

**VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
APRIL 28, 2009**

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 28, 2009 in the Village Hall by Chair Wayne Stahlman.

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

Also Present: David Donovan, Attorney

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

Mr. Stahlman said that the application of Goshen Associates, LLC - 55 St. John St., previously scheduled for a continued public hearing tonight, has been withdrawn.

Haight Cemetery – Tax Map Designation 105-1-1, Corner of Route 207 and Sarah Wells Trail.

Relief requested: Variance to permit construction of a 2-story building consisting of less than 5,000 sq. ft. that will be 61 ft. from the front yard lot line. The minimum front yard setback is 200 ft.

Present for the applicant: Steve Esposito

It was noted that the public hearing was adjourned sometime ago and the applicant had been asked to re-notice the public hearing. The proofs of mailing were presented to the ZBA.

Mr. Esposito gave ZBA members an aerial view of the Route 207 corridor. He said the site is located at the corner of Route 207 (Main St.) and Sarah Wells Trail, noting that it sits on both a county road and a state road.

Mr. Esposito introduced Ken Skyer and Dan Barone as trustees of the Haight Cemetery Association and Doug McKenzie as its treasurer. Mr. Skyer is also with the Masonic Temple. Mr. Esposito said there are on-going renovations of one of the existing buildings on the site in a joint venture with the Haight Cemetery Association and the Masonic Temple.

Mr. Esposito said his analysis of the east side of the Route 207 corridor shows that almost every building is situated within the 200 ft. setback, and some are closer than 60 feet, he said. He mentioned that Local Law #1 of the year 2000 establishing the present setbacks was a reaction to the pending sale in 2000 of the Salesian property and the concern that that there would be residential development right up to the curb line. Mr. Esposito said the applicant is looking for relief from the setbacks which he says are inconsistent with what had already been built there.

Uniquely, the 4.3 acre site is on the corner of a state road and a county road and so it has two 200 ft. setbacks to deal with, Mr. Esposito said. These setbacks are taking 90% of the land. He said the applicant wants to establish a setback consistent with the former VFW building and the mausoleum, which he said, are set back fairly consistent with the other

buildings on Route 207 and not within the 200 ft. setback. The mausoleum building is set back approximately 60 feet and the VFW building sits back approximately 58.2 feet. The front of the proposed building to the edge of pavement is about 90 feet, he said.

Mr. Frishberg said that the variance requested is substantial and asked why the applicant would ask to add another building that is in violation of the setback.

Mr. Esposito said that in this community, streetscape is important and that if the applicant was to put the building in the backyard, it would be inconsistent with the streetscape on Route 207. He said they are asking for something “extremely consistent with the neighborhood. We are not asking for something inconsistent with the neighborhood.”

Mr. Esposito said that if the applicant is forced to construct the building in the rear of the property, it will have to clear the existing woods to do so and the parking will then have to be in the front of the building, stating that if the building is in the back and the parking in the front, it will be inconsistent with the culture of the neighborhood, the streetscape of Route 207 and the goals of the PB. He said there are no buildings on Route 207, except on Greenwich Ave., that have their parking in front of the building. “The Village has fought hard to keep the parking out of the front yards,” he said.

Mr. Esposito said that the applicant’s mission statement is to maintain the buildings and the grounds in a park-like atmosphere.

Mr. Donovan noted that this is a Type 2 Action for purposes of SEQRA and that the site is in the Architectural Design District.

Mr. Stahlman asked for public comment.

Nicole Vecky of 359 Main St. whose home is located across from the property, said she has researched the architecture of the existing buildings and identified the architect as Charles Haight who, she said, was a prominent architect and part of the revival movement of Gothic Architecture in the late 1800s. Her research found that Mr. Haight took into account the siting of the buildings, she said, and because she believes that there was intent with the way the architect sited the building, she thinks the intent of the original architect should be respected. She said she feels any building on the property should be in character with the original and that any building should be behind the two original buildings. She said she believes the setbacks should be required and suggested that a 5,000 sq. ft. building is too large for what is needed.

Mr. Esposito said that two years ago when the project was discussed, 5,000 sq. ft. was determined to be a suitable size building, but he added that he didn’t know if that size is suitable today. He said the project may not even involve a stand alone building, and may instead just be an expansion of the existing building. Whichever it is, he said, the applicant can’t do anything on the site without having the variance. He said that if they are successful in getting the variance, then they can evaluate the applicant’s financial capabilities and long term goals and come up with an alternative that meets the needs of the applicant. If unsuccessful, then there is only the one alternative to build in the rear, he said.

He said what is being proposed now is locating a building in an area that he thinks is consistent with the Route 207 corridor, consistent with the setbacks on the site and minimizes any potential site impact with regard to existing vegetation. He said that he thinks a 61 ft. setback will work for either a stand alone building or an expansion project.

Mr. Donovan said that the ZBA can only rule on the application that is in front of them, the request for a 61 ft. variance. If the applicant wants to do something different, they may be back in front of the ZBA, he said.

The proposed building will be home to the Haight Cemetery Association and the Masons and will be available for use by different community organizations as it has in the past, Mr. Esposito said. The variance is being applied for under “fraternal use group” not “office use”, he said.

Dan Barbone of the Haight Cemetery Association said that the Cemetery Association was formed in response to the recognition of the uniqueness of the building and the concern with what was happening physically to the structure. It was falling down around the VFW, he said. He said the intent is “not to do any development incongruent with what is there but to enhance and restore what is there” and to seek monies and donations to do that. They are currently renovating the care takers home, he said. He said the members of the association asked how they were going to raise the hundreds of thousands of dollars it will take to restore the mausoleum and thought that they could get groups to meet there and get others excited about the site. He said that the Masons are one of six organizations on a list who want to meet at the site. He said they are a not for profit organization. While the site may house community groups, it would not be for offices, he said, stating they want to make sure it stays the same. “We can’t do this without getting the community involved,” he said.

