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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

MAY 2, 2012

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VILLAGE OF WOODBURY

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**VILLAGE OF WOODBURY
PLANNING BOARD MEETING**

MAY 2, 2012

PRESENT: M. Hunter, Chairperson
 M. Christman
 R. Anzalone
 R. Cataggio

D. Lindsay
K. O'Donnell
R. Golden

ABSENT: C. Correia
 S. Turner

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 throughout the world.

MINUTES

R. Anzalone made a motion to accept the minutes from the meeting of April 18th as submitted. R. Cataggio seconded the motion. The vote was as follows:

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

CODY BOY'S SCHOOL

Chairperson Hunter cited a letter that was received on April 20th from Michael Sandor with MJS Engineering regarding the erection of a bus garage at the Cody Boy's School. The property upon which this bus garage is to be built is located in Monroe. However, the access road is located in Woodbury. Chairperson Hunter asked if the Planning Board would be an "involved agency". D. Lindsay said that, because there is no permitting that the Planning Board is responsible for in this case, they would not be an involved agency. He added that the professionals who are handling this application sent him a copy of the report that they filed with the Monroe Board, and that he could send copies of the prior reports that he had sent to the Board on the applications that were pending before them so they would know the Planning Board's concerns. Chairperson Hunter said that she wanted to be sure that they are complying with the requirements of the Planning Board's prior approval. D. Lindsay noted that they are obligated to satisfy the approved resolution and site plan. Beyond that it would be a matter of enforcement.

CODY BOY'S SCHOOL (cont.)

After some further discussion, Chairperson Hunter made a motion to authorize D. Lindsay to send over the reports as discussed this evening to both Mike Sandor and Mike Donnelly, regarding the bus garage at the Cody Boy's School. R. Cataggio seconded the motion. The vote was as follows:

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

REGULAR AGENDA

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

Chairperson Hunter explained that this was a continuation of a public hearing for a special permit to allow conversion of existing seasonal dwellings to be occupied for year round use pursuant to section 310-26 of the Village code. The Katz property is located at 13 Sunny Lane and the Lax property is located at 18 Sunny Lane.

Because this was a continuation of a public hearing, Chairperson Hunter opened the floor for public comments and questions. Bob Bruce, a resident of Sunny Lane, appeared before the Board and said that over the past three or four years most of the properties on Sunny Lane have changed hands. As a result of this, there has been a general decay in the quality of life. He said there is a constant zooming of cars up and down the road at all hours of the night, cars blocking the cul-de-sac, and refuse that is tossed along the road. Mr. Bruce said there are people who pull up to mailboxes, check for mail, and drive off. He felt that this meant that more than one family or household was using the same mailbox. He also said there is constant double parking, idling and loitering while people are being picked up or dropped off by vans. Mr. Bruce said he has only seen single men, and people wandering all over. He said there has been some thought of installing surveillance cameras. He went on to say that some of the properties in question are being used as multi-family houses. He has also seen construction going on in some of the houses. Mr. Bruce felt that this was becoming an absentee landlord sort of situation, which is having a direct effect on the quality of life and people's feeling of well-being.

Mr. Lax appeared for both applicants and began to rebut Mr. Bruce's claims. R. Golden reminded everyone that the Board is here tonight to discuss only the two properties listed on the agenda, and not to talk about other people's homes. Mr. Lax said that, in his opinion, 13 Sunny Lane is the nicest house on the block and 18 Sunny Lane is the largest house on the block. He

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

felt that if the previous applicants had received approvals for conversions, these two properties should as well. Chairperson Hunter confirmed that both 13 and 18 Sunny Lane are single family homes, and there is no construction taking place at either property.

Chairperson Hunter then asked D. Lindsay to explain about the testing that had been done on these properties. D. Lindsay said that the tests were done in December of 2011.

G. Thomasberger did what he usually does for any septic test, and that is to witness the dye being placed into the system and the initial flow. He then returns at the end of the day to inspect the ground to see if there is any evidence of the dye on the ground or in nearby water ponds. He returns to the property the next day and makes the same observations. He did this for both locations.

