

**Village of Woodbury
Planning Board Meeting
October 20, 2021**

Minutes of the Planning Board Meeting held on October 20, 2021, at 7:30PM
(Meeting held via Zoom)

Board Members Present: Christopher Gerver, Chairman
Richard Cataggio
Sandra Capriglione
Thomas DeLuca
Evan Yan

Representing for the Village of Woodbury Planning Board:

Richard Golden, Attorney
Natalie D. Barber, Engineer
Jonathan Lockman, Planner

Board Member(s) Absent: None

Chairman Gerver opened the meeting with Pledge of Allegiance.

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

A motion was offered by Chairman Gerver seconded by T. DeLuca, to approve and accept the minutes of the meeting held June 2, 2021. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	4	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca
NOES	0	
ABSTAIN	1	E. Yan

A motion was offered by Chairman Gerver, seconded by R. Cataggio to approve, and accept the revised minutes of the meeting held June 16, 2021. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	4	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca
NOES	0	
ABSTAIN	1	E. Yan

A motion was offered by Chairman Gerver, seconded by S. Capriglione, to approve and accept the minutes of the meeting held September 1, 2021. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	4	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca
NOES	0	
ABSTAIN	1	E. Yan

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to approve and accept the minutes of the meeting held September 1, 2021. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	4	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca
NOES	0	
ABSTAIN	1	E. Yan

4. Regular Agenda:

- A. HV Realty Services/Gold ARB – Public Hearing** for ARB (Architectural Review Board) and Ridge Preservation for proposed screened porch located in the rear of an existing single-family dwelling. Said property is located at 3 Rivervale Court in Central Valley and is known on the Village of Woodbury Tax Maps as Section 248 Block 1 Lot 2.2

Representing the applicant, Jerry Casesa from HV Realty Services Inc. gave a summary of the project and spoke of recent submissions to the Building Department. An application for a permit for an 18 x 20 ft. covered porch in the rear of the home along with an addition to the existing deck that is 6 x 10 ft., and the stairs will be extended, providing an intermediate landing. Renderings were provided with a sample board consisting of color(s), roofing, and siding. Mr. Casesa continued to say the roofing will match the existing. Discussed in detail the paint choices and siding for the selected areas of the home.

Village Planner Jonathan Lockman referenced his memo from NPV dated October 14, 2021. He continues saying the applicant had addressed all his comments in his memo, therefore what's left is for the Board to evaluate the ARB standards, whether this project meets the excessive similar or dissimilar to its surroundings.

"Excessive similarity, dissimilarity or inappropriateness in relation to itself or to any other structure existing or for which a permit has been issued or to any other structure included in the same permit application, facing upon the same street or within the same or surrounding neighborhood, including neighboring developments, in respect to one or more of the following features: 1) Exterior façade of all building sides, including, but not limited to building materials, mass, roof line, architectural style and authenticity, colors, size, proportion, roof design and height. 2) Size and arrangement of doors, windows, porticoes or other openings or breaks in the façade, including reverse arrangement, 3) Footprint and gross floor area including all or portions of the structure."

The Board had no additional comments; therefore, Chairman Gerver opens the floor to the public for comments regarding 3 Rivervale Court.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by -----S. Capriglione, to close the public hearing for 3 Rivervale Court. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

A motion was offered by Chairman Gerver, seconded by T. DeLuca, for counsel to draft the Resolution of Approval. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

Chairman Gerver explained what will follow to Mr. Casesa; the draft Resolution of Approval will be circulated amongst the Board Members, then the application will be placed in the next agenda. If they all agree, it will be signed to then be given to the Building Department. Planning Board Attorney Richard Golden advised Mr. Casesa that in the event the resolution is modified at the meeting it's best to be present. Mr. Casesa thanked the Board and said he will be present.

- B. Hartman/Hirsch ARB – Public Hearing** for ARB and Ridge Preservation for proposed addition to an existing single-family dwelling. Said property is located within the Woodbury Villas subdivision at 64 Southfield Falls and is known on the Village of Woodbury Tax Maps as Section 255 Block 1 Lot 37.

Representing the applicant, Designer Larry Hartman summarized the project. Which is the existing garage becoming part of a new garage to the left side of the building, everything within the setbacks, and the 2nd floor will be an additional space. As per the Board's request renderings were provided, clarifications on the site plan were done, and he also provided square footage on neighboring homes. Designer Hartman proceeded to show pictures and site plans on the screen indicating changes. The existing driveway was removed making it grass. Designer Hartman confirmed they are not proposing any changes to the grading. He continues to point out some key points on the site plan. Page 3 was a rendering (frontal view) pointing out the existing and new windows, and door. The following picture was a photo of the existing home, indicating the differences. Next was the showing the basement, which included the square footage so the Board can make the comparison to neighboring homes. Designer Hartman provided plans showing the difference between the existing home vs the home with the additional. In conclusion, there's no physical change to the outside of the home except for the garage and the rearranging of the laundry room and making the big bedroom into a small powder room and mud closet on the first floor. The second floor becomes bigger adding the playroom and walk-in closet. Designer Hartman noted there will be non-glare reflective film and they will use the same material used on the existing home.

Planner Lockman referenced his memo from NPV dated October 14, 2021. He mentioned an offline conversation that evening with Designer Hartman. He was able to clarify comments on his memorandum but added he would like to see some landscaping and shade trees every 40 ft. of frontage just to soften the addition in the house. Designer Hartman confirmed there are 3 existing trees that would meet the criteria and it's noted on the site plan on sheet #2. He confirmed with Planner Lockman that would meet the shaded criteria Planner Lockman mentioned previously. Planner Lockman asked if the applicant wishes to place shrubbery or any foundation. Designer Hartman said there will be no changes.

As per landscaping, E. Yan said trees are not shown on the renderings, does the site plans take precedent over renderings and Designer Hartman said yes. Attorney Golden said he can set a condition in the Resolution of Approval that the existing trees must remain, and that the applicant is obligated to keep them in a healthy and vibrant condition. Designer Hartman agreed.

With no further comments from Attorney Golden, the Board can authorize him to draft the Resolution of Approval if the Board is inclined.

There were no additional comments; therefore, Chairman Gerver opens the floor to the public for comments regarding 64 Southfield Falls.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by S. Capriglione, to close the public hearing for 64 Southfield Falls. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

Chairman Gerver referred to the Board and asked if they were satisfied with the new submissions and if they were in agreement with counsel drafting the Resolution of Approval with the additional condition. All agreed.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, for counsel to draft the Resolution of Approval with the condition that the existing trees must remain, and that the applicant is obligated to keep them in a healthy and vibrant condition. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

C. **Hartman Design/Jacob ARB – Public Hearing** for ARB and Ridge Preservation for proposed single-family dwelling. Said property is located within the subdivision known as Woodbury Villas at 5 Alleghany Cross and is known on the Village of Woodbury Tax Maps as Section 255 Block 1 Lot 6.

Designer Larry Hartman representing the applicant reflected counsel’s comments and began to list the changes in his new submission. With the site plan on screen, he indicated changes to the turnaround, the proposed change in grading to the rear of the home, adjustments to reflect the elevations, trees were added to the front of the home 40 ft. apart, the replacement of the stucco, labeling of the rooms, and last to provide pictures of the rear of the home as well.

Planner Lockman referenced his memo from NPV dated October 14, 2021. The property is not visible from a view corridor therefore it's not subject to Ridge Preservation. Regarding the ARB, Planner Lockman asked the Board if there was any concern about the color. The siding seems to be a linen color that is close to white. When it comes to color it has been a practice for the Board to stay away from light colors, so he asked the Board to review. As requested, the Bulk Requirements were set up, and Floor plans were adjusted.

S. Capriglione and Attorney Golden clarified that if the property is not visible from the view corridors, then color is not an issue with ARB, which the Board has practiced in the past.

Planner Lockman said the application is close to being complete. He questioned whether there be more shrubs and tree planting aside from those already there as part of the landscaping, and whether the Board approves the overall color.

The Board had no additional comments; therefore, Chairman Gerver opens the floor for public comments for 5 Alleghany Cross.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by R. Cataggio, to close the public hearing for Hartman Design/Jacob ARB. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

Chairman Gerver noted the applicant made the necessary changes to the front of the home from the initial design as per the Board’s request. As per the color of the siding, he said there are plenty of homes in the surrounding area with white or linen color homes and in his opinion, it’s not an issue for this application. He asked Designer Hartman if there will be any foundation planting and Designer Hartman said no plan as of now. He said if it’s required by the Woodbury Zoning then it will be done, but if not, it won’t be done.

Planner Lockman reference code 310-27 Part: C1 and began to read what the code entails “...a front landscape area shall be required for all uses in all Zoning Districts. The required landscaped areas shall be covered with grass or other ground cover and shall include appropriate trees and shrubs.” Planner Lockman continues to read C2 “...as a minimum in all districts one shade tree having a minimum caliper of 2.5 inches shall be planted within the front landscape area for each 40 ft. or fractioner of lot frontage.” C3 is “...in all districts there shall be a landscape strip in the front yard.” He noted it makes references to hamlet business which in this case is not applicable.

Designer Hartman said he has no problem in putting a provision that complies with the code, he just didn’t want to commit to a design that wasn’t finalized. Attorney Golden said per the code there should be a front landscaped area, whether grass or other ground covers, including appropriate trees or shrubs. He said the Board can decide if what’s there now is sufficient, or shrubs can be included under that provision. He more concerned with the language in C3 “...in all districts, there shall be a landscape strip in the front yard.” He’s not too sure what it means, but it seems it’s a requirement in addition to the landscaped area covered with grass and other ground cover and appropriate trees and shrubs. Attorney Golden believes the landscaping in C3 is an addition to C1. Chairman Gerver asked if a condition may be added stating “...Landscaping should be completed to the satisfaction of the Building Inspector. “ Attorney Golden didn’t think it should be referred to the Building Inspector. Planner Lockman said he always interpreted C3 to be a lawn that should be in place in the front of the home instead

of gravel or rocks, along with street trees 40 ft. apart and shrubs. Attorney Golden suggests for the Board to discuss it further and then apply their thoughts and suggestions to the ARB Law for the Village Board of Trustees. Chairman Gerver agreed. He doesn't think this application should be the one to bear the brunt on this right now but looking at other properties in the area there is some sort of foundation plantings. Designer Hartman said they will comply with however it is interpreted.

Attorney Golden said he will add a condition that there needs to be a foundation planting, but he leaves it to the Board for specifics. S. Capriglione feels telling the owner what to plant on his property seems intrusive and controlling. Attorney Golden suggested in having the following language "...foundation plantings similar in number and coverage to those in the surrounding properties." The Board agreed.

Attorney Golden reminded the Board this application is subject to the moratorium; therefore, the Board cannot make a decision at this time. The Board's time to make a decision of 62 days after the close of the public hearing is by virtue of the moratorium told until the end of the moratorium local law. Designer Hartman said he read the moratorium and to his understanding previously approved site plans are exempt from the moratorium. Attorney Golden explained this application is not exempt from the moratorium since this application is a new home that was not previously approved. Chairman Gerver then tabled this application until the moratorium is lifted.

- D. Hartman Design/Vista Pearl LLC ARB - Public Hearing.** for ARB and Ridge Preservation for a proposed single-family dwelling. Said property is located at 19 Seven Springs Rd in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 215 Block 1 Lot 5.

Attorney Golden reminded the Board, counsel, and the applicant this application is also subject to the moratorium and is not eligible for any exemption.

Designer Larry Hartman representing the applicant began going over the new submission answering comments and questions from counsel. On screen Designer Hartman indicated the changes made on certain pages in the site plan. He indicated on the plan the location of the home, the trees that will be removed and the ones that will remain, a driveway that's become a single turnaround driveway, floor plan clarifications and renderings that the Board requested. The house sits on Rt. 44 and the rear of the house faces Rt. 32. Designer Hartman also provided pictures of neighboring houses. He was also able to provide the square footage of those homes.

Chairman Gerver asked what is a slop kitchen? Designer Hartman said a kitchen that has a sink, a small cooking/heating device, and an undercounter fridge: very similar to a hotel room and it will serve the playroom area.

Chairman Gerver asked if the grading will change, and Designer Hartman said no changes to the grading. He said the house is a one-story home and they are keeping it that way.

S. Capriglione asked if there was an oil tank in the ground. Designer Hartman doesn't believe there's one but will check it out to make sure. S. Capriglione said believes there is one since she's familiar with the home. She asked if they will be abandoning the old well and placing a new one in. Designer Hartman said yes, indicating on the plan where the new one will be.

Planner Lockman referenced his memo from NPV dated October 14, 2021. He said the applicant addressed many of his comments and has provided a site plan showing the proposed driveway, tree removal plan, complete floor plans for each floor in this 13,017 sq. ft. home. The site is subject to Ridge Preservation, it's visible on one of the view corridors. He noted for the Portsmouth shake and shingles the color is linen and the Board may want to consider more of an earth tone color instead. In his memo he also noted that the Board needs to consider whether the surrounding homes are similar or dissimilar according to the style and height of the home. As per the provided renderings, Planner Lockman feels it complies with the landscaping plan. He continued to say the home is off a county road so any changes will need a county entrance permit approval from the County Highway Department.

S. Capriglione asked if the applicant needs a County Highway Department approval before the Board can finalize their decision. Planner Lockman doesn't think so.

The Board had no additional comments; therefore, Chairman Gerver opens the floor for public comments for 19 Seven Springs Rd.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by S. Capriglione, to close the public hearing for 19 Seven Springs Rd. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED		
AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

S. Capriglione asked if the applicant would consider darkening the color of the house. Designer Hartman said the applicant wishes to have similar color as the neighbor who happens to have a white house. He did ask about darkening the color and now it has more of a beige color, but the applicant would like to keep the color as is.

Due to the moratorium this application will not be able to be approved tonight. Attorney Golden referred to the Ridge Preservation requirement, saying if the home is visible then it's a mandatory requirement that the color of the new home must be of a natural color. He advised that later tonight the proposed revisions to the ARB may be in effect by the time this application can be approved. The code specifically says that the use of white or similar bright colors that do not blend in with the tree cover are not acceptable. Attorney Golden suggestion to the Board is to defer the decision on house color until the moratorium's been lifted and see if whether there are different laws that may be in effect at that time.

Designer Hartman understands there will be new laws regarding colors, and he prefers not to wait until the moratorium is lifted, but Attorney Golden advised when the application is about to get an approval its whatever law applies at that time. Designer Hartman asked when will the new laws take effect since he'd like to get this issue of colors over and done with and Attorney Golden said they don't know when exactly the moratorium will be lifted. Chairman Gerver said the Board has many applications that they are trying to work through diligently and as quickly as possible. He will try his best to place this application on the agenda once the moratorium is lifted.

Designer Hartman said to his understanding the moratorium entails projects involving water and sewer and this project is not using any municipal water/sewer since it has its own well and septic, therefore will this application be an exemption was his question. Chairman Gerver said the moratorium doesn't have a provision to get around that. Attorney Golden said the moratorium has a strict prohibition on hearing a particular matter and the Planning Board can't alter it.

S. Capriglione said the existing house is white and the remodel is more of a linen color. Can the Planning Board give the applicant a pass? Attorney Golden said no. It's not a category that can be grandfathered in. Once the home is taken away and a new home is put in place, they are subject to the new laws.

Chairman Gerver said as soon as the ARB and Ridge Preservation laws are modified or not, he will place this application on the agenda so that the applicant can start on their home.

- E. **Woodbury Common/Space 256-262 – Public Hearing** Review documents submitted for Site Plan, Special Permit and ARB for proposed demolition of existing space (6596 sq ft) with rebuild of a new 9869 sq ft building at the same location. Said property located within Woodbury Common shopping center on Route 32 in Central Valley and known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 70.2 and Section 226 Block 1 Lot 1., Section 226 Block 1 Lot 1.

General – The proposed application is for a demolition of existing space 258-264 and construction of a new building with a larger (9,869 SF) footprint in the same location. The applicant's narrative describes the additional area will extend into the service court and towards Building B. At the Planning Board's last meeting the Board authorized the GML & ESO referral and scheduled a public hearing to be held on October 20th .

VP of Construction – Simon Property Group Bill Pendergast gave a summary of the project at hand. They will be tearing down a portion of a building that was built in the early 1980s to enhance the area. To then have two tenants and they will not

increase the overall GLA. They will decommit a current space and move it to this new space. Mr. Pendergast said the project is consistent with what they have done in the past at Woodbury. It will match all the colors and schemes developed in the overall renovation in Woodbury Commons.

Village Engineer Natalie D. Barber refers to her H2M memo dated October 15, 2021. She said Mr. Pendergast has touched most of her points in her memo. The overall GLA results in a net of available GLA 2,028 square feet. She said she reviewed the overall process and coverage with the Building Inspector Michael Panella, and he was okay with it. If the Board agrees with the decomittal of the existing Montclair space after the Certificate of Occupancy, then she would recommend that the applicant submit the final tally in the plan for the record. She said for tracking purposes it be appropriate to keep track of approvals and decommitments that have taken place previously. She proceeds to go over certain comments in her memo

H2M Memo dated October 15, 2021:

**Gross Leasable Area (GLA) – As noted above, the applicant’s narrative describes the demolition of the existing space 258-264 that is 6,530 SF2 and the construction of a new space that is 9,869 SF.*

We note the following:

i. The proposed action would exceed available GLA by 1,684 SF. The applicant proposes to decommit the existing Moncler space (318) upon certificate of occupancy issued for the new Moncler space (258). Decommitting this space results in net available GLA of 2,028 SF. We take no exception to this and will review this with the Building Inspector prior to your meeting.

ii. An updated GLA plan is required to demonstrate the new space – this should be provided in CAD format as well as PDF. Additionally, we recommend the GLA tally be modestly updated to properly reflect this action (i.e., notes indicating field verified space and eliminating the line deduction and identifying space 318 proposed vacancy).

iii. As previously noted, we recommend this potential action clarify the status of prior approvals that required decommission of space for GLA. The applicant has advised the status of these spaces and demonstrated GLA availability with these spaces occupied as follows:

a. 2019 Michael Kors Action – Suite 324 (2,023 SF)

b. 2020 Suite 315 Action – Suite 946 (1,077 SF)

c. 2021 Coffee Truck Action – Building 20/Suite 264 Expansion (956 SF) approved in 2018 – this is moot since this is the subject building.

iv. We recommend a condition of your action require confirmation of the as-built area by survey. The applicant has agreed to this.

Village Engineer Barber said she reviewed the calculations based on occupancy loads and confirmed with Building Inspector Panella it should be two means of egress to that space. She suggests the applicant possibly to amend their site and floor plans to provide that access.

**Site Circulation and Store Operations – The following are comments on the proposed arrangement of the store layout for the applicant to consider:*

i. We note the floor plan shows only one means of ingress/egress to Space 258, the applicant should confirm this is sufficient per the requirements of the NYS Building and Fire Code.

ii. Space 258 is not shown with any access to the service courtyard, the applicant advises there are several tenants that require deliveries by hand trucks through the courtyard, which often take place during early hours before opening or after hours. We take no exception.

iii. The applicant advises the new corridor will provide access to three tenants, utilities will be relocated as needed to the roof, and space is adequate for tenant and Code needs. We take no exception.

She continued to say H2M reviewed the application with the Water and Sewer Department Administrator and have executed the water demand form. A copy was distributed to the Board members. Engineer Barber touched points on ESO and SEQRA as well.

