

**Village of Woodbury
Planning Board Meeting
October 21, 2020**

Minutes of the Planning Board Meeting held on October 21, 2020, at 7:30 PM
(This meeting held via Zoom)

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

Absent: None

Also Present: Richard Golden, Planning Board Attorney
Jon Bodendorf, Engineer

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 R. Anzalone, seconded by T. Deluca, to approve and accept the minutes of the meeting held on September 16, 2020. Chairperson Gerver conducted a roll call of the Planning Board in which resulted in the motion being:

ADOPTED

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

4. Regular Agenda:

A. Gluck/Summit Properties ARB - Review application submitted for ARB review of 5 single-family homes located on Summit Avenue in Central Valley. Said property known on the Village of Woodbury Tax Maps as Section 228 Block 9 Lots 1.22, 1.23, 4.21, 4.241, 4.243

The applicant did not show up and the Board decided to not take action on the issue.

B. Shops of Woodbury - Review revised site plan submitted for a mixed-use development to include retail stores, restaurants, and a hotel. Said property is located at the intersection of Route 32 and Locey Lane and known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lots 34.1 & 34.2

John Canning, representing the applicant went over the comments that were given for the applicant to address back in September 2020. He feels they have addressed all comments in the memos with the exceptions of a couple of technical issues that need resolving and says they are anxious to move forward with a public hearing. Mr. Canning said one look at their site plan submitted back in February 2020 with the current plans shows it would be tough to find the difference between the two. He said it would be best to get the public involved to hear what comments they may have so they can be responsive as well. Mr. Canning started to go down a list of things they have addressed, the park and

ride access with DOT, the second lane to the drive-thru, increased the width of the driveway to 12.5 ft., signs, stop lines, crosswalks, and ADA spaces as requested. He also spoke of the parking. He provided the Planning Board a parking analysis based on the code and feels there is more than enough parking.

Mr. Canning said in the traffic consultant memo back in February agreed with the shared parking concept. Kevin Vanhise provided parking surveys from Woodbury Centre from last year. Mr. Canning stated how both properties have similarities by having the same mix of retails. He noted that on a Saturday afternoon they surveyed the parking and came up with 20 occupied spaces while 80 were left empty. He made projections during the holiday seasons and determined on 40 percent of parking was occupied. Mr. Vanhise, representing the applicant provided a historical screen of the parking at Woodbury Centre. Aerial photography of the Woodbury Centre going back as far as 2007 to the present.

Mrs. Capriglione asked what day those pictures were taken because she believes it makes a difference. Mr. Canning wasn't too sure of the exact dates those pictures were taken just the month and year. Chairman Gerver said comparing Woodbury Centre with Shops of Woodbury is like comparing apples and oranges. He said shopping habits have changed due to COVID, but before that lots were full; setting Dunkin Donuts as an example and noting he has never seen in the last few years every store in Woodbury Centre occupied. Also, Woodbury Centre having one drive-thru while Shops of Woodbury plans to have two, while he appreciates and gets what Mr. Canning is saying he also thinks it needs to be acknowledged that there are differences between the two projects. Mr. Canning agrees and said they have provided code required analysis and industry-based analysis to show there are enough parking spaces in Shops of Woodbury. He continues to say more than 17 spaces are provided all around the proposed facilities, unlike Dunkin Donuts that has 15-17 spaces.

Due to comments from the last meeting 13 parking spaces were taken out giving back 1200 square feet of green space. He said there will be an opportunity and for any changes and uses to any of the buildings, the sizes, future parking, or when the hotel is built; to address any concerns that the Planning Board may have at that time. Chairman Gerver then asked if there will be a rephasing plan. Mr. Canning said to his understanding retail will come first and Aaron Goldklang the applicant confirmed. Chairman Gerver asked all the pad sites will be built first and then the hotel. Mr. Canning said that is the plan, but if they received more interest in a hotel than retail, then they would file an application for the hotel. Which they will then provide a modified construction staging, phasing plans, and swift plans so they can continue to build and operate.

Mr. Golden then asked if Mr. Canning is proposing to have a phased project or an approval for the whole thing so you can develop as it becomes due. Mr. Canning said the goal is to get approval for the entire site and to build when they have tenants. Mr. Goldklang said the plan is to get approval and to put infrastructure for the entire property. Starting right away with the front pads. He said they are talking to several users who would like to occupy those spaces, who are waiting for us to receive the final approval from the Planning Board. Therefore Mr. Goldklang envisions the retail spots occupied first and then down the road the hotel. Chairman Gerver asked Mr. Golden if the Planning Board gives preliminary approval to the site plan and an intensity changes in a use; what can potentially make the applicant come back to the Planning Board. Mr. Golden said because if the applicant has approval for a certain intensity of use if a tenant increases the intensity of use from what was approved the applicant will have to come back to the Planning Board for an amended approval. Chairman Gerver asked if each pad site would need approval and Mr. Golden said it depends on the final approval, but if they exceed the final approval, they will need to come back to the Planning Board. Mrs. Capriglione asked if that was the Building Inspector Gary Thomasberger's job and Mr. Golden's said yes, the Building Inspector Thomasberger would have to oversee it.

Chairman Gerver asked Mr. Goldklang are the uses that are on the plans now in line with the clients you're in negotiations with. Mr. Goldklang said yes, but there hasn't been any confidentiality agreement in place. He recalled

a meeting with the Building Inspector Thomasberger and he was told that if there were any changes on the use depending on the location he would have to come back for a permit. He said his focus is to minimize, have tenants that require less parking than to have to come back to the Planning Board with changes. Mr. Canning said they would like to hear from the public and listen to comments. He feels both the Planning Board and the applicant will benefit from the public input on this project. Chairman Gerver said he understands the urgency, but due to past applications the Planning Board approved site plans to then have the applicant come back for additional parking. He continues to say Woodbury's concerns are ample parking and traffic and he knows it brought up a lot, but the Planning Board thinks it's a very crucial part of the plan.

Engineer, John Bodendorf said a summary memo was provided of items the applicant should focus on as they move forward. He spoke of the disposition of Melody and Locey Lane, the applicant is currently before the Village Board of Trustees for an agreement to relinquish ownership for the portion of Melody and Locey Lane which must happen for the project to go forward. Parking was discussed, the applicant looking for a waiver of approximately 19% of what's required based on code. The item Mr. Bodendorf pointed out from his memo had to do with the 13 land bank spaces. The plan H2M used to review was not clear, so he asked him, the applicant, to denote those because the plans reviewed were not clear as to where those land-based spaces are to be. As per the survey, they are waiting for Lanc and Tully Engineering to get back to them to tie in the previous survey. Mr. Bodendorf touched a few items on the memo with regards to water, sewer, and loading berths.

H2M Memo dated October 16, 2020:

The following should be addressed in the applicant's submission:

· B)1(b)ii. Melody and Locey Lane – The applicant is before the Board of Trustees for an agreement for the Village to relinquish ownership of the portion of Melody Lane on the site. The plan relies on the execution of this agreement. The applicant has provided the deed between the DOT and Cabela's for transfer of the Locey Lane right-of-way. We defer to Counsel on whether this is acceptable for the Shops. Furthermore, we recommend a maintenance agreement¹ for the remainder of Locey Lane be established.

· B)1(c) Parking – The applicant is seeking a waiver for parking (468 provided versus 578 required (-19%)). Planning Board can consider waiver for up to 25% of the parking required. A shared parking analysis was submitted, and we defer to your traffic consultant. The applicant's correspondence indicates they propose 13 land banked spaces on the plan. These should be identified.

· B)2(a) Survey – The applicant will be updating their plans with recent information from the DOT and survey by Lanc & Tully to show existing conditions. This is particularly important along the boundaries of the property to confirm that the grading and proposed retaining walls are properly arranged to match existing grades.

B)2(c)i(Bullet 6) SWPPP Compliance with Village Code – (Repeated) There are various items required for maintenance and other features associated with the SWPPP which we recommend be required of the applicant.

· B)2(d) Water – The applicant has provided a copy of an unexecuted agreement with the Village of Harriman; we defer to Counsel for comment. We have provided some comments on water supply, but this will also need to be acceptable by the Village of Harriman.

· B)2(e) Sewer – H2M met with the Sewer Department and applicant to discuss connection to the Village collection system. A form of agreement to expedite portions of the Village I/I

program are being discussed to offset at least a portion of the flow are in discussions and will ultimately be subject to approval by the Village Board. The applicant also agreed to televise the existing sewer line downstream of the connection point to confirm its integrity. The applicant agreed to purge the manholes if they are found to be deteriorated.

· B)2(i)x. Loading Berths – The applicant is requesting a variance for the number of berths required for the Hotel. Applicant advises discussions with other Hotel Vendors have indicated loading berths are not required for business-oriented operation. You should consider this with Counsel since the requirements are part of the zoning Code and referral to the ZBA may be required.

Chairman Gerver asked where does the access road terminates on Rt.32. He said ever since the configuration was redone there's traffic poles, a fire hydrant, and a spillway coming down a hill so he is requesting to possibly put two stakes in the ground on 32 to get a better idea of where it ends because ESO will want to know. Mr. Vanhise said that wouldn't be a problem to add stakes but based on the built information received there is no conflict. Mr. Anzalone said as per the map provided where are the 13 landbank parking spaces located. Mr. Canning indicated where on the plan (on the screen). Mr. Anzalone asked how many parking spaces will be occupied by employees and if an estimate can be given. Mr. Canning said it depends on the business. He said typically it's 10% of the businesses, some are less and others may have more; for example, restaurants tend to have more employees than a retail store. He said he can come up with an estimate, but it's in the numbers that are used based on the code. A number that presumably includes employees but doesn't specifically state it. He said he'll provide the estimate. Mrs. Capriglione asked what prevents shoppers from parking in the commuter lot. Mr. Canning said signage and enforcement. He added saying the commuter lot will be filled in the morning and when shoppers arrive, they will park in spaces closest to the store they're looking to shop at. Mrs. Capriglione said she was referring to weekends and holidays. Mr. Canning said there will be enough parking, the parking that will be provided is closer to stores and if it becomes an issue there's enforcement authority. Mrs. Capriglione clarified she didn't want shoppers to take spaces from the commuters. She asked Mr. Golden about the loading berths, and Mr. Golden said because the applicant doesn't show enough loading berths the applicant will need a variance or they come up with a greater number of loading berths, their choice. Mrs. Capriglione asked if the Planning Board should wait till after the public hearing or should it be done as soon as possible. Mr. Golden said he thinks that the plan as presented is the type of specificity and detail that allows the public to have informed comments.

Mr. Vanhise said the loading berths that are shown on the plan are slightly smaller in length than they're supposed to be and that can resolve. Regarding the hotel, they will enable the Planning Board to provide all three of the required berths. He said they are not required due to the type of hotel use, though it's recognized it an ordinance issue requiring a variance. It can be provided without changing the plan. He said the plan will look the same by adding docks into the rear of building 9 should suffice.

Mr. Canning said the code requires a certain number of loading spaces per number of hotel rooms. He said this is not a standard hotel with a banquet room, restaurants, or other many amenities to attract. The proposed hotel has a basic kitchen that serves yogurt, milk and coffee, and nothing else. He said it's not going to have a restaurant; it's not going to have a banquet facility so the only trucks that are going to come are the linen trucks and the breakfast delivery trucks. Mr. Canning believes it will only need one loading bay and we're going to work it out one way or the other we'll either get a variance or we'll show three loading bays.

Chairman Gerver asked if a 52-foot trailer fit in that rear area. Mr. Canning said as per the code it does not specify to have loading docks for 3 52-foot trucks. Also, the majority of trucks that are going to be coming to this hotel will be box trucks. Chairman Gerver said he would have to look up the code just to make sure. He reminded the applicant that the big issue at hand is the Melody and Locey Lane application for the trustees. He stated the Planning Board has no influence and they don't know where the Trustees are in that process. The Planning Board doesn't know when or if

or how they're going to vote on that process. Chairman Gerver stated this project hinges on that decision and if it doesn't happen there will be an issue with the project. He is concerned with the start of the shot clock. If he moves on with the public hearing and time runs out then it forced to a default approval, which he would like to avoid. Mr. Golden assured Chairman Gerver that he would never let him fall into a default approval. He mentioned the steps he would take to avoid default approval and noted a default approval will only happen on subdivision plans, in this case, it's a lot merger.

Mr. Cataggio asked if Cabela's a potential retail outlet for this property and Mr. Goldklang answered no, it's not a potential vendor. Mr. Golden said the applicant doesn't have tenants locked down yet. He said they're in discussions with some, but there's no present agreement. Mrs. Capriglione asked if the applicant has approached the Village with this water agreement and where did it leave off. Steven Esposito, representative of the applicant said the Village Board by resolution approved the concept, and the agreement the only thing they are waiting for. In order for it to be finalized it needs the water plans attached to the agreement to then be reviewed by both parties and the Health Department. He said while finalizing with Lanc & Tully consulting engineers there were some comments, but once they get the sign off on the plans, they will be able to execute the contract. Mr. Golden said on the agreement he noticed the amount of water was missing. Mr. Esposito concurred and said they are working with consultants WSP (hydro geologists) and the water usage amount is the same number he presented to the Planning Board for sewer, coming to around 41,000 gallons a day. Mrs. Capriglione asked if these agreements must be renewed or modified, for instance, a sudden shortage of water. Also, if the Village of Harriman could not provide water will the Village of Woodbury act as a back-up and be a provider. Mr. Golden said there may be restrictions put in place, a risk the Shops of Woodbury will have to take.

Chairman Gerver asked if the applicant is looking to place a monument sign. Mr. Esposito said yes and indicated where on the map. Chairman Gerver asked will there be a sign for every store in the development, and will their name be on it? Will all the signs have the same size or look the same? Is the hotel going to have the top marquee in 97 font and everybody else 42 under it? He said these are questions that need to be answered and prepared upon entering a public hearing. Mr. Goldklang said a sign wasn't provided because the larger tenant who would most likely have the bigger sign would have more recognition than the smaller tenant. It makes him a little nervous to design a sign for the smaller store. Chairman Gerver said that is why the sign code is very specific regarding those types of situations like sizes, square footage, colors, and shapes and so on. Mr. Canning said they can come up with a generic sign to show the Planning Board the size, the width, and the height and maybe a couple of panels. Mr. Esposito said they will also discuss color palette because that's always been a concern for the Planning Board. Mr. Golden said can't put a condition on saying the applicant will have signage per the town code, there's more to it than the ARB portion. Signage isn't something for the Building Inspector Thomasberger to decide, when it is done in connection with the site plan the Planning Board has to approve the signs. Mr. Canning said they will comply with whatever the regulations are.

Mr. Golden wanted to point out to the applicant, they have to provide more information and an escrow to the Planning Board of Trustees on Melody and Locey Lane. It's a critical part of this project. If the applicant doesn't receive Melody and Locey Lane, then the project changes and they will have the right for a new public hearing on the changed plan. He continues to say there is no reason to put a hold on this public hearing. Mr. Golden asked the applicant if they will provide an ARB because it's a requirement for the public hearing. Mr. Esposito said they are looking to approve pads, architectural review, color palette, retaining wall, and landscaping not building elevations.

Mrs. Capriglione asked how ridge preservation is implemented. Mr. Golden said that's going to be problematic for this site. First, we should have some kind of overlay or outline of this plan as to what part of the site is subject to ridge preservation. Second, looking at the code under ridge preservation all the assumptions are absent. He thinks the result for ridge preservation is that the Planning Board won't be able to do anything other than to delegate with some colors of the buildings and roof. Mr. Golden asked the applicant that in the next submission for them to identify the portion

of the site that is above elevation 600, so the Planning Board would know what portion of this site is subject to ridge preservation review. As per the Chairman wanting some consistency, Mr. Golden said consistency which is the Planning Board's preference and has a right to do, would be the first one coming in for ARB, that tenant kind of sets the tone, for the ones that follow.

