

**Village of Woodbury
Planning Board Meeting
September 16, 2020**

Minutes of the Planning Board Meeting held on September 16, 2020 at 7:30PM
(This meeting held via Zoom)

Present: Christopher Gerver, Chairman
Robert Anzalone
Sandra Capriglione
Richard Cataggio
Thomas Deluca

Absent: None

Present: Richard Golden, Planning Board Attorney
Dennis Lindsay, Village Board Engineer
Jon Bodendorf, Engineer
Phillip Gealy, Traffic Consultant

Chairman Gerver opened the meeting with the 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 Mr. Deluca seconded by Mrs. Capriglione to approve and accept the minutes of the meeting held August 19, 2020. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

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

A motion was offered by Chairman Gerver seconded by Thomas Deluca to approve and accept the minutes of the meeting held and September 2, 2020. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca
NOES 0k

Chairman Gerver opened the meeting introducing Mr. Richard Cataggio as a member of the Planning Board.

4. Regular Agenda:

- A. - **Congregation Ohev Shalom** – Review and discuss draft decision for Site Plan, Special Permit and ARB for 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.

SEQRA was concluded on September 2nd when the Board issued a Negative Declaration of Environmental Impact. The public hearing was held and closed. The Board considered the site plan, special permit, and

architectural aspects of the application. This application is listed for review and potential action on the draft resolution of approval prepared by Counsel.

Engineer, John Queenan spoke briefly of the property located at 230 Schunnemunk Road, saying it's a conversion of a single-family house to a Shul-Mikveh for the local area that would accommodate approximately 72 congregates. He said he and the applicant have been in front of the board for quite some time and have gone through site plan review, the ARB, changes to the exterior of the house and as part of the application the house will not be enlarged.

Chairman Gerver referred to Village Board Engineer, Dennis Lindsay regarding his memo. Mr. Lindsay said he only issued a carryover memo dated September 11, 2020 stating the public hearing was held and closed and the site plan, special permit, and architectural aspects were reviewed. He said the resolution may contain conditions on items the applicant have yet to complete from H2M previous memo prior to signing. Before reading the specific conditions, Chairperson Gerver asked Village Board Attorney, Richard Golden if he had anything to add and Mr. Golden said he added a condition in the general conditions and will read it to the board.

Chairperson Gerver began to read the specific conditions on the Resolution of Approval document. As the Chairman read the conditions Mr. Lindsay interjected suggesting condition number 10 be clarified, since it read "the lighting shall be the same as the hours of operation" which he think it's what the Board previously discussed, but on the plan its noted as 7 to 10 p.m. ,and then it continues says "and shall be turned off by midnight". Mr. Lindsay thinks there's an inconsistency. He believes the intent was that when the service is over the lights should stay on a little longer so that people can get to their cars or walk down in a safe manner. He suggested it be clear so that everyone knows the requirement. Mr. Queenan wanted to add to Mr. Lindsay's comment regarding the hours of operation. Mr. Queenan explain why those hours 7:00 am to 10:00 pm were previously stated. He said the 7:00 am is when the first service begins and 10:00 pm is when the last service begins in the summer months. He also asked if the applicant could leave a few lights on along the building for security purposes or lighting overnight so that it's not a completely dark throughout the nighttime hours. Chairman Gerver asked Mr. Golden for his input on modifying the resolution. Mr. Golden asked Mr. Queenan if he was talking about lighting on the building or small spotlights by the entrances or if he had anything else in mind as far as security lighting. Mr. Queenan said just a few lights that would be over the main door and one on the back doors, so that there's still some basic sight lighting the rest of the lighting would be turned off just like a normal a residential neighborhood light. Chairman Gerver asked to confirm if he meant like perimeter security light but all the parking fixtures and that would be turned off. Mr. Queenan said yes. Mr. Lindsay said there's an overall requirement for no glare off-site and we generally have 0.1-foot candles in the property line, the no glare off-site becomes particularly important in the evening that will be enforced. He continues to say that Mr. Queenan is aware of that and so is the applicant if it's going to go later at night for security. Mr. Queenan said the lighting plan design with all the lights on they don't exceed the 0.1-foot over the property line so keeping the one or two on the building shouldn't be an issue but if it does become an issue, he's sure the Building Inspector, Gary Thomasberger will let the property owner know and they can adjust from there. Chairman Gerver said he ok with modifying the resolution to allow minimal security lighting. Mr. Golden said its best to get it detailed enough so that Mr. Thomasberger and the Building Department can understand it and it can be enforced, so by stating that one light over the main door and one light over the back door may remain on throughout the night would be suffice. Mr. Queenan then added that what he could do also is make it clear on the site plan by putting a number with each light so that the Building Inspector know plan which lighting it corresponds to and Mr. Golden suggested that Mr. Queenan add a note that those are the two that are going to be remain on throughout the night and he as well will put on the resolution "noted on the plans".

Chairman Gerver asked Mr. Deluca and Mrs. Capriglione if they agree and they both said yes, as long as those two lights aren't illuminating a lot more than just the walkways and become intrusive on other properties. The Board agreed. Mr. Golden said with respect to the hours of operation, he suggested it say "the hours of lighting shall be related to the hours of operation" that will allow some flexibility for allowing people to come in or out but it needs to be discussed that at a certain time they have to go off whether they're turned off by midnight every night. Mr. Queenan addressed it by saying the earlier narrative wrote 7 a.m. to 10 p.m. for the operations and after having a discussion with the applicant, they feel a comfortable range of time would be 6:15 a.m. since the rabbi prepares for the first service in the morning to 10:45 p.m. the last service in the summer. Mr. Queenan said that would be the hours of basic operation. The main times that congregates will be at the Shul. He continues to reference the lighting time asking for the lights to continue to be on till midnight. Chairman Gerver suggested 11:30pm and the Board and Mr. Queenan agreed that would be fair. Mr. Golden reminded Mr. Queenan he needs to make note of the hours on the plans. Mr. Queenan reiterated the operation is from 6:15 a.m. to 10:45 p.m. and he will add the main parking lot lighting will be turned off by 11:30 p.m. Mr. Deluca asked if they will be taking into consideration daylight savings time and if so, should it be noted. Chairman Gerver said that would be like splitting hairs and Mr. Golden said it would be easier for the Building Department to have something consistent as to when something should be turned off rather than figuring out whether its daylight savings time. Chairman Gerver read the Specific Conditions. He then asked Mr. Golden if he wishes to reread condition 10 with the additional language and Mr. Golden proceeded to read.

SPECIFIC CONDITIONS

1. *By this Resolution of Approval, the Planning Board is not approving the propriety of the location of the existing encroachments on the subject lot (Section 247, Block 3, Lot 4) or the adjoining lot, including but not limited to the drainage infrastructure encroachments on the adjacent parcel (Section 247, Block 3, Lot 5).*
2. *Construction of features (i.e. retaining wall) on the applicant's property shall not encroach on adjacent properties during or after installation without permission of the owner.*
3. *No busses may be used to transport people to or from this property. If busses are used to transport people to or from this property, it shall constitute a zoning violation.*
4. *This property may only be used for purposes of the shul and mikvah. No other use is permitted on the property.*
5. *Prior to the signing of the plans by the Chairman:*
 - a) *The Applicant shall submit a request to the Board of Trustees asking that the Village erect signage along the property's road frontage on Schunnemunk Road indicating that no parking is allowed.*
 - b) *The Building Inspector must determine whether the building's single access for women is in accordance with the New York State Building Code, and, if not, the Applicant must return to the Planning Board for potential revisions to the plans.*
 - c) *Revise the plans to comply with the standards of Village Code § 310-27(D) by including one additional tree.*

- d) *The Applicant shall comply with the memoranda of the Village Engineer dated August 28, 2020, to the satisfaction of the Village Engineer.*
 - e) *The applicant shall comply with the Code requirements contained in § 267-10 for maintenance and repair of stormwater facilities to include maintenance easement and agreement executed prior to certificate of occupancy.*
6. *There shall be no parking along the property's road frontage on Schunnemunk Road for this use.*
 7. *No signs are permitted on this property concerning the use of the dwelling as a Shul and/or Mikvah.*
 8. *Compliance with regulatory approvals, if any, shall be obtained.*
 9. *All new plantings shown on the plans, or as required or authorized by this Resolution of Approval, shall be planted in a timely manner consistent with planting seasons and maintained in a healthy and vibrant condition in perpetuity.*
 10. *All light levels must be limited to 0.1-foot candles at the property line so no offsite glare will result. The fixtures shall meet IDA, LEED or Green Globes criteria for Nighttime Friendly or Dark Sky lighting. Any wall pack fixtures shall include non-glare shields. The hours of lighting shall be related to the hours of operation, as noted on the plans, and shall be turned off by 11:30 p.m. every night, except that the one light over the main door and the one light over the back door, as noted on the plans, may remain on throughout the night.*
 11. *Owing to the representation by the Applicant that there will be no school and/or daycare operations on site, and the Planning Board's corresponding lack of review of impacts of any such uses, there shall be no school and/or daycare operations permitted on site.*
 12. *Owing to the representation by the Applicant that the hours of operation will be limited to 6:15 a.m. to 10:45 p.m. and the Planning Board's corresponding lack of review of impacts of additional hours of operation, the use on the property is limited to operating between 6:15 a.m. to 10:45 p.m..*
 13. *The Applicant must take all reasonable steps to prevent improper materials being placed into the wastewater system, including, but not limited to, signage in appropriate languages and locations as to proper and improper disposal of materials.*
 14. *The Applicant shall provide the banked parking as shown on the site plan, and it will be within the discretion of the Building Inspector to require the banked parking to be improved if operating conditions warrant it.*
 15. *The Applicant shall comply with items 2 through 6 in the memorandum of the Village Water & Sewer Administrator, received on September 2, 2020. Specifically, the Applicant shall:*
 - a) *Post signage in the bathrooms advising no wipes are to be flushed even if they say "flushable" and prohibiting improper disposal of such items.*

- b) *Eliminate paper towels from the bathrooms and require installation of hot air hand-dryers.*
- c) *Install sanitary napkin disposal bins at each toilet.*
- d) *Require a garbage pail for each bathroom.*
- e) *Recommend daily cleaning and emptying of receptacles.*

Mr. Golden said the general condition will not be just for this application but a modification of the general conditions for all applications. It was previously thought the general condition was stated already but it was not. It's a very generalized condition to catch problems that may arise later. Mr. Golden then read the general resolution condition below.

GENERAL CONDITIONS

This Resolution of Approval is further conditioned upon all other approvals that are needed by operation of federal, State or local laws, regulations and orders, whether or not noted above in the Specific Conditions of this Resolution, including, but not limited to the United States Army Corps of Engineers, New York State Department of Environmental Conservation, New York State Department of Health, Orange County Department of Health, the Village of Woodbury Board of Trustees, and compliance with the Woodbury Village Code, New York State Uniform Fire Prevention and Building Code, and all federal, State and local laws and regulations.

This Special Permit shall be subject to annual renewal by the Planning Board. The Village of Woodbury Building Department shall inspect the premises during the year after approval of this Special Permit. On or about each anniversary date of this Special Permit, the Building Inspector shall submit a report to the Planning Board if he identifies any violations or complaints arising from the operation of the Shul and/or Mikvah, including parking along Schunnemunk Road, and improper materials being placed into the wastewater system. If the Building Inspector submits such a report, the Applicant shall appear before the Planning Board at a scheduled public hearing to address any such violations and/or complaints prior to renewal of this Special Permit. The Village Building Department shall thereafter continue to inspect the premises on an annual basis prior to the expiration of each renewed term of this Special Permit to confirm compliance. If no violations or complaints are noted by the Building Inspector in any year, then the Applicant's appearance and the need for a public hearing is waived for subsequent years in which no violation/complaint report is filed by the Building Inspector, and the special permit renewal is automatic. However, if there is any significant complaint or irregularity that comes to the attention of the Building Department or Planning Board in between the annual special permit renewal dates which has not been remedied within a reasonable period of time after the non-compliance or complaint is brought to the attention of the Applicant, then the matter shall be brought on by the Building Inspector for a public hearing before the Planning Board, at which time said Board shall rule upon the need to deny or modify the special permit.

This Approval is conditioned upon the Applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Village of Woodbury Building Department within sixty days of the date of this Approval.

This Approval is additionally conditioned upon the applicant delivering (prior to the issuance of any Building Permit) proof that a copy of the final approved plans have been filed with the Orange County Department of Public Works, or proof that such filing is not required.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees in regard to this project have been fully paid, including, but not limited to, all engineering, planning, and legal fees. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all fees have been paid.

This final Site Plan Approval shall expire one year from the date it is granted unless the applicant shall secure a building permit, site work permit and/or begin on-site work. If on-site work ceases for a period of more than six months, then the Applicant shall be required to secure a renewal of site plan approval from the Planning Board. In the event that final Site Plan Approval expires, then the Applicant shall be required to file a new Application. The Planning Board may extend Site Plan Approval for a reasonable period not to exceed one year where the circumstances are such that the Applicant is unable to begin on-site work.

Chairperson Gerver asked if anyone would like to comment or had questions regarding the General Condition Mr. Golden had read. No comment.

Motion was offered by Chairman Gerver seconded by Mrs. Capriglione to accept the Amended Resolution of Approval for Congregation Ohev Shalom.

ADOPTED

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

- B. Woodbury Villas** – Public Hearing for Site Plan amendment to previously approved project re-Phasing plans. The applicant requests amendment for a phase lot transfer and to also allow for 30 additional Certificate of Occupancies issued prior to the installation of traffic signal at the intersection of Dunderberg and Nininger Road. Said subdivision is located off Dunderberg Road and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 3.22 et al.

The application is listed for public hearing for 30-additional Certificates of Occupancy prior to traffic signal installation and lot transfer among phases. As noted in H2M memorandum (243-20-015, dated August 28, 2020), a revised site plan should be provided with the information identified therein and as required by the Code. Other than compliance with H2M prior recommendations they have nothing further currently.

The applicant’s attorney, Steven Barshov proceeded by giving a quick overview prior to the public hearing. He said the applicant provided two applications before the Board. One is a switch in the phasing of 21 lots to be moved from phase 1 to phase 6; these are lots in which homes have been built and are ready for certificates of occupancy and although that action was approved many years ago it had lapsed and so it's back before the Board again. He said the other application is for a modification to the project approvals to allow 30 additional certificates of occupancy to be issued prior to the installation of a traffic signal at the intersection of Dunderberg and Nininger roads and that traffic installation has occurred. Mr. Barshov said they received confirmation from

the Orange County Department of Public Works that the traffic light has been installed and operational. He said he wanted to make sure the traffic light condition was of satisfactory to the Building Inspector so it would no longer be an obstacle as far as issuance of certificates of occupancy, which is what Mr. Barshov believes to be the case. He hopes to speak with the Building Inspector so that there wouldn't be a need for a resolution.

Chairperson Gerver confirmed with Mr. Lindsay that he only had a carryover for this application. Mr. Lindsay added by saying that as far as the resolution there will be one for the request of transfer of the lots from one phase to another. He said it's just a question of whether it would include the 30 COs. He said since there is time to make a decision and get some answers prior to the next meeting, something will be prepared in time. Mr. Barshov concurred with Mr. Lindsay and said that there are two applications and even if one for the Certificate of Occupancy isn't approved, they would appreciate the approval on the other.

Chairman Gerver called on Mr. Golden for comments and he said he had previously provided the Board with a memo, and nothing new was added. He noted that the application is listed for a public hearing. He said a lot of issues were vetted previously, but it hasn't been concluded by the Board, so at the close of the public hearing he would listen to what the Board would want on the draft a resolution and he would then go through the minutes and the memos from the consultants and come up with the conditions as it is normally done.

Before opening the public hearing Chairman Gerver stated the Board received a 9-page email from Joe Zlata, a resident of Woodbury. Chairman Gerver said he was not going to read it but will distribute it to the consultants. He then asked if there were any comments prior to opening the public hearing and there were none. Chairman Gerver proceeded to read names and numbers off his screen. Helen Fries Callanan's husband spoke saying "George Hoffman is doing the same thing that Brotsky did years ago when he owned this property. He was taking sections and moving them like section one and moving them over to sections and sections and the Town Board or the Planning Board was allowing him to do this and George Kaufman is building houses before he even has the COs and he's putting people in them. How is he getting away with it?" Chairman Gerver replied that is an issue the Building Inspector would handle; this board doesn't have enforcement powers and added that if he has any complaints, he would have to file it with the Building Department and they would then investigate. As Chairman Gerver appreciated Mr. Callanan comments. Mr. Golden interjected and said the Board did do their due diligence. Mr. Golden continues to say, yes there's been many times in which that development has come in to reorder the phasing but each time that they've come in to do so, it has been studied carefully to go ahead and make sure that there was necessary infrastructure in place in order to service those. He said people typically get building permits and build homes before they get Certificate of Occupancy. That he's aware of nothing has been brought to the attention to the Board where people have moved in before there were granted Certificates of Occupancy. He urges that if that was the case to bring it to the Building Department and they can investigate and if that is the case then there can be an enforcement matter brought against them.

John McNeill asked to comment on 230 Schunnemunk Road. Chairman Gerver said the 230 Schunnemunk Road public hearing was held on September 2, 2020 and that application is being closed. Mr. McNeill asked why he wasn't notified and asked if he can make a comment on the application. Chairman Gerver said the public comment period has past and the Board voted on that resolution this evening. Mr. McNeill asked when his time was to speak on the application and Chairman Gerver said September 2nd. Mr. McNeill said he was never notified of the public hearing. Chairman Gerver said it was publicized on the Village of Woodbury website. Mr. McNeill interrupted saying he was informed by town officials that he would be notified via postal service. He would like to know what the Planning Board is going to do to protect his rights as a citizen, his residence, the neighborhood, and his well-being. Chairman Gerver said the application was conditioned with specific and it will be available with the Building Department. He continues to say that in the next couple of days Mr. McNeill will

be able to foil that and see what those specific conditions are and that's what the residents would have to abide by. Mr. McNeill said he has some issues specifically with the lighting, the time of operation, daycare, and schooling. Chairman Gerver said its unfortunate the opportunity to comment has passed. He also noted to Mr. McNeill there were two meetings which held public hearings. Chairman Gerver advised Mr. McNeill to contact the Building Department about the notice he was to receive via mail and any other concerns.

Isaac Falkowitz said he recently bought a lot at Woodbury Junction complex about two and a half years ago. He sold an apartment in Kiryas Joel to be able to build his house and move in. After two and a half years of doing that things were a little difficult due to financial issues. The house was finished about five months ago and the inspector was there for final inspection. Mr. Falkowitz said he was given a list, and everything was taken care of on the list right before corona hit and nothing has happened since. He's been trying to make their lives a little easier by moving around to different locations and apartments, but nothing is substantial they are living out of boxes. He said as per the developers the issue was the red light, certain infrastructure issues, and from what he understands all has been taken care of. He said the holidays are coming up and it's extremely difficult. He understands, but the legal part should not hold up people that want to move in to finish houses that are sitting for half a year. Chairman Gerver thanked him for his comments.

Mr. Friedman (Galaxy S9) said "in the name of his family, all his kids we would like to ask the town to move ahead and approve the COs for all the additional finished houses so they could move in for the holidays." Chairman Gerver thanked him for his comments.

Susan Ciriello said "over the last 13 or so years the sponsors of this development have appeared in front of the Planning Board countless times to have phases split or flipped, lot lines changed and parcels moved between phases and every request has been approved. However, I believe that the Planning Board doesn't realize or hasn't realized the impact to the homeowners in Woodbury Junction. As per amendment three the amenities such as the clubhouse and the pool needed to be completed by the sponsor upon completion of the 190th home in phase one. As of now they have 84 of the 163 completed homes in Woodbury Junction are in phase one of the additional COs. They are currently seeking 10 that's in phase one, so it'll be at 94 of the 109 COs required for amenities. The reality is that as long as the sponsor does not build that 190th home in phase one he does not have to fulfill his commitments to the homeowner. The gatehouse for their offering plan was supposed to commence with the closing of the first home, yet they don't have that as well, so I believe that the amenities and the gatehouse should be tied to the total number of homes built regardless of which phase they're in. This would mirror the requirement of the light on Nininger Road which was changed back in 2010 by the Planning Board to the 163rd CO issue regardless of what phase the last home was in and that's probably the only reason why we have that traffic light today. I realize that all the commitments can't be met overnight and that some of these may not even be desirable in this unpredictable Covid environment such as a pool and a community clubhouse but there's one thing that I believe that's desirable to all our residents and that's the operational gates. What I'm asking is that the Planning Board consider to grant the rephasing and the COs but make a condition that the security gates outlined in our offering plan that were supposed to be installed with the first home be put in place and issued by maybe the 213th COs which is 20 away from 20 more COs from where will be after these 30 are issued. It should be regardless of what phase the house is in just total number of homes. I then ask the Planning Board also if that condition is not met that not only would COs be withheld but building permits as well to ensure a timely planning and compliance with that. Thank you." Chairman Gerver thanked her for her comments.

Avro Weiss said "regarding the issue of issuing COs. Actually, we're in all such same situation. We sold our house and we're actually being sort of pushed to give the house to the next buyer but because we're waiting for a CO for such a long-time, couple of months probably that it's almost happening. We're just in the middle and it

would be so helpful if we get it for the holidays at least, so that we don't as somebody else said before living out of boxes. Going from one dwelling to the other with kids and all but I will appreciate it if something is done quickly. Chairman Gerver thanked her for her comments.

Glen Robertson said "I live in Woodbury Junction and I agree with everything Susan said. In addition, I don't understand why the builder is allowed to build many different houses in different phases and we don't get our roads paved, which was one of the criteria for finishing phase one that once they finish the first phase then they have to pave all the roads and so I would appreciate it if we can help these people move in as quickly as possible but then enforce some kind of phase system where we build one phase at a time and finish that phase. So that we can pave roads and our infrastructure make sense and we're not building houses in all different phases at the same time. That's just not the way a development is supposed to be built. Chairman Gerver thanked him for his comments.

Jaime Walkers said "I concur with both Glenn and Susan's comments earlier today on the conversation. I will say to those residents that are living out of boxes, we moved in in 2014 but we signed a contract in 2012 so this is nothing new to the progress of the development. As far as things taking a long time, with that being said this may not be the proper audience to bring it up and I know that you have mentioned it in the past that it's something that should be brought to Mr. Thomasberger's attention but there are a lot of things that are going up here in this development in terms of what's supposed to be single-family homes, they are multiple family homes. There are absolutely families moving into homes where there are no COs. There are a lot of eyes being turned blind to what's going on up here and those of us that are just trying to live a peaceful life with our children in harmony with the rest of our neighbors here. It's been very difficult so I would ask that you please listen to what Susan mentioned tonight as well as read very carefully that 14-page email that you received from Joe, because you're getting the real deal there and it's important that everybody is aware. Chairman Gerver thanked her for her comments.

Chairman Gerver asked if anyone else would like to speak. No response.

A motion was offered by Chairman Gerver, seconded by Mr. Deluca, to close the public hearing for Woodbury Villas.

ADOPTED

AYES 5 Chairman Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca

NOES 0

Chairman Gerver said the Board has two issues, one is regarding the traffic light and the other the rephasing the rephasing of the lots He suggested they start with the traffic light; the issuance of the 30 COs based on the traffic light. Mr. Deluca said the light's operational; he's been through it a couple of times and as for the COs he's ok with it. Chairman Gerver asked Mrs. Capriglione for comments. Mrs. Capriglione said she was okay with the 30 COs. She said the traffic light is in and it's operational and they've met their requirements, so she had no problem with the issuance of the 30 COs. Mr. Cataggio and Mr. Anzalone concurred with the rest of the Board. Chairman Gerver asked Mr. Golden if the Board can have two separate resolutions, one on the 30 COs and one on the rephasing. Mr. Golden said it would be best if there were two separate resolutions since they are different in what they address, and it will also make it easier for the Building Inspector. Chairman Gerver asked the Board if they were ok with taking a that approach and all agreed.

A motion was offered by Chairman Gerver, seconded by Mr. Anzalone, to have counsel approve the draft Resolution of Approval for the issuance of 30 Certificates of Occupancy.

ADOPTED

AYES 5 Chairman Gerver, R. Anzalone, S. Capriglione, R. Cataggio, T. Deluca

NOES 0

Chairman Gerver referred to the rephrasing and asked the Board for comments. Mr. Deluca said since he is barely new on the Board, he is not familiar with the full history of the rephrasing but reading some of Mr. Zlata's 9-page email and listening to the comments during the public hearing. He said he's not sure why the Board is allowing any kind of rephrasing if there were certain parameters put into place when certain things needed to be met. He asked why the rephrasing to move one house to a different phase when one phase is not completed allowed. He said he doesn't understand it and he's not for it. Mrs. Capriglione agrees with Mr. Deluca. She said she read Mr. Zlata's letter and feels the Board, Mr. Thomasberger and the developer and maybe Mr. Barshov have a meeting and be on the same page before giving out any kind of approvals. At the moment she's not comfortable going forward on the rephrasing.

Mr. Lindsay gave an overview on how the phasing was processed. He said the phase plan was not dictated by the Board. The Board generally said that the phase plan and the way that it is constructed (in the method of construction) is by the applicant, as long as they provide all of the infrastructure that's required for each phase and that phase can function properly as the Board intends. He said if the whole project stops at any one particular point, keeping in mind the phasing was originally set up by the applicant, the board looked at it and said well in this particular phase if you're going to do this work you must have this infrastructure installed and there was a box on those drawings if the Board recalls and it said that if it was built in this order in these phases you had to have this pump station built; you had to have this water tank built. He said there were certain requirements, and some have been built out, he did not comment on the conditions of them, but most have been built out. He continues to say those phases are two items that were mentioned in the memo that we're tied to phases that have not yet been constructed, the clubhouse and the gate down at Nininger Road. He said from what he saw the clubhouse was tied to phase one, someone from the public mentioned 190 units and Mr. Lindsay said he doesn't recall but will investigate. He does recall it being built in phase one. Mr. Lindsay said he spoken to Mr. Thomasberger about how it's problematic when things are tied to COs and the developer figures he will have it built and ready at a certain time, to then have things happen beyond his control to satisfy that time constraint, to then having people selling their homes with the anticipation of moving on a specific date. Mr. Lindsay thinks it may be a good idea to tie in the building permits with the COs.

Mr. Golden said the Board should look back on the original phasing plan and see when the amenities were meant to be built. He said it would make sense if the Board try to figure out a new way to tie it something to cover that intent. He said the offering of the HOA really has nothing to do with the Board unless it was part of the Board's subdivision approval. Not making reference to what has been said this evening, Mr. Golden said there are certain things that are promised in an HOA offering that are not part of the subdivision review and approval process and for those the Board does not have the authority to enforce. He continues to say that if those same things are part of the Board's subdivision approval, when the Board goes back and look at the original intent then the Board can go ahead and enforce those and figure out a way to serve the original intent and not allow the developer to manipulate certain thresholds in order to never build something. Mr. Golden is not suggesting this is what's going on but advising the Board. He suggested the Board to use Mr. Lindsay expertise and review the original intent and address the amenities that haven't been built.

Chairman Gerver said he had a separate conversation with the Mr. Thomasberger and he had suggested that going forward if there be any changes to the plan, the building permits will be used as the catalyst and not Cos, so he knows Mr. Thomasberger is in agreement with changing the catalyst here. Mr. Cataggio added that he feels for the people. He had a similar experience some time ago. He said the Board should meet with Mr. Thomasberger and tie the amenities into something else. Mr. Anzalone agreed with Mr. Golden. He said the Board should look back and see whether any of this was tied into the past as far as the gatehouse or the clubhouse and so forth. He said he thinks it would be a good idea if each Board member would go through Woodbury Junction to see if there's anything that the Board would find questionable. He appreciated Mr. Lindsay answer of the rocky roads in Woodbury Junction, which he previously had wonder why some roads were rough, but it makes sense with construction.

Chairman Gerver said he will forward Mr. Zlata's email to council and to Mr. Lindsay after the meeting, to review and comment on. He said Mr. Zlata brings up a lot of points in his email. Mr. Golden added saying a copy will be sent to the applicant as well. Mr. Barshov said he hears the concerns of the board, but he doesn't think those issues are relevant in this rephrasing that's requested. He said he understands where the board is coming from and wanting to respond to these questions that have been raised by people who are property owners in the community, but this particular rephrasing would not have an effect on it. He said it's simply a rephrasing on what was previously proposed and approved. Mr. Barshov said he too would like to read Mr. Zlata's email so he can respond to it. He then requested for the Board to adjourn the application to the next Board meeting, so that he and the applicant can review the materials and perhaps answer some of the question and concerns that were raised.

Mr. Deluca asked how many rephrasing have been granted from the beginning and Mr. Lindsay said there were a total of 11 except the 11th never signed so then there was 10 and now this application has come back as 11. Mr. Lindsay proceeded to tell Mr. Deluca how it was processed from the beginning. Mr. Deluca asked shouldn't a developer anticipate this at the beginning of flurry of changes. Mr. Golden said there was a flurry of them in the beginning and there hasn't been many over the last several years. He said a lot of it had to do with the market and when it crashed, at that point in time and they were desperate for houses to be built. He said some people would come in and want a house in a certain location and didn't want it in a particular phase so they were trying to accommodate that to some degree, but that doesn't answer all the questions.

Chairman Gerber and the Board agreed to move this application to the next meeting, as they and their consultants must do some further research on the application of rephrasing. Chairman Gerver confirmed with Mr. Golden there is no need to make a motion just to reschedule once the reports come in. There were no more questions for the applicant. Mr. Barshov thanked the Board for the approval of occupancy.

- C. Pulver/Rushmore Winery** – Review and discuss revised site plan submitted for proposed winery/vineyard /farm to include the construction of a new 4,000 sq. ft. winery and tasting room building. Said property is located at 14 Castleton Drive and is known on the Village of Woodbury Tax Maps as Section 2020 Block 1 Lot s 70 & 79.

Attorney, Justin Kimple representing the applicant Dr. Pulver, gave an overview of the proposed winery/vineyard. He said they are proposing a significant improvement to the Village by creating a vineyard and winery at the Rushmore Estate. there is substantial site improvements that he will be proposing, he has appeared before the ZBA and obtained a variance for the ability to utilize Quaker Road as access to Rt 32 from the site and Dr. Pulver is going to be making substantial improvements to that to the 32 Quaker Road interchange as well as improvements to the Ice House road which is the direct access to the property.

Engineer, Larry Torro said they are proposing a 4,000 sq. ft. building with the required parking and amenities and so forth. He said in receiving comments from Mr. Lindsay based on the plan he noticed that the plans may have been a little misleading and said they are not proposing a well site. He tried clarifying by saying it's the old existing pump house that was with the estate and when the village water was brought into the property the connection was made at that pump site. He said from that building everything on-site is fed from that location, so that's why a line is shown from there going to the winery facility. He wanted to be clear, there are no wells being proposed it will be on municipal water. Mr. Torro said the other item associated with the utilities is the sanitary sewer for showing the sewer connection into the village sewer line. He said it will be privately maintained and owned. There was some concern about the flow, and it will be discussed with Dr. Pulver. He continues to say there are a few items as far as wash down at the facility that will help with the flow within that main and once that main is constructed it will have the ability to tie in the existing buildings and facilities on site, to then abandon any septic systems that currently exist. Mr. Torro said they were items with the access roads and meandering lane shown as the vineyard area. He said the intent here it was like what Mr. Lindsay had pointed out on his memo. Dr Pulver had marked out an area meandering through some large significant trees that will remain. Dr. Pulver is looking to work around it to keep that landscaping and give it that more of a country look as people head to the winery. He said the trees in that area will not be cleared for the vineyards so they need to modify the plan accordingly and show where the vineyard area will be along with the grading associated with that.

Mr. Kimple said one of the issues that was raised in the memo has to do with the architecture of the construction of the building. He said Dr. Pulver is focusing in making this a beautiful and attractive site and vineyard with the preexisting structure at Rushmore Estate and to make it enticing to bring people into. He said Dr. Pulver will certainly consider in how to make sure that the building they are proposing ties in well with the existing structures and to be consistent with making those country lanes, the drive-in attractive to the folks coming to the facility.

Mr. Lindsay proceeds to go through part of his memo since the applicant had already addressed some of the points. He said there are two lots involved, and the applicant owns both lots and they're treating it as one. He said he wasn't too sure, but he thinks that there may be a recommendation for a lot merger in order to do what they want to do. He said if that was the case the applicant should submit a subdivision plot for a lot merger, if not then there's going to have to be easements because getting to one property you've had to go through the a property. Mr. Lindsay refers to his memo.

Mr. Lindsay said the plan shows a gravel drive that's nice and rustic but he thinks the applicant should hear from their ESO's, just to make sure that it'll be compatible and if they're okay with it, it may be a well-graded material so that it can packs well and still give that appearance and will be able to be plowed but he would like to hear that from the applicant and see the details. Mr. Lindsay continues to say that Ice House Road is noted as a private road, he provided the applicant a copy of the Rushmore Festival showing an action that the board took many years ago. He continues to say a number of residents were concerned about Ice House Road. He said the residents were concerned; they wanted to make sure it didn't change their quality of life. Mr. Lindsay suggested the applicant should provide some details on how they are going to maintain that. He suggested the applicant have a separate access for their ESO's other than the normal way. He mentioned the ZBA conditions, he said the applicant has to comply but after speaking with Mr. Golden briefly about the enforcement on the private street standards and how that's worded in terms of the planning board and the six property owners on the property making it an unusual resolution or condition to make.

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Site Plan – The materials submitted by the applicant have been revised for utilities, access, and parking since their last appearance. Appended is a list of code requirements for the complete site plan [§310.45.I.]. The applicant will need to comply or request a waiver for any plan requirements not provided; the next plan submission should identify the requirements requested for waiver.

a) *Layout and General Circulation – The applicant previously submitted a detailed traffic report. We defer to your traffic consultant for detailed review, but offer the following comments on parking and access:*

- *The parking area has been relocated to the West of the proposed structure. It is not clear if the parking area will be gravel as originally proposed or paved; applicant to confirm. The plans should indicate the dimensions for stalls (9 x 18 min) and the width of the travel way.*

- *The applicant now shows two driveways (one entrance and one exit) to the proposed building that run approximately parallel to the proposed vineyard area. The driveways are irregular in path and without additional detail on the map or explanation it is difficult to discern if this is for a rustic character, traffic calming, roadway impediments such as trees, landforms, or other reasons. The drives impede on the designated vineyard area and connect to Ice House Road in an area not proposed for improvement. The applicant should discuss the layout. 2 The R1A Zone refers to permitted uses in the R3A Zone with exceptions. Category #14 refers to Farm Wineries which are permitted in the R1A Zone. Applicant should revise the bulk table to indicate R-1A zone. 3 The applicant has inadvertently indicated a rear yard requirement of 40-feet where 100-feet is required (plan still complies), provided dimension should be updated as building is proposed in a new location. 4 An existing one-story building at the North End of the property may have an existing setback non-conformity depending on use. Village of Woodbury Planning Board Memo No. 243-20-017 September 11, 2020 Page 3 of 7*

- *Two properties (202-1-70 & 79), under common ownership, are proposed for development. It appears the lots are being viewed as one parcel for development purposes and, although not required, we recommend you and the applicant consider a lot merger. You may wish to discuss this with Counsel.*

- *We recommend you consider with your traffic consultant whether it would be appropriate to switch the ingress and egress locations from Ice House Road to the site to avoid interference with exiting and entering traffic, specifically making a left out of the property.*

- *The plan shows the drive as a gravel surface, the applicant should provide construction details. A gravel surface could add to the rustic character and help with runoff control but it would require routine maintenance to remain safe and passable which is important for ESO access and is recommended as a special permit condition. The width of each drive is 12-feet which is adequate for one-way traffic.*

- *Ice House Road is noted as a private road. The applicant should provide details on ownership, rights of access and any agreement for maintenance. We have appended a copy of the resolution for the Rushmore Festival which has various restrictions and operational requirements for the road.*

- *Details of the road improvements should be provided, including materials, grading, drainage, etc. Widening the road is shown partially within an existing easement (see comment “g” below). The limits of the improvements should be confirmed (i.e. will widening occur past the ingress and egress locations.)*

- *Ice House road extends through to Castleton Drive in the Brigadoon development. Improvements to this portion of the road are not proposed. The applicant should confirm the intent for this half of the road (existing to remain/barrier) and discuss how traffic will be confined only to Quaker Road. Condition of existing road from Castleton to be provided. While this route may be restricted from winery guests, the board may wish to refer this to the ESO’s for their needs and whether both routes will need to be maintained for emergency access.*

- *The following requirements have been paraphrased from the ZBA variance referenced above. These conditions need to be satisfied or amended by the ZBA:*
 - o Improvements to Ice House Road shall include widening the road to 24-feet, macadam surfacing, two lane travel, graded horizontally and vertically to meet current Village specifications for a private road with footpaths or sidewalks installed in the residential portion of Ice House Road.*

 - o Ice House Road shall be designed for suitable access by emergency vehicles. The intersection of Ice House Road at Quaker shall have a stop sign with suitable sight distances maintained for exiting traffic on to Quaker.*

 - o Access via Ice House Road to Quaker by the six residential properties along this road shall be continued and memorialized by recorded easement.*

 - o Applicant shall file a Declaration of Covenants bringing the owner of the property to maintain Ice House Road to Village private street standards and grant enforcement authority to the Village and any of the six property owners. (NOTE - We see this as an unusual condition and we are not sure how the ZBA intended it to function. We defer to Counsel on how this would be enforced.) Village of Woodbury Planning Board Memo No. 243-20-017 September 11, 2020 Page 4 of 7*

 - o Applicant shall apply to the Village Board and NYS DOT for MUTCD signage, if applicable, at intersections in the vicinity of the project.*

 - o Applicant shall propose to realign the intersection of Quaker and NYS Route 32 to create a “T-Intersection”. (NOTE – A plan has been provided. We defer to your traffic consultant for comments on the same).*

 - o As part of the applicant’s site plan, applicant shall present a plan for directional signage both on and off premises so as to direct the volume of anticipated traffic from the Ice House Road/Quaker Road intersection directly to the Quaker Rd/NYS Rte. 32 intersection to avoid traffic along Evans Drive. (Discuss with Counsel) o Applicant shall not allow large passenger style busses or tractor hauled trailers (18 wheel vehicles) to access premises via Ice House Road (Condition of Approval). o The ZBA suggests you recommend the Village*

Board consider designating Evan's Road a one-way street if site plan is approved. o If approved, Applicant's information to public for directions shall be by Quaker Road and Route 32, with no mention of Evan's Drive.