**Utilities – The applicant advises all underground utilities (water, gas, electric) will be relocated outside of the new space as required. We recommend the following potential condition of your action: Existing drainage and sanitary utility pipes under building(s) shall be removed where possible. If abandonment in place is necessary, they should be removed to the maximum extent practicable, capped, and filled with flowable fill (k-crete or similar). Drains and sanitary lines may not be located directly above active water lines.*

**ESO – The fire and police department have taken no exception to the proposed action. The ESO plan provided demonstrates the proposed action does not encroach on existing ESO paths. Your prior actions have required a minimum 20-foot unobstructed clear path with adequate turning radii throughout the site and courtyard areas, we recommend this condition be carried through to this action.*

**Signage – The applicant advises signage will be reviewed with the Building Department and will conform to the approved Woodbury Common Tenant Signage plan. We recommend this be a condition of your action.*

**ARB – The applicant previously provided an ARB form and architectural elevations for the proposed storefronts. Although it appears generally complying, the applicant will provide the approved material board for the Red Apple/Hudson Valley – Market Hall area at your Public Hearing for you to confirm consistency with prior actions and general harmony with existing stores. The Board should review the ARB materials and confirm they are to your satisfaction.*

In reference to SEQRA, Engineer Barber noted that the Board did not take action on this due to the unresolved issues with GLA.

SEQRA – The Board completed a comprehensive SEQRA review in connection with the 2012 renovations. If you agree to decommitting Space 318, we believe the GLA issue is resolved, and you could reaffirm your prior SEQRA action.

Planner Lockman referred to his NPV memo dated October 14, 2021. The labeling in the plans has been updated as recommended except for one item. Utilities were being relocated but the new location is nowhere to be seen and he would be able to see on the plans its new location. Landscaping plans were submitted but were unclear to him. He would like to be able to see where and what type of landscaping will be done after construction, other than that all other issues are resolved.

Mr. Pendergast said all the air conditioning will be moved onto the roof of the new building and as per the landscaping, and there is a landscaping bed that would remain. It will just be bigger than its original size. He said they will be putting back whatever is taken out. There's no new landscaping added to the building. Planner Lockman suggests Mr. Pendergast to add that information on to the plan sheet that has been submitted.

The Board had no additional comments; therefore, Chairman Gerver opens the floor for public comments for Woodbury Common/Space 256-262.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by ----S. Capriglione, to close the public hearing for Woodbury Common/Space 256-262. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to reaffirm prior SEQRA findings and determinations. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES	5	Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES	0	

A motion was offered by Chairman Gerver, seconded by S. Capriglione, for counsel to draft the Resolution of Approval with the condition that the applicant will decommit the existing Montclair space. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

- F. **Fogel ARB** - Review documents submitted for ARB and Ridge Preservation for proposed single-family dwelling Said property is located at 62 First Ave. in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 214 Block 1 Lot 1.

Chairman Gerver gave a brief description of what the application entails. Mr. Fogel is looking to rebuild his home after a fire destroyed parts of it. Mr. Fogel had a conversation with Planner Lockman to help clear things up with this application. Chairman Gerver noted that Mr. Fogel submission today was regarding setbacks.

Planner Lockman refers to his NPV memo dated October 14, 2021. He noted at that time items were missing for instance the proposed topography and grading, the stormwater management, septic system location, landscaping, a bulk table for the new house, and the proposed dimension. Planner Lockman said he received the new plan but did not have enough time to review it or issue a new memo. Briefly looking at the new plans, he said the new drawings resolve most of all the concerns he had raised in terms of completeness. As per Ridge Preservation, it doesn't seem to be visible from the view corridors therefore he doesn't think it will apply to this application. As per the ARB, the house is bigger than the one destroyed in the fire. He suggests the applicant provide pictures of the surrounding homes in the neighborhood. Since it's a single-family home on an approved lot, he feels it should be a Type II Action in SEQRA.

Attorney Golden said the SEQRA was already recognized on September 1, 2021, Planning Board meeting as a Type II Action. He doesn't believe this application is exempt from the moratorium. He said it will be exempt if the applicant was rebuilding or modifying their home, but that's not what they are doing. They are tearing down their old home to build a new one and from what he's seen the home is not going to be on the same foundation and as such they are not exempt from the moratorium. Attorney Golden asked for Mr. Fogel to clarify his plans.

Mr. Fogel explained the picture before the Board is a photo taken a year ago of a house that was later torn down due to a conversation, he had with the former Building Inspector Gary Thomasberger. At that time, he thought it wouldn't make a difference if he went bigger or remain at its current size. If he knew it be an issue, he wouldn't have put so much work into making the home larger. Attorney Golden said Gary Thomasberger did not know or anyone else that matter that there be a moratorium a year ago. Mr. Thomasberger gave the correct advice based on what the law required at that time. Attorney Golden said the law has changed since then.

Mr. Fogel asked if he can apply for hardship or something to that effect. Attorney Golden said there is none provided in this law; therefore, the Planning Board cannot modify what the moratorium states. He continues to say Mr. Fogel can proceed up to getting a determination, but the approval will have to wait until the expiration of the moratorium by the Board of Trustees. Mr. Fogel asked if the Board of Trustees can put an exemption on this application. Attorney Golden said anyone is allowed to go before the Board of Trustees and ask to pass or modify any laws that are on the books. Mr. Fogel said he would address the rest of Planner Lockman's comments and submit it to the Board to get the ARB approved.

Besides some minor issues, Chairman Gerver felt the Board can schedule a public hearing to keep the application going.

A motion was offered by Chairman Gerver seconded by R. Cataggio to schedule a public hearing on November 17, 2021, for Fogel. Chairperson Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairperson Gerver, R. Cataggio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

Chairman Gerver said the Board will try to get this application to move along. Mrs. Fogel asked when did the moratorium take effect. Attorney Golden said the law was passed by the Board of Trustees on July 28, 2021. It was sent to the Department of State, and it became effective the day the Department of State filed it, which is usually a few days later. Mrs. Fogel said their application was submitted before law enforcement, so why not be grandfathered in. Attorney Golden said there's no provision in this moratorium for grandfathering in, there is a list of provisions, but your application does not fit in any of those. He reminded the applicant they can go before the Board of Trustees and request to change a provision in the moratorium if they choose to do so.

- G. Introductory Local Law #11 of 2021** - Review referral by the Village Board of Trustees of Introductory Local Law #11 of 2021 entitled "A Local Law Amending Chapter 8 ("Architectural Review Board"), Chapter 310("Zoning") and Chapter A314("Architectural Review Board Rules") of the Code of the Village of Woodbury to Revise and Clarify the Guidelines and Standards of the Architectural Review Board."

General/Background – Chapter 8 – Architectural Review Board and Chapter A314 – Architectural Review Board Rules and portions of Chapter 310 Zoning are proposed for amendment. Chapter 8 and A314 were most recently amended in 2020. The amendments change the administrative process, delegation, and responsibility of the Architectural Review Board (ARB) to match or enhance the current procedure, as well as the applicability of the Code pertaining to certain developments.

Engineer Barber began to read Local Law #11 page 1, last paragraph, third line. Her suggestion to the Board was to change the word dimension to appearance. To capture any modifications to colors and or materials.

"...that change its outside physical dimension in any respect, as defined in Chapter 310, Zoning, of the Code of the Village of Woodbury:

She listed an example in her H2M memo dated September 30, 2021.

(§8-4.B) We recommend the introductory paragraph of this section be changed to read "...that change its outside physical appearance in any respect...". The law uses "dimension" which seems to indicate changes to color, materials, etc. would not be regulated. For example, if a home in Woodbury Villas seeking a building permit for an approved model with proposed alternate color scheme, is this something the Planning Board wishes to regulate?

Chairman Gerver is not comfortable making that change. While he understands the suggestions the Board would like to focus on the dimensions of the building change.

Engineer Barber refer to section C #3 and #4.

3. *New decks that are less than 500 gross square feet.*
4. *Deck additions that are less than 10% of the existing gross squarefootage of the deck.*

She recommended combining both conditions to say "**... new decks or additions to decks that result in less than 500 gross square feet...**" because the percentage became too problematic to some, that language would remove #4 altogether. As per the Chairman, the Building Inspector Panella felt the same. The Board was asked for their thoughts, E. Yan prefers it to be triggered by square footage rather than a percentage.

Engineer Barber went on to speak on #7 on page 2.

7. *Retaining walls that do not require design and approval by a professional engineer.*

She recommended the language to read **“All retaining walls 4-feet and taller require design by a Professional Engineer per the requirements of the Building Department and State Residential and Building Codes.”** Therefore, all retaining walls less than 6-feet in height are exempt. This will then match the zoning code 310 28. The Board agreed.

She referred to 8-7 on page 3. To change the title from **“Certificates of Occupancy”** to **“Certificate of Occupancy and Building Permits”**. Since this section refers to both. The Board agreed.

Next comment on page 4 E. #2.

2. *Final submissions. At least 15 days in advance of the Planning Board meeting at which a site plan, or an amendment of it, is to be presented, 10 copies of the information enumerated herein must be submitted to the Secretary of the Planning Board along with a letter of application. The Code-Enforcement Officer shall verify that the application is complete before it is ready for review by the Planning Board.*

Engineer Barber suggests the number of copies to be consistent with the ARB/Site Plans. She said it should be 15 copies. The Building Department also requested its consistency. The Board agreed.

Next comment; same section #3.

3. *Public hearing. Where a completed application for review and approval of site plans or where an application for a special permit has been filed, the Planning Board shall fix a time, after the Planning Board has been provided with all information, data and studies it has requested, for the public hearing of such matter and give public notice thereof by publication in the official Village newspaper of such hearing at least five days prior to the date thereof and shall decide the same within 62 days after such hearing, unless:*
 - a. *In connection with an application pursuant to § 310-13 (“Ridge Preservation”), the Board has waived the requirement for a public hearing upon a determination that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project.*
 - b. *In connection with proposed amendments to a site plan and/or special permit: the Planning Board has waived the requirement for a public hearing upon a determination that such proposed amendment is consistent with the terms of any applicable special permit approval (or if no special permit is required) and does not represent a substantial change from the approved site plan.*

Engineer Barber said the clock on the 62 days is triggered right after the public hearing. She asked if the public hearing was waived would the clock start the day of the waiver. The Board agreed, if the public hearing is waived the shot clock should start when its waived.