Chairperson Hunter asked K. O'Donnell for her comments. She had none. She then noted that the hearing had been open for three nights, and asked the Board what their pleasure was with regard to closing the public hearing. R. Cataggio made a motion to close the public hearing.

R. Anzalone seconded the motion. The vote was as follows:

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

At this point R. Golden explained that the Planning Board is limited to reviewing applications to make sure that they are in compliance with the code with respect to the jurisdiction that they have, and exercising their judgment and discretion with respect to such matters. He added that there is no home on Sunny Lane that has been approved as multi-family. He further explained that the Planning Board has no enforcement arm, and it would be illegal if they tried to enforce anything, even on current owners. The Planning Board also cannot refrain from approving an application simply because someone else is in violation of a previous approval. Their determination has a limited scope as to whether or not the application is one that fits within the Zoning Code regulations.

Chairperson Hunter then noted that she had two draft resolutions that were prepared on March 10th, which she would now like to read. R. Golden noted that these resolutions should be considered by the Board separately.

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

Chairperson Hunter then began reading the Resolution of Approval for Katz at 13 Sunny Lane. When she had finished, she asked if any of the Board members had any questions or concerns. R. Cataggio wanted something in the resolution that referenced D. Lindsay's letter that G. Thomasberger had witnessed the septic test because he said there was a lot of public comment regarding septic overflow and smell. He wanted to show that the testing had been done. Chairperson Hunter asked R. Golden where this could be placed in the resolution. R. Golden said it could be added to condition number 9 which references a letter from the engineering firm dated December 16, 2011. He will add language that in some way says that the testing referred to in the letter was witnessed by the Village of Woodbury Building Inspector. R. Cataggio was happy with this added language. M. Christman asked for some clarification regarding the testing that was done. He said that the applicant hired an engineering firm to validate what should go on based on a single family home, not what is actually transpiring in the development. D. Lindsay said that was correct. The firm is not certifying anything with regard to operations on the property, merely certifying the septic system. M. Christman asked what tests were done to validate whether or not there was overflow. D. Lindsay said that was the purpose of the dye test.

The Board members had no further questions or comments, so R. Cataggio made a motion to accept the resolution of approval. R. Anzalone seconded the motion. The vote was as follows:

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

Chairperson Hunter then read the resolution of approval for 18 Sunny Lane, after which R. Cataggio made a motion to accept it, with the addition of the same sentence in condition number 9 as the previous resolution. R. Anzalone seconded the motion. The vote was as follows:

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

Chairperson Hunter thanked the public for coming out and assured them that their concerns were heard and understood. She noted that any complaints should be directed to the Building Department.

WPC ASSOCIATES - TAX MAP 241-1-20

Chairperson Hunter explained that this was to be a public hearing for a proposed amendment of the special use permit and site plan to include authorization for additional uses within the LC Zoning District. Amended uses proposed include personal service, medical and dental offices in addition to the general and professional office use allowed under the current special use permit. The property is known as the Woodbury Professional Center and is located at 615 Route 32 in Highland Mills. She then cited a letter from G. Thomasberger which stated his interpretation that health professionals such as acupuncturists and chiropractors would also be considered as medical uses. Chairperson Hunter then read the Notice of Public Hearing which appeared in the Times Herald Record.

Elise Terhune of the law firm Jacobowitz and Gubitz appeared on behalf of the applicant and explained that the site is a renovated school which first received site plan approval in 1984. The special permit was renewed in 1988. Not long ago, the property was placed in the LC Zoning District which allows additional types of uses other than just office. She said the applicant applied for a number of additional uses, and then revised their application to request the personal service use as well as the medical and dental office use.

Ms. Terhune then showed the Board a drawing of the parking as it currently exists on the site. She then explained that there is 1085 square feet of space that could be used for medical or dental offices. This would require additional parking. She then showed the Board how they would move the handicapped parking and place it closer to the handicapped ramp, place four additional spaces, as well as remove a shed and add one more space. If this additional parking was required, the parking lot would need to be restriped.

