

**Town of Goshen Zoning Board of Appeals
Town Hall
41 Webster Avenue
Goshen, New York
July 3, 2018**

Members Present:

Edwin Garling, Chairman
Robert Farfalla
Trino Canton
Philip Canterino

Also Present:

Kelly M. Naughton, Esq.
Ashley Torre, Esq.
Neal Halloran, Building Inspector

Members Absent:

Richard Florio

The ZBA meeting was opened at 7:30 p.m. by Chairman Edwin Garling.

Approval of Minutes

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Mr. Farfalla, the Town of Goshen Zoning Board of Appeals moved to approve the minutes of the June 19, 2018 meeting. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

Sackey-El 5-1-92 on 1.80 +/- acres located on Fairway Drive in the Rural (RU) district and within the AQ-6 Aquifer Overlay district. The Applicant is requesting a variance from the rear yard setback requirement of Section 97-19(C).

Representing Applicant: Gene Monteith, Stone Works Plus, Inc.

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Mr. Canton, the Town of Goshen Zoning Board opened the public hearing. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

No members of the public were present to speak at the public hearing.

Ms. Naughton references a memo she had forwarded to the Board and summarizes the application. This is a request for a variance from the rear yard setback to install a swimming pool. The Code requires a setback of 50 feet and the Applicant is requesting a setback of 35 feet.

Ms. Naughton notes that the Town had received phone calls and emails from the Applicant's neighbor but the neighbor has since reviewed the application file and his concerns were satisfied because the pool is not located within the setback adjacent to his property.

Ms. Naughton requests the green cards for the mailings. Mr. Monteith submits cards to Mr. Halloran and states that the mailings went out on June 26, 2018. Ms. Naughton advises that the public hearing notices were timely if they were mailed on June 26, 2018.

Mr. Canterino states that he received a phone call from the Applicant's neighbor. Ms. Naughton explains that members of the public should not be contacting individual Board members and that Mr. Canterino handled the situation properly by telling the neighbor that he could not discuss the matter with him.

Mr. Canterino notes that there is no longer an issue with the neighbor because he had been working on the wrong premise as to where the pool would be located. Mr. Halloran explains that the neighbor reviewed the Building Department file and confirmed that there will be no impact to his property.

Mr. Monteith states that he picked the best location for the pool and that there will be landscaping so that the neighbors will not see it.

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Chairman Garling, the Town of Goshen Zoning Board closed the public hearing. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

Mr. Canterino asks whether the Board could vote on this application tonight. Ms. Naughton responds that the Board's typical practice is to discuss the area variance balancing test and then authorize her to draft a Decision for the next meeting. The Board considers whether it would be appropriate to deviate from their standard practice for this application and decides that it would take a vote. The Board notes that it is July and the variance is sought in connection with a swimming pool; if they wait to vote until their next meeting then the Applicant would not be able to obtain the necessary permits and proceed with the project until after that meeting.

Ms. Naughton states that the Board has to consider the five-factor general balancing test as to whether the variance is more of a benefit to the Applicant than a detriment to the community and neighborhood.

The Board discusses that for the first factor, the pool will be in a remote location and there will be substantial landscaping. For the second factor, there is no other location for the pool because the Applicant needs to avoid nearby leach fields and maintain a certain distance from the residence. The Board also notes that there is an existing berm on the property. For the third factor, the Board agrees that the variance was moderately substantial. For the fourth factor, the Board states that there would be no adverse impact on the physical or environmental conditions. The Board notes that this will be an upgrade to the neighborhood and there will be no adverse visual impact. For the fifth factor, the Board notes that the difficulty is self-created. The Board believes these are the minimum variances necessary.

Ms. Naughton advises that the Applicant's property is not located within 500 feet of a trigger for General Municipal Law review and that this is a Type II action under SEQRA.

VOTE BY PROPER MOTION, made by Mr. Canton, seconded by Mr. Florio, the Town of Goshen Zoning Board of Appeals moved to grant the variance as requested and authorized the Chairman to sign the decision.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

Ms. Naughton states that she will prepare a Decision for the Chairman's signature. Ms. Naughton advises Mr. Monteith that he will need to apply for a building permit.

