

**VILLAGE OF GOSHEN  
ZONING BOARD OF APPEALS  
February 18, 2016**

The regular meeting of the Zoning Board of Appeals of the Village of Goshen was called to order at 7:30 p.m. on Thursday, February 18, 2016 in the Village Hall by Chair Wayne Stahlmann.

Members present: Garfield Clark, Wayne Stahlmann, Chair, John Strobl, and Kerri Stroka

Member absent: Molly O'Donnell

Also present: Attorney Donovan and Village Clerk Strobl

Chairman Stahlmann led those present in the Pledge of Allegiance.

**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 regard to subdivision of the lot creating a loss of protection for the non-conforming use; as requested by the Planning Board.

Mr. Stahlmann advised that there were three questions that the Board would answer tonight, the first of which was: is the construction of the carriage house and breezeway an allowable use?

Attorney Donovan clarified that the Planning Board has now closed out the SEQR review and issued a negative declaration, which puts the Zoning Board in a position to act this evening should they choose to.

Jay Myrow, Attorney for the applicant, addressed the Board, referencing a letter he had sent to Attorney Donovan, dated February 5, 2016.

Mr. Myrow explained that the breezeway is accessory to the use – it does not enhance or intensify the use, and is a structure connecting two buildings.

Mr. Myrow addressed reconstructing the garage into a carriage house, which will have a footprint slightly smaller than currently. He noted that the applicant is entitled to replace a 100+ year old structure as the Code, as drafted, does not expect properties to fall to ruin.

Mr. Stahlmann verified that there are currently nine rooms, and that there will still be nine when the carriage house is completed.

Mr. Stahlmann asked if there was any public comment.

Resident Gary Kerstanski questioned whether the footprint was being enlarged or not and whether there would be more square footage.

Mr. Stahlmann asked Board Members for comment.

Mr. Clark stated that it is a beautiful building which will be an asset to Goshen, and that he had no argument with that interpretation.

Ms. Stroka noted agreement with the interpretation.

Mr. Strobl stated that he is all for it as article 8.3.2 of the code covers it all.

Attorney Donovan worded the following Resolution:

The application as proposed is not contrary to the requirements of Section 8.2 *Nonconforming uses* in the Village Code and is allowable as there are the same number of rooms as are there now.

**A vote by proper motion** made by Mr. Strobl, seconded by Ms. Stroka was approved unanimously.

Mr. Stahlmann noted that question number two came from the Planning Board, and is: Does the proposed sub-division in any way alter the non-conforming use?

Mr. Myrow referred to the relevant provision of the Village Code: 8.2.2.1 (a) which provides: Continuation of nonconforming uses. Any nonconforming use of buildings or open land, except those specified in section 8.4 below may be continued indefinitely, but: shall not be enlarged, altered, extended, reconstructed, restored (except as provided in section 8.2.2.1.e), or placed on a different portion of the lot or parcel of land occupied by such uses on the effective date of this ordinance, nor shall any external evidence of such use be increased by any means whatsoever.

Mr. Esposito explained that the property had previously been granted a subdivision in November of 1998, after the adoption of the current code in March of 1998.

Mr. Stahlmann asked Board Members for comment.

Ms. Stroka said she had no questions and that it seemed fine.

Mr. Strobl said that he was all for it.

Mr. Clark noted no loss of the non-conforming use.

**A vote by proper motion** made by Mr. Strobl, seconded by Ms. Stroka that the new approval sought from the Planning Board does not cause this project to lose its pre-existing protection was approved unanimously.

Mr. Stahlmann explained that the third question did not come to the Board officially from the Building Inspector or the Planning Board, but was brought up at a previous meeting by a neighbor, Mr. Kerstanski. The question is: has the non-conforming use been discontinued or abandoned for more than one year in violation of code section 8.2.2.1(d)?

Mr. Myrow explained that according to Village code, an abandonment has to be a complete abandonment, and there has clearly been an attempt to go forward, as the applicant has been in front of the Planning Board all along.

Ron Boire, a principal owner of the property, provided receipts showing that rooms were rented on two occasions during 2015. Mr. Kerstanski requested the dates, which were July 5 and 12, 2015.

Mr. Esposito explained the processes that the applicant has been through since closing on the property in October, 2014, beginning with a petition to the Village Board for a zoning map amendment. The timeline included referrals to the Planning Board and the Zoning Board of Appeals. Mr. Boire noted that they were obviously committed to the project as they have expended fees of \$60,000 - \$70,000.

Mr. Kerstanski stated that the original purchase intent was to change the building to a catering hall/restaurant, not to maintain the Bed and Breakfast, which he felt had not been the use even prior to the sale of assets by the former owners in July of 2014.

Mr. Stahlmann asked Board Members for comments.

Ms. Stroka noted that her understanding was that it was always intended to be a B & B, and that we have to allow time for the renovation.

Mr. Strobl said that the applications have taken time and that his understanding was that the B & B was going to exist one way or another.

Mr. Clark stated that he believes it is still a continuation of the Bed & Breakfast use, and that it will be a big asset to the Village of Goshen.

In response to Mr. Stahlmann's question about procedure, Attorney Donovan said that although the issue is not formally in front of the Board, you may render an opinion if you feel you have enough information.

**In a vote by proper motion** made by Ms. Stroka and seconded by Mr. Strobl, the Board declared that having reviewed the evidence, there has not been a lapse of the non-conforming use, which would allow it to continue. The motion was approved unanimously.

**Application of SKAD Goshen, LLC (Beer World), 151 Greenwich Avenue, Section 112, Block 12, Lot 6**

**Relief Requested:**

Variance to permit an internally illuminated sign on the premises located at 151 Greenwich Avenue. Signs which are internally illuminated are not permitted in the Architectural Design District (ADD).

Representing the applicant, Steve Esposito reviewed the current sign, and the history of the development of the site.

Attorney Donovan reminded the Board to keep in mind the precedence of allowing this sign.

Mr. Esposito provided pictures to show how hard it is to see the store from different areas on Greenwich Avenue.

Mr. Stahlmann asked if there was a way to accomplish this with indirect light? Mr. Esposito explained that there is already spot lighting on the sign.

Mr. Clark said that in the past we have denied other signs and asked if the Board had previously denied a similar sign for the bagel store on West Main Street. He was answered in the affirmative.

Mr. Kerstanski, who has a business directly across the street at 162 Greenwich Avenue said that when the sign was previously lit it was not offensive.

Board Members discussed the pros and cons of granting the variance.

On a motion by Ms. Stroka, seconded by Mr. Strobl, the Public Hearing was closed at 8:20 p.m.

All aye

**A vote by proper motion** made by Mr. Strobl and seconded by Ms. Stroka, the Board grants the request for the internally illuminated sign, with the understanding that what makes the variance unique is that the building is 110' off the road, behind another building, and the sign meets all the other standards of the Architectural Design District requirements.

The approval was granted by 3 ayes  
1 nay – Mr. Clark

The Meeting concluded at 8:35 p.m.

Wayne Stahlmann, Chair  
Notes prepared by Meg Strobl