

**RECEIVED**  
FEB 10 2012  
WOODBURY BLDG. DEPT.

**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**FEBRUARY 1, 2012**

**RECEIVED**  
FEB 13 2012  
VILLAGE OF WOODBURY

**TABLE OF CONTENTS**

<b>ITEM</b>	<b>PAGE NUMBER</b>
Minutes	1
Regular Agenda	
Woodview Heights – Tax Map 204-1-34.2	2
Pulver – Tax Map 202-1-70	2 – 6
Kohl's – Tax Map 225-2-1.12	6 – 8
Katz – Sunny Lane – Tax Map 217-5-11 and Lax – Sunny Lane – Tax Map 217-1-2	8 – 9
WP3/ARB – Tax Map 255-1-3.22 et al	10
Palaia Vineyards	10

**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**FEBRUARY 1, 2012**

PRESENT: M. Hunter, Chairperson  
M. Christman  
C. Correia  
R. Cataggio  
D. Lindsay  
K. O'Donnell  
R. Golden

Chairperson Hunter opened the meeting with the Pledge of Allegiance and a moment of silence for our Armed Forces and all others in harm's way. She then explained that Sheila Conroy had submitted her resignation, effective January 31<sup>st</sup>. She thanked her for her service to the community and wished her and her family well. Chairman Hunter then introduced the Board members and consultants.

**MINUTES**

C. Correia made a motion to accept the minutes from the meeting of December 21, 2011.  
M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Cataggio – In Favor

R. Cataggio made a motion to accept the minutes from the meeting of January 4, 2012.  
M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Cataggio – In Favor

Chairperson Hunter referred to a new requirement of the Open Meeting's Law which will mean that all documents that are submitted by an applicant will need to be posted to the Village web page. She said this is a work in progress and any suggestions are welcome. R. Golden cited the Town of Newburgh's web site and will forward the link to the Board members so they can see how they complied with the requirement.

## **REGULAR AGENDA**

### **WOODVIEW HEIGHTS - TAX MAP 201-1-3-12**

Chairperson Hunter explained that this was to be a discussion of a request for an extension for preliminary subdivision approval for property located on Hill Avenue in Highland Mills. After some discussion, M. Christman made a motion to extend the preliminary approval to February 6, 2013. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Cataggio – In Favor

### **PULVER - TAX MAP 202-1-70**

Chairperson Hunter explained that this was to be a review of a site plan and special permit, and scheduling of a public hearing for a proposed Bed and Breakfast located at 14 Castleton Drive in Highland Mills. James Clearwater, a land surveyor with MJS Engineering, appeared on behalf of the applicant and explained that Mr. Pulver has a 39 acre site with an existing house. He wants to use a portion of the house for a four room Bed and Breakfast. He said that Mr. Pulver has been before the Board on several occasions and received comments from the Board and consultants. The plans have been adjusted in response to these comments, and the applicant would like to have a public hearing and get an approval.

At this point Chairperson Hunter asked D. Lindsay for his comments. D. Lindsay said that he had prepared a memorandum and had reviewed the plan. He noted that at a previous meeting the Board had attempted to give Mr. Pulver some guidance by requesting a more detailed plan that was drawn to scale and would provide the Board with a more professional looking application. The information requested has now been submitted on the new plan. D. Lindsay added that the Board had waived a number of the site plan requirements because they are not required in connection with the limited site improvements that are being proposed here.

One of the items which needed to be clarified had to do with the outdoor amenities. The locations of the tennis courts and swimming pool have now been included. With regard to the walking trails that were mentioned by the applicant, D. Lindsay said he is not sure where they are located. They may be near the house or they may be in the woods. Also, the trails may only be used during the day. He said if the amenities are to be use at night, the Board should have a discussion regarding lighting.

D. Lindsay said that the location of the waste water disposal system has been shown, and the engineer said that it has been in existence for many years and is working properly. D. Lindsay would still like more information regarding the system, such as whether or not there is a septic tank and, if so, has it ever been cleaned.

**PULVER - TAX MAP 202-1-70 (cont.)**

D. Lindsay also said he had asked for some information on the well. He said he thought it had been disconnected at one time and wondered if it still was.

