

VILLAGE OF GOSHEN
ZONING BOARD OF APPEALS
July 20, 2017

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, July 20, 2017 in the Village Hall by Chair Wayne Stahlmann.

Members present: Kerri Stroka
 John Strobl
 Chair Wayne Stahlmann
 Susan Cookingham
 Nick Pistone

Also present: David Donovan, Esq., ZBA Attorney

Chairman Stahlmann opened the meeting with the Pledge of Allegiance.

PUBLIC HEARING

Wainco Goshen 1031 LLC aka Village Place, 111-10-17.2

Relief Requested: An interpretation and/or amendment of a previously granted use variance and an area variance seeking relief from lot coverage allowing lot coverage of 43.88 % where 35% is the maximum coverage.

Representing

Applicant: Jay Myrow, Esq.
 Nick Rugnetta, Engineer

Mr. Myrow stated in 2006 the Village Planning Board granted site plan approval for 48 units in a PAC. All 48 units were to be built on the south side of Main Street. The entire parcel that was included in the site plan was that parcel and the tax lot across the street on the north side. The underlying zoning district is CS and the Village Board granted the PAC Overlay zone in 2006.

In 2008 to 2009 the recession hit and took a particular toll on this project and it became apparent it was not viable. The applicant came to the ZBA and asked for a use variance to relieve all 48 of the units from the age restriction and allow them to become open market rentals. The ZBA granted the use variance. Both parcels were included in the site plan and both parcels were part of the application for the use variance.

The original site plan approval had discussions between the applicant and the Village as to what would happen to the unbuilt parcel. The Village showed some interest in the parcel. As part of the approval, it was required the applicant offer the unbuilt parcel to the Village for dedication and the applicant did.

Currently, over the course of time the Village has not shown any interest in the property. There was a developer's agreement done with the Village where the Village would release the applicant from the offer of dedication. One of the conditions was approval from the Planning Board for the development of the parcel and if granted, the Village Board will file a relinquishment of the offer of dedication.

The applicant has been to the Planning Board and asked for a consensus if there were any immediate concerns and the applicant was referred by the Planning Board and the Building Inspector to the ZBA for either expanding a use variance, granting a use variance and possibly a variance for lot coverage.

Chairman Stahlmann stated when the original project came to the ZBA one building was complete and two other buildings were half built. The project was basically abandoned and headed for foreclosure. The project was in a distressed state. He stated it was a 3 to 2 vote to grant the use variance at that time. Chairman Stahlmann stated it was an extraordinary and

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unusual decision by the ZBA. The decision was based on not wanting an eyesore in the Village and fortunately the project has been a success and is fully occupied and successful. He reiterated it was an unusual decision in an unusual time.

Mr. Donovan stated in his view the PAC zoning would apply to the vacant parcel. If the applicant wanted to construct 15 or 16 PAC units they could do so. The use variance that allowed open market rentals was limited to the original 48 units. There would have to be an amendment to the use variance to allow open market rentals. Mr. Donovan stated he has had extensive conversation with the Village Board and they see no future in a municipal use of the parcel and has agreed to relinquish their interest subject to the proper approvals.

Mr. Myrow stated it is a narrow lot that is not conducive for most of the commercial uses in the CS zone. He said he wasn't saying it couldn't be done, but would provide proof on what they could do. If the parcel is to be developed as a PAC there are stringent requirements in the PAC regulations, such as requiring an HOA. Mr. Myrow believes for only 16 units the cost and expense may not be feasible.

It was stated there may be three options: One is to build as a PAC. Two, is a use variance for open market rentals. Three, is to not build.

Mr. Myrow stated his argument for the use variance is that there is a developer's agreement that only allows for apartments to be built. If it is not approved for apartments, the offer of dedication cannot be dissolved. He believes he cannot get any return on the use of CS zone because he is not permitted to put anything else in.

Mr. Donovan stated he did not agree with that argument 100 percent. The parcel is encumbered by the PAC. He suggests the burden of proof is the same as the original parcel which the owner cannot get a reasonable economic return on a PAC.

Chairman Stahlmann polled the board for questions and comments.

Mr. Pistone stated he is familiar with the area and until today was not aware of the additional parcel.

Mr. Strobl was on the board when the original use variance was granted. He stated at some point there was talk about parking for the Heritage Trail should it be expanded at that location. He remembers it as a unique circumstance, but that the board was only working on the one parcel. Mr. Strobl said he doesn't see it as any different as before. There was an overlay then as well. He stated use variances are very difficult to obtain given the criteria set forth.

Chairman Stahlmann stated what was obtained last time was significant evidence about the financial possibility of selling PAC units and whether there was actually a market for them. There was substantial evidence back then to support the decision of the ZBA to grant a use variance.

Mr. Stahlmann asked Mr. Myrow if there was evidence he could put into the record that the board would have to show that the remaining parcel is not viable as a PAC. Mr. Myrow stated he would explore that and get back to the board.

Mr. Myrow wished to state for the record should an area variance be needed, the initial calculation for lot coverage it was under 35%. If in fact the second lot was dedicated and taken out of ownership, the remaining lot went up to 42% coverage. The second lot is now being proposed at 43%. There is consistency in his opinion.

Chairman Stahlmann opened the meeting to public comments and questions.

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Mr. and Mrs. Jason Vazquez of 82 Prospect appeared. They opposed the building of the lot. The residents were confused as to where the building was being proposed initially before being shown the actual building site. Upon clarification, Mr. and Mrs. Vazquez still opposed the building of the lot as they would rather see trees and greenery. They also voiced concern for additional traffic and people on the bus due to more units being constructed.

Ms. Stroka reiterated that the two things that were asked of the board were an interpretation of a previous use variance and to grant an area variance, should a use variance be granted.

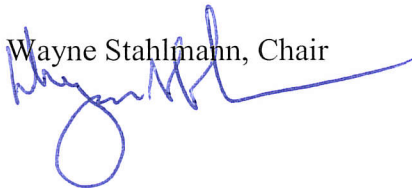
Mr. Donovan stated that is a use variance for the proposed 16 units to allow them to be open-market rentals, regardless of the previous use variance granted on the original site. If approval of a use variance is granted, then an area variance for the lot development coverage would be deliberated.

Mr. Donovan told Mr. Myrow that existing documentation in the building department may be helpful in proving his case for this parcel.

VOTE BY PROPER MOTION made by Mr. Strobl, seconded by Ms. Stroka, the Village of Goshen Zoning Board of Appeals moved to extend the public hearing until next month. The motion was approved unanimously.

VOTE BY PROPER MOTION made by Ms. Stroka, seconded by Mr. Strobl, the Village of Goshen Zoning Board of Appeals adjourned the meeting. The motion was approved unanimously.

The meeting concluded at 8:09 p.m.

Wayne Stahlmann, Chair


Notes prepared by Tanya McPhee