Next comment on page 7.

§ A314-8. Hearings.

A. *No decision by the Board to approve or deny an application shall be made until after either a public hearing has been held or the Board has waived the public hearing upon a determination that there is no apparent significant impact to the surrounding neighbors or neighborhood, given the mass and/or architectural features of the proposed project.*

B. *Notice.*

1. *Notice of all hearings shall be given at least five days prior to the date thereof by publication in the official Village newspaper. Such notices of the hearings shall be mailed to all parties and all adjacent*

property owners within 300feet of each boundaryline of the subject property.

2. *Such notice shall state the location of the building or lot and the date, time and place of the hearing.*

Engineer Barber's H2M memo suggested this language.

- a. *(§A314-8.A.) This section has been amended to allow a waiver for public hearings associated with ARB applications where previously none existed. We recommend you consider specific criteria for granting a waiver or for which a public hearing is required for example the following could be appropriate:*
 - *Public hearings shall be required for all new buildings subject to review by ARB,*
 - *Waivers for hearings may be granted if alterations to existing buildings:*
 - *are not likely to be visible to neighbors or from the street, or;*
 - *are an extension of the existing architectural features (same materials, colors, aesthetic) and are less than 500 gross square feet in area.*

Chairman Gerver said he was okay with the language if it does not take away the leeway for the Board to waive a public hearing.

Planner Lockman began his review of Local Law 11 and referred to pages 3 and 4.

§ 8-7. Certificate of occupancy.

The Code Enforcement Officer shall not issue a building permit for, or certificate of occupancy upon completion of, any building or alteration unless he/she finds that such building or alteration is, completed in conformance with the plans and specifications approved by the Planning Board.

He said the way the language is written makes no sense to him and wanted to point it out.

Continuing with page 3 section E.

- a) *No site plan approval shall be required for the installation of a small-scale rooftop-mounted or building-mounted solar photovoltaic system or solar-thermal system, The Village shall utilize the New York State unified solar permit in addition to or as an alternative to the existing Village law in order to accomplish the stated purposes of the Village Board.*
- b) *The Planning Board shall review proposals on lots that are subject to ridge preservation in accordance with § 310-13.*

Planner Lockman recommends not requiring Ridge Preservation standards and added that solar panels are non-glare, they absorb light not reflect it. He continued with sub-section C under Section E.

- e) *Any height limitations of the Village Code shall be applicable to solarcollectors, provided that such structures are erected only to such height as is reasonably necessary to accomplish the purpose for which they are intended to serve and that such structures do not obstruct solar access to neighboring properties.*

He said the wording is incorrect. The first sentence in section e) should read..."**Any height limitations of the Village Code shall not be applicable to...**" He gave an example and explained why he thinks it should adjust, since he's been working with

solar collectors and other codes.

Chairman Gerver said the Planning Board, Building Department and the Board of Trustees had a meeting where they spoke of solar panels and Ridge Preservation. There are products being sold that can replace a traditional roof for example solar panel shingles, making it look like a traditional rooftop. If there's going to be a solar array in Ridge Preservation, then the thought process is to use those types of low-profile and non-intrusive products vs raised bulky looking panels. Attorney Golden clarified that the language doesn't ban other familiar solar panels. He also added that he does not agree in adding the word "not" in the language, it will then indicate there's no height limitation.

Regarding page 3 section 8-7 Certificate of Occupancy. Attorney Golden and Engineer Barber came up with the suggested the language. **"The Code Enforcement Officer shall not issue a building permit for, or certificate of occupancy upon completion of, any building or alteration unless he/she finds that such building or alteration is in conformance with the plans and specifications approved by the Planning Board."**

Regarding Section E part f. Attorney Golden suggests updating the following language to...

- f) *Placement of solar collectors shall be allowed, provided that panels do not extend **or overhang** ~~horizontally~~ past any roofline.*

Engineer Barber brought up a comment that the Building Inspector Panella had on Section 3 (E)(a). He's not sure why there are two applications and why the permits are being filled by solar company and not the homeowner. After a brief discussion Attorney Golden suggested updating the language to the following.

".... The Village shall utilize the New York State unified solar permit ~~in addition to or~~ as an alternative to the existing Village law in order to accomplish the stated purposes of the Village Board."

Chairman Gerver asked Engineer Barber to double check with the Building Inspector Panella for clarification prior to reaching out to the Board of Trustees.

H. Introductory Local Law #12 of 2021 - Review referral by the Village Board of Trustees of Introductory Local Law #12 of 2021 entitled "A Local Law Amending Chapter 310("Zoning") of the Code of the Village of Woodbury to Clarify the Guidelines and Standards of Ridge Preservation Review."

General/Background – Chapter 310-13 "Ridge Preservation" is proposed for amendment. This Chapter was most recently amended in 2020. The amendments clarify acceptable standards for development and specify the applicability (or exemption) of the Code pertaining to certain developments.

Chairman Gerver made a note that Local Law 12 is not a new law. It has been around in the Village since 1992. The Town had a similar provision when they controlled the Zoning and Planning. Most of the requirements have not changed since the law went into effect.

