

**Village of Woodbury
Planning Board Meeting
December 7, 2022**

Minutes of the Planning Board Meeting held on December 7, 2022,, at 7:30 PM.
(Meeting held via Zoom)

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

Representing for 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 _____, seconded by _____, to approve and accept the minutes of the meeting held on _____. 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. **New Business: N/A**
5. **Regular Agenda:**

- A. **OC BMW** – Review draft decision for amended site plan, special permit, and Architectural Review Board approval. Said property is located along Maher Lane and Larkin Drive in Highland Mills and is known on the Village of Woodbury Tax Maps as Section 225, Block 1, Lots 10.421 and 10.421-1.

The Board acknowledged reviewing the counsel's draft resolution for OC BMW, and Chairman Gerver proceeded to read the Specific Conditions.

Before proceeding, Attorney Kelly Naughton noted the last finding on page 4 of the draft Resolution of Approval document.

"On December 7, 2022, the Planning Board determined, in consultation with the Water Department and Village Engineer, that there was the Applicant had demonstrated that there was no increase in the use of water with the approval of this application, and was permitted to proceed under the current moratorium on land development approvals. See Local Law No. 5 of 2022, Exemption #12."

SPECIFIC CONDITIONS

1. All conditions of prior approvals in connection with this property shall continue to be in full force and effect, and this Resolution does not supersede or otherwise modify such prior approvals and conditions except as specifically set forth in this Resolution.
2. No building permit shall be issued authorizing the construction or renovation of structures 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 be issued for any structures constructed except in conformance with such renderings. Any deviation from such renderings will require further Planning Board review.
3. Site lighting shall be designed in accordance with Special Permit Condition Nos. 7 and 8 from the Planning Board approval dated February 19, 2003.
4. Prior to the signing of the plans by the Chairman, the Applicant shall comply with the memorandum of the Village Engineer dated October 27, 2022, to the satisfaction of the Village Engineer.
5. Any new windows and doors shall be constructive of non-reflective material.
6. The electric vehicle charging stations are for private use only, and shall not appear on infrastructure mapping for public use. The Applicant shall take appropriate steps to ensure these stations are not utilized by the general public.

A motion was offered by Chairman Gerver, seconded by E. Yan, to accept counsel’s draft Resolution of Approval for OC BMW. 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	

- B. Hartman/Lebowitz 39 Catskill High Rail** - Review draft resolution for ARB and Ridge Preservation of proposed Single-family dwelling located on Lot # 19 within the Woodbury Villas. Said property is located at 39 Catskill High Rail in Central Valley and is known on the Village of Woodbury Tax Maps as Section 254 block 1 Lot 19.

The Chairman began by saying that after a review of several pages of facts and findings, he began to read the Specific Conditions of the draft Resolution of Approval ARB for Hartman/Lebowitz 39 Catskill High Rail.

SPECIFIC CONDITIONS

1. No building permit shall be issued authorizing construction of structures 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.
2. All new windows shall be constructed of or coated with non-reflective material or anti-reflection window film will be applied to any new low-e windows installed.
3. Prior to the signing of the renderings, the Applicant shall comply with the memorandum of the Village Engineer dated November 11, 2022, to the satisfaction of the Village Engineer.

A motion was offered by Chairman Gerver, seconded by R. Cataggio, to accept counsel’s draft Resolution of Approval for Hartman/Lebowitz 39 Catskill High Rail. 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

- C. **Shlomo/50 Smith Clove Rd** – Review and discuss revised documents submitted for the proposed site plan, special permit, ARB, and Water Quality Protection Overlay for the change of use from a Laundromat to Apartments. Said property is located at 50 Smith Clove Rd. in Central Valley and is known on the Village of Woodbury Tax Maps as Section 231 block 3 Lot 3.

Present Architect David Niemotko

Architect Niemotko began acknowledging receipt of H2M comments regarding submissions and plans provided for review. He confirmed there are two existing apartments on the 2nd floor, and on the 1st floor, there's an apartment, and the remaining space is a laundromat, and the Applicant would like to convert the laundromat into an apartment. Per Engineer Natalie Barber's comments, they are preexisting conditions leading to the need for variances and updating the bulk table, which they are prepared to do and reflect on the plan(s). Due to those preexisting conditions, they are to appear before the Zoning Board of Appeals, and the Applicant concurs.

Engineer Barber noted Architect Niemotko's clarification that an existing single-family home, two residential units, and two additional units are being proposed, which will need to be reviewed by the ZBA. She addressed other comments referencing a land dedication, setbacks, the lot area, and parking, to name a few. Regarding SEQRA, she deferred to Attorney Naughton.

Traffic Consultant Philip Grealy briefly went over his memo dated December 2, 2022.

Collier's Engineering & Design:

- 1. The proposed conversion of the laundromat to a residential building. Please clarify whether or not it's a total of 2 dwelling units or two units plus the one existing dwelling. This should be clarified on the plan.*
- 2. The parking provided for this is indicated on the area on the west portion of the site. The sight distances for entering and exiting vehicles onto Smith Clove Road (CR 9) should be provided. The positioning of the building and setback relative to this sight line should be situated to accommodate not only sight distance for this access to the parking area, but in consideration of the sight lines at Falkirk Avenue. The buildings should be setback far enough to ensure that sight lines of both existing and future conditions will be accommodated appropriately.*
- 3. The parking spaces shown on the site plan appear to be substandard in terms of the backing area. More information should be provided to ensure that vehicles entering and exiting the spaces do not back out onto the County roadway*

M. Pastel asked how this coordinates with the proposed townhouses off of Falkirk, being it's in the same vicinity. Traffic Consultant Grealy said there in the process of doing a traffic analysis, and the road in question is the intersection of Smith Clove Rd and Falkirk Road. The dwelling evaluation is included.

Attorney Naughton noted that the property continues from the center to the street, and the county does own the road. The county DPW has asked for more information and said she would forward that information to Architect Niemotko after acknowledging the non-receipt of such a request. She also noted that variances are required and will work with Engineer Barber and the Building Inspector.

A motion was offered by Chairman Gerver, seconded by M. Pastel, to refer Shlomo/50 Smith Clove Rd application to the Zoning Board of Appeals once immediate variances are determined. 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

- D. Homewood Suites – Public Scoping Session** for a proposed 97-room hotel, including amenities such as an indoor pool, small meeting room, exercise, limited dining, lobby/lounge, and an outdoor courtyard, on three parcels with a combined acreage of 3.23 +/- acres, known as Section 226, Block 1, Lots 6.1, 7 and 8 on the Village tax maps. The property is located in the Limited Commercial (LC) district and within the Hotel Overlay (HO) district.

Present Attorney William Frank, Engineer Steve Esposito

Chairman Gerver announced that this is not your typical public hearing where people voice their concerns, whether for or against this project. That public hearing will take place at a later date during the site plan review process. The New York State requires this public hearing under the Department of Environment SEQRA guidelines that the Board is to follow. Chairman Gerver announced all six guidelines they are to follow.

1. To focus on draft EIS on the potential significant adverse environmental impacts.
2. Eliminate non-significant and nonrelevant issues.
3. Identify the extending quality of information needed.
4. Identify the range of reasonable alternatives to be discussed.
5. Provide an initial identification of migration measures.
6. Provide the public with an opportunity to participate in the identification of impacts.
(impacts= as in environmental impacts)

Chairman Gerver announced that this meeting was reported in the paper of record as required by state law. He also added receiving a letter from the Orange County Department of Planning which he read for the record.

Attorney Naughton said this is to be a limited scope tailored to the guidelines the Chairman announced. She provided a redline scoping document to the Board as well as the Applicant for review before tonight's meeting. It incorporates comments from herself, Engineer Barber, and Traffic Consultant Grealy. She addressed Cultural Resources in the document, and there was a potential impact according to the FEAF part two. Through a letter from the Parks Recreation and Historical Preservation regarding any effect on cultural resources and in that letter, they stated there is no environmental impact to those resources. Therefore, Attorney Naughton recommended removing that section from the scoping document because no potential effects have been identified. The Board agreed to remove that section.

Engineer Barber addressed her memo dated December 2, 2022, regarding comments to the scoping document. Began by addressing the name of the Applicant. It is still under the name of Rainbow Group of Central Valley Inc. She asks that if it's incorrect that a new application is filed with the Building Department with the correct name.

H2M Memo:

- A) *Review of Submitted Materials – Our detailed comments are included in the red-lined document to be circulated by Counsel, as well as appended to this memorandum for you to consider. Using the outline of the scoping document, the following provides a brief overview of recommended changes:*

Cover Sheet – Minor changes to content to include applicant information and reference to SEQRA regulations.