With regard to access to the site, D. Lindsay recommended that access be through Castleton Drive. He also suggested a directional sign pointing the way to the exit. He did not want people to use Icehouse Road. Mr. Pulver said there is currently no access from his property to Icehouse Road.

D. Lindsay also said that he had requested that the applicant provide metes and bounds for the property. He said the applicant could provide the old survey and that would be sufficient.

D. Lindsay also said that he was not sure if there were going to be any employees at the facility. If there are, then parking will need to be provided. If there are no employees, this should be noted for the record.

With regard to the locations of structures on the site, D. Lindsay said that it should be noted on the plat which locations were taken from the survey and which ones were done by physical site inspection.

Chairperson Hunter noted that, after some research, it was discovered that this property is not part of the HOA for Brigadoon.

At this point Chairperson Hunter asked K. O'Donnell for her comments. She said that the use is conforming with the zoning and the parking, and that the applicant is also providing some additional parking spaces. The site plan now shows the parking spaces, as well as additional spaces near the garage. It also shows the garage, which will be basically for the use of the residents. K. O'Donnell also felt that the ESO's should be consulted regarding the width of the driveway to be sure it is adequate. Chairperson Hunter said she had discussed this with G. Thomasberger and he said that the driveway is 12-1/2' wide, while the firetruck width is 8' so he has no problem with the width of the driveway. It is the same driveway width that was approved for previous bed and breakfast facilities in town.

K. O'Donnell also talked about lighting for the site and felt that the Board should consider a condition for lighting for use of the amenities at night.

With regard to signage, K. O'Donnell said the applicant stated that there will be no sign for the Bed and Breakfast, but is proposing directional signs that will say "Bed and Breakfast". The zoning code has no definition of a directional sign advertising the Bed and Breakfast. However, she said the code is clear that if the sign is not going to be visible from outside the property then it is exempt from the permit from the Planning Board.

In terms of SEQRA, she said no short form EAF had been received, but because there is no expansion of the use, this would be a Type Two action under SEQRA.

**PULVER - TAX MAP 202-1-70 (cont.)**

Chairperson Hunter then asked R. Golden for his comments. He informed the Board that when they believe the application is complete, they can schedule a public hearing, as required.

At this point Mr. Clearwater wanted to address some of the issues brought up by the consultants. He explained that there are two septic systems presently on the site. One is for the main portion of the house, and one is for the section that will be used for the Bed and Breakfast. Mr. Clearwater said they could certainly have the septic tank pumped out, and assured the Board that the system works fine. D. Lindsay said that applicant could either get the septic tank pumped out, or provide proof that it has been done within the last five years. He added that if the system has not been used for some time in the portion of the house that is proposed to be the Bed and Breakfast then a dye test would be required. However, if it has been used this may not be necessary. At this point Mr. Pulver explained that the ballroom has been in constant use since he has been in the house. He had a family living there while they were waiting to buy a house, and has had several large parties at the location as well.

Mr. Pulver also informed the Board that he has never had a complaint from any of the neighbors, even when having large parties with hundreds of people and hundreds of cars. He said the location of the house on the property makes it removed from Brigadoon so there have been no complaints about noise or any other issues.

With respect to the well, Mr. Clearwater said the well has been disconnected from the house and is not being used at all. As far as the access to the site, Mr. Clearwater said that people would come into the site through the main gate and up the paved driveway to the house. He said there is no other practical access and he did not think there would be any issue with people getting lost. As far as deed restrictions and covenants, Mr. Clearwater said there are none that affect this particular use or access or anybody else's use.

Chairperson Hunter asked about the adjoining property which is owned by the Palisades Park Commission. K. O'Donnell said that, because this is a Type Two action and there will be no expansion or construction of any kind, the SEQRA implications related to the public park do not apply.

Chairperson Hunter also noted that the Orange County DPW had responded on September 26<sup>th</sup> that this was a matter of local determination. The Department of Planning said likewise on September 30<sup>th</sup>.

Mr. Clearwater said he would provide a copy of the survey to address the issue of metes and bounds.

