

**Town of Goshen Zoning Board Meeting
Town Hall
41 Webster Avenue
Goshen, New York 10924
February 6, 2024**

Members Present:

Thomas Burnham, Chairman
Samuel Bergsohn
Kenneth Banghart, Alternate Participating
James Barrett
Trino Canton
Robert Farfalla

Also Present:

Rory Brady, Esq., ZBA Attorney
Frank Leva, Building Inspector
Grace Avagnano, Planning & Zoning Clerk

The meeting of the Town of Goshen Zoning Board of Appeals was opened with the Pledge of Allegiance at 7:30 pm.

Approval of Minutes

VOTE BY PROPER MOTION, made by Mr. Farfalla, seconded by Mr. Bergsohn, the Town of Goshen Zoning Board of Appeals approved the minutes of the January 23, 2023 meeting as prepared. Approved unanimously.

Chairman Burnham	Aye	Mr. Banghart	Aye
Mr. Barrett	Aye	Mr. Bergsohn	Aye
Mr. Farfalla	Aye		

Public Hearing

IWS – 12-1-21.21: The applicant is requesting a variance for the side yard setback of 35.3 feet for the proposed accessory structure (50,000-gallon water storage tank).

Engineer Thorndahl and General Manager Dunham present.

VOTE BY PROPER MOTION, made by Mr. Banghart, seconded by Mr. Bergsohn, the Town of Goshen Zoning Board of Appeals opened the public hearing. Approved unanimously.

Chairman Burnham	Aye	Mr. Banghart	Aye
Mr. Barrett	Aye	Mr. Bergsohn	Aye
Mr. Farfalla	Aye		

There were no members of the public present who wished to speak.

VOTE BY PROPER MOTION, made by Mr. Barrett, seconded by Mr. Banghart, the Town of Goshen Zoning Board of Appeals closed the public hearing. Approved unanimously.

Chairman Burnham	Aye	Mr. Banghart	Aye
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Mr. Barrett	Aye	Mr. Bergsohn	Aye
Mr. Farfalla	Aye		

Attorney Brady reviewed the Five-Factor Balancing Test with the Board regarding a variance for the side yard setback of 35.3 feet for the proposed accessory structure.

1. Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

Chairman Burnham	No	Mr. Banghart	No
Mr. Barrett	No	Mr. Bergsohn	No
Mr. Farfalla	No		

2. Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance.

Chairman Burnham	No	Mr. Banghart	No
Mr. Barrett	No	Mr. Bergsohn	No
Mr. Farfalla	No		

3. Whether the requested area variance is substantial.

Chairman Burnham	No	Mr. Banghart	Yes
Mr. Barrett	No	Mr. Bergsohn	No
Mr. Farfalla	No		

Chairman Burnham and Member Barrett stated the building itself is closer to the setback.

4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

Chairman Burnham	No	Mr. Banghart	No
Mr. Barrett	No	Mr. Bergsohn	No
Mr. Farfalla	No		

5. Whether the alleged difficulty was self-created.

Chairman Burnham	No	Mr. Banghart	Yes
Mr. Barrett	Yes	Mr. Bergsohn	Yes
Mr. Farfalla	Yes		

Chairman Burnham stated it was the NYS DEC who was requiring the changes to the operation.

Attorney Brady polled the Board as to whether to grant this requested area variance.

Chairman Burnham	Yes	Mr. Banghart	Yes
Mr. Barrett	Yes	Mr. Bergsohn	Yes
Mr. Farfalla	Yes		

All in Audio – 19-1-124.1: Applicant seeks an interpretation that (1) the property is not subject to Town Zoning Code 97-27 and the Water Testing Protocols set forth in Appendix C and/or (2) that the existing multi-dwelling unit housing for agricultural workers on the property is a legal, preexisting use. If the requested interpretation is not granted, the applicant requests an area variance from 97-27.

Attorney DeJoy present.

VOTE BY PROPER MOTION, made by Mr. Banghart, seconded by Mr. Bergsohn, the Town of Goshen Zoning Board of Appeals opened the public hearing. Approved unanimously.

Chairman Burnham	Aye	Mr. Banghart	Aye
Mr. Barrett	Aye	Mr. Bergsohn	Aye
Mr. Farfalla	Aye		

Attorney DeJoy addressed the Board regarding the interpretation of the water testing protocol and requested an adjournment for a month for further communication with the Building Department.

There were no members of the public present who wished to speak.

VOTE BY PROPER MOTION, made by Mr. Barrett, seconded by Mr. Banghart, the Town of Goshen Zoning Board of Appeals adjourned the public hearing for one month until March 5, 2024 at 7:30 pm or as soon thereafter as can be heard. Approved unanimously.