I. Introduction / II. Brief Project Description – Minor changes to wording.

III. Involved Agencies and Approvals – Added Village Board – Right-of-Way Dedication (TBD) for completeness; Combined DEC, DOT, and SHPO approvals under NYS Heading.

IV. Basis for Issuance of Positive Declaration – Updated language to match positive declaration and Part II EAF reviewed by the Board.

V. Scoping – Updated section to reflect recent actions soliciting public input.

VI. Required Organization ... - Added reference to SEQRA regulations

VII. Organization of the DEIS – Modifications to suggested content of cover and table of contents.

VIII. Content of DEIS Chapter I – Recommended edits to content of executive summary including discussion on history of SEQRA process, suggested table vs. list of approvals required, discussion on unavoidable adverse impacts and irretrievable commitment of resources, suggested chart comparing project alternatives and impacts.

Chapter 2 – Project Description – Suggested edits to include discussion on rights-of-way, utilities, considerations for ESO's, discussion on proposed use and daily operations of the site including amenities and special events, as well as proposed restrictions, project review and approval sequences. Requested section on the Project Need and Benefit.

Chapter 3 – Existing Conditions, Potential Impacts, and Proposed Mitigation Measures

1. Land Use, Zoning, and Public Policy – Rearranged content from existing conditions to potential impacts. Requested discussion on impacts/benefits of proposed easements, modifications to rightsof-way. Requested discussion on cumulative impacts including proposed and recently approved developments within ½ mile of site.

2. Geology and Soils – Requested additional information on rock outcroppings, slopes analysis, and soil limitations and structural characteristics in the existing condition. Requested discussion on impacts that could occur to steep slope disturbance, high-water table, if blasting would be required, and in consideration of cut/fill we asked for anticipated truck trips and routes for deposition and disposal.

3. Wetlands and Surface Water Features – Requested discussion on interconnection between on-site water features and principal aquifer and validation of mapping by jurisdictional agency. Requested discussion on potential contaminants that could be introduced during construction or operation of the action. Requested a discussion on floodplains and disturbance of the same.

4. Vegetation and Wildlife – Requested a report in the Appendix evaluating presence of protected, endangered, threatened, and rare species and habitats on the Project site. Site is flagged for Northern Long-Eared Bat.

5. Stormwater Management – Rearranged some of the language so that the existing conditions reflected the pre-development considerations and impacts reflected post-development conditions. Bolstered recommended section on mitigation measures, including requirement for SWPPP, consideration of Woodbury MS4 Code and requirements including DEC permitting requirements, requirement for Erosion and Sediment control plan, etc.

6. Visual Resources and Community Character – Added language from review of Part II to consider visibility and vantage points for routine travel by residents and tourism considerations. Requested architectural plans and renderings, discussion on lighting and lighting plan, etc.

7. Traffic and Transportation – Defer to Village Traffic Engineer

8. Infrastructure and Utilities – Under the existing conditions we requested a discussion on water, sewer, electric, gas, and solid waste services separately. We requested graphical trends for water and sewer for the Village over the last ten years using reports by OCSD and Annual Water Quality Reports issued by the Village. Requested the applicant provide tabulation of approved and un-built projects for which water and sewer capacity has been allocated for a consideration on available capacity.

Requested section on potential impacts including average and peak calculations for water and sewer including assumptions and reference to technical resources used to develop estimates. Requested projection of usage at the project build year for comparison of impacts at that time. Requested discussion regarding on- and off-site improvements required.

9. Cultural Resources – Requested a map showing sites containing historic, cultural or archaeologically significant features in the vicinity of the site.

10. Noise – Added a section on Noise, including consideration of existing conditions, potential impacts, and mitigation measures.

Chapter 4 – Construction Sequencing – Added discussion on existing conditions of roadway and surrounding area that could be impacted by construction. Under potential impacts, we requested discussion and map on construction phasing, remedial measures to prevent or correct damage to roadways during construction, necessary offsite improvements to facilitate construction, estimate of truck trips, speed restrictions, protecting wetlands and other surface waters, seasonal considerations for sensitive species, staging areas, etc.

Chapter 5 – Alternatives – Requested discussion on alternative layouts for project site, alternative uses for the project site, and reduced scale alternative.

Chapter 6 – Unavoidable Adverse Impacts – Suggested discussion on temporary construction impacts, impacts to natural site features, and operational impacts.

