

ZONING BOARD OF APPEALS  
Town of Goshen, Orange County, New York

MINUTES OF THE MEETING FOR  
May 24, 2005

**Members Present:**

Mike Wilson, Chairman  
Trino Canton  
Priscilla Gersbeck  
Robert Farfalla

**Also Present:**

Richard B. Golden, Esq.  
Neal Halloran, Bldg. Inspector



**I. Call to Order**

Chairman Wilson called to order the May meeting of the Town of Goshen Zoning Board of Appeals at 7:30 p.m. It was noted that the June Zoning Board of Appeals work session will be held at 7:30 p.m. on June 14, 2005 and the next Zoning Board of Appeals meeting will be held on June 28, 2005 at 7:30 p.m.

**II. Public Hearing**

**Goshen Self Storage – Located on 1 Cannon Hill Drive/Route 17M,  
Goshen, NY in an I-Zone AQ-6 Overlay**

Chairman Wilson read in the application indicating that Portella Realty was requesting two variances in Section 97 sub 69(b), which is a front yard setback, and Section 97.19(a) for an impervious surface coverage. Chairman Wilson stated that the Town of Goshen requires a 100 yard front yard setback in which 53 ft. is provided and the impervious surface coverage of 69.87% where 30% is allowed.

Chairman Wilson also read in a letter submitted by Special Counsel Richard B. Golden, Esq. indicating that the Planning Board recommends that the 53 ft. setback be granted as the Board believes that the variance is appropriate in the context of the existing and future development of the site. The Planning Board also similarly recommends that the impervious surface coverage be granted provided that it contains a condition revising storm water planning as acceptable by the Planning Board.

Joe Pfau, engineer, was in attendance with the applicant's attorney, Burt Dorfman, Esq., who provided verification of certified mailings with return receipts to the Board. Mr. Pfau explained that the applicant is proposing to add one more 60 ft. x 272 ft. building which would be exactly alike to the two existing buildings at the end. Mr. Dorfman added that according to the new Code a front yard setback is 200 ft. meaning that the applicant

could not build on his lots without requesting variances. Mr. Dorfman also indicated that the buildings would not be built without a reconfiguration of highway commercial.

Melissa Fimognari of the audience asked if the private road could be closed to her at anytime. Mr. Dorfman stated the road is under New York State laws. Mr. Dorfman answered the road could not be shut down. Mr. Golden asked if Mr. Dorfman would recondition any variance to gain access to Route 17M. Mr. Dorfman answered yes subject to parties maintaining the road. Mr. Golden indicated this variance does not apply to the variance on the application at hand.

Mr. Golden stated that both requests in the application are for area variances. The standard for area variances is to balance the need, desires and benefits to the applicant versus a detriment to the health, safety and welfare to the community. One of the five factors in determining the balance is substantiality. Notwithstanding the statements in the application, Mr. Golden stated that a variance of 53 ft. where 100 ft. is required and a variance of 70% coverage where 30% coverage is required are substantial. This does not mean the Board should deny the variance, but instead the Board should take these factors into account.

Chairman Wilson asked if there was a motion to close the Public Hearing. Ms. Gersbeck made a motion to close the Public Hearing. Mr. Farfalla seconded the motion.

Mr. Dorfman advised that the applicant would go along with the Board's recommendations regarding the storm water management. Chairman Wilson stated that the storm water management would be better reviewed by the Planning Board. Mr. Pfau advised that the applicant is bringing the design of the pond up to storm water regulations. In regards to the screening and landscaping, Mr. Pfau advised that the initial plan of placing plantings in front of the facility have been modified due to drainage problems.

Chairman Wilson addressed the road access issue. In addition to the aforementioned voluntary variance, Chairman Wilson is anticipating some verbiage regarding a permanent easement due to the increasing volume of customers. Mr. Golden requested an easement agreement acceptable by him indicating access to Route 17M. Mr. Dorfman stated that this would not be a problem as it is not a public road. Mr. Golden also requested a meets and bounds of the subject parcel be provided.

Chairman Wilson asked if there were any further comments from the Board. No further comments from the Board.

Chairman Wilson asked if there was a motion to grant the requested front yard setback variance of 53 ft. and the impervious surface coverage requirement of 69.87% upon the following conditions:

1. Adequate storm water management plan be in place as acceptable to the Planning Board;

2. Adequate landscaping/screening plan be in place as acceptable to the Planning Board;
3. Legally forcible access agreement insuring adequate access to Route 17M from the subject parcel from Cannon Hill Road in a form acceptable to the Zoning Board of Appeals attorney or that Cannon Hill Road becomes a town road;
4. The variances apply only the particular parcel as it exists today and the boundary description will be referenced and these variances will not apply to any other land incorporated into this parcel at any future date; and
5. Lots 26.1 and 24.1 have the right to ingress and egress to Route 17M through the adjoining Cannon Hill Drive subject to each party's obligation to maintain and repair Cannon Hill Drive.

Mr. Farfalla made a motion as stated. Mr. Canton seconded the motion. All in favor. Aye. Motion carried.

### **III. Adjournment**

Mr. Farfalla made a motion to close the May meeting of the Zoning Board of Appeals at 8:35 p.m. Ms. Gersbeck seconded the motion. All in favor. Aye. Motion carried.

Respectfully Submitted,

Lisa Alvarado, Secretary

Date Approved: