

**Village Of Woodbury
Planning Board Meeting
September 2, 2020**

Minutes of the Planning Board Meeting held on September 2, 2020 at 7:30PM
(This meeting held via Zoom)

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
Jonathan Lockman, Village Planner
Marissa Tarallo, Traffic Consultant

Chairman Gerver opened the meeting with Pledge of Allegiance.

1. **Executive Session:** No Executive Session was necessary.
2. **Approval and Acceptance of Previous Minutes:**
Motion to approve the minutes of August 19, 2020 meeting will be held on September 16, 2020.
3. **New Business: N/A**
4. **Regular Agenda:**
 - A. **Congregation Ohev Shalom** - Continuation of Public Hearing for proposed conversion 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.

General Background: This is an improved property with an existing 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 Planning Board have reviewed this application on several occasions. During the Board's review the issues surrounding landscaping, lot area, and coverage were discussed. The Board previously granted waivers for lot area and coverage. The Board then requested some changes to landscaping for screening the parking area and borders to residential properties that the applicant has attempted to satisfy in their recent submission. Attorney, Richard Golden advised SEQRA remains to be concluded and the Part II EAF can be revisited after the public hearing is held. ARB remains to be considered.

Engineer John Queenan gave a brief overview of the project prior to the public hearing. He stated how this single-family home will be both a Shul and a Mikveh. In association there were site improvements for a

parking area and a driveway going up and around the back, sidewalk, and lighting. He mentioned the site plan that showed the improvements associated with the development; the landscaping lighting, grading and utilities. Mr. Queenan and the applicant have been before the Board for quite some time with this application and at the last Board meeting the applicant's architect submitted all the renderings of different views of the property. Mr. Queenan said there was one cross section that was missing which was the rear view and believes it was provided prior to tonight's meeting for the Board. He said the ARB application was updated and the materials and colors were reflected in the renderings.

Chairman Gerver proceeded by saying this is a public hearing for Congregation Ohev Shalom and said he will start to call out names of people as they appeared on his screen to speak. A gentleman under the name of Barry said he lives on 190 Schunneunk Road, Highland Mills and as a proud resident of Highland Mills of Woodbury he has faith in the Board that they will approve quickly. He continues to say the single house develop dwelling should be approved for a Shul and that it's very important for the community and they are looking forward for a quick approval. Chairman Gerver thanked him for his comment. A gentleman under the name of Joel Walter said they are looking forward to the approval of the Shul and hopefully it will be a quick process. Chairman Gerver thanked him for his comment. A gentleman by the name of Asriel Lieberman, a resident at 4 Country Hollow, Highland Mills and he wanted to express on how beneficial and necessary it is for him and his family for the single house dwelling to potentially be approved. Chairman Gerver thanked him for his comment. A gentleman under the name Yanky Weiser said he lives in Country Hollow and how he and his family would love to be in the congregation on Schunneunk and how it will be a pleasure if the Board can approve it. Chairman Gerver thanked him for his comment.

Motion was offered by Chairman Gerver, seconded by Mr. T. Deluca, to close the public hearing for Congregation Ohev Shalom.

ADOPTED

AYES 5 Chairman Gerver, R. Anzalone, S. Capriglione, J. Buglino and T. Deluca

NOES 0

Chairman Gerver thanked everyone for coming out virtually and expressing their support and comments for the Congregation Ohev Shalom. He continued to say there were some reports to go over regarding this application. Engineer Jon Bodendorf mentioned the H2M memo dated August 28, 2020. Not going through all the comments Mr. Bodendorf said there are a lot of typical engineering items and the applicant's engineer has done a good job at responding to H2M's comments as well as providing a very comprehensive SWIP, which he says he has comments to. Mr. Bodendorf proceeded with the site lighting. He said they submitted a plan with some wall mounted lights and their photo simulations appear to be inconsistent with the details provided; he asked the applicant to clarify that. He also asked the Board to consider restricting the operating time of the on-site lighting for this application.

Mr. Bodendorf addressed a letter from the Water and Sewer Administrator regarding this application.

Dear Planning Board,

The proposed application drains to the Country Crossing Pump Station. Within the past few years this pump station has experienced issues with the build-up of rags and other materials resulting in

clogs requiring weekly manual cleaning and unclogging. We have discussed various means of solving and mitigating this issue with the Village Engineer and have determined that the only effective solution is to remove the build-up by mechanical means. This requires a mechanical and automatic extraction of the rags/debris for loading to a dumpster, and transportation of the waste for disposal. At this time, there are no capital funds available to mitigate this issue.