Goshen Christian Reformed Church 13-1-11.32-1 and 11.32-2 on 9.8 +/- acres located on New York State Route 17A in the Rural (RU) District and within the AQ-3 Aquifer, Floodplain and Ponding Area and Scenic Road Corridor Overlay Overlay Districts. The Applicant is seeking a variance from the roof pitch requirement of Section 97-14(D)(2)(b) for a proposed addition to the existing church.

Representing Applicant: Henry Vogel

This is an application for a variance for the roof pitch to construct an addition with a roof slope of 6:12 where 8:12 is required. The Applicant is proposing the two side facing roof pitches at a 6:12 slope.

Mr. Vogel comes forward with copies of revised drawings for the project that were in response to comments made by the Town Engineer. Mr. Halloran explains that those issues are not matters for this Board.

Mr. Vogel states that the window dimensions have been changed to meet code so only the roof pitch variance is being requested.

Mr. Canterino asks whether the Applicant will need to return to the Planning Board. Ms. Naughton answers in the affirmative and advises that the Planning Board cannot act until the Zoning Board of Appeals acts.

Mr. Vogel explains that the variance is sought in order to meet the roofline of the existing church and that the proposed 6:12 pitch will have more of an aesthetic value than the 8:12 required by the Code. Mr. Vogel confirms that the side view roof pitch is 6:12.

Chairman Garling notes that changing the roof would look strange because the existing church has multiple roof pitches that are 6:12. He states that the reason behind the 8:12 requirement would not be served in this case and the proposed 6:12 pitch keeps with the spirit of zoning.

Mr. Vogel explains that the church was built in 1954. The Board acknowledges that the Church was constructed before the roof pitch requirement was in place.

Mr. Halloran asks about the change to the window dimensions. Mr. Vogel explains that previously one contiguous window was proposed and it is now separated to meet the Code.

Ms. Naughton advises that the application was referred to the Orange County Department of Planning for review under General Municipal Law on June 27, 2018 because the property is located on State Route 17A. Ms. Naughton further advises that the Planning Board has declared its intent to be lead agency and has typed the action unlisted. Ms. Naughton explains that the Zoning Board can either agree to the Planning Board serving as lead agency, object, or conduct its own uncoordinated view on the variances. The Board decides to consent to the Planning Board serving as lead agency.

VOTE BY PROPER MOTION, made by Mr. Canterino, seconded by Mr. Canton, the Town of Goshen Zoning Board of Appeals moved to consent to the Planning Board being lead agency. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

Ms. Naughton explains to Mr. Vogel that this means the Planning Board will be conducting SEQRA. Mr. Vogel notes his disagreement with the scope of the environmental review involved. Ms. Naughton explains that the Planning Board is viewing his application as bringing the entire property into compliance with the Code and that requirements have changed since the Church was constructed.

Ms. Naughton advises that a public hearing is required. Mr. Vogel states that he already had a public hearing. Ms. Naughton explains that he had a hearing on the site plan application before the Planning Board and that a separate hearing on the variance is required under state law.

VOTE BY PROPER MOTION, made by Chairman Garling, seconded by Mr. Canterino, the Town of Goshen Zoning Board of Appeals moved to set a public hearing date on this application for July 17, 2018 at 7:30 p.m. in Town Hall or as soon thereafter as the matter can be heard. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		

Mr. Vogel asks about mailing the public hearing notices. Mr. Halloran responds that he can get the list of addresses for the notices from the Building Department.

VOTE BY PROPER MOTION, made by Mr. Farfalla, seconded by Mr. Canterino, the Town of Goshen Zoning Board of Appeals adjourned the meeting at 7:57 p.m. Unanimously approved.

Mr. Garling	Aye	Mr. Farfalla	Aye
Mr. Canton	Aye	Mr. Canterino	Aye
Mr. Florio	Absent		