Chapter 7 – Project Impacts on Energy Use – Minor modifications to wording.

Chapter 8 – Irreversible and Irrecoverable Commitment of Resources – No changes.

Chapter 9 – Added section on Growth-Inducing Aspects of the Proposed Action – This section will consider secondary impacts of the development that could trigger additional development that would not otherwise happen without the proposed project. For example, traffic improvements and consistency with surrounding land uses.

Technical Appendices – Minor changes to wording and requested geotechnical data reports and supporting information.

Traffic Consultant Grealy did not provide a memo but added his modification to section 7 of the scoping document. He addressed a few of his comments, for example, updating the data on traffic counts and a simulation of existing and future conditions.

Referring to a section in the scope document, Chairman Gerver asked if peak hours should be specified regarding traffic. Traffic Consultant Grealy said it was specified in a section as weekday, 4 pm – 6 pm, and on the weekend, 11 am – 2 pm. The Chairman suggested moving that time frame to 3 pm – 4 pm due to school buses and then 6 pm -7 pm due to people commuting. M. Pastell asks that the intersection of Turner be noted as northern Turner. He also asked about a turning lane and sidewalks. Traffic Consultant Grealy said there's a left turn lane in a preliminary plan, and as for sidewalks, there's no plan, but they will include it in their comments. The Chairman asked if the Department of Transportation installed permanent traffic counters when 17 and Rt. 32 improvements were made. Traffic Consultant Grealy said the single lights installed are supposed to provide data. He suggests the Village request that data. R. Cataggio asked about the digital simulation and if it includes other upcoming applications half a mile from Turner Road. If so, he asked if a list of current applications was to be given before the simulations. Traffic Consultant Grealy agreed.

The Board had no additional comments; therefore, Chairman Gerver opened the floor to the public for comments regarding the Homewood Suites scoping document. Due to his concerns of missing an opportunity where he could address his concerns, Chairman Gerver explained the process before approval. He added that there would be several more meetings regarding this application, allowing those residential owners to speak during the public hearing.

Douglas Grimes owns a residential property north of the project. Based on the comments, he will not be going over his concerns in this meeting.

Robin Crouse announced that she had trouble retrieving a copy of the scop document from the Village of Woodbury website. She asked that the Board accept a 10-day written comment period before closing the scoping public hearing. Chairman Gerver said they had every intention of having a period in getting written comments. Mrs. Crouse continued to express her disappointment with the Board's decision about the Cultural Resources being removed, though she understands State Historic Preservation Office (SHPO) comments. She hopes the Board doesn't look site of Turner Farm and wishes it doesn't get impacted. Attorney Naughton and Chairman Gerver helped her locate the scope document on the website and provided her with a link.

Brandon Calore asked if this project would take place near the Success Martial Arts (SMA), and the Board acknowledged saying it's in the vicinity of where SMA is located. Mr. Calore said he has received concerns from residents on Oakland

Avenue about the congestion and asked if a traffic light will be installed or if they will have to venture through the back roads. He wants to make sure the concerns of those residents are heard. Traffic Consultant Grealy said Route 32 and Oakland Avenue intersection is being reviewed. He mentioned other projects with plans of possible signalization regarding that intersection, though that is subject to DOT. Traffic Consultant Grealy stated that, at this moment, there are no proposals for signalizing. However, that will be an outcome of the analysis and the review by the Traffic Consultant and the DOT. He continued to explain that the current proposal is to widen Route 32 and add a left turn lane. Chairman Gerver noted that the Board has no legal authority to require a traffic light on Route 32. The Board can provide evidence and say a traffic light should be placed, though keep in mind that the DOT has the final word. Mr. Calore understood.

Chairman Gerver collaborated with Attorney Naughton on a deadline for the Building Department to receive written public comments.

A motion was offered by Chairman Gerver, seconded by M. Pastel, for any written correspondence regarding the draft Homewood Suites scoping document to be received by the Building Department by 3 pm on December 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

Attorney Frank asked if the Board would accept comments from the Applicant regarding the red-lined scoping document. Chairman said yes.

A motion was offered by Chairman Gerver, seconded by E. Yan, to close the scoping public hearing but will carry on with written comments up until December 14, 2022, for Homewood Suites. 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. Local Law No # 10 of 2022 Event Venues - Referral of Local Law # 10 from the Village Board of Trustees amending Chapter 310 (Zoning) of the Code of Village of Woodbury to Allow Event Venues as a Special Permit Use.

