

**Village of Woodbury
Planning Board Meeting
July 6, 2022**

Minutes of the Virtual Planning Board Meeting held on Date at 7:30 PM

Board Members Present: Christopher Gerver, Chairman
Richard Cataggio
Thomas DeLuca
Michael Pastel

Representing the Village of Woodbury Planning Board:

Kelly Naughton, Attorney
Natalie D. Barber, Engineer

Board Member(s) Absent: Evan Yan

Also Present: Mayor Andrew Giacomazza

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. **Regular Agenda:**
 - A. **Pine Ridge Estates** - Extension request of preliminary approval for 6-lot subdivision located off Schunnemunk Road in Highland Mills and known on the Tax Maps as Section 213 Block 1 Lots 4 & 5

Present Applicant Asher Horowitz

Mr. Horowitz began by saying they won an appeal against them and are ready to move forward. A company called TRC won the approvals on behalf of the Applicant a few years back. The Applicant wasn't aware TRC was sold and has tried to retrieve documents relating to this application from the new company since then. They are waiting for the company to oblige, hoping to receive information soon. Mr. Horowitz then asked if there was a moratorium in place that he should be aware of.

Attorney Kelly Naughton said back in 2008, SEQRA was completed; therefore, the application was exempt from that moratorium. She noted that due to the extensive amount of time since the approvals, she would have to go back and review SEQRA since there is a chance there may be some changes. Though at this time, she made the Applicant aware that there is a moratorium in place and the application is not exempt from it.

Mr. Horowitz knows he needs to get all the paperwork from this new company, though he asked what his next step will be. He asked if he needed to seek further approvals. The Chairman said the Applicant would have to check for any changes in the code from 2008 to the present. He noted they must be updated with the plans to reflect new zoning codes. Mr. Horowitz asked for a one-year extension in the hope it will give him more than enough time to obtain and update his documents and plans for the Board.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to grant an extension to July 5, 2023. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

| | | |
|------|---|--|
| AYES | 4 | Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel |
| NOES | 0 | |

- B. Spitzer/Millwork Showroom - Public Hearing** for proposed Special Permit and amended Site Plan to permit a change in use to a Millwork Showroom. Said property is located at 279 Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 230 Block 4 Lot 4.2.

Present Designer Larry Hartman from Hartman Designs

Engineer Natalie D. Barber began giving the public background on this application. She referred to certain parts of her H2M memo dated July 1, 2022.

H2M Memo:

1. Zoning –

a) Use – The Applicant proposes to convert 2,975-SF of the building previously used as auto showroom to showroom for Millwork and furniture sales. In the HB zone a retail establishment is a permitted Special Permit Use with Site Plan approval. The remaining 7,325-SF is to be dedicated to two-autobody repair shops with maintenance area. An automobile repair use, not distinguished in your bulk tables by autobody repair, is a permitted Special Permit Use with Site Plan approval in the HB Zone. Counsel has confirmed the prior body shop was permitted as accessory to the car dealership, however, this proposal for two new autobody repair shops would now be considered a new principal use requiring Special Permit with Site Plan review. Nonetheless for the purposes of our review, we have considered the existing autobody repair for intensity impacts understanding this has been in operation on this site for a number of years.

The Applicant has confirmed that production and manufacturing of millwork will not occur at this facility, we recommend this be a condition of your action.

Use as an autobody shop may require permit and/or registration with the New York State Department of Environmental Conservation (DEC). We recommend proof of compliance with DEC requirements (permit or registration) be required as part of your action prior to certificate of occupancy.

c) Parking – The Applicant's plan and calculations for parking are revised. Forty-five (45) spaces are shown, fifteen (15) are designated to retail, and the remaining 30 (5-for customers on street side of fence) are designated to the autobody repair uses. Additionally, two parking stalls are provided for tow trucks.

Further, the Applicant has revised their plan to eliminate parking in the front yard and to show striping along the front of the building, prohibiting parking in this area. We recommend the Applicant include a note on the plan indicating parking is not permitted in the front yard. Further, we recommend the Board consider whether the striping in the front of the building is sufficient to deter parking in this area, we understand based on prior discussions you will consider the parking restriction as part of your special permit such that if complaints are received or issue arises, the Applicant will be required to reappear before the Planning Board.

Finally, your Code (§310-23.H) section on Automobile Repair Garages states:

No more than five wrecked, partially dismantled or unlicensed vehicles shall be kept on the premises, and all such vehicles shall be kept within a building or concealed behind a board fence at least six feet high which shall be erected and maintained in a manner approved by the Code Enforcement Officer.

We note the chainlink fence proposed by the Applicant does not meet the Code criteria for "board" fence and we recommend this be updated by the Applicant. Additionally, in consideration of whether the two-auto body shops could have ten total stored vehicles or if the site is limited to five stored vehicles, we have reached out to the Building Inspector for a determination. We will advise at your meeting of his decision.

d) Loading Berths – The Code (§310-41.B.(3)) requires a loading berth for "buildings with a combination of offices and retail sales and service establishments: one berth for 5,000 to 25,000 square feet of floor area...". The Applicant has added a loading berth to the plan, but it does not meet the required dimensions of your code (§310-41.C) that are 15-ft wide x 45-ft long. The Applicant appears to have the space available to comply, accordingly we recommend this be updated on the plan.

a. Water/Sewer – (Repeated) No physical changes are proposed to the water and sewer connections. The Applicant suggests the projected water and sewer demand is estimated 370 GPD, the basis (i.e., breakdown) for their projected demand calculations are shown on the site plan. The Applicant takes credit for water saving plumbing fixtures and applied a reduction to their per unit calculations. State standards recommend the reduction be dependent on the ability of the builder or owner to ensure adequate maintenance and/or

replacement in-kind, when necessary, which is difficult to enforce. We recommend the calculations be revised for the full unit value.

