

**Village Of Woodbury
Planning Board Meeting
July 15, 2020**

Minutes of the Planning Board Meeting held on July 15, 2020, at 7:35 PM.
This meeting was held via Zoom also live-streamed on the Village of Woodbury Facebook page.

Present: Christopher Gerver, Chairman
Robert Anzalone
Joseph Buglino
Sandra Capriglione
Thomas Deluca

Absent: None

Also Present: Richard Golden, Planning Board Attorney
Natalie D. Barber, Engineer
Jon Bodendorf, Engineer
Mike Musso, Telecommunications Consultant

Chairman Gerver opened the meeting with Pledge Of Allegiance.

1. **Executive Session:** No Executive Session was necessary.
2. **Public Comment:** No member of the public had comments.
3. **Approval and Acceptance of Previous Minutes:**

A motion was offered by Chairman Gerver, seconded by S. Capriglione, to approve and accept the minutes of the meeting held on June 17, 2020. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, J.Buglino, S. Capriglione, T. Deluca
NOES 0

A motion was offered by Chairman Gerver, seconded by R. Anzalone, to approve and accept the minutes of the meeting held on July 1, 2020. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, J.Buglino, S. Capriglione, T. Deluca
NOES 0

4. **Regular Agenda:**

- A. **Parm/Woodbury Common** – Public Hearing for proposed changes to previously approved ARB for PARM Suite 448. Said property is located within the Woodbury Common shopping center and is known on the Village of Woodbury Tax Maps as Section 225-1-70.2 & 226-1-1.

In October 2019, the board approved an application for an amended Site Plan, Special Permit, and ARB for a dining patio at Suite 448 (Parm). This current application is for modifications to the ARB approval primarily related to materials, colors, and location of windows. At the July 1st meeting, the applicant confirmed there are no proposed modifications to the site plan. At that time, the board asked H2M to review the signage for visibility along Route 32. H2M architects + engineers confirmed the location of the sign on the rear elevation is visible from Route 32. In the board's prior approval, the applicant proposed to modify the roof gables, changing the location of the prior "Applebee's" sign to a new gable. In this submission, the applicant proposes to construct the sign for "Parm" in the same location as the approved "Applebee's" sign. The sign may comply with the approved tenant signage criteria that specify it may not exceed 10% of the contiguous wall area. The applicant should confirm the dimensions of the gable and sign for agreement with the approved plan and tenant sign criteria. H2M believes the changes are minor from the board's prior sign approvals for "Parm" and "Applebee's". The board's review is for appearance and conformance with ARB requirements. As noted previously, the board may wish to see the materials board for this section of Woodbury Common to decide on compatibility with adjacent storefronts.

Mr. Garrett Singer of Garrett Singer Architects for Parm project was not visible or heard via Zoom so Vice President of Simon Premium Outlets, John Villipiano summarized the improvements on Parm project suite 448 for the public meeting. Mr. Villipiano mentioned the proposed changes on the exterior of the proposed project presented to the board and approved last year. The current application references the reallocation of colors and materials that will be used. Swapping out what was approved were green metal awnings to a canvas awning that is more consistent throughout the Woodbury Commons. The changes are driven by the tenant's updated branding along with the signage that was presented to the board. The signage is being modified only for content, the size and location remain the same. Chairperson Gerver asked the board if they had any questions on this application and they all replied no. He asked if any member of the public wish to speak on this application and no one responded. He continued to ask if there was any chatter on Facebook live stream regarding the application and the response was no.

With no further comments, a motion was offered by Chairman Gerver, seconded by S. Capriglione, to close the Parm/Woodbury Common – Public Hearing.

ADOPTED AYES 5 Chairperson Gerver, R. Anzalone, J. Buglino, S. Capriglione, T. Deluca
 NOES 0

Mr. Bodendorf said as per the board's request in the previous meeting they looked at the sign on the rear elevation to see if it was visible from Rt 32. That was taken care of. Mr. Bodendorf is requesting the applicant to confirm the sign on the gable. He would like for it to agree with the approved plan tenant sign criteria. Attorney, Richard Golden added to Mr. Bodendorf's comment on tenant sign criteria; he mentioned the draft resolution of approval, pointing out section 3 in the Specific Conditions "Tenant Sign Criteria".

3. *Proposed signage shall be in accordance with the approved "Tenant Sign Criteria". The applicant shall provide proof of compliance prior to plan signing to the satisfaction of the Village Engineer.*

Mr. Golden said it's typical for the board to receive a plan signing letter from H2M indicating when it is ready for signature value. Chairman Gerver asked the board if they had any questions for Mr. Golden and the response was no. He proceeded to read the Specific Conditions.

Specific Conditions

1. *All applicable conditions attached to the Site Plan, Special Permit, and Architectural Review Board approvals from 1997 to the present for Premium Outlet Partners, L.P./Chelsea GCA Realty Partnership, L.P. / CPG Partners, L.P. (also referred to in the same as Woodbury Common Premium Outlets), and any subsequent amendments thereto, are hereby incorporated into this Resolution and are to remain in full force and effect, and this approval is subject to, and conditioned upon, satisfaction of those conditions as if they were set forth at length herein.*
2. *During construction, safety shall be the sole responsibility of Premium Outlet Partners, L.P and their contractors with all appropriate safety measures provided. These features shall also be to the satisfaction of the Village Building Department for public safety.*
3. *Proposed signage shall be in accordance with the approved "Tenant Sign Criteria". The applicant shall provide proof of compliance prior to plan signing to the satisfaction of the Village Engineer.*
4. *Proposed outdoor dining area shall be kept in a neat and orderly condition. Trash/refuse receptacles shall be emptied as required for a neat orderly site with adequate available capacity for refuse and, at a minimum, at the end of every business day. Chairs, and tables, umbrellas and any other equipment or furniture not bolted down shall be securely positioned when not in use and after hours to prevent displacement due to poor weather conditions that may result in property damage or injury.*

Motion was offered by S. Capriglione, seconded by J. Buglino, to approve the draft Resolution of Approval for Woodbury Common Premium Outlets PARM REstaurant -Suite 448.

ADOPTED AYES 5 Chairperson Gerver, R. Anzalone, J. Buglino, S. Capriglione, T. Deluca
 NOES 0

- B. Woodbury Villas** - Review application to amend the previously approved project re-Phasing plan. The applicant requests amendment to expand the number of Certificate of Occupancies issued before the installation of a traffic signal at the intersection of Dunderberg and Ninninger Road. Said subdivision is

located off of Dunderberg Road and is known on the Village of Woodbury Tax maps as Section 225 Block 1 Lot 3.22 et al.

At the meeting held on March 4, 2020, the applicant believed it was not required to have a public hearing but, upon advice from the board's counsel, it was confirmed a public hearing is required. The board considered the history of the traffic signal on prior phasing plans. They had required the applicant to submit a plan to show lots with Certificates of Occupancy (CO's), the locations of the requested 30 parcels for CO's and lots where building permits have been issued but no CO's requested at this time. To avoid administrative confusion, this new proposed phase plan is to be referred to as the "11th Amended Phase Plan (2020)". The developer has returned to the board on several occasions since the granting of the final subdivision and site plan approval in 2006. The prior revisions were primarily regarding the phase plan and ARB (Architectural Review Board) approvals. H2M provided a summary of these revisions in their previous memorandum (243-20-006). The initial application materials requested consideration of a few changes as follows:

- An additional 30 certificates of occupancy (total 192) before the traffic signal at the intersection of Dunderberg and Nininger Road is installed.
- A transfer of eighteen lots from Phase 1 to Phase 6 and five lots from Phase 7 to Phase 1; and,
- The relocation of a sidewalk on Southfield Falls road from the West to the East side of the road.

The applicant is now requesting the board to only consider the additional CO's before traffic signal installation. This request requires a public hearing. Steven Barshov of Sive, Paget & Riesel, P.C. Attorneys started to discuss the Engineer, Dennis Lindsay's comments from his memo dated July 9, 2020. There was a discrepancy with the number of CO's and BP's (Building Permit) based on the applicant's recent plan and the Building Department. Mr. Barshov said Mr. Eli Ravitz has an updated map that is now consistent with the revised list the Building Department has on file. Mr. Ravitz proceeds to hand out the updated map dated July 14, 2020. The procedure is to hand in all items and or materials to the Building Department before the meeting for review therefore Chairman Gerver advised both Mr. Barshov and Mr. Ravitz that the map will be looked over but no decision will be made from it. Mr. Barshov said he understood and that the only action he expects to occur is to set the public hearing, so the items provided are for information purposes.

The second item Mr. Barshov discussed was concerning the dates on the traffic count information. He said they received emails from the traffic engineer's office confirming the dates of the intersection counts were on February 22, 2017. Also, the corrected reissued letter from Maser Consulting dated March 11, 2020, noted the date February 22, 2017. Mr. Ravitz proceeded to hand out copies of those emails to the board and the consultants. Mr. Barshov said he and the applicant are confused about the traffic count request regarding both entrances for WP3. He believes the traffic counts were done in the traffic study and continues to say there was also a question of traffic increase since 2017 including the impacts from the Exit 131 improvements. To his understanding, he has driven himself through that intersection more than a few times believes the volume and traffic congestion has been alleviated. Mr. Barshov talked briefly about the status of the road work saying quite a bit has happened since their last meeting back in March 2020. He mentioned an email from Mr. Anthony Trochiano from the Orange County Department Of Public Works sent to Mr. Ravitz on July 15, 2020. Saying the disability insurance is needed and that they have everything they need to issue a permit. Also, Mr. Trochiano requested confirmation for a time and day of a pre-construction meeting for either July 16 or July 17, 2020. Mr. Barshov continues to say all the prerequisites have been met for the work to be permitted. As per the email, the insurance was provided on July 15, 2020, and the pre-construction meeting was scheduled for July 16, 2020. They are expecting the permit to be issued thereafter and therefore expecting the work to start shortly. Mr. Barshov said the work will take approximately 6 to 8 weeks to complete. He continued to say that he had spoken to Mr. Golden the day

before and had agreed to provide some documents to him but due to a personal matter he was not able to. Those documents were sent to Mr. Golden before the meeting (July 15, 2020), they were background documents for a permit, the Orange County Agreement with the developer and the Town Agreement dedication land, all requests by the County. Mr. Barshov believes all the information provided should be sufficient for a public meeting. He also addressed their request to transfer of eighteen lots from Phase 1 to Phase 6 and five lots from Phase 7 to Phase 1. Regarding these phases, Mr. Lindsay made note of it in his memo.

H2M memo dated July 9, 2020:

Last phase plan approved was dated 11/18/13, 10th phase revision approved December 18, 2013. This plan was submitted for signature after the expiration of approval. The applicant returned to the Board in 2015 seeking reapproval of the expired plan, considered the 11th amendment. According to our notes, the applicant withdrew that application. Since that application was withdrawn this application (if approved) will serve as the 11th amendment. To differentiate the 2015 and current proposed amendments, we recommend this file be referred to as the 11th amendment – 2020.

Mr. Barshov and the applicant prefer to resurrect the eighteen lots Phase 1 to Phase 6 and add it to the application. Mr. Ravitz handed out maps reference to the eighteen lots and was reminded by Mr. Golden that the maps Mr. Barshov mentioned would have to go to the Building Department first thing tomorrow morning since the board or counsel cannot review them during the meeting. Mr. Barshov is not sure if the resurrecting of the lots would need a public hearing if so, he suggested it be added to the public hearing addressing the CO's.

Mr. Anzalone asked how many homes are occupied as of right now? Mr. Ravitz replied 163. Mr. Anzalone asked if that number has changed since March 2020 and Mr. Ravitz said no. Mr. Bodendorf said Mr. Barshov has touched most of the items listed on the H2M memo dated July 9, 2020. He says the real issue is whether the board would consider issuing the 30 COs and going forward with the public hearing, information submitted concerning the traffic counts (a traffic consultant will need to be on board) and the request of adding the phase the application. Mr. Bodendorf said it sounded like the applicant is making progress in getting the traffic light situation completed. It's great the applicant has a pre-construction meeting set up, but it is still going to be a 6 to 8 weeks process.

Mrs. Capriglione asked Mr. Bodendorf to clarify a note on the H2M memo under Phasing Sequence. She asked if one of the maps Mr. Barshov provided clears up any misunderstanding and Mr. Bodendorf said presumably, he will not know for sure till the submitted maps are reviewed. Mr. Barshov added that the maps submitted should clear up any discrepancies.

"We have reviewed the plan provided by the applicant depicting the CO's and BP's that have been issued. We were recently provided with similar information from the Building Department and note there is a slight difference in the number of building permits issued (39-per applicant, 38- per Building Department). There are also discrepancies in which lots have CO's and BP's that should be clarified. From information we have on file, the following lots should be revised on the applicant's mapping: 13, 42, 47, 53, 68, 83, 87, 89, 122, 305, 415."

Mrs. Capriglione pointed out another section of the memo under Standard Conditions.

"Soil Erosion/Sediment Control/Drainage – The applicant must comply with your resolution conditions and the DEC general permit for soil erosion and sediment control for construction related

activities. This generally limits clearing without stabilization to five (5) acres. According to the Building Department this has been a constant problem due to the large area being simultaneously worked and the organization of construction forces."

Mrs. Capriglione mentioned how all weekend she was emailed and texted about the rain and the sediment coming down. She wants to know what can be done about it since it doesn't seem it's being complied with now. Mr. Bodendorf said it can be enforced by the Building Department, but an inspection need to be conducted after the storm and make sure everything is being done to prevent significant sediment runoff. He continues to say that unfortunately, we are now getting these storms where finished new lawns are getting washed out. Also, presented were some piping issues that needed fixing due to flooding problems. Mrs. Capriglione asked if any violations have been issued. Mrs. Bodendorf responded that any violation would have to come through the Building Department.

Mrs. Capriglione said she has now seen three different addresses for Woodbury Villas and started to list them. 41 Bluefield Dr., Spring Valley, NY, 199 Lee Avenue, Suite 735 Brooklyn, NY, and an address within Woodbury Villas. She wants to know which is the correct address since there should only be one. Mr. Golden agreed there should only be one address that the Village needs to correspond with. Mrs. Capriglione asked Mr. Barshov if he knew the correct address. Mr. Barshov could not provide the address and volunteer, Mr. Ravitz, to provide the correct address. Mr. Ravitz stated the physical office is 49 Lionel Passage, Highland Mills, NY 10930.

Chairperson Gerver advised Mr. Barshov that going forward all the correspondence should be updated addresses and show consistency. Mr. Barshov said he will make sure that happens. Mr. Anzalone refers to a section in Standard Conditions of the H2M memo.

Road Construction – *As noted previously, the applicant should not proceed with the development of other phases if the prior phases are not adequately constructed or maintained. We recommend you include this requirement in any action you take.*

Mr. Anzalone wanted to know if there was a list of the roads completed and not fully developed. Engineer, Natalie D. Barber said they would investigate and provide that list before the next meeting. Mr. Buglino said there was a map from the last meeting. According to his notes from the last meeting, there were some sidewalk questions, because with the phasing some houses were built on one side, but the sidewalks were on the other side. Ms. Barber said the applicant initially tried to accomplish three things at once, one being the relocation of a sidewalk which she believes was removed from their current application. Mr. Buglino recalled the phasing, the switching of the roads being jumbled, a clubhouse from the March 2020 meeting. Mr. Buglino asked, is the traffic light going in the phase in question? Mr. Barshov said Mr. Ravitz would have to answer since he knows those matters better than he does. He continued to say he doesn't believe that anything that they are proposing changes at the moment this is just simply to be able to get existing buildings that are ready for CO's and the only delay is the light. Mr. Buglino also remembered at their last meeting the issue was the light. He said there seemed to be a lot of confusion about what was complete and what wasn't complete and when it was going to be completed. He said we asked for maps to help clarify because the maps we had were different colors and different line weights and the language between maps weren't matching up. Ms. Barber agreed with Mr. Buglino, since there were no other maps aside from the building permits the applicant was required to provide clarified maps. Mr. Ravitz brought up the question about the completed roads. He mentioned the map given back in March 2020 has a key on the top which says completed roads. All the roads that are in the gray are okay. Chairperson Gerver asked Mr. Ravitz that when he says completed, he means it has the finished layer of macadam on top of them.

Mr. Ravitz said they're completed and signed off by the department. It does not have the final coat on it because they have construction trucks coming and going. Mr. Buglino was only able to make out some of what Mr. Ravitz said and continued to say that the applicant cannot move on without the updated maps. Chairperson Gerver told Mr. Buglino the phasing maps will be officially given to the Building Department the next day to be processed, so he'll soon see a copy of the maps in his mailbox.

Mr. Golden had a couple of things to address. The traffic analysis by traffic consultant Kimley-Horn dated February 28th indicated that they did not have the traffic count dates or the time periods of the Maser Consulting report that was dated December 26, 2019. He also wanted to know on the date those traffic counts taken by Maser if there was some sort of proof on how many units occupied at the time of the traffic, from a traffic perspective they can do the math for the 162 units. Based upon the report whereas if only 150 units were occupied then it would be a different calculation, it was said that information was not in a Maser report. As per Mr. Barshov, he thought it was. The traffic consultant previously mention that it was not in those reports so Mr. Golden thinks what is needed are the traffic account dates, time periods counted, and a tabulation of accounts set forth in Kimley-Horn's traffic analysis dated February 28, 2020. Also, the applicant needs to verify the number of occupied units at the time of those counts. Mr. Golden continues to say a public hearing is required for both aspects of the application. The adjusted rephasing as well as for the adjustment of the condition concerning the 162 units that can be occupied before the traffic light installment; so the public hearing has to be set on both matters. Chairperson Gerver asked if it would take 45 days from the close of the public hearing for the board to have a decision made. Mr. Golden said there was no specific deadline for the amendment of the subdivision resolution.

Mr. Ravitz referred to the traffic consultant Kimley-Horn letter dated February 28th. He said a letter from Maser Consulting was submitted to the Building Department back in March 2020 and in that letter, it clarifies a date that was disputed. Mr. Golden said he did not receive a copy of that letter. The board had a copy of the letter and Chairperson Gerver said at the very least we're going to have to have a third traffic consultant because there is a conflict with the two traffic consulting agencies. He continues to say he knows how busy that intersection is, and it would be much better for a third consultant to just review and analyze. Mr. Golden explained Chairperson Gerver request saying that although there was a thorough review by Kimley-Horn there's certain data missing and what the new traffic consultant would do is simply look at that data and look at Kimley-Horn's report basis report and then either confirm or not confirm that the traffic count dates and the representation as to how many units are done makes sense from the traffic analysis. Chairman explained to Mr. Ravitz, a new traffic consultant will look over Kimley-Horton's and Maser's report with the updated data. He continues to say as of now there's no traffic consultant. Maser had refused themselves. Mrs. Capriglione asked if the new traffic consultant were to have questions about the Maser report who would they go to? Mr. Golden said they would have to ask the applicant and the applicant would have to figure out some way to answer those questions.

Mr. Golden had previously provided the board with 3 names of traffic consultants to choose from and Chairman Gerver said he'll work with Mr. Golden in choosing one. The board chose to wait for the additional information from the new traffic consultant and the review from Mr. Lindsay on the maps presented at the meeting to set the public hearing for the applicant. Mr. Barshov said the March 11th letter with the corrected date that was submitted does refer to the time when the traffic data was obtained, the time of day as well as the date. He thinks the only information that Mr. Golden referred to is the number of occupied units at that time, which he would be happy to provide based on the number of CO's that were issued at that time. He doesn't think that that number is likely to make a big difference in the overall traffic information and the only purpose for the traffic study is for the board to have available information that would cause the board to believe that there's a serious traffic problem; that would deter from approving

the issuance of CO's before this traffic light is put in. Mr. Barshov continues to say that what is to be reviewed and analyzed by a third traffic consultant is a question based on data that has already been obtained and submitted. The applicant has road work that is about to begin, and they are moving into a phase where if they don't get it set for a public hearing the construction is likely to overtake all of this anyway. His hope would be that the board would set the public hearing because he thinks none of the data is likely to be significant. Chairperson Gerver said that is up to the purview of the board and if the board doesn't feel they have the information to move forward he can't force the board to make a motion or a member of the board to make a motion to set the public hearing. Mr. Buglino said he understands what Mr. Barshov is saying but it's not the right move at this time to set the public hearing. Mr. Deluca agreed with Mr. Buglino.

- C. Congregation Ohev Shalom - Review additional documentation submitted for the proposed conversion of a portion of an existing single-family dwelling to a shul with site improvements. Said property is located at 230 Schunnemunk Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 247 Block 3 Lot 4.

This is an improved property with an existing one (1) story single-family dwelling. The applicant proposes converting the dwelling to a Shul with Mikveh and adding other site improvements to accommodate this use. The residential use will be discontinued; it will be a Shul with Mikveh only. The board has reviewed this application on several occasions. During their review, the issues surrounding landscaping, lot area, and coverage were discussed. At the last meeting, on January 15, 2020, the board granted waivers for lot area and coverage. The board requested some changes to landscaping for screening the parking area and borders to residential properties that the applicant has attempted to satisfy in this submission. Mr. Golden advised SEQRA remains to be concluded and a public hearing is required. ARB remains to be considered as well.

John Queenan, Engineer of Lanc & Tully summarized their last meeting with the board back in February 2020. The site plan was reviewed, waivers were required, landscaping, land banking, and the parking. A submission was made early March and was scheduled to appear later in March, but it did not take place due to COVID-19. He said no new materials were submitted since then. Mr. Queenan proceeded to go over the updated site plan. Showing 5 parking spaces to be land banked off the entrance and 2 spaces in the rear as per the board's request. Updated the landscaping in the front and added shrubs and trees in the rear of the parking lot to shield the parking lot. He showed areas on the plan where there will be more screening as well as slight modifications to the drainage. The ARB was submitted. Mr. Queenan believes more of the major issues have been addressed and is looking forward to setting a public hearing.

Mr. Bodendorf said the two main issues from the last meeting with the applicant was the landscaping and the parking. A memo was provided back in March 2020 nothing has changed since then. Comments to parking and landscaping changes.

H2M Memo dated March 12, 2020:

Parking – The Code requires places of worship have one (1) parking space/200 square feet of gross floor area or one (1) space/three (3) seats whichever is greater. The applicant has demonstrated the more conservative calculation is based on seats. They have proposed seventy-two (72) seats which requires 24 spaces. The applicant has shown a parking area with 24 spaces, which includes two (2) handicap stalls and seven (7) land banked spaces3 .

We believe it is appropriate to consider the anticipated parking needs for this religious practice since excessive parking to meet the code requirement might result in an unnecessarily large paved lot in a residential area. The Code specifies that "if in the Planning Board's judgement, a use on a single lot will generate parking needs which are less than the total amount required, the zoning code requires the number of required spaces may be reduced by up to 25%" [§310-40.C.]. Parking is also referenced in the zone table and may be adjusted under the substantial burden criteria.

The applicant previously submitted a traffic report which detailed various parking criteria and an evaluation of parking requirements and mitigations (land banked parking and/or on street parking). Your traffic consultant reviewed the study and agreed with the land-banked parking provision but suggested an alternate arrangement of spaces. The applicant has again revised the layout, but with variations from Maser's initial recommendation. We defer to your traffic consultant on acceptability.

Furthermore, your traffic consultant recommended a note be included on the plan prohibiting parking of construction vehicles and workers along Schunnemunk Road in the vicinity of the site. A note has been added to the plan indicating "No on street parking shall be allowed along the frontage of the property", this is acceptable as a restriction to parking in the long term but, in our opinion, this does not address Maser's concerns.

Landscaping – *Since a parking lot of this size is somewhat unusual for a residential neighborhood, you have considered the appropriateness of the lot and features intended to mitigate visual impacts. You have requested certain landscaping features be provided including plantings where the retaining wall is not present bordering residential areas and additional evergreens. The applicant has revised their plan and you should consider if it is now to your satisfaction. The following should be clarified:*

- 1. The applicant has advised the concrete walk and steps at the front of the home are proposed for removal, but the proposed landscaping appears to be carefully confined within the limits of this feature. The applicant should discuss.*
- 2. There is a discrepancy among the number of shrubs shown on the plan and identified in the site plant schedule. Specifically, we believe 19 and 21 shrubs are shown for the Inkberry and Mountain Laurel species, respectively. The site plant schedule lists 17 and 20. The applicant should revise the plan for consistency.*

Mr. Bodendorf said the memo consisted of engineering details requested by the board and other minor issues that the applicant should be able to address.; so if the board is ok with the revisions to the landscaping and parking the next step will be to bring it to a public hearing.

Mrs. Capriglione asked Mr. Queenan about the water. A letter was received from the Woodbury Heights Estates Water Company stating the water increase will only be 76 gallons from 440 to 516 gallons per day. She asked if the 76gpd is enough for the showers and toilets in the lower section of the house where the Mikveh is located. Mr. Queenan said 440 gpd is for a 3-4-bedroom residential home; it's calculated to 110 gpd per bedroom. He said there are different charts/calculations from the Health Department and the Department of Environmental Conservation (DEC). For instance, for a Church or Synagogue, it would be calculated 3 gpd per person, and if a shower is added it would be another 10 gpd; making it 13 gpd per person times the number of congregates. Mrs. Capriglione showed concern with the number of people

attending the Shul (72 people). Mr. Queenan reminded her the men will be the only ones using the showers. Mrs. Capriglione was concern on the Shul exceeding the water intake and if the applicant will have a problem with that since its private water. Mr. Golden said he does not know of a private company shutting the water off due to the exceeding amount of water initially agreed to. If they shut the water the building cannot be occupied, the building inspector will not allow anyone in a building without running water. Mr. Golden asked Mr. Queenan if it's possible for him to provide the Building Department with those water calculations in a simple tabular format.

Mr. Azalone asked a question regarding a memo from Mr. Lindsay dated March 12, 2020. The sewer administrator was to forward his comments regarding a sewer situation and Mr. Anzalone asked if the applicant had received any notice. Mr. Queenan said he hasn't received anything as of yet. He's not sure if it was the timing (due to COVID-19) when they had submitted the request, but they will follow up. Mrs. Capriglione said the same was for stormwater management; a report was to be done. Mr. Buglino reflected on some questions on the site plan, regarding the second floor and the occupancy of the building. Mr. Queenan said the applicant approached both the project architect and the Building Department and they did not see any issues with the current layout or the code, therefore as designed they are code compliant. Mr. Golden started to list requirement for the applicant needs a public hearing. The SEQRA has not been completed. At a prior meeting there was part 1 and part 2 of the EIS (Environmental Impact Statement) part 2 was received back in March. He continued to say after the board's review they requested additional information on traffic. He asked Mr. Queenan if he could investigate it and see if there's any other traffic information that needs to be submitted. From Mr. Golden's perspective they are ready for a public hearing. Chairperson Gerver confirmed with Mr. Golden the ARB and the site plan public hearing will be set together. Mrs. Capriglione asked Mr. Queenan if the last ARB was dated March 4th recalling the ARB was incomplete and the applicant said he had the complete form to hand in with him. Chairperson Gerver advised the applicant to hand it in the next day to the Building Department.

Mrs. Capriglione asked about the safety of the front walkway. Mr. Queenan said that it was safe, and he would talk more about it with Mr. Lindsay. As he pointed to an area on the site plan, he continues to say the ADA (Americans Disability Act) code is a little gray in the area. They are providing handicap spaces on the site. As he pointed out to the secondary access area on the plan, he said it doesn't have to be ADA compliant because it just leads to the road and there's no other sidewalk network connected to it. He continues to say they have it running around 6%. They use the ADA code in terms of grade, if they go over five percent technically for 88 would have to have railings and they don't want to put railings on both sides because they want to keep the residential look.

Mr. Anzalone referred to the black chain link fence. They were all in agreement that it would look unsightly. Chairperson Gerver recalled the board's request with the chain link fence was to add the additional plantings around the chain link. Mr. Anzalone asked about an air conditioning unit located by the pedestrian traffic area. Mr. Queenan said there is an existing air conditioning unit and when they redo the main entrance they propose to relocate outside of any walkway; it's close to the building so that they don't have to re-pipe everything in the house with the air conditioner. Mr. Buglino had a question regarding a wall and all though he is not in agreement with Mr. Queenan response in the width and placement. Unfortunately, the board will have to leave in Mr. Thomasberger's hands when the site gets approved. Chairperson Gerver said hopefully the applicant doesn't hinder on anyone else's property.

Ms. Barber said to Mr. Queenan that she wasn't sure if he had addressed the comments in the H2M memo dated March 12, 2020. Mr. Queenan said he had no objections or comments with the memo. She then said she looked forward to that new submission. The board gave feedback on the 4 submissions of the house,

showing the front, rear and the side of the house making it look like it fits in the community rather than the original submissions. Mrs. Capriglione questioned one of the submissions showing the side of the house. She asked if the arches can be removed on the side of the house. She wishes the side of the house is less elaborate by removing the columns and the lighting so it can continue to look more like a house. Mr. Anzalone agreed with Mrs. Capriglione. Mr. Buglino asked about the arch windows. He recommended upgrading the windows. The applicant agreed to make the changes and update the drawings. Ms. Barber said since the ARB will be updated, she suggested the applicant look at the ARB section in the memo.

ARB/Ridge Preservation – The plans show the site is above elevation 600 and is subject to the Ridge Preservation requirements. ARB review is an important consideration for compatibility with the surrounding residential neighborhood. The applicant previously provided exterior elevations and has now provided the required photo simulations and ARB application for you to consider these Code requirements. We have the following comments to assist with your review:

- *The ARB application appears incomplete. The manufacturer of materials should be noted, windows confirmed non-glare, and square footage of the home indicated.*
- *See note on lighting above.*
- *We think the simulations are appropriate for considering the materials and colors of the proposed conversion, but note that the landscaping, impervious features (sidewalks and driveway), grade changes, and other features (no retaining wall) are not representative of the proposed application*
- *The applicant should bring material samples for you to review at the public hearing (to be scheduled).*

A motion was offered by Chairman Gerver, seconded by R. Anzalone, to hold a public hearing, site plan review and ARB to be held on August 19, 2020 for Congregation Ohev Shalom .

ADOPTED AYES 5 Chairperson Gerver, R. Anzalone, J. Buglino, S. Capriglione, T. Deluca
 NOES 0

D. Introductory Local Law #8 of 2020: Review referral by the Village Board of Trustees of Introductory Local Law #8 of 2020 entitled "A Local Law Amending Chapter 310 ("Zoning") of the Code of the Village of Woodbury Amending Section 310-38 ("Wireless Telecommunications Siting")

This Local Law is for the modification of the Code, Section 310-28 "Wireless Telecommunications Facility Siting". In addition to addressing current technology (the board may recall this started with an effort to address the new wave of small cell technology which are devices mounted on existing utility poles), the Code update is necessary to include modified Federal Communications Commission (FCC) regulations that impact local review (such as the middle-class tax relief law which introduced the so called "shot-clock" on time limits for board review. The board's consultants have collaborated on the law. The aspects of the law related to H2M's site plan review of applications remain mostly unchanged and they defer to the board's telecommunications consultant on the technical wireless aspects of the law. H2M recommends the board consider with him the review process and any issues with the procedure the board believes can be improved.

Mr. Golden said the reason for this amendment per the present wireless regulations were adopted a long time ago there has been a lot of changes in wireless telecommunications technology since that time including the introduction more recently of 5g or small cell technology. He continues to say there have also been quite several

FCC (Federal Communications Commission) rulings in the interim that require that things be done on a more expedited basis, something the village cannot avoid. There's a short time frame in getting things done and some of those require under certain circumstances that they avoid a Planning Board review and others that can have a Planning Board review, but there is a need for some clarity and for updating the regulations. The Telecommunications Consultant, Mike Musso along with H2M and our office Burke, Miele, Golden & Naughton, LLP came up with ways that would go ahead and satisfy the legal and tactical aspects and still be workable for the Planning Board. Mr. Musso noted some of the minor and major modifications regarding applications defining what the applicant would need for a special permit versus a building permit.

Mr. Musso setting an example said swapping out an antenna meets certain criteria and that would be looked at by the Building Department those types of applications but the code memorializes and documents the reasons, so definitions have been added or tweaked a little to add clarity. He said although when read different points come up and that was done on purpose. He also added that small cells will make their way into Woodbury, its seen in other suburban locations including Hudson Valley so it would be good to prepare for that. He referred to a chapter 305, entitled wire line communications and the thought about taking that out altogether, however there were some interesting items such as franchising, utility poles, right of way and small cells all those items may be applicable. Some reference was added to the other chapter. He thinks that with the modifications and co-locations that are seen sometimes it shows a little more clarity for the applicant.

Chairperson Gerver proceeded to go over some of the definitions and ask questions. Distributed Access Nodes mentions ground level. How do we define ground level in Distributed Access Nodes? Is it from the central line of the street or the curve? Mr. Musso's said this would be at the base of a tower or right at that pole for a small cell it's really surrounding grade. Chairperson Gerver reference page 11 number 8, looks like it gives the Building Department the ability to grant the permits for these small sites and not refer them to the planning board. He thinks it should be subject to ARB at the very least to see if these would fit into the community overall. Mr. Musso said small antennas in this case on right away utility poles would require building permit. If the building inspector doesn't identify reason to refer it, and the board feels something else should be added it will give the building inspector more responsibility. He continues to say Aesthetic Guidelines have been put in place so that would label out what is preferred and what's not preferred. The code also gives some aesthetic considerations regarding the aggregate volume adding up the antenna there's usually a box on the side of the pole and also a meter or electric meter box. Mr. Golden asked what is the time frame on a small cell FCC ruling for making a determination. Mr. Musso said 30 days for small cells and 60 days for small cells applications. Mr. Golden clarified, after submitting a complete application that satisfied requirements you would then have to get a building permit within 60 days. He said that's the difficulty with these small cells, it would be difficult to go through an ARB process within that short time especially since the Planning Board only hold 2 meetings per month. Also, the Aesthetic Guidelines will be considered by the board of trustees might impact the need for an ARB review.

Mr. Musso shared his screen showing the board and the consultants the Aesthetic Guidelines. The idea is that if someone comes in thinking about putting an application in for a new structure or a small cell in a co-location the document when finalized this document when finalized would be in the Building Department and would give the Building Department a bit more of a road map. Mr. Golden asked the Chairperson Gerver if he still feels there's a need for an ARB review or would it be better to leave it with the building inspector. Chairperson Gerver said to strike his comment in adding an ARB review. He then referred to page 18 section 21 and asked if the pre-application meeting is with the Planning Board or the Building Department. Mr. Musso said that section is specific to building permits and special permits so it would be a meeting for both. Chairperson Gerver said the board

doesn't have pre-application meetings so it worries him to have that written in the law. That will bind the board in having those types of meeting. Mr. Golden clarified that the Chairperson would prefer the Planning Board not have any type of pre-application meetings. Mr. Musso said he would encourage it since it has helped over time. He suggested updating it to something like "if agreed to by the Planning Board". He gave an example of a previous application to show how helpful it would be to have the board accept these meetings. He advocated to leave it in if the board would entertain the idea on wireless facilities.

