet west of Arcadia Road) in an OR Zoning District: Tax Lot No. 11-1-25.22.

Michael Bluestein, Esq.; Mike Sandor, P.E., project engineer; Bruce Roberts, the applicant; and Mr. Furman property owner were present. Proof of certified mailings were presented to the Board.

Mr. Roberts explained that this project is a 10 acre parcel that sits between Routes 17 and 17M. It will be a indoor/outdoor sport facility to include indoor roller hockey, soccer arena and swimming pool. Outdoor will host a tennis court and parking facility. The building will be 40,000 sq. ft., and is located directly south of the new Mexican restaurant and across from the golf driving range. Maps were presented to the Board.

Mr. Farfalla stated that since the application is for a use variance, and proof of hardship is needed, please explain the hardship involved. Mr. Bluestein stated that it is a terrible piece of property in terms of development for the OR Zone. Some of the uses for the OR Zone are gas stations and restaurants, neither of which would need to utilize a 10 acre parcel. The only use feasible use for this site would be an office building and the Goshen area is flooded with office space most of which is not rented. This parcel has been on the market for three years and the owner has not had any offers. It represents an economic hardship in the fact that Mr. Furman has been maintaining the parcel and paying taxes for three years with no return on his money. The proposed facility would not only benefit the owner but the Town as a whole. The Code states that the athletic fields are a permitted use in the HC Zone that abuts this zone, but there are no large enough parcels to develop into this use.

Mr. Farfalla inquired as to the construction of the building. Mr. Roberts stated that it is an "air structure". The building is 410 ft. x 225 ft., with 100 parking spaces. The facility would be made available to the schools, clinics and area leagues.

Chairwoman Roe asked where the culverts were, Mr. Sandor pointed them out on the map. Mr. Sandor also added that the facility is secure. There will be one point of entry for the facility off of the parking area. The member would have to enter the building to access the outside area.

Mr. Bluestein stated that this proposal has not been presented to the Planning Board, because the project can not move ahead without the use variance. The issue of access off of Route 17M would require a NYS Department of Transportation Permit and Planning Board approval.

Mr. Furman stated that he bought the property four years ago and has been trying to keep up the property. The cost of maintenance and taxes of the property are a financial hardship to him. Chairman Roe asked is this is the only offer Mr. Furman had on the property in four years. Mr. Furman stated that it was the only offer. The property has been offered in multiple-listing, with

two different realtors. Mr. Bluestein stated that the property is ideal for the proposed use. Mr. Roberts stated that he has been looking for a parcel like this for a year.

Chairwoman Roe asked if the applicant had approached the Town Board for a zoning change. Mr. Bluestein stated that they had not entertained the idea, as it would be rather costly to the owner/applicant. Furthermore, this use is not permitted anywhere in the Town and a variance would eventually be needed.

Chairwomen Roe stated that although it is good proposal, hardship has not been proven.

Mr. Roberts explained that after looking into NY State requirements, all conditions were met. These were in reference to the character of the neighborhood, the price of the property is market value and the hardship is not a self-created hardship. Mr. Furman bought the property with the understanding he would be able to sell it. Mr. Roberts stated that the real estate market in this area is booming and for Mr. Furman to stand here and say that he has not been able to sell the property, that is hardship.

Chairwoman Roe asked if Mr. Furman considered subdividing the property. Mr. Furman stated that he does not have the money to subdivide.

Mr. Morgan stated that looking at the plan there are no County properties or rights-of way noted. Mr. Sandor stated that the Heritage Trail is 550 ft. away from the property corner.

Chairwoman Roe asked if there were any further questions or comments. There were none.

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

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

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

Chairwoman Roe stated that closing the Public Hearing, the Board has sixty-two days to make a decision.

IV. Approval of Minutes

Not applicable.

V. Adjournment

Mrs. Gersbeck made a motion to adjourn the November 26, 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: January 21, 2003