

**Village of Woodbury
Planning Board Meeting
October 19, 2022**

Minutes of the Virtual Planning Board Meeting held on October 19, 2022, at 7:30 PM.

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

Representing the Village of Woodbury Planning Board:

Kelly Naughton, Attorney
Natalie D. Barber, Engineer
Philip Grealy, Traffic Consultant

Board Member(s) Absent: None

Chairman Gerver opened the meeting with this statement. "The Board has determined that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting." The Chairman then continued with the Pledge of Allegiance.

1. **Executive Session:** No Executive Session was necessary.
2. **Public Comment:** No member of the public had comments.

3. **Approval and Acceptance of Previous Minutes:**

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to approve and accept the meeting minutes held on September 7, 2022. 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, E. Yan
NOES 0

4. **Regular Agenda:**

- A. **Woodbury Villas – Continuation of Public Hearing** for proposed amended site plan and ARB for the proposed relocation of the community building and parking lot within the Woodbury Villas subdivision. Said property is located at 4 Central Valley Line and is known on the Village of Woodbury Tax Maps as Section 254 Block 4 Lot 2.

Present Attorney Steve Barshov, Designer Larry Hartman from Hartman Designs, and James Martinez

Before continuing with the public hearing, Engineer Natalie Barber referred to her October 13, 2022 memo and mentioned the following. The Applicant submitted revised materials in response to some of her previous comments. As per their last meeting, the Applicant has considered using permeable pavers as part of the emergency access drive. The number of parking spaces on the plan holds the same number previously approved. The clubhouse size has been reduced from what was previously approved, warranting less parking than required. Concern was expressed in the previous meeting by the Board. Engineer Barber considered adding a condition to restrict on-street parking or provide signage along the road. Engineer Barber continued to point out comments in her memo.

H2M Memo:

2. *Site Plan –*
 - a. *Utilities*
 - i. *General –*

1. A revised Projected and Water Sewer Demand Form was provided by the applicant addressing many of our prior comments. We have the following remaining comments:

a. The fire sprinkler flows (GPM) should not be added to the average daily demand (GPD). Upon revision of the supporting calculations, please revise No. 1 and 2 on page one of the form.

b. The multiplier for peak hourly flow should be revised per the prior submittal.

c. Upon submission of corrected demand calculations, the pump station calculations should be updated and provided for our review.

2. As noted previously, the proposed forcemain connection extends through Lot ME178 and the water service connection extends through UE-OPJ-2. Sheet C-104 of the applicant's plan shows proposed easements including relocated drainage easement UEHOA-F2 and new easement for forcemain. The applicant's response to our prior comments on easements is the following issues will be resolved with Counsel. Certain issues should be resolved on the plan, the level of detail for which we defer to Counsel.

The following comments on this issue remain:

a. We recommend you review with Counsel, whether an easement is required for the water service that extends through UE-OPJ-2 (Town parcel).

b. We recommend you review with Counsel what rights, responsibilities, and ultimate beneficiary of the proposed easements should be designated.

c. For new easements, metes and bounds should be identified on the plan and descriptions submitted for confirmation. We defer to Counsel on any other information required.

d. On Sheet C-100 there is a note regarding encroachments and "no easement of record found". It is not clear what the encroachment is, nor who is impacted. This should be clarified and resolved currently if possible.

ii. Water – Our prior comments regarding plan for water utilities are resolved.

iii. Sewer – The revised plans show a 4- and 6-inch sewer service connection from the proposed buildings that empty to a proposed pump station on the applicant's property that is proposed for pumping to an existing manhole part of the 8-inch gravity sewer that drains through to Julien Court. We have the following comments:

1. (Informational) The applicant's recent correspondence indicates a virtual guard booth is proposed at the Ninger entrance in lieu of full-time occupied. If the applicant proceeds with this alternative an amended approval is required.

2. The applicant advised, ownership and maintenance of the pump station, forcemain, and gravity sewer to the pump station will be the responsibility of the HOA. We recommend this be included as a condition of any action you take. (Recommended Condition)

3. The applicant provided a profile for the forcemain on Sheet C-201 we have the following comments: a. Provide 4-ft minimum of cover. b. In addition to the cutoff walls required per the prior plan approval (for all trenches with steep slopes), we note Ten States Standards recommend anchors for sewers with 20% or greater slopes. These should be installed along the forcemain where the slope is greater than 20%. Please provide detail.

4. The pump station detail note number one references the site plan for orientation of vent and control panel conduit. These details are not provided on the site plan and we believe the note should be amended.

iv. Drainage – We have the following comments on drainage:

1. We have reviewed the drainage report prepared by Engineering & Surveying Properties, dated August 29, 2022, last revised October 5, 2022, which provides information on the downstream drainage impacts created by the proposed clubhouse. We have no further comments on the report; however, we note that comments provided in our September 20, 2022 electronic correspondence should be addressed in a timely manner so we may report changes to the plan to the Planning Board. These matters will be reviewed separately from the clubhouse application.