Engineer Barber commented on section 2 (310-13(B)) #2.

"....natural colors shall be earth-tone or similar neutral colors, such as brown, greens, terra cotta, colors that naturally blend in with the tree cover..."

She wanted to know if the Board would consider the visibility of those structures without tree cover as per her comments in her H2M memo dated September 30, 2021.

"B.(2) – We recommend you consider visibility in the winter months and whether a demonstration of blending on a hillside with or without tree cover might be appropriate."

Planner Lockman thinks the Board should list the things they don't want to see instead. Between Planner Lockman and Engineer Barber some adjustments were suggested to the language.

2) *"In order to satisfactorily blend the structure into the natural environment and mitigate visual impacts, **the exterior walls of a structure shall be cladded in wood, brick, stone, stucco, fiber cement board or fiber cement siding** and shall be of ~~a~~ **non-reflective, non-glossy earth tone or similar neutral colors, vinyl siding, aluminum panels and EIF's panels are not permitted. Earth tones or similar neutral colors including brown, greens, gray, terra cotta, or autumn colors that naturally blend in with the hillside tree cover are permitted and white and bright colors are not permitted.** The Planning Board shall have the discretion to permit the use of non-natural building materials in connection with applications where existing originally approved and constructed structures consist of non-natural materials, and the application is for an addition that is substantially less in mass and/or appearance than the principal structure.*

S. Capriglione asked Attorney Golden, what was the problem with vinyl siding at the time of creating Ridge Preservation. Attorney Golden said the idea was to blend the home into the natural environment (wood, brick, or stone) so it can soften the impact, but there were people who thought materials that mimic natural materials was okay. Seeing less than 30% of homes in Woodbury with natural materials, S. Capriglione feels it may be difficult to enforce these regulations. Attorney Golden and Chairman Gerver said there are quite a few acres left in Woodbury for building and it will help to push for the use of natural materials going forward, especially for those who wish to rebuild.

E. Yan noted he understands the intent of the local law as far as visuals and materials like vinyl, but from his personal experience vinyl tends to break or deteriorate quicker than natural materials. Chairman Gerver asked if part of the home that is viewable can be of natural material while the rest of the home that's non-visible made of a different material. Attorney Golden did not agree, he said a portion of the home may be within the Ridge Preservation, but the regulation applies to the entirety of the home, and it would make it difficult for the Planning Board to have under control.

S. Capriglione clarified, if a current home with vinyl siding, visible in the view corridor, and painted white is to be knocked down in the future for rebuilding. They must comply with the current regulations and new modifications. Chairman Gerver noted that he understands the natural use of materials and upkeep is expensive, but the Board is trying to maintain what's left of Woodbury.

S. Capriglione asked if the Board can provide a color palette for the Building Department of what colors are permitted Attorney Golden said yes.

Attorney Golden asked the Board if he should go back to the Board of Trustees with the language that Planner Lockman and Engineer Barber had modified. Chairman Gerver asked if vinyl siding would be allowed in the language. He asked the Board for a vote on the vinyl siding along with a color palette. R. Cataggio, S. Capriglione and T. DeLuca said yes to vinyl siding and Chairman Gerver and E. Yan said no.

After an extensive discussion on natural and non-natural materials along with colors. Attorney Golden will use the language Planner Lockman adjusted. Stick with the natural colors, earth tone or similar natural colors such as brown, green, terra cotta, and muted autumn colors. Planner Lockman also adjusted paragraph 3.

3) *Roof slopes of such structures shall follow the natural contour of the land where possible. **Glossy metal or PVC roofing materials shall be prohibited. The patented copper is acceptable as are non-glossy painted metal panel roofs, shingles composed of asphalt or asphalt composite are acceptable as well as wood, clay or slate shingles or tile. Roofing materials shall be of earth tone or similar natural color in order to blend with tree cover and may especially include dark grays in black and specifically exclude bright grays.** Natural colors shall be earth-tone or neutral colors as described immediately above, in order to blend in with the tree cover.*

E. Yan suggested adding no to bright and white colors, because even though the Board and counsel are thinking shingles someone may have a low pitch/flat roof that has a white or light grey membrane that's not shingle.

Planner Lockman suggested language adjustments on reflective surfaces and paragraph 8. He feels the items listed should not be reflected in both laws. He finds it to be repetitive. Attorney Golden said its used for separate analysis and Chairman Gerver thinks it helps to have them in both places.

Chairman Gerver asked the Board if they should ask the Building Inspector Panella’s definition on the 25-foot of landscape carrier with trees every 40 feet. They all agreed that they will like Building Inspector Panella’s interpretation. What does that 25-foot buffer entail? After receiving his interpretation, the Board will discuss and if so, ask the Board of Trustees to modify the language.

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by S. Capriglione, to adjourn the meeting at 10:41 PM.

ADOPTED

AYES 5 Chairperson Gerver, R. Cattagio, S. Capriglione, T. DeLuca, E. Yan
NOES 0

Claudia Valoy-Romanisin, Planning Board Secretary