Mr. Clearwater also said that there are existing lights on the exterior of the building which work off a switch, as well as lights on the driveway which are also switched and will only be used when necessary.

**PULVER - TAX MAP 202-1-70 (cont.)**

With regard to employees, Mr. Clearwater said that Mr. Pulver has a cleaning lady that comes weekly and has no car. There is no plan for any other employees. R. Golden pointed out that the approval is not being given for particulars such as what employees the applicant may use at the present time, but will carry forth. In the future there may be employees who do have cars. He said the Board may want to consider whether or not parking spots need to be allocated for employees. Mr. Clearwater said there are plenty of parking spots in the rear of the house.

R. Golden also noted that Mr. Clearwater said there are no deed restrictions. He will need a copy of the deed to confirm this for the Board.

At this point Chairperson Hunter asked the Board members for their comments. R. Cataggio asked if the number of guest rooms and guests had been defined for this particular business. D. Lindsay explained that only four rooms will be approved by the Planning Board. If the applicant wants to add another, he must come back for approval. Chairperson Hunter also noted that the code states that the number of rooms cannot exceed five.

C. Correia cited a memo from MJS which stated that "no other meals besides breakfast are being offered and no public restaurant will be included". He asked for a clarification of what the word "meals" really means. D. Lindsay said that this was taken right out of the code and only breakfast is allowed to be served. The code also restricts the time for serving breakfast to 11:00 or 12:00. C. Correia also thanked Mr. Pulver for providing the additional information and materials that the Board had requested.

M. Christman had no comments at this time. Chairperson Hunter was concerned about the ESO's and obtaining their comments regarding the driveway. D. Lindsay said that the Police and Ambulance should not have a problem. He will follow up with the Fire Department for their input.

Chairperson Hunter asked D. Lindsay for his recommendations regarding the walking trails and the existence of rattlesnakes in this area. D. Lindsay suggested that a pamphlet of some sort could be provided to guests informing them of the existence of the rattlesnakes in the event that they desire to use the walking trails. He said this should be made a condition in the resolution as well.

Chairperson Hunter was also concerned about fencing around the swimming pool. Mr. Pulver assured her that the Building Department is aware that he has a hydraulic cover for the pool.

**PULVER - TAX MAP 202-1-70 (cont.)**

Chairperson Hunter then expressed some concern because some Board members did not agree with G. Thomasberger's interpretation of the code that this is one building. They feel that because of the connection with the breezeway it is two separate buildings. She asked R. Golden for some direction on this issue. R. Golden replied that any opinion given by the Building Inspector can be appealed within 60 days. For the applicant it would be 60 days from the issuance of the opinion. For any outside person it would be 60 days from when they find out about it. This appeal can be made by Planning Board members and Village Board members as well. If the appeal is not made within 60 days, then the interpretation stands. If it is challenged, it goes to the ZBA and they make a final determination on an interpretation of the code. The only way to challenge the ZBA determination would be through an Article 78 lawsuit. One cannot challenge the Building Inspector directly with an Article 78 lawsuit. This has to be done by going through the process with the ZBA.

There was some discussion about setting a public hearing for this application. R. Cataggio asked if the HOA would be notified along with the adjoining property owners. R. Golden said that the Planning Board could request that the HOA be notified, if they so desired. After some further discussion, R. Cataggio made a motion to schedule a public hearing for March 7, 2012. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – Opposed
- C. Correia – In Favor
- R. Cataggio – In Favor

**KOHL'S - TAX MAP 225-2-1.12**

Chairperson Hunter explained that this was to be a discussion and review of a submitted application for exterior façade remodeling at the existing retail store located within the Woodbury Centre Shopping Plaza. She then asked the applicant to state his name and give the Board a brief overview of what Kohl's is proposing.

Peter Puskuldjian introduced himself as the architect who will be representing Kohl's for their remodeling. He explained that Kohl's is planning on renovating their store and, in conjunction with these renovations, will be making some modifications to the exterior façade. He displayed two renderings, one showing the existing façade and one showing the proposed new façade. He went on to explain that the existing swinging doors will be replaced by sliding doors, and the entrances will be enhanced – as shown by the second drawing. There will be no changes to the landscaping, lighting, curb ramps or any of the other features. They are also adding some waste disposal canisters and a bicycle rack.

