

**VILLAGE OF GOSHEN  
ZONING BOARD OF APPEALS  
JULY 8, 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, July 8, 2009 in the Village Hall by Chair Wayne Stahlman.

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

Absent: Michael Nutt

Also Present: David Donovan, Attorney

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

**Nancy Nowak & Karen Brock, Tax Map Designation 125-1- 66, 3 Jackson Lane**

Relief requested: Variance to permit construction of an addition to an existing single family home that will result in a side yard of 10.5. The minimum side yard setback required is 20 feet.

Present for the applicant: Nancy Nowak & Karen Brock

Ms. Brock presented proof of mailings.

The applicants showed ZBA members their site plan and said they want to put an addition on the home at 3 Jackson Lane for Nancy Nowak, mother of Karen Brock. The one-story addition is to consist of two bedrooms, a living room, bathroom and kitchen and will be handicapped accessible.

The addition will result in a side yard of 10.5 ft. rather than the required 20 ft. and so a 9.5 ft. variance is requested. No trees have to be taken down for the construction.

Mr. Stahlman read a letter from neighbors, Richard and Arlene Narucki of 1 Jackson Lane, stating they have no objections. The Naruckis were identified as the immediate neighbors to the west of the house and the neighbors most affected by the addition. Ms. Brock said she went door-to-door to tell the neighbors what is being proposed and that everyone was "fine with it."

Mr. Strobl said he visited the site and talked to the applicant and has no objections.

Mr. Frishberg asked if the addition could be smaller but Ms. Brock said it is the smallest they could make it and be handicapped accessible.

Mr. Donovan said that the site plan is not subject to PB approval and that if the ZBA grants the variance, then a building permit will be issued by the Building Inspector.

Mr. Stahlman asked for comment from the public. There was none.

It was noted that there are five other houses on Jackson Lane. This house was built in 1976.

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby closes the public hearing on the application of Nancy Nowak and Karen Brock. Passed unanimously.

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby grants the variance requested on the application of Nancy Nowak and Karen Brock. Passed unanimously.

**Duso Properties, Tax Map Designation 120-1-2, 144 South Street**

Relief requested: Grant of a variance from the landscape buffer screening requirements of the Village of Goshen Zoning Ordinance.

Present for the applicant: John Szarowski, PE

Mr. Donovan said the ZBA cannot take action tonight because they have not heard from the County Planning Department and the 30 days within which the Planning Department has to make its comments known, have not yet lapsed. He said that the ZBA can continue with the public hearing.

Mr. Szarowski said he has adjusted the site plan and it now shows that the entrance is 78 feet from the intersection.

Mr. Szarowski said that the applicant is requesting a variance of approximately 25% less for the landscape buffer. "Without the variance we have no access to our property," he said.

Mr. Szarowski gave the ZBA a copy of the traffic study and letter regarding the site meeting of the two traffic consultants, the PB engineer and Mr. Szarowski when they agreed to the new location for the driveway entrance, as the best location since it could not be aligned with Harriman Drive.

Mr. Strobl said he thinks the ZBA "got off target last month" stating that the only issue in front of the group is whether or not to give the applicant the variance in the buffer.

Mr. Frishberg asked which residences are affected by the buffer and it was determined that Mrs. Bogart's house is the closest.

Mr. Stahlman asked for public comment.

Rennie Andrews, of 145 South St., asked Mr. Szarowski to address how the applicant will handle Section 6.1.1.10 of the Code. The section was read: "When the lot on which parking spaces are located abuts the rear or side lot line of, or is across the street from, any land in a residential district in the Village or Town of Goshen, other than publicly owned land, a wall, fence or evergreen planting shall be maintained in order to screen substantially the parking lot from view from the nearest residential property in the residential zone."

Mr. Donovan said that at the June meeting, he asked Mr. Szarowski if he thought he needed relief from Section 6.1.1.10 because the ZBA was struggling with exactly what the application was for and what the variance was required from. Mr. Szarowski said at the time that he didn't think he needed a variance from Section 6.1.1.10, Mr. Donovan said, "so our position was that if that was his position, we wouldn't rule on it but that the issue could be raised again in front of the PB."