Mr. Lindsay then talked about water, he thought Mr. Torro gave a good clarifying explanation. He thought the applicant will be providing it through a well pump but that is not the case. Since they are using Village water it shouldn't be a problem. Mr. Lindsay said he investigated the water districts since it expanded and wanted to if the property was included. He said the private sewer district was created with its own treatment plant and it did not include the mansion, he doesn't know if something happened if it was added later but if the intent is to tie into it then it would be an out-of-district user and that's something we've only started getting into with the Village. He said from what he can tell the property is in the water district, but not in the sewer area.

Utilities – 1. Water & Sewer – The applicant previously advised that public water and sewer would be provided. They now propose to develop a private well for water supply and to connect to municipal sewer. The applicant should show off-site wells and septic systems within the vicinity of the proposed project. We have the following comments:

a. Water – The applicant is proposing a new well and pump building. A new well for this application requires Department of Health approval for a "Transient noncommunity water supply". Details for the well, building, and functionality of the water supply have not been provided. Based on the elevations shown and distance from the well to the proposed building, we anticipate the need for either a hydropneumatic system or storage tank to provide water supply with adequate pressure to the facility. Furthermore, the applicant will eventually need to prove water supply quantity and quality. We recognize the cost impact of developing a well at this stage of the approval process is costly, but should be proven prior to final plan approval. The applicant should advise if the vineyard will require irrigation and provide estimated usage. Details on the roadway surface to the well pump building after clearing should be provided.

b. Sewer – The applicant proposes connection to an existing sewer main. If not in a current taxing area for sewer, this connection may require municipal approvals. The proposed connection is approximately 1,450-ft long and is significant. The applicant should review the proposed operation of the building and consider odors and solids deposition within the lateral. If the sole source of wastewater is from restrooms, the issues noted above may occur. If there is some wash down or significant flush due to the wine production process, these problems may be avoided. The applicant should confirm it is the intent for this connection to remain private.

Mr. Lindsay said there were several other comments that were given to the applicant primarily for future submissions on lighting and signs and architectural view and ridge preservation, requirements for future applications. He also said he made a few notes on SEQRA and materials received where he thinks changes should be made. He had also made comments on traffic but decided to leave it to the Traffic Consultants.

Mr. Anzalone asked is there going to be a lot of residue that would be put into the sewer system or is there a method they're using to prevent that from getting into the sewer. Mr. Lindsay responded saying he thinks it washed down water. More information will be provided by Mr. Torro. Chairman Gerver asked what is wash down water. Mr. Lindsay replied saying water being hosed down. Mr. Kimple added saying they are in discussion with a consultant regarding the winemaking process; he's at the beginning stage right now and he is

going to have more information about the requirements for the whole winemaking process in the coming months. Mr. Anzalone asked Mr. Lindsay if the entrance and exit will be a gravel road and continued to say that he agreed it'd be a rustic look and it would help with penetrating water into the ground instead of having a lot of runoff, but he was just wondering how easy it would be to remove snow from gravel. Mr. Lindsay said there are some things that can be use like a quarry process which is a fine graded material or an item that goes through the whole size spectrum, graduated in size that packs down pretty solidly. Mr. Lindsay said nevertheless there's going to be some maintenance where the applicant will have to spread some material on a yearly basis or every other year.

Chairman Gerver asked Mr. Lindsay if there were fire hydrants in the water district. Mr. Lindsay said no, it's a water area, the property is being served. Mr. Torro said he will get more information on the topic and provide it in the next submission. Mr. Anzalone asked if irrigation will be through well water or sewer and Mr. Torro said he suspects that there is some irrigation required, it hasn't been established yet. Mr. Lindsay said if they have their own water supply and well that they use that for irrigation. He said due to the irrigation the municipality has issues right now with water supply and that might help the applicant with the application because it might be a negative if they use a large supply.

Mr. Deluca asked how this whole project relates with the new code (Water Overlay) the Village just passed. Mr. Lindsay said a lake on the property would be some impact, but they're not working around there, he thinks they're far enough away. Mrs. Capriglione asked at what point do we ask, or should we ask the Village Highway Superintendent to come give his opinion on how this road should be done. Mr. Lindsay said as soon as we have a design where Traffic Consultant, Phillip Gealy is saying this looks like it might work with a little tweaking or changing it dramatically that's when it be good to go to the Village Highway Superintendent. The Board talked it out for a moment spoke of steps that the applicant needs to make, all the necessary parts of the site plan review and conditions. Mr. Kimple said they're at the preliminary stage to look at some of those things. He added that the property is in the sewer district according to Dr. Pulver. Mr. Kimple said they will make sure that is the case before anything is finalized. He said they would like to ask the Board to follow through with declaring itself lead agency and they will also need town approval for the change between Quaker Road and Rt 32 in order for them to move forward with the DOT. He said as of now those are the main things that they are asking from the Board. Chairman Gerver said he didn't think becoming lead agency would be an issue and Mr. Golden said it may be an issue due to this being an uncoordinated review, a requested from the applicant, so they could go to the ZBA and get their determination before SEQRA was done so it's an uncoordinated review and you rescinded your lead agency status. Mr. Lindsay asked Mr. Kimple to provide him with whatever document Dr. Pulver may have indicating he's in the district because he will follow up on it.

Mr. Gealy agrees the ESO input is needed. The input on the access and the conditions that's required relative to the emergency access to the property. He referenced an item Mr. Lindsay mentioned, he would like to hear from the applicant the rationale of the entry and exit. They are basically flipped, and they're laid out as you come in Ice House Road you would pass the exit and then come to the entry drive to get into the property. He said the exiting traffic would have to cross your entering traffic and so it's more of a clockwise rotation as opposed to counterclockwise. Mr. Gealy said he didn't know if it's because of grading, but he's curious as to why it was laid out that way. The applicant is proposing to upgrade Ice House Road to 24 foot width and that has been seen on a preliminary basis. He said he would have to look at that in more detail and get the input of the Highway Department. Mr. Gealy said some of these comments are outlined in the memo dated September 9th but the section Quaker Road from Ice House Road out to Route 32. The applicant has prepared a preliminary plan showing the realignment the teeing up of Quaker Road and Route 32. At some point before moving forward the input from DOT on their requirements and the information that Traffic

Consultant, Michael Galante from Fredric Clark Associates representing the applicant, had put together showed on how they would accommodate the e proper sight distances etc. but it's important to get input from DOT. Mr. Gealy said regardless of lead agency, he thinks the applicant should approach DOT early to get the input. to know what direction and the plan they prepared will meet all the requirements that DOT is going to put in place, also if Route 32 and Quaker will remain private. He continues with mentioning the ZBA review and approvals and one was relative to Evan's drive and the ZBA recommended it to be a one-way configuration which requires the Village Board input.