While a solution to funding this improvement project is explored, if the Planning Board approves the proposed application, the following could help lessen any additional impact to the pump station:

- 1. Add a septic tank to retain rags, etc. until such a time as the Village can install a mechanical device at the pump station.*
- 2. Post signage in the bathrooms advising no wipes are to be flushed even if they say "flushable" and prohibiting improper disposal of items noted above;*
- 3. Eliminate paper towels from the bathrooms and require installation of hot air hands dryers;*
- 4. Install sanitary napkin disposal bins at each toilet;*
- 5. Require a garbage pail for each bathroom;*
- 6. Recommend daily cleaning and emptying these receptacles.*

Mr. Bodendorf said allegedly there are some issues with the pump station that services that area, so due to the Village not having the capital funds to make the necessary retrofits to the pump station to handle what's going on in this area; the Water and Sewer Administrator is requesting the Board to consider recommending the applicant to provide a septic tank on their property to handle the types of solids that they're having issues with. Chairman Ger shared the letter on the screen for the Board, Mr. Queenan, and the applicant to see. Mr. Bodendorf pointed out the Water and Sewer Administrator recommendations and he said H2M agrees with them. He continues to say that if the applicant is willing to do this, the idea would be that the applicant would provide the septic tank on a temporary basis until such time that the Village can make the necessary retrofits to the pump station so that these septic tank situations don't need to be imposed on anyone in the future. He stated that the Water and Sewer Administrator is seriously considering that this type of arrangement be considered for any future applications in this area due to the problems that the water and sewer dept. has been having. Mr. Bodendorf added that for this particular situation with the pump station there would have to be a Maintenance Agreement in place so that H2M or the Village could be sure that it's being maintained properly; recommendation by the Water and Sewer Administrator. He said again it would be a temporary installation and when the pump station is retrofitted to take care of the existing problems, they would be able to bypass this and not have to worry about pumping in the future.

Mrs. Caprigione asked Mr. Bodendorf if the applicant does agree to put in a septic tank then do, they also put in leach fields. Mr. Bodendorf said no, the septic tank would be simply to capture solids or the liquid portion of the waste, and it would not impact the pump station whatsoever. Mr. Anzalone then asked if that same liquid will then flow into the sewer system that exists. Mr. Bodendorf said yes. Mr. Anzalone then said, so the septic tank is like a settling tank where the solids and things that don't belong would go to the bottom of the tank. Mr. Bodendorf said yes, just like any residential septic system. He continues to say the septic tank would have to be pumped out on a periodic basis and that's something that would have to be worked out between the Village and the applicant as to how frequent that is to be done. Mr. Anzalone asked what would happen if it's not done on a timely basis, will the solids then go through the sewer. Mr. Bodendorf replied that it's a possibility, but it could also impact them, depending on what kind of solids. He

continues to say that if there was a major rag issues it would clog up the outlet or inlet where it could back up into their own dwelling so it would be there responsibility to make sure that they're maintaining it.

Mr. Deluca asked who would be responsible for making sure that it is being maintained on a timely basis. Mr. Bodendorf said it would be on the applicant to take care of it, but the idea is that the applicant would provide the Village some kind of certification that it's being done or some kind of report from a septic caller stating it was done in the condition at the time. He said there were different ideas of how it would happen, its somethings that can be negotiated between the Village, the Sewer Administrator and the applicant

Chairman Gerver made a comment to the Board. He said he understand the Superintendent's intent and the Sewer Department's dilemma, but there is something this Board needs to consider when they come up with the specifics in the resolution; if this project is to move forward and get approved. Chairperson Gerver said the project has been in front of the Board for a long time and they've been talking about sewer and water for quite some time. He feels that to ask the applicant to install a septic system until the Village can get a grinder installed in the pump station is a little much. He continues to say that the applicant has been very cooperative with this Board. He said the applicant has agreed to almost everything the Board has asked; changes that the Board asked them to make and things along that line. He said he does agree with the conditions 2-6 on the Water and Sewer Administrator's letter, since they are similar to what the Board has done with other Shuls.

Mr. Buglino asked if there was a septic line that needed to be replaced, also where it's running now does the applicant have to rerun it because of retaining wall. Mr. Queenan said no. Mr. Buglino was confusing this application with another. Mr. Queenan stated that he doesn't think it's fair that the applicant would be the only one in that area to have to install a septic tank, which would probably be somewhere in the range of 1,250 gallons. He said usually septic tanks are pumped out between every 3-5 years which is state standard. He continues to say that the applicant is already hooked up to the sewer system which is only used on as needed basis by members of the local area, who would not be in their homes but in the Shul having less flow coming from the houses. Mr. Queenan said it's an unfair requirement to place on one property.