Mr. Buglino asked why the board would be pushed by a clock. Mr. Musso said the FCC has over the years mandated time frames in the wireless industry, the carriers, and the infrastructure companies have said they are getting bogged down on applications and there is this directive to deploy technology and bandwidth that's becoming more critical to them and will be coming into this area. Mr. Golden said there is a clock, the clock starts as soon as the application comes in and then it's required within a very short period of time, maybe 10 days not sure but it's a short period of time that the municipality has to look at the application and then respond and write it with all the deficiencies specifically and if they do that in whatever timing it is whether it's 10 or 20 days the clock stops if you go ahead and do it right and you have to have everything done including issuing the building permit and if it requires a variance it also includes the whole ZBA bearings process and that is in every approval that the municipality has. He continues to say that collectively for the municipality everything must be done within that shot clock and that is governed by federal law. Mr. Buglino then asked do we have a plan where we can provide green zones where these towers can go ahead of time and then that would help speed up the process. He said people are not going to want towers with batteries in their backyards whether they are tall or short. Mr. Musso said there is a preference of eight different categories of locations that are in the code and some of those have been tweaked a little. Mrs. Capriglione asked if there is a map in the Building Department where towers are logged. Mr. Golden asked Mr. Musso if he has a map of all the towers and if so, it be a good idea for the Building Department to have a copy. She said it would be an ideal for Mr. Thomasberger to know where they are all located and potential new ones. Mr. Musso provided a map on his screen showing locations of towers and agreed that would be beneficial for Mr. Thomasberger to have that information. Mrs. Capriglione asked if a new provider want to go on to a tower would Mr Thomasberger know. Mr. Musso said yes, that is all codified now. He said there is a building permit application and it's clear now in the code what needs to be provided and many things are to be updated like radio frequency emissions before that's on file. He continue to say that sometimes he asks for justification if it's not clear, asking technically why they need to swap out or co-locate if there's a co-location meaning if there's a rooftop site or a tower site, so the Building Department is very much aware of anything that's going.

Mr. Golden went back to the pre-application meetings. Chairperson Gerver and the board is showing preference not to have pre-application meeting but to have all the meetings prior to the Planning Board. It will be up to the board of trustees to determine, but for the law Mr. Golden noted to eliminate all pre-application aspects in this new wireless law. Mr. Deluca wanted to know how often these applications come in for his personal knowledge. Mr. Musso mention two locations within 5 years, but upgrades on existing towers and applications given to Mr. Thomasbergsr it can 4-8 applications in a year. Examples of application in the past were spoken of. Mr. Golden advised the board on how to avoid having an application decision overturn by the court. Chairperson Gerver continued with the definitions and mentioned section 24 number 2. He said it's says type it as a type two action on the SEQRA. He asked what happens if they decide to change the type of action then the board goes back and rewrite the law. He wouldn't feel right to have to go back to the village spend money to change the law

because it was decided to change definitions. Mr. Golden asked what's the purpose of it. Mr. Musso said well this item it's specific to the building permit only for minor modifications co-locations or other small cells that qualify under the code. He said he would appreciate if type 2 wouldn't be an automatic for building permits. Mr. Golden then said he doesn't think it's necessary to have type 2. He then said he will make comment that the Planning Board believes that its may be appropriate not make specific reference to the type of action in case it becomes updated. Mr. Musso said he will see on how it plays out with Mr. Golden when Mr Thomasberger is processing a building permit. Chairperson Gerver continued with page 24 number 4 on the definitions. He read "Building Department may refer minor modifications." He said the text before describes what a minor modification may be, but what triggers the "may" and when do they and when don't they need to refer the minor modifications. Mr. Golden said that would be Mr. Thomasberger's determination, where it says if he wants some recommendations from the planning boards because of the visual impacts. Chairperson Gerver asked if it falls into the Ridgeline Preservation would it automatically invoke a referral to the Planning Board. Mr. Musso said that would be something Mr. Thomasberger would have to think about, it is a bit ambiguous it gives Mr. Thomasberger some leeway, but Mr. Musso thinks that leeway may be maybe important at times.

Chairperson Gerver continued with section 27 number 2 section k visibility of facilities. Chairman Gerver said it takes the option away for a tree pole. It is saying it must be galvanized finish or painted with rust like. Doesn't that limit us here by saying it has to be of a galvanized finish or painted. Mr. Musso said it should be changed to galvanized matte finish and that would cover any color or texture that the Planning Board would prescribe. Mr. Anzalone asked how much input does a power company as far as the design or the appearance. Mr. Musso said when we were looking to add definitions on small cells we really looked closely at what the FCC and also some of the surrounding case law in the area regarding siting on right-of-way and very clear on state right-of-way and there's a few of them that you have that run through obviously the thruway and route 32. Those are areas with attractive small cell there's just not a lot that the municipalities can review. He continues to say there could be instances that are in the state right away or on existing polls that would not necessarily go for a special permit. Mr. Anzalone said under the definition of applicant or person could it be a municipality that own land within the village. Mr. Golden said yes, but it is rare for a person to apply, its usually an entity, so Mr. Golden will update that section to say any person or entity submitting an application.

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by S. Capriglione, to adjourn the meeting at 10:35 PM.

ADOPTED AYES 5 Chairperson Gerver, R. Anzalone, J. Buglino, S. Capriglione, T. Deluca
 NOES 0

Claudia Romanisin, Planning Board Secretary