A review of the floor plans indicates a modest portion of the building is being transferred from the car sales/millwork area to the autobody shop. This area will be designated as office space for the auto repair shop. Since the use as an auto repair shop is not changing, we believe you could consider any change in water and sewer demand specific to the portion of the building that is being converted to Millwork Showroom. Accordingly, we anticipate the change in water use and sewer generation from car sales to millwork sales to be consistent or less.

The Applicant should discuss the means for fire protection proposed for the space.

Engineer Barber referred to the fence, saying the Applicant may want to consider extending the fence along the northern and southern property lines, as was suggested in a previous meeting. The suggestion will help screen the property from adjacent properties towards the rear property line. She then continued addressing lighting.

d) Lighting – The Applicant previously advised no changes to landscaping or lighting were proposed. In the current submission, there appear to be light fixtures proposed near the existing sign and along the southern property line. The Applicant should confirm the light level distribution is limited to 0.1-fc at the property lines and provide details of the fixtures to confirm compliance with IDA, LEED, or Green Globe criteria for Nighttime Friendly or Dark Sky lighting.

Engineer Barber mentioned the Applicant revised their plan, indicating when the lighting will be turned off, which is at midnight, which is consistent with the Village code. However, the Board has restricted operating hours.

g) Automobile Repair Garages – As discussed at your last meeting, the code (§310-23) outlines certain requirements for these types of facilities, for which we believe the Applicant should confirm compliance. We have listed the relevant requirements below and provided comments where needed thereafter:

A. Strict compliance with state standards shall be required in the design and construction of devices for storing and handling gasoline and other products to keep the hazards of fire and explosion involving the same to a minimum. We recommend this be a condition of your action.

B. There shall be no other repair garage or service station property within 300 feet of any part of the lot lines of the property. We have asked the Building Inspector to opine if this precludes the Applicant from having two garages on the same site. We will advise at your meeting.

D. Pumps and other devices, including all signs, shall be located at least 20 feet from any street line. It is not clear if the freestanding sign falls within this category or like other nonconforming conditions of the site could be considered existing, nonconforming.

E. No repair work shall be performed out of doors. We recommend this be a condition of your action.

F. All automobile parts, dismantled vehicles and similar articles shall be stored within a building. We recommend this be a condition of your action.

H. No more than five wrecked, partially dismantled or unlicensed vehicles shall be kept on the premises, and all such vehicles shall be kept within a building or concealed behind a board fence at least six feet high which shall be erected and maintained in a manner approved by the Code Enforcement Officer. Discussed above.

I. No dead storage or parking of vehicles shall be permitted, except vehicles awaiting immediate service or repair or those vehicles impounded at the direction of the police. We recommend this be a condition of your action.

K. A minimum ten-foot landscaped buffer shall be provided on side and rear yards; where said buffer adjoins a residential district, the requirements of § 310-18 shall apply. Discussed above.

j) Refuse Collection – An area for refuse collection is shown on the plans with an 18' x 18' enclosure. The Applicant provided a detail of the enclosure, which we believe is appropriate. We recommend the Applicant revise their plans, confirming the size of the enclosure for consistency (plan 18'x18', detail 18'x20', detail notes 10'x20'). Further, we recommend any action you take include a condition that

requires the Applicant to maintain areas surrounding the dumpsters be kept in a neat and orderly condition.

Engineer Barber advised the Board that these can be listed conditions or restrictions for the Applicant to comply with the code. She continues to say that an ARB form needs to be submitted, and as for SEQRA, she will refer to Attorney Naughton.

Chairman Gerver said the fence requirement is non-waiverable, so the Applicant will need to make some changes. Designer Hartman confirmed, saying that was something he noticed, and they will make the changes. Regarding painting the building, he said it was initially considered to paint the building black, but in his recent submission, it has been changed.

T. DeLuca asked about extending the fence on the south side of the property. After a brief discussion and a look over Google photos view off Rt. 32, it was determined and agreed that the Applicant should extend the fence towards the rear of the property.

The Board had no additional comments; therefore, Chairman Gerver opened the floor to the public for comments regarding Spitzer/Millwork Showroom.