Chairman Gerber asked about the hours of operation on lighting. Mr. Queenan said if the Village wanted to limit the hours of lighting, the lights could be turned down somewhere between 11:30pm – 12:00am. Mr. Nathan Brach representing the applicant said they would work with a light schedule. Mr. Brach then referred to Mr. Bodendorf comment regarding the light on the renderings. Mr. Brach said the rendering were just really focusing on the design of the structure and the impact it would give on the property. Mr. Brach said they can definitely work with setting a schedule if the Board requests so. Mr. Queenan added that the lights shown on the rendering are building accent lights, they are not projecting towards the property. Mr. Brach concurred and said the lights are wall sconces.

Chairperson Gerver recall the Board putting a light restriction on an application in Catskill High Rail as part of their resolution, so he asked Mr. Golden if he can match those same restrictions to the application with Congregation Ohev Shalom. Mr. Golden said he can investigate it and make it consistent.

Mr. Golden referring to the Water and Sewer Administrator's letter, stated that the Water and Sewer Administrator was previously asked by the Board for his input. Mr. Golden said just to be clear, the recommendations or new policy, wasn't just for this application. Mr. Golden believes that the new policy being formulated by the Water and Sewer Administrator recommends the Board to include one or all conditions on the resolution of approval. He continues to say that within the Board's discretion to decide whether or not to go ahead and do a condition of their resolution of approval, although to the Board's awareness going forward regardless of the Board's Resolution of Approval, the Water and Sewer Administrator may have the ability to implement the policy with respect to new applications, whether or not the applicant needs Board's approval or building permits. In other words what the Board can do is to whether or not they want to make it a condition of their approval. He continues to say, not to be misunderstood, if the Board for instance does not apply any of the conditions or only have some thinking the others will never be enforced, the Water and Sewer Administrator have their own regulations and they can institute policy from time to time.

Mrs. Capriglione asked Mr. Golden if there was a problem due to clogging of diapers or other items, are you saying the Water and Sewer Administrator can turn around and say you must put in a septic tank. Mr. Golden said he wasn't going to outline the limits of the Water and Sewer Administrator, but he thinks in respect to new applications the Water and Sewer Administrator may have the power to implement the new policy. All due to significant problems at that pump station which happens to service the house and the surrounding area. Mr. Golden continues to say that he is not prepared at this time to define the extent of the Water and Sewer Administrator's power, he would have to research it.

Mr. Deluca asked if any of the previous Planning Boards have asked for the Water and Sewer Administrator's input. Mr. Golden said he doesn't recall whether or not the previous Boards have been specifically asked for their input. He said he knows that this is a problem that is not decades old, but more of a recent problem and because this Board asked for the Water and Sewer Administrator's input, it's what spurred the memo from the Water and Sewer Administrator.

Mr. Anazolone asked if there was any way where you can pinpoint the exact location of the contributor who's causing the clogging problem to the system and if there are any legal consequences. Mr. Bodendorf said it would be extremely difficult and costly to try and pinpoint exactly where the problems are emanating from but it has been from H2M's understanding with their discussions with the Water and Sewer Administrator that this has been an ongoing problem at this particular pump station and there may be other pump stations in the system where the same is true. Mr. Bodendorf continues to say there is no easy way to pinpoint exactly which parcels or houses or businesses might be the ones causing the issues. He said it would be more than adding a grinder to the pump station because what a grinder does is it just pops it down and allows it to pass through the pump station but then it gets effective at the grease water plant. He said, what the Water and Sewer Administrator is really looking to do is have the ability to put in a mechanical means where they'd actually be able to physically remove rags and other items that are causing the issues with a bar screen and then have a contraction that would essentially clean that part and put it into a dumpster.

Mr. Anzalone asked how long it would take the Village to obtain the funding and to create the system. Mr. Bodendorf said it simple fix it's just not cheap. Mr. Deluca asked what is the approximate cost that the Village will have to take on. Mr. Bodendorf said unfortunately at the top of his head he couldn't think of a figure, they haven't been asked to look at the actual design yet. He suggested that perhaps the Water and Sewer Administrator may have some cost information, but from his understanding they don't have the funds in place to implement such a fix. Mr. Anzalone asked if there was funding available from the state or the federal government that could contribute to this. Mr. Bodendorf said that is something that can be looked into by the Water and Sewer Department and if they needed assistance H2M could help them, but to get funding is a process and it takes time and there's no guarantee that they will get it.