Mr. Szarowski said that if the PB wants the applicant to put a fence up, as well as the three-deep row of evergreens, "that is something they could ask us to do." He noted that the parcel is in the OB zone, not the residential zone, and that only a small corner is where it is touching a residential zone. He said he shows evergreens along there and has all of the landscaping that is requested and added that the parking spaces are significantly lower than the road.

Mr. Andrews disagreed with the statement that the parking spaces are significantly lower. He said there is a slope and that for a car not to be seen, the applicant would have to put a wall up so that the car would truly be at a point lower than the street. "As it stands now, that is not the case and you would definitely see cars parked in this area here," he said. Mr. Szarowski said he is 12 ft. below the road.

Mr. Andrews said there is also a safety problem with cars coming in and cars backing out in an extremely close area, resulting in the potential for collisions.

There was discussion about Section 6.1.1.10 and how the land across the street is zoned.

Mr. Donovan said that there are two issues for the ZBA to determine; that the residential zone is across the street and if that is determined, then whether relief is required from Section 6.1.1.10 of the Code, or, if Mr. Szarowski believes he can have a wall, fence or evergreen planting that will substantially screen the parking lot from view of the nearest property in the residential zone. "If he says he can do that, it then becomes an issue for the PB, if he says he cannot do that, it becomes an issue for the ZBA," Mr. Donovan said.

Mr. Szarowski said he will be at 486 feet, ten feet down and a wall of dirt will be the substantial screening.

Mr. Andrews said that from any window in his house facing the street, he is going to see parked cars and not just cars in one small section of the lot, but in other areas of the lot.

Mr. Donovan said that if the applicant is not screening substantially the parking lot from view from the nearest property in the residential zone, then the applicant will need a variance from this section of the Code. Mr. Frishberg asked who determines whether it is screened substantially. Mr. Donovan said that the PB will determine if the applicant is screening substantially. Mr. Szarowski again stated that he doesn't think he needs a variance for 6.1.1.10.

Martha Bogart of 156 South Street said that she understands the vacant property between her house and the applicant's property will probably have three houses constructed on it.

Mr. Stahlman said that the ZBA has been asked for a variance for the landscape buffer area to accommodate the location of the driveway, but hasn't been asked to render a decision about parking spaces or landscaping to cover that.

Mr. Donovan said there are two different variances being discussed, one for the landscape buffer to the residential zone, which is just a little portion, to accommodate the driveway location, and the other, not being sought at this time, is a variance for the screening of the parking lot from the residential zone across the street.

Mr. Stahlman defined the issue before the ZBA, stating that the ZBA needs a decision or no comment from County Planning as to whether they approve of the driveway as it stands. If the report comes back that they are fine with the location of the driveway, then the ZBA has to decide if it grants the variance with the landscape buffer as it relates to the location of the driveway, he said.

Mr. Frishberg said he believes the statute is written with the idea that you have to consider the existing houses and the potential houses that could be built.

Mr. Donovan said that it is a pie-shaped lot and there is only a small portion of the property that abuts the residential zone.

Mrs. Bogart talked about the traffic and the buses from BOCES and the Goshen School District that make runs every day. She said she is concerned with the driveway location

because of all of the car and bus traffic and noted that the traffic comes from both directions. She said there are three different bus runs that pass the location.

Mr. Donovan said he didn't think the ZBA can deny the application because of the driveway location.

Mr. Andrews said he thinks the variance being requested is "pretty considerable" considering the percentage of the variance. Mr. Donovan said that the ZBA has to look at the overall effect of how dramatic the variance is. He said that the decision the ZBA has to make is whether "this driveway location will adversely impact the character of the neighborhood."

Mr. Stahlman commented that if the determination is made that it is unsafe to have a driveway inside 75 ft. of where the intersection is, then that is a rationale as to why that driveway is now located where it is.

Mr. Frishberg asked the applicant why a 25% variance should not be considered "substantial". Mr. Szarowski said, "It is the existing location of the driveway that accesses the site, it gives me better buffer along the residential and it is the safest access into the parcel and without the access the property is not developable."

Mr. Szarowski acknowledged that it is possible that the back parking lot can be seen from the second floor of Mr. Andrews' home, but added that at some point the evergreens will be tall enough to block the view. He said they are now 6 ft and will grow to 30 or 40 ft.

Mr. Frishberg asked if this was the only place the applicant could put the parking lot. Mr. Szarowski said "yes" that they have been directed by the traffic engineer of the PB.

Mr. Stahlman said that since procedurally the ZBA can't render a decision until the 30 days have expired, the applicant will be back again in August.

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen hereby continues the public hearing on Duso Properties to August 12, 2009. Passed unanimously.

**Haight Cemetery Association, Tax Map Designation #105-1-1, R-R/ADD Zone**

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

Mr. Esposito said that the site is located at the corner of Route 207 and Sarah Wells Trail. He said in this zone there is a 300 ft. setback for residential use and a 200 ft. setback for "other uses" which this application falls under since it is to be used for fraternal organizations. He said that because the property is on the corner of a county road and state road, it is subject to two setbacks, leaving just 10.6% for the building envelope. He said the applicant is seeking relief from the front yard setback only.

Mr. Esposito said that the VFW building on the site has been under renovation for the past year and the mausoleum is scheduled for renovations in the next few years. His firm was hired to evaluate the site and advise as to how best to manage the facilities in order to sustain their existence.

Mr. Esposito said that every building along the Route 207 corridor is set back less than 200 ft. and so if the variance is granted, the applicant will be consistent with the streetscape along Route 207.

Mr. Stahlman noted that the VFW property is about 58 ft. from the line, and the mausoleum about 86 ft. and asked if there is a middle ground that keeps building consistent with the streetscape and still accomplishes what the applicant needs.

Mr. Esposito said they propose to set the building at 58 ft. from the right-of-way, and so are asking for a 140 ft. variance. He said the applicant is looking for relief for the free standing building only. If the variance is granted, there will be room to put the parking lot behind the new building, he said.

Mr. Strobl asked about the speculated use of the building. Mr. Esposito said it will be for fraternal organizations and the headquarters of the Haight Cemetery Association.

Mr. Stahlman asked for questions from the ZBA.

Mr. Frishberg said that other than the “substantiality of it” and that it is self-created, the other facts that must be considered by the ZBA have been satisfied.

Mr. Frishberg said that if the variance is granted, he wants it to be granted “in as narrow a way as possible” limiting it to this particular zone and this particular property because he doesn’t like setting precedent. Mr. Donovan said that everything the ZBA does sets a precedent.

Mr. Stahlman noted that the VFW building is probably the closest to the street along this part of Route 207 and asked if the same thing could be accomplished with a 65 or 75 ft. setback so that it is “more consistent with everything we see along the street.” Mr. Esposito said that his concern would be if the applicant wanted to put an addition on the building in the future.

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

Mr. Esposito said he believes the request for review of the County Planning Department was sent by the Village over 30 days ago and Mr. Donovan said no response, that he knows of, has been received from the County Planning Department. He said that if “we find out it wasn’t sent, we have to do it over.” Mr. Stahlman said that if a decision is made, it will be subject to meeting the requirements of county referral.

The board was unsure whether this was a continuation of a public hearing or if the public hearing had previously been closed. Since it couldn’t be determined, the board decided to make a motion to close it.

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

Mr. Donovan said the application is an unlisted action in terms of SEQRA and that the ZBA has to issue a negative declaration before taking action.

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen issues a negative declaration determining that the issuance of the variance on the application of Haight Cemetery will not cause any undesirable impact on the environment. Passed unanimously.

**VOTE BY PROPER MOTION**, made by Mr. Frishberg, seconded by Mr. Clark, the Zoning Board of Appeals of the Village of Goshen grants the variance on the application of Haight Cemetery for the proposed two-story free standing building with a 68 ft. front yard setback. Passed unanimously.

**MINUTES** - Mr. Stahlman said he will sign the minutes of the June 10, 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