

VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
April 13, 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, April 13, 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

Applicant Mark Sabbagh presented the PB with a letter from Engineer James A. Copenhopper which requested relief from the 15 ft. height restriction for a proposed garage for the operation of two car lifts requiring a first floor clearance of 13 ft. 2 inches, a habitable attic requiring second floor clearance of 7 ft. plus the floor and roof framing requiring a total of 24 ft. 4 inches to the peak on the outside of the building.

Mr. Donovan pointed out that Mr. Copenhopper refers to 24 ft. 4 inches when last month Mr. Sabbagh was asking for 22 ft. 11 inches. Mr. Sabbagh said he doesn't know how the number changed. Mr. Donovan also questioned the reference to a "habitable attic" and asked if it will be habitable or just for storage.

Mr. Frishberg asked Mr. Sabbagh if he is now asking for a variance higher than what he had previously requested. Mr. Sabbagh said he is now asking for 24 ft. 4 inches. He said the measurement originally was wrong for the truss and said it was his error.

Mr. Frishberg asked if there was now a notice issue since the notice stated that the applicant was requesting a height of 22 ft. 11 inches. Mr. Donovan said that it depends if the ZBA determines that the modification is material.

Mr. Frishberg said one issue relates to granting a variance to someone who is obviously in violation of other aspects of the code (non-registered vehicles). Mr. Donovan said the ZBA can condition its approval on resolving any outstanding violations. He added that future violations will be an enforcement issue.

Mr. Frishberg said he believes the request is "substantial," it impact at least one neighbor and is a self-created hardship.

Ms. Cione said she is uncomfortable with the inconsistency in the application, that the applicant's engineer now came in at 24 ft. 4 inches, asking almost two more feet.

Mr. Sabbagh said he can go back to the original height request of 22 ft. 11 inches and straighten out the letter with his engineer.

Ms. Cione asked the applicant to address the 7 ft. "habitable attic." She said she understood at the original presentation that the garage was for cars, not storage and suggested that since the primary issue is the height, it might be possible to store what needs to be stored in an auxiliary shed so the applicant doesn't have to add additional height. Mr. Sabbagh said the height has to do with the car lifts and the height of his cars but said he needs a 7 ft. clearance for the second floor and plans to put in a partial storage area for his wife. Ms. Cione said she would like to see another letter from the engineer.

Mr. Clark asked the applicant if he has taken any action about the unregistered cars parked on his property. Mr. Sabbagh said they are still there.

Mr. Stahlmann opened the meeting to public comment.

Stanford McKerman of 180 N. Church St. showed the ZBA photographs of the garages that surround the property. He said his concern is with the height and said he believes it will be an undesirable change to the neighborhood because of the height and the design of the garage originally shown by the applicant. He said that in his mind, the garage is a "building" and believes the applicant should submit a rendering to see what it is going to look like.

Mr. Sabbagh said he has changed the look of the garage and wants to put up something that is nice, matching his house and using either vinyl or wood siding. He showed the PB a drawing of the structure. Mr. Sabbagh said that the barn previously there was an "eyesore" and was 28 ft. tall.

Mr. Stahlmann asked Mr. McKerman if the neighborhood would be cleaned up if all of these cars on Mr. Sabbagh's property were in a garage and out of plain view. Mr. McKerman said it would but that he thinks it would be better to have a deeper garage instead of this height. Mr. Sabbagh said the height is just what he needs, not more, and said he wants to clean up his yard, calling it an "eyesore".

Mr. Sabbagh said there will be five cars in the garage, and that he has a 150 ft. driveway and the code says he can have as many cars as he wants as long as they are registered. He admitted that currently he is in violation but said he will get rid of the unregistered cars. He said that currently he has four kids at home, each with a car.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Ms. Cione, the Zoning Board of Appeals of the Village of Goshen closes the public hearing on the application of Mark Sabbagh. Motion approved 4-1 with Mr. Clark opposing the motion.

Ms. Cione said her concern is that it is very much out of the character with the community and said she would be more comfortable if the applicant cleaned up the unregistered cars and if there was consistency between the letters and the materials that were brought to the Board.

Mr. Clark said it appears to him that it will blend in with some of the garages in the neighborhood, but said that a 7 ft. variance is a lot.

Mr. Strobl said he doesn't see the measurements on the documents that the ZBA asked for at the prior meeting, the height of the lifts, how much footage is needed for height. He said the applicant hasn't proven the need for the height.

Mr. Frishberg said that after looking at the five factors that the Board has to consider, he will have to vote "no" on the variance saying that the variance would be substantial and would be the biggest height variance the Board has granted. "What if someone wants to build a house that is three stories and wants a 50% height variance, they are going to cite this case that we give 50% height variances," he said. It would also be an undesirable change in the neighborhood, it would be 50% higher than every garage in the neighborhood, would have an adverse impact and is self-created, he said.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen denies the variance sought on the application of Mark Sabbagh. Passed by a vote of 4-1.

Mr. Stahlmann told the applicant that the Board voted against granting the variance based on what was presented. Mr. Donovan said that the applicant has the option to comply with the 15 ft. height requirement or modify the application and resubmit it, but said the applicant cannot submit the same application.

Application of QuickChek Corporation, Premises: 142 & 145 Matthews St. Section 115, Block 1, Lot 4 and Section 119, Block 2, Lots 1 & 2, Owner Grout Group, LLC.

Relief requested: Area variances as follows: number of wall signs, size of wall signs, height of wall signs, number of canopy signs, size of canopy sign, number of free-standing signs size of free-standing signs and height of free-standing signs.

Present for the applicant: Mr. Caplicki, Esq. attorney for applicant
Jeff Albaneze, Real Estate Manager
Keith Cahill, Project Engineer

Ms. Cione had to leave the meeting due to an emergency.

Mr. Caplicki said that there is a parallel site plan application before the PB who referred the applicant to the ZBA to resolve the signage issues. He pointed out that QuickChek Corporation is not the owner of the property, that it is owned by Mr. Grout.

Mr. Albaneze said the corporation is a privately held company with 127 stores and 2800 employees. There are no QuickChek franchises, he said. The company expects to employ 35-40 people at the Goshen location. He said the applicant is simultaneously going through the flood plain approval process with the D.E.C. The site borders two state highways and the building has two fronts so they are asking for a lot of signage. The building and canopy will look similar to the site on Route 211 in the Town of Walkill. He said QuickChek will purchase the site during its tenancy.

Mr. Albaneze said that the site is unique with multiple frontages so additional signage is required compared to typical sites. The angle of the building and canopy relative to North Connector Rd. requires signage to be placed on multiple sides of the canopy. In addition, the site has frontage on both North Connector Rd and Route 17 so the applicant needs to have signage facing both frontages on its building and an additional freestanding ID sign, he said. The improvements sit back far from the road frontage and so an increase in the size of the sign is requested, he said. The additional signage is viewable from one frontage at a time, so it does not appear to be excessive or a clutter of signage on site and is not out of character with surrounding highway uses, Mr. Albaneze said.

Keith Cahill of Bohler Engineering said the site has 500 ft. of frontage on North Connector Road and 600 ft. on Route 17. There is a single point of access, he said, off North Connector Rd. The D.O.T. is asking the applicant to widen the Connector Road to allow a left turn into the site. There will be a two-lane exit. The convenience store will be 6920 sq. ft., smaller than their Village of Florida store. The canopy will include a nine dispenser layout, providing 18 fueling positions. The applicant is proposing four underground storage tanks, each holding 20,000 gallons. There will be 62 parking stalls and two frontages at opposite ends. He showed photographs of the site, taken from different directions.

Mr. Cahill spoke about the specific signs being proposed. He said they are not out of character or scale from the two gas stations nearby. He said there are eight signs, two on the building, two illuminated canopy signs, two free standing (I.D.) signs and two directional signs. The directional signs do not require variances, he said. The 104.3 sq. ft. sign saying QuickChek on the building will be internally illuminated which requires a variance, he said. The Village Code calls for a maximum limit of 60 ft., so the applicant is looking for a 40 sq. ft. variance. The channel letters will be illuminated. The maximum height of the sign itself is not to exceed 3 ft. and the applicant is asking for 4 ft. 6 in. The fact that there are two canopy signs and that they are illuminated will require a variance. The overall dimension is 10 ft. 7.5 inches by 2 ft. 1.5 inches or 22.6 square feet. An area variance is needed for the two free standing I.D. signs. The Code allows a 30 sq. ft sign and the applicant proposes a 50.6 sq. ft. sign. The Code allows a height of 8 ft. while the applicant's sign is 18 ft. in height. A variance is also needed for the illumination and the number of signs (two).

Mr. Donovan said the legal notice is accurate but doesn't include the internal illumination. He said he doesn't believe a new notice is required. He said the ZBA should view the request for the variances as to whether they create any adverse environmental impact.

Mr. Stahlmann asked for questions from the public.

Joel Markovitz said that as an adjacent property owner he is concerned that if the ZBA approves the variances, whether a similar application may be rejected because it is intensifying the visual pollution or the density of signs that might incur.

Mr. Donovan said that if there are two similar situated applications and the ZBA grants one relief, it is obligated to grant the other the same relief.

Mr. Donovan said the application must be referred to the Orange County Planning Department for a 239 Referral since it is within 500 feet of a state highway. The ZBA cannot take action at this stage, he said. Mr. Donovan requested that the applicant reduce the renderings of the signs to 8.5 x 11 so it can become part of the printed record.

Mr. Cahill said it will be a six month construction project and that it is possible that they may break ground in a year's time. Mr. Donovan said that any approvals by the ZBA can be extended beyond the standard one year.

Mr. Donovan said that the sign variance is an Unlisted Action so the ZBA will have to issue a negative declaration under SEQRA but that its focus will be limited to any potential significant adverse environmental impact as the result of the sign variances. He said the ZBA has the obligation to look at the overall impact and effect of a variance.

Mr. Frishberg said that the applicant needs to provide evidence as to why the property is so unique as to require these substantial variances.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Clark, the Zoning Board of Appeals of the Village of Goshen closes the public hearing on the application of QuickChek Corporation. Passed unanimously.

Mr. Stahlmann said the minutes of the ZBA meeting of March 9, 2011 were signed.

ADJOURNMENT – The ZBA adjourned at 9:35 p.m.