Mr. Buglino asked if all future development should have septic tanks at this point. Mr. Bodendorf said he wasn't part of the initial conversation with the Water and Sewer Administrator, but believes his initial thinking was that any development or building permits that are going to be issued will have this requirement until the pump station improvements could be made. Mr. Buglino said maybe it's not in our purview to say anything now, if all future development is going to require regardless of what the Board says. Mr. Golden confirmed the Water and Sewer Administrator has powers to implement policy and that may be the way that he's going with this. He said the Water and Sewer Administrator was asked to weigh in with respect to this application and he has done so, what is necessary now it's up to the Board to determine what they believe is appropriate to attend to resolution of approval under their jurisdiction. Chairperson Gerver asked and no one from the Board had questions regarding the H2M memo or the Water and Sewer Administrator letter.

Village Planner, Jonathan Lockman briefly went over his memo from NPV (Nelson Pope Voorhis) dated August 26, 2020. He said NPV really did not have an extensive comment this time. He referenced the parking plan and NPV noted that on August 25th Mazer accepted the parking banking scheme, noting 7 of the 24 proposed parking spaces are banked. Mr. Lockman continues to say that although NPV didn't see anything in the inspector to do that needs to be worked on. It needs to be added into the resolution or added as a condition of approval or added as open plan. Mrs. Capriglione asked what he foresaw as the trigger. Mr. Lockman said he recalls the Board adding it to the Quackenbush Funeral Home resolution of approval where if the building inspector sees a problem then the building inspector can trigger it. Mr. Lockman suggest to the Board that they can just duplicate that condition. Chairman Gerver said he remembers the Board doing so on a couple applications since he's been on the Board and leaving it in the hands of the building inspector; he is the trigger for pulling the bank parking build out. Mr. Lockman said although he thinks the landscaping is 95% there, as per the terms of landscaping he cited section 27c with three provisions as well as 27d with another three provisions in his memo. After being thorough the only thing that he found in the extension of the parking lot were 2 trees instead of 3 trees. Mr. Lockman is asked the applicant to plant the third tree in the spot he has indicated on the memo. He noted that the applicant is showing a 4-foot tall black vinyl chain link fence at the top of the retaining wall along with trees and shrubs shown planted outside of that fence line above and beyond the top of the wall. Mr. Lockman said the code really doesn't have very specific standards for that kind of planning, but NPV felt that that it met the standard. Mr. Lockman said he did not know if the Board had discussed whether that would be acceptable or whether the Board wanted a black vinyl chain-link fence or perhaps another fencing material at the top of the retaining wall.

Chairman Gerver said that was talked about a few times on what was going to be on top of the retaining wall and he thought the chain link is the what the Board had asked the applicant for or what the Board found acceptable prior to because it'd been up there the same thing with keeping the bank parking. The parking towards the rear was to facilitate the snow removal so that a plow could come in and just push the snow to the rear of the building and not have to fight cars as they came into the parking lot. Mr. Buglino agreed and asked the applicant if they can make the third tree a red maple. Mr. Queenan said not a problem.

Mrs. Capriglione asked about the timing of the landscaping. She asked if a CO can be issued before the landscaping can be done. Mr. Lockman said that is usually handled by the building inspector. He set an example of a building finished in February, due to the type of material(s) it can't be install until spring or sometimes fall and so there will be temporary CO's with conditions. Mrs. Capriglione asked will it be the same as most of the other commercial buildings where it's in perpetuity so if something dies the applicant is responsible for replacing in a timely matter. Mr. Lockman said that is in the code and the Board can asked to add as a condition of approval. She said the only reason she's asking is because she thinks it's important being in a residential area, and something doesn't take or dies, that it would be replaced and continue to look good in the neighborhood. Mr. Golden said it has been done whenever landscaping has been an important issue as part of any site plan, the Board has asked me to draft a particular language with respect to the landscaping being maintained in perpetuity in a vibrant condition. He said he will go ahead and include it on the resolution of approval.

Chairman Gerver said the Board needs to do a little bit of housekeeping with this application. He said they needed to go over part 2 of the EAF a determination on the SEQRA whether it be positive or negative. Chairman Gerver went over items in Part 2 of the EAF that were highlighted by Attorney, Kelly Naughton for the Board to review. Chairman Gerver read the following questions and the Board answered.

- 1. Will the proposed action create a material conflict with an adopted land use plan or zoning regulations? No, or small impact may occur*
- 2. Will the proposed action result in a change in the use or intensity of use of land? Small impact may occur*
- 5. Will the proposed action result in an adverse change in the existing level of traffic or affect existing infrastructure for mass transit, biking or walkway? Small impact may occur*
- 7. Will the proposed action impact existing: a. public / private water supplies? Small impact may occur b. public / private wastewater treatment utilities? Small impact may occur*
- 9. Will the proposed action result in an adverse change to natural resources (e.g., wetlands, waterbodies, groundwater, air quality, flora and fauna)? Small impact may occur*
- 10. Will the proposed action result in an increase in the potential for erosion, flooding or drainage problems? Small impact may occur*

Motion was offered by Chairman Gerver, seconded by Mr. Anzalone, to declare a negative declaration under SEQRA for this application.

