

VILLAGE OF GOSHEN: COUNTY OF ORANGE
ZONING BOARD OF APPEALS

-----X

In the Matter of the Application of

THOMAS MARRONE

DECISION

For area variances as follows:

- *Variance allowing only three (3) off-street parking spaces where a minimum of eight (8) parking spaces are required;*
- *Variance allowing a driveway width of 10 feet where 12 feet is required.*

-----X

Introduction

The applicant is the owner of certain improved¹ real property located at 24 St. James Place. The property is designated on the tax map as Section 112, Block 2, Lot 9. It is located in the CS (Central Shopping) Zoning District. The property is located in the Village Architectural Design District.

The applicant appears before the Zoning Board of Appeals as the result of a referral from the Village Planning Board regarding deficiencies in both the minimum parking requirements and the minimum driveway width. Specifically, the Village Zoning Ordinance requires a minimum of 8 off street parking spaces and a minimum driveway width of 12 feet. The applicant is proposing 3 off street parking spaces and a driveway with a width of 10 feet.

¹ The "improvement" consists of a long abandoned, boarded up, residential structure.

The public hearing was held on May 15, 2014. Notice of the public hearing was published in **The Goshen Independent**. Those adjoining property owners entitled to receive notice of the public hearing were properly notified by mail.

Background

In support of the application, the following information has been submitted:

1. Application dated May 1, 2014.
2. Site Plan prepared by MJS Engineering dated March 11, 2014, last revised April 8, 2014..

At the public hearing the applicant was represented by James Clearwater PLS of MJS Engineering. The applicant, Mr. Marrone, was also present at the public hearing.

Findings

Based upon all of the foregoing, the Board makes the following findings:

1. The property is located at 24 St. James Place and has frontage on St. James Place, a public thoroughfare owned and maintained by the Village of Goshen. It is located within the CS Zoning District.
2. The property is owned Thomas Marrone.
3. The lot is presently improved by a two-story, vacant and abandoned structure which was previously used as a two-family residence.
4. The required, existing and proposed dimensions and the extent of the variances requested are as follows:

| Bulk Requirement | Required | Existing | Proposed | Variance | Percentage |
|---------------------|----------|----------|----------|----------|------------|
| Parking Requirement | 8 | | 3 | 5 | 62.5% |
| Driveway Width | 12' | | 10' | 2' | 20% |

6. The applicant has been referred to the Zoning Board of Appeals by the Village Planning Board pursuant to letter from their counsel dated April 23, 2014.

After hearing the testimony at the public hearing and considering the materials received by the Board and after viewing the subject site, the Board decided as follows:

SEQRA

This matter is a Type II action under the State Environmental Quality Review Act as it involves a building that is under 4,000 square feet in size.

BALANCING OF 5 STANDARDS

In reviewing the facts presented for the requested area variances, the Board considered the five standards for determining whether the applicant has sustained its burden of proof as required by *Village Law 7-712-b(3)(b)*. Each factor has been considered relevant to the decision of the board of appeals, but no single one is viewed as precluding the granting of the variances.

(1) Undesirable Change—Detriment to Nearby Properties

There was no testimony indicating that the proposed variances will cause

any undesirable change in the character of this neighborhood or detriment to any nearby properties. The applicant testified that no such detriment or character change would occur.

Based upon the testimony and evidence submitted, therefore, the Board finds that the grant of the requested variances will not result in any serious, undesirable detriment to surrounding property owners nor result in any change in the character of that neighborhood.

(2) Need for Variance

It would appear that the need for the variance is generated by the applicant's desire to redevelop the premises. It is, of course, extremely difficult for the Board to evaluate this objective as it relates to the *need* for a variance. However, there was no adverse testimony and there was no public opposition to the variances requested.

(3) Substantial Nature of Variances Requested

The variances requested are substantial. However, because the focus of the inquiry by the Zoning Board of Appeals is upon the character of the neighborhood in question, we believe, under the circumstances presented here, that the substantial nature of the variances requested does not prohibit us from granting the application as the overall effect of granting the variances will be minimal to the surrounding neighborhood.

(4) Adverse Physical & Environmental Effects

No testimony was introduced at the hearing regarding any potential adverse physical and/or environmental effects that may result from the issuance of

the requested variances. Accordingly, based upon the evidence and testimony the Board finds that the grant of the variances will not result in any adverse physical and environmental effects.

(5) Self-Created Difficulty

The difficulty confronting the applicant is self-created. However, the self-created nature of the difficulty is not a bar to the issuance of the variances requested herein.

Decision

In employing the balancing tests set forth in *Village Law 7-712-b(3)(b)* the Board hereby grants the variances as requested.

Dated: _____

*Wayne Stahlman, Chairman
Village of Goshen Zoning Board of Appeals*

By roll call a motion to approve, this decision was granted by a vote of 5 in favor and 0 against.

Yes No Abstain Absent

Wayne Stahlmann, Chairman

 X _____ _____ _____

Neal Frishberg

 X _____ _____ _____

John Strobl

X _____ _____ _____

Molly O'Donnell

X _____ _____ _____

Garfield Clark

X _____ _____ _____

