

**VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
June 12, 2013**

The regular meeting of the Zoning Board of Appeals of the Village of Goshen was called to order at 7:30 pm on Wednesday, June 12, 2013 in the Village Hall by Chair Wayne Stahlmann.

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

Also Present: David Donovan, Esq., ZBA Attorney

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

Application of Betro & Pray, Inc. (Delanceys) 40 Park Place, Section 109, Block 5, Lot 24

Mr. Stahlmann said he received a letter this afternoon from the attorney for Delanceys, Jay Myrow, requesting that the hearing on its application be adjourned. Mr. Stahlmann said the applicant is asking for a variance allowing it to construct an outdoor deck onto the restaurant. Mr. Donovan provided background on the application. He said there will be an application before the ZBA in July from Mr. DeProspro in the way of a challenge to the building permit issued by the Village Building Inspector allowing construction at the site. Mr. Donovan said that the basis for the challenge is that, since it is not a permitted use and has allegedly been vacant for a period of time, the building lost its status as being protected as a prior non-conforming use. That application was not filed in time for this meeting, so there will be a hearing on that application in July and it would be inappropriate to make a ruling in advance of that application, he said. Mr. Stahlmann said that Mr. Donovan had spoken beforehand to him about it and that he agreed that the ZBA should not rule on the deck issue without a determination as to whether or not the use is allowed.

Upon the recommendation of Mr. Donovan the ZBA opened and then adjourned the hearing.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen opens the hearing on the application of Betro & Pray, Inc. Motion approved unanimously.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen adjourns the hearing to July 10, 2013 on the application of Betro & Pray, Inc. Motion approved unanimously.

Application of Sweet Fillings Café, Inc. 14 West Main Street, Section 111, Block 11, Lot 6

Relief Requested: Variance to permit a 32 square foot façade sign to be located on the side of a building. The maximum allowed square footage is 12 feet.

Attorney Eugene Grillo was present to represent Sweet Fillings Café Inc. Mr. Grillo said the owner is asking permission to continue what has been a non-conforming use for the past sixteen years. The applicant wants a sign of identical proportions to the sign that had been there until recently. Mr. Grillo showed members a photo of a faded area on the building wall facing North Church Street. where a sign had previously been. Mr. Grillo said he understands that if a non-conforming use exists and then is

abandoned for a period in excess of 90 days, then the non-conforming status is lost. In this instance, he said, the sign was taken down less than 90 days ago.

It was established that there will be no direct lighting on the sign and that it will be exactly where the previous sign was located.

The ZBA acknowledged that the sign will not be an undesirable change to the neighborhood and will have no adverse impact. Mr. Frishberg noted that it is smaller than the existing signs nearby and that as a percentage of the building, it is very small.

Mr. Stahlmann opened the meeting to public comment. There was none.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen closed the public hearing on the application of Sweet Fillings Café, Inc. Motion approved unanimously.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen grants the variance as requested on the application of Sweet Fillings Café, Inc. Motion approved unanimously.

Application of Shawn & Laura Hubbell, 52 Green St., Section 112, Block 14, Lot 5

Relief Requested: **Variance to allow a side yard setback of less than 10 feet where a minimum of 10 feet is required.**

Mr. Hubbell presented the proof of mailings of the public notice.

Mr. Hubbell said he lost his home on Green Street in Hurricane Irene. He has since raised the level of the home 16 inches so it would be above the flood plain and he now has a 16 inch drop-off off the back of the house. He has three small children and wants to put a deck on the rear of the house for their safety and to add value to the home.

Mr. Hubbell's lot is 183 ft. long, but only 28 ft. wide. It was noted that if he has a side yard setback of 10 ft., the home is literally up against the side line on the north side and about 8 ft. from the south side line so it would be impossible to meet that requirement. Mr. Hubbell said that the sizes of the lots in the neighborhood are comparable.

Ms. Cione said she sees it as a massive safety issue and Mr. Strobl said that Mr. Hubbell is doing the best he can with what he has. Mr. Donovan pointed out that the house itself is closer to the side lot line than the deck will be.

Mr. Stahlmann opened the meeting to public comment. There was none.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen closed the public hearing on the application of Shawn and Laura Hubbell. Motion approved unanimously.

VOTE BY PROPER MOTION, made by Mr. Frishberg, seconded by Mr. Strobl, the Zoning Board of Appeals of the Village of Goshen grants the variance as requested in the application of Shawn and Laura Hubbell. Motion approved unanimously.

ADJOURNMENT – Upon motion made and seconded, the ZBA adjourned at 7:50 p.m.