ADOPTED

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

Motion was offered by Chairman Gerver, seconded by Mr. Buglino, to accept the submitted landscaping plan with respect to the landscaping being maintained in a vibrant condition perpetuity and with the addition of a tree (noted in NPV memo dated August 26, 2020).

ADOPTED

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

Chairman Gerver authorize the attorney to draft a resolution of either approval or disapproval and adding other conditions discussed by the Board, for instance lighting, landscaping, snow removal, and parking. Mrs. Capriglione reminded the Board the conditions from the Water and Sewer Administrator. Chairman Gerver said it needs to be decided what recommendations they want to include from Water and Sewer Administrator letter. Mrs. Capriglione said she agreed with the conditions 2 through 6. Chairman Gerver and Mr. Anzalone agreed.

Mr. Queenan said the list of conditions 2 through 6 is similar to the Catskill High Rail application and Mrs. Capriglione and Chairman Gerver agreed. Chairman Gerver proceeded to read some of the requirements, which were the postage the signage in the bathrooms, no flushing of wipes or sanitary napkins, hand dryers in the bathrooms instead of paper towels, hot air dryers, sanitary napkin disposal bins in each toilet, a garbage pail for each bathroom, and recommended daily cleaning and emptying of those receptacles. Mr. Queenan said he knows the applicant would have no issue with those requirements.

Mr. Golden said there were several conditions in the H2M memo that were not discussed, and he usually adds them to the draft resolution unless the Board declines. The Board seem to be fine with those conditions. Mr. Queenan had no objections to those conditions in the H2M memo.

Motion was offered by Chairman Gerver, seconded by Mrs. Capriglione to have counsel draft resolution of approval with the conditions discussed in this meeting, including the ones noted in H2M and NPV memos.

ADOPTED

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

- B. **Woodbury Common - Coffee Truck** - Public Hearing for the installation of a coffee truck and associated outdoor seating area in the courtyard outside of the Polo Ralph Lauren store. 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.

General/Background – The proposed application is to position a coffee “truck” with a consumer seating area at the East entrance to Polo Ralph Lauren (within courtyard area). Several similar applications (non-building uses) have been reviewed by the Board for kiosks, retail merchandizing units (RMU’s), other food trucks and push carts. The proposed “truck” is to be stationary, with permanent utility connections (water, wastewater, and electric). These features are like kiosks that are permitted to sell food (unlike RMU’s and push carts) and stationary (unlike food trucks). Although the application refers to the unit as a truck, it will not have an engine or fuel tank and we believe this description is used because of its appearance.

John Villapiano, Vice President of Simon Premium Outlets gave an overview of the application. He said the Ralph Lauren Coffee Truck is a truck serving as a kiosk, which will be in the east entrance courtyard of the Ralph Polo store. He said the coffee truck, or the kiosk will be a Citroen van that is roughly 149-sq ft. about 7-ft 10-in high. The truck will be powder coated aluminum, painted green and white, with lots of other materials and features similar to a van such as tires, lights, and windows. Mr. Villapiano continues to say that also as part of this application is the removal and the changing of hardscape and landscape within this courtyard; to make room for a seating area consisting of tables, chairs, benches, and planter pots all open to the public and customers of the coffee truck. Mr. Villapiano said that they have received letters from the Board’s consultants and the applicant are confident that this can be implemented without any impact to any emergency services path. He also said that due to the relationship to Ralph Polo Coffee’s and the property maintenance they are able to upkeep the condition and this area and the rest of our center to a level of expectancy by their customers and tenants.

Chairman Gerver asked if there were any members of the public wishing to speak regarding the Woodbury Common Ralph’s Coffee Truck/Kiosk. Chairman Gerver waited and no one spoke or made comments in the Chat window.

Motion was offered by Mr. Deluca, seconded by Mrs. Capriglione, to close the public hearing for Woodbury Common – Ralph’s Coffee Truck.

ADOPTED

AYES 5 Chairman Gerver, R. Anzalone, S. Capriglione, J. Buglino and T. Deluca

NOES 0

Mr. Bodendorf said there was a memo sent to the applicant dated August 28, 2020. He said there was nothing major, H2M asked them to provide a revised plan that's more consistent with the code site plan requirements, they were asked to demonstrate on the plan the ESO Access requirement of a 20-foot clear passage. He said there is a sign that the applicant is proposing to move, so H2M is asking the applicant to comply with that. Mr. Bodendorf pointed out to the Board that the applicant has proposed placing some small planners for the landscaping and recommended the Board to review that as part of improving the project. Mr. Anzalone asked if Mr. Bodendorf can clarify section K from the memo. He wanted Mr. Bodendorf to explain what precautions could be made that the kiosk is not intentionally moved. He said he knows it's going to be anchored with the utilities but there is some concern due to memo about potential vandalism or intentionally moved by somebody

H2M Memo dated August 25, 2020:

k) General Safety – Although the proposed coffee “truck” is stationary, with no engine or fuel tank, the colored renderings show tires and what appears to be a fully mobile truck. You may wish to consider a safety mechanism that will prevent intentional movement of the structure by tampering with the “truck” or vandalism. We note the utility connections may provide this means, but you may wish to discuss additional precautions.