Chairperson Hunter then asked D. Lindsay for his comments. He said that the resolution would need to be clear that the applicant is not proposing to modify the parking now, but will do this in the future if necessary. He said there would need to be some sort of trigger to make this take place if necessary. He added that he had discussed the handicapped spaces with G. Thomasberger and they both feel that this plan places the handicapped parking in the right spot and provides ample opportunity for maneuvering around the building. He said this is a good striping plan.

Chairperson Hunter then asked K. O'Donnell for her comments. She said that at the last Planning Board meeting it was not determined which type of action this would qualify for under SEQRA. She said that through discussions with the attorney it was decided that this would be an Unlisted Action because it is a change in the use. She said they prepared a Part 2 EAF and did not identify any potentially significant adverse impacts, so a Negative Declaration was also prepared for the Board's consideration. This would complete SEQRA for this application.

WPC ASSOCIATES - TAX MAP 2-11-1-20 (cont.)

At this point Chairperson Hunter opened the floor for public comments and questions. There being none, M. Christman made a motion to close the public hearing. R. Anzalone seconded the motion. The vote was as follows:

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

R. Cataggio asked about the 1085 square feet of available space. He wondered if the applicant would need to reappear before the Planning Board if they exceeded this number. Ms. Terhune noted that the Board has the ability, through a provision in the code, to waive or vary up to 25%. She said if two doctors come in and want to use 2000 square feet it may be possible for them to come back before the Board for them to consider whether it would be appropriate, based on the available parking. D. Lindsay said he would need to look at the code, but what is being approved at this point is 1085 square feet.

At this point Chairperson Hunter made a motion to declare the Woodbury Planning Board Lead Agency for this application under SEQRA. M. Christman seconded the motion. The vote was as follows:

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

M. Christman made a motion to declare this an Unlisted Action under SEQRA. R. Cataggio seconded the motion. The vote was as follows:

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

WPC ASSOCIATES – TAX MAP 241-1-20 (cont.)

Chairperson Hunter made a motion for a Negative Declaration of Significance under SEQRA. R. Anzalone seconded the motion. The vote was as follows:

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

Chairperson Hunter wanted to begin reading the resolution of approval which had been prepared, but R. Golden had some changes on page 3. He said there needed to be two additional materials listed. One would be the opinion letter by G. Thomasberger that the use of both medical and dental offices includes the use of offices by acupuncturists and chiropractors. The other would be a plan sheet entitled "Survey and Proposed Parking Layout Prepared for WPC Associates last revised April 30, 2012".

Chairperson Hunter then began reading the resolution, starting with the Specific Conditions. Condition number one dealt with the 1085 square feet which the condition stated was "limited to Suite 4 located on the first floor". K. O'Donnell asked how specific the Board wanted to be, and if a future renter would have the ability to move this area around. Chairperson Hunter asked R. Golden for his thoughts. R. Golden said he had no problem removing the words "suite 4 located on the first floor". The condition would say that the medical/dental or health care professional use shall be limited to a total of 1085 square feet. The personal service portion would remain the same.

Chairperson Hunter began to read Condition number 2, but R. Golden said it should be deleted. Chairperson Hunter then resumed her review of the resolution, changing the numbers accordingly. After her review, M. Christman made a motion to accept the resolution with the changes made this evening, and authorize the Chair to sign it. R. Anzalone seconded the motion. The vote was as follows:

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

MERKELY BUILDING CORP. - WP3 - TAX MAP 225-1-3.22 et al

Chairperson Hunter read the Notice of Public Hearing which appeared in the Times Herald Record for ARB approval of an additional fifteen single family home styles and materials for lots located within Phase 4 and 5 of the previously approved subdivision known as WP3/Woodbury Junction pursuant to Village of Woodbury Code Section 8-4. Dwellings located within an area designated as a critical environmental area are subject to the Village regulations for ridge preservation (310-13). Property is located within a subdivision known as Woodbury Junction on Dunderberg Road and Nininger Road in Central Valley. Chairperson Hunter then noted that on April 19th, pursuant to GML, paperwork was sent to the Orange County DPW and the Orange County Department of Planning. On April 30th a response was received from the DPW that they had no problem with this application. No response has been received yet from the Department of Planning. She deferred to R. Golden, but said that if the lots are more than 500' from the County road, GML would not apply and the Board could proceed without waiting for a reply. R. Golden said that this was correct. However, if only one of the homes is within 500' then the Board would need to wait for a reply from the County. Chairperson Hunter said that Phases 4 and 5 were at the top of the property. She did not feel that any of the lots would be within 500' of the County road.

Chairperson Hunter then asked if there were fifteen models to be shown. D. Lindsay said there were actually sixteen, because one of the models was also being shown with a three-car garage. She said she did not have the square footage for that model. Mr. Merkley said the square footage is the same as the model with the two-car garage.

There was some discussion as to how the applicant was going to make his presentation. It was decided that the house models would be shown first and then the Board would review the materials. Chairperson Hunter noted, for the record, that the selections for siding, stucco color, windows, roof, trim, shutters, stone and brick would be available for any model in any combination that a person wants.

Terry Merkley then began showing the house models and giving the square footage for each one. They were as follows:

- Oxford – 3250 square feet
- Oyster Bay – 2755 square feet
- Lexington II – 2684 square feet
- Cambridge – 3050 square feet
- Yorktown – 3300 square feet
- Country Cottage – 2400 square feet
- Mansfield II – 3700 square feet
- Mansfield – 3300 square feet
- Walden – 3200 square feet
- MBC I – 3150 square feet

MERKLEY BUILDING CORP. - WP3 - TAX MAP 225-1-3.22 et al

MBC II – 3500 square feet

MBC III – 3650 square feet

MBC IV – 3150 square feet

MBC V – 3200 square feet (available with two or three car garage)

MBC VI – 3132 square feet

D. Lindsay had some comments at this point. He said that normally the Board receives architectural renderings of the proposed homes. The applicant has provided photos, however, he said he cannot determine the height of the structures from the photos. Mr. Merkley said that all of the buildings will be within the code, and under 35' in height. D. Lindsay said that G. Thomasberger would need to have something to look at to know what the Board had approved, and he usually uses house plans. Mr. Merkley said that this is the way that G. Thomasberger wanted to handle this application. D. Lindsay said that if G. Thomasberger was comfortable with the photos then that was fine.

The applicant then began his review of the proposed materials. The siding will be by CertainTeed, and the style will be Main Street. He then showed the Board the proposed colors. The Board was in favor of all the colors, with the exception of Colonial White. Chairperson Hunter asked R. Golden if he could note this for the resolution. R. Golden said that he could, however, he felt that the Board was omitting a threshold issue of whether or not they could approve this tonight because they don't know whether or not some of the homes may be within 500' of the County road. If one is, then the Board does not have jurisdiction to make this decision. The materials were sent out on April 19th, and 30 days have not passed, so the Board does not have jurisdiction. The only one with jurisdiction is the Department of Planning. He said if the Board knew for certain that no home is within 500' then they could move on. The applicant suggested a condition in the resolution that none of these plans are approved for any lot that is within 500' of a County road. R. Golden said the Board is able to do that, however, this places the burden on G. Thomasberger to enforce it. Chairperson Hunter was confident that none of the properties in Phases 4 and 5 are within 500' of the County road. R. Golden reiterated that the Board could not know for certain that there are no properties within 500'. If they proceed without getting a letter from the Planning Department and they are in error, any approval they give will not be an approval. This may result in the consequence that anything the applicant builds will have to be torn down and put up in accordance with the Planning Department. This is a risk the Planning Board and the applicant will take if it is assumed that everything is beyond 500'.

Chairperson Hunter proceeded with the stucco color selections. It was decided that Snowball and Marble White will be removed from the color selection list. All other colors are approved.