Resident Angela McKeown is a neighbor on the north side of the property. She had submitted questions to the Building Department for the Planning Board regarding this application and asked if she could go over those questions hoping the Board could answer them. Question "1. Is the showroom the only use being proposed for this business, or is it to be an actual working factory or mill, used for the production of milled (wooden) products? If industrial, how will that affect noise and air quality?" Chairman Gerver said the first use would be a showroom only. There won't be any Millwork, no construction. As previously discussed, it will be part of their condition of approval. He said the two automotive repairs and work bays were already existing. The Applicant had asked to continue to use those two uses. "2. Is this property to be designated industrial or clean, quiet commercial?" Attorney Naughton responded the zoning of the property is not changing; it is not in the industrial zone. Confirming with the Engineer Barber, she continued saying the lot is in the Hamlet Business District, and it's a permitted use. The zoning is not being changed. "3. Is this property to be used as a center to receive and distribute products? Will this property be receiving/shipping products throughout and/or after business hours? Will this business require the transportation of tractor trailer size deliveries?" Chairman Gerver said No. Designer Hartman had presented that there would be no deliveries; it's strictly a showroom for people to go in and look at merchandise. A customer will place an order with the selected merchant and then deliver those products to the job site. M. Pastel added that the automotive businesses would have tow trucks on the property. Chairman Gerver said those automotive businesses could have five cars per shop, totaling cars. "4. Where will the storage of equipment, material, deliveries, etc., be located on the property?" Chairman Gerver responded per the auto businesses; it all has to be behind the fence that's going to be on the sides of the property. Reiterating, they are limited to having ten cars, plus the tow trucks. Regarding the Millwork, Mr. Hartman confirmed that there would be no storage, just samples of doors, trims, and woodwork in the shop. The Chairman continued by saying there's a loading zone, and as per Village code, it's a requirement in the Hamlet Business District that a loading zone is provided. A requirement the Planning Board cannot waive. Ms. McKeown continued saying there is an issue with eroding property lines, where there are no retaining walls or preventive structures to prevent further damage. This issue has been brought to the attention of the Building Inspector on several occasions. She asked, "What will the physical condition of the property be? Will it be improved or allowed to exist in disrepair?" Chairman Gerver said the Applicant started to make improvements, they are painting and replacing signs. They were currently working on the building but were recently issued a stop order by the Building Department. The Building Department is not allowing them to proceed until the Planning Board makes its final determination. The Chairman added that the Building Department has renderings of the final look of the building. Ms. McKeown spoke about the eroding adjoining property lines being unattended and neglected. She said in the past she had communicated her concerns about the property deterioration. She asked if the property would be improved or allowed to continue to exist in disrepair. She asked, "Will there be raw lumber building materials, packing materials, etc. in the open air? Will the garbage and other materials associated with these businesses be disposed of." Chairman Gerver responded by saying they have an enclosed dumpster; they will also have to abide by current property maintenance laws (requiring the property to be kept in clean condition). The Chairman continued to say that the Building Department has been working with the current property owner in getting the old cars removed as well as the old debris. The Applicant has been complying and they will have to continue to comply with the property maintenance laws in Woodbury. Any complaints can be submitted to the Building

Department, they just have to be submitted in writing, so that the Building Department can take proper enforcement action. Regarding the retaining wall between the two properties being outside of the Planning Board's purview, the Planning Board cannot force the Applicant to install or put up a wall. Ms. McKeown said she's always believed in attempting to be a good neighbor and does not oppose having a civil conversation with the Applicant where she can talk about some serious concerns and also what the neighborhood has been experiencing on unkempt properties. With the permission of Ms. McKeown, Chairman Gerver will pass along her contact information to Designer Hartman (a representative of the Applicant) who will then reach out to the Applicant so that something can be set up between Ms. McKeown and the Applicant. Ms. McKeown said she would appreciate it. Designer Hartman said he understood the frustration with the previous owner and with the property sitting empty. He said this will not be a rental property, it is someone who owns the property and he himself will want to have well-taken care property. He will reach out to the Applicant and express her concerns and her wanting to meet.

Resident Maria Hunter had several questions. She thought SEQRA is performed, and the pre-existing nonconforming use would be thrown out when a business leaves and a new one comes in. Mrs. Hunter asked if that's changed within the last 15-20 years. She referred to the increase in parking spots and traffic from cars coming in and out of those Auto Body businesses as a concern for her. She also asked if this application has to go before the Village Board due to the building moratorium to get approved. Attorney Naughton said this application does have to go through the SEQRA process, but it's a Type-II Action for reuse of the commercial structure. There was a GML referral, which came back as a local determination about a change of use. She said the Applicant is before the Board for a site plan, special permit, and ARB review. The Building Inspector determines the pre-existing nonconforming bulk regulations. Pre-legally pre-existing nonconforming conditions do not go away or expire. Attorney Naughton continued to say that the Building Inspector has determined that things like impervious surface coverage, lighting, and landscaping are legally pre-existing nonconforming conditions, so the Applicant does not have to apply for any variances in that regard. Ms. Hunter asked if the signpost along the sidewalk be removed, and Chairman Gerver said the sign would be refurbished. She then requested Attorney Naughton where this application stands regarding the moratorium. Attorney Naughton said this application is subject to the moratorium but not exempt from the moratorium. She told the Applicant is allowed to proceed through the process. Ms. Hunter asked whether the two Auto Body shops repair and fix mechanical issues or will it be shops that deal with painting cars. She reiterated her concerns about tow trucks coming in and out of the premises with wrecked vehicles on tow, adding to the increasing traffic. Attorney Naughton clarified that it's not a towing business; it's Auto Repair Shops and area allowing five wrecked vehicles each, to a total of 10, and those ten vehicles will have to be behind the proposed fence. The previous honor had a paint booth on this site, but a paint booth is considered to be an accessory use according to the Building Inspector, and that is not what is being proposed. If it was a permitted accessory use, the Applicant will also need DEC approval to comply with the air restrictions. Ms. Hunter asked if the three businesses; the Millwork and the two Auto Body Shops permitted by code on this site, one primary and two accessories. Engineer Barber said two lot uses are allowed, the Millwork as a retail and the Auto Body Shops. She told the Applicant has provided two bulk tables on their plans for two principal uses on one lot, and the Applicant has met the lot area requirements.

Ms. McKeown had questions regarding quiet hours and observations on weekends. She pointed out that there are some seniors living next door, and it has been nice not having any automobiles parked there for the time it has been closed. She wants the Board to understand that there needs to be some kind of consideration. Chairman Gerver said the Board also has to consider the Applicant's right to use their land that's permitted by code, and all the uses that they're permitting are allowed under our zoning code. The Applicant is not being given any special exemptions. Regarding noise, the Applicant will have to abide by the current Village code from Monday through Friday, Saturday, and Sunday. If they are revving the engine at 12 o'clock midnight, they violate the Village of Woodbury noise ordinance, which will have to be dealt with by the Building Department. The Chairman also noted that the Board cannot tell them they can't work on cars during the day because it's permitted use within this zone. M. Pastel added that the noise constraints are 10:00 AM to 7:00 PM or sundown on Saturdays and Sundays. Ms. McKeown said those hours had been amended because she remembers it being much later in the past years. Attorney Naughton clarified that those are not the hours of operation, just the noise restriction in the code.

Ms. Hunter wanted to clarify what was commented. There are two principal uses by code, but three businesses are acceptable to the Building Inspector. Attorney Naughton said yes. Ms. Hunter continued to ask if the DEC has to approve the two Auto Body shops. Attorney Naughton said she did not know the DEC's regulations on Auto Bodies; she knows there are some permits for air regulations. She said this is subject to the moratorium and the general requirement is that if a DEC permit approval is necessary, that will be received before the signing of the plans. Ms. Hunter asked for the total number of parking spots because she counted 51. Attorney Naughton said 15 spaces were designated for the Millwork Showroom; she thinks 30 spaces are for the Auto Body shops and 2 for tow trucks. Chairman Gerver counted 45 on the plans.

The Chairman thanked all for their comments and feedback.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to close the public hearing for Spitzer/Millwork Showroom. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, M. Pastel, T. DeLuca
NOES 0

A motion was offered by Chairman Gerver, seconded by M. Pastel, to type this as a Type II Action under SEQRA. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Anzalone, M. Pastel, T. DeLuca
NOES 0

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept the Counsel's draft Resolution of Approval subject to the moratorium with the conditions addressed in tonight's meeting. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 5 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel,
NOES 0

Engineer Barber reminded Designer Hartman that when he is submitting the revised plans to prioritize submitting the projected water and sewer demand form with his revised calculations and the required ARB form for this application. Designer Hartman believes he submitted the ARB form, but he will check with his office.

- C. **Woodbury Commons/RMU - Continuation of Public Hearing** for proposed amended Site Plan and Special Permit for an increase in the size of the previously approved Retail Merchandise Units from 50 sq. ft. to 100 sq. ft. within the Woodbury Common Shopping Center. Said property is located on Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 70.2 and Section 226 Block 1 Lot 1

Background – This application was last before the Board on May 4 for a public hearing. The hearing was opened with no one speaking and adjourned to your June 1 meeting. On June 1 you extended the public hearing to June 15. In, April, you discussed whether this application for a larger RMU is raised to the threshold of classification as a kiosk and if it should be considered GLA, the Applicant has solicited the Department of State's determination on this, and they have consented to the RMU's are not Kiosks and not subject to GLA. The Applicant previously provided renderings of the existing and proposed RMU's, as well as branded type RMU for you to consider this request. SEQRA remains to be decided and your public hearing is closed.

Present Vice President Of Construction at Simon Property Group, Bill Pendergast, and General Manager at Simon Property Group Dave Mistretta.

Engineer Barber gave a brief background on the application and referred to the comments noted on her H2M memo dated June 10, 2022.

H2M Memo:

1. *RMU Definition – In 2001, your approval provided a definition for RMU's as follows:*

By RMUs, the Planning Board means Retail Merchandizing Unit: A structure, typically metal framed, with shutters or doors that enclose merchandize and are lockable; more like a structure or a building, but with wheels to make it movable. Shelving is built-in (but can extend out somewhat from the footprint). Salespeople cannot get inside the unit – they have to walk around unit to make sales.

RMUs are different from Pushcarts and Kiosks, which the Planning Board defines as follows:

Pushcart: a portable cart, typically wooden, with two large “wagon wheels” on the sides, with two handles at one end to allow the cart to be pushed from location to location.

Kiosk: A structure, typically metal framed, with shutters or doors that enclose merchandize and are lockable. Are typically larger than RMUs, and are more permanent and building like. Kiosks are not usually movable. Salespersons make all sales from within to customers without.

If this application is approved, the definitions above require amendment.

2. *RMU Intent – The Applicant has described the RMU's as an amenity providing a need to customers and allows local and regional residents/entrepreneurs to start a business in the community. The Applicant previously described how the intent behind these structures has changed from selling small trinkets and prepackaged food to providing food and drink to users remote from the food court or other vending type service.*

3. *Number and Size of Structures – RMU's are not included as GLA, but in 2001 the Board considered GLA in determining an appropriate number and size of these structures. They are currently limited to 50-SF, with no more than 25 operating at any one time, thus approximately 1,250-SF. We note the prior approval also limits total area occupied by RMUs to be 0.1% of total sales area or 913-SF. The Board should consider an appropriate threshold for area assigned to RMU's and the best way to manage compliance with designated threshold. One method is to create a tally, similar to your GLA tally, to track the location and sizes of operating RMU's. The responsibility to keep such tally current would be the applicants for review and inspection by the Building Department as needed.*

4. *GLA – The Applicant submitted correspondence from the NYS Department of State indicating the RMU's do not constitute GLA.*

5. *Circulation for ESO's – Although your typical Resolution requires maintenance of a 20-ft clear passageway, in 2001, it was determined that RMU's being moveable could be permitted with a 12.5-ft aisle on both sides at all times, unless it was against a wall in which the open side should have a 12.5- ft aisle.*

We maintain our recommended that the Applicant should provide a plan that shows the proposed RMU's to scale in the previously approved locations to determine whether compliance with this condition could be achieved. They previously advised 20-ft clearance will be maintained for any unit over 50-SF. Further, they advise when unit is proposed for a location the plan will be updated and approved by the Building Department for all clearances.

We take no exception to the 20-ft clearance requirement as it is consistent with prior approvals. However, if the Applicant proposes flexibility in sizing for all 44 approved RMU locations, we believe as part of the Planning Board process, the Applicant should demonstrate the required clearances can be achieved at RMU maximum size. If certain locations are not appropriate for a larger RMU we believe they should be removed from the approved locations map. We believe this will assist the Building Department with enforcement and monitoring.

6. *ESOs – We recommend the application be referred for comments by the ESO's*

7. *ARB – The 2001 approval considered ARB for the RMU's and indicates RMU's are not permitted unless consistent with the Architectural Renderings submitted. The Applicant is proposing a different style of RMU with flexibility to allow vendors to display branding and create individual looks. If approved, your prior action should be specifically amended. The Applicant has suggested they will submit individual ARB applications for larger RMU's, we recommend you consider whether this is necessary.*

Chairman Gerver asked Attorney Naughton to weigh in the opinion of the State versus, the Building Department and what the Planning Board had previously approved, and what the Board is bound to or use as guidance. Attorney Naughton began by saying there is an issue before the Board as to whether the RMU's are kiosks and if the RMU's were to increase in size should they be considered as kiosks and included in the GLA. The New York State building code personnel have weighed in as to what those definitions are. However, the Board provided its own definition back in its 2001 decision. She continued by saying the Applicant has rights to what was previously approved but going forward the Planning Board can modify the definition. The Board is not bound to the New York State building code.

Mr. Pendergast said they also reached out to the New York State building code personnel so they could weigh in. In the opinion that the RMU's are GLA, in the beginning, it was understood from the beginning that the units are temporary, not permanent, and agreed that kiosks are permanent services considered in the GLA. He noted that they don't think the state opinion to be GLA.

Mr. Mistretta added that some of these carts are local mom-and-pops. He said many are local, live in the community, and hire kids; some are women-owned businesses.

Chairman Gerver open the floor to the public for comments regarding the Woodbury Commons/RMU.

Jonathan Sigler said he lives in Englewood with his wife, originally from Orange County. They have a kiosk in Woodbury Commons. It's a juice cart that offers freshly squeezed juice, healthy smoothies, and acai bowls. Before starting this business in the commons, no other companies offered what they did. Before starting this business, they visited the commons in 2017. While walking around, they were looking for something to eat other than fast food. The Food Court only offered fast food. Mr. Sigler continued to say he is proud to have provided something new and something for everyone. They love working in Woodbury; they try their best to offer alternative things that were not there before.

Maria Hunter said as a former worker in one of the stores in Woodbury Commons. The RMU's and kiosks were helpful to Woodbury Common employees. Especially for those who were pressed for time and couldn't walk across to the Food Court. To have these nearby is an asset, and we welcome these RMU's expansion within the commons.

Azra Cirkic said she lives in Florida, New York, and has a food cart in the Woodbury Commons. They are a family-owned shop, and they have been employing High School students over the past decade. They've invested a decent amount of money in building a beautiful cart, maintaining it and keeping it up to Health Department standards. She finds it an asset for the commons since the Food Court is 10 minutes away and can have a 15-minute wait time. The cart is their bread and butter and the livelihood of her family.

Jeff said he's been in the Woodbury Commons for a couple of years now and has multiple locations. Agrees that they do a lot for the community. He said they serve drinks in areas where there aren't any drinks. They run cleanup operations accommodating the entire public.

The Chairman thanked all for their comments and feedback.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to close the public hearing for Woodbury Commons/RMU. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

| | | |
|------|---|--|
| AYES | 4 | Chairman Gerver, R. Cataggio, M. Pastel, T. DeLuca |
| NOES | 0 | |

Attorney Naughton reminded the Board that this application is subject to the moratorium.