Mr. Bodendorf said he believes the intent of that comment was due to the applicant stating the truck is a stationary unit like a kiosk, it's not going to have an engine there's going to be no fuel obviously but they do believe it shows tires in their renderings so it does have the appearance of a unit that could actually move if there was enough force behind it. Mr. Bodendorf continued to say it was just a comment to ensure that if a group of people decided to have fun and move the truck, it cannot be done. Chairman Gerver asked Brendan Curran from the Hospitality Group of Ralph Polo Coffee if the truck have axles or are the wheels just welded on. Mr. Curran said it does have axles so it can be moved into place. He continues to say they have a coffee truck in the middle of Rockefeller Center and believes the same type of engineering approach will take place when its hooking it up. He said the truck located in Rockefeller Center has never been and its one of the most highly trafficked areas. Mr. Curran said they hook a box up to the bottom that you can't really see, and the purpose of the box is to cover the utilities but also to prevent garbage or anything else underneath the truck. Chairman Gerver to confirmed asked if it was a skirt surrounding the bottom of the truck and Mr. Curran said its more of a wooden skirt. Mr. Bodendorf said that it may be best to note that on the plan that there is that box underneath that mostly prohibits anything from potentially happening.

Chairperson Gerver read the specific conditions of the draft resolution of approval.

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. The truck and related benches, garbage cans, stands, awnings and other extensions shall not encroach into the twenty (20) foot emergency service access passage in the Common Area.*
- 4. Proposed signage shall be in accordance with the approved plan and “Tenant Sign Criteria”.*
- 5. 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.

6. *Until available Gross Leasable Area (GLA) is sufficiently demonstrated to the Planning Board, Village Engineer, and Building Department, the Applicant relinquishes the 2018 Planning Board approval for the expansion of Building 20 and no Building Permit will be issued for the same.*
7. *If, in the opinion of the Village Building Inspector, it becomes necessary to control pedestrian queuing for the “coffee truck”, he may require ropes, cones, signage or other similar method to be utilized by the Applicant.*
8. *The Applicant shall comply with the requirements of the memorandum of the Village Engineer dated August 28, 2020, to the satisfaction of the Village Engineer.*

Motion was offered by Mr. Anzalone, seconded by Mr. Deluca, accept the draft Resolution of Approval for Woodbury Common – Ralph’s Coffee Truck.

ADOPTED

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

- C. **Woodbury Villas** - Review application to amend previously approved project re-Phasing plans. The applicant requests amendment for a phase lot transfer and to expand the number of Certificate of Occupancies issued prior to the installation of traffic signal at the intersection of Dunderberg and Nininger 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.

General Background – This 11th Amended Phase Plan (2020) was last discussed at the Board’s meeting of July 15, 2020. The scope of the application has changed since their initial appearance and the applicant is proposing the following:

- An additional 30 certificates of occupancy (CO) (total 192) before the traffic signal at the intersection of Dunderberg and Nininger Road is installed; and,
- Transfer of lots from Phase 1 to Phase 6 – The applicant should clarify the number of lots proposed for transfer, the plan shows 21 and the recent correspondence (dated 7/17/20) states 18-lots.

The developer has returned to the Board on several occasions since the granting of final subdivision and site plan approval in 2006. The prior revisions were primarily regarding the phase plan and ARB approvals. We provided a summary of these revisions in our previous memorandum (243-20-006). We note the 9th amendment (2012) is the current approved phase plan. In 2013, the Board approved the lot transfer requested above with conditions. The applicant did not submit a site plan for signature within the timeframe authorized and the approval lapsed. In consideration of the recent request for additional CO’s, the Board have solicited the opinion of the Board’s traffic consultant, which has been received. The Board have also requested information on the phasing of road and infrastructure improvements related to the lot transfer. When the Board deem it appropriate, a public hearing is required.

Attorney, Steven Barshov addressed the reports given by the Board's consultants. He said there was a request to update the Board on the status of the construction. He said the traffic light and the road work has been done and is awaiting connection of power. Mr. Barshov said there are conditions that they need to be satisfied by the county over a piece of land on which some of the expansion occurred so that remains open. He noted that the Board's traffic consultant did not find problems and since those were the two principal open issues, he would like the Board to schedule a public hearing for this application.

