

TOWN OF GOSHEN
Zoning Board of Appeals
May 17, 2016

Members Present:

Frank Leva, Chairman
Trino Canton
Cynthia Hand
Bob Farfalla
Ed Garling

Also Present:

Kelly Naughton, Esq., ZBA Attorney

The ZBA meeting was opened at 7:30 p.m. by Chairman Frank Leva.

Chaffee Pools – 11-1-120.21 2.49 +/- acres located on Route 17M in the CO district for business with apartment. Requesting area variance from Sections 97-14(A) and 97-14(D).

Appearing for the applicant:

Nick Rugnetta, Engineer
Dan Blume, Esq.

Chairman Leva stated he just wanted to follow up on the sidewalk variance. He polled the board for questions and comments.

Trino Canton stated he was in favor of requiring the applicant to put in a sidewalk.

Ed Garling stated he did not feel the sidewalk should be required.

Chairman Leva stated the intent of the code was in place for a reason and therefore felt the sidewalk should be installed.

Cynthia Hand asked if not requiring a sidewalk would set a precedent. Attorney Kelly Naughton stated this will indeed set a precedent going forward and the board should be consistent in its findings.

Bob Farfalla stated the board should follow the zoning and he was in favor of a safe walkway.

Attorney Naughton stated in drafting the decision, most of the comments were related to the sidewalk requests along Rt. 17M. There were past discussions about the one along Rt. 17 and everyone was in agreement that that would be an inappropriate place to require a sidewalk. She wanted to qualify that the board wanted to grant the variance along 17 and not grant along 17M. The board agreed.

Attorney Naughton stated she prepared a draft decision for the board.

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Cynthia Hand asked about the display area. She wished it to be kept in an orderly fashion and keep within the samples they had given to the board in terms of the chimneys and sheds and outdoor pavilion.

Upon motion by Chairman Leva, seconded by Trino Canton is was unanimously

RESOLVED to approve the decision as amended based on tonight's discussion to include the additional condition in the conclusion section, as well as to grant the variance from the bike path/sidewalk requirement along Rt. 17 and deny it along Rt. 17M.

PUBLIC HEARING

Orchard at Towner Farm, LLC 12-1-103 – 3.42 +/- acres located on Musket Court and St. Rt. 17 M in the I zone. Requesting an area variance from 97-14d 2(b), 3(a) and 4.

Appearing for the Applicant:

John Petroccione, Engineer

Upon motion by Trino Canton, seconded by Bob Farfalla, the public hearing was unanimously opened for public comment.

Mr. Petroccione briefly stated that the planning board was concerned about the internal truck turning movements on the site between the buildings. The Planning Board engineer and building inspector went out to the site and drove a tractor trailer around the site to show there were no issues.

Attorney Kelly Naughton stated the variances that are being requested are the minimum side-yard setback because of a propane tank installed based off of a fence that was misplaced. The fence has been moved to the correct position. The second variance is for a minimum front-yard setback from a Town road. Presently Musket Court is a private road, but the applicant is trying to comply with the Town road standards in case the road is ever becomes a Town road. The other variances that are being requested are for the roof pitch of the building, the bike path/sidewalk and the chain link fencing. Those items were considered by the Planning Board in 2012 when it was before the PB, but there is no requirement that they comply if it's not going to be visible from a public highway. It was not visible from a public highway at the time, but then the applicant removed the berm which now makes it all visible from the public highway.

Cynthia Hand asked if they added the tree line to the discussion. The plan shows 12 trees and the applicant asked if the board would consider 12 trees maximum. The Planning Board is looking at the tree line. There was discussion about what kind of trees were being proposed.

Chairman Leva mentioned that he was just concerned about site distance coming out of the site with the trees being proposed. Ed Garling stated that pushing back two trees and angling them

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could help with the site distance issue and also screen the area of visible chain link fencing and propane tank.

Attorney Naughton stated that for right now the condition would be for seven-to-eight-foot evergreens, 15-foot on center subject to the Planning Board's determination as how close to Rt. 17M.

The board went through the Five-Part test for the other two variances being requested.

For the propane tank setback:

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 variance: NO.

Whether the benefit sought by the applicant can be achieved by some method feasible by the applicant to pursue other than an area variance: NO.

Whether the requested area variance is substantial: NO.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: NO.

Whether the alleged difficulty was self-created: YES.

For the setback 65.31 feet off of Musket Court:

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 variance: NO.

Whether the benefit sought by the applicant can be achieved by some method feasible by the applicant to pursue other than an area variance: NO.

Whether the requested area variance is substantial: YES.

Whether the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district: NO.

Whether the alleged difficulty was self-created: NO.

Upon motion by Ed Garling, seconded by Trino Canton, it was unanimously resolved to close the public hearing.

Attorney Naughton stated she would draft a preliminary decision for the board's review.

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Upon motion by Chairman Leva, seconded by Trino Canton, it was unanimously resolved to close the meeting at 8:35 p.m.

Respectfully submitted,

Tanya McPhee

Meeting adjourned at 7:50 pm.

Respectfully submitted,

Tanya McPhee
ZBA Secretary