As Chairman Gerver asked the Board for their feedback and opinion, Mr. Mistretta explained that the maximum square footage they would use is 1,250 sq. ft., which would be 25 carts at 50 sq. ft. each. If they had a 100 sq. ft., they would reduce the number of carts. Chairman Gerver reminded the Board the Applicant would never be more than 1,250 sq. ft. unless this Board changes that allowance.

M. Pastel said he is willing to work with the Applicant if they don't exceed the 1,250 sq. ft. since the square footage is already approved.

T. DeLuca said he understands what the New York State building code stated, but he feels this is just another way of increasing the GLA; therefore, he's not for it. R. Cataggio stated that he's okay with it if the Applicant doesn't exceed the 1,250 sq. ft. The Chairman reminded everyone that the Board could not take action due to the moratorium. He also stated he agrees with T. DeLuca. The Chairman doesn't want things to get more extensive than they already approved. He pointed out there's already a unit that's bigger than what it's supposed to be. Chairman Gerver appreciates the help with the community and hiring the kids from the High School, but he feels that the bigger the RMU's and kiosks, the more congestion. He also mentioned being one member short this evening, and he would like to know what E. Yan would have to say on this matter.

Mr. Mistretta said they could limit the number of larger carts to 8, so most of them are still at a smaller footprint.

Engineer Barber added that the Applicant offered to come before the Board for individual ARB approvals for these off-brand carts. She also suggested the Applicant propose a new definition of what an RMU and a kiosk would be and then do a red line with the previous approval and consider those changes. Also, have the Building Department weigh in on how it will be enforced with different sizes.

Chairman Gerver said he likes to see the Applicant mark out where they would like to see the larger RMUs as well as hear their new definition on an RMU/kiosk as opposed to what is already stated. Mr. Pendergast said they would be happy to do so. He reminded the Board that these RMU's are not permanent; they are likely out for six months out of the year. He doesn't understand why it will be counted in the GLA.

After further discussion, Chairman Gerver asked that the Applicant submit a plan showing the approved sites on the map and the placement of the 100 sq. ft. carts. Mr. Pendergast and Mr. Mistretta agreed to have that submittal.

- D. Dice Bowl – Public Hearing** for proposed special permit amendment for the expansion of restaurant use within the shopping plaza known as the Old Glory Mall. Said property is located at 95 Maher Lane and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 41.

Present Applicant Johnny Chu

Mr. Chu gave a summary of what this application is about. He is looking to expand his store into the unit next door. The construction that would take place would be creating a door between the two units. The expansion consists of additional seating and more room for events such as birthday parties.

Chairman Gerver noted that this application was exempt from the moratorium from the Village Board of Trustees on June 9. This was also published on July 1 for the public hearing.

Engineer Barber did not have an updated memo for this application, though she reviewed what was discussed during the Applicant's last appearance before the Board. In their previous meeting, the Applicant provided the projected water and sewer demand form executed by the Water and Sewer Superintendent, which was circulated to the Board. The only outstanding issue was the parking waiver that needed to be decided. Mr. Chu provided information on the floor plans and the proposed 63 seating patrons.

Engineer Barber continues to say that based on the information provided and previously confirmed for the 110 spaces the Board can waive 29 though the Applicant is asking for 14. Engineer Barber confirmed Mr. Chu is not asking for the complete waiver. The Chairman said the Board has visited the site and noticed the parking lot is relatively empty except for Sundays when the church is in session, as the Applicant previously stated. Mr. Chu has said that his business will be operating during the church's off hours, so the Chairman's opinion is that he doesn't think parking at that site will be an issue with the expansion.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to grant the waiver of 14 parking spaces. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel
NOES 0

The Board had no additional comments; therefore, Chairman Gerver opened the floor to the public for comments regarding Dice Bowl.

There were no comments from the public.

A motion was offered by T. DeLuca, seconded by R. Cataggio, to close the public hearing for Dice Bowl. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, M. Pastel, T. DeLuca
NOES 0

After the Board reviewed several pages of facts and findings, the Chairman began to read the Specific Conditions of the draft Resolution of Approval ARB for Dice Bowl.

SPECIFIC CONDITIONS

1. *All conditions of prior approvals in connection with this property shall continue to be in full force and effect. This Resolution does not supersede or otherwise modify prior approvals and conditions except as expressly set forth in this Resolution.*
2. ***Parking waiver? (Was granted this evening by the Board)***
3. *The Planning Board hereby lifts the prior restriction on the property that limited the maximum occupancy of the restaurant to 100 patrons.*
4. *Before the Chairman's signing of the plans, the Applicant shall comply with the memorandum of the Village Engineer dated June 10, 2022, to the satisfaction of the Village Engineer.*

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept the Counsel's draft Resolution of Approval. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel
NOES 0

- E. Shops at Woodbury/Retaining Walls – Public Hearing** for proposed site plan submitted for ARB review of proposed retaining walls within the Shops at Woodbury shopping plaza. Said property is located at the intersection of Route 32 and Locey Lane and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lots 34.1 & 34.22.

Present the Applicant Aaron G., Engineer Steve Esposito, Attorney Anthony Morando

Engineer Barber began by saying the Applicant submitted renderings of the proposed retaining walls, pictures from visible viewpoints, and a revised landscaping plan. In hopes it would be to the Board's satisfaction. Engineer Barber mentioned having a

comment for the Applicant to address regarding the guard on the concrete wall. She said the building code requires 42 inches high and believes it can be an easy fix for the Applicant.