**KOHL'S - TAX MAP 225-2-1.12 (cont.)**

Chairperson Hunter noted, for the record, that notices were sent out to the Orange County DPW, who responded on January 27<sup>th</sup> with a local determination. Also, the Orange County Department of Planning responded today with a local determination. On January 12<sup>th</sup> a letter was received from the landlord stating that this application can proceed. She then asked D. Lindsay for his comments.

D. Lindsay said that the only real comments he had in his memo had to do with safety during construction. He said it is the Board's typical practice, when there is an existing mall that is active and functioning, to include a condition in its resolution that the applicant provide all safety precautions as required for the general public. He also noted that in previous applications there has been a condition requiring a pre-construction meeting with their contractor, manager, the Building Inspector and the Village Engineer to review their safety plan and make sure it is appropriate. He added that all safety measures, means and techniques are the responsibility of Kohl's and their contractors. However, the Village typically gets the opportunity to comment on them. D. Lindsay said the ESO's should also have the opportunity to comment on the construction plan at the same meeting. This should be included as a condition in the resolution as well.

Chairperson Hunter asked K. O'Donnell for her comments. She said that the colors are consistent with what was previously approved for the façade of the building. In terms of SEQRA, this would be a Type Two action because there is no expansion of the building or the use. She added that she was excited to see the inclusion of the bike rack.

R. Golden commented that this ARB approval will require a public hearing. He also said the owner authorization would need to be confirmed. The letter submitted by the applicant was signed by Woodbury Centre Harriman, which is noted as the property manager. He said that in 2009 when the Board approved the changes to the sign to include the Hampton Inn, the property owner was listed as Kimco Realty Corp. Mr. Puskuldjian said he would look into this.

After some discussion, M. Christman made a motion to schedule a public hearing on this application for February 15, 2012. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Cataggio – In Favor

M. Christman then made a motion to authorize the attorney to draft a resolution of approval for this application. Chairperson Hunter seconded the motion. The vote was as follows:



**KOHL'S - TAX MAP 225-2-1.12 (cont.)**

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Cataggio – In Favor

**KATZ - SUNNY LANE - TAX MAP 217-5-11/LAX - SUNNY LANE - TAX MAP 217-1-2**

Chairperson Hunter noted that these were two separate applications, but asked the Board if they wanted to review them together, for the sake of simplicity. She then cited a letter dated October 27, 2010 that listed four properties. However, there are only two of the properties before the Board at this time.

The discussion continued regarding the fact that there were four properties listed on the application. Chairperson Hunter noted that the short EAF listed all four properties. R. Golden said that there has to be a separate SEQRA determination for each one. He said the Board could cross off the ones that they are not hearing at this time and only address each property individually. D. Lindsay suggested that the Board could discuss the two properties together this evening, but address them individually when they go to a public hearing.

At this point Mr. Katz introduced himself as the owner of 13 Sunny Lane, and Mr. Lax as the owner of 18 Sunny Lane and explained that they would both like to convert their properties from seasonal dwellings to year round use. He added that they have an engineer working on the well and the septic. Chairperson Hunter noted, for the record, that for the property at 13 Sunny Lane the Board had received an engineering report and Environmental Lab work. For 18 Sunny Lane she had the water source report and an engineering report as well.

At this point Chairperson Hunter asked for comments from D. Lindsay. He noted that he had written a memo for the Board giving some of the history of these properties and some of the other applications the Board has had. He said there are specific requirements under Section 310-26 of the code for conversions. He said this is not a site plan, but would require a special permit. One of the requirements was regarding a public road that must be improved to the satisfaction of the Village Board. The Village Board has said that the road is acceptable for year round use. This conclusion was reached after a number of improvements had been made to the road.