A motion was offered by Chairman Gerver seconded by Mrs. Capriglione to hold a public hearing for Shops of Woodbury on the site plan on November 4, 2020.

ADOPTED

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

NOES 0

- C. **Local Law 11** - Review referral by the Village Board of Trustees of Local Law #11 entitled " A Local Law amending Chapter 310 (Zoning) of the Code of the Village of Woodbury to remove Bed-and-Breakfasts and Boarding houses as Permitted Uses within the Village.

The proposed revision to the Code is intended to remove bed-and-breakfasts (B&B's) and boarding houses as permitted uses in all zoning districts of the Village. It is concisely written, primarily repealing the language in the Code that permits bed-and-breakfasts within the Village and adjusting the Code to eliminate the placeholders this use occupies.

Chairman Gerver asked is the term Boarding House in the code. Mr. Golden said that is something that the Planning Board can recommend to the Board of Trustees. Chairman Gerver thinks it should be defined, he recommends that it stays in and say it's prohibited. Mr. Bodendorf mentions the one item from H2M memo, pointing out some applications that are a few years old worth mentioning in any recommendation to the Board of Trustees.

H2M Memo dated October 16, 2020

- *Within the last two years, two B&B's were before you, but these applications were never approved. The Law does not appear to provide an exception for applications having proceeded to a certain extent before the Planning Board (i.e. completion of SEQRA) nor does it provide a grandfather exception for existing B&B's, which we are not sure to exist. In any event, you may wish to consider this in your recommendation to the Village Board.*

Mr. Golden said if this law passes those pending applications will not be able to get approved. Chairman Gerver said those applications are over 6 months old and during that time they have not appeared in front of the Planning Board. Chairman Gerver said he is not in favor of putting any type of grandfathering clauses. Mrs. Capriglione asked if the existing B&Bs will be affected by this. Chairman Gerver said as per the Building Department there is only one legal B&B on record.

Mrs. Capriglione mentioned a couple of places where she believes were B&B but may have lost their permits. She then asked about Airbnb, assuming the Board of Trustees may want to include Airbnb. Mr. Golden said no, the Board of Trustees are not trying to do that at all because Airbnbs are not permitted in the Village of Woodbury under the zoning code. He said the Building Inspector Thomasberger interpretation is not provided in the code therefore it's prohibited. Mrs. Capriglione said she thought a few were operating in Woodbury. Mr. Golden said some have been operating and when the Building Inspector Thomasberger finds out he follows up and tells them it's illegal.

Mr. Anzalone asked if there were any boarding houses in operation in Woodbury. Also, what if someone rents out a room would it be a B&B. Mr. Golden said he assumes it's not permitted but he does not know for sure. That would be a question for the Building Inspector Thomasberger for an interpretation of whether or not somebody could rent out a singular room. Mr. Anzalone asked if that should be included in the new law. Mr. Golden said and if the Building Inspector Thomasberger thinks it's okay to rent out a room and you don't want that to happen, you can go outside of

the Planning Board and ask the Board of Trustees. Since they'll have to have a public hearing on this to say you shouldn't allow rentals in any house.

Chairman Gerver said there's one recommendation to the Board of Trustees, to leave the definition of boarding house but to note it is prohibited. Mr. Golden said he will write up a letter to the Board of Trustees on Planning Board behalf indicating that this is your one recommendation.

Extra: Central Valley Properties Management- Mr. Bodendorf said there have been grading issues around the building, but believes they have come up with a plan. Using a combination of a small retaining wall and handrail. He said a submission was submitted today about the type of handrail the applicant would like to use the four horizontals was previously approved.