Chairman Gerver noticed that there are trees in the snow storage on the current landscaping plans. Engineer Esposito said they propose three additional evergreen trees and about a dozen evergreen shrubs on the low side of the wall. He indicated it would be the bottom wall on the gas station side.

The Board had no additional comments; therefore, Chairman Gerver opened the floor to the public for comments regarding Shops at Woodbury/Retaining Walls.

There were no comments from the public.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to close the public hearing for Shops at Woodbury/Retaining Walls. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, M. Pastel, T. DeLuca
NOES 0

Chairman Gerver asked if the Applicant plans to add a stamped textured wall. Engineer Esposito said there is going to be an admix on the concrete wall so that it would be the same color as the modular walls or as close as they can match it. He indicated it would be a tan or beige and then add some Shadowline.

After the Board reviewed several pages of facts and findings, the Chairman began to read the Specific Conditions of the draft Resolution of Approval ARB for Shops at Woodbury/Retaining Walls.

SPECIFIC CONDITIONS

- 1. All conditions attached to the original grant of Site Plan and Special Permit Approval for The Shops at Woodbury, LLC, as well as all SEQRA Findings and Consistency Finding, are to remain in full force and effect and this approval is subject to and conditioned upon satisfaction of same as if those conditions were set forth herein at length.*
- 2. No building permit shall issue authorizing construction of retaining walls inconsistent with the architectural renderings submitted to, and approved by, the Architectural Review Board as part of this approval, nor shall any Certificate of Occupancy issue for any structures constructed except in conformance with such renderings. Any deviation from such renderings will require further Planning Board review.*
- 3. Prior to the signing of the renderings and landscaping plan, the Applicant shall comply with the memorandum of the Village Engineer dated June 29, 2022, to the satisfaction of the Village Engineer.*
- 4. The landscaping plan, last revised June 9, 2022, supersedes the plan (dated September 8, 2021) previously approved by the Planning Board during site plan review. The Applicant shall revise the "Plant List" on Sheet 2 of the landscaping plans (previously dated September 8, 2021) to reflect the new quantities of plantings proposed. Confirmation of compliance shall be to the satisfaction of the Village Engineer and verified prior to plan/rendering signature.*

When it comes to landscaping, Chairman Gerver said as a condition; there would be some language stating it has to be maintained in perpetuity. Attorney Naughton said it usually would say along the words "... will keep it in vibrant condition." etc. Engineer Esposito said those notes are in the previous landscaping plans therefore, they have no problem making it a condition.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept the Counsel's draft Resolution of Approval with the one added condition that was addressed for Shops at Woodbury/Retaining Walls. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel
NOES 0

- F. **God's Grace Ministry** - Review and discuss documents submitted of proposed site plan and special permit for change of use to include the place of worship within the shopping plaza known as Oak Clove Mall. Said property is located at 228 Route 32 in Central Valley and is known on the Village of Woodbury Tax Maps as Section 229 block 1 Lot 28.

The Applicant did not attend the meeting. Therefore, the Planning Board decided to not act on the issue.

- G. **Achdus/ARB Unit B3** – Review documents submitted for ARB review of a proposed addition to Unit B3 within the Achdus Summer Bungalow Complex. Said property is located on Schunnemunk Road in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 213 Block 1 Lot 1.11.

Present Designer Larry Hartman from Hartman Designs

Designer Hartman began giving a brief review of this application. They are proposing an addition, and since this fall under the ARB and Ridge Preservation, they are now before the Planning Board. He continued to say they provided floor plans, elevations, 3D renderings, and a site sketch indicating the location of the addition. On the floor plans, an additional section is not part of the unit. He clarified that it's a duplex, which shows two units.

Engineer Barber gave a brief background on this application and referred to her comments sent from her H2M Memo dated June 29, 2022.

H2M Memo:

General/Background – This application is for an addition to an existing Bungalow home part of the Achdus Summer Homes community. According to our records, this use as part of a Summer Bungalow Colony initially predated zoning but obtained an area variance in 1988 and has received site plan and special permit approvals for various modifications and additions in the 1990s and early 2000s when bungalows were permitted. In any event, this is now a nonconforming use, and expansion of the same may require a variance from the ZBA.

The Applicant's proposal requires clarification as the rendering and floor plans appear to indicate the conversion of a single-unit bungalow to a duplex. The Applicant should also provide confirmation that the home has the occupancy of the space (year-round or seasonal) to confirm appropriate next steps. Otherwise, as discussed below, in addition to your typical ARB and Ridge Preservation review for an addition to an existing structure and at an elevation above 600- ft, this application may require an amended Site Plan and Special Permit approval if considered as part of the Bungalow Colony development versus an existing single-family home

1. Zoning –

a) Use – Bungalow seasonal dwelling use is no longer permitted under the provisions of the current code. Accordingly, it may not be "enlarged, altered, extended, reconstructed or restored" except as specified in subsection C (§310-43.2.B.). Subsection C of your Code reads as follows:

C. Expansion of nonconforming use. Notwithstanding any other provision herein, the Zoning Board of Appeals may issue a special permit for the expansion of a nonconforming use of a building by up to 10% of the floor area of the principal structure, provided it finds that:

(1) Said expansion of the use is not detrimental to surrounding properties or to the health, safety and general welfare of the immediate neighborhood; and

(2) No need for an expansion of off-street parking or traffic generation will occur in a residential district as a result of such an expanded use.

