

**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**SEPTEMBER 18, 2019**

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**VILLAGE OF WOODBURY  
PLANNING BOARD MEETING**

**SEPTEMBER 18 2019**

PRESENT: C. Gerver, Chairman  
R. Anzalone  
S. Capriglione  
R. Cataggio

D. Lindsay  
K. Naughton

ABSENT: J. Buglino

Chairman Gerver opened the meeting with the Pledge of Allegiance.

**MINUTES**

S. Capriglione made a motion to accept the minutes from the meeting of September 4, 2019 as submitted. R. Cataggio seconded the motion. The vote was as follows:

C. Gerver – In Favor  
R. Anzalone – In Favor  
J. Buglino – Absent  
S. Capriglione – In Favor  
R. Cataggio – In Favor

At this point in the proceedings a presentation of flowers was made to the Planning Board secretary, who will be retiring after this meeting. The secretary was very grateful (and little embarrassed!).

**REGULAR AGENDA**

**BRACH & MANN -/24 Catskill High Rail – TAX MAP 254-7-2**

Chairman Gerver explained that this was to be a Public Hearing for a revised Site Plan, Special Permit and ARB for a proposed Shul and Mikvah to be located within an existing single-family dwelling. This area is designated as a critical environmental area pursuant to SEQRA and subject to the Village regulations for Ridge Preservation (310-13). The property is located at 24 Catskill High Rail in Central Valley.

John Queenan from Lanc & Tully Engineering introduced himself as the engineer for the applicant and gave a brief overview of the project. He said they are before the Board tonight with a proposed Shul and Mikvah at 24 Catskill High Rail. The lot contains a single-family dwelling which is proposed to convert the basement, consisting of 1,927 square feet, into a Shul and Mikvah facility that would seat roughly 60 members. This would be made up of 30 congregants along with their families that would come to the facility. It is located on a lot that is about 19,000 square feet in size. He then showed the location of the site with frontage on both Catskill High Rail and Adelake Fareway. The existing dwelling sits in the center of the lot with access on Catskill High Rail. This driveway access will remain the same.

**BRACH & MANN/24 CATSKILL HIGH RAIL – TAX MAP 254-7-2 (cont.)**

Mr. Queenan said there are no exterior changes proposed and the building footprint will not be enlarged. He said they are proposing a parking area in the back of the structure for 6 parking spaces. That will be 5 regular spaces and one handicapped space. There will be a sidewalk from the parking area to the basement for access to the Shul. This will require construction of a small retaining wall in the back. This access will come from Adelake Fareway as shown on the map. He said they are also providing the landscaping that was discussed as screening from Adelake Fareway. He said the total number of parking spaces on the lot would be 8. He further explained that the applicant is requesting several waivers from the Board. One would be for parking. There is also one for lot area, as well as some for setbacks for the house of worship or Shul use. The single-family dwelling will remain and the rabbi will reside there. That concluded his presentation, unless there were questions. He added that they have been before the Board for quite some time and, hopefully, they could work their way to the end.

Chairman Gerver then asked D. Lindsay for his comments. D. Lindsay said he would be brief, as Mr. Queenan had already covered a lot of what he was going to discuss. He noted that there are some waivers being requested which requires the Board to consider the substantial burden question. He said counsel would advise the Board on this. He added that the Board had an opinion from the Building Inspector that both uses could exist on this lot but then both uses must comply with the requirements of both uses. He said this is why there are a number of issues which normally would be variances, but the applicant is requesting waivers because the Board has the authority to grant them under the substantial burden question.

With regard to site circulation and parking, D. Lindsay said he took a look at the grading work that was shown in the area where they are putting the retaining wall. He said there was a question on the grades of the property in this location and whether it's suitable for parking and ADA. He said the applicant should supplement the site plan to give the Board more information on this.

As far as screening, he said the applicant is providing screening but in one area the retaining wall will be the screening. He said that in one spot it looks like it will be a little lower than the code requires for screening. This should also be addressed. He noted that there is a gravel drive that crosses Village property, so this cannot be used for access.

Because the applicant has noted that the hours of operation will be from 7a.m. to 10 p.m. daily he would need more information regarding lighting. He said there should be some low-level lighting. Because this is a residential area you don't want to have a glowing parking lot, but you do want it to be safe for the people that use it.

D. Lindsay said the Board had asked about parking restrictions for WP3 and he circulated the parking restrictions to the Board that were included in the parking plan. He said there are limitations that all roads are one side of the street parking and the other side of the street is a fire lane so there is no parking. He said he would be happy to answer any questions, but the Board should receive the comments from the public.

**BRACH & MANN/24 CATSKILL HIGH RAIL – TAX MAP 254-7-2 (cont.)**

Chairman Gerver asked the Board members if they had any questions for D. Lindsay. R. Anzalone noted that D. Lindsay had commented in his memo about water use and possible ways of reducing the amount that will be used. D. Lindsay said he did not know if they could reduce the use any further. He said they probably already have water saving features and he did not know if there was anything else they could do to reduce water consumption as well as waste water discharge. He noted that the municipality has had an issue lately with water supply an is trying to develop additional supplies. He said anything that can be done to reduce consumption would be valuable. D. Lindsay also noted that in this particular subdivision there have been materials discarded into the waste water systems which have caused blockages, clogging and some sewer overflows which are unusual and not indicative of the rest of the system. He said the Board should be looking for whatever cooperation they could get from the operator of the Shul to try to avoid this type of thing, to the extent that they can.

Chairman Gerver pointed out that the Board did receive an interpretation from the Building Inspector regarding landscape screening requirements for a commercial application inside a residential zone. He then made sure that Mr. Queenan received a copy of this interpretation. Chairman Gerver also noted that K. Naughton would look into this further to see if it falls under the waiver requirements of the Board.

K. Naughton informed the Board that the Lead Agency notice was not sent out until September 5<sup>th</sup> because she was waiting for the EAF from the applicant. This means that 30 days have not passed so there was no action under SEQRA that the Board could take this evening. All they could do tonight was hold the public hearing.

Chairman Gerver then asked Mr. Queenan to take a seat so he could open the floor for public comments. He asked that everyone sign the sheet at the podium and that they be respectful and address the Board, not the applicant and keep their comments within 3 minutes long.

Edward Hebel asked if this land was going to be owned by another company and rented out. Chairman Gerver said that there was an LLC form on file for the owners of the property and who their legal representatives are. These are the people who can speak to the Board on the applicant's behalf. As far as any arrangements that come after the approval, that is not the purview of this Board. K. Naughton agreed and said they could rent it out as long as it is being used for the same purpose.

Samuel Ehrefeld of 31 Catskill High Rail wanted to thank the Board. He said he lives across the street from this property. He said the area is hilly and it's not easy to walk. He was looking forward to having a Shul across the street. He said he spoke to all the neighbors and they are all eager to see this Shul put into operation. He respectfully asked the Board to please vote yes.

**BRACH & MANN/24 CATSKILL HIGH RAIL – TAX MAP 254-7-2 (cont.)**

James Frieband had a question about the occupancy of the building and how it would be controlled. He also noted that, as a residence, it is currently on the tax rolls. He asked if this would become tax exempt once it is a religious use. With regard to the waivers, Mr. Frieband said that the State law for Villages provides that variances of area are solely within the jurisdiction of the Zoning Board of Appeals. He felt the Planning Board could be at risk if they don't forward this to the ZBA.

Chairman Gerver told Mr. Frieband that, with regard to the question of occupancy, it would most likely be a condition of the approval of the Site Plan and Special Permit, which would then become an enforcement matter for the Building Department. If someone called to complain that they were over the approved occupancy the Building Department would take over. With regard to the commercial use in a residential area, the Board did get an interpretation about this and has asked their counsel to look into this to see what, if any, power the Board does have to waive any of the requirements. He noted that, as counsel had advised, the Board cannot take any SEQRA action on this application tonight. With regard to the area variances, K. Naughton agreed that area variances are solely within the jurisdiction of the ZBA, however, this is not an area variance. She said it is something that also comes under State law which sets the test of the substantial burden being placed on the practice of somebody's religion. The Village has just incorporated this into their code, so they are following State law.

Yoel Shtosel said that they need the Shul like the Board needs air to breathe or they can't proceed. He added that they pay taxes and also HOA fees and pay for the roads but the Village doesn't take care of them. He said he at least would appreciate it if the Village would give them what they need.

Mordechai Schwartz said he also lives across the street from this property and agreed with Mr. Shtosel that the Shul is very important. He said without the shul the whole neighborhood is not interested. He thanked the Board for listening to everyone and asked that they please vote yes on this application.

Morris Itskovits of 35 Catskill High Rail said his property is on the hill overlooking the proposed shul and Mikvah. He also asked that the Board approve this because he said it is very important not only during the week, but it is even more important during the Sabbath and the holidays. He said that if they were to walk to the nearest place of worship it would take them an hour or more. He asked the Board to approve this application.

There were no further comments or questions so Chairman Gerver made a motion to close the public hearing. R. Cataggio seconded the motion. The vote was as follows:

- C. Gerver – In Favor
- R. Anzalone – In Favor
- J. Buglino – Absent
- S. Capriglione – In Favor
- R. Cataggio – In Favor

### **BRACH & MANN/24 CATSKILL HIGH RAIL – TAX MAP 254-7-2 (cont.)**

Chairman Gerver noted that this application will need to be rescheduled for the review of the EAF. Mr. Queenan asked if there was anything the Board would like to review on the site plan that was submitted. S. Capriglione noted that on the prior map there were a total of eleven parking spaces and now it is down to 8 spaces. She asked why this happened. Mr. Queenan said that, based on the discussion with the Board at the last meeting, they reduced the parking to make the area more maneuverable and provide for landscaping buffers. Also to try to reduce the development. He said he went back to the congregation and asked them about their parking needs and tried to balance that with all the other factors so they came up with this layout that works with the handicapped and ADA compliance and the sidewalk and retaining wall so it's just functional. S. Capriglione asked how much street parking they would anticipate. Mr. Queenan said that most of the congregants are local so there will not be a lot. He said probably less than 50%. Chairman Gerver asked, for clarification, if there were going to be any school or day care uses. Mr. Queenan said there will not.

Chairman Gerver brought up the issue of parking lot lighting. Mr. Queenan said there are lights that are associated with the house now. He was not sure if the Board wanted dedicated parking lot lights or not. D. Lindsay said the lighting on the house may be sufficient. He was not sure what the lights looked like on the parking lot. He also asked if there were going to be any architectural changes made to the structure. Mr. Queenan said there would be no changes to the exterior or the structure.

Chairman Gerver asked if there needed to be a separate hearing for ridge preservation. D. Lindsay noted that one of the requirements of ridge preservation is that the applicant submit a photo rendering of what this is going to look like, however, this structure has already been approved so this may not be necessary. K. Naughton said it would be helpful to have that photo for the file.

### **WOODBURY COMMON – TAX MAP 225-1-70.2 & 226-1-1**

Chairman Gerver explained that this was to be a public hearing for an amended Site Plan, Special Permit and ARB for an outdoor dining patio. The property is located off of Route 32 in Central Valley.

John Villapiano, Vice President of Development for Premium Outlet Partners, owners of Woodbury Common, appeared on behalf of the applicant. He explained that he previously did a presentation on this project and received feedback from the Consultants as well as the Board and it was resubmitted as its own application for the patio as well as the exterior façade changes. He believed this submission addresses the main concerns and questions of the Board. He presented the new plan and showed the Board how they dealt with the concern about the pedestrian promenade that jutted out into the pathway beyond the existing curb line. He then cited page 3 of the current presentation book, and showed the Board how they were able to realign the proposed brick seat wall to just be a continuation of the existing Belgian block curb and then it would turn in front of the store.

Mr. Villapiano said that, overall, they expanded the patio by 105 square feet. Concurrent with these plan changes both the tenant and the architectural team agreed to infill what is currently the pathway into the main entrance of the old restaurant, which will now be a landscaped bed. He noted that the tenant, as well as Premium Outlet Partners, is seeking 100 seats on this patio. He then showed the Board an architectural concept of how this seating could be laid out. He stressed that this was a concept plan and not the final layout, as it could change. However, this plan shows how it could be comfortably laid out and still provide for 100 seats.

S. Caprigione asked Mr. Villapiano to clarify where the entrance would be. She asked if customers would need to walk through the outdoor seating to get to the restaurant. He said yes. There was some discussion about this area possibly getting congested. Mr. Villapiano said that the tenant's interior space does include a waiting area. He said the tenant was concerned about site visibility. He said when you are looking at this corner, the tenant wanted to make this entrance the focal point because you can see it from multiple directions. They felt the other entrance was tucked away too much. Mr. Villapiano asked if he should proceed with his presentation or hold off for the public hearing. K. Naughton said he should give a presentation on the ARB materials and noted that an ARB application was not received with the form setting forth the colors and materials. Mr. Villapiano said the application was submitted. He showed the Board his copy. Since none of the Board members or Consultants had a copy of the form, it was decided that it should be re-submitted.

Mr. Villapiano then gave his ARB presentation, displaying a rendering of the building as well as the colors and materials that would be used. He showed the signage and said that all signage will comply with the Woodbury Common existing signage standards. He said a question was asked about whether this would be visible from Route 32. He noted that there is a sizeable retaining wall that backs into the service court and you can't really see this building unless you are standing on the ring road.

Chairman Gerver asked D. Lindsay for his comments. He had only a few items. He noted that, obviously, it is a permitted use in the zone as part of this commercial center. As far as GLA, that is something the Board always looks at and that is Gross Leasable Area. He said that G. Thomasberger gave the Board an opinion on this that it is a temporary use and basically takes the place of people that would be sitting on walls or someplace else and it provides an amenity as a seasonal use, so he did not believe that it contributes to the GLA. D. Lindsay did say that this could change if this became a significant part of the development. As for coverage, he said this adds slightly to the coverage. The latest analysis that the Board had was for the 2012 improvements and at that time they were at 63.2%. He said this is a very small addition and not worthy of review further, but when they come in for their Phase 5 improvements, he will be looking for a comprehensive review of coverage on the site.

**WOODBURY COMMON – TAX MAP 225-1-70.2 & 226-1-1 (cont.)**

With regard to pedestrian circulation and safety, D. Lindsay said this will be an exterior development that will take place in a high pedestrian movement area. He said they did a good job when they were doing the 2012 improvements and suggested that the Board have a condition or a requirement for this application as well. He also suggested that something be placed on or near the wall to call people's attention to it.

As far as the ESO's, the Police and Fire Departments have said they have no concerns with the proposed development. He suggested that the Board review the window treatments that were shown on the presentation as they are different from what the Board usually sees.

S. Capriglione questioned the fact that there were windows being proposed for the rear of the building. She asked if there was anything in the original approval that dealt with windows in the rear of the buildings as she said none of the other buildings have them. D. Lindsay said that most of the other buildings face a service court in the rear. Mr. Villapiano said this building area is not within the service court and is within view of the rest of the Niagara section. D. Lindsay said there was nothing in the original approval for Woodbury Common regarding windows in the rear of the buildings.

There was some discussion regarding the new sign for "Parm" that will be on the building. D. Lindsay did not know if G. Thomasberger had reviewed this yet, but suggested that he look at it. He said there is a condition in the Woodbury Common resolution of approval regarding signs if they are visible from Route 32. If it is visible, there is a different level of review. He said he would take a look at it and speak to G. Thomasberger about this.

Chairman Gerver asked about the ability to evacuate people in an emergency with the entrance at the patio. R. Anzalone asked if the ESO's could re-evaluate this. D. Lindsay said the only one he had not heard from was the Ambulance Corps. He said he could try to get an answer from them.

R. Cataggio asked how the handicapped access would work. Mr. Villapiano said that the sidewalk in this area is level, there is no step there. Anything in terms of grade in this area would be ADA compliant.

At this point Chairman Gerver opened the floor for public comment. Robin Crouse of Highland Mills said she liked the concept but felt that it might be too much for the site. She said she would like to see another concept drawn up and presented to the public. She asked that the public hearing remain open. She felt that fifty seats would be a good start. She did not feel that the entranceway being accessed through the patio was plausible, not to mention unsafe in a lot of ways.

Chairman Gerver asked for any other questions or comments from the public. There were none, so R. Anzalone made a motion to close the public hearing. R. Cataggio seconded the motion. The vote was as follows:

**WOODBURY COMMON – TAX MAP 225-1-70.2 & 225-1-1 (cont.)**

- C. Gerver – In Favor
- R. Anzalone – In Favor
- J. Buglino – Absent
- S. Capriglione – In Favor
- R. Cataggio – In Favor

K. Naughton said that with regard to SEQRA, this is consistent with what was previously studied, so the Board is able to confirm their findings. She also noted that this was referred to the County for 239 review and it came back as a local determination.

Chairman Gerver made a motion that the Planning Board reaffirm the previous SEQRA findings for this application. R. Anzalone seconded the motion. The vote was as follows:

- C. Gerver – In Favor
- R. Anzalone – In Favor
- J. Buglino – Absent
- S. Capriglione – In Favor
- R. Cataggio – In Favor

Chairman Gerver then made a motion to authorize the attorney to draft a resolution of approval, with the caveat that the ARB form is received by the Building Department. Mr. Villapiano said he would get it in tomorrow morning. R. Cataggio seconded the motion. The vote was as follows:

- C. Gerver – In Favor
- R. Anzalone – In Favor
- J. Buglino – Absent
- S. Capriglione – In Favor
- R. Cataggio – In Favor

**WEISS/APPLE HILL – TAX MAP 204-2-2**

Chairman Gerver explained that this was to be a review of a decision on a revised proposed single-family home located at 26 Apple Hill Drive in Highland Mills. The property is designated at a critical environmental area pursuant to SEQRA and subject to the Village regulations for ridge preservation (310-13).

Barry Terach, architect for the applicant, appeared on his behalf. He said that he felt that after many months or years or whatever it has been, he thinks they are at a point where the application before the Board has all the issues that have been brought up resolved to the Board's satisfaction. He said there was a draft resolution in which they found one error. It listed four bedrooms and the application and the site plan are designed for five bedrooms.

K. Naughton apologized and said that the new condition number 7 should say "the septic system shall be designed to accommodate only five bedrooms." Mr. Terach said there have been no changes to the plans since the last submittal so they are hoping tonight to get a final approval.

**WEISS/APPLE HILL – TAX MAP 204-2-2 (cont.)**

There was some discussion about staircases that would be added to the basement. Chairman Gerver said there were no doors shown. Mr. Terach said he will add the doors and both locations will have a three-foot swing-in door.

Chairman Gerver noted that the Board did ask G. Thomasberger for an opinion on whether or not this house met the definition of a single-family dwelling. He then quoted his September 11, 2019 memo which stated “I have reviewed the dwelling dated September 5, 2019 which includes an additional stairway from the basement as requested by the Board. Although a number of water closets still exist, the labeling of Men and Women does not appear on this plan. The layout is not typical of other single-family dwellings, however, the code does not restrict the number of bathrooms. The applicant has stated that he has a large family and these water closets are for their convenience. The use will be restricted for a single-family only and any deviation will be a violation of the certificate of occupancy. Therefore, it is my opinion that the dwelling would qualify as a single-family dwelling”. Chairman Gerver then asked if any of the Board members had any questions. S. Capriglione noted that the Board had discussed a condition about the berm, and that it was not to be removed. She said she did not see this condition in the resolution. Mr. Terach said he recalled discussing a condition and this is noted on the site plan so if it becomes a condition that would not be a problem for the applicant. D. Lindsay said they are obligated to put it on the site plan. And K. Naughton added that they will also have to file a deed restriction saying that removal of the berm is prohibited. She said this is covered in Specific Condition 9 but should also be added to Specific Condition number 5 where it talks about unnecessary clearing to be avoided and use of deciduous trees to add another sentence saying, “the existing berm shall not be removed except as noted on the plans above.”

R. Cataggio note that the labels on the plans were incorrect. K. Naughton said that based on these concerns it would be appropriate to add a Specific Condition saying, “prior to the signing of the plans the applicant shall revise the cover sheet to accurately reflect the pages”.

Chairman Gerver then reviewed the Resolution of Approval. When he was finished, he made a motion to approve the resolution with the modifications that were discussed. S. Capriglione seconded the motion. The vote was as follows:

- C. Gerver – In Favor
- R. Anzalone – In Favor
- J. Buglino – Absent
- S. Capriglione -In Favor
- R. Cataggio – In Favor

**HARTMAN – TAX MAP 255-1-7**

Chairman Gerver explained that this was to be a review of revised materials and a review of a decision for ARB of a proposed single-family dwelling within the development known as Woodbury Villas. The property is located at 7 Allegany Cross.