Mr. Stahlman asked for comments from zoning board members.

Mr. Strobl and Mr. Nutt expressed concern about setting precedent in the granting of such a large variance. Mr. Nutt was told that the intent for the rest of the property is “to preserve it as is.” Mr. Frishberg said he is undecided and would like to look at the property again. Mr. Stahlman said he recognizes that the property is unique and is inclined to think that if the variance is granted, the board will be turning it over to the people who know best how to do this, the Planning Board, “because we have given them options, but if we deny the variance, there are no options.”

Mr. Stahlman suggested that board members take the opportunity to re-visit the site.

Mr. Skyer invited them to walk the site and come inside, saying that they are “sensitive to preserving the legacy that is there, keeping the open space as much open as possible and making it available to the community to use beyond what it has been.” He said they are looking for help to offset the cost of a major restoration of the mausoleum.

John Graesser of 35 Yankee Maid Lane, Scoutmaster for Troop 62 of Goshen said his troop has gotten more use out of the property than anyone in the past ten years and described it as “a beautiful piece of property and I can’t help but think this will benefit everyone.”

Haight Association trustee Douglas McKenzie said that Barbara and Gene Haight are both members of the board and wouldn’t do anything to harm what is there.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby determines to adjourn the public hearing on the application of the Haight Cemetery Association to the June 10th meeting. Passed unanimously.

Thomas & Marilyn Schaaff, Tax Map Designation 110- 4-Lot 24, 6 Duggan Lane

Relief requested:

Area variance to allow construction of a sunroom. The proposed sunroom will be located 14.32 feet from the side yard. This does not meet the requirement of a 20 foot side yard setback.

Present for the applicant:

Chris Memmelaar, of Hudson Valley Remodeling

Mr. Memmelaar said the applicant wants to put a three-season room at the side of their existing home and needs a 5.5 ft. variance in order to do so. He showed ZBA members photos of the home. The existing front deck on the home is 8 ft. outside the permitted zoning and will be re-built, he said. The deck on the side will be removed. ZBA members discussed the plans and the site.

There was no one present from the public to speak to the application.

VOTE BY PROPER MOTION, made by Mr. Strobl, seconded by Mr. Nutt, the Zoning Board of Appeals of the Village of Goshen hereby closes the public hearing on the application of Thomas & Marilyn Schaaff. Passed unanimously.

VOTE BY PROPER MOTION, made by Mr. Strobl, seconded by Mr. Clark, the Zoning Board of Appeals of the Village of Goshen hereby grants the area variance sought in the application of Thomas & Marilyn Schaaff. Passed unanimously.

Katherine Schmidt, Tax Map Designation 108-4-17 55 Murray Avenue

Relief requested: Area variance to allow construction of a 24 foot above-ground pool. The proposed pool will be located 1.6 feet from the side yard. This does not meet the requirement of a 4 foot side yard setback.

Present for the applicant: Katherine Schmidt

Mr. Sthelman asked that a letter from neighbors Alice and Tim St. Lawrence be entered into the record. The St. Lawrence's expressed concern about the timing of the mailing of the notices, saying in their letter that they received their notice on April 25.

Ms. Schmidt presented her mailing receipts.

Ms. Schmidt said that she has one of the smallest lots in the neighborhood, calling it "confined". She said that if she puts the pool a little to the left, she will be less than 10 feet from her house and would then need that variance.

She said that she proposes to locate the pool in the side yard, lining up with her garage. She said it is the only place it can go without taking down trees and moving the existing path and can be seen from her kitchen window which is a safety consideration for her.

She referred to the concerns of her neighbors, Alice and Tim St. Lawrence that it will impact their property value. She said that concern should not carry any weight on the ZBA's decision. She also said she has offered to buy her neighbor artificial trees to put at the tree line, so the pool won't be visible to them. She mentioned other concerns of the St. Lawrence's as being an increase in the noise level and a decrease in their privacy.

Mr. Frishberg asked if there are other pools on the block. Ms. Schmidt said that there are several above and in-ground pools.

Mr. Donovan said that while there is a requirement that accessory buildings have to be 10 ft. from a principal dwelling, this requirement doesn't cover pools. Pools have to be in a rear yard or side yard and have to be at least 4 ft. from the rear or side yard lot line but there is no limitation as to where it is relative to the primary principal dwelling, he said.

Mr. Stahlman told Ms. Schmidt that if the pool was moved over 2.4 ft. toward her house there will be no need for a variance.

Ms. Schmidt said that was news to her and that she will have to think about it.

Mr. Frishberg noted that one criterion for deciding whether or not to grant relief, is if the relief being sought can be solved without the means of a variance.

Mr. Stahlman suggested that the ZBA agree to keep the public hearing open and give the applicant an opportunity to consider what she has just learned. Mr. Donovan added that if the applicant decides to move the pool and if the Building Inspector agrees that no variance is required, the applicant won't need to return to the ZBA because she will be in compliance with the zoning.

VOTE BY PROPER MOTION, made by Mr. Nutt, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby adjourns the public hearing on the application of Katherine Schmidt to May 13, 2009. Passed unanimously.

MINUTES - Mr. Stahlman said he will sign the minutes of the March, 2009 meeting of the ZBA if there are no objections. There were none.

ADJOURNMENT – The ZBA adjourned at 8:50 p.m.

Wayne Stahlman, Chair
Notes prepared by Susan Varden