Mr. Galante said there was a traffic study that analyzed the potential of providing access to this site via Ice House Road to Quaker Road to Route 32 and that's what was provided to the ZBA. At that point in time to move forward from the results of those traffic studies which included countless analyses on a Friday, Saturday, and a Sunday. He said it was busy weekend during the summer, and they projected traffic volumes. He said there was projections and to play it safe and it was determined that with an improved Ice House Road and improvements to the Quaker Road Route 32 intersection it can accommodate the traffic on a busy weekend. Preliminary Engineering Plans intersection of Route 32 and Quaker Road were given to New York State DOT. Mr. Galante said DOT is in the process of reviewing the plans now for a couple months and they've come back with some minor comments. He said they haven't signed off as far as the alignment which is a T intersection versus the Y that's there, but he thinks DOT would have mentioned a concern early on. He said he believes the state will agree and approve the T type of intersection maintaining stop sign control. Mr. Galante offered to provide the correspondence from DOT to the Village as they go through the process keeping them in the loop. Mr. Kimple asked Mr. Torro if there was an issue with the ingress and egress and Mr. Torro said there's no problem in flipping them and Mr. Galante agreed. Mr. Kimple said the applicant has a preference, but they will discuss.

Chairman Gerver asked Mr. Golden if there was an issue in becoming the lead agency and Mr. Golden advised since this was an uncoordinated review it should remain that way. He added there's SEQRA regulations and issues dealing with the ZBA. He said there's also the EAF on file was done years ago. Mr. Golden suggested an updated EAF would be very helpful. Mr. Lindsay said it would flush out those details on the sewer, the flow and it will determine what sewer district. Mr. Golden mentioned the ZBA conditions, they are unusual conditions and it will take some time to come up with answers. He said the two properties really need to merge as one and the plans need to be modified accordingly. He mentioned the Village code provision is related to the farm winery requiring that existing structures and any new traditional structures must be designed to be consistent with the local structures that are architecturally significant. Mr. Golden and Mr. Lindsay gave a listing of what is required of the applicant prior to appearing in front of the board. Mr. Anzalone asked how does the moratorium would affect the review if its adopted by the Village. Mr. Golden said there has been a lot of public comments at the moment, but as of now its not adopted.

Mr. Kimple said the applicant wishes to add Mr. Gealy's report to a separate application. The Board and Mr. Lindsay confirmed they did not receive the second application. Mr. Torro confirmed the application was sent in, he said it was submitted to the building department. It was then realized it's a separate and since it referred to a different parcel. Mr. Kimple clarified they do not want to combine both they just want to move both applications along simultaneously. The Board and counsel agreed to read once received.

- D. Friedman** – Review and discuss revised plans submitted for conversion of an existing 1,000 sq. ft. addition of a single-family home to be used as a Place of Worship. Said property is located at 32 Blueberry Lane in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 217 Block 2 Lot 4.2.

Chairman Gerver asked for whoever was representing the Friedman application to make themselves known, and no one acknowledge. A few minutes went by and it was clear the applicant was not present. Chairman Gerver asked Mr. Golden on how the Board should proceed since the applicant is not present. Mr. Golden said it's on the agenda and typically the Board doesn't address applications without having the applicant having an opportunity to be present, but certainly if the Board listed it on the agenda, he is sure the applicant was notified. He continues to say the Board can address the application without the applicant present, but there are limitations since the Board can't hear from the applicant on any questions the Board may have, but the Board can address it to the extent that the Board want. Mr. Golden said this application came before the Board because of an enforcement action and sometimes the applicants aren't quite so motivated to come before the Board in connection with their enforcement action. He said it's important that this matter get addressed and that this applicant of this property be brought into compliance by an approval. Mr. Deluca asked if the property is being used as a Shul now and Mr. Golden said it was being used as a school. In a prior meeting the applicant's attorney readily admitted that and they enter into an agreement with Mr. Thomasberger before it appeared In front of the Board. A violation was issued, and now an enforcement action will take place.

Mr. Lindsay said we need to be careful when issuing the memos to the applicants. He said he tries to get the memos out to the Board on Thursday or Friday and Monday to the applicants. If sent out too early to the applicant they rush to get additional plans based on the memo. Then they'll have revised plans based on the memo. Mr. Lindsay he would'nt want applicants change their plans based on something in the memo. Mr. Lindsay is concerned on how suddenly a new application or materials is provided based on the memos. Chairman Gerver asked Mr. Golden for advice on how to proceed with this application. Mr. Golden said if you want the building department to send them a letter that says because it deals with them in their enforcement action if we're listing you on the next agenda if you're not on the next agenda then Mr. Thomasberger will take whatever measures that he wants to do with respect to the enforcement. Mr. Lindsay asked if that was what the Chairman want him to do and Chairman Gerver said yes. Chairma Gerver asked the Board if they would like to go through the memo and the Board wasn't comfortable doing so. There were too many questions for the applicant to answer. Chairman Gerver along with the Board agreed to table this application till the next meeting.

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

The Board received no paperwork on the handrails. Mr. Lindsay said Engineer, Steve Esposito has some ideas for the handrails, but have yet to submit paperwork to the Board. Chairman Gerver asked if Mr. Lindsay checked out the steps on the corner of Estrada off Rt32. Mr. Lindsay said he didn't get a chance to look and measure. Mrs. Capriglione pointed out an area in the back of the building that did not look right to her. Mr. Lindsay confirmed there's an area that needs to be reconfigured. Chairman Gerver said that would interfere with the CO's and Mr. Lindsay said Mr. Thomasberger would not issue CO's till he sees its safe. Mr. Lindsay said Mr. Esposito is looking for a solution and will keep everyone posted.

Adjournment:

With no further business to discuss, a motion was offered by Mr. Deluca seconded by Mrs. Capriglione to adjourn the meeting at 9:40 PM.

ADOPTED

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

NOES 0

Claudia Romanisin, Planning Board Secretary