MERKLEY BUILDING CORP. - WP3 - TAX MAP 225-1-3.22 et al (cont.)

For the window selection, Mr. Merkley said the windows will be Silverline. The colors are white, beige and bronze. All windows are non-glare. There was some discussion regarding the fact that Silverline is owned by Andersen. The applicant would also like to be able to offer Andersen windows, in the same colors. The Board said this would be allowed as well.

The roof manufacturer is Tamco. The style is Heritage. The applicant would like to use all colors except any color that has the word "black" in the title.

The trim manufacturer is CertainTeed and the style is Main Street, the same as the siding. All the colors were allowed, including white.

The shutters are to be manufactured by Alside. The styles are both louvered and raised panels. The Board was fine with all the colors on the applicant's list.

The stone for the homes will be manufactured by El Dorado Stone. There is no white or black stone being offered.

There was a discussion regarding the brick. The manufacturer is Glengary. It was decided to omit Concord White 1776, Lorraine White and Blackpool from the list being offered.

Chairperson Hunter asked K. O'Donnell for her comments. She said that, in terms of SEQRA, the entire WP3 development went through a lengthy SEQRA process. What the Board typically does is determine that this application (or these applications in this case) are consistent with the original SEQRA findings of the Board and no additional SEQRA review is needed. Chairperson Hunter made a motion to reaffirm the prior SEQRA findings. M. Christman seconded the motion. The vote was as follows:

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

At this point Chairperson Hunter opened the floor for public comments and questions. There being none, M. Christman made a motion to close the public hearing. R. Anzalone seconded the motion. The vote was as follows:

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

MERKLEY BUILDING CORP – WP3 – TAX MAP 225-1-3.22 et al (cont.)

At this point Chairperson Hunter was ready to read the resolution of approval. R. Golden cited some changes that he was proposing, including a sentence that “on May 2, 2012 the Planning Board, in its continuing role as Lead Agency, reaffirmed its prior SEQRA findings that proposed home styles will trigger no further SEQRA review”. Regarding GML 239, the second sentence will be modified to read, “the Department of Planning did not respond prior to the meeting at which this application is being approved. Each of the properties that are subject to approval herein are more than 500’ from a County road or other triggering factors in General Municipal Law 239-L”. He also had added two conditions, which he will read when the Chairperson gets to that part of the resolution.

Chairperson Hunter then read the resolution of approval. R. Golden proposed that Condition number 7 should read, “window selections are limited to Andersen and Silverline”. Number 8 will read, “colors for the above noted model home components are further limited as follows: A) Siding – No Colonial White B) Stucco – No Snowball or Marble White and C) Brick – No Concord White 1776, Lorraine White or Blackpool.”

M. Christman then made a motion to accept this resolution with the changes discussed and agreed upon and authorize the Chair to sign it. R. Cataggio seconded the motion. The vote was as follows:

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

WIRELESS CONSULTANT

Chairperson Hunter explained that this was to be Board consideration of wireless consultant applications for future applications. The Board agreed that they had enough discussion regarding the applicants for this position and wanted to make a selection. Chairperson Hunter made a motion that they accept the proposal submitted by Tectonic. R. Anzalone seconded the motion. The vote was as follows:

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

It was decided that R. Golden would notify both applicants of the Board’s decision.

WOODBURY COMMON 2012 EXPANSION

R. Golden cited an e-mail from S. Turner regarding the plans for the Woodbury Common expansion. He said that the applicant had submitted detailed site plan, special permit and ARB proposals and wanted the Board and consultants to begin reviewing these. He added that, according to D. Lindsay, these plans are construction-ready plans. The applicant is more than willing to pay any fees out of escrow for the review of these plans because they are anxious to get the project moving. After some discussion, the Board agreed that the consultants, as well as the Planning Board, could start reviewing the plans.

There was no further business to conduct, so M. Christman made a motion to adjourn.
R. Anzalone seconded the motion. The vote was as follows:

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

The meeting was adjourned at 9:45 p.m.

Respectfully submitted,



Gale A. Naugle
Planning Board Secretary