The Applicant should confirm the size of the addition in relation to the proposed home, but a rough estimate from the site plan provided indicates the proposed addition is roughly 300-SF and the existing home is roughly 1,600-SF, which would be 20%. For the purposes of this memo, we have assumed ZBA referral will be required.

Because of the need for **referral to the ZBA**, we have kept our comments brief. This will serve as guidance to the Applicant should they return after ZBA action to pursue site plan approval for this addition.

b) Bulk – We note prior zoning for bungalows required 30-ft between homes and maximum 10% coverage. The Applicant proposes 12.5-ft after addition. If the Applicant is referred to the ZBA, you may wish to request an interpretation on appropriate setback and bulk criteria and ask the Applicant to seek any variances required for the same. For the Planning Board and ZBA to discuss this issue further, the Applicant should provide a survey signed and sealed by the professional preparing the plan. Additionally, the site plan should be updated with the survey information and scale of the plan verified.

2. Site Plan – Although your Code (§310-45.C.(1)(a)) excludes single-family residences from Site Plan and Special Permit review, this property is unique in that it was previously considered as a Bungalow colony and is now a nonconforming use. We recommend you discuss with Counsel whether additional site plan and special permit review could be required, with consideration to unique site characteristics noted as follows:

a) Water/Sewer Demand Form – The Applicant's form indicates no new bedrooms are proposed, but the floor plans show a master bedroom as part of the proposed addition as well as new bathroom and additional sink. As noted above, it is further unclear if the addition is proposed as part of a conversion of the home from single unit bungalow to duplex. This should be clarified by the Applicant.

b) Sewer – The Bungalow colony was previously authorized for sewer discharge under SPDES permit (NY0247588). According to online records (DART) the permit is expired (as of 2016), the Applicant should provide proof that the site is operating in accordance with requirements of regulatory agencies. We will also review this with the Building Department to see if they have current records on this issue. We note prior approvals (predating zone change) required "a report must be submitted by an engineer or certified operator on the operating status of the existing sewer system and its ability to accept additional flow that may result from this approved addition, or copies of the State and Federally required Operating Reports and Discharge Monitoring reports must be submitted to the Building Department to determine that the existing sewer system can accept any additional flow that may result from this approved addition".

c) Water – Water supply for the Bungalow Colony is authorized by the DOH and classified as a "Noncommunity Transient Water System". If this moves to action, the Applicant should confirm an amended permit from the DOH is not required. Prior approvals for additions to Bungalows (predating zone change) required applicants to submit "copies of the current Orange County Health Department approval and operating reports filed with the County for the last operating season" to the Building Department. The use of this dwelling and others within the Bungalow community seasonally versus year-round may impact the DOH classification on water supply. The Applicant should confirm.

3. ARB – In your role as ARB, the code (§8-4) specifies your review and consideration of structures or alterations to structures and the following:

A. 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.

Our comments on ARB follow:

a) The floor plans submitted require clarification including notation of the unidentified space to the plan right. The second story (stairs going down) should also be submitted for review.

b) We recommend you consider whether a tabulation of areas – footprint and gross floor area – of the proposed and surrounding homes would assist with your consideration of the mass of the structure in relation to similar neighboring structures.

c) The right elevation submitted shows a second-story window. Applicant to confirm if there is an existing second story and provide a floor plan.

d) In addition to a table of areas, you may wish to consider photographs of surrounding homes to determine similarity/dissimilarity criteria.

e) The ARB form provided by the Applicant indicates all materials and colors will match existing.

Due to the threshold issues with the ZBA, Engineer Barber felt the Applicant should sort out the threshold issues should be sorted out first before proceeding and referring to comments regarding the ARB and Ridge Preservation. Chairman Gerver commented this application has two threshold issues, one was the intended use, whether it is year-round or seasonal, and the other was regarding the expansion.

Designer Hartman confirmed the intended use is seasonal.

Attorney Naughton said this is a Type-II Action under SEQRA, and a public hearing is required. However, due to the threshold issues, this application has to go to the Zoning Board of Appeals. It does require a referral to the ZBA. She also added that this application was referred to the county for a GML, 30 days have passed though no response. Therefore, the Board cannot act because it needs to go before the ZBA. Attorney Naughton explained anything that increases the nonconforming use does require going before the ZBA. The ZBA cannot grant a waiver or variance greater than 10%. Chairman Gerver prefers the Applicant to appear before the ZBA before approving a decision from the ZBA may change the approval from the Planning Board.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to authorize Engineer Natalie Barber to refer the application over to the Zoning Board of Appeals. Chairman Gerver conducted a roll call of the Board which resulted in the motion being:

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel
NOES 0

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by T. DeLuca, to adjourn the meeting at 9:25 PM.

ADOPTED

AYES 4 Chairman Gerver, R. Cataggio, T. DeLuca, M. Pastel
NOES 0

Claudia Valoy-Romanisin, Planning Board Secretary