There is also a requirement that the water system be from a New York State water supply or other water system that meets New York State requirements. The applicants have submitted some information, but one applicant has submitted more than the other. He said Mr. Lax submitted some additional water quality tests that were missing from Mr. Katz' application. He said there are things that are looked at to show possible contamination with the septic system that were missing in one application

**KATZ - SUNNY LANE - TAX MAP 217-5-11/LAX - SUNNY LANE - TAX MAP 217-1-2 (cont.)**

D. Lindsay said they had received reports on the septic system and that a dye test was performed and witnessed. The septic tanks were also inspected to make sure that they were masonry construction and not steel. This has all been documented. At the request of a Board member at a previous meeting, one of the applicants has shown the approximate location of the septic tank and the well. The other applicant did not show the location of the well. This information will need to be added. Chairperson Hunter said that 18 Sunny Lane did not show the location of the well.

D. Lindsay said the Board had already discussed ridge preservation for these applications. Since they are existing structures and there is no modification proposed, ridge preservation review will not be necessary.

K. O'Donnell agreed with D. Lindsay and said that these applications would be considered a Type Two action and the Board would waive the ridge preservation.

K. O'Donnell said she had a note from a previous meeting to discuss the road maintenance agreement. She said that this is a private agreement and the Board has no standing to make changes to it or have any requirements related to it.

R. Golden agreed with D. Lindsay that there would be no ridge preservation review required for these applications.

At this time R. Cataggio made a motion to schedule a public hearing for these applications for March 7, 2012. M. Christman seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Cataggio – In Favor

Chairperson Hunter made a motion to authorize the attorney to prepare a draft resolution, based on prior approvals, for these applications. C. Correia seconded the motion. The vote was as follows:

M. Hunter – In Favor  
M. Christman – In Favor  
C. Correia – In Favor  
R. Cataggio – In Favor

**WP3/ARB – TAX MAP 255-1-3.22 et al**

Chairperson Hunter explained that this was to be a discussion for scheduling of a public hearing for the addition of premium colors to the previously approved ARB colors within the subdivision known as Woodbury Junction located on Dunderberg and Nininger Road in Central Valley. She then asked D. Lindsay to give the Board members an overview of the application.

D. Lindsay explained that Bill Brodsky had advised the Board that he wanted to add some colors, and he tried to combine this request with another application. The Board had advised him to make another application on the color changes. Mr. Brodsky has now submitted an application that lists some new colors. He said that there was a list of the new colors as well as a list of the old colors and he felt this could get confusing. Mr. Brodsky was asked to submit one comprehensive list which shows all the old colors and the new colors,

The discussion continued. It was decided that Chairperson Hunter will contact Mr. Brodsky to clarify what he is requesting. M. Christman made a motion to schedule a public hearing for February 15, 2012. C. Correia seconded the motion. The vote was as follows: \_\_\_\_\_

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Cataggio – In Favor

At this point K. O'Donnell noted that there had been a lengthy discussion when the original roof colors were proposed which resulted in a finding in the original SEQRA that the roof colors would be limited to slate gray and brown to reduce the visibility of the structures. She said the new color list has black, which the Board was not particularly in favor of at that time. She was also not sure what "Aged Redwood" looked like. She said it may fall under the brown category. She suggested that when Chairperson Hunter speaks to him she could ask him to bring some sample back so the Board can determine if the colors are consistent with this finding. She added that she could send the Board members the one page which cites the finding.

R. Golden also mentioned the 239 referral in relation to these color changes. He said that there had been a previous indication that this was clearly outside the triggers for 239 review. However, if these colors are now to be used throughout the entire subdivision, that may not be true. It was decided that this will be referred for 239 review.

**PALAIYA VINEYARDS**

There was some discussion regarding a letter that was sent to all the Boards from Palaia Vineyards, requesting that they be allowed to have a farmer's market on Sundays. Chairperson Hunter asked R. Golden to check the code to see if the Planning Board could suggest a change to allow this.

There was no further business for the Board to discuss, so Chairperson Hunter made a motion to adjourn. C. Correia seconded the motion. The vote was as follows:

- M. Hunter – In Favor
- M. Christman – In Favor
- C. Correia – In Favor
- R. Cataggio – In Favor

The meeting was adjourned at 9:08 p.m.

Respectfully submitted,

  
Gale A. Naugle  
Planning Board Secretary