Attorney Naughton was required to draft a local law permitting specific event venues. It was referred to the Planning Board due to the zoning codes. The local law defines what an event venue would be, what's permitted on a minimum lot size of 25 contiguous acres, what's allowed in the R1A district but not within any senior housing overlay that covers any portion of the R1A district, needs two means of ingress and egress, the events are limited to 199 attendees, and that includes employees, staff and volunteers. Once it exceeds, it will fall under the public assembly law (which is 200 people); there are parking requirements, hours of operation requirements, food services, buffers, and seating. She said it's heavy in needing Planning Board reviews, approval, and Fire Department and Building code to keep it safe. This is considered a particular use, so a special permit and a site plan review will be required. If the property is sold or transferred, the special permit becomes non-void.

Chairman Gerver said he would like the law to reference the NYS Fire chapter code 31, which refers to temporary tents, ingress, and egress, number of exits, aisle arrangements, and exposed fireworks, to name a few, and it needs to be inspected before the event taking place. The Chairman defined a canopy as a structure, enclosure, or shelter constructed of fabric or pliable materials supported by any matters except by air or the contexts it protects. It is without side walls or drops of 75% or more of the perimeter. A tent is considered a structure, enclosure, or shelter with or without side walls or constructed of fabric or pliable materials supported by any matters except by air or the contexts it protects. There was more to this

chapter, so the Chairman said he would provide a copy since it's very lengthy in detail. E. Yan suggested removing the word "pliable" because he thinks it's too specific, and the Chairman has no issue with removing the work. There were other suggestions, and Attorney Naughton advised that although she understands what the Board wants to do, she asked if they are looking to be more stringent than the fire code. She thinks the code is already capturing what the Board wants. The Board continued to have a lengthy discussion on safety and what can be provided for protection in these events.

Engineer Barber went over her comments and recommendations. The Board discussed and provided their opinions and suggestions for each of Engineer Barber's recommendations.

Recommendations/Information –

1. Within the proposed law (directly after the definition for Event Venue) the text indicates the Chapter is amended for "providing regulations for golf courses and accessory recreational uses", we believe this should read "providing regulations for event venues".

2. The introductory paragraph under "§ 310-39.6. Event Venues." describes the special permit as "temporary". This appears to be due to the contingency on property ownership that would nullify the special permit if the property was sold or transferred.

3. Section A: We recommend you consider whether the size of the lot should be subject to the net lot area deductions. If so, we recommend the text be revised, as follows: "Minimum size lot area. The minimum size lot area (including deductions for net lot area) for an event venue shall be no less than twenty-five (25) contiguous acres."

4. Section B: The law would permit event venues in the R-1A zone only. We recommend you consider whether this should be the R-3A zone which would by reference open event venues up to properties in the R-0.25A, R-1A, R-2A, HB, LC, and CR zone that meet the 25-acre threshold.

5. Section C: We recommend the last sentence of this section on 'Access' include input from the Village "Traffic" Engineer.

6. Section G: We recommend you consider, with input from the Building Department, adding language regarding when DOH/liquor permits would be required (e.g., prior to Certificate of Occupancy).

7. Section H: We suggest at the end of this paragraph you include examples of buffers (e.g., "Buffers may include landscaping, fencing, wall, sound barrier, or other means found acceptable to the Planning Board for the purpose of mitigating noise and/or lighting impacts.")

8. Section I: This section allows tents or other fabric structures be "temporarily" constructed. We recommend you consider an appropriate limitation to the length of time that should be considered temporary. For example, "Temporary structures may only be erect three days prior and post the event for which they are temporarily constructed."

9. Section J.b. We recommend this include a discussion on provisions for loading areas for event spaces.

10. Section J.e. We recommend this be revised to indicate: "Estimated water and sewer demand for maximum occupancy, and if not on municipal water and sewer, proof of capacity and good working status of facilities to serve the site with water and sewer including any appropriate testing as required by the Planning Board and its consultant's"

Attorney Naughton feels the Board has made some good suggestions and recommendations that she can ponder and will draft a redline version with comments to present to the Village Board of Trustees.

Adjournment:

With no further business to discuss, a motion was offered by Chairman Gerver, seconded by M. Pastel, to adjourn the meeting at 9:52 PM.

ADOPTED

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

Claudia Valoy-Romanisin, Planning Board Secretary