Traffic Consultant, Marissa Tarallo from AKRF went over her memo dated August 11, 2020. She said they had picked up where Kimley Horn had left off reviewing the traffic count, trip generation and the need for the traffic signal. She said for the most part they were in agreement with Kimley Horn's previous memo and picking up where they left off, they reviewed the next set of submissions that had come from both Mazer consulting and from Slive Padgett. She said the traffic counts were collected on a typical day and they had checked to see if the school was in session. She said once they got all the information, it was noted that it may have been one day of traffic, but it is generally what they would consider to be a typical day.

Ms. Tarallo reference trip generation which Mazer's memo had more detailed information on the trips came in prior to a map that was provided showing which CO's had already been issued and which additional CO's were being sought. She noted that there were single housing and age restricted single housing, that slightly changed the trip generation that Mazer had originally shown. She said to eliminate the back and forth they calculated using the previously approved rates and based on the map that was provided by the applicant. She said it showed that there is a little bit of remaining volume, and that was expected to be on the driveways that is not yet there. She said it's not substantial, it shows less than 10 vehicles, a little less than what was anticipated given the EIS.

Ms. Tarallo said they had looked at the intersection to see if a traffic signal was really needed. She said according to Kimley Horn there were two things the previous memos had not addressed. The background traffic and what was there regardless of the development. She continues to say that Mazer then produced a memo that shows the volumes that they had expected from their 2020 build in the EIS were notably higher than what a recent 2017 DEIS has for the volume at the intersection. She said they noted a lot of things can happen between 2017 and now, but realistically it's not likely that the traffic will be higher than what was projected in 2020 because it's so notably higher than what was there in 2017. Ms. Tarallo asked for an update as to the traffic signal because the material they received said 6 to 8 weeks in March. COVID happened but as per Mr. Barshov comments it seems the traffic signal has advanced substantially. Ms. Tarallo asked when will the county turn on and operate the traffic signal. Will it be prior to the land donation being accepted once the power is established or does the land donation need to go through before the county is willing to turn on and operate the traffic signal. The applicant, Ellie Ravitz tried to reply. Mr. Barshov said he thinks that what he heard Mr. Ravitz say is; the operation of the traffic signal is not dependent upon the county accepting the donation and that it will be operational.

Mrs. Capriglione asked about the analysis that was not done. She wanted to know how important that analysis would be and wouldn't it give a truer reading on the volume on the intersection. Ms. Tarallo said that would be the only definitive way to know, but unfortunately with COVID if they go out and get

those counts now, they're probably not going to be what they would have been. Ms. Tarallo said the only way to definitively say whether a traffic signal is needed today regardless of the development would be to count it and see if it meets a warrant for a traffic signal. Mrs. Capriglione said she's heard from neighbors, friends and especially high schooler's and middle schooler's that would normally take the bus to school, their parents are talking about not putting them on the buses and driving them. She continues to say that instead of one bus it would be an unknown number of individual cars going through that intersection to drop off their kids at school. Which is a concern for her. Mr. Lockman said there is no point of running the analysis Ms. Tarallo mentioned when the traffic light is up and just needs to be powered up.

Mr. Barshov said that he agrees with Mr. Lockman. He said it doesn't seem to be a productive exercise to study whether something is needed when its going to happen. He is hoping that we can go forward with an approval from this Board that will enable these Certificates of Occupancy for homes that have been built and have been unoccupied for quite some time and are able to be occupied.

Mr. Bodendorf started to briefly go over his memo dated August 28, 2020. He said there are just a couple of minor items he'd like to bring to the Board's attention. He referenced the transfer of lots from phase 1 to phase 6. Mr. Bodendorf said the applicant has been asked to clarify the number of lots proposed for transfer because the plan that was submitted shows 21, but the correspondence that go along with it shows 18. Mr. Bodendorf started to recap the whole lot transfer idea that was approved back in 2013. He said the approval lapsed before the applicant complied with all the conditions. He mentioned the traffic light saying hopefully it will be running soon.

Chairman Gerver asked Mr. Golden if it was right to schedule the public hearing for the traffic light and for the transfer of lots. Mr. Golden said yes. Mr. Golden said that is should be noted for Maria Rubio for purposes of the publication that it is both items, the Certificate of Occupancy issues as well as the rephasing aspect. Mr. Golden asked if the Board authorize him to draft a resolution of approval for a potential action at the closing of the public hearing.

Mrs. Capriglione asked why there was talk about the rephasing when Mr. Barshov withdrew that application. She asked if a new one was drawn up. Mr. Barshov said that was a subsequent statement to the Board that the applicant was bringing that application back to life. Mrs. Capriglione then said she believes in protocol and proper housekeeping. She said if an applicant withdraws an application, they can't just bring it back up in conversation, the applicant is to put in a new application. Mr. Golden said the Board has discretion as to how to handle that. Mr. Golden said there was an affirmative statement saying that it was withdrawn and there was also as he recalls an affirmative statement saying that it was now back. Mr. Barshov said that all the consultants were aware of what the applicant was doing. There were comment letters addressing the rephasing in detail, so nothing was sprung on anyone. Mrs. Capriglione said she has a problem when applications go along, and they're changed. She said she's been on this board for some time and know applicants who have withdrawn their applications were told that they had to reapply for that application. Mr. Barshov said he made a very clear statement to this Board orally that we were bringing this back, and no one said to me at that time please put in a formal new written application. He continues to say that if that's what had been required, he would have done it.

Mr. Golden said the issue has been raised and the Board needs to take a position. He said either no new application or the applicant can refile an application and then the Board can go forward with without the public hearing. Chairman Gerver said on July 15, 2020 the Board received rephasing maps. Mrs. Capriglione said it was March 18, 2020 when Mr. Barshov said all requests for other approvals from the Planning Board are hereby withdrawn. Chairman Gerver said he doesn't see the need to have a whole new application come back in for something that we already have memos from our consultants. Mr. Lockman said whenever there's a difference of opinion in a Board someone can make a motion to ask the applicant to resubmit and then if that motion's seconded then you can call a question and vote on it or conversely someone else can make a motion to allow the phasing plan to proceed without a new application. Mr. Golden said the Chairman has asked the other Board members for their input and that's what's on the table. Chairman Gerver asked the Board for their opinion and Mr. Buglino, Mr. Deluca and Mr. Anzalone responded with moving forward. Mr. Anzalone asked if the applicant was to refile the application, how long will it take to process. Mr. Golden said it would take about a week. Mr. Anzalone said it would be reasonable for the applicant to refile the application. The applicant will then be able to have public hearing. Chairman Gerver asked Mr. Barshov if it would be a problem to for him to resubmit the application and Mr. Barshov said he won't have a problem resubmitting just as long as it does not delay the public hearing. Mr. Golden said the process of the application would take about a week, giving the applicant sometime to get the paperwork in order prior to the public hearing. Mr. Barshov agreed to do it.

Motion was offered by Chairman Gerver, seconded by Mr. Anzalone, to schedule a public hearing for Woodbury Villas on September 16, 2020 on the application, the traffic light and rephasing.

ADOPTED

AYES 5 Chairman Gerver, R. Anzalone, S. Capriglione, J. Buglino and T. Deluca

NOES 0

Mr. Golden asked the Chairman if he is authorized to draft the resolution of approval for this application and the Board in agreement said they prefer to hear from the public first

5. EXTRA: Central Valley Properties Management LLC – Field Change – Field Change (Handrails)

Mr. Bodendorf said the H2M inspector was out on the property between the August 19, 2020 meeting and this meeting and notice a couple of things. Today Engineer, Dennis Lindsay spoke with the representatives of the applicant. Mr. Bodendorf said the resolution that was approved by the Board talked about handrails at certain areas around the building. Mr. Bodendorf said there probably be more handrails than it was originally envisioned. The applicant wants to add more handrail in the back than what was initially agreed to. He thought he'd receive the sketch from the applicant by tonight, but to no avail. H2M just wanted to keep the Board informed of what's going on. He continues to say the applicant's plan is to place handrails along the front of the building and continue along the south side and in the back, where it may change a little bit.

Chairperson Gerver asked is this something the Board needs to act on, and Mr. Bodendorf said yes. Mr. Bodendorf said it would be helpful if the Board acknowledges it. Mr. Golden said he doesn't think that the Board can weigh in without having something before them. He added if it's more than just a field change then the applicant needs to be preparing some visuals of the handrails and the knee wall and present that in a plan so that the Board can determine and then decide if they consider that field change. Mr. Bodendorf agreed with Mr. Golden.

Chairperson Gerver and Mr. Deluca asked if any other changes coming out of this site, because it seems like this in every meeting there's something different. Mrs. Capriglione asked about the stairs installed on that corner. The step seems short to her. Mr. Bodendorf said he make a note of to check it out, but it will look short because of the wood platform installed around them. He said he will make sure it will be checked out.

Adjournment:

With no further business to discuss, a motion was offered by Mr. Deluca seconded by Mr. Buglino to adjourn the meeting at 9:11 PM.

ADOPTED

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

Claudia Romanisin, Planning Board Secretary