Chairman Burnham	Aye	Mr. Banghart	Aye
Mr. Barrett	Aye	Mr. Bergsohn	Aye
Mr. Farfalla	Aye		

Possible Extension or Abandonment of Applications pursuant to Town Code

Vivian Lane Solar – 9-1-4

Alternate Member Banghart left the dais.

Member Canton joined the dais.

Chairman Burnham read Attorney Gladd’s correspondence into the record.

VOTE BY PROPER MOTION, made by Mr. Farfalla, seconded by Mr. Bergsohn, the Town of Goshen Zoning Board of Appeals approved a six-month extension of previously granted area variance approval until August 6th, 2024. Approved unanimously.

Chairman Burnham	Aye	Mr. Barrett	Aye
Mr. Bergsohn	Aye	Mr. Canton	Aye
Mr. Farfalla	Aye		

Items for Discussion/Action -

Green Wells – 11-1-100.2: The applicant Green Wells Venture LLP is seeking to develop a ± 64,680 square foot greenhouse facility for the cultivation, processing, and distribution of agricultural product (Cannabis) with associated parking, loading, stormwater treatment facilities, well, and septic field on a 7.1-acre parcel. The parcel is located in the Rural (RU) zoning district. Applicant is seeking an area variance from the maximum impervious coverage surface if assumed to be 10% to a maximum coverage of 40% for agricultural use. **Initial presentation.**

Attorney Cappello and Engineer Pfau present.

Attorney Cappello and Engineer Pfau presented the application to the Board as a Cannabis Agricultural use on Old Chester Road and Duck Farm Road in the RU Zone. The application will not have to go through the Planning Board process as the State Licensing is in place for such an agricultural use.

Whereupon the Board discussed the Heritage Trail, Otterkill, water discharge temperatures, odors, questioned whether the building is a greenhouse or a warehouse, lighting, well capacity, and water recharge.

VOTE BY PROPER MOTION, made by Mr. Bergsohn, seconded by Mr. Barrett, the Town of Goshen Zoning Board of Appeals set a public hearing for March 5, 2024 at 7:30 pm or as soon thereafter as can be heard. Approved unanimously.

Chairman Burnham	Aye	Mr. Barrett	Aye
Mr. Bergsohn	Aye	Mr. Canton	Aye
Mr. Farfalla	Aye		

Healey Ford – 12-1-8.11: The applicant is before the Planning Board for site plan approval for a drive-thru customer drop-off facility and it was determined a variance will be required for the proposed side yard setback of 20.1-feet proposed, the Code requires a minimum side yard setback of 30-feet [§97-14A]. **Initial presentation.**

Member Barrett recused and left the dais.

Alternate Member Banghart recused and remained off the dais.

Attorney Jacobowitz and Engineer Dates present.

Engineer Dates presented the application to the Board as a 20.1-foot requested side-yard setback area variance where 30 feet is required by code to allow the construction of a drive-through customer drop-off facility.

Whereupon the Board discussed the single parcel segmentation of projects, intensity of use, number of granted variances for this parcel, confirmed existing asphalt, and what currently exists between the proposed structure and the property line.

VOTE BY PROPER MOTION, made by Mr. Bergsohn, seconded by Mr. Canton, the Town of Goshen Zoning Board of Appeals set a public hearing for February 20, 2024 at 7:30 pm or as soon thereafter as can be heard conditioned upon 239 GML referral with a secondary date of March 5, 2024. Approved unanimously.

Chairman Burnham	Aye	Mr. Bergsohn	Aye
Mr. Canton	Aye	Mr. Farfalla	Aye

Board Discussion

Under Attorney advisement the Board discussed the merits of an interpretation versus an area variance for the Green Wells application and specific sections of the Code.

Items for Discussion/Action Reopened -

Healey Ford – 12-1-8.11: The applicant is before the Planning Board for site plan approval for a drive-thru customer drop-off facility and it was determined a variance will be required for the proposed side yard setback of 20.1-feet proposed, the Code requires a minimum side yard setback of 30-feet [§97-14A].

VOTE BY PROPER MOTION, made by Mr. Bergsohn, seconded by Mr. Canton, the Town of Goshen Zoning Board of Appeals reopened the discussion regarding this application. Approved unanimously.

Chairman Burnham	Aye	Mr. Bergsohn	Aye
Mr. Canton	Aye	Mr. Farfalla	Aye

Attorney Jacobowitz provided the County’s GML 239 response to Attorney Brady.

Public Hearing will be held on February 20, 2024.

Adjournment

VOTE BY PROPER MOTION, made by Mr. Barrett, seconded by Mr. Farfalla, the Town of Goshen Zoning Board of Appeals moved to adjourn the meeting. Approved unanimously.

Chairman Burnham	Aye	Mr. Barrett	Aye
Mr. Bergsohn	Aye	Mr. Canton	Aye
Mr. Farfalla	Aye		

Meeting adjourned at 8:36 pm