## **HARTMAN – TAX MAP 255-1-7 (cont.)**

Larry Hartman appeared as the applicant and said that he came with revised plans and lots of additional information that was requested by the Board and Consultants. He said he provided everyone with a package which basically includes three things: Revised plans, which were made smaller, A comparison for ARB with another house in the neighborhood, and photos of other homes around the neighborhood that the Board wanted to see. He then went through the package, section by section. He explained to the Board that he narrowed the house by 12' to 96'. This reduced it by about 315 square feet. He said they made other rooms slightly smaller and removed the fifth bedroom, which reduced the house by 600 square feet. He referred to his plans which showed the previous plans in red, and the reduced plans in black.

Mr. Hartman said he was comparing his house to the house at 3 Patterson Pass, which he said had a special ARB approval. It was determined that the original approval was done for Don's Custom Homes back in 2013. He said the house was the same width. 3 Patterson Pass is 96'6" and his house is 96'9". He then showed the Board photos of the front and rear of 3 Patterson Pass.

Mr. Hartman continued the review of his 17- page submittal, ending with photos of other homes in the area which, he said, are much larger than what he is proposing. Chairman Gerver said he spoke to G. Thomasberger about the list that D. Lindsay had given the Board showing the square footages of homes in Woodbury Junction. He was told that the square footages only included the first and second floor living spaces because that's what the houses were approved for. They don't take into account unfinished basements or bonus rooms. Mr. Hartman said that is why he compared the mass of the house. He said it doesn't matter what is finished or unfinished on the inside when all you see on the outside is the mass of the home.

D. Lindsay said he felt the Board had all the information they were going to get, and added that this is still going to be a large house. Whether or not it would be disproportionately large for the area is up to the Board to determine. He noted that the biggest building that is in the development now is 8109 square feet and this one will be 9093 square feet so it will be the biggest house.

The discussion continued regarding the comparisons of Mr. Hartman's home to other homes in the area. Chairman Gerver noted that this house is long and low whereas other houses in the development are just like squares stacked on top of each other. He said he felt the applicant did a good job trying to blend his home into the landscape so it doesn't look so massive. He felt that, having done a site visit and driven through the neighborhood, this house is not too dissimilar. He said it looks nice and it fits in. All Board members agreed.

Chairman Gerver then read the Resolution of Approval, beginning with the Findings. There was some discussion regarding a possible condition about returning to the Planning Board for any alterations or additions to the home. R. Anzalone noted that any applicant would need to get a building permit for these things. D. Lindsay suggested changing the condition to say that finishing a basement that has exterior changes or has some potential impact on the exterior of the structure that may affect ARB has to come back to the Board would be more appropriate.

**HARTMAN – TAX MAP 255-1-7 (cont.)**

R. Cataggio noted that Mr. Hartman's 17-page document was a key factor in the Board's decision, particularly the fact that the house was 96', which was the same as the house he compared it to. He felt this should be memorialized somehow. S. Capriglione said that it should be noted in the findings how the Board arrived at their decision.

The Board also decided to remove the condition about returning to the Planning Board to finish the basement. K. Naughton suggested modifying the findings to the 4<sup>th</sup> line down starting with the word including to "including but not limited to it's overall size, cubical content, gross floor area, height and length of the proposed dwelling at 96' as compared to the dwelling located at 3 Patterson Pass" and then continue.

Based on the changes to the section of the findings and the other conditions in the resolution, Chairman Gerver made a motion to approve the amended Resolution of Approval for the Hartman project. S. Capriglione seconded the motion. The vote was as follows:

C. Gerver – In Favor  
R. Anzalone – In Favor  
J. Buglino – Absent  
S. Capriglione – In Favor  
R. Cataggio – In Favor

Chairman Gerver then made a motion to adjourn the meeting. S. Capriglione seconded the motion. The vote was as follows:

C. Gerver – In Favor  
R. Anzalone – In Favor  
J. Buglino – Absent  
S. Capriglione – In Favor  
R. Cataggio – In Favor

The meeting was adjourned at 9:35 p.m.

Respectfully submitted,

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Gale A. Naugle, Planning Bd. Secretary

