

**VILLAGE OF GOSHEN  
ZONING BOARD OF APPEALS  
JULY 9, 2008**

The regular meeting of the Zoning Board of Appeals of the Village of Goshen was called to order at 7:30 pm on Wednesday, July 9, 2008 in the Village Hall by Chair Wayne Stahlman.

Present: Garfield Clark  
Neal Frishberg  
Michael Nutt  
Wayne Stahlman, Chair  
John Strobl

David Donovan, Attorney

Mr. Stahlman opened the meeting with the Pledge of Allegiance.

**Michael Babyak, Section 113, Block 6, Lot 1.2 - 20 Hillcrest Avenue**

Relief Requested: Variance to permit a six foot tall fence to be erected in a front yard. The maximum height allowed for fences in a front yard is four feet.

Present for the Applicant: Michael Babyak, applicant/owner

Mr. Babyak said he was there to get a variance so that he can erect a fence in his front yard. He had been before the Board in June and Board members had viewed the location. He delivered his proof of mailings. Mr. Stahlman said the applicant needs a variance to allow him to put up a six foot fence in his front yard because the maximum height allowed in a front yard is 4 ft. The area that requires a variance is a very small area, Mr. Babyak said, and is on the side of the property between the house and Hillcrest Avenue.

Mr. Stahlman said the ZBA received two letters from neighbors Michael Cusumano and Chris DeBrea in support of the application. He asked for further public comment but there was none.

**VOTE BY PROPER MOTION**, made by Mr. Nutt, seconded by Mr. Clark, the Zoning Board of Appeals of the Village of Goshen hereby closes the public hearing on the application of Michael Babyak. Passed unanimously.

**VOTE BY PROPER MOTION**, made by Mr. Nutt, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby grants the variance requested in the application of Michael Babyak. Passed unanimously.

**Roger Pikul, Section 110, Block 3, Lot 3, 28 Oakcrest Drive**

Relief Requested: Relief from the requirements of Section 7-736 of the New York State Village Law which requires, prior to the issuance of a building permit, that the street giving access to the property be placed on the official map of the Village, be an existing public road, be shown on a plat approved by the Planning Board or be shown on a plat on a duly filed subdivision map.

Present for the Applicant: Steve Esposito

Mr. Donovan said that at the end of Oakcrest Drive and a J- turnaround is an area designated on the subdivision map as "Village Right of Way". This has been offered to the Village but the Village has not accepted it, Mr. Donovan said and the applicant wants to put a house and a driveway over the Village right-of-way and onto Oakcrest. Section 7-736 says that before a building permit shall be issued, such street or highway shall have been suitably improved to the satisfaction of the PB in accordance with standards and specifications. In this situation, it is not going to be improved by the applicant and in fact the Village DPW doesn't want to extend the street because they are satisfied with its present configuration in regard to snowplowing, etc. When there is not going to be a suitable improvement, like a street, you need a variance or waiver from Section 7-736, he said.

Mr. Esposito said that every driveway crosses over the Village right-of- way. He said he had talked with Mike Nuzzolese of the DPW who requested that the applicant come across the corner because it will help the DPW turn their garbage trucks around and will become a T turnaround. In order for the applicant to do that, Mr. Pikul secured an easement from the adjoiner, Mr. Pistone. Mr. Pikul said the easement has been done, but not yet recorded and will be recorded at title closing. The applicant is proposing a driveway that at the beginning will be 16-17 ft. wide, and then taper back down to a 14 ft.

Mr. Donovan said the area at the end of the road has been has been offered for dedication but not yet accepted by the Village, so it is currently in private ownership. Mr. Stahlman asked if the ZBA can make a determination if it has not yet been accepted by the Village. Mr. Donovan said the ZBA has to make a determination that it is suitably improved or that the requirements of Section 7-736 of the Village Law may be waived.

Mr. Stahlman said that whether it is a dedicated road right now is not essential to what the ZBA is being asked to decide and stated that the decision is whether the easement is sufficient to allow egress of emergency vehicles. Mr. Donovan agreed with Mr. Stahlman's statement of the issue.

Mr. Strobl said he would have a problem approving it because he doesn't see it on the Village map and it is not accessing from a Village road.

Mr. Esposito said the applicant is saying that it has been improved to the extent that emergency vehicles can access the site. "If the Village decides not to accept it, it is still a 25 ft. wide paved road for emergency vehicles," he said. It was noted that the applicant paved it, did the turnaround and offered it for dedication, as part of the planning process. The applicant will also plow it in the winter if the Village doesn't accept dedication, Mr. Esposito said.

Mr. Donovan said that the idea is to make sure that emergency vehicles can get in there. "If you are satisfied that where this driveway is providing access is going to be sufficient to provide access for fire, police and ambulance, then they have sustained their burden," he said.

Mr. Frishberg asked if the Board should hear from the police and fire department as to adequate access. Mr. Esposito said the plan went through the planning process and that the DPW, Planning Board, consultants, police and fire chief all had plans to review. He said final subdivision approval was granted with the condition of building the road as designed which is what the applicant did and then drew up papers for the offer of dedication. Mr. Donovan said the professionals signed off stating that the road was built in accordance with the design that the PB found was sufficient to support the lots that were going to use it.

There was no public comment.

**VOTE BY PROPER MOTION**, made by Mr. Clark, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby closes the public hearing on the application of Roger Pikul. Passed unanimously.

**VOTE BY PROPER MOTION**, made by Mr. Clark, seconded by Mr. Nutt, the Zoning Board of Appeals of the Village of Goshen hereby grants the applicant, Roger Pikul, relief requested from the requirements of Section 7-736 of the New York State Village Law. Passed by a vote of four to one. Voting to approve were Mr. Clark, Nutt, Stahlman and Frishberg and voting to deny was Mr. Strobl.

#### **MINUTES**

**VOTE BY PROPER MOTION**, made by Mr. Nutt, seconded by Mr. Frishberg, the Zoning Board of Appeals of the Village of Goshen approves the minutes of the ZBA meeting of June 11, 2008. Passed unanimously.

#### **ADJOURNMENT**

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Nutt, the Zoning Board of Appeals of the Village of Goshen adjourned the meeting at 8:20 p.m.

Wayne Stahlman, Chairman  
Notes prepared by Susan Varden