

**VILLAGE OF GOSHEN
PLANNING BOARD
Work Session/Regular Meeting**

The work session/regular meeting of the Village of Goshen Planning Board was called to order at 7:35 p.m. on Tuesday, April 26, 2016 by Chair Scott Wohl. Mr. Wohl led the Pledge of Allegiance followed by a moment of silent meditation remembering the families of Thomas Cionne, former justice for the village and town of Goshen and Roger Pikul, Sr., former member of the Goshen Planning Board.

Present: Scott Wohl, Chair
Elaine McClung
Michael Torelli

Absent: Adam Boese
Rebecca Lafargue

Also Present: Michael Donnelly, PB Attorney
Ted Lewis, Village Building Inspector
Art Tully, PB Engineer

Approval of Minutes

UPON MOTION MADE by Michael Torelli and seconded by Elaine McClug, the Minutes of the Planning Board's March 22, 2016 meeting were unanimously approved.

Matthew Street Food, LLC., 1 Matthew Street, #119-1-2, D-S Zone. Preliminary Site Plan.

Representing the applicant: Michael J. Sandor, PE
MJS Engineering and Surveying

Mr. Sandor presented a Preliminary Site Plan for a 4,800 square foot second retail/office building to be constructed at 1 Matthews Street, where the existing Pizza Hut is located. The existing entrance would be used. It would serve both the Pizza Hut and the new building.

Mr. Wohl asked Mr. Tully where we stand on multiple building on one lot.

Mr. Tully was not aware that zoning is allowed with regard to more than one building on a single lot. If it does not meet the current zoning requirements, there would be a need to subdivide the property. Appropriate easements will be required for access, utilities and parking. A variance will be needed as the size of the building, as designed, exceeds lot coverage.

Ms. McClung asked if this is the same owner as in the original site plan. Mr. Sandor advised that it is the same owner. The original site plan was approved in 1989. It included a provision for future development in this area.

Mr. Donnelly advised that Mr. Lewis will have to rule whether applicants will apply for a subdivision and needed variances, or go to the Zoning Board for interpretation, or if Mr. Lewis agrees to multiple buildings on one lot, they can come back to the Planning Board for site review. Mr. Lewis agreed to rule and will meet with MJS Engineering on this issue.

Mr. Tully stated that the issue of lot coverages can be made with variances or by making the buildings smaller. Variances would need to be brought before the Zoning Board for approval. Mr. Torelli noted to Mr. Sandor to carefully compare the ZBA meeting schedule with the Planning Board's schedule to make sure the timelines involved meet both boards' needs.

Goshen Stagecoach Properties, LLC., 268 Main Street, #107-2-39.2. Revised Site Plan and Narrative Description of Proposed Use.

Representing the Applicant: Steve Esposito, Architect
Jay Myrow, Esq., Attorney for Applicant

Mr. Wohl noted that the Planning Board received a written narrative from the Applicant that was requested at the last meeting.

Mr. Tully discussed that last month the Planning Board gave conditional approval for subdivision subject to the Applicant addressing outstanding engineering issues. The Subdivision Plan needs to be filed in the Orange County Clerk's Office prior to the Planning Board's approval of the Site Plan. The Site Plan technically doesn't exist until this is done and this step is needed to "create" Lot 3 on which the Site Plan is based. Even if the Board wanted to approve the plan, they can't until it is filed.

Mr. Donnelly concurred that the map needs to be filed before subdivision approval.

Mr. Esposito noted that they just received the draft resolution today. They are prepared to respond to the comments that are minor in nature. If the Board would like to take action tonight, it would be on the condition that the subdivision map is filed prior to their signature.

Mr. Donnelly commented that the Applicant's narrative described uses that are all carried out in a B&B, however B&Bs are not allowed in this zone in the village. This B&B is protected as a non-conforming use. The real test is whether the activities proposed are those that existed under the mantle of protecting the non-conforming use. He doesn't have an opinion of that issue factually. Mr. Lewis will have to weigh in on uses.

Mr. Lewis noted there are complexity to this issue. He expressed concern with the current brochure. For example, it shows a guest capacity of 150 people in a 9 room B&B. He is not sure how that will work.

Mr. Tully echoed the concerns of the narrative. It does not match other information that is out in the public which advertises its uses. There are two conflicting versions of what the uses will be. There is a condensed version before the Board and an expanded version out in the public space. Project narrative is not consistent with the narrative in the public space with regard to the uses of the property. There was a recent stop order regarding a wedding tent on the property. Outside use is not part of the Site Plan application. It doesn't conform with what is before the Planning Board. He did not say that outside use can't be done. If it becomes part of the description, the Board would need to address issues that would be raised by outside uses (e.g. having 150 people at a function – would need to address issues such as parking and sanitary facilities).

Mr. Donnelly informed Mr. Esposito that it is important for their narrative to include all of the outside activities that they wish to carry out and attach it to the resolution. This will then become the limit of activities that they will be able to carry out. Mr. Lewis requested that the narrative be explicit and direct, as far as Board approval, to aid in any enforcement issues that arise.

Mr. Tully commented the project narrative does not match the Site Plan. It is not clear on the intended uses both inside and outside. The narrative speaks about the property being an "Inn" which is different from a "B&B". Clarification needs to be provided as to use with things such as food or drink service, availability to public, etc. The floor plan does not indicate whether the property will be owner occupied or run by an operator. There are no rooms that show the ability to have guest weddings, corporate meetings, or other social events indoors. The application needs more clarification.

Mr. Wohl inquired as to where the Board would go to get clarification of "B&B" verses "Inn". Mr. Donnelly explained that what the building is referred as is irrelevant. What needs to be determined is whatever uses were allowed historically, before the zoning chapter came into existence, are the same uses that would only be allowed now. It is important for the village to determine what these historical uses are so that they would be protected under non-conforming use.

Mr. Myrow clarified to the Planning Board that the function with the tent was not a business activity. It was a private affair wedding of the owners. Mr. Myrow also noted that he will work with Mr. Lewis to determine what is permitted and what is not. They will come up with historical data and will write a more descriptive narrative.

Mr. Lewis requested legal counsel and Mr. Tully's review as well. Mr. Donnelly commented that if Mr. Lewis could not make a determination, the Zoning Board can.

Mr. Wohl asked that Mr. Esposito to work on a more detailed narrative. Mr. Esposito agreed.

Ms. McClung requested copies of written responses from Wheldon Abt regarding information on the Architectural Design District and the carriage house which was discussed at the last meeting. Mr. Esposito provided the letters to Mr. Lewis' office, who will forward to the Board. Ms. McClung also requested a written response from the fire department indicating they are "all good" with the plans. Mr. Esposito will forward Mr. Budd's (fire chief) letter to the Board, which indicates no issues with the fire department.

Public Hearing:

Marcia Mattheus asked the Board if members of the village can inquiry about whether historic preservation has occurred of a use by the nature of its action, as the Applicant is supposed to determine. Mr. Wohl noted that questions to the Board regarding subdivision at this point would be moot, as it has been approved.

Ms. Mattheus expressed concerns the public has to uses of the property. What the owners entertain in the public is not what is represented to the Board. She is not sure how they can continue to advertise without approval. It is a perception that if they cannot get approval through the Zoning Board, they will try to get approval through the Planning Board. Ms. Mattheus supports and respects that the Planning Board is not allowing that to happen.

Mr. Donnelly stated that the Planning board does not make factual determination regarding uses. Mr. Lewis and the Zoning Board will make those determinations. The outline of what the protected uses are gets plugged into the Planning Board's resolution. The Planning Board decides approvals of plans that come before it.

Mr. Wohl said that the Applicant's description is vague and ambiguous. The burden is on them to prove that the activities they propose to do are consistent with what has occurred there in the past. It is not for the Planning Board to prove or disprove.

Mr. Donnelly noted that if they cannot prove the activities, they will need to go back to the Zoning Board and hold a factual hearing.

Mrs. McClung stated that once the Planning Board approves a plan, any activities in violation of that plan become a code enforcement issue.

ADJOURNMENT – Upon a motion by Michael Torelli and seconded by Scott Wohl, the Planning Board adjourned at 8:10 p.m.

Scott Wohl, Chair

Notes respectfully prepared by Maureen Farrell