Contractor, Jerry Casesa from HVRs said the Building Inspector Thomasberger looked at the code. The four horizontal rails would only work as a handrail but not a guard rail. Since there's an elevation change its required to be a guard rail and the code for a guard rail requires that the space between any horizontal or vertical member needs to be 4 inches or less and that would have to change. He suggests a new design a multiple line horizontal rail, which looks busy or to go with a 4 inch on center half by half balister. To his understanding, this would be a code compliant guard rail. Mr. Bodendorf said the Building Inspector is on board and H2M doesn't have any issues with the type of railing, He said a rendering of the front of the building was provided and he believes they would have to extend along the front of the building and he agrees with the field change.

Mr. Casesa reminded everyone when it was approved everyone realized it was a field decision. He read final approval number 10 giving the Building Inspector Thomasberger, Village Board Engineer, Dennis Lindsay's approval to review on-site and make a recommendation. Mr. Casesa said he came back to the Planning Board due to the field change.

Chairman Gerver confirmed the retaining wall would be on the Estrada then terminating along Route 32. He asked if it would be a continuous height all the way across or will it terminate and degrade. Mr. Casesa said correct, at the staircase he will need to retain the earth so it will be probably 42 inches tall to be even with the top of the sidewalk. He continued to mention sections having different heights. Chairman Gerver asked about the section by the staircase. The rail is 3 ft. 6 in. Chairman Gerver asked about plantings. Mr. Casesa said there are some trees and planting beds set and more to come if its requested.

Mrs. Capriglione asked about the color of the retaining wall block. She said the color of her sample looked black. Mr. Casesa explained he has a sample on-site and it's more of a brown color. She asked what color is the railing and Mr. Casesa replied the railing will be black. She asked about the stairs being up to code and Mr. Casesa confirmed the stairs are up to code 7 inches high and 11 inches. Mr. Casesa spoke briefly of the planting, noting the plant bed and trees. Chairman Gerver asked Mr. Bodendorf if all is well with the planting beds being a little higher up in the location Mr. Casesa noted and Mr. Bodendorf said it's fine. Mr. Casesa wanted to make sure he covered everything that needed changes. For instance, the fencing in the back, additional planting, where they currently have pavers, between the sidewalk and the rear parking they added box hedges. He wanted to make sure the submission had those changes as well. Mrs. Capriglione asked how is boxwood with deers, she didn't want the plants to attract the deers. Mr. Casesa said Mr. Esposito would be best to explain since he's the landscaping architect, I would just plant where he indicates. Mrs. Capriglione asked if the inside of the building is done and Mr. Casesa said yes. Chairman Gerver asked how far the fence in the back of the property goes. Mr. Casesa said it goes all the way down and to a private road, then leading to another road (he couldn't recall the name) but essentially the entire back property line and it follows that in a z-shaped then it separates down at the bottom past the snow staging area. There's a section of fence that goes on then there's a garage on that side. As it comes across the back of the property then towards 32 along the back of the blue house and then between our parking lot and the blue house and it stops about 25 or 18 feet shy of Estrada. He thinks the reason why it stopped shy of that was for sight distance of people pulling in or out of their

park in their driveway so it's about 400 feet of fence. The fence is vinyl. Chairman Gerver said for maintenance reason he prefers a vinyl fence.

A motion was offered by Chairman Gerver seconded by Mrs. Capriglione to approve the following modifications to the Applicant's approved plans as field changes (requiring no amendment to the prior Resolution of Approval): (1) changes in the handrail in front of the building, with the addition of an associated low retaining wall, (2) changes to the handrail in the back of building, (3) fencing modifications, and (4) landscaping changes, all as provided in the Applicant's submittal dated 10-1-20, on the condition that the fence be kept in good repair and maintained in perpetuity, and that the landscaping must remain in perpetuity in a healthy and vibrant condition or be replaced in kind." 5-0

Adjournment:

With no further business to discuss, a motion was offered by T. Deluca seconded by R. Cataggio to adjourn the meeting at 9:40 PM.

ADOPTED

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

Claudia Romanisin, Planning Board Secretary