

**VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
December 17, 2015**

The regular meeting of the Zoning Board of Appeals of the Village of Goshen was called to order at 7:30 pm on Thursday, December 17, 2015 in the Village Hall by Acting Chair John Strobl.

Present: Garfield Clark
Molly O'Donnell
Wayne Stahlmann, Chair (7:33 arrival)
John Strobl
Kerri Stroka

Absent: (none)

Also Present: David Donovan, Esq., ZBA Attorney

Mr. Strobl opened the meeting with the pledge of Allegiance. Mr. Stahlmann arrived at 7:33 PM.

Application of Goshen Stagecoach Properties, LLC, 268 Main Street, Section 107, Block 2, Lot 39.2

Reliefs Requested: An interpretation and/or an area variance granting relief from the requirements of the Village of Goshen Zoning Code Section 8.2 and Subsection 8.2.2.1 allowing the construction of a new carriage house and breezeway following the demolition of an existing accessory structure.

An interpretation of the Village of Goshen Zoning Code Section 8.2 and Subsection 8.2.2.1, specifically with regards to subdivision of the lot creating a loss of protection for the non-conforming use; as requested by the Planning Board

Steve Esposito, representative of the applicant told the Board that the 239 review was received. He explained the part of the application concerning the carriage house creating a possible expansion of a nonconforming use. He also explained the part of the application regarding the Planning Board's referral from the subdivision application. He said the applicant is willing to waive time, and they will be back to the Planning Board in January. He requested that the public hearing be closed. Mr. Esposito gave the Board a copy of a subdivision map from 1998 for the subject property. He explained that the prior owner received approval to subdivide a portion of the property, and was not required to get an interpretation or variance from the ZBA at that time. He also handed out a copy of the Village of Goshen Zoning Code Section 8.2 Subsection 8.2.2.1, and emphasized that the applicant felt they have established that the subdivision does not change the protection status of the nonconforming use.

At the request of Mr. Stahlmann, Mr. Donovan explained that there have been similar cases presented to the ZBA in the past and that the policy has been that subdivisions do have an effect on the status and protection of preexisting nonconformity.

Mr. Stahlmann asked if there was any public comment.

Gary Kerstanski of 13 Orange Avenue requested that the public hearing remain open to the January meeting. He said he is opposed to the application.

Mr. Stahlmann asked board members for comment.

Ms. Stroka asked for clarification on why the ZBA needed to wait to make a decision.

Mr. Donovan explained that the Planning Board, as lead agency must complete the 30 day review period for SEQRA and make a negative declaration before any board could take formal

action. He further explained that the 30 day review was not in time for the last Planning Board meeting and they would conclude their review at the January meeting.

Ms. O'Donnell understood and summarized Mr. Donovan's explanation, adding that the ZBA did not want to make the applicant run back and forth between the Boards and that she wants to see this project succeed and proceed.

Mr. Strobl was concerned about the possibility that the decrease in lot size due to subdivision may intensify the nonconforming use.

Mr. Esposito said there was no part of the Village Code that stated the policy that the ZBA considers a decrease in lot size a reason to lose protection for a preexisting nonconforming use.

Mr. Donovan explained that the ZBA is duty bound to be consistent with their past practice. He said they may choose to change or update their policy, so long as they state exactly why they are changing their policy and keep consistent with their new policy moving forward.

Mr. Stahlmann spoke about the concerns of the neighbors at the last meeting, specifically that they were worried about events taking place on the property and the possible disruption this may cause them.

Mr. Esposito said the subdivision would offer a buffer from the neighbors from events at the property.

Mr. Kerstanski reminded the Board that the residents on Orange Avenue would have no buffer.

Mr. Esposito said he felt they have established that expansion of the carriage house would not increase the use at the property, but just change the layout.

Mr. Stahlmann suggested the public hearing remain open and continued to the January meeting, and that they would like to see more information about the 1998 subdivision.

Michael Torelli of 1 Maplewood Terrace, who is a Planning Board member, felt that the Planning Board could not proceed with the subdivision application until the ZBA made a decision about the interpretation that was referred to them by the Planning Board.

Mr. Donovan restated why the ZBA needed to wait for the SEQRA negative declaration before making a decision.

The ZBA members discussed the SEQRA procedure, and agreed that they wanted more information about the 1998 subdivision.

VOTE BY PROPER MOTION made by Ms. O'Donnell, seconded by Ms. Stroka to leave the public hearing open to the January 21, 2016 meeting. The motion was approved unanimously.

Mr. Esposito asked the Board if there was any further information he could provide to assist them in their decision.

Mr. Donovan said the applicant could try to offer an argument as to why the past practice policy should be changed regarding loss of protection, and that any additional information should be provided in advance of the meeting so the ZBA would have time to consider all of the details.

Ms. Stroka asked if it would be possible to answer the question about the carriage house part of the application, separate from the subdivision interpretation.

Mr. Stahlmann explained that what they decide about the subdivision interpretation may have an impact on the other part of the application, so it should be decided first.

Ron Boire, a principal owner of the property, described their intention to proceed with the permitted renovations regardless of the outcome of the subdivision.

Mr. Stahlmann asked the Board if they would be willing to make a pledge to the applicant that they will make a decision at the January meeting, after the SEQRA is closed. The Board was in unanimous agreement.

Application of Unico Design Group, Section 111, Block 15, Lot 16 – time extension on prior approvals.

Mr. Esposito represented the applicant and explained that there were many necessary variances issued and they require an extension of time for an additional year. He gave a summary of some of the required variances and how they happened to be granted over the course of a few years and about half a dozen meetings.

VOTE BY PROPER MOTION made by Mr. Strobl, seconded by Ms. Stroka to grant the requested twelve month time extension. The motion was approved unanimously.

Application of Kikkerfrosch, LLC, Section 117, Block 1, Lot 1.2 and portion of Lot 3 – time extension on prior approvals.

Mr. Esposito represented the applicant and gave a summary of the project and required variances. He explained that the variances do not expire until March 2016, but he hoped to get their approval now, based on the applicant's anticipated timeline for construction. He said they expect to begin construction in March and hope to be brewing by February 2017.

VOTE BY PROPER MOTION made by Ms. Stroka, seconded by Mr. Strobl to grant the requested twelve month time extension from March 2016. The motion was approved unanimously.

ADJOURNMENT – upon motion by Ms. Stroka, seconded by Mr. Clark, the Village of Goshen Zoning Board of Appeals meeting adjourned at 8:34 PM.

Wayne Stahlmann, Chair
Notes prepared by Sara M. Winters