2. Sheet C-102 shows the Wetland B drainage connection to the catch basin in Road-A. We note the inverts on the existing catch basin appear to indicate negative drainage would occur between these catch basins. Please verify and note a plan to correct this issue.

a. Grading – We have the following comments on grading:

i. We previously recommended the existing soil conditions be reviewed by a licensed geotechnical engineer and their reasonable requirements incorporated in the plan due to this area having been used as a location for soil deposition during construction. The geotechnical report provided notes confirmation of compaction is necessary for construction of the community center facilities, or the fill will need to be removed

and rebuilt in controlled lifts or densified using deep dynamic compaction, this note has been added to the applicant's plan. If the Planning Board chooses to act on this application, we recommend a condition requiring compliance with the recommendations in report prepared by Kevin Patton, PE, dated December 1, 2021. (Recommended Condition)

ii. The applicant provided certified design calculations and plans for the proposed onsite retaining walls. We have the following comments:

1. Fall protection is required for all retaining walls greater than 30-inches in height and located within 3-ft of a walking surface. The plans provided indicate several different treatments for the tops of walls. The applicant revised the plans to indicate guardrails are proposed for the parking area and fencing is proposed for other areas. However, the fence detail shows three types of fence treatments. The applicant's ARB form indicates a metal fence will be used, so we assume the relevant notes on the retaining wall plans are those that reference ornamental fencing. Applicant to confirm.

2. The general notes for design and quality assurance on the engineered plan require additional testing, inspection, and design recommendations by a geotechnical engineer and qualified field technician. If the Planning Board chooses to act on the application, we recommend a condition of your action requiring strict compliance with the recommendations and notes indicated on the engineered plans by Robert Race, PE, last revised July 26, 2022. You may also want to include a condition requiring qualified engineer or technician be present on site, at the applicant's expense, to provide recommendations and reports as required by the engineered plans referenced above. Reports and recommendations shall be submitted to the Building Department during construction. (Recommended Condition)

iii. As noted for similar applications with retaining walls, the original subdivision approval for WP3 contains provisions for grading and retaining walls for which we have the following comments:

1. Specific Condition No. B.14 requires the following, which should be confirmed by the Applicant's Engineer for compliance:

a. (Informational) Proposed grading may not exceed 3:1 slopes i.e., a mowable condition. The applicant added a note to the plan indicating this requirement.

b. The original subdivision approval for WP3 requires retaining walls be constructed with natural field stone or as amended by the second resolution of approval (Specific Condition No. 5) if there is not sufficient natural stone, then "premanufactured masonry units shall be Rockwood Classic 8, color No. 10 (Cliffside Brown)", and (Specific Condition No. 6) required use of any other stone requires Planning Board approval. Applicant has confirmed their intent to use Diamond Pro PS that is a similar sized modular block that comes in a color (Bella Blend) similar to Cliffside Brown. The applicant provided a photo of the proposed materials and offered to present a sample to you. If you choose to approve a different material, we recommend this clearly be noted in your action.

2. Specific Condition No. B.15 requires the Planning Board consider color, style, durability, appearance of the retaining walls. It further describes mitigation goals during design of retaining walls as follows:

a. Use walls to avoid extensive clearing and/or in isolated areas to protect and preserve existing trees and natural vegetation.

b. Material and type that require low maintenance and exhibit long service life.

c. Aesthetically pleasing in surface texture, color and appearance.

d. To include step arrangements for high structures to avoid long expanses of unbroken surface.

We recommend you consider the above in your review of the application.

Engineer Barber recommended referring this application to the ESO for comments.

f. ARB/Ridge Preservation – The applicant previously provided renderings, material board, photos of the site, surrounding area, and from the view corridor for you to consider these sections of your Code. With this recent submission they provided revised floor plans and elevations that closely match the rendering previously provided to you. Additionally, a revised ARB form was submitted.

i. 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.

We have the following comments on ARB:

1. As noted above previously there were inconsistencies among the colored renderings and architectural elevations. The architectural elevations are revised to closely match the renderings. However, the renderings have not been revised and show awning projecting into the front yard. We understand this awning is not proposed. In our opinion the rendering and birds eye views submitted previously should either be revised to remove this non-conforming feature or a note should be added to these sheets indicating the awning is not proposed nor approved by the Planning Board to avoid confusion in your approval documents.

2. We recommend you consider whether a rendering for the pool house should be submitted.

ii. Ridge Preservation – The property ranges greater than 600-ft above mean sea level (AMSL) triggering your review under the Code (§310-13) requirements for Ridge Preservation. The nearest view corridor is Route 32.

We have the following comments on Ridge Preservation:

1. Visibility – We recommend you consider the materials submitted by the applicant with respect to visibility from the view corridor for you to decide if any provision for waiver from Ridge Preservation requirements is appropriate. If visibility is dependent on existing landscaping or natural buffers, the Code (§310-13.B.(7)(a)) gives the Planning Board the authority to require an easement of record be filed with Orange County Clerk to preserve the buffer. We recommend you consider if this is appropriate.

2. Windows – In compliance with your Code (§310-13.B.(4)), the applicant is prohibited from using reflective windows, including windows coated with antireflective window film, and other reflective surfaces. The applicant notes this requirement on their architectural sheets, but you may wish to include this as part of your action. (Recommended Condition)

g. Miscellaneous – Snow Storage – The applicant revised their plan to show a snow storage area outside of the parking area, this is significantly reduced from the prior plan. They have advised if snow storage is not sufficient, it will be removed and disposed of off-site. The provisions of your Water Quality Protection Overlay District (§310-31.4.E.(5)(d)) require the Planning Board to specifically allow this within your approval and require the applicant to file a “snow disposition plan”. The applicant should provide this plan for you to consider.

The Board had no additional comments; therefore, Chairman Gerver opened the floor to continue the public comments regarding Woodbury Villas.

There were no comments from the public.

A motion was offered by M. Pastel, seconded by Chairman Gerver, to close the public hearing for Woodbury Villas. 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, E. Yan
NOES	0	

The Board agreed and is content with the material used for the retaining walls, and the material used has been consistent throughout. The board brought up the view corridor topic, and Designer Hartman shared his screen showing pictures taken from the view corridor. Regarding the easement, Attorney Kelly Naughton assured the Board that they are addressing it. Moving forward, T. DeLuca said he would like restricted on-street parking conditions to be implemented. No feedback, comments, or disagreements were noted with Engineer Barber’s suggestive conditions in her memo.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, for counsel to draft the Resolution of Approval with the conditions addressed in the H2M memo dated October 13, 2022, as well as Naughton & Torre, LLP memo dated October 14, 2022. 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, E. Yan

NOES 0

Designer Hartman confirmed that the renderings have been updated and will be part of the final submission. It was confirmed that the building would also have a sprinkler system; therefore, a condition was added that the Fire Department would work with the Applicant regarding the Siamese connection. Engineer Barber will make the referral. She also requested that the Applicant provide the revised Water and Sewer demand calculations and confirmation on the pump station calculations as soon as possible.

- B. Neuman/ARB** – Review and discuss proposed ARB modifications to a single-family dwelling, including removing and enclosing garage doors and adding windows and entry doors. Said property is located at 19 Hill Avenue in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 219 Block 10 Lot 5.

Present the Applicant Moshe Neuman.

Mr. Neuman would like to close the garage. He explained that a bedroom is above the garage and would like to turn it into a storage room, have it insulated, and add a door and windows. Regarding Engineer Barber's comments, he said everything would be flushed with the existing structure, with no additives.

Engineer Barber had comments regarding the conversion of the space. She asks that the Applicant provide floor plans of the existing and proposed area. Confirmation of what the new space will be for the projected Water and Sewer demand. The form should reflect if there are new bedroom(s) proposed. The Applicant is also required to provide the type of material(s) that will be used; those materials should be titled and dated, along with the name(s) of the manufacturer. For the Board's review, the Applicant should provide renderings in color; the ones submitted were in black and white. As per Ridge Preservation, the Applicant was asked to confirm visibility from the view corridor. Non-reflective windows are a requirement per code and should be noted on the plans/renderings. Engineer Barber explained that all materials and updates regarding her memo should be submitted to the Building Department. Chairman Gerver asked the Board to pass by the property to get a better view before Mr. Neuman's next appearance. Mr. Neuman thanked the Board.

- C. HLB Enterprises** - Review and discuss documents submitted for proposed interior renovations and conversion of existing lease space to restaurant use. Said property is located in Unit #9 of the Old Glory Mall at 95 Maher Lane and is known on the Village of Woodbury Tax Maps as Section 225 Block 1 Lot 41.

Present the Applicant Harold Beckett.

Mr. Beckett explained how he would like to serve food and beverages and bring furniture, for instance, chairs and tables, into the unit. He clarified that there would be no construction.

Engineer Barber began by saying that as a restaurant, she provided some calculations in her memo dated October 13, 2022.

H2M Memo:

1. Zoning –

a) Use – Commercial centers are permitted in the IB Zone with special permit and site plan approval by the Planning Board. Restaurants are permitted in the IB Zone as of right. We note, the applicant's floor plan does not depict a kitchen area. The applicant should describe the food service operations for the space. We note if you choose to act on the application, we recommend you require proof of Department of Health approval for food service establishments or proof that none is required prior to Building Permit.

The applicant should confirm whether they intend to host live bands for you to consider whether any amendments to your prior action are required.

b) Bulk Regulations – Regulations of the site plan are governed by the IB District which is for the entire commercial center and would not be altered by the addition of the restaurant use. The interior setback and yard area requirements were reviewed and decided by the Planning Board in 1991 and, unless exterior modifications to the building or site are proposed (applicant to confirm), nothing under the bulk and area requirements will be altered by this change in use and interior building alteration.

c) Parking – The Code §310-40, requires parking for restaurants be calculated as follows: 1 space per 50-SF of customer service area or 1 space for each 3 seats proposed, whichever is greater.

The applicant provided a floor plan for you to consider the proposed customer service area for calculating parking requirements. A scale of the plan provided indicates the customer service area is approximately 800-SF (applicant to confirm). Based on customer service area, parking requirements for the use is 16 spaces.

The applicant should confirm the number of seats proposed for the space in order for you to consider the greater of the two required parking requirements. The floor plan shows roughly 30 seats (requires 10 spaces), an estimate of the maximum occupancy load indicates roughly 53 occupants (requires 18 spaces) could be permitted. **Applicant to confirm.**

Your approval of the Dice Bowl application authorized a waiver for parking spaces (110 spaces required, 96 stalls constructed). The following lists the parking waiver required for this application based on 53 occupants and need for 18 parking stalls. This calculation could change if fewer occupants are proposed.

Use	Area/Patrons	Code Requirement	Spaces
Place of worship ¹	4347 SF & 150 patrons	1/200 SF or 1/3 seats	50 (seating governs)
Dice Bowl	940 ² SF & 63 patrons	1/50 SF of CSA or 1/3 seats	21 (seating governs)
Estimate for El Castillo ³	405 ⁴ SF	1/40 SF of CSA	11 spaces
HLB Enterprise	800 ⁵ SF & 53 ⁶ seats	1/50 SF of CSA or 1/3 seats	18 (seating governs)
Remainder for gross retail	4560 ⁷ SF	1/200 SF	23
Total Required			123
Parking Provided			96
Waiver			27 spaces
Waiver Permitted	25% Reduction of Required		31 spaces

As you know the Code (§310-40.C.) allows the Planning Board to consider a waiver for parking where a “use or combination of uses on a single lot will generate parking needs which are less than the total amount the zoning code requires the number of required spaces may be reduced by up to 25%.”

2. Site Plan – The Code (§310-45.C.(1)(c) and (d)) requires site plan approval for “any change in use or intensity of use which will affect the characteristics of the site in terms of parking, loading, access, drainage, utilities or other municipal services” and for “any application for a special permit or exception”. You have a copy of the site plan from a prior approval that is signed and sealed by the preparer certifying the accuracy at that time. If the applicant is proposing modifications to the site, these should be indicated on a new plan for you to consider.

Otherwise, we note the Code (§310-45.E.(1)) allows the Planning Board to waive certain information normally required as part of a site plan and defined in section §310-45I, where the information is determined inappropriate or unnecessary or that strict compliance with requirements may cause unnecessary hardship. Upon confirmation of changes to the site, we recommend the applicant submit a request for waiver of site plan requirements as applicable.

a) Utilities

i. Water – As you know, this site is served by a private well. The well supply is considered a NonCommunity Transient Water System regulated by the DOH. It is not clear whether an amendment to their permit with the County is required. If you move to act on the application, our recommendation is for the applicant to provide proof of an amended permit from the Department of Health or proof that an amended permit is not required prior to Building Permit.

The applicant previously provided a projected water and sewer demand form estimating average day demand of 5,000 GPD, and maximum day of 6,800 GPD. Calculations supporting these estimates should be provided for our review.

We note typical water and sewer per-unit hydraulic loading rate⁸ estimates for ordinary restaurants assume 35GPD/seat, for lounge/bar facilities it is 20GPD/seat.

We note as part of the Dice Bowl application, you received a record of Department of Health approval (1991) for the well serving the site, indicating a safe yield of 36,000 GPD. Nonetheless, information on the current operating capacity of the well is unknown. As noted above, the applicant will be required to submit to the DOH and may need to provide that information as part of their review process.

Finally, with respect to water supply, this application may be subject to the current Moratorium. We defer to Counsel on applicability under the moratorium and direction for application for Hardship Waiver if needed.

ii. Sewer – As noted above, calculations supporting the applicant’s estimated water and sewer demand is required.

Old Glory Mall is located downstream of the Village of Woodbury’s metered wastewater flow. Accordingly, the Village periodically prepares an Unmetered Wastewater Flow report for submission to OCSD. As part of your review of the Dice Bowl application, OCSD advised no approval by their agency is required; however, an updated Unmetered Wastewater Flow report would need to be submitted by the end of the year. Accordingly, the change of use associated with Dice Bowl and if approved, this restaurant use, would be reflected in the revised report due at the end of the year.

Restaurant uses require more water and sewer than retail uses. The report to the County will indicate an increased unmetered demand for their billing purposes to the Village.

b) Refuse – The applicant should discuss whether existing refuse facilities are sufficient for their needs and if the change in use could require additional facilities to support its operation.

3. Additional Considerations – As mentioned previously, the 1991 approval precludes live entertainment within the restaurant space. The applicant should confirm their intent to provide live music entertainment for you to consider whether an amendment to the 1991 approval to permit this activity is appropriate.

4. Signs – The applicant submitted a rendering of their proposed sign. They advise the sign matches the dimensions of the existing sign. We note the proposed dimensions are (236” x 47” = 77 SF). The Code permits wall signs in the IB zone having size 10% of the total wall area. Applicant should confirm the wall area for this store so you may confirm compliance with the Code and/or produce record documents indicating the size of the existing sign was previously approved.

Your Code §310-30.D.(1) provides the following guidance when reviewing signage:

a) Signs should be designed to be compatible with their surroundings and should be appropriate to the architectural character of the buildings on or around which they are located.

b) Sign panels and graphics should accentuate architectural features and details.

c) Signs should be appropriate to the type of activity they represent.

d) Layouts should be orderly.

e) No more than two typefaces, exclusive of logos, should be used on any one sign. The number of colors used should be kept to a minimum, and should be chosen to create a harmonious appearance at a maximum of four colors on any one sign with the exception of a multitenant directory sign, which permits a maximum of three uniform colors. The Planning Board shall have the authority, but not the obligation, to modify the restrictions on the number of colors permitted on a sign if i) the proposed additional colors are not deemed by the Planning Board to be distracting to drivers, or ii) if the proposed additional colors include nondistracting shades of the same color

f) Illumination should be appropriate to the character of the sign and its surroundings.

We recommend you review the above to confirm your agreement with the applicant’s proposal. Applicant to advise whether the sign is proposed to be illuminated.

5. ESOs – We recommend you refer this application to your ESO’s for their comments.

6. Public Hearing – A public hearing is required at the appropriate time.

7. SEQRA – On June 15, 2022, you declared the action Type II, concluding SEQRA.

According to Chairman Gerver, this application does not meet the definition of a restaurant per the Village code. Attorney Naughton suggested meeting with the Building Inspector so that the Applicant is then specified what is required. Due to the request for live music, Attorney Naughton and Engineer Barber will look over the 1991 ruling to see what led to the decision. The Chairman acknowledged that the Applicant did as he was told to help with this application, and now the council will do some research to help move this application forward. Council will reach out to the Board and the Applicant per her findings. Mr. Beckett thanked all.

- D. **Schlesinger** - Review revised materials submitted for the proposed 3-lot subdivision located off Sequoia Trail and Schunnemunk Rd in Highland Mills. Said property is known on the Village of Woodbury Tax Maps as Section 204 Block 1 Lots 2 & 3.

Present the Applicant Fishel Schlesinger, Attorney Kristen O'Donnell.

Attorney O'Donnell began giving a summary of the Application. A 3-lot subdivision with only one single-family home on one lot. She noted that the well and soil testing had been done, and environmental reports had been provided regarding the wetlands. Attorney O'Donnell confirmed receipt of the H2M memo and has no issues. She confirmed receiving EAF Part 2 and Part 3 from Attorney Naughton and has no comments. Their goal is to wrap up SEQRA.

Traffic Consultant Phillip Grealy referred to his October 18, 2022 letter and discussed its contents.

Collier's Engineering and Design letter:

1. *Regarding Lots 1 and 2, we agree with the proposed sight distance measurements looking left and right out of the driveway. We should note however, that these measurements will be obtained by pruning and/or clearing of vegetation within the right of way and this should be noted and required as a condition of any approval. Additionally, we note that proposed sight distances should be compared to sight distance requirements for a 35 MPH design speed with a posted 30 MPH speed. We believe that the proposed sight distances will exceed the requirements for a 35 MPH design speed, however, this should be revised noted on the plans.*

2. *Regarding Lot 3, we also agree with the proposed sight distance measurements looking left and right out of the driveway. It appears that based on the location of this driveway in reference to the existing horizontal curve along Schunnemunk Road, the required sight distance looking right out of the driveway will not be met. Therefore, we believe the Applicant should prepare a sight distance triangle plan in order to determine the extent of pruning and/or clearing necessary to achieve the required sight distance for this scenario. Additionally, a sight distance profile should be provided looking right out of this driveway in order to get a graphical representation of sight distance looking to the right for this lot. The same comments regarding pruning and/or clearing of vegetation within the right of way should be referenced in any approval resolution*

Engineer Barber noted this application goes as far back as 2018. She briefly went over the history of this application for those who were not familiar with it. She then proceeded to go over her memo dated October 14, 2022.

H2M memo:

1. Zoning – Residential use is permitted in the R-3A and R-2A Zones. The applicant has provided a Bulk Table on the plans showing compliance with the bulk regulations. The applicant previously advised their intent to proceed with preliminary plat approval, file for coverage under the General Permit for stormwater discharges from construction activity and pursue the dedication of the Schunnemunk right-of-way to the Village Board, prior to proceeding with final plat approval. Additionally, they advised they would only be proceeding with the development of Lot 1, where homes and infrastructure shown on Lots 2 and 3 were shown as placeholders only. We recommend you confirm this is still the applicant's intent, and if so, we recommend notes be added to the preliminary plat reflecting the same.

2. Lot Lines – The applicant has described the nature of the lot line approximation between the two municipalities (South Blooming Grove and Woodbury) in a note under the "Existing Areas" table. Their recent correspondence indicates they have discussed this with the County mapping department and advised the approximation should not prohibit filing of the subdivision.

At your last meeting, Counsel advised boundary line disputes/determinations can be lengthy processes to resolve and if you choose to act on the application your resolution could indicate to whatever extent this decision effects lands ultimately outside of the Village of Woodbury your decision is restricted to lands within the Village of Woodbury. **(Recommended Condition)**

2. Subdivision Plan –

a) Utilities – The applicant is proposing onsite water and sewer. The property is not in the Village of Woodbury Consolidated Sewer Area and municipal water supply in this area is by others. Thus, we believe the applicant is exempt from the requirement (§272-14) for connection to central water and sewer.

i. Sewer – Previously, the applicant provided adequate details for the septic design and performed the required preliminary testing. We note on only one of the Lots (Lot 1 proposed for development) the testing was witnessed by the Building Inspector. Because the lots (2 & 3) are not intended for development at this time and preliminary tests appear to be sufficient for development of the sewage disposal system design, we believe you could condition your action that would require the tests for Lots 2 and 3 be witnessed as part of the building permit process if and when those lots are developed with single-family home. We discussed this with your Building Inspector and he is in agreement. **(Recommended Condition)**

ii. Water – Since their last appearance the applicant submitted a pumping test plan for the Well on Lot 1 that was reviewed by the Village Hydrogeologist and H2M. The plan was approved and testing performed. The results of the test were reviewed and found acceptable for quantity and quality to support the proposed development. With that being said, the test was determined sufficient to demonstrate the aquifer could support the 3-lots as proposed (5-bedroom homes), however, future subdivision and development of these lots would necessitate additional testing. **(Recommended Condition)**

Since wells have not been installed and tested on Lots 2 and 3 that are not proposed for development at this time, the applicant should include notes on the plan to be approved by the Planning Board that describe the testing performed, limits to the information that can be inferred from the testing, and note well development and testing of wells for individual homes on Lots 2 and 3 have not been performed and shall be performed upon application for building permit for each of the lots, as well as justification (> 5-acre lots) to support the limited test.

b) Stormwater Management – The development is exempt from preparation of a SWPPP with postconstruction stormwater management controls because the ultimate development is greater than 1-acre disturbance with less than 25% impervious area at build-out. However, a SWPPP addressing the required erosion and sediment control component of the current General Permit for Stormwater Discharges from Construction Activity should be prepared and submitted for review. We note the applicant's plan includes erosion and sediment control details to support the SWPPP required.

c) Landscaping – The following comments are repeated from our previous memorandum:

i. Per the design standards for applications subject to Ridge Preservation, any healthy tree with an 8-inch or greater caliper at breast height is not to be removed unless such removal is essential to the location or safety of the structure [§310-13.B(5)]. The applicant previously staked the site identifying the limits-of-disturbance for you to consider. Compliance with the limit of disturbance is a part of the site plan but we recommend this also be included in your resolution. **(Recommended Condition)**

ii. The applicant has requested a waiver for the requirement of the Code [§310-27] specifying one shade tree planting per 40-feet of frontage. Previously, your Building Inspector opined the Planning Board may waive this requirement and that the waiver has been implemented in the past where vegetation was proposed to remain up to the right-of-way. As you know there are minimal impacts to existing vegetation along the road and elsewhere due to restricted clearing and additional shade trees may not be appropriate. If you agree to waive the requirement for additional shade tree plantings, we recommend you include a condition of your action that the requirement for shade trees is waived provided healthy trees are maintained along the roadway. We note the applicant has listed their intent to pursue a waiver in General Note #73 on Sheet 1. (Waiver/Condition)

d) Survey/Legal – The applicant submitted metes and bounds descriptions for the parcels and right of-way proposed for dedication to the Village of Woodbury. We will review these for closure (and accuracy per the plan) prior to your meeting. Ultimately, we defer to Counsel on the legal form and sufficiency of the documents for filing and offer of dedication for presentation to the Village Board.

e) Right-of-Way Dedication – We recommend you refer the parcel for right-of-way dedication for review by the Highway Department.

f) Access – The applicant provided sight distances for each of the lots on the plans for approval. We defer to the Village traffic consultant for any comments on this new information. We note prior to driveway construction, the applicant will be required to secure a highway work permit from the Village of Woodbury Highway Department. **(Recommended Condition)**

g) *Road Connectivity* – The Code (§272-27.B.(4)) requires a vicinity map include: An outline of the platted area, together with its street system and a sketch of the future probable street system of the remaining portion of the tract if the preliminary plat submitted covers only part of the subdivider's entire holding. The applicant previously provided this plan to address the comments of your traffic consultant which shows connectivity between County Hollow and Schunnemunk Road. You may wish to include language in your action that upon further development of the property, the connection between Country Hollow and Schunnemunk may be required as deemed appropriate by the Planning Board. **(Recommended Condition)**

h) *Miscellaneous* –

i. *Stone Walls (Repeated for Resolution)* – The applicant has advised that, with the exception of the driveway road opening and the proposed curtain drain, it is the intention to retain existing stone walls as they are. Your Code [§310-27-B.5] requires unique site features, such as stone walls, be retained and protected to the maximum extent possible. We recommend you include this as a condition of your action.

ii. *Ridge Preservation/ARB* – This application is subject to your recently modified (10/2021) Ridge Preservation and ARB regulations (appended). We have the following comments:

a. The applicant lists the Ridge Preservation requirements for construction on the plan. We recommend the applicant review the changes to the Code and update the plan accordingly.

b. As indicated in §310-13.B.(7)(a) provisions may be waived if structures or affected land areas will not be visible from a designated view corridor. “If such evidence is dependent upon existing or new landscaping or natural buffers, the Planning Board, acting as Architectural Review Board, may require easement of record be filed with the County Clerk to preserve such landscaping or buffers, ”... If the Board finds the application is not likely to be visible from the designated view corridors due to the existing vegetative buffers, you might consider this Code provision to preserve the same in perpetuity.

c. The applicant provided schematics to demonstrate the potential for visibility from Ridge Road towards each of the three lots. The topography and existing vegetation appear to block any direct view to the proposed structures and limit visual impact.

d. The applicant previously requested a waiver from the Code (§310-13.B.(6)) to submit a superimposed photograph from the view corridor. We recommend you consider whether this is appropriate.

e. Regarding ARB we recommend your action include a requirement that upon application for Building Permit for each lot, the applicant return to the Board for ARB approval, that is unless the applicant intends to undertake this review at the time of final site plan/subdivision approval.

iii. *Wetlands (Repeated for Resolution)* – Although the applicant depicts a number of wetlands, they have confirmed no wetland disturbance is proposed as a part of the action. They have indicated the same on the plan (See General Note #54 , Sheet 1). We recommend your action include a condition prohibiting wetland disturbance unless the appropriate permitting is secured.

iv. *SEORA* – You declared Lead Agency status on August 21, 2019 and authorized Counsel to prepare an EAF Part 2 that was distributed for your last meeting. At your last meeting you postponed review based on discussions at that time.

The applicant's recent submission includes a “Threatened and Endangered Species Habitat Suitability Assessment Report” prepared by Michael Nowicki of Ecological Solutions, LLC. The applicant should revise their plans to address the following recommendations in that report:

a. *Timber Rattlesnake* – The report (P.5) requires the “NYSDEC fact sheet for Timber Rattlesnakes” be given to all construction workers prior to work on the project (see P.5 of the report). The plans should further advise steps for encountering a timber rattlesnake during construction (P.5 of report). The language in the report should be added to the plans.

b. *Indiana / Northern Long-eared Bat* – The applicant should revise the General Note on Sheet 1 of the plan discussing tree clearing to indicate “... applicant and future assigns ...” and note this provision is in place for the Northern Long-Eared Bat in addition to the Indiana Bat.

We note the applicant sponsored a Phase 1 archaeological investigation and submitted a consultation request to SHPO with a response of no impact to archaeological and historic properties.

We recommend you discuss if there is any other information you require to review the Part 2 EAF and make a finding on environmental significance.

v. Miscellaneous – There are a number of minor typographical issues that should be addressed on the plan and are noted as follows:

a. The general notes section on Sheet 1 requires renumbering. The applicant should verify all references to these notes on other sheets are correct.

b. Snake Barrier Detail – The detail should be revised to show the 6-inch minimum depth below grade. Additionally, the note on Sheet 1 regarding timing of installation, inspection, maintenance, and removal should be provided under this detail.

The Board was concerned that the Applicant would return for another subdivision in a short period. Attorney Naughton assures that, per the Applicant, it is not their intention to do so for now. It is stipulated in the code that ten years are required. Attorney Naughton also advised that in the Resolution of Approval, it can be noted that the provision exists. Chairman Gerver pointed out that the public hearing for this application was open and closed in 2019. The 62-day period has elapsed, and the Applicant has agreed to rescind the time restriction. Attorney Naughton preceded by reading the Short Environmental Assessment Form Part 2 and reviewing her remarks.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to accept counsel’s draft of a Negative Declaration. 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, E. Yan
NOES 0

A conversation regarding tree clearing came about, and the Board is contemptuous of keeping it as is. It was clarified with the Applicant that there is no ARB and that they will return to the Board later when the Applicant presents a design of the home. Part of the Ridge Preservation will be considered since it has been shown in the plan by the Applicant, though it will be addressed as a whole at the time of the approval. Chairman Gerver asked that the Highway Department be reached for their feedback. Engineer Barber agreed that preliminary input from the Highway Department would be good. Attorney Naughton advised the Board on her steps, like reaching out to the county and trying to rectify some issues, and the next steps that can be taken since the plans are not final. The Board agreed that some minor issues are to be taken care of and see no harm in going forward to drafting a Resolution of Approval. It was noted that once the Applicant makes their next submission to the Building Department and the consultants have a chance to review the new submissions along with the Board the Applicant will be notified, for Attorney O’Donnell’s understanding.

A motion was offered by T, DeLuca, seconded by M. Pastel, for counsel to draft the Resolution of Approval with the conditions addressed in the H2M memo dated October 13, 2022, as well as Naughton & Torre, LLP memo dated October 14, 2022. 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, E. Yan
NOES 0

- E. Crystal Springs Holdings/110 Seven Springs – Review and discuss the revised site plan submitted for modifying the residential development of a 21-lot cluster subdivision to a 4-lot subdivision. Said property is located at 110 Seven Springs Road in Highland Mills and is known on the Village of Woodbury Tax Map as Section 213 Block 1 Lot 7.

Present Engineer Michael Morgante.

Engineer Morgante stated the Applica regarding this application is to simplify the approval by proposing a 4-lot subdivision where there will be three new residential lots and prove the fourth lot is buildable. Regarding the 4th lot, he stated that they have been going back and forth with the Orange County of Public Works to find a location that provides a site distance, whether for a driveway or Village Road. Engineer Morgante proceeded to share his screen and point out critical points for the fourth lot. He noted receiving an approval letter from the Department of Public Works Orange County that was submitted to the Village. He mentioned an existing well, pointed it out in Engineer Barber's memo and said they would need to investigate that well further and advise the Village on how they plan to proceed. The homes will be single-family homes with 4-bedroom max. Soil testing was done over the summer, and the results were promising as he pointed out the pit locations on the plan. He also pointed out the subsurface sewage disposal system suitable for the lots. He continues to say the project they have provided under the SEQRA regulations, and as a whole, can be used to review potential future subdivisions associated with the project. Engineer Morgante mentioned some points Engineer Barber said in her memo and tried to address them. At this point, this project was left as a conventional subdivision, but the Applicant wanted to show future intentions. Regarding the road in this current project, the Applicant is willing to work with the Village since there may be a conflict between the subdivision and street regulations.

Engineer Barber said the conceptual plan with additional details is needed. She also noted that 4-lots are proposed now and potentially 16-lots in the near future, information that has yet to be given to the Board, leading her to defer to Attorney Naughton on how to proceed with the review of this application. She also noted that during the review of Schlesinger's application, triggers for subdivision led to contacting the Department of Health for Realty Subdivision review. During that review, it was 5-lots under 5-acres with a 3-year period. In comparison, this application has 4-lots, and 3 of those four are under 5 acres, and not knowing how long it will take is hard to process. She continued going over the rest of her memo.

H2M Memo dated October 13, 2022:

2. Subdivision Plan – a. General – We recommend the applicant review the design standards of the Code (§272-23) and confirm compliance.

b. Utilities –

i. Water/Sewer – The lot is not in an existing sewer or water area. Subdivision plats for 5-lots, less than 5 acres, within 3-years require review and approval by the DOH for water and sewer services. This plan for a 4-lot subdivision would not necessitate review by the DOH and accordingly proposed well and septic facilities are within the Planning Board and Building Department purview for approval.

We have the following comments on the information provided thus far:

- 1. An existing well is shown on the existing conditions plan. The applicant should discuss if this is an active well and the fate of the same.*
- 2. Testing for demonstration of water supply (quantity and quality) is required.*
- 3. Well development details will be required at the appropriate time.*
- 4. The applicant should review the NYSDOH requirements for development of individual well supplies (fact sheets) and comply, this includes references to the residential Code and Appendix 5-B "Standards for Water Wells".*
- 5. The applicant should discuss the intent for fire protection associated with the subdivision.*
- 6. The applicant has provided a preliminary layout for the four (4) lots currently proposed. Any offsite wells (within 300-feet), sewage disposal systems, or other sources of contamination on adjacent properties shall be identified and added to the plans.*
- 7. The plans provide results of percolation and deep tests performed on each of the four lots. The locations of deep tests are not shown on the plans, applicant to advise. Per OCHD standards², the applicant should perform two (2) deep test pits (to a depth of 8' or refusal) within or immediately adjacent to proposed leaching area. Per NYSDOH standards³, we recommend two (2) percolation tests in the proposed leach area and one (1) in the reserve area. The Village of Woodbury Building Department is required to witness these tests.*

8. Upon completion of requisite soil testing, site be updated to plans shall include all pertinent design information for sewage treatment systems, including, but not limited to the following: design calculations with trench sizing, invert elevations, pipe slope and lengths, drainage design including any swales roof or footing drains, septic tank sizing, and site details. Although Realty Subdivision Review is not required, we recommend adding the OCDOH standard notes to the plan.

ii. Stormwater – The General Permit⁴ exempts residential subdivisions, disturbing land between 1 and 5-acres, with 25% or less impervious cover at total site build-out from SWPPP with post-construction stormwater management practices. However, the General Permit also indicates that a SWPPP with post-construction stormwater management practices is required for single-family residential subdivisions that involve soil disturbance of less than 5-acres that are part of a larger common plan of development that will ultimately disturb five or more acres of land. Accordingly, if it is the applicant's intention to proceed with a future subdivision, a full SWPPP would be required.

The applicant should advise the area of disturbance required for construction of the four lots and cul-de-sac and show the limits of disturbance on the plan. Further, the applicant should advise the proposed impervious coverage for the site (4-lot development). The same information should be provided for the 16-lot development for you to consider the level of SWPPP review required.

Finally, if the plan relies on a common stormwater system, the operation and maintenance responsibilities will need to be considered (HOA, dedication, or other).

c. Road Network – The Code (§272-23) has specific requirements for streets developed as part of subdivision plans including “sufficient width and suitable grade”. Details (profile and others) on the cul-de-sac should be provided to confirm compliance with the Code requirement that the grades of minor streets not be more than 10%. During your review of the cluster plan, it was noted the street specifications (§269-27.B.(6), max 1,200-ft) and subdivision specifications (§272-23.E., generally not more than 400-ft) provide different criteria for cul-de-sac length. At the appropriate time, we recommend you refer the plan to your Highway Superintendent for conceptual agreement of the length (approx. 700-ft) proposed. Additionally, during your review of the prior plan you requested feedback from the Highway Superintendent on other issues raised, including snow easement and features within the right of-way. The following summarizes the Highway Department requirements:

i. Cul-de-sac shall have a snow push easement at least 25-ft wide. Specific requirements can be forwarded to the applicant.

ii. Retaining walls, steep slopes, or any wall structures are not permitted within the right-of way. If any walls or bank protection are required, they will be the responsibility of the property owner.

Finally, it should be noted at prior meetings, there was a question on whether road connectivity is required or whether there is some discretion. We have opined that although a physical connection is not required, the roads should be arranged, and easements provided for a future connection if and when such a connection is deemed appropriate. The applicants current plan provides a general layout that would support connectivity to Serpi Road in the future.

d. Access – The applicant provided a letter from the OCDPW indicating conceptual approval of the access location. We recommend you engage your traffic consultant for any comments they may have on future submissions by the applicant.

e. Grading/Building Construction – Your prior review of the cluster subdivision noted several steep slope areas that without significant fill and grading would not be constructable. The applicant should provide profiles of the driveway(s) and cul-de-sac for you to consider development of the proposed lots and any cut/fill that may be required.

f. Recreation Areas – Standard subdivision requirements §272-23(Q) specify that typically not less than 10% of the area should be reserved for parks and playgrounds unless the Planning Board determines it is impractical to provide land for park purposes. If so, you may require the payment of the standard parkland fee per lot as a condition of the action. Although this is not shown on the plan, sites of this size with rolling terrain are frequently determined to be unsuitable for pocket parks and in previous approvals, the Board has made a determination that pocket parks are not a sufficient substitute for the parklands that are provided by Village resources. The Board will eventually need to consider this and make a finding (Attorney Naughton to advise under Bayswater decision).

Engineer Barber continues to say that as per SEQRA, the Board should consider looking at this application as a 16-lot subdivision. She noted in her memo that the Applicant submitted a Full Environmental Assessment Form, and it seems it was answered under a 4-lot of subdivision versus the 16-lot subdivision and therefore requested that the form be clarified.

Attorney Naughton advised the Applicant to be clear about what this application is for, whether it's a 4-lot subdivision or 16-lot subdivision since it will impact SEQRA, water testing, sewer, the road, etc. She also clarified that this would have to be under SEQRA, and the Board will have to declare their intent to serve as the lead agency. If the Board assumes Lead Agency,

she will not be able to send any declaration until the Applicant has clarified how they wish to proceed. Due to T. DeLuca's question of the Applicant choosing to do the 4-lot subdivision now and then a year or two later coming back wanting to make it a 16-lot subdivision, Attorney Naughton said it would be beneficial for the Applicant to figure out what they want now rather than facing potential violations or having to go backward.

Engineer Morgante said the answers for the EAF were not revised before submission; the Applicant intends to have a 4-lot subdivision. They can provide a narrative and an updated EAF to eliminate the confusion.

A motion was offered by Chairman Gerver, seconded by T. DeLuca, to declare the Board's intent to be the Lead Agency authorizing counsel to send the notice of intent subject to the receipt of amended materials as discussed in this 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, E. Yan
NOES 0

Based on the plan shown, R. Cataggio asked if a house is currently considered in lot 4 or proposed. Engineer Morgante clarified that under the subdivisions and Orange County Health Department rules, if you have a piece of property, it needs to be proven to be buildable, which is why the plans show a house in lot 4. To clarify, R. Cataggio asked if approved, will the Applicant go for a building permit to build on lot 4? Engineer Morgante said they are not looking to build on lot 4, though the Applicant may build in the coming years. The 16-lot plan provided by the Applicant confused the Board members and counsel. Engineer Morgante apologized and explained the purpose of submitting the 16-lot plan, but they are just looking to do the 4-lot subdivision.

M. Pastel asked if the trails noted on the site plan are being established already, to which Engineer Morgante responded, saying he would look into it and confirm it at their next meeting with the Board.

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by R. Cataggio, to adjourn the meeting at 9:27 PM.

ADOPTED

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

Claudia Valoy-Romanisin, Planning Board Secretary