

**VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
March 9, 2011**

The regular meeting of the Zoning Board of Appeals of the Village of Goshen was called to order at 7:30 pm on Wednesday, March 9, 2011 in the Village Hall by Chair Wayne Stahlmann.

Present: Lynn Cione
Garfield Clark
Neal Frishberg
Wayne Stahlmann, Chair
John Strobl

Also Present: David Donovan, ZBA Attorney

ZBA Chair Wayne Stahlmann opened the meeting with the Pledge of Allegiance.

Application of Mark Sabbagh, 61 Murray Avenue, Section 108, Block 4, Lot 15

Relief requested: Area variance to allow construction of a garage/storage building which will have a height of 22 feet, 11 inches. The maximum allowed height for accessory structures is 15 feet.

Present for the applicant: Mark Sabbagh

The applicant submitted the return receipts from the certified mailings.

Applicant Mark Sabbagh said he removed a barn in the rear of his property five years ago and now wants to put up a new building 22 ft. 11 in. high which will require a variance for its height. It will be 7 feet 11 inches taller than is allowed. The building will be 24 ft. by 40 ft.

Mr. Stahlman asked the applicant if there is a reason the building has to be so tall. Mr. Sabbagh said he has several collector cars and that the garage will have three bays and two car lifts to hold a total of five cars. He will put two collector cars on the lift and then park three of his regular cars underneath so there will be less cars parked in his driveway. He acknowledged that the cars on his property create an eyesore. The old barn that he removed was 28 feet high and was right on the property line so his new building will be moved back five feet, he said. There will be electric going into the garage but there will be no living quarters. He said he will not be doing commercial work in the garage. He said that his house is approximately 39 feet tall.

Mr. Stahlman opened the hearing to comment from the public.

Stanford McKerman of 180 North Church St. said he sent the ZBA a letter with photos of the property. Mr. McKerman's property is adjacent to the site of the proposed building. He said it will interfere with sunlight coming into his yard and will be an eyesore for all surrounding properties. Mr. McKerman said that Mr. Sabbagh's back yard currently has six cars parked in it, two or three are without license plates. Mr. McKerman said he believes the applicant intends to store and work on the vehicles in this proposed building. He said he has no objection to a three-bay 15 ft. high garage but objects to an automobile shop going in a residential area. The old barn that was removed was tall, but it was an 1800 carriage house that fit in with the neighborhood, he said. Mr. McKerman admitted that the carriage house also blocked the sunlight onto his property

Mr. Sabbagh said he owns 13 cars and rents two garages in the village to house some of them. He said he will put five of the cars in the proposed building and park the rest outside. Mr. Sabbagh showed a plan of the proposed building. Mr. Donovan said there is no site plan approval needed so the plan will not go before the Planning Board. If approved, it will go directly to the Building Inspector.

Valerie McKerman said her house is a Victorian and that the back of her house is two stories high. She said the proposed building will block her kitchen and bedroom and she will be looking directly onto the garage from her side porch. Mrs. McKerman said three different garages have been put up in the area and they have had no objections but that this one will not fit in architecturally with the neighborhood and will in fact create another eyesore.

Mr. Sabbagh said his drawing shows a cement building but that he wants to have vinyl siding.

Mr. Donovan asked the applicant to clarify why he needs the extra 7 ft. 11 inches in height. Mr. Sabbagh said he had hired an engineer and was told by him that this was what he needed. He said he told him to bring it down as low as he could from the original building. Mrs. Cione said that nothing has been presented to substantiate visually why the height is needed. She asked Mr. Sabbagh if he had a letter from his engineer stating why the height was needed. He did not.

Mr. Sabbagh said the two car lifts will lift the cars up so he can walk under them, in case he wants to do an oil change. Mr. Frishberg said that it is clear his neighbors don't want to see a garage next to them and asked how he can assure them that this is a hobby. Mr. Sabbagh said he will work on his own cars but it will not be a repair shop. He admitted that the appearance of the building "doesn't look good" and said he will change it. He said he will add some gingerbread and corner brackets and will try to match the garage to his house.

Mr. McKerman said that to put up a two-story garage to work on his vehicles is to him a commercial enterprise. Mr. Donovan said it would be commercial if the applicant were charging people. Mr. McKerman asked if restoring cars and then selling them is a commercial enterprise and Mr. Sabbagh responded that he is not so much restoring cars as collecting them.

Mr. Stahlmann read the ordinance pertaining to unregistered cars on residential properties that states that the storing or parking of no more than one unregistered vehicle in excess of 30 days is prohibited. Mr. Sabbagh said there are three unregistered cars in his yard and Mr. Donovan said that what he is doing now is not allowed.

Mr. McKerman suggested that there are nine cars parked on Mr. Sabbagh's property at all times. Mr. Donovan said there is no limit on the number of registered cars you can have, but a strict limit on the unregistered cars allowed.

Mr. Frishberg asked if the ZBA can give someone a variance if he is in violation of the Village code. Mr. Donovan said he needs to talk to the Building Inspector, but that in the past they have conditioned any approval on a resolution of any violations.

Mr. Stahlmann told Mr. Sabbagh that the ZBA needs a written statement from a professional that says in order to achieve your intended objective you must have a building of this height. He also said that if he wants the ZBA to grant the variance, it needs more to work with and the applicant will have to address the concerns of the neighbors and these members.

Mr. Frishberg suggested that the applicant provide more detail of what the building will look like including the siding and the roof, saying that it is important that the Board see

plans for it. “The Board is looking for hard evidence that you can’t get the benefit without the area variance,” Mr. Frishberg said.

VOTE BY PROPER MOTION, made by Mr. Strobl, seconded by Mr. Frishberg, the Zoning Board of Appeals of the Village of Goshen continues the public hearing on the application of Mark Sabbagh to April 13, 2011. Passed unanimously.

Application of Thomas & Joan Gerace, 349 West Main St. Section 114, Block 7, Lots 6 & 7

Relief requested: Variance to allow enlargement of a pre-existing nonconforming residential dwelling so as to allow the construction of a second story, a second story deck, a porch expansion and the construction of a new porch.

Present for the applicant: Jim Dillin, Eugene Deichsel, John Gerace

The applicant submitted the return receipts from the certified mailings.

Mr. Dillin said the property is in an industrial zone and is on the south side of West Main St. just past the eight mobile homes on the left-hand side. He said it is a pre-existing non-conforming residential dwelling. He said the applicant is asking for four variances to add a second story, a second story deck, a porch expansion and construction of a new porch. The owners also own a vacant lot to the right side of the property. The two parcels will be merged, he said.

Mr. Dillin said he believes the applicant needs a use variance but Mr. Donovan said he didn’t think a use variance is required. He said that in his opinion the use is an allowed use as a permitted pre-existing use and that because the applicant is making that use larger, he needs an area variance. If you became a two family, that would be an expansion of the use. The variance needed is an area variance because the applicant is not changing the non-conforming use, he said.

Mr. Stahlmann asked if the building will stay a single family house and if the expansion will create a two family residence. Mr. Dillin said it will be a residence for the family but there will be a kitchen on the second floor.

Mr. Deichsel said his parents are getting older and are spending their time in Virginia and Florida but want to come back here. They will share the house with him and would like their own kitchen. It will not be a rental and will stay a single-family residence occupied by himself, his family and his parents, Mr. Deichsel said. John Gerace told the Board that they were just trying to take care of their parents.

Mr. Stahlmann asked if the installation of a separate kitchen creates a two-family dwelling. Mr. Donovan said there can be more than one kitchen so long as there is free and unimpeded access throughout the house. Mr. Deichsel said there will be no locks. He showed building plans to the Board.

Mr. Stahlmann asked if the Board can include in their resolution of approval that a two-family use would revoke the approval. Mr. Donovan said “yes”.

Mr. Dillin explained the project, stating that the footprint doesn’t change. There will be a second story added, a deck off the second floor with stairs leading downstairs, a new porch and an expansion of the existing porch. The two lots will be merged, he said.

Mr. Frishberg stated the issue as whether the Board should issue a variance to permit the applicant to expand the pre-existing non-conforming use to create a larger one-family dwelling.

The Board came to the conclusion that a use variance was not needed based on its interpretation of the ordinance.

Mr. Stahlmann asked for public comment. There was none.

Ms. Cione said she thinks the project will improve the house and the neighborhood.

VOTE BY PROPER MOTION, made by Mr. Clark, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen closes the public hearing on the application of Thomas & Joan Gerace. Passed unanimously.

VOTE BY PROPER MOTION, made by Mr. Clark, seconded by Ms. Cione, the Zoning Board of Appeals grants the variance to allow enlargement of a pre-existing non-conforming dwelling on the application of Thomas & Joan Gerace. Passed unanimously.

ADJOURNMENT – The ZBA adjourned at 8:45 p.m.

Wayne Stahlmann, Chair